

CONCERNS IN EUROPE

January - June 1998

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 1998. 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. 82) and *Children in Europe* (pp. 86).

A number of individual country reports have been issued on the concerns featured in this bulletin. References to these are made under the relevant country entry. In addition, more detailed information about particular incidents or concerns may be found in Urgent Actions and News Service Items issued by Amnesty International.

This bulletin is published by Amnesty International every six months. References to previous bulletins in the text are:

AI Index: EUR 01/01/98	Concerns in Europe: July - December 1997
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 01/01/91	Concerns in Europe: November 1990 - April 1991

KOSOVO: TIME TO END THE INDOLENCE OF SUMMER

The enormity of the human rights and humanitarian tragedy facing the Federal Republic of Yugoslavia (FRY) province of Kosovo is daily more apparent. Reports of violations of human rights, attributed to Serbian police and Yugoslav military forces and, to a lesser extent, the Kosovo Liberation Army, are becoming more frequent and sinister in character. The flow of refugees and internally displaced is burgeoning. Yet the response of the international community so far has been tepid, seeming content to pursue a policy aimed at containment rather than resolution.

The Government of FRY, both in the past and in the context of the current conflict, has shown itself unwilling to bring to justice those who commit human rights violations on its territory or who have committed violations in Bosnia-Herzegovina. Perpetrators and would-be perpetrators of gross human rights violations thrive in such a climate of impunity. But they thrive also on the sluggishness of the international community, and in relation to the events in Kosovo this summer, the international reaction has perhaps been one of the most indolent on record.

Until the onset of the present crisis, the international community regarded events in Kosovo as, at most, a "human rights problem" meriting only the barest consideration. Only when the situation in the province had acquired the more urgent overtones of a "security issue" did world governments begin to pay any real heed. By this stage a series of savage and indiscriminate Serbian security force operations had been unleashed, the ethnic Albanian leadership's policy of non-violence had been all but fatally undermined and the province was accelerating towards disaster. Not for the first time, this organization is forced to point out that there can be no real security -- in all senses of the word -- without a proper respect for fundamental human rights at national and international levels. Today's crisis in the province, aside from its harrowing impact on the Kosovar population, now jeopardizes the fragile peace and protection of human rights in Bosnia-Herzegovina and Croatia, and increases the likelihood of conflict in Montenegro, the Former Yugoslav Republic of Macedonia and elsewhere.

A clearer understanding of the events that have brought the province to this point may signal the way forward from the current crisis. To present, as some have done, the conflict in Kosovo province as the latest episode in a series of armed conflicts that have followed the disintegration of the former Yugoslavia is merely to foster a sense of international helplessness which serves to justify inaction. In fact, it is important to recall that the unravelling of the former Yugoslavia began here: this was where in April 1987 Slobodan Milošević, then leader of the Serbian Communist Party, first set about inciting Serb nationalism to a pitch that later spawned the conflicts and human rights atrocities in Croatia and Bosnia-Herzegovina. In the intervening years the brutality of the FRY authorities did not diminish in Kosovo: the province was stripped of its autonomous status, Albanian language and cultural institutions largely suppressed and political dissent fiercely punished.

From the early 1980s Amnesty International has documented and persistently campaigned against the appallingly high level of human rights violations being perpetrated in Kosovo province. The organization's reports detail instances of systematic torture and ill-treatment, the use of excessive force by police in dispersing peaceful demonstrations, and numerous unfair trials of political prisoners. There have been hundreds of prisoners of conscience in the province in the last 20 years. The lack of effective redress for these violations has contributed to the anger and frustration felt by ethnic

Albanians in the province. In Amnesty International's view, the failure of the FRY Government and the international community to hold to account those responsible for longstanding abuses led directly to today's conflict. To Amnesty International and a limited number of other observers, the current crisis in Kosovo was a slow train coming.

The international community now needs to act with alacrity if it is to prevent catastrophe and retrieve its credibility. It can begin to do this by making it plain that it will make use of its panoply of available international mechanisms to address this crisis. If properly resourced and backed by an emphatic commitment of world leaders, these mechanisms are formidable, even to the most intractable of national governments.

Firstly, effective and independent human rights monitoring is essential in any situation where human rights have been gravely violated and risk being violated further on a massive scale. For that reason Amnesty International is calling for a properly constituted human rights monitoring mission to be at the centre of the international community's presence on the ground. In the wake of the FRY's recent refusal to permit the reintroduction of an Organization for Security and Co-operation in Europe (OSCE) observer mission into the country, the governments of the Contact Group should press unstintingly for the deployment of an effective, international human rights monitoring operation in the region without delay. In addition, the European Community Monitoring Mission (ECMM), currently the only international monitoring mission in Kosovo province with a wide mandate and strong organization and logistics, should include a specialized human rights monitoring component in its brief. The UN also needs to underline its authority and demonstrate its urgent interest in the affairs of the province: as a starting point the Special Rapporteur for the former Yugoslavia should undertake further visits to the province. Beyond this the UN Security Council should also prepare itself for a role in the crisis which goes beyond public condemnation of human rights violations in the province.

Secondly, the international community should make it plain that it will pursue perpetrators of gross human rights violations. The International Criminal Tribunal for the former Yugoslavia (ICTY), which has jurisdiction in the province and a responsibility to investigate and prosecute breaches of international humanitarian law, to which both sides of the conflict are accountable, should be given the necessary resources and political backing to fulfil this mandate.

Amnesty International takes no position on the political status of Kosovo province or on the possible deployment by the international community of military or peace-keeping forces in the province. But sooner or later all the parties to the current conflict -- including the international community -- will have to address more fundamentally the issues which have brought Kosovo to today's sad pass. And when they do, proper redress for the human rights violations, past and present, committed in the province needs to be prominent on the agenda. The lesson from Bosnia-Herzegovina and elsewhere is that reconciliation and the road back to lasting peace cannot take place in the absence of this process.

In the meantime those who would perpetrate human rights violations in the province must be convinced that the international community is taking action and that it will hold perpetrators criminally accountable for their actions. That message, delivered urgently and emphatically by the international community, might yet forestall a tragedy.

ARMENIA

Release of political prisoners

President Levon Ter-Petrosian resigned in February, following disagreements about the policy to be followed in peace talks over the disputed Karabakh region in neighbouring Azerbaijan. Prime Minister Robert Kocharian took over as acting President, and subsequently won elections to this post the following month.

Within a week of Ter-Petrosian's resignation, the Justice Ministry announced that it was permitting the registration of the Armenian Revolutionary Federation (ARF or Dashnak Party), which had been unable to act legally in Armenia since it had been suspended by the former president in December 1994. This was followed by the release of many of the political prisoners convicted in the so-called Dro and Hovanessian trials (see AI Index: EUR 01/01/98 and EUR 54/01/98), including leading ARF members Hrant Makarian and Vahan Hovanessian. Many of the defendants in these trials had alleged that they were beaten or otherwise ill-treated to force them to confess, that their relatives had received similar treatment as a way of exerting pressure, and that statements extracted under duress were not excluded as evidence in court. Some of the lawyers had also complained that they had been denied access at times to their clients and to case materials, and that these and other procedural violations had called into question the fairness of the trials in line with international standards.

Presidential Human Rights Commission, and proposal for an Ombudsman's office

On 27 April President Kocharian signed a decree setting up a Human Rights Commission under the President of the Republic of Armenia, to be headed by Paruir Hairikian (a former prisoner of conscience in Soviet times). Amnesty International wrote to the new Commission outlining its current concerns in Armenia (see *Armenia: Summary of Amnesty International's*

concerns, AI Index: EUR 54/01/98, January 1998), and in connection with the Commission's proposal to the President in June for establishing the office of an ombudsman in Armenia. Amnesty International noted that the establishment of such an office could form a significant building block of a human rights culture in Armenia, and therefore urged that it be designed with care and consideration - with powers and objectives which are consistent with international standards, as well as the necessary resources and independence to carry out its work. Detailed recommendations were made, while stressing that the creation of such an office can never replace, nor should it in any way diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary. The creation of such an office should also go hand in hand with a thorough review of existing legal and other institutions in order to make these more effective instruments of human rights protection. These initiatives should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ensuring that those who violate human rights cannot do so with impunity.

Imprisonment of conscientious objectors

Although one conscientious objector - Artashes Alekscanyan - was released, at least six young men remained imprisoned during the period under review for refusing on religious grounds to carry out compulsory military service, in the absence of any civilian alternative (see AI Index: EUR 01/01/98 and EUR 54/10/98). Among the new cases which came to light was that of Andranik Kosian, a Jehovah's Witness, who was first imprisoned for refusing his call up papers in March 1997. He was sentenced to 12 months' imprisonment, but released under an amnesty declared the following month. In June 1997 he went to the Vanadzor Department of Internal Affairs to sign a document in connection with his release, but instead was taken by an armed police officer to the District Military and Registration

Enlistment Office (DMREO), where he was forcibly conscripted into the army.

Andranik Kosian was then taken to a military unit in Zod. He refused to perform military service, as a result of which he was reportedly subjected to severe beatings. After declaring a protest hunger strike he was transferred to the Central Administration of the Military Police, and was again said to have been subjected to physical violence. He was eventually charged with evading military service (Article 257a of the military section of the Criminal Code, which carries a maximum of seven years' imprisonment), and as a last resort he fled. Andranik Kosian was arrested on 12 January, and taken to Sovetashen prison.

A similar case is that of Karen Voskanian, who was taken to Mashtots' DMREO on 8 March. He was allegedly beaten there after declaring that he was a Jehovah's Witness, unable to perform military service on religious grounds, and then forcibly conscripted into a military unit in Gyumri. There, on 20 June, he refused to take the military oath of allegiance and was also charged under Article 257a.

Forcible conscription means that those who continue to object on conscientious grounds fall under military jurisdiction, with a penalty for evading military service under Article 257 which is heavier than that for refusing call-up papers under Article 75 of the ordinary section of the Criminal Code.

Amnesty International continues to call on the authorities to release immediately and unconditionally anyone already imprisoned for their refusal on conscientious grounds to perform military service, and refrain from imprisoning anyone else as a conscientious objector; to introduce without delay legislative provisions to ensure that a civilian alternative of non-punitive length is available to all those whose religious, ethical, moral, humanitarian, philosophical, political or other conscientiously-held beliefs preclude them from performing military service; to establish independent and impartial decision-making procedures for applying a civilian alternative to military service; and to ensure, after the introduction of a civilian alternative service, that all relevant persons affected by military

service, including those already serving in the army, have information available to them about the right to conscientious objection and how to apply for an alternative service.

The death penalty

At the time of writing parliament had still to pass finally a new draft criminal code, adopted in its first reading in 1997, which would abolish the death penalty. Eight people were said to have been sentenced to death in 1997, and over 20 men were on death row during the period under review. No executions have taken place in Armenia since independence, however, and an unofficial moratorium was in place under former President Ter-Petrosian, who had told Amnesty International that he would not sign any death warrants while in power.

Amnesty International has written to his successor, President Kocharian, in view of the powers accorded to him as president by the Constitution of Armenia, specifically the right to grant pardon. The organization urged him to continue to uphold the moratorium on executions, in the light of parliament's intent to abolish the death penalty through a new criminal code. It also urged President Kocharian to move further than his predecessor, by using his constitutional powers to commute to imprisonment the sentences of all those men currently on death row in Armenia. This would signal a strong commitment to abolition in advance of steps taken through parliament to enshrine this change in law.

AZERBAIJAN

Abolition of the death penalty

On 22 January President Heydar Aliyev announced that he was putting before parliament a proposal to abolish the death penalty completely from the country's criminal code. He cited humanitarian grounds, and stated that there had been a moratorium on executions in Azerbaijan since June 1993. On 10 February the Azerbaijani parliament

voted overwhelmingly in favour of this bill, by 100 votes to three, and it was subsequently signed into law by the President.

One hundred and twenty eight men were on death row at the time of this decision, and would have their sentences commuted to between 15 and 20 years' imprisonment. It was also reported that they would be moved to different premises to serve these terms. Conditions on death row had been said to be very difficult owing to severe overcrowding: in some cells prisoners had to take it in turns to sleep. By April 102 former death row inmates were said to have been moved to Gobustan prison. Those remaining at Bailov prison included several political prisoners, who claimed that their transfer to better conditions had been delayed as a punishment.

Presidential Decree on Human Rights, and proposal to establish the office of an Ombudsman

On 22 February 1998 President Aliyev issued a decree "On measures to ensure human rights and the rights and freedoms of citizens", which contained a range of proposals to be made to the Milli Mejlis, the country's parliament, on promoting and protecting human rights. These included taking further measures to develop co-operation with human rights bodies at an international level, including with Amnesty International, and also with domestic non-governmental organizations working in this field. On 18 June President Aliyev approved a "State program for the defence of human rights", drawn up by the Cabinet of Ministers on the basis of the earlier presidential decree. Amnesty International notes many positive aspects in this program, such as the intention to ratify in 1998 the first and second Optional Protocols to the International Covenant on Civil and Political Rights; to establish a Scientific-Research Institute on Human Rights; to improve conditions in investigation-isolation prisons and corrective labour institutions; and to establish the institution of an ombudsman for human rights in the Azerbaijani Republic.

Amnesty International wrote to the President and a range of other officials regarding

the decree, and specifically on the proposal to establish an ombudsman's office. The establishment of such an office could form a significant building block of a human rights culture in Azerbaijan, and the organization therefore urged that it be designed with care and consideration - with powers and objectives which are consistent with international standards, as well as the necessary resources and independence to carry out its work. Detailed recommendations were made, while stressing that the creation of such an office can never replace, nor should it in any way diminish, the safeguards inherent in comprehensive and effective legal structures enforced by an independent, impartial, adequately resourced and accessible judiciary. The creation of such an office should also go hand in hand with a thorough review of existing legal and other institutions in order to make these more effective instruments of human rights protection. These initiatives should be accompanied by a determined government policy aimed at holding the perpetrators of human rights violations fully accountable, thus ensuring that those who violate human rights cannot do so with impunity.

Alleged arbitrary detention of ethnic Armenians

At the end of the period under review at least five ethnic Armenian civilians were said to be held in a special holding centre at Gobustan prison. Amnesty International accepts that, given the situation arising from the conflict over the Karabakh region, the Azerbaijani authorities may have occasion to detain persons on suspicion of, for example, complicity in terrorist actions. The authorities have explained to Amnesty International in the past that a special holding centre for ethnic Armenians was established at Gobustan where those detained have been kept while their identity was confirmed and it was established that they were *bona fide* travellers. In some cases, however, it has been alleged that certain of those held have continued to be detained although no evidence of criminal activity has been found, and without any criminal charge or charges being laid against them - in effect as hostages.

If this were true, Amnesty International would regard the continuing detention as arbitrary, and those detained as prisoners of conscience. Amnesty International is seeking further information on those detained, who are said to include a mentally-ill man, a youth who was aged 17 when seized, and a woman. Zhora Oganessian, for example, is said to have been seized in Sadakhlo in neighbouring Georgia in July 1997 after he had left his home in Armenia during a period of mental illness. He was handed over to the Azerbaijani authorities at some point, and is currently detained in Gobustan prison. Also there is Artur Papayan, born in 1979, who is said to have been seized by Azerbaijanis while walking along the Movses-Aigepar road in Armenia's border district of Taushsky in 14 January 1998. (See also *Women in Europe* - page 83.)

Prosecutions for ill-treatment in detention

The period under review saw at least four criminal trials in which law enforcement officials stood trial, among other things, for ill-treatment of detainees. One case concerned the death in custody of Samir Zulfugarov in July 1997 (see AI Index: EUR 01/01/98). Mahammad Agahanov, from the Yasamalsky district anti-drug unit, stood trial at the beginning of 1998 in connection with the death, charged with intentional homicide (Article 95 of the Criminal Code) and bribe-taking (Article 170 - Samir Zulfugarov's father alleged that Agahanov and another officer had demanded money for his son's release, which he paid after seeing his son in custody bearing injuries reportedly inflicted after a severe beating). Mahammad Agahanov was acquitted on both charges: he had testified that he had not been involved in the case, and that the death occurred in a different police station (No. 28).

In a separate case, however, three other police officers received long sentences after being convicted of physically assaulting detainee Jamal Aliyev, in order to force a confession. Aliyev was beaten at police station No. 17 in the Narimanov district of Baku, and subsequently died in November 1994. On 22 June 1998 Sarhan

Adbullayev (former head of criminal investigations at Narimanov District Police Administration) was sentenced to seven years' imprisonment, while Ali Mahmudov (former deputy head of police station No. 17) and officer Rza Ibadov both received six years', for "intentionally inflicting severe bodily injuries" (Article 102).

Both these cases related to pre-trial detention, the setting for most allegations of ill-treatment received by Amnesty International. However one prison guard was also sentenced during the period under review, for assaulting a convicted prisoner. Binagadi District Court heard that in September 1997 Hikmet Ismaylov, a guard at strict-regime corrective labour colony No. 11, punched prisoner Ilham Nabiyeu during a morning roll-call, and then shoved him against an iron door handle. Ilham Nabiyeu suffered a broken rib and was hospitalized. The court gave Hikmet Ismaylov a conditional three-year sentence, with community work rather than imprisonment. (See also *Women in Europe*, pages 81 and 84, and *Children in Europe*, page 85.)

Further allegations of ill-treatment in detention

Amnesty International welcomes such instances in which those responsible for torture and ill-treatment are brought to justice, but remains concerned that in some other cases officials have appeared reluctant to instigate proceedings, or to pursue them in a comprehensive, impartial and rigorous manner. Newspaper journalist Sabukhi Gafarov, for example, alleges that on 7 May, at around 1.15pm, he was seized by police officers, had his camera confiscated and was struck several times with truncheons when the officers noticed him taking pictures of police beating a group of women mourners assembled outside the Azhdarbey Mosque in Baku. Police also seized another journalist from the same newspaper, Aygun Ismaylov, who was standing nearby, but both men were released when the crowd intervened. The men's employer, the newspaper *Azadlyg*, raised their case with the authorities and around a month later received a response from the Nasiminsky District Procuracy to the effect that the

fact of the beating could not be confirmed. Newspaper employees, however, allege that the procuracy had not summoned either of the journalists to hear further information from them, nor questioned a witness to the events.

Amnesty International is also concerned at the number of allegations of ill-treatment that continue to be made. These relate not only to alleged police misconduct at demonstrations, but also to reports of beatings in detention. Lawyer Namik Aliyev, for example, alleges that both he and his client Zeybulla Abdulkerimov were assaulted on 12 March by officers at police station No. 29 in the Yasamalsky District of Baku. Namik Aliyev reports that he met his client briefly at the station, at which point he had no visible signs of injury. When the lawyer returned later at around 5.00pm, however, he noted that Zeybulla Abdulkerimov had a fresh bruise on his face. Namik Aliyev demanded that his client be given a medical examination, but claims that instead he himself was verbally abused and then beaten by two police officers, searched, placed in a cell and then taken an hour later to a hospital to be tested for the presence of alcohol. He was then returned to a cell, he reports, before being released later that evening after his father and colleagues intervened. A doctor who examined Namik Aliyev after his release is said to have found contusions to his head and buttocks.

BELARUS

Amnesty International continued to be concerned at the pattern of ill-treatment and imprisonment of members of the opposition as a result of peaceful strikes and demonstrations in Belarus, and has repeatedly raised this with the Belorussian authorities. However, the organization is not aware of any steps taken by the government or the President of Belarus to stop the pattern of ill-treatment and imprisonment. Amnesty International strongly supports the recommendations of the Human Rights Committee, which in 1997 recommended to the authorities of Belarus to take immediate steps to improve respect for human rights in the country

(see AI Index: EUR 01/01/98). Amnesty International has repeatedly called on the Government and the President of Belarus to adopt a comprehensive action plan for the implementation of the Human Rights Committee's recommendations.

Arbitrary arrests, torture and ill-treatment of peaceful demonstrators: prisoners of conscience

Political unrest, in the form of protests and demonstrations, was on the increase in Belarus during the period under review. Police responded with the systematic and widespread use of force against peaceful opposition demonstrators. Between 20 and 50 people were arrested and beaten by police following a peaceful demonstration in the capital, Minsk, on 22 March. The demonstration was held to mark the 80th anniversary of the declaration of an independent state of Belorussia (as it was formerly known). Those detained included journalists and members of the opposition Belorussian Popular Front (BNF). Women and minors, including a 15-year-old boy, Pavel Rakhmanov, were also arrested.

Despite statements from Belorussian officials that the arrests were made in response to protestors throwing smoke bombs, unofficial sources maintained that the 10,000-strong demonstration was entirely peaceful. Seven people were found guilty of shouting censored slogans and insulting the President, Alyaksandr Lukashenka, but were not given custodial sentences. Five members of the local human rights group, the Belorussian Helsinki Committee, who attended the demonstration were among those detained. They were released an hour later.

Amnesty International denounced the arrests of a number of peaceful demonstrators and opposition activists at a large anti-government demonstration in Minsk on 2 April and adopted six as prisoners of conscience. The protest demonstration took place on the first anniversary of the union treaty between Russia and Belarus. President Lukashenka, who has declared it a national holiday, is attempting to forge closer ties with Russia against a background of popular

discontent. The organization was also concerned that the detained people were at serious risk of torture and ill-treatment.

Vyacheslav Sivchyk, secretary of the BNF, was allegedly severely beaten by police during his arrest at the 2 April demonstration and was subsequently hospitalized suffering from concussion. He stood trial on 3 April and was sentenced to 10 days' imprisonment under the Administrative Code of Belarus. Pavel Severinets, an opposition activist and leader of the BNF's Youth Front, faced up to five years' imprisonment on charges of "instigating mass disorder", "organization or participation in group actions violating the public order" (Article 186 of the Criminal Code) and "hooliganism" (Article 201 of the Criminal Code) for allegedly having organized the unauthorized protest march.

Dmitriy Vaskovich, Alyaksandr Kashenya, Ivan Abadovsky, Leonid Vasyuchenko, Stepan Kulchenko and Timopheyy Dranchuk were also charged with similar offences. Alyaksandr Kashenya and Ivan Abadovsky reportedly received 10 and 15 days' imprisonment respectively. Leonid Vasyuchenko and Dmitriy Vaskovich were reportedly also held in detention after the demonstration. Stepan Kulchenko and Timopheyy Dranchuk were reportedly released, although the criminal charges against them remained. In addition, information has been received concerning the ill-treatment in police custody of Dmitriy Vaskovich, allegedly to force him to confess against Pavel Severinets and the other detainees.

Reports indicated that law enforcement officials severely beat demonstrators at the march. In addition more than 50 people, about one third of them reportedly minors, were detained for several hours and in some cases overnight. Some of these stood trial on 3 April on charges relating to their participation in an unauthorized demonstration and received administrative penalties. They were released after the court ruled either to fine them or to issue them with a warning.

Another peaceful demonstration was held on 25 April to commemorate the 1986 Chernobyl nuclear disaster. In recent years the demonstrations on or around the 26 April anniversary have become opposition rallies to protest government policies violating human rights and freedoms. This year,

following the rally, police reportedly arrested up to 40 demonstrators and allegedly beat some of them in detention. It was reported that among those arrested by the police was 14-year-old Anton Taras, who had worn a gas mask during the Chernobyl rally. Police officers allegedly forced him to put on the gas mask while in detention and then stopped the air supply in the mask until he began to suffocate.

Severe restrictions on freedom of expression: prisoners of conscience (update to information given in AI Index: EUR 01/01/98)

Pavel Sheremet and Dmitry Zavadsky, Russian TV journalists, went on trial in December 1997 in the town of Oshmyany, at the Belarussian-Lithuanian border. Pavel Sheremet and Dmitry Zavadsky were charged under Article 17 of the Belarussian Criminal Code (conspiring with a group of people to commit a crime) and Article 80 (premeditated violation of the state border). Pavel Sheremet was also charged under Article 167 (exceeding his professional powers as a journalist resulting in a damage to the public interest). On 28 January the court found both men guilty and sentenced Pavel Sheremet to two and Dmitry Zavadsky to one and a half years' imprisonment, suspended for one year. Amnesty International continued to call for Pavel Sheremet and Dmitry Zavadsky, as prisoners of conscience, to be released unconditionally from their sentences.

The death penalty

It was reported that President Lukashenka said in Moscow on 22 January 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.

A programme on Belarussian national television, broadcast on 11 April, revealed that at least 55 prisoners were on death row. They included Ihar Mironaw, who was sentenced to death on 23 January by Vitebsk Regional Court.

Commenting on the latest death row figures, Alyaksandr Ivanowsky, the Belarussian Deputy Procurator General, cited rising murder rates and said that the government had to resort to capital punishment "because of the circumstances and not because it wanted to be cruel". According to the 11 April television broadcast, 53 death sentences were passed in 1996 and 55 in 1997.

In June Amnesty International learned about the case of Igor Lyashkevich, who was sentenced to death almost a year previously for allegedly being amongst a group of men who murdered a policeman. The family of Igor Lyashkevich, who has always maintained his innocence, and over 50 people from his home village had appealed to the President to grant him clemency. Belarussian human rights groups have also maintained that Igor Lyashkevich was innocent.

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

BELGIUM

Alleged human rights violations by members of the armed forces in Somalia

(update to information given in AI Index: EUR 01/01/98)

There were developments in several judicial proceedings concerning alleged human rights violations committed against Somali citizens in 1993 by members of the Belgian armed forces serving in the UN-authorized multinational peace-keeping operation in Somalia.

It was reported that in March a first instance military court (*Conseil de guerre*) acquitted a sergeant from the Third Parachute Battalion of charges of assault and battery with threats, and of an infringement of a 1981 law punishing certain acts of racism or xenophobia, in connection with the alleged force-feeding of a

Somali child, a Muslim, with pork and salted water until he vomited. It was reported that the court also sentenced the sergeant to one month's suspended imprisonment for tying a Somali child to a military vehicle and then giving the order for the vehicle to move off, and to a further two months' suspended imprisonment for procuring and offering a teenage Somali girl as a 'present' at the birthday party of a paratrooper in his charge, and at which, it had been alleged, the girl was forced to perform a 'strip show' and to have sexual relations with two Belgian paratroopers.

In May, following appeals lodged against the above verdicts by the sergeant, by the military prosecutor's office and by the Belgian Centre for Equal Opportunities and Action to Combat Racism (CECLR - *Centre pour l'égalité des chances et la lutte contre le racisme*), which had constituted itself a civil party to the proceedings, a military court (*Cour militaire*) found the sergeant guilty of all the offences described above. The court apparently sentenced him to a total of 12 months' imprisonment, six of them suspended, together with a payment of 15,000 Belgian francs in damages to the CECLR, deprivation of civil rights for a period of five years, and exclusion from the army. The sergeant lodged an appeal with the Court of Cassation.

It was also reported that in March the *Conseil de guerre* examined the cases of three paratroopers from the Third Parachute Battalion accused of acts of public indecency in connection with the birthday party incidents indicated above. One man apparently acknowledged that he had danced naked on a table with the girl: the other two apparently stated that they had consensual sexual relations with her. The court apparently ruled that judgment should be suspended in all three cases (*la suspension du prononcé*). Amnesty International understands that in the course of subsequent appeal proceedings the military prosecutor's office asked for each to be sentenced to three months' full imprisonment and a fine of 10,000 Belgian francs but that in May the *Cour militaire* confirmed the suspension of judgment.

In a letter sent to the Minister of Defence in June, Amnesty International asked for his cooperation in supplying the organization with

copies of the court verdicts issued in the cases described above.

Amnesty International also recalled a letter sent to the Minister in July 1997 (see AI Index: EUR 01/06/97), to which it had received no response. The letter had sought precise information on various investigations and judicial proceedings opened by the military authorities in connection with alleged human rights violations by the armed forces in Somalia, including the alleged force-feeding of a Somali child (see above). The organization had also referred to photographs showing a sergeant-major, from the same Third Parachute Battalion, urinating on the inanimate body of a Somali man lying on the ground with a foot pressing on his body, and allegations that a young Somali boy had died inside a metal container, into which he had been locked, without food or drink, in stifling heat, for two days and nights. The organization's June letter said it would welcome any information regarding the progress of the judicial proceedings opened in connection with these two incidents.

In its July 1997 letter Amnesty International had also requested the Minister's cooperation in supplying the organization with details of a verdict issued by a first instance military court in June 1997, acquitting two former paratroopers from the Third Parachute Battalion, who had been photographed swinging an unidentified Somali boy over an open fire, of charges of assault and battery with menaces. It had also asked to be informed of the outcome of the appeal lodged against the verdict by the military prosecutor's office. In view of reports that the military court examining the appeal had confirmed their acquittal in December 1997, Amnesty International in its June letter also asked to receive a copy of that court's verdict.

In its letter Amnesty International also said it was looking forward to receiving the further information it had sought in 1997 about several trials which had reportedly taken place before the military courts in earlier years, following an inquiry into alleged ill-treatment and unlawful killings by Belgian forces in Somalia, carried out in 1993 under the auspices of the Ministry of Defence (see AI Index: EUR 01/06/97). It pointed out that the organization had also asked to be

informed of the outcome of an administrative investigation which the Minister had entrusted to the general heading the Operational Command of the Belgian Ground Forces in April 1997. Amnesty International sought the Minister's cooperation, therefore, in supplying the organization with details of the general's completed report and of the reforms being implemented as a result of recommendations announced by the general in September 1997 (see AI Index: EUR 01/01/98).

Amnesty International also expressed interest in receiving a copy of a study investigating racism within the army carried out under the direction of the CECLR, at the Minister's request, and submitted to his office in May 1998.

Finally, Amnesty International asked whether those entrusted with carrying out the official investigations into the allegations of human rights violations made in 1997 had travelled to Somalia to carry out on-site investigations and to collect witness testimony.

In a letter dated 29 June the Minister expressed regret that Amnesty International had not received a response to its July 1997 letter. However, he stated that he was unable to supply decisions of the military courts because, under Belgian law, the release of such documents required the express authorization of the *Auditeur général* (chief military prosecutor). The Minister, who did not indicate whether he had tried to obtain this authorization on Amnesty International's behalf, recommended that the organization write directly to the *Auditeur général* for copies of the documents requested and for information about any investigations and testimony collected in Somalia itself, which the Minister was also apparently unable to supply. The Minister outlined steps being taken towards introducing army reforms relating, in particular, to speedier and more effective disciplinary proceedings and sanctions, and gave assurances that "numerous" recommendations had already been implemented regarding army recruitment and selection as well as training, including training in humanitarian law. He supplied copies of a report concerning army reforms, drawn up by the former head of the Operational Command of the Armed Forces in 1997, and of the CECLR-led study relating to

“systems which might lead to racist attitudes within the army”.

Report of the Council of Europe's Committee for the Prevention of Torture (CPT)

The federal government authorized publication, in June, of the findings of a two-week visit of inspection carried out by a CPT delegation in September 1997. The delegation visited 22 places of detention including police and *gendarmerie* establishments, prisons and holding centres for aliens.

The CPT indicated that, as in its first periodic visit in 1993, “a number of allegations of physical ill-treatment” had been made against police and *gendarmerie* officers by both Belgian nationals and foreigners, some of them minors. It said that it was “very concerned by the treatment meted out to people detained by law enforcement officers in Belgium”. The ill-treatment alleged consisted generally of kicks, punches and blows with batons, at the time of arrest, during transfer to and inside police and *gendarmerie* stations. In a number of cases the CPT had gathered medical evidence of injuries compatible with the ill-treatment alleged.

The CPT called on the authorities to demonstrate greater vigilance and supervision regarding the treatment of detainees. It recommended, amongst other things, that law enforcement officers be reminded that on making arrests, the use of force should be restricted to what is strictly necessary and that once a person has been subdued, nothing can ever justify ill-treatment. It also recommended that the Ministry of Interior issue a statement reminding law enforcement officers that the rights of detainees must be respected and that ill-treatment will be subject to severe sanctions. The CPT asked the authorities to give high priority to drawing up a code of ethics for law enforcement agencies. It also underlined the importance of appropriate professional training, incorporating human rights principles, which it considered an essential component of any strategy to prevent ill-treatment.

The CPT said it had also received allegations of physical ill-treatment - such as blows and excessive recourse to physical means of restraint - concerning foreigners being forcibly expelled from the country: the majority concerned foreigners being escorted onto aeroplanes at Brussels-National airport by *gendarmerie* officers. The Committee cited the example of a man it had interviewed in a holding centre for foreigners who alleged that, because he refused to get on a plane, gendarmes had kicked him and beaten him with a baton, while his ankles were bound together with velcro strips and his arms were similarly bound together behind his back. Another foreign detainee alleged that during a forcible expulsion operation his ankles and arms had also been bound together with wide velcro strips while his wrists, bound behind his back, were also tightly secured with plastic handcuffs. He said that, after refusing to get on a plane, he had been put in a cell at Brussels-National airport and kicked and punched on the neck and back. Both men had sustained injuries which supported their allegations.

The CPT emphasized that it was totally unacceptable for people subject to expulsion orders to be physically attacked in order to force them onto transport or in order to punish them for not complying. It underlined that the force employed should be limited to the minimum amount of restraint necessary to reach the required objective.

The Committee indicated serious concern that no progress had been made with regard to the introduction of certain fundamental safeguards against ill-treatment for detainees in police custody, which it had recommended following its 1993 visit. It reiterated, therefore, all its original recommendations. These included recognition of the right of access to a lawyer from the beginning of the custody period; systematic provision to detainees of a document setting out all their rights, and the drawing up of a code of conduct for interrogations.

A press statement issued by the federal government upon publication of the CPT's report indicated, amongst other things, that it had taken steps to improve the training of law enforcement officers, including the introduction of courses in ethics, training in inter-personal communication,

improved recruitment selection and appropriate support systems for officers exposed to stressful situations.

The CPT also reported receiving allegations of physical ill-treatment concerning guards at Mons Prison (one of four prisons visited), where several detainees alleged having been ill-treated between January and September 1997. The CPT also found that violence between the inmates had reached "extremely worrying proportions" and expressed concern at claims that guards had not always intervened to help prisoners being attacked in their vicinity. At the end of its 1997 visit the delegation had recommended that the Belgian authorities carry out an in-depth examination of the functioning of the prison. In January 1998 the authorities informed the CPT of a series of measures undertaken following investigations. These included the transfer of "the most aggressive guards" to posts where they had less frequent contact with prisoners and the adoption of a series of directives by the prison management concerning the rights and duties of both prison personnel and prisoners. The CPT then asked for the Mons prison personnel to be formally reminded that ill-treatment was not tolerated and that such offences would be severely sanctioned. The reported failure of guards to intervene to prevent people imprisoned for sex offences from being attacked by fellow-prisoners in both Mons and Saint-Gilles prisons was also highlighted as a cause for concern.

BOSNIA-HERZEGOVINA

Refugee return marred by violence and other obstacles

The international community decided to make 1998 the year of "minority return", referring to its extra efforts to facilitate the return of refugees or displaced people to communities from which they were expelled or fled during the 1992-1995 armed conflict, and where they would now be in a minority as compared to the dominant nationality of the authorities. Visits to home communities

increased, including those of Bosniacs to the towns of Foča and Srebrenica, which were scenes of some of the worst human rights violations. However "minority returns" remained risky because of acts of violence. While some incidents were provoked by the return or visits of members of minorities to their pre-war communities, other incidents were clearly in retaliation for violent attacks committed elsewhere in the country. Authorities continued to justify violent acts committed by members of their own nationality by referring to other incidents where the victims were members of their or a sympathetic nationality.

In some cases, houses were deliberately destroyed to prevent the owners' return. For example, on 12 June, a house belonging to a Bosniac who had returned to an already-damaged home in Borovnica, near Prozor/Rama (Federation), a Bosnian Croat-controlled town, was set on fire. In Vitez (Federation), two houses owned by Bosniacs were damaged by explosions on 5 June; they were reportedly owned by relatives of police officers who had also been attacked.

Returnees also met violence directly. In Velika Bukovica village near Travnik (Federation), a Bosniac controlled town, on 22 April two Bosnian Croats who were preparing to return were seriously injured when a booby-trap exploded as they entered a house. In another town in the area on 12 June a Bosnian Croat police officer was killed and his Bosniac partner seriously injured by a car bomb. On 10 May an elderly Bosnian Serb woman was reportedly beaten after a crowd of 150 Bosniacs carrying rocks and sticks had gathered to protest a visit of more than 50 Bosnian Serbs to Ključ (Federation). On 21 May, one Bosniac was reportedly beaten and seven others assaulted by a group of ten Bosnian Serbs who were protesting their visit to Zvornik (Republika Srpska).

Cycle of return-related violence in Drvar and Derventa

The most serious cycle of retaliatory attacks was sparked by the killing of an elderly Bosnian Serb couple who returned in early April to their pre-war home village near Drvar, a Bosnian Croat-controlled town in the Federation. The bodies of

the couple, Vojislav and Mileva Trnini_, were discovered by soldiers from the multinational Stabilization Force (SFOR) on 16 April. Both victims had died from gunshot wounds. The house in which they had been temporarily accommodated after finding their own house occupied by Bosnian Croats (themselves displaced persons from other parts of Bosnia-Herzegovina) had been set on fire. Although the international community responded to the killings by demanding the removal of local officials, including the Cantonal Minister of Interior, the chief of police and deputy mayor, and demanded a full investigation, nobody has been brought to justice for the killings. A suspect was initially arrested, but was eventually released because of insufficient evidence. The UN International Police Task Force has said that the police's initial investigations were faulty.

On 23 April in Derventa (Republika Srpska), a Bosnian Serb-controlled town near the border with Croatia, hundreds of Bosnian Croat refugees from Croatia were prevented from attending a religious service at the Roman Catholic church by an angry mob of Bosnian Serbs, primarily displaced people from Drvar and Bosanski Petrovac (Federation). In the late morning, demonstrators prevented busses carrying Bosnian Croats from entering the town, and the crowd reportedly overturned several cars and one bus. Approximately 30 Bosnian Croats who had arrived previously, including Roman Catholic Cardinal Vinko Pulji_, managed to enter the church. They remained trapped there for several hours because of the threat of violence outside. The trapped Bosnian Croats were eventually evacuated from the church by members of SFOR, but demonstrators threw stones and Molotov cocktails at the departing busses. An aide to the cardinal, Ivo Tomašević_, and five other Bosnian Croats were injured in the demonstrations.

On 24 April violence erupted in Drvar shortly after the conclusion of a demonstration attended by hundreds of Bosnian Croats, who had reportedly been shouting "Derventa! Derventa!". In ensuing riots, at least five buildings were set ablaze in Drvar, including offices of international organizations. Fourteen people were injured in the demonstrations, two of whom were Bosnian

Serbs, including the (Bosnian Serb) mayor of the town, Mile Mar_eta, who was assaulted by the crowd, hit by stones hurled by the rioters and had a bottle broken over his head. At least one police officer was witnessed taking part in the demonstrations, and others were present but did not sufficiently intervene to prevent the violence. In addition to damage to the offices of international organizations, 13 houses were set on fire, and 30 apartments were destroyed and 55 damaged within three housing blocks. The Bosnian Croat leadership of Bosnia-Herzegovina, including Krešimir Zubak, the Bosnian Croat member of the three-member presidency of Bosnia-Herzegovina, and Vladimir Šolji_, Vice-President of the Federation, responded by appealing to the Bosnian Croats in Drvar to respect law and order, but Vladimir Šolji_ inferred that the problems had been caused by the return of Bosnian Serbs to Drvar. Although the international community demanded an investigation and for those responsible to be brought to justice, and although international organizations supplied documentation, such as a videotape of the demonstration and photographic stills taken from it from which it was possible to identify individuals, as of late June no charges had been filed by the responsible prosecutor.

Germany ignores international criticism of its return policy towards refugees from Bosnia-Herzegovina

Despite the risks for those returning, and contrary to the advice of the United Nations High Commissioner for Refugees (UNHCR), some countries hosting refugees from Bosnia-Herzegovina continued to forcibly repatriate people who come from areas where they would now be a minority should they return to their pre-war homes. The consequence for most such people is that they are forced to relocate to areas where their national group is now a majority, which in turn creates an obstacle for the minorities who wish to return there. The pace of forcible repatriations from Germany has doubled in 1998 as compared to 1997. Bavaria, Berlin, Brandenburg, Hesse, North-Rhine/Westphalia, Saarland, Saxony and Thuringia *länder* all have policies which allow

for the forcible repatriation of people who would be minorities if they returned to their pre-war homes.

More suspects brought before Tribunal

Trials began or continued in a number of prosecutions before the International Criminal Tribunal for the former Yugoslavia (Tribunal). Of 10 suspects who had been indicted by the Tribunal who were brought into detention, four voluntarily surrendered and four were apprehended by the SFOR. One other was transferred from Banja Luka prison (Republika Srpska), where he had been serving a sentence for an unrelated crime, and another was detained in Italy. All were indicted for crimes committed by forces loyal to the Bosnian Serb leadership. One of those who voluntarily surrendered was provisionally released until two weeks before his trial begins (a date has not yet been set).

On 5 May the Tribunal Prosecutor withdrew indictments against 14 suspects indicted for crimes committed at the 1992 Omarska and Keraterm prison camps near Prijedor (Republika Srpska), one of whom had been in custody. The Prosecutor emphasized that the withdrawal was not because of a lack of evidence, but because of the Tribunal's resources, and that she fully expected prosecutions to be pursued by national authorities or others, or even the Tribunal itself should the situation change in the future. The Prosecutor noted that the decision to withdraw the charges was a result of the arrest and surrender process to date, which meant that suspects indicted together were rarely brought into custody at the same time. As a result, suspects from the same indictments had to be tried separately, thereby committing the Tribunal to a much larger than anticipated number of trials, as well as for witnesses to be summoned numerous times to deliver the same testimony.

National courts fail to follow Tribunal's recommendations on war crimes cases

On 19 January, Veselin Cancar, a Bosnian Serb who had been arrested in June 1996, was sentenced

to 11 years' imprisonment by the Sarajevo Canton Court (Federation) on nationally defined war crimes charges, although the Tribunal had found that the evidence for which he was convicted on some of the charges, such as the ill-treatment and killing of a civilian, was by international standards insufficient for prosecution. In another case also in Sarajevo, Goran Vasi_ was arrested on 6 February before the Tribunal had reviewed his case (which was part of an agreement on cooperation with the Tribunal made at a meeting in Rome in February 1996, and which the Human Rights Chamber for Bosnia-Herzegovina has ruled is binding and applicable as law). He was initially charged with the January 1993 murder of then-Deputy Prime Minister Hakija Turajli_, who was shot dead by Bosnian Serb forces after they stopped the United Nations peacekeepers who were escorting him. The Tribunal later ruled that the killing amounted to a war crime and that there were sufficient grounds for the national courts to pursue the prosecution. According to an International Police Task Force (IPTF) investigation, although use of force had been justified during the arrest, the amount used by the Federation police officers was disproportionate. The IPTF report also concluded that the explanation given by police officers for how Goran Vasi_ received injuries to his head is inconsistent with the medical evidence, although according to the IPTF the medical examination itself was also inadequate. Furthermore, Goran Vasi_ was interrogated before he had received medical treatment for his injuries, which the IPTF stated amounted to ill-treatment.

BULGARIA

New cases of shootings, deaths in suspicious circumstances, torture and ill-treatment

Amnesty International received tens of new reports of shootings, deaths in suspicious circumstances, torture and ill-treatment. Many of the victims were Roma. The following are examples of such reports.

On 30 January 1998, at around 10am in Sofia, police officers shot in the head Tsvetan Kovachev, a Rom who had reportedly been running away from them together with a man suspected of having killed a taxi driver. Tsvetan Kovachev died in hospital the same day from injuries suffered as a result of the shooting. An investigation was initiated by the military prosecutor but no information was available as to whether the police officers involved were suspended from duty.

On 9 March in Sofia, 27-year-old Georgi Ruzhev was summoned to the Fifth Police Precinct to submit further information about the theft of his car which he reported in February. The officer who questioned him reportedly suspected that the theft had been faked and allegedly punched Goergi Ruzhev about the head. Before he was released he and his family were reportedly threatened with further violence if he did not keep quiet about the beating. Georgi Ruzhev however submitted a complaint to the military prosecutor along with a medical certificate describing the contusions on the head that he had suffered as a result of the beating.

On 19 May at around 8.30am in Beglezh, a dozen guards hired by the village mayor and armed with guns, bars and truncheons came to the house of Katya Assenova Ivanova. They reportedly beat her sons Sergei and Peter Panchev Georgiev, 22 and 24 years old respectively, handcuffed them and took them to the mayor's office. The beating reportedly continued while the brothers were questioned about an incident in a bar in which they were reportedly involved earlier that day. At around 3pm a police officer from Pleven arrived and also beat the two detained Romani men with a truncheon. At around 5.30pm they were taken to Pleven and reportedly forced to sign a statement which they had not previously read. Shortly after their arrest Tsonka Georgieva, Sergei and Peter's sister, went to the mayor's office where the guard allegedly hit her on the arm. She and her mother Katya Assenova Ivanova then went to complain to the Regional Prosecutor's Office in Pleven. The next day when Katya Assenova Ivanova went to the local police to file a complaint the officer on duty reportedly reprimanded her for speaking to the

prosecutor and told her: "There will be no more peace for you in this village".

The reports which Amnesty International has published over the years about widespread human rights violations which are perpetrated with impunity by police officers were indirectly confirmed by Ivan Tatarchev, Chief Prosecutor of the Republic of Bulgaria, and Boyko Rashkov, director of the National Investigation Service. On 7 May they addressed a 13-page letter to the President, the Prime Minister and chairs of parliamentary groups in the National Assembly. The letter which contained 22 annexes on over 300 pages¹, criticized the Ministry of the Interior for its failure to effectively deal with crime. It emphasised the lack of a mechanism to control the activity of police officers who are legally obliged to cooperate with investigators in the course of inquiries and investigations; the poor professional and legal training of police officers; and the counterproductiveness of police statements about investigations and the role of the judiciary. However, the greatest concern in the letter was focused on the alarming fact that "... serious violations of laws, of rights and freedoms of citizens are ever more frequent in the practice of the Ministry of the Interior". This serious human rights problem is illustrated in detail by five cases presented under the heading "Police Brutality against Citizens". In connection with the case of death in custody of Mincho Simeonov Sartmachev (see *AI Concerns in Europe: July to December 1997*, AI Index: EUR 01/01/98) a letter received from a member of Amnesty International is cited. The second example concerns Stoyan Slavchev Nikolov who was detained in his office in Sofia on 14 November 1997. Officers of the Regional Unit for Combatting Organized Crime handcuffed him although he did not put up any resistance and then beat him repeatedly on the head and body. As a result of the beating he suffered concussion and contusions all over his body. He was subsequently hospitalized for four days. The third case concerns Evgeni Ignatov, Nikolai Nikolov and Aleksandar Karaichev who were suspected of a theft and detained in Sofia on 23 January 1998. The

¹Amnesty International has a copy of the

complete document.

document states: "In the course of 'questioning' in the Fifth Regional Police Directorate (RPD) - physical force had illegally been used in order to extract a confession. The following two days the detainees had been transferred to the First and the Third RPD. On 25 January 1998 police officers in the Third RPD also resorted to unwarranted force against Ignatov." It was later established that the police did not present to the detainees an arrest warrant "leading to conclusion that their detention had been illegal". The fourth case concerns an incident which took place on 26 January 1998 when officers of the National Service for Combatting Organized Crime arrested five people in connection with an explosion in front of the building of the daily newspaper *Trud* in Sofia. One of the detained subsequently told the investigator that four to five officers beat him with batons and a cable, "squeezed his hands which were in handcuffs" and threaten him with death. The last example presented in the letter concerns two suspects who were detained on 18 February 1998 in Sofia and reportedly severely beaten by officers who took US\$4000, 300DM and 1,200,000 leva, a gold bracelet and a watch. The document stated: "These items should have been the objects of the investigation and presented as evidence (of the offence for which the two men were suspected) but are now missing." Extensive injuries suffered by the two men are presented in detail in Annexes numbers 17, 18 and 19.

Annex number 2 contains a list of people who had been subjected to police violence before they were admitted to the detention facilities of the national, Sofia and 16 county and regional investigation services. This undated document describes the cases of 135 persons (only one a woman), of which 97 cases had been recorded in 1997 and 38 for the period up to mid-March 1998. The list presents the name, the date of admission and description of injuries for each detainee. No information is given about the methods used to establish these injuries and only a couple of instances give reference to the provision of

medical treatment. Although in a number of cases detainees had suffered serious fractures or gunshot injuries, in the great majority of instances the description of injuries concerns lesions, contusions, weals of varying extent and severity. The most frequent site of these injuries was the detainee's head, back and buttocks. In a number of case reported in one county the injuries (weals) were *inter alia* suffered on the soles of the feet. The following are some typical examples. Kiril M. K., admitted in the Sofia Investigation Service on 19 February 1998, had suffered "contusions on the face and head, haematoma on the chest and the back in the area of the right kidney, right knee, right wrist and right-hand fingers, a lesion on the left eyebrow and a ruptured blood vessel in the left eye". Plamen S. A., who was taken to Vidin County Investigation Service on 3 March 1998, suffered "haematoma on lower left eyelid, lower lip, left and right area of the waist, an injury on the top of the tongue and pains in the chest". Seventeen-year-old Valeri D.S., who was admitted on 14 November 1997 in Ruse, suffered "numerous violet weals on both shoulder blades, left hand, both buttocks and the back of both thighs". In the case of Anatoli I. H., admitted on 2 February 1998 in Smolyan, it is described how having suffered "traumatic subdermal haematoma which is violet-blue in colour and 25 by five centimetres in area on the right shoulder blade [he] complained of having been subjected to electric shock batons which was prolonged and dangerous. He was hospitalized with high hypertension and heart problems having suffered a minor heart attack." Zlati Y. Z. was admitted to the Sofia Investigation Service on 8 January 1998 with a chest bullet injury.

Appendix 4 presents damning evidence of police impunity. In a document dated 18 March 1998 General-Major Emil Karamfilov, the Deputy Chief Prosecutor and the Prosecutor of the Armed Forces, reported on the status of 69 preliminary inquiries² conducted by military prosecutors against officers of the Ministry of the Internal Affairs for "Offences Against a Person"³. These

²This is the first stage of proceedings aimed at establishing whether an investigation should be initiated.

³This chapter of the Penal Code includes all

forms of homicide and assaults resulting in bodily injuries.

inquiries are reportedly difficult to complete without cooperation from the Ministry of the Interior. Inquiries into twenty cases were being conducted by the Sofia Military Prosecutor. One inquiry was initiated in 1993 against two officers for shooting which resulted in death of one and grave injury of two other persons. In 1995 inquiries were initiated against five officers in two cases and an unspecified number of officers in another⁴ for killing a man by shooting, causing grave bodily injury to six people and slight bodily injury to eight others. Two inquiries against three officers for causing slight bodily injury were initiated in 1996. In 1997 investigations were opened into five cases against eight officers for causing two people bodily injury by shootings, as well as two people serious bodily injury and one person slight bodily injury as a result of beatings. In the first four months of 1998, investigations were initiated into nine cases: one death in custody as a result of beating, three deaths by shooting, grave bodily injury to one person, serious bodily injury to one person and slight bodily injuries to three. Similar information is provided for inquiries which are being conducted by regional military prosecutors in Plovdiv, Varna, Pleven and Sliven.

Conscientious objection to military service

In February Amnesty International called on the Bulgarian National Assembly to fully ensure the right to conscientious objection to military service in a draft law on alternative service. The organisation expressed concern about some provisions under debate. These included Article 5, paragraph 2, of the Draft Law on Alternative Service, which instructs the Governmental Department for Religious Affairs to provide information to the Alternative Service Commission about "religious communities which forbid the carrying of arms". Amnesty International is concerned that this provision might allow the government to deny the right to alternative service to people belonging to unrecognised religious

communities or to people who have individually developed a conscientious objection to carrying arms although their religious community is not opposed to military service as such. According to another provision (Article 15) of the Draft Law, alternative service in Bulgaria would be twice the length of armed military service. Amnesty International believes that this constitutes punishment for a person's conscientiously held conviction, and urges the Bulgarian government to reduce it to a duration which is not punitive, in line with the recommendation of the Council of Europe.

At the end of the period under review the law on alternative service had still not been adopted. Prosecutions of conscientious objectors to military service continued. In April Krassimir Nikolov Savov was sentenced by Plovdiv Municipal Court to one year's imprisonment for evading military service. His conviction, confirmed by the District Court in July is to be reviewed by the Plovdiv Appellate Court. Amnesty International expressed concern to the President of Bulgaria that should Krassimir Nikolov Savov be imprisoned he would be considered a prisoner of conscience.

CROATIA

Dignity finally brought to some victims from Vukovar

Croatian authorities exhumed 938 bodies from graves in Vukovar between 28 April and 26 June, of which 580 were identified. The exhumations were conducted as a result of information provided by the Yugoslavian authorities as part of ongoing efforts to resolve the thousands of cases of missing people from Croatia, many of whom "disappeared". The remains of those exhumed in 1998 had been buried, some following forensic analysis by Yugoslav authorities and others reburied from other sites, after Yugoslav National

February 1996.

⁴For a detailed description of this incident see *Bulgaria: Alleged ill-treatment by Bulgarian special police forces in the Druzhba quarter and Rakovski stadium in Sofia*, AI Index: EUR 15/02/96, of 12

Army forces captured the city in November 1991. Although most victims had died as a result of the armed conflict and struggle for control of the town, according to Croatian investigators some showed signs that they may have been extrajudicially executed or otherwise unlawfully killed. For example, the remains of Dragutin Šavori_ć were identified; he was last seen filmed on Belgrade television during a prisoner exchange in 1991, but was reportedly separated from the other prisoners. According to the Croatian authorities, his corpse exhibited two bullet wounds to the head and one to his right foot. The only suspect for violations committed in Vukovar indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal) who had been apprehended, Croatian Serb Slavko Dokmanović, was found dead on 29 June in his cell. He had faced charges related to the killing of approximately 260 people taken from the Vukovar hospital by Yugoslav National Army forces in November 1991. Exhumations of the mass grave where most of those victims were buried concluded in 1997 (see AI Index: EUR 01/01/97), however, some victims who had been among the missing from Vukovar hospital were reportedly found in the New Cemetery grave exhumed in 1998. Slavko Dokmanović's death, an apparent suicide, came eight days before the verdict was expected to be announced. Three other men publicly indicted by the Tribunal for the mass killings of non-Serbs taken from Vukovar Hospital remain at large and are believed to be in the Federal Republic of Yugoslavia.

Trials of Croatian Serbs

Scores of Croatian Serbs continued to be held in lengthy pre-trial detention despite provisions in a new Code of Criminal Procedures which went into effect on 1 January which strictly regulate the amount of time of pre-trial detention. Under the new code, the absolute maximum total amount of pre-trial detention is two-and-a-half years (this would be for charges which envisage a possible sentence of more than 20 years' imprisonment). Most of the Croatian Serbs had been arrested immediately following the Croatian security forces' operations in May or August 1995.

Some trials of Croatian Serbs began or continued and Amnesty International fears most may be unfair. For example, on 26 March a trial began at the County Court of Split against eight Croatian Serbs, three of whom were tried *in absentia*. All the defendants were found guilty; those present were sentenced to terms of imprisonment ranging from eight to 15 years, while the three tried *in absentia* were sentenced to prison terms of 12 to 20 years, although Amnesty International is concerned that the evidence presented may not have been sufficient to lead to a conviction. The defendants were charged with "war crimes" although some of the acts for which they were charged seemed to be common criminal acts. Most of the defendants claim they were ill-treated in custody; for example, Milan Bura who stated that after he surrendered to the Croatian Army in August 1995 he was taken to a police station in Sinj where he lost three teeth and suffered damage to a fourth because of beatings. All defendants present are appealing against the verdict.

In February the Supreme Court granted an appeal in one case of a man, Mirko Graorac, who had been found guilty on two counts of nationally-defined war crimes in April 1996 for allegedly being a guard in Manjača prison camp south of Banja Luka, Bosnia-Herzegovina, in 1992. He had been sentenced to 20 years' imprisonment on both charges followed by expulsion from Croatia in a trial which did not meet international standards for fairness. The substance of the charges for which witnesses claimed they had direct knowledge was one witness who claimed he had been beaten by the defendant with a cable, and another witness who said that the defendant had kicked him once in the knee and punched him twice on his torso. All other evidence presented against the defendant was based on hearsay. The Supreme Court verdict dismissed the defence lawyers' complaints, including the fact that the defence was not able to call witnesses on his behalf and that the evidence had been insufficient for a conviction. In fact, the decision to return the trial to second-instance proceedings was solely for the court to determine in what capacity some of the witnesses had been detained in Manjača, as "prisoners-of-war" or "civilians". Some witnesses,

former Croatian Army officers, had testified that they had been on active duty for the Croatian Army when they were captured near Bugojno, Bosnia-Herzegovina in 1992, which the Supreme Court stated could have "long-reaching consequences for Croatia" as it had indicated that the Republic of Croatia had participated in the war in Bosnia-Herzegovina.

Croatian Serbs' exile perpetuated by violence and other obstacles

After a previous plan was severely criticized by the international community, the Croatian parliament in June passed a new program to facilitate the return of Croatian Serbs. As a contrast to paper commitments, however, human rights violations prevented Croatian Serbs from returning to their homes.

The Croatian Helsinki Committee for Human Rights issued a report in April 1998 documenting 29 cases of house destruction among more than a hundred cases of arson in installations believed to be related to the return, or imminent return, of the Croatian Serb owners to that property. For example, the house of Mirko Mrkalj and his family in Donji Sjeni_ak was completely destroyed by an arson attack in early April 1998, just a month after the family had come on a visit to plan their return. Other obstacles to the return of Croatian Serbs were bureaucratic, for example by making difficult the acquisition of public documents.

Continuing low-scale intimidation and violence against Croatian Serbs resulted in a steady emigration trickle, particularly from Eastern Slavonia, which was fully transferred to the control of the Croatian authorities when the United Nations' mandate ended there on 15 January. Emigration towards the Federal Republic of Yugoslavia, Republika Srpska in Bosnia-Herzegovina, or Western Europe intensified during March and April from villages near Osijek. In some villages hardly any Croatian Serb inhabitants remained as of early May.

Local police did little or nothing to protect the remaining Croatian Serb population from acts of violence and harassment. For example, at the end of March of the house in Eastern Slavonia

where Croatian Serb Saveta Nikolić - who had fled her native town in Western Slavonia following the nationally-motivated murder of her husband there - had been living with her teenage daughter began to be visited by the Croat owner, who ordered them to vacate the house and threatened to move in regardless of whether Saveta Nikolić had been able to find alternative accommodation. On one occasion the owner brought another Croat returnee who shouted at her that all Serbs should be chased out of Croatia. The local police refused to come until Saveta Nikolić threatened to call the United Nations Civilian Police. Although the police then told the owners not to disturb Saveta Nikolić until she had found alternative accommodation, she continued to be harassed, for example, by telephone threats to rape her daughter. After the owner accused the woman of stealing an agricultural tool, she decided she could no longer bear the pressure and left for Norway.

One family was given assurances from the authorities that since their house in Dvor (near the border with Bosnia-Herzegovina) was vacant, they would be able to reoccupy it. However, when the younger family members returned from Dvor to Eastern Slavonia to collect their belongings, leaving the husband's elderly parents alone in the house, they were visited by a group of Croatian men who broke into the house and evicted the elderly couple. When they went to the police, the police reportedly told them to return in 10 days when an investigating commission would be formed to look into the incident. Having lost their previous accommodation in Eastern Slavonia because the original (Croat) owners of that house had returned, the family decided it was too dangerous to proceed with their return attempt and left Croatia.

In other cases, impunity for human rights violations was a major factor in the decision to leave Croatia. Jovo and Ljuba Dabi_, victims of violent attacks in May 1997 in Donje Velešnje near Hrvatska Kostajnica, left Croatia on 18 May 1998 for Republika Srpska, Bosnia-Herzegovina. Police officers had reportedly been standing by idly during brutal beatings of Jovo Dabi_ in 1997, and others later told him not to report the incidents although Jovo Dabi_ had recognized several of his attackers. Fear for their safety because of

continued harassment and ill-treatment and lack of confidence in the authorities was the biggest factor why the Dabi_ couple told Amnesty International delegates that they were leaving Croatia. Authorities have still not responded to Amnesty International's calls for those who participated in the violent attacks in other villages near Kostajnica in 1997 to be held individually accountable for their actions (AI Index: EUR 01/06/97 and AI Index: EUR 01/01/98).

Potential prisoners of conscience

After former *Feral Tribune* Editor-in-Chief Viktor Ivan_i_ and journalist Marinko _uli_ failed to appear for a hearing date in May for the second-instance trial against them for "slandering" or "insulting" President Franjo Tudjman (see AI Index: EUR 01/01/98 and AI Index: EUR 01/06/97), the judge ordered that they be arrested and brought to trial for the next court appearance on 28 September 1998. Amnesty International would consider the two men to be prisoners of conscience if they were convicted and sentenced to terms of imprisonment for the charges they face.

Police ill-treatment of Zagreb youth results in hospitalizations

Reports of ill-treatment by the police of detainees were frequent. For example, Mario Barišić was accosted by police in Zagreb in the early morning hours of 12 May with his friends after a night out. Police who accosted the group reportedly severely beat the young man and then beat him again after he was taken to the police station in Sesvete neighbourhood. Mario Barišić was hospitalized because of the injuries he received. The authorities announced that an investigation into the beatings was underway.

CYPRUS

Homosexuality legislation

In May the Cypriot House of Representatives passed an amendment to Article 171 of the Penal Code which made sex between consenting male adults in private an offence punishable by five years' imprisonment.

In 1993 the European Court of Human Rights (European Court) held that Article 171 constituted a violation of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) to which Cyprus is a state party. Article 8 provides that everyone has the right to respect for his private and family life. The European Court took the view that although there had been no recent prosecution of homosexuals under Article 171, there was no guarantee that action would not be taken by a future Attorney-General to enforce the law. In April 1998 the Council of Europe gave Cyprus until 29 May to comply with the decision of the European Court and reform its legislation.

In a letter to the Cypriot authorities in June Amnesty International welcomed the vote by the Cypriot House of Representative to amend the Penal Code, but expressed concern that the new legislative provisions introduced could still result in the imprisonment of people solely for their homosexuality.

According to Article 171 (1) of the new legislation: "unnatural acts between males, performed in public and [those] which involve one of the persons being aged under 18 years old are considered to be a crime and are punishable by five years' imprisonment". Article 171 (3) clarifies that acts performed "in public" include acts "between more than two people or in the presence of a third party". Article 174 A also states that: "Indecent behaviour or invitation or provocation or advertisement aimed at performing unnatural acts between males is an offence punishable by one year's imprisonment".

In its letter to the authorities, Amnesty International stated that by defining the age of consent for sexual activity between males at 18 rather than at 16 (the age of consent for heterosexual activity) and by applying a restrictive definition of privacy only to sexual activity between males, and not to activity between males

and females, the new legislative provisions violated international standards which prohibit discrimination and arbitrary interference with personal privacy. These include Article 2 (1) of the International Covenant on Civil and Political Rights (ICCPR) and Article 14 of the European Convention which require the Government of Cyprus to ensure that all of the rights recognized in the ICCPR and European Convention are applied to all people without discrimination, including on the basis of sex or other status. Article 26 of the ICCPR also requires the state to ensure that all people are equal before the law and receive equal protection of the law without any discrimination including on the basis of sex.

In its letter to the Cypriot authorities, Amnesty International expressed concern that application of the revised Article 171 (1) and (3) could continue to lead to the imprisonment of adults solely for engaging in consensual homosexual relations in private and that the wide scope of the provisions of the recently adopted Article 174 A could lead to the imprisonment of individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association. The organization called upon the Cyprus Government to revise Article 171 (1) and (3), to equalize the age of consent for homosexual and heterosexual relations, and to revise Article 174 A. Finally, Amnesty International informed the authorities that while the current provisions remained in force, the organization would adopt as a prisoner of conscience any adult at or above the age of consent for heterosexuals, imprisoned for engaging in consensual sexual relations with one or more other adults, having taken reasonable precautions not to be seen or heard by others. Amnesty International would also adopt as prisoners of conscience persons imprisoned under Article 174 A for the non-violent exercise of their rights to freedom of expression and to freedom of assembly and association.

CZECH REPUBLIC

Alleged ill-treatment by police officers

According to information received by Amnesty International, on 16 May 1998 between 3pm and 6pm at *nám_stí Míru* (Peace Square) in Prague, around 3,000 young people attended "Global Street Party 98", a gathering organized by environmental and left-wing youth groups. Later an unauthorised march to the city centre resulted in several violent incidents. In the vicinity of the State Opera a small group of demonstrators demolished a billboard of the Republican Party. At the main railway station a police unit of around 30 officers blocked the route and clashed with demonstrators who continued the march towards T_šnev tunnel. A police car which reportedly drove into the crowd at the tunnel entrance was turned on its side by the demonstrators. More clashes reportedly occurred at the end of the tunnel which had been blocked by police cars and two fire engines. During the later stages of the march the police did not reportedly intervene and the march made its way peacefully through *Revolu_ní* and *Dlouhá* streets, and across the *Starom_stské nám_stí* to *Mariánské nám_stí* where the march came to an end.

After the demonstrators started to disperse a window of the McDonald's restaurant was broken. The police reportedly clashed with a group of demonstrators who claimed that the wrong person had been arrested for breaking the window. Some of the demonstrators, including many who were reportedly not involved in any violence, headed for *Vodi_kova* street where a number of other shop windows were broken. Ten minutes later, at around 9pm, several emergency police vehicles blocked *Vodi_kova* Street from *Václavské nám_stí* and *Školsá* street and around 100 police officers reportedly indiscriminately beat people with truncheons and kicked them.

Around 50 young people, suspected of participating in the demonstration, were assembled by the police in front of the building of the former girls' school. They were forced to lie on the pavement or to stand against the wall and were reportedly indiscriminately kicked and hit with truncheons. After they presented their identity documents they were searched, their personal belongings were taken away and numbers were inscribed on their hands for identification purposes. They were then taken in vans to the police

headquarters in Bartolomějska street where officers reportedly took them into the basement with their arms twisted behind their backs. Other officers then reportedly indiscriminately kicked and beat many of the detainees. Some were forced to kneel facing a wall with their hands held above their heads before they were detained in small cells - around twenty detainees in a cell that was two and a half to three metres long and two and a half metres wide. They were reportedly denied the use of toilets, to contact a lawyer or to inform a relative or a third party about their whereabouts. During the night the detainees, 10 at a time, were driven to the police hospital Na Mi_ankách. Many detainees were ill-treated by police officers in front of the surgery, before and after the examination which was reportedly aimed solely at establishing whether they were under the influence of drugs or alcohol. They were then returned to Bartolomějska street station where they were interrogated in the early morning hours. Investigations against 26 persons were reportedly initiated on charges of hooliganism, assault of a public official and destruction of property; nine (11 according to one report) of them remained in detention while all others were released. Subsequently investigations against 18 people were reportedly dropped for lack of evidence. The Ministry of the Interior claimed that the conduct of the police officers involved had been legal and that force had only been used to restrain detained suspects.

In July Amnesty International urged Otokar Motejl, the Minister of Justice, to ensure that the investigation into the reported ill-treatment of detainees in Bartolomějska street police station and the police hospital *Na Mi_ankách* is conducted promptly and impartially. Amnesty International also urged the Czech authorities to ensure that the investigation into this incident establishes the responsibility of any medical personnel involved for failing to provide adequate medical assistance to those who were detained and subsequently examined for drug and alcohol abuse. The organization also requested to receive information on: the number of injured people in the incident for whom the police provided medical treatment; the nature of their injuries and the results of any inquiries to established the cause of these injuries;

whether those detained were informed of their rights at the time of the arrest, including the right of access to a lawyer; the number of people interrogated in the police station who had asked for a legal counsel and the number questioned in the presence of a lawyer; and the number of those questioned who were younger than 18 and the circumstances in which their interrogation was conducted.

ESTONIA

The death penalty

On 18 March the Estonian Parliament (Riigikogu) voted to ratify the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms. This protocol provides for the abolition of the death penalty except in time of war or the imminent threat of war. Estonia had signed the Sixth Protocol in 1993 upon its accession to the Council of Europe. The decision to ratify the protocol was adopted by a vote of 39 in favour and 30 against. In June it was reported that Tallinn City Court had commuted all pending death sentences to life imprisonment.

Ratifications

In March Estonia ratified the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms. This protocol provides for the abolition of the death penalty except in time of war or the imminent threat of war.

FRANCE

A number of inter-governmental organizations published reports on France in the first half of 1998. Among these were:

UN Committee against Torture

In May the United Nations (UN) Committee against Torture examined France's long-delayed second periodic report on its implementation of the

UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Amnesty International brought to the attention of the Committee a 15-page document detailing and updating information on fatal shootings and allegations of torture and ill-treatment by law enforcement officers (see *France: Excessive force: A summary of Amnesty International's concerns about shootings and ill-treatment* (AI Index: EUR 21/05/98)).

While remarking on the six-year delay in presenting the second periodic report, the Committee welcomed a raft of new measures and proposals by the government to combat torture and ill-treatment, including the establishment in the most recent Penal Code (March 1994) of the offence of torture as a distinct crime, new plans to cut the length of pre-trial detention and the setting up of the *Conseil supérieur de la déontologie de la sécurité* (CSDS), which is expected to be given wide powers to investigate and make recommendations on the conduct and practices of the various police forces and *gendarmerie nationale*, as well as private security forces.

However, in its Conclusions and Recommendations the Committee regretted the absence in the Penal Code of a definition of torture in conformity with Article 1 of the Convention against Torture, and that French courts were not formally obliged to disregard cases where evidence had been obtained by use of torture, as laid down by Article 15. The Committee was "seriously concerned" that persons were being handed over by French police to the police of countries where there was substantial likelihood they would be subjected to torture. It also expressed concern about a number of allegations of ill-treatment of suspects by police forces and by the *gendarmerie* at the time of arrest and during interrogations.

The Committee recommended, *inter alia*, that the French authorities give "the greatest possible attention" to allegations of violence and ill-treatment by law enforcement officers and to ensuring that judicial inquiries were impartial and punishment appropriate. It stressed that the authorities should also ensure that judicial inquiries into every reasonable allegation of torture and ill-treatment were prompt and systematic (Article 12), as was not so far the case in France.

Council of Europe's Committee for the Prevention of Torture (CPT)

In May the government authorized publication of the findings on its second periodic visit carried out by the CPT in October 1996, together with the government's response. The CPT delegation visited police and *gendarmerie* establishments in Marseille, Montpellier and Paris. The delegates were particularly concerned by the number of allegations they received of ill-treatment by police officers (not *gendarmerie*) in the moments after arrest, when the suspect was already being held in custody, or during *garde à vue* (a regime of incommunicado detention).

The majority of allegations came from persons of North African or African origin and from suspects held in relation to drugs-related offences. The majority of the complaints described blows, punches, kicks, beatings with truncheons and prolonged periods of tight behind-the-back handcuffing. In some instances, a person handcuffed from behind was forced to kneel down and the handcuffs were pulled upwards, or a person's head was covered with a pail and the pail beaten repeatedly with a truncheon. In a number of cases the delegation was able to gather medical evidence consistent with the allegations. In one case, at Vigie Gard du Nord, the delegation stated it directly witnessed the "brutal way" in which a police officer dragged a suspect up from the ground by handcuffs fastened behind the back. They expressed the view that the conduct and attitude of the police officers may have been in part occasioned by psychological stress. Another case the CPT believed should be specifically mentioned was that of a detainee whose jaw had been broken in two places, reportedly by blows delivered with a chair.

In the light of its continuing concerns about police ill-treatment in France, particularly in Paris, the CPT recommended that the French authorities accord a high priority to the preparation of a practical guide on deontology and to the initial and continuous professional training of police officers at all levels. It advised that, during arrest, force be used only when strictly necessary and

insisted there was no justification for ill-treating a suspect after completion of arrest. In addition, while noting the French authorities' statement that there were relatively few cases in which ill-treatment had been inflicted or tolerated by police officers, and these had been rigorously punished, the CPT observed that medical certificates reporting traumatic injuries to suspects during *garde à vue* did not always appear to receive proper attention, or that often such certificates were superficial, and that it had received several allegations that investigating judges did not act upon receipt of complaints of ill-treatment. It therefore reiterated the recommendation it had made in the report that followed its first visit in 1991, that the results of all medical examinations, together with the relevant declarations of the detainee and doctor's conclusions, be formally reported and put at the disposal of the detainee and defence lawyer. The CPT also wished to know what preventive and support measures the authorities were taking to alleviate the problem caused by police officers being permanently exposed to situations of stress and violence.

In its response to the CPT report, the French Government referred to a series of measures which were being taken to address the concerns and recommendations of the CPT.

European Commission on Human Rights

In March the European Commission published a report which accepted that Ahmed Selmouni, a man of Dutch and Moroccan nationality, was tortured by police officers while being held under *garde à vue* in 1991 and which found that the authorities had failed to show the diligence required in the interests of a prompt investigation. The Commission transmitted the case to the European Court of Human Rights, which is due to judge the case before the end of 1998. It found that, although an inquiry had opened into Ahmed Selmouni's allegations in March 1993, after the plaintiff had become a civil party to the case, police officers had not been examined by an investigating judge until 1997 and that the judicial investigation was still underway more than four years and eight months after it had been initiated, despite the fact that the case, although extremely serious, was not

a particularly complex one. The Commission referred to the blows inflicted on Ahmed Selmouni as intense and multiple, creating real injuries, as well as acute physical and moral suffering. Further details can be found in AI Index: EUR 21/05/98 (see above).

Allegations of ill-treatment of prisoners at the maison d'arrêt of Grasse

In March Amnesty International wrote to the Minister of Justice with regard to reports that on the night of 31 December 1997 eight detainees, including three minors, were ill-treated by seven prison guards at the *maison d'arrêt* of Grasse (Alpes-Maritimes). Medical examinations reportedly confirmed allegations made by the prisoners that they had been beaten. An administrative inquiry into the allegations was entrusted to the *Inspection générale des services pénitentiaires* and a judicial inquiry to ascertain responsibility for the beatings was also opened after the prison director contacted the public prosecutor. The prison guards were placed in custody. Amnesty International welcomed the news that inquiries had been opened into the beatings and urged the Minister of Justice to do all in her power to ensure that they were carried out thoroughly, promptly and impartially. It also requested information about the eventual outcome of the inquiries. No reply had been received at the time of writing.

Chinese "boat people" injured by rubber bullets

In November 1997 a total of 110 Chinese "boat people" landed in the French overseas territory of New Caledonia. The refugees were detained under a decree of 1937 governing the admission of French people and foreigners to New Caledonia and by March were being held in a military hangar at the airport of Tontouta. On 19 March about 100 officers of the immigration police force, the

DICCILEC⁵, arrived in New Caledonia from Paris to oversee the forcible return of the refugees to China on a Chinese charter plane, and large numbers of *gendarmes mobiles* were also activated. Hearing of their imminent deportation 60 of the boat people, including women, children and a baby, sought refuge on the roof of the hangar, where they remained for two days in a desperate attempt to bring about a change of heart by the French authorities.

On 22 March the *gendarmes* launched an attempt to dislodge the refugees with tear gas, to which they apparently replied with stones and other projectiles. The *gendarmes* then opened fire with rubber bullets, injuring nine men, who were taken for treatment to the capital, Nouméa. One of the two most seriously injured, evacuated by helicopter, was reportedly hit in the face by a bullet. The second man underwent life-saving surgery to remove a bullet that was reportedly embedded in the thorax, close to the heart. Several hours later the government suspended deportation for three months and released the refugees from the detention centre.

In its above-mentioned report (AI Index: EUR 21/05/98), which was also brought to the attention of the French authorities, Amnesty International expressed concern at reports about the injuries and the use of rubber bullets that had caused them, and expressed the fear that such use was disproportionate and inappropriate. Amnesty International pointed out that there had been young children and a baby on the roof of the hangar when the shootings took place and that they were inevitably endangered by the decision to fire the bullets.

Administrative detention (update to information given in AI Index: EUR 01/01/98)

On 17 March Amnesty International received a reply from the Ministry of the Interior to its letter about Salah Ben Hédi Ben Hassen Karker, a political refugee from Tunisia who had been held in a form of administrative detention known as

assignation à résidence for four years. The Ministry confirmed the length of time Salah Karker had been held and the reason for the order of *assignation à résidence* but stated that his material conditions were "perfectly satisfactory" ("*tout à fait satisfaisantes*") and saw no reason to review the situation. The Ministry did not respond to Amnesty International's concerns that Salah Karker had never been charged with a crime in France, and never been given any effective opportunity to be heard by a judicial authority.

In April Amnesty International received reports that Salah Karker had left the hotel at Digne, where he was being held, to see his wife and children in Paris and had been arrested while taking his little girl to school. He was sentenced to a suspended prison term of six months by the correctional court of Pointoise (Val d'Oise) for infringing the terms of the *assignation à résidence* detention order. In May the UN Committee against Torture raised the case of Salah Karker's long detention without trial with the French Government. Amnesty International continues to believe that, if Salah Karker is not to be charged with a criminal offence, he should be released from the detention order.

Allegations of ill-treatment and excessive use of force by law enforcement officers

Amnesty International was concerned at the fatal shooting in December 1997 of Abdelkader Bouziane and the allegations of attempted murder and ill-treatment by his passenger, Djamel Bouchareb (see AI Index: EUR 01/01/98). Inquiries into both the shooting and Djamel Bouchareb's complaint were underway this year. A ballistics report ordered by the investigating judge, the findings of which were reported in the French press, appears to suggest that two of the four bullets shot at the car at close range by two police officers were fired at head and shoulder level while the car was passing or had already passed the officers.

⁵Direction centrale du contrôle de l'immigration et de la lutte contre l'emploi des

clandestins

The prosecutor and the lawyer acting for the family of Franck Moret appealed against a court decision to discharge the *gendarme* who shot and killed him on a night in 1993 (see AI Index: EUR 01/01/98 and previous reports). The appeal was heard in May by the *chambre correctionnelle* of the Court of Appeal of Grenoble. The outcome is expected to be made public in July.

GEORGIA

Allegations of ill-treatment in detention

Anzor Baluashvili, Deputy Procurator General of Georgia, responded to Amnesty International in March with details on a number of allegations of ill-treatment raised previously. In the case of two young journalists Nika Svanadze and Georgi Khonelidze, for example, said to have been beaten by police in Kutaisi (see AI Index: EUR 01/01/98), he reported that an investigation had been instigated into the incident (see also *Women in Europe*, p.81).

Allegations of ill-treatment continued. Gogi Shiukashvili, for example, was detained at around 2.00pm on 25 January 1998 by police from the Gldani district, Tbilisi, at a car repair workshop in Gldani, on suspicion of stealing wheels. Gogi Shiukashvili alleges that he was beaten initially without explanation, and then in an attempt to make him say that another person detained was his brother. He was then transferred to the Tbilisi City Police Administration where he claims that he was severely beaten with truncheons over a period of 15 days until he confessed in writing to stealing wheels and several other crimes which he had not committed. Gogi Shiukashvili was then transferred again, this time to investigation-isolation prison No. 1. He alleges that for around the first two weeks he was at this prison he was virtually unable to move, owing to the beatings he had received prior to the transfer, and that 18 other detainees in his cell were witnesses to his condition. He is quoted as saying "I was beaten by truncheons. My nose was broken as a result of the tortures and beating. Presently I have severe headaches, I lose consciousness for several hours

and forget everything. I wake up at night and tremble." The Tbilisi City Procurator was said to be investigating the allegations.

On 6 May 1998 at around 10.30am four plain clothes police officers, again from the Gldani district of Tbilisi, are said to have detained a 29-year-old Kurd named Jemal Teloyan near the Akhmeteli metro station. The men reportedly did not introduce themselves or show any form of identification before driving Jemal Teloyan off in a white Zhiguli to Gldani district police station. There they are said to have beaten him severely, including by punching him while sitting on him as he lay on the floor. The officers reportedly said that Jemal Teloyan had a gun at home that he should bring to them. It is alleged that the officers then approached Jemal Teloyan's mother, whom they knew worked as a trader near the Akhmeteli metro station, brought her to the police station and demanded that she bring money to obtain her son's release. According to one report the sum mentioned was US\$1,000. The mother is said to have raised a sum of money and handed it over to the officers, whereupon Jemal Teloyan was released. It is further alleged that two of the four police officers involved (the name of one of these two has been given to Amnesty International) visited Jemal Teloyan at home several times after his release and made verbal threats against him in order to force him not to report the incident. Jemal Teloyan subsequently went into hiding. It is reported that officials from the Ministry of Internal Affairs visited the family after Jemal Teloyan's father submitted a written complaint, but AI is currently not aware of the outcome of any investigation instituted.

Allegations of ill-treatment also came to light when defendants at a major political trial, many of whom had been in custody since 1995, began giving evidence after the start of proceedings in December 1997. Thirteen of the 15 defendants claim that they were beaten or otherwise ill-treated during interrogations in pre-trial detention. Gocha Gelashvili, for example, claimed when he gave testimony at the end of January that he had suffered two broken ribs and a broken right arm. He named a former Interior Minister and a Tbilisi police chief as being among those who had tortured him. Another defendant, Gocha

Tediashvili, also named the former minister as one of those responsible for allegedly torturing him and pulling out his teeth with pliers. Gocha Tediashvili also claims that he had explosive material placed in his mouth, which was only removed when he agreed to confess as instructed by the investigators. A court-ordered forensic medical examination of five defendants was carried out at the beginning of the year. Although it was able to record the presence of certain injuries, such as the fracture of Gocha Gelashvili's right arm, caused by the impact of a heavy blunt object, it was not possible to draw conclusions as to the circumstances surrounding the injuries owing, among other things, to the passage of time since the injuries were said to have been sustained.

Conviction of former police officer Gela Kavtelishvili

Amnesty International sought further information on the current status of Gela Kavtelishvili, a former deputy chief of the Tbilisi police department for combatting drug addiction and drug trafficking, who was convicted in May 1997 of charges which included using electric shocks on suspects while investigating a murder, in an effort to force them to confess. He was sentenced to four years' imprisonment. At the end of 1997, however, some of the witnesses in the trial alleged to Amnesty International that Gela Kavtelishvili was still free, and threatening them. During a mission to Georgia in May Georgian officials confirmed to Amnesty International delegates that Gela Kavtelishvili was still at liberty, pending the outcome of various appeals. As pre-trial detention, and detention following conviction pending appeal, are widely used in Georgia even for more minor offences, Amnesty International has expressed its concern that leaving a relatively high-level official at liberty after conviction on charges of ill-treatment does not send a strong, positive message about the state's commitment to deal sufficiently rigorously with the continuing issue of ill-treatment in detention.

Concerns in the disputed region of Abkhazia

Alleged targeting of civilians in the Gali District

On 18 May an attack on Abkhaz militia in the Gali District, allegedly by members of so-called Georgian partisan groups, led to the worst armed clashes in this disputed region since 1994. A cease-fire was negotiated on 25 May, although sporadic incidents continued after that. Georgian authorities put the death toll at over 200, with some 35,000 ethnic Georgian (mainly Mingrelian) civilians forced to flee after what has been described as the systematic torching of their homes by Abkhaz forces.

Amnesty International is gravely concerned about reports that the civilian population of Gali District was the target of deliberate violence by Abkhaz militia or, at times, armed Abkhaz operating without militia documents but with apparent impunity. Civilians were allegedly deliberately killed, shot at and otherwise ill-treated, and had their homes deliberately set on fire and their property looted to prevent them returning. Some individuals attempting to return from Zugdidi in western Georgia to their residences in Gali to assess damage or collect personal belongings are also said to have been detained by Abkhaz fighters.

With regard to deliberate killings, for example, a 48-year-old villager was said to have been killed by Abkhaz fighters in the village of Dikhazurga on 26 May when he refused to show them where Georgian partisans were hiding. On 6 June at Chuburkhinji six residents who had returned to tend their crops were reportedly taken from the village by Abkhaz fighters, who led them to the Inguri river, forced them into the water, and then fired on them as they swam across. Two men named as Dzandzava and Ubilava were said to have been killed as a result, and three others wounded. One 55-year-old resident of Otobaya village (his name is known to Amnesty International), being treated in June in Zugdidi hospital suffering from second and third degree burns, claims that he sustained his injuries after six

uniformed and armed Abkhaz entered his home on 26 May, made a fire from all of the linen, bed sheets and beds, and then threw him onto the fire.

Fire is also the agent used in what has been described as the widespread and systematic destruction of civilian housing in the Gali District (one international agency previously operating in Abkhazia estimated that some 1,400 houses have been rendered uninhabitable), as part of a deliberate strategy to deter the return of the Georgian civilian population. On 26 May, for example, a day after a cease-fire was declared, journalists and residents who had fled from the village of Dikhazurga reported watching a mile away as Abkhaz forces torched homes in the village one by one. It is also alleged that there was a pattern of targeting houses rebuilt and/or reoccupied by spontaneous returnees, with unoccupied or decayed structures left unburned, in a manner that would discourage any future rehabilitation of villages and thus prevent large-scale return of the internally displaced population. It is further alleged that houses and villages have been systematically looted before being burned, and that this looting appears to have been well-organized, even to the point of the central Abkhaz militia department issuing "permits" for the transport of looted goods through checkpoints of the CIS peacekeeping forces. As most of the residents affected fled the swift onset of fighting with only a few personal affects, the loss of their household goods, livestock, farming implements and crops has left them destitute and obviously further hampers their return.

There are also reports that a number of Georgian civilians have been detained since the fighting began. In some cases it has been alleged that those detained were held as hostages, with a ransom demanded for their release. Nodar Sharia, for example, was said to have been released at the beginning of June after relatives paid the sum of 10 million Russian roubles to Abkhaz militia in the village of Kvemo Bargebi.

Amnesty International is urging the Abkhazian authorities to ensure the safety of all residents, regardless of their ethnic origin, by, among other things, instigating prompt, impartial and comprehensive investigations into all instances in which Abkhazian forces were alleged to have

deliberately and arbitrarily killed civilians, or tortured or otherwise ill-treated them; take all appropriate and timely measures to ensure the voluntary return of refugees and displaced people, under conditions in which their safety, and the safety of any who have already spontaneously returned, could be guaranteed; and ensure that all those detained as a result of the recent fighting are charged with a recognizably criminal offence or released, and that no-one is held as a hostage.

Amnesty International is also aware of the activities of so-called Georgian partisans in Abkhazia, which have included fatal attacks against Abkhaz militia, and has raised with the Georgian authorities its concerns about their reported links with these irregular armed groups.

Conscientious objection to military service

There is no civilian alternative for those unable to perform compulsory military service on conscientious grounds, and at least seven men, all Jehovah's Witnesses, are said to have been detained during the period under review for refusing military service for religious reasons. Few details are available on Gennady Tsereyba, but five others - named as Chan Agrba, Garik Argun, Guram Eseva, Vitaly Kacharava and Maksim Harazia (said to be in ill-health) - were said to have been arrested in April and released two months later, although criminal proceedings were still ongoing against them. The seventh man, Adgur Ashuba, was reportedly sentenced to five years' imprisonment on 4 May for deserting from the armed forces. He was said to have left the army illegally, then to have refused to return after becoming a Jehovah's Witness and developing a conscientious objection to military service. All men were reportedly held in Dranda prison.

Amnesty International is calling on the Abkhaz authorities to release immediately and unconditionally anyone already imprisoned for their refusal on conscientious grounds to perform military service, and refrain from imprisoning anyone else as a conscientious objector; to introduce without delay legislative provisions to ensure that a civilian alternative of non-punitive length is available to all those whose religious, ethical, moral, humanitarian, philosophical,

political or other conscientiously-held beliefs preclude them from performing military service; to establish independent and impartial decision-making procedures for applying a civilian alternative to military service; and to ensure, after the introduction of a civilian alternative service, that all relevant persons affected by military service, including those already serving in the army, have information available to them about the right to conscientious objection and how to apply for an alternative service.

The death penalty

During a visit to Abkhazia in May Amnesty International delegates were informed that there were 12 people under sentence of death in the region at that time, including one woman, but that no executions had been carried out in recent years. Amnesty International has continued to urge the Abkhazian authorities to commute all existing death sentences, as well as any that may be imposed before formal abolition of the death penalty; take steps to prepare public opinion for abolition of the death penalty; and to prepare and enact legislation to remove the death penalty completely as a possible punishment from the criminal code.

Concerns in the disputed region of South Ossetia

The death penalty

In May, Amnesty International delegates also visited South Ossetia which, like Abkhazia, is currently outside the *de facto* control of the Georgian authorities. The delegates were informed that Ossetia is currently using the Russian Federation criminal code, which provides for the death penalty for a number of offences, but that there is a *de facto* moratorium on passing death sentences. Amnesty International has urged prompt, comprehensive steps to abolish the death penalty completely.

Conscientious objection to military service

There is no civilian alternative to compulsory military service, and Amnesty International has urged its introduction, along with a fair procedure in law for applying it, in recommendations similar to those sent to officials in Abkhazia.

GERMANY

The alleged ill-treatment of detainees

United Nations Committee against Torture calls for improvements in complaints mechanisms

In May the Committee against Torture met to consider the Federal Republic of Germany's second periodic report on its compliance with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). At its 329th meeting, held on 11 May 1998, the Committee expressed concern at: "the large number of reports of police ill-treatment, mostly in the context of arrest, from domestic and international non-governmental organizations in recent years as well as at the conclusions of the study "The Police and Foreigners", commissioned by the [German] Conference of Ministers of Internal Affairs in 1994 and presented in February 1996, to the effect that police abuse of foreigners is more than just "a few isolated cases". The Committee also expressed concern at the "apparently low rate of prosecution and conviction in the alleged incidents of ill-treatment by the police, especially of people of foreign descent....", as well as at the "existence of certain open-ended legal provisions permitting under certain circumstances the discretionary but significant reduction of the legal guarantees of those detained by the police, such as provisions permitting the police in certain cases to refuse permission to someone detained at a police station to notify a relative of his arrest". The Committee recommended, among other things, that:

□ both internal disciplinary and external prosecutorial and judicial measures against offending police officers be “significantly strengthened to ensure that in future all police officers accused of ill-treatment of domestic and foreign nationals alike are brought to justice”;

□ that police officers of all ranks receive compulsory training concerning “human rights in general and especially concerning the Convention against Torture [and that] in view of the fact that most reports of ill-treatment come from foreigners...these officers also receive compulsory training in the areas of conflict management and ethnic minorities”;

□ all detainees, at the outset of their custody, be given a form in a language they understand, outlining their rights, including the right to be informed of the reason for their arrest, to contact a relative and a lawyer of their choice, to submit a complaint about their treatment and to receive medical assistance;

□ “in order to make future judicial proceedings against those suspected of ill-treatment possible, police officers should be required to wear a form of personal identification that would make them identifiable to those who allege ill-treatment”.

Fresh allegations received by Amnesty International

In the period under review Amnesty International received numerous allegations that asylum-seekers had been subjected to cruel, inhuman and degrading treatment by officers of the Federal Border Police during attempts to deport them from Düsseldorf airport in the period May 1997 to April 1998:

□ In May 1997 Nigerian asylum-seeker Mercy O. reported to an Amnesty International representative that she had witnessed border guard officers beat a man detained at Düsseldorf airport after the detainee ignored warnings not to bang against the window and door of the container where he was being held. According to Mercy O., the detainee was pulled out of the container while another officer went to fetch a rubber truncheon.

□ civil procedures for damages be made more widely applicable and possible;

□ the length of the investigation of complaints of police ill-treatment be shortened;

When the officer returned he hit the detainee twice in the lower abdomen. The detainee fell to the floor and lay there groaning while the officers stood around laughing.

□ In September 1997 asylum-seeker Jideofor D. wrote to Amnesty International from Rottenburg prison in Baden-Württemberg where he was taken following a failed attempt to deport him. In his letter the detainee wrote that officers beat him and “rendered me half unconscious with weak joints and [a] painful waist”. Jideofor D. also recalled another case when Togolese asylum-seeker Koffi K. was returned from Düsseldorf airport to Rottenburg prison “severely beaten with [a] swollen red eye”. Amnesty International later received a written statement from Koffi K. in which he described his ill-treatment himself. According to the asylum-seeker: “When I continued to refuse to go up the gangway I was hit with batons and kicked. I was then grabbed by the hands and feet and the attempt was made to pull me up the gangway. I was lying on my stomach on the ground in front of the gangway and was shouting...my nose was filling with blood. An employee of Ghana Airways then came and announced that I would not be taken on board. I was then kicked again on the thigh and in the chest...”

□ In a statement to the Refugee Council of North-Rhine/Westphalia (*Flüchtlingsrat NRW*) and forwarded to the North-Rhine/Westphalian Justice Ministry, asylum-seeker Khebil L. described an attempt to deport him in February 1998: “...I was beaten several times by five police officers. They were trying to make me submissive so that I would get on board the aeroplane that was supposed to take me to Algeria following an order to expel me. When I refused to get on the aeroplane, two of the officers attacked me verbally, then they took me into a police vehicle to an out-of-the-way area where they became violent towards me. Two civilian bystanders saw this and

told the officers to stop...I was hit three or four times on the airport grounds and later in the office.”

□ In a written statement he made in April, Ebezina C. wrote: “On 3 March 1998...I was taken to Düsseldorf police station and from there the policemen took me to the airfield of Düsseldorf airport for my deportation...The policemen started punching me with their hands and kicking me with their feet. They were more than eight policemen in number. When I saw blood rushing down from my nose then I started shouting for help. I am still feeling the pain on my thighs and my face...Some of them were saying that we foreigners must get out from their country because we are only here enjoying their money and having sex with their women and their young girls.”

□ In April Liberian asylum-seeker Jimmy O. alleged that police officers beat and kicked him after he tried to flee across the airfield of Düsseldorf airport, handcuffed, during an attempt to deport him to Nigeria. According to the asylum-seeker, the officers managed to get him on board the aircraft, but because he continued his resistance, the pilot of the aircraft refused to take off. The detainee alleges that one officer punched him in the face while he was on board the aircraft and that, after he had been taken off the aeroplane and brought back to the airport, another officer asked him “Why don’t you want to fly?” and punched him in the face with his gloved hand. Jimmy O. described his ill-treatment to a representative of a non-governmental organization who visited him in Bochum prison six days later. The representative reported seeing a small wound above the detainee’s left eye and an abrasion to his right leg and knee.

In June Amnesty International reminded the German authorities that the Government of the Federal Republic of Germany was responsible for ensuring that deportations were carried out in a manner which respects the human rights of the individual being deported. These include the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment. Amnesty International called for prompt and impartial investigations into the actions of the officers involved in the deportation attempts it had documented, and for a full and impartial

independent inquiry into the role and accountability of the Federal Border Police at Düsseldorf airport. In June Amnesty International was informed by the Federal Ministry of the Interior that it was examining the incidents the organization had raised.

Update to cases previously documented

In February Berlin Higher Regional Court re-examined allegations that three officers had ill-treated Iranian Habib J. (see *Federal Republic of Germany: Continuing pattern of police ill-treatment*, published in July 1997, AI Index: EUR 23/04/97). Habib J. alleged that following an assault on him by a Berlin bus driver in December 1992, police officers called to the scene pulled him out of the bus and threw him into a police van with such force that his head banged against the vehicle. Habib J. also accused police officers of racially abusing him and hitting him at the station he was subsequently taken to. Medical examinations revealed that Habib J. had suffered impaired vision and bruising to the face. Both the bus driver and the officers denied Habib J.’s allegations. A year after he first made his complaint, charges were brought against four officers, three of whom in September 1993 were convicted of causing Habib J. bodily harm and fined. The three officers successfully appealed against their convictions in July 1995. Habib J. took the case to the highest court in the federal state of Berlin, and in July 1996 the court ordered a retrial of the three officers, arguing that the appeal court’s findings had been “contradictory and full of holes”. In its decision in February, the Berlin Higher Regional Court concluded that although Habib J.’s credibility as a witness was not in doubt, the length of time that had elapsed since the incident had led to lapses of memory on his part and on the part of the other witnesses and of the accused officers, and to contradictions in the evidence presented by all the parties. The court was unable to establish which version of events was the correct one and therefore upheld the officers’ appeal against their original conviction.

In April Nasr B. applied for a judicial review of the prosecuting authorities' decision to reject his complaint of ill-treatment (see AI Index: EUR 01/01/98). Nasr B., an Algerian asylum-seeker, alleged that Berlin police officers violently twisted his arm behind his back, pushed him to the ground and kicked him on the head and body after he protested to them about being falsely accused in the street of stealing a car. The asylum-seeker also alleged that the officers subjected him to racist abuse in the police car which took him to a nearby police station. According to medical evidence, Nasr B. suffered a fracture of the arm, swelling and abrasions of the face, and bruising of the jaw. In their decision to reject his complaint, the prosecuting authorities concluded that the officers involved were obliged to employ force when Nasr B. swore and spat at them and refused to comply with their order to move off. In April Amnesty International expressed concern to the Berlin authorities that the prosecuting authorities' investigation into Nasr B.'s allegations had not been carried out impartially, as required by Article 12 of the United Nations Convention against Torture. The organization urged the authorities to reopen the investigation and to ensure that this time the prosecuting authorities question Nasr B., the suspected officers, and all those people present during his arrest personally; examine in detail the amount and type of force used by the officers against Nasr B. and in so doing pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials; obtain an expert medical report on the possible origins of the injuries suffered by the asylum-seeker; treat all witness testimony impartially and hand the case over to a court if they are unable to resolve all the conflicting and contradictory elements of the testimony given by the complainant, the accused officers and other witnesses.

In May Dortmund Regional Court overturned the decision of Hamm District Court in the case of Ahmet Delibas (see AI Index: EUR: 01/06/97). Ahmet Delibas, a Turkish national, alleged that a police officer repeatedly punched him in the face in the back of a police car following his arrest outside a club in Hamm in North-Rhine/Westphalia in October 1995. Medical

evidence showed that Ahmet Delibas had suffered a fracture of the left cheekbone, and two separate fractures to each eye-socket. Ahmet Delibas himself was accused of participating in an assault on the officer outside the club prior to his arrest. Hamm District Court found the officer guilty of negligent assault and fined him. Ahmet Delibas was acquitted. In overturning the lower court's decision, Dortmund Regional Court ruled that the injuries to Ahmet Delibas's face may have occurred when the officer struck him in self-defence after Ahmet Delibas had kicked him in the face in the front of the club. Although the officer was found to have hit Ahmet Delibas at least three more times in the upper body and head while the detainee's hands were cuffed behind his back in the police car, the court ruled that the force which the officer used in order to break the detainee's resistance was justified. The officer's conviction was overturned and Ahmet Delibas was given a six-month suspended sentence for causing him serious bodily harm.

Also in May three Brandenburg police officers were convicted of a total of 12 separate counts of ill-treating Vietnamese detainees in their custody in 1993 and 1994. The officers received prison sentences of 10-24 months, suspended for three years. According to the findings of Frankfurt an der Oder Regional Court, the officers had punched and kicked detainees and had subjected them to humiliating and degrading treatment - in some cases by forcing them to undress before assaulting them. A fourth officer was found guilty of failing to intervene to prevent assaults taking place and was fined. In pronouncing judgement, the chairman of Frankfurt an der Oder Regional Court criticized police witnesses for lying in order to protect their colleagues. Amnesty International first raised these cases with the Brandenburg authorities in September 1994 and documented its concerns in May 1995 (see *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, AI Index: EUR 23/06/95). The organization later criticized the length of criminal proceedings against the accused officers: a total of eight officers had originally been charged in February 1995, but proceedings did not begin until January 1996 and then took over two years to

conclude (see AI Index: EUR 23/04/97). Four of the accused were acquitted in September 1997. At least two Vietnamese witnesses were deported to Vietnam before the trial started. Attempts to return them so that they could testify were abandoned after the Federal Ministry of the Interior expressed concern that the two men might use the opportunity of their return to claim asylum. During the period under review, complaints of ill-treatment brought by Sahhaydar and Hatice Yildiz (see AI Index: EUR 01/01/98), Muhamed A. (see AI Index: EUR 01/06/97), Sefer Avci (see AI Index: EUR 23/04/97) and Homayoun Ghaleh (see *Amnesty International Report 1998*), were rejected by the German authorities.

GREECE

Freedom of expression and religion

The case of Mehmet Emin Aga

In February Mehmet Emin Aga was sentenced to a total of 14 months' imprisonment by Lamia Appeal Court for "usurping the function of a Minister of a known religion in Greece", an offence under Article 175, paragraph 2 of the Greek Penal Code. Mehmet Emin Aga's appeal was against two previous convictions, imposed by Lamia Court in April 1997. According to the written judgment of that court, when "sending out to the Muslims of Xanthi written messages of a religious content" to mark five religious festivals in May, November and December 1995 and in January 1996, Mehmet Emin Aga "presented himself as Mufti" by writing "Mufti's office of Xanthi" at the beginning of the messages and by signing them as "Mufti of Xanthi, Mehmet Emin Aga" and thus "deliberately carried out duties which by their nature apply exclusively to the legitimate Mufti, E. Sinikoglou".

Amnesty International believes that by sending leaflets with religious messages to the Muslim inhabitants of Xanthi, which he signed as the Mufti of Xanthi, Mehmet Emin Aga was exercising his right to freedom of expression, a

right guaranteed by international instruments which Greece has ratified and is therefore bound to observe. If Mehmet Emin Aga were imprisoned, Amnesty International would adopt him as a prisoner of conscience and demand his immediate and unconditional release. In February Amnesty International wrote to the Greek authorities about his case, but had received no response from the authorities by the end of June.

Mehmet Emin Aga exercised his legal right to request that the 14-month prison sentence imposed on him be converted into a fine. Lamia Appeal Court agreed to this and released him.

See also *Women in Europe*, page 82.

The case of Traianos Pasois

In March Traianos Pasois, a member of the ethnic Macedonian minority party "Rainbow", faced trial at Florina Police Court on charges of "spreading false information and rumours which could provoke fear and anxiety among citizens", an offence under Article 191 of the Greek Penal Code.

According to a summons issued by Florina Police Court on 30 June 1997, Traianos Pasois had crossed the border into Greece from the Former Yugoslav Republic of Macedonia carrying "two wall calendars which he intended to circulate". These "featured photographs of pure Greek towns and areas, under or next to which were captions written in a foreign idiom". The indictment further states that the legends "praised directly controversial and provocative actions and decisions of political parties and formations as well as organizations which took part in the civil war conflict. [These] actions and decisions disputed the Greek character of Macedonia, aiming at its dismemberment, secession and annexation by a neighbouring state then enemy of Greece".

In a letter to the Greek authorities in March, Amnesty International stated that there was no evidence in the indictment to suggest that the calendars in Traianos Pasois's possession contained language amounting to an incitement to, or advocacy of, violence, and that the charges brought against him appeared to be motivated by his public support for the recognition of a Macedonian minority in Greece and by his

affirmation of membership of such a minority. Amnesty International informed the Greek authorities that it would therefore adopt Traianos Pasois as a prisoner of conscience if he was convicted of the offence with which he had been charged and was imprisoned. In April Amnesty International was informed by the Greek authorities that restrictions on the right to freedom of expression were imposed "only in extreme circumstances", that is "[when] the interests of democratic society are at risk". The authorities added that "the Greek Government trusts the judicial system in its examination of the case of Mr Traianos Pasois, with all the guarantees which are secured in a contemporary democratic state". His trial was postponed.

Conscientious objection to military service

On 1 January 1998 Law 2510/97 on conscription entered into force. 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 (see AI Index: EUR 01/01/98). At the end of June about 80 conscientious objectors continued to serve prison sentences. They all had been sentenced prior to the entry into force of law 2510/97.

In March a new draft law on Universal Defence was put before the Commission on National Defence and Foreign Affairs of the Greek Parliament. According to the draft bill, the new law would make it compulsory for all women and men aged between 18 and 60 not currently serving in the armed forces to complete service for up to four days a year in universal defence units. Certain groups of women, such as those who are pregnant or who have children under the age of 12, would be exempt. Depending on their functions, the units would reportedly come under the authority or supervision of the Ministry of Defence or of various other ministries. Members of units would perform a range of functions, such as responding to

natural disasters and providing first aid. According to Article 8 of the draft legislation, defence units would be provided with arms and ammunition "in cases of war, mobilization or tension or for the purpose of scheduled exercises in peace time...". Furthermore, "[e]xceptionally and [including] in peace time...arms and ammunition can be supplied to the staff [of the units] in border areas of the country for the undertaking of specific operational missions". Failure to report for service would, according to the draft law, be punishable by a period of imprisonment of one month, and a repeat offence would carry a three months' prison sentence.

In June Amnesty International wrote to the Greek authorities expressing concern that the new draft legislation contained no provisions for allowing those people who object to the carrying of arms on grounds of conscience to register their objection. The organization urged all members of the Greek Parliament to vote for the introduction of the right to conscientious objection in the new law and to amend the forthcoming legislation with a view to bringing it into line with international standards and recommendations. Amnesty International informed the Greek authorities that should any person be detained or imprisoned under the new legislation solely because they had exercised their right to refuse on grounds of conscience to carry arms or to undertake other duties which are not of a non-combatant or civilian character, Amnesty International would adopt that person as a prisoner of conscience and would call for their immediate release.

Allegations of ill-treatment by law enforcement officials

The case of Demitre Photopoulos

Demitre Photopoulos, a Greek and Canadian citizen volunteering with the organization "Médecins Sans Frontières" in Athens, alleged that he was ill-treated by five police officers during an identity check in Athens at about 7.30pm on 13 January 1998. Demitre Photopoulos stated that five police officers approached him and a friend in

Exarcheion Square in Athens and asked him for his identification papers. The officers then started to insult him and one of them kicked him on the leg and hit him on the head. Demitre Photopoulos alleged that he was then taken to the entrance of a nearby block of flats where he was punched and kicked and called a “queer” and a “dirty Albanian”. One of the officers then allegedly took a knife out of his pocket, put it against Demitre Photopoulos’s throat and threatened to kill him, while another officer produced a plastic bag, said it contained drugs and told Demitre Photopoulos that he would falsely testify that the drugs had been found on him.

Demitre Photopoulos alleged that after he was transferred to Exarchia Police Station, he was further insulted, beaten and threatened with death. According to the detainee: “I was brought before the police station’s chief who told me there had been a mistake, there was no problem and I could leave. I asked for the names of the five police officers who had ill-treated me. One of them who was present in the office insulted me, hit me again on the head, spat in my eye and threatened to charge me with illegal possession of a knife. In the end, the police station’s chief refused to give me the name of the police officers involved.”

Demitre Photopoulos was examined by a doctor the following day, who recorded the following injuries: bruises on the right temple, behind the left ear, under the left eye, left armpit, right side of the neck and throat and on both legs.

Demitre Photopoulos lodged a formal complaint with the Athens prosecuting authorities about his ill-treatment. An inquiry has reportedly been ordered into the incident.

In May Amnesty International called upon the Greek authorities to ensure that their investigation into the alleged ill-treatment of Demitre Photopoulos be carried out promptly and impartially.

According to information received by Amnesty International, on 12 March 1998 in Kiskunhalas, Shakirzhan Babazhanov was summoned to the police station where he was detained on suspicion of theft. On 29 March Shakirzhan Babazhanov was visited by Khurjan Davletova, his mother, but a police officer did not allow them to speak in their mother tongue and they were not able to talk freely. Shakirzhan Babazhanov was held at the police station until 15 April 1998, when he was transferred to a prison in Kecskemet. Khurjan Davletova visited her son again on 24 April and observed that he had lost 20-25 kilograms in body weight and that his left side appeared to be partially paralyzed. Shakirzhan Babazhanov told her that he had been unable to eat for 25 days, was vomiting blood and suffering from internal pains. He claimed that during his detention in the Kiskunhalas police station he had been taken by special officers, “commandos wearing black masks”, to an interrogation room where he had been severely beaten after he had refused to sign a statement confessing to the theft.

On 27 April 1998, in the prison hospital in Tököl, Shakirzhan Babazhanov was visited by Dr Miklos Erdélyi, a lawyer, and Dr Odon Hamvas, a physician, representatives of the Hungarian Helsinki Committee, a local human rights organization. According to the medical records which they examined, Shakirzhan Babazhanov had no external injuries on admission to the prison hospital. The same records also noted that Shakirzhan Babazhanov had been examined by a doctor on 12 March 1998, following his arrest, and that the examining doctor had not objected to his detention on medical grounds. In the course of their visit Dr Miklos Erdélyi and Dr Odon Hamvas observed that Shakirzhan Babazhanov was violently shaking, apparently in fear of being taken back to Kiskunhalas police station. In the presence of a prison nurse and Dr Hamvas, Shakirzhan Babazhanov gave a sample of his urine. The results of laboratory tests confirmed that his urine was “bloody and purulent”. Subsequently, a thorough medical examination of Shakirzhan Babazhanov was reportedly performed in the prison hospital. (For ill-treatment allegations by Khurjan Davletova see *Women in Europe*, page 81)

HUNGARY

New reports of police ill-treatment

Another report of police ill-treatment concerns an incident which occurred on 2 July 1998 at around 1pm on Váci ut in the 13th District of Budapest. A police patrol that was randomly inspecting north-bound vehicles stopped Marton Ill who was on his way to Balassagymatra accompanied by three men who were expected to appear at a court hearing concerning an asylum application. Marton Ill works as the Director of *Magyar Emberi Jogvedo Kozpont (MEJOK* - the Hungarian Centre for Defence of Human Rights), a local human rights organization which *inter alia* provides legal assistance to asylum-seekers in Hungary. After Marton Ill parked the car by the side of the road two police officers inspected his documents, the documents of other passengers in the car, the car itself as well as Marton Ill's briefcase. He was then told that an explosion in central Budapest had killed and injured several people and that the police were searching for suspects.

After the inspection was completed Marton Ill asked for a statement which would explain to the court the reason for their delay. The officers in charge of the police operation, a Lieutenant Colonel, reportedly told Marton Ill: "You will not get any paper from us. Get lost!" When he repeated his request the Colonel reportedly replied: "You little shit! Didn't you hear me when I told you to get lost!" The Colonel then approached Marton Ill, grabbed his upper right arm and instructed a police officer to handcuff him. He then reportedly violently twisted Marton Ill's right arm behind his back and put the handcuffs on his wrists. Marton Ill was then taken to the police car. After 10 to 15 minutes the Colonel sat down on the left-hand side of the back seat next to Marton Ill and reportedly continued to verbally abuse him and then punched him in the abdomen and on the left cheek breaking his spectacles. Marton Ill tried to protect his face by lowering his head and lifting his knees. The Colonel repeatedly punched him on the left side of his head, all over the back, arms and abdomen. Marton Ill then lifted his feet and kicked the right-hand side window with the soles of his shoes, breaking the glass. The Colonel continued to punch him and then left the car. At this point Marton Ill was bleeding from injuries to the mouth, the lower back, where the handcuffs were rubbing

against his skin, and on the right foot above the ankle, from an injury which he sustained while breaking the window. He was later taken to the 13th District Police Station where he asked to contact his lawyer as well as to contact his relatives in order to arrange for his son to be picked up from summer school. Both requests were refused. Half an hour after his arrival at the station an ambulance came and a doctor disinfected the cuts and dressed his injuries but the police reportedly did not allow the ambulance to take him to the hospital. At around 4pm Marton Ill's lawyer, who had been contacted by the other passengers in the car, arrived at the station and a statement was made about the ill-treatment incident.

In July Amnesty International urged the Chief Public Prosecutor to ensure that the investigations into the above-described incidents are carried out promptly and impartially. In addition, concerning the alleged ill-treatment of Shakirzhan Babazhanov, Amnesty International asked to receive *inter alia* information on: whether he had been informed of his rights at the time of the arrest, including the right of access to a lawyer; the number of occasions on which he was interrogated in the police station and by whom; and about the reasons for not promptly providing him in the Kiskunhalas police station and in the Kecskemet prison with adequate medical treatment for his deteriorating health. Concerning the investigation that should be initiated into Marton Ill's complaint about police ill-treatment, Amnesty International requested to receive information about: the grounds for detaining him and for ordering the use of handcuffs; the reasons for refusing to provide Marton Ill with medical treatment on the site where he suffered the injuries; and the grounds on which the officer on duty in the 13th District Police Station rejected Marton Ill's request to contact his lawyer and his relatives.

IRELAND

Multi-Party Agreement

In connection with the Multi-Party Agreement of April 1998 (see also the entry on the United

Kingdom), Amnesty International welcomed the proposal to create a Human Rights Commission in the Republic of Ireland, the commitment to consider the incorporation of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) into domestic law, and the commitment to initiate a wide-ranging review of the Offences Against the State Act.

Amnesty International urged the government to ensure that there be wide-ranging consultation on the legislation which will establish the Human Rights Commissions for Northern Ireland and for the Republic of Ireland. As the UN High Commissioner for Human Rights stated in South Africa in June:

"For those of you about to establish national institutions, let me underline the importance not only of the mandate and the legislative mechanism for creating a human rights commission -- but also the process of public consultation and transparency which should precede its creation. A national institution established hastily, without public understanding of its role and responsibilities, will be unlikely to succeed in its mission."

The organization also urged the government to ensure that the Human Rights Commissions would have powers and objectives which are consistent with international standards for human rights commissions and investigatory bodies, such as the UN Principles Relating to the Status of National Institutions, adopted by the UN Commission on Human Rights in 1992 and endorsed by the UN General Assembly in 1993. In particular, Amnesty International stressed the need for the Human Rights Commissions to be able to initiate inquiries into patterns of human rights violations.

Disputed killings

Rónán MacLochlainn was killed by officers of the Garda Síochána on 1 May 1998 in Co. Wicklow in disputed circumstances. Amnesty International is disturbed that the police issued contradictory, and indeed incorrect, statements shortly after the killing; in particular, it was stated that Rónán MacLochlainn had been shot in a shoot-out when

in fact only police officers fired their guns. According to information received by Amnesty International, he and his five associates had been under police surveillance for some time and were in the process of carrying out an armed robbery when they were ambushed by a special police unit, the Emergency Response Unit.

Amnesty International had also been concerned about the circumstances of a similar shooting, that of John Morris on 4 June 1997 in Dublin. It was reported that John Morris had also been ambushed by police officers while he and two other associates were carrying out an armed robbery. He was reportedly shot in the head and abdomen; it was also claimed that his gun was not loaded.

International standards require that disputed killings are investigated promptly, thoroughly and impartially; that the family be kept informed of the investigation at all stages; and that the findings of the inquiry are published. Amnesty International sought information as to what kind of inquiries have been instituted into these killings, and whether these inquiries were in conformity with the above mentioned international human rights standards.

ITALY

Alleged human rights violations by members of the armed forces in Somalia

(update to information given in AI Index: EUR 01/06/97 and EUR 01/01/98)

In May a Government Commission of Inquiry published its second report on the conduct of members of the armed forces during a UN peace-keeping operation in Somalia in 1993 and 1994. The Commission had been established by a Ministry of Defence decree in June 1997, following allegations made by former Italian paratroopers that members of the armed forces had tortured, ill-treated and unlawfully killed Somalis.

The Commission's first report (see AI Index: EUR 01/01/98) had concluded that some specific allegations of torture and ill-treatment

were credible, that such violations had been carried out at the level of the ranks, and that lower-ranking officers had sometimes participated actively or passively and had failed to exercise proper discipline. It also found that senior officers were apparently not “directly involved” or informed of the violations, and made a series of recommendations. However, within days of the report being lodged in August 1997, new information came to light about further violations by Italian troops in Somalia and claims that high-ranking officers had known of them and had not intervened to prevent them.

The Commission reconvened in September 1997, at the request of the Minister of Defence. The 110 interviews which it then carried out included interviews with 11 Somalis who were flown to Rome to give evidence. However, the Commission failed to travel to Somalia to carry out on-site investigations, as recommended by Amnesty International and as also urged by Somali human rights monitors.

In its report the Commission acknowledged that important documentation forming the central body of new evidence which had triggered the reopening of the inquiry was not available to it because it was already under investigation by the judicial authorities and so was subject to judicial secrecy, as was part of the testimony of several witnesses relevant to the Commission’s investigations.

However, the Commission’s new investigations allowed it to look further into some of the alleged abuses described in its first report and to confirm some of them, although it failed to clarify exactly what had occurred in each incident. Thus, the Commission concluded that soldiers had raped a girl with a pistol flare, as stated in its first report, but pointed out that a girl flown to Rome, claiming to be the victim, was not the girl photographed at the time of the incident. It also identified the man photographed while being subjected to electric shocks by soldiers, but pointed out that he had failed to recognize his alleged torturers when brought face to face with them.

The Commission dismissed some new allegations of torture and unlawful killing as untrue and could not come to a definite conclusion on the credibility of others. However, it also found some

new allegations to be probably true, including the attempted rape of a young Somali girl with a pistol flare in November 1993 and the beating of three Somali men in July 1993. It believed that the men’s allegations were probably exaggerated but also indicated that members of the armed forces had presented false documentation to investigators to try to cover up their involvement in the ill-treatment. The Commission stated that new information collected on specific episodes of abuse and other misconduct had been referred to the judicial authorities.

The Commission concluded that “episodes of violence were sporadic and localised, not widespread and general” but said that this did “not attenuate the gravity of having accepted or tolerated, as ‘student’ pranks, gross behaviour which is the expression of a subculture that the armed forces must reject on principle.... Examples of such behaviour are the frequent racist taunting of Somalis and the display of Nazi and Fascist symbols and slogans...”.

It found that ordinary soldiers in the ranks were responsible for the worst acts of abuse “with the active participation of, or in the complacent or amused presence of, young officers and non-commissioned officers”. Middle-ranking officers were blamed for not having known what men in their charge were doing. At “the highest level”, which the Commission did not define, “There was an inability to foresee that certain events might occur and a failure to make checks which might have ensured that repeatedly given orders and instructions ... were properly applied”.

The Commission recalled the recommendations made in its first report and emphasized the need for better education and training in ethics and democratic principles from the earliest age, in the home and in schools, as well as in military training establishments, including those providing initial training of conscript soldiers. It also considered it advisable that, in future, all similar overseas missions by Italian troops should include an adequate number of military police, experienced in investigative police work and, as its first report advocated, accompanied by a magistrate to oversee relevant investigations.

Upon publication of the report the Minister of Defence announced that 12 disciplinary proceedings, involving eight officers and five non-commissioned officers, had resulted in punishments apparently ranging from formal reprimands to suspensions and confinement to barracks. The military and civilian judicial authorities continued to carry out investigations into a number of specific episodes of human rights violations and several of the Somalis interviewed in Italy by the Commission of Inquiry were also interviewed by the judicial authorities. See *Amnesty International Concerns in Italy: January - June 1998* (AI Index: EUR 30/01/98) for further information.

Fair trial concerns (update to information given in AI Index: EUR 01/01/98)

There were further developments in the judicial proceedings concerning Adriano Sofri, former leader of the extra-parliamentary left-wing group *Lotta Continua* (Continuous Struggle), disbanded in 1976, and Ovidio Bompreschi and Giorgio Pietrostefani, prominent members of the group.

They entered prison in January 1997 to serve 22-year sentences for participation in the killing of Police Commissioner Luigi Calabresi in Milan in 1972. They had been first sentenced for the killing 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 in 1992, before the United Chambers of the Supreme Court, which annulled a guilty verdict.

Following the Supreme Court's final decision, issued by its Fifth Criminal Chamber in January 1997, confirming the defendants' guilt, Amnesty International expressed concern 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*⁶, a former member of *Lotta Continua*, whose testimony was revealed during

the proceedings to contain contradictions and inaccuracies. In addition, key material evidence had disappeared or been destroyed since the killing in 1972, in one instance some five months after the opening of the criminal investigation against the prisoners.

In January 1998 the Milan Procurator General pronounced on the application for a judicial review of the legal proceedings which the prisoners had lodged in December 1997, under the provisions of the Code of Penal Procedure. The defence argued that their application included new witness testimony and new ballistic evidence, as well as revealing instances of judicial error, and that thus the proceedings qualified for review and the prisoners should be released pending a new trial. However, the Procurator General concluded that the application was based on information which had either been already examined, or was irrelevant, and that it was, therefore, inadmissible.

In March Milan Appeal Court's Fifth Chamber endorsed the Prosecutor's conclusion and declared the application inadmissible. The prisoners then lodged an appeal with the Supreme Court. In June, in a highly critical analysis of the Milan Appeal Court's decision and reasoning, the Deputy Procurator General attached to the Supreme Court in Rome requested the First Section of the Supreme Court, the final decision-making body, to annul the appeal court's decision and to order a new trial for the defendants. The Supreme Court was scheduled to examine the defendants' application in October 1998.

Meanwhile, in April, Ovidio Bompreschi was granted a temporary release from prison, subject to regular review, on health grounds. See *Amnesty International Concerns in Italy: January - June 1998* (AI Index: EUR 30/01/98) for further information.

Freedom of expression

During court hearings held between January and April Luca Paolini and Roberto Zaffini, both members of the Marche region branch of the

the judicial authorities.

⁶a person benefiting from legislation allowing remission of sentence in return for collaboration with

separatist *Lega Nord* (Northern League), a parliamentary party, were tried under Article 291 of the Penal Code, punishing "vilification of the Italian Nation" and under Article 292, punishing "vilification of the flag or of any other national symbol". Both offences carry possible sentences of between one and three years' imprisonment.

The Public Prosecutor's office attached to Pesaro *Pretura* (a court hearing lesser offences) had committed the two defendants for trial on the basis of a poster which had been displayed during a *Lega Nord* demonstration held in November 1996. Roberto Zaffini designed the poster; Luca Paolini headed the *Lega Nord* branch office organizing the demonstration.

The public prosecutor accused them of having shown contempt for the Italian nation by displaying a poster reading "Italy is a sewer thanks to thieves, friends, friends of friends and false enemies". Under each of these four categories appeared newspaper photographs of four prominent politicians from leading parliamentary parties. The defendants were additionally accused of showing contempt for the national colours of the Italian flag because the sentence in question was written against the background of the red, white and green Italian tricolour.

In January Amnesty International expressed concern about the prosecution, considering that the use of Articles 291 and 292 of the Penal Code represented a restriction on the right to freedom of expression, thus violating the provisions of Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, both ratified by Italy.

The organization stated that if Luca Paolini and Roberto Zaffini were imprisoned as a result of the proceedings in question, Amnesty International would consider them to be prisoners of conscience.

In April Luca Paolini and Roberto Zaffini were acquitted after the Public Prosecutor's office, which had requested originally that they be committed for trial, asked the court to acquit them. On 7 April Madel Ismailov, the leader of the opposition "Workers' Movement" of Kazakhstan, was sentenced to one year's imprisonment for "insulting the honour and dignity of the president"

on the grounds that their actions did not constitute a crime. For further information see *Amnesty International Concerns in Italy: January - June 1998* (AI Index: EUR 30/01/98).

Conscientious objection to military service

In June parliament gave final approval to a bill replacing existing legislation governing conscientious objection to compulsory military service. Its promulgation was expected in July. Reform of the law had been under consideration by successive legislatures since 1988 (see *Amnesty International Reports 1989 to 1998*).

Amnesty International welcomed in particular Article 1 of the new law. This broadens the grounds on which conscientious objector status may be granted through its recognition that conscripts opposed to the use of arms and refusing military service on grounds of conscience are exercising the right to freedom of thought, conscience and religion set out in the Universal Declaration of Human Rights and the ICCPR and that they have, therefore, a right to an alternative civilian service.

However, several aspects of the law concerned Amnesty International. It noted, in particular, that the text fails to recognize the right to claim conscientious objector status during military service, a right advocated by the organization and supported by international standards relating to conscientious objection to military service, developed by the United Nations and the Council of Europe. (For further information see AI Index: EUR 30/01/98).

KAZAKSTAN

Prisoner of conscience - Madel Ismailov

under Article 318 of the Kazakhstan Criminal Code. On 3 June Almaty City Court turned down his appeal against the verdict and upheld the sentence. The case against Madel Ismailov was brought in

connection with public statements allegedly made by Madel Ismailov during a peaceful opposition demonstration in Almaty on 7 November 1997. According to press reports he described the President of Kazakhstan as a "scoundrel" and his policies as "immoral". Madel Ismailov was detained by police on 27 February following a conference organized by several political opposition groups during which he had been elected deputy chairman of a new opposition coalition, the People's Front of Kazakhstan. At the time of the arrest opposition leaders reported that despite making inquiries at all the prisons in Almaty, they had been unable to establish Madel Ismailov's whereabouts. It was not until 5 March that he was reported to have been located in a central Almaty prison; officials at the prison allegedly claimed that Madel Ismailov's name had been misspelt in their records. There were allegations that following his arrest, Madel Ismailov had been beaten.

Amnesty International recognizes that elected officials in Kazakhstan, including the President, may wish to seek legal redress for written or oral statements that they consider defamatory. However, it is widely recognized that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person. The organization also argues that using criminal proceedings in libel cases implies that the defendant is responsible for an injury to society at large. Amnesty International disputes the fact that the alleged slander in this case constitutes any such injury to society. It believes that slander complaints such as this should be addressed in civil proceedings in which a complainant can seek redress for personal injury to their reputation. Criminal legislation should not be used in such a way as to stifle criticism of public officials, or to intimidate those who voice legitimate concerns about the actions or practices of public officials. The use of criminal legislation in this case strongly suggests to Amnesty International that the authorities were acting from political motives, and have seized an opportunity to try to punish Madel Ismailov for his

political opposition to the Kazakstani regime. The organization regards Madel Ismailov as a prisoner of conscience and has urged the Kazakstani authorities to take swift action to ensure his immediate and unconditional release.

Article 318 of the Kazakhstan Criminal Code, under which Madel Ismailov was charged, provides for punishment, including terms of imprisonment, for insulting the honour and dignity of the President. Article 319 covers the honour and dignity of deputies and Article 320 imposes punishment for insulting a representative of the state. Amnesty International urged the Kazakstani authorities to repeal Articles 318, 319 and 320 so as to prevent further prosecutions for peaceful exercise of the fundamental right to freedom of expression.

The death penalty

One more death sentence came to light in the period under review. Vladimir Nikolayevich Kardash, a policeman, was reportedly sentenced to death for the murder of three men, including a police officer, at the police station in the village of Auliekol, Kostanay region, on 11 April 1997. He was found guilty of premeditated, aggravated murder.

He denied the charges and claimed that the murders happened after a drunken celebration organized by his superior officers. Vladimir Nikolayevich Kardash, who was the most junior officer at the station, alleged he was forced, by beatings and death threats from other police officers, to confess to carrying out the murders while in a state where he was not responsible for his actions. The findings of a local psychiatric investigation supporting the confession were allegedly overturned by a later examination in Almaty. He also alleged that a formal complaint against his ill-treatment, made to the procurator, received no response and that there were serious investigative errors in his case.

In March the Supreme Court upheld the death sentence. A petition for clemency to the President of Kazakhstan, his last hope of avoiding execution, was still pending at the end of June.

Alleged ill-treatment in detention

Amnesty International continued to receive reports of torture or ill-treatment in police custody and pre-trial detention in Kazakhstan. In April the organization raised the cases of 10 men and one woman (for further details see the section *Women in Europe*, p.82) with the Kazakstani authorities, calling for full and comprehensive inquiries to be launched into these and other cases of alleged torture by law enforcement officers, for the findings be made public and for anyone found guilty of torture or ill-treatment to be brought to justice in accordance with the norms of international law. Most of the detainees claimed that they were choked, or handcuffed to radiators, or had plastic bags or gasmasks placed over their heads to force them to divulge information.

KYRGYZSTAN

Prisoners of conscience (update to information given in AI Index: EUR 01/01/98)

Political activist Topchubek Turgunaliyev

In May the Supreme Court heard two appeals by Topchubek Turgunaliyev against his sentences of 1996 and 1997. In the first appeal, the Supreme Court decided to requalify Article 128 (libel under the old criminal code) to Article 127 (libel under the new criminal code) and uphold the verdict of the lower court. However, the Supreme Court also decided to retroactively apply an amnesty of 1997 to this case. Observers reported that the application of the amnesty was no more than a formality since Topchubek Turgunaliyev had already served his first sentence. The second appeal against Topchubek Turgunaliyev's 1997 four-year sentence for embezzlement was also turned down. The Supreme Court decided to uphold the guilty verdict of the court of first instance with one minor change: the sentence was reduced from four to three years. Topchubek Turgunaliyev is serving the remainder of his sentence - 22 months following the Supreme Court's reduction - in Bishkek; he is allowed to

live at home and to receive appropriate medical treatment. Amnesty 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.)

LATVIA

The death penalty

In May the Latvian Parliament (*Saeima*) rejected an initiative of the parliamentary legal committee to abolish capital punishment: in a vote on the new Criminal Code which retained the death penalty, 20 deputies supported abolition, 27 opposed it and 17 abstained. (In June 1996 the Parliamentary Assembly of the Council of Europe had expressed its regret that Latvia had not kept to its commitment to ratify the Sixth Protocol to the European Convention on Human Rights and Fundamental Freedoms (European Convention), which abolishes the death penalty in peacetime, within a year of its accession to the Council of Europe in February 1995. In September 1996 President Guntis Ulmanis announced to the Parliamentary Assembly of the Council of Europe that he would grant all requests for clemency submitted to him, pending a decision by the *Saeima* on abolition of the death penalty.) However, President Ulmanis refused to promulgate the law adopting the new Criminal Code, and instead sent it back to parliament for further consideration. At the end of May the Latvian cabinet announced that it would sign the Sixth Protocol to the European Convention and seek to persuade *Saeima* deputies to ratify it. In the same month it was reported that two men - Vladislav Yurchenko and Sergey Dimitriyev - had been sentenced to death by Riga district court for their part in 13 armed robberies and three homicides.

In June the law adopting the new Criminal Code returned to the *Saeima*. This time 35 deputies voted for it, and for retaining the death penalty, 28 voted against and six abstained. It was

reported at the end of the month that President Ulmanis would promulgate the law retaining capital punishment, but would keep the moratorium on executions in place. Several days after the parliamentary vote, Latvia's permanent representative at the Council of Europe signed the Sixth Protocol to the European Convention.

The last executions - of two men, both of whom had been convicted of murder - took place in January 1996. A total of six offences carry the death penalty in Latvia. These are: aggravated murder, banditry, actions disrupting the work of correctional labour institutions, counterfeiting under aggravating circumstances, rape under particularly aggravating circumstances, and the hijacking of an aeroplane under particularly aggravating circumstances (seventh offence, attempted murder of an official of the police or of the home guard under aggravating circumstances, was removed from the Criminal Code in September 1995). All death sentences passed since Latvia regained its independence in 1991 have been for the crime of aggravated murder.

Ratifications

In June Latvia ratified the European Convention for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment together with its First and Second Protocols.

MOLDOVA

Alleged torture and ill-treatment

In fulfilment of Moldova's commitments on joining the Council of Europe, the European Convention for the Prevention of Torture, ratified by Moldova in October 1997, came into force in February 1998. The Moldovan parliament said, however, that Moldova is unable to ensure the convention's implementation in the self-proclaimed Dnestr Moldavian Republic (DMR).

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.

The imprisonment of Ilie Ilascu and the case of the "Tiraspol Six" (update to information given in AI Index: EUR 01/01/98)

During the period under review, Amnesty International continued to receive reports that Alexandru Lesco, Andrei Ivanoc and Ilie Ilascu were suffering from serious illnesses and were not 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 a letter to Amnesty International, received in February, the wife of Alexandru Lesco, Tatyana Lesco wrote that in October 1997 when she visited her husband in prison he was so ill that she had to call the emergency services against the resistance of the prison authorities. Alexandru Lesco was then hospitalized and had an emergency life-saving operation.

In March, Ilie Ilascu was elected to Moldova's parliament for a second consecutive term, again from inside prison. It was reported in May that according to his wife, Nina Ilascu, his conditions of detention remained very difficult and his health continued to deteriorate.

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

NORWAY

Alleged police ill-treatment

The Supreme Court of Norway decided in January that the cases of seven people, convicted between

1988 and 1990 of making false statements against the police, should be reopened. Six of the seven people served prison sentences ranging from six to eight months because their allegations of having been ill-treated by the police had been disbelieved. The so-called "Boomerang cases" were the culmination of years of investigation into claims of police ill-treatment in Bergen (see AI Index: EUR 03/03/87 and EUR 01/01/91).

The Supreme Court made its decision on the grounds that: a) the deciding factor in all seven cases was the statements of the police officers; these statements were not supported by strong objective evidence; and b) statements by the police denying the use of violence must be closely scrutinized. The Court underlined its concern that incorrect conviction may lead to victims of police violence refraining from making a complaint out of fear of being criminalized.

In April, during a retrial of the seven cases, the convictions of all seven people were quashed. They have issued claims for compensation for wrongful imprisonment.

Norway before the UN Committee against Torture

In May 1998 the UN Committee against Torture considered the third periodic report of Norway which was submitted on 6 February 1997. The Committee expressed concern that Norway has still not introduced the offence of torture into its penal system, including a definition of torture in conformity with Article 1 of the Convention; and about the institution of solitary confinement, particularly as a preventive measure during pre-trial detention. The Committee recommended that Norway should incorporate into its domestic law provisions relating to the crime of torture that are in conformity with Article 1 of the Convention. It also recommends that the use of solitary confinement should be abolished, particularly during pre-trial detention, or at least be strictly and specifically regulated by law and that judicial supervision should be strengthened.

PORTUGAL

Prisons a "national scandal"

In his January 1998 address in Lisbon to the Supreme Court (*Supremo Tribunal de Justiça*), inaugurating the judicial year, the President of the Portuguese Republic, Jorge Sampaio, referred to the situation in Portuguese prisons as a "real national scandal" ("*verdadeiro escândalo nacional*"). His comments touched, among other matters, on the serious problem of overcrowding in Portuguese prisons and on the excessively lengthy periods of pre-trial detention suffered by remand prisoners. Jorge Sampaio said there was an urgent need to seek alternatives to prison for many inmates.

The President's comments were made in the same month as publication by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of a report critical of ill-treatment and "filthy and thoroughly unhygienic" conditions in the prison of Oporto (otherwise known as *Custódias*), which it visited between 20 and 24 October 1996. The report was published in January with the response of the Portuguese Government.

In its report the CPT stated that the 1996 visit had been "required in the circumstances" - as a result of observations made during its first visit in 1995. On that occasion the gravity of the delegation's findings led the CPT to conclude that all inmates in C Wing were being held in inhuman and degrading conditions and recommended that these be "the subject of a full review by the Portuguese authorities, with the aim of ensuring that the physical and mental integrity of inmates held there was guaranteed".

During its follow-up visit the CPT delegation "... heard a considerable number of allegations of physical ill-treatment of inmates by custodial staff ... consistent as regards the forms of ill-treatment involved (namely, blows with batons, punches and kicks), and as regards the manner in which it had allegedly been inflicted (namely,

removal of particular inmates from their cells after the Wing concerned had been locked for the night and subsequent beating of those inmates by prison staff in the main corridor which connects the Wings and/or at the 'control' point at the end of that corridor". The CPT stated that the credibility of the allegations was supported by the content of a number of formal complaints by prisoners and by the medical evidence.

The report illustrated its concerns on ill-treatment by guards with two separate cases current at the time of the CPT's visit. Both involved male remand prisoners, whose allegations were backed by medical evidence consistent with assault. The first alleged that, after he had banged on his cell door to demand medication, he was taken to the main corridor, where he was punched and kicked and, after being given medication by the nurse in the infirmary, was again beaten. The medical record referred to excoriations on his face, neck and arm and to his complaints about intense thoracic pain and difficulty in breathing. He had vomited dark red blood. During the delegation's visit he was transferred to a hospital outside the prison, complaining of continuing respiratory difficulties. The second inmate sustained a broken nose after two assaults by prison officers, one in the main corridor, the other in the infirmary. He too was referred to an outside hospital.

Inter-prisoner violence and use of "*faxinas*"

The CPT delegates were also concerned by "a prison culture which is conducive to *inter-prisoner intimidation/violence* [CPT's italics]". They had been informed by inmates that incidents of inter-prisoner violence were virtually a daily occurrence and widely acknowledged as such by custodial and support staff. The delegates found that, in the absence of sufficient prison staff, responsibility for security functions was devolved to a small number of privileged prisoners known as "*faxinas*" - a practice that "reinforced the delegation's impression that ... prisoners minded to exploit their fellow inmates enjoyed a virtually free hand". *Faxinas* apparently determined the cells to which newly-arrived prisoners were allocated, had authority to transfer prisoners from one cell to another within a given wing, and maintained the

records of inmate movements between wings. It appeared to the delegates that prison officers were, on a number of occasions, obliged to consult *faxinas* before being able to locate particular inmates. The delegation also found that prisoners lived in areas that were "filthy and thoroughly unhygienic".

The CPT recommended, *inter alia*, that: "a person or authority independent of the prison service carry out a thorough investigation into the extent of the problem of ill-treatment by prison staff of inmates at Oporto Prison and that appropriate action be taken against any prison officers found to have engaged in ill-treatment. It also recommended that "the Portuguese authorities carry out without delay a thorough investigation of the nature and scale of the problem of inter-prisoner violence at Oporto Prison", and that an effective strategy be put in place to ensure that staff were willing and able to intervene properly in such incidents and to be in a position more closely to supervise the activities of prisoners.

Response of Portuguese authorities

The Portuguese Government responded that "excesses" and "abuses" inflicted on prisoners by prison staff was a "permanent concern". Among measures taken to safeguard against ill-treatment, a circular had been issued on 4 August 1997 by the General Prison Services Directorate (*Direcção-Geral dos Serviços Prisionais* - DGSP), according to which cells or dormitories could only be opened during the night in exceptional circumstances, such as threat to life or physical integrity, or to the "liberty and dignity" of the inmates or threat to order and security. A register would be kept of such cell openings. The Government also referred to a whole raft of measures that were being taken to attempt to reduce the problem of overcrowding, and thus inter-prisoner violence and intimidation, and to improve hygiene and medical care. However, no direct response was made to the CPT's recommendation that an independent authority be set up to inquire into ill-treatment at the prison of Oporto/Custóias.

Since the beginning of January 1998 Amnesty International has received numerous complaints from prisoners throughout Portugal,

including Oporto, Vale de Judeus (Alcoentre), Caxias and Faro. Many of these complaints concern degrading prison conditions. Some allege serious ill-treatment by prison staff. Amnesty International is investigating a number of these cases, details of which will be forthcoming in the next bulletin.

Constitutional Court upholds guilty verdict on GNR officers

On 9 January 1998, five years after the assault on two men in Charneca da Caparica, five officers of the paramilitary National Republican Guard (*Guarda Nacional Republicana* - GNR) saw their appeal against their convictions for using unnecessary violence rejected by the *Tribunal Constitucional* and they entered prison to begin serving their sentences at the military prison of Santarém.

The case is remarkable for the persistent delays that have dogged the judicial proceedings. In February 1992 Francisco Carretas and Arnaldo Brandão had been detained by GNR officers and kicked, punched and hit with truncheons. They were also stripped naked and Francisco Carretas was threatened with sexual assault. He suffered multiple injuries. In May 1995, after persistent delays, the Military Tribunal found the officers guilty, sentencing the senior officer, a corporal, to 14 months' imprisonment and the four others to one year's imprisonment. Two soldiers were acquitted for lack of evidence. On 20 December 1995 the Supreme Military Tribunal in Lisbon upheld the convictions of the officers at an appeal heard in camera. However, the corporal's sentence was reduced to nine months' imprisonment, and three other officers' sentences were reduced by four months. Only the year-long sentence on one soldier, with previous convictions, remained. The verdict was upheld by the Constitutional Court, which rejected a defence plea that the military tribunals did not have the competence to try the soldiers.

Amnesty International had worked actively on this case since 1992.

ROMANIA

A summary of human rights concerns

Over the years Amnesty International has urged Romania to bring a number of laws into line with its international human rights commitments. These include provisions of the Penal Code and the Code of Penal Procedure, the Law on the Execution of Sanctions, the Law on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order, the Law Concerning the Preparation of the Population for Defence and the governmental decision regarding alternative service, the Urgent Ordinance Concerning the Protection of Children with Difficulties, the Law on the Organization and Functioning of the Romanian Police and the Law Concerning the Status and Regime of Refugees in Romania. Legislative reforms so far have failed to safeguard some fundamental rights and freedoms.

Since 1993 Amnesty International has appealed to the Romanian Parliament to revise Article 200, paragraphs 1 and 4 (which later became paragraph 5), of the Penal Code which criminalize consensual homosexual acts between adults in private and impose excessive restrictions on the rights to freedom of expression, assembly and association. The organization has also frequently requested information from the Romanian authorities about people who are detained under Article 200, but the Ministry of Justice has failed to make available accurate and comprehensive statistics on convictions under this law. A letter from the Director General of the General Directorate of Penitentiaries, dated 26 January 1998, claimed that in 1997 no one had been detained in Romanian prisons under Article 200, paragraph 1. Yet, in September 1997, an official of the same agency gave Amnesty International information concerning three men held under this law, two of whom Amnesty International later interviewed in Poarta Albă penitentiary.

The consistency and regularity of the reports of police torture and ill-treatment which Amnesty International has received over a period of several years have led the organization to conclude that this is a serious human rights problem which the Romanian authorities have

failed adequately to address. These findings received strong confirmation from the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment which on 18 February published a report of its visit to Romania in September and October 1995. One of the report's main conclusions was that "persons detained on suspicion of committing a crime, at the time of arrest and/or in the course of interrogation, face a not inconsiderable risk of being subjected by the police to ill-treatment, which is sometimes severe ill-treatment, even torture".

Amnesty International is equally concerned that investigations into allegations of torture and ill-treatment appear not to have been prompt and impartial, as required by international standards which Romania has ratified. In February Amnesty International wrote to then Prime Minister Victor Ciorbea expressing concern about investigations into allegations of police torture and other ill-treatment and enclosing specific comments regarding cases mentioned in a Ministry of the Interior report which was received in January. Amnesty International is concerned about the lack of a meaningful dialogue with the Romanian authorities. In the majority of instances an initial response from the Romanian authorities contains no information relevant to the concerns raised. Such official replies most frequently focus on the allegations that the complainant had committed a criminal offence or a misdemeanour. These allegations are invariably described as if all relevant circumstances had been duly established by an independent judicial body, which is not the case. In some cases the replies contain libellous comments and crude attempts at character assassination which are intended to discredit the complainants. On the other hand, official replies frequently fail to explain how the complainants suffered injuries, which are often very grave and have been documented by forensic medical experts.

In the early 1990s, tens of Romani communities throughout Romania were subjected to incidents of racial violence. Amnesty International is concerned that in most of these incidents the authorities failed adequately to protect Romani lives and property. The conduct

of the police in such incidents has never been fully and impartially investigated.

In March Amnesty International published a 32-page report, *Romania: A summary of human rights concerns* (AI Index: EUR 39/09/96) criticizing Romanian authorities for the lack of progress in revising legislation which effects fundamental rights and freedoms, as well as the failure to adequately address human rights violations including the imprisonment of prisoners of conscience, torture and ill-treatment of detainees as well as police shootings in disputed circumstances. Amnesty International made extensive recommendations regarding legislative reforms and the investigation of allegations of torture and other ill-treatment by law enforcement officers.

The reply of the Romanian authorities

In June and July the organization received two reports prepared by the Romanian authorities in connection with the above-mentioned Amnesty International report. The reports elaborated on a draft law amending the Penal Code and Penal Procedure Code, which was forwarded to the Parliament on 18 May, a draft law revising the Law Concerning the Execution of Sanctions and a draft proposal to amend Article 4 of the Law Concerning the Preparation of the Population for Defence. With regard to the Urgent Ordinance Concerning the Protection of Children with Difficulties, the Law on the Organization and Functioning of the Romanian Police and the Law Concerning the Status and Regime of Refugees in Romania the authorities claimed that they were not in contravention of international standards. No mention in either report was made to the Law on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order.

With regard to individual cases of deaths in suspicious circumstances, shootings, torture and ill-treatment where inadequate replies had been received in the past the new reports of the Romanian authorities simply repeat the same information without reflecting on Amnesty International's outstanding concerns. In September Amnesty International wrote to Prime Minister Radu Vasile again expressing concern that the

dialogue with Romanian authorities did not progress pass a very basic level. The organization also made specific comments regarding information provided on eight new cases of torture and ill-treatment.

Both reports denied any responsibility of police officers who failed adequately to protect Romani lives and property in incidents of racial violence. The authorities yet again failed to provide information which would indicate that any of the law enforcement officers suspected of ill-treating those Roma whose cases Amnesty International had documented in its reports had been brought to justice, or that the victims have received adequate compensation. The authorities have also once again failed to acknowledge the harassment of Roma victims who had filed complaints and no information was made available regarding the steps they have taken to ensure the safety of the complainants and witnesses.

On 30 June 1998 the Chamber of Deputies of the Romanian Parliament rejected the government's proposal to abolish Article 200 and voted against the draft law to amend the Penal Code and the Code of Penal Procedure.

New cases of alleged police ill-treatment

On 19 January 1998, at around 10pm, in Tazl_u, near Piatra Neam_, Gheorghe Agapi, a 40-year-old forestry worker, had been drinking in a bar with several acquaintances when he was allegedly beaten by officer IF. The victim later told a local journalist: "I don't remember exactly what I said or if I insulted somebody, but all of a sudden I found myself getting a beating from the police chief. He punched me in the face several times, I started to bleed and I don't know what happened after that because I fainted." Gheorghe Agapi was barely conscious and had blood all over his face and clothes when he was delivered to his home by officers IF and IM ⁷. During the night Gheorghe Agapi became ill, started to vomit and complained that his head hurt and he felt dizzy, so he went to hospital. A photograph of the victim,

taken after the incident, shows injuries to the mouth, nose and left eye. He reportedly intended to file a complaint about the ill-treatment.

In another incident which occurred on 30 April 1998, at around 11pm in __nd_rei, Alexandru Iloaiei, his wife Florica, Marian Stanciu and Ionelia Predu went to a restaurant to play billiards. Lieutenant Major M., who allegedly appeared to be drunk, asked them to leave the billiard table and reportedly threatened them: "I can arrange that you do". A few minutes later Sergeant Major T. allegedly approached Alexandru Iloaiei from behind and hit him on the head, making him fall to the ground semi-conscious. The police officer, who was in the company of public guard V. and Lieutenant Major M., then reportedly slapped Marian Stanciu on the face.

Alexandru and Florica Iloaiei, Marian Stanciu and Ionelia Predu subsequently went to the police station to file a complaint and to the local hospital where Alexandru Iloaiei was admitted for treatment of "injuries to the head and concussion". On 3 May he was transferred to the County Hospital in Slobozia where he was treated for the same injuries until his release on 18 May. During his stay in hospital Alexandru Iloaiei was reportedly repeatedly visited by police officers, including the commander of the __nd_rei Police, advising him to "come to an understanding with Sergeant Major T.". Similar suggestions were made by police officers to Florica Iloaiei. These officers frequently referred to another case which took place in __nd_rei in 1995 when Viorel Constantin was beaten in a bar by Sergeant Major T. and a group of other police officers (see *Romania: Update to May 1995 Report*, AI Index: EUR 39/19/95). The offending officers had subsequently been brought to court and punished with an "administrative fine".

Two days after his release from hospital Alexandru Iloaiei went to the Slobozia forensic-medical laboratory to be examined. He received a certificate stating that the injury required "two to three days of treatment unless there are complications". Forensic medical certificates are frequently the only grounds on which prosecutors

⁷The full names of the police officers mentioned in this report are known to Amnesty

International.

base their decisions concerning complaints involving injuries⁸. In this case the forensic-medical certificate, which contradicts documents of the hospitals where Alexandru Iloaiei had received treatment, is apparently aimed at diminishing the degree of responsibility of the police officer suspected of ill-treatment.

Amnesty International is concerned about the role of retrospective evaluations of injured detainees' medical needs in the assessment of official culpability for ill-treatment, particularly when these evaluations are made by forensic rather than clinical doctors after a period of hospital treatment⁹. Compounding this concern is the direct link between this evaluation and the subsequent liability of the accused officers.

Alexandru Iloaiei has filed a complaint about the ill-treatment with the Military Section of the General Prosecutor's Office in Bucharest.

In June Amnesty International urged Romanian authorities to promptly and impartially investigate these two incidents of alleged police ill-treatment.

RUSSIAN FEDERATION

See also *Women in Europe* page 83.

Amnesty International welcomed President Boris Yeltsin's initiative of declaring 1998 as the Year of Human Rights in the Russian Federation, especially his plans for setting up a federal program for the protection of fundamental rights and freedoms. In February, the organization also welcomed the initiative of the State Duma, which moved to ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Convention for the

Prevention of Torture. However, during the period under review, Amnesty International remained seriously concerned at the deep gap emerging between the President's declared intentions and the practical measures being put in place, or not being put in place, to make them a reality. Serious human rights violations persisted in the Russian Federation.

Amnesty International's high-level mission to the Russian Federation

In May an Amnesty International delegation visited the Russian Federation in the organization's first high-level mission to the country. During the mission, Amnesty International's delegation met with a wide range of victims and human rights defenders, including women's groups, representatives of religious confessions, members of the Chechen diaspora, and the Soldiers' Mothers. The delegation also met with official bodies.

Amnesty International had also been invited by the authorities to contribute to the formulation of the draft Federal Programme on Human Rights. With a view to doing so in a manner that is constructive and open, Amnesty International presented to these officials a "Working Document" setting out the organization's preliminary analysis of the human rights situation in the Russian Federation and some 51 specific recommendations for steps to be taken to improve human rights protection, in line with international standards. Amnesty International invited these official bodies to respond with comments on these proposals, and the organization's revised recommendations will then be submitted to the President. Most officials have agreed with this request. Amnesty International's

⁸ In addition to observations about the victims injuries this certificate states the number of days of medical treatment required for recovery. Several provisions of the Romanian Penal Code, concerning assault and bodily injuries, base the severity of the offence on the severity of the injury, which in turn is defined by the number of days of medical treatment required for recovery.

⁹ Forensic doctors have a key role in documenting injuries and determining the likely cause of such injuries. However, in this case, the forensic doctor has made a clinical evaluation of the victim's treatment needs.

visit served to confirm the organization's already strong impression that the authorities are clearly failing to translate their commitment to human rights into reality. The organization welcomed Prime Minister Sergey Kirienko's statement to the mission delegation in May that "the protection of human rights is the most important priority in the work of the Government of the Russian Federation". Amnesty International called on the authorities to urgently apply this priority in a number of concrete areas.

Prisoners of conscience: the case of Aleksandr Nikitin (update to information given in Amnesty International Report 1998)

On 30 June it was reported that the case has finally been referred to the St Petersburg City Court, after the St Petersburg Procurator confirmed the charges brought by the Federal Security Service (FSB) against Aleksandr Nikitin, who is still charged with treason and exposing state secrets. According to reports in July, the Procurator General of the Russian Federation accepted as proof of treason and exposing state secrets the fact that Aleksandr Nikitin had "collected and broadcast information, amounting to state secrets", while working as a consultant for the Norwegian environmental group Bellona Foundation. However, no date has been set for the court hearing. The case has been referred to the court only after charges were brought against Aleksandr Nikitin for the seventh time, in early May; these did not refer to a secret decree. In an official letter to the defence lawyers in April, the Procurator General also stated that it is inadmissible to base criminal charges on secret decrees, which violates Article 15 of the Russian Constitution.

Amnesty International was alarmed that reportedly in May two or three cars with FSB officials were regularly on duty in front of Nikitin's apartment building and that they allegedly followed Nikitin's family every time they went out of their home. Aleksandr Nikitin had tried to take a photograph of one of the cars on 1 May. He reported that the FSB officials tried to confiscate the film from his camera. It was reported that on 2 May, one of Nikitin's lawyers, Ivan Pavlov,

reportedly attempted to talk to the FSB officials, who subsequently searched him and allegedly stated that he "should stay away from this".

During the mission in May, the Amnesty International delegation held a press conference in St Petersburg with Aleksandr Nikitin and his lawyer, Yury Schmidt. Bellona representatives were invited to participate, but were unable to obtain visas to enter the Russian Federation. On 1 June the delegation held a meeting with FSB officials in Moscow, during which the organization continued to urge that all charges against Aleksandr Nikitin be dropped and that the allegations of intimidation and harassment against him be fully and impartially investigated.

Failure to protect asylum-seekers: the practice of refoulement

Legal provisions for refugees and asylum-seekers remained inadequate. There is a pattern where many are at risk of repatriation to countries where they would be in danger of grave violations of their human rights. For example, Guram Absandze, the Minister of Finance in former Georgian President Zviad Gamsakhurdia's government and Vice-President of the "Georgian Government in Exile", and Nemo Burchuladze, deputy speaker of the Georgian Supreme Soviet during the presidency of Zviad Gamsakhurdia, were arrested in Russia in March, allegedly at the request of the Georgian authorities. Nemo Burchuladze was subsequently released, but Guram Absandze was forcibly repatriated to Georgia early on 19 March and Amnesty International feared he would be at risk of grave violations of his human rights, specifically torture or ill-treatment. On his return Guram Absandze was detained pending trial, and was granted access to a lawyer. At the time of writing, however, it was reported that he wished to change his lawyer but was experiencing difficulties from the part of the authorities in exercising this wish.

Torture and ill-treatment in detention

The systematic and widespread torture and ill-treatment of detainees by law enforcement officers continued. (For more details see the report, *Torture*

in Russia: "This Man-Made Hell", AI Index: EUR 46/04/97.) Amnesty International welcomed reports in February that the Supreme Court of the Republic of Mordovia had convicted six police officers on charges of torturing criminal suspects in custody. The republican prosecutor's office brought the case after a series of disturbing incidents, including the death of 19-year-old Oleg Igonin, who was arrested for burglary (a charge of which he was posthumously cleared) and tortured by several police officers. He was eventually asphyxiated when officers put a gas mask on him and cut off the air supply, known as the "slonik" (elephant) torture method. The Mordovian Supreme Court sentenced two officers to nine-and-a-half years in prison and five others to terms ranging from three to five years. In addition, the court ordered the Mordovian branch of the Interior Ministry to pay 200,000 rubles (\$33,000) to Oleg Igonin's mother and more than 100,000 rubles to others who have been tortured in custody. During the mission in May, Amnesty International's delegation visited Saransk, the capital of Mordovia, and met with victims and relatives of victims of torture, including Oleg Igonin's mother. The delegation also met with judge Vasiliy Martyshkin, from Mordovia's Supreme Court in Saransk, who had not only prosecuted the policemen involved in the torture and death of Oleg Igonin, but had called for a change in the system that allows for the practice of torture to exist by submitting a special private opinion to the Ministry of Internal Affairs in Moscow. His private statement had been met by total silence by the Minister of Interior. At a meeting with the new Minister of Interior, Sergey Stepashin, in June, during his visit to the United Kingdom, he stated to Amnesty International representatives his willingness to look into Judge Martyshkin's statement and to send a reply.

In March a group of Russian human rights groups, members of the umbrella association "United Action", initiated a major campaign to stop torture in the Russian Federation. A special Expert Group was formed, as part of the campaign, which has been working to draft a Federal Programme for the Eradication of Torture.

Torture and ill-treatment in the army

Reports of torture in the army continued. It was reported on 13 May that a young soldier (his name is not known) was beaten to death while serving in the 205th Motor-Rifle Brigade of the Russian army, stationed in the town of Budyonnovsk, Stavropol Territory of the Russian Federation. The private died allegedly of injuries inflicted by an older soldier for refusing to mend his shoe that had been torn in a football match. Amnesty International learned that this serviceman was reportedly the 14th victim of *dedovshchina* (the brutal practice of hazing of new recruits) in the 205th Brigade in the year and a half since it was stationed in Budyonnovsk, after withdrawing from the conflict in the Chechen Republic. During this period over 350 soldiers have reportedly complained about being subjected to ill-treatment in their army unit to the Budyonnovsk and Stavropol committees of Soldiers' Mothers.

In July, Amnesty International approached the Russian authorities about the case of Viktor Andreyev, who has been held for three years in the Moscow pre-trial detention centre "Matrosskaya Tishina". According to his lawyer, Viktor Andreyev was deliberately denied medical treatment although he was reportedly near death due to tuberculosis. Viktor Andreyev was arrested three years ago while serving in the Russian army in Chechnya, for the murder of his commanding officer who had allegedly repeatedly abused and tortured him and other conscripts. Viktor Andreyev attempted to desert twice during the conflict, and was allegedly subjected to torture and ill-treatment each time he was returned to the army unit. According to his lawyer, the Russian military justice authorities wanted to avoid bringing the case to court to avoid a precedent-setting verdict of manslaughter in self-defence, rather than murder. Viktor Andreyev had reportedly also not been allowed a visit by members of his family or a lawyer of his choice during his time in detention.

Prison conditions

Conditions in penitentiaries and pre-trial detention centres continued to amount to torture. During the

visit in May, Amnesty International urged the Government to introduce an effective system of independent inspections and public control of all places of detention. Amnesty International noticed with great concern that at a seminar in May on conditions in pre-trial detention centres (SIZOs), organized in Moscow by the Ministry of Foreign Affairs with the cooperation of experts from the Council of Europe, and attended by Amnesty International representatives, not one Russian NGO was allowed to participate in the discussions. Amnesty International's delegation was particularly disappointed at the lack of cooperation it encountered concerning a request to visit prisons and detention centres during the visit in May. Although at the beginning of the visit the delegates were personally promised access to pre-trial detention centres by General Vyacheslav Ovchinnikov, head of the General Department of Execution of Punishments (GUIN) in the Ministry of Interior, this access was denied, and the delegation was refused access to the SIZOs it had asked to visit.

Persecution of conscientious objectors; freedom of conscience and religion (update to information given in AI Index: EUR 01/01/98)

In April Amnesty International learned about the case of Vitaliy Vladimirovich Gushchin, a 22-year-old Jehovah's Witness from Kurchatovo, Kursk Region, who was serving a one-and-a-half-year prison sentence for refusing to carry out military service because of his religious beliefs. Amnesty International considered him to be a prisoner of conscience. The Kursk Regional Court had ruled in December 1997 that Vitaliy Gushchin is a member of a "sect" and that his claims to religious beliefs therefore are "groundless". He was reportedly released from prison in July, while his case was subject to further investigation. He has not been allowed to leave Kurchatovo for the duration of the investigation and the criminal charges against him have not been dropped. Amnesty International continued to urge the authorities to enact legislation creating alternative civilian service of non-punitive length, and to release all

conscientious objectors from prison or from forcible military duties.

The death penalty

Amnesty International was concerned that the presidential list of federal laws to be adopted in 1998 concerning human rights, as part of the initiatives to mark the Year of Human Rights, does not mention the introduction in national law of a moratorium on executions, and that no mention has been made to ratifying Protocol 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, relating to the abolition of the death penalty.

It was reported in January that the Procurator General of the Russian Federation had sent a letter to the President insisting that the death penalty be preserved and asking for a reorganization of the Presidential Clemency Commission and the system of execution of the death penalty, allegedly in order to increase government control and limit the abilities of the Clemency Commission to recommend clemencies. According to official government information, as of 30 April, 894 prisoners remained on death row in the Russian Federation. People continued to be sentenced to death. According to information from the Clemency Commission in May, 40 death penalty prisoners received clemency during the first five months of this year and no executions were carried out.

Amnesty International noticed with great concern the apparent retreat from the government's commitment in the debate which has been taking place in the Duma, as well as the statements earlier in 1998 by the newly elected Human Rights Ombudsman, Oleg Mironov, and statements in May by the Minister of Justice, Pavel Krasheninnikov, that the Russian Federation was, in the latter's words, "not ready to annul the death penalty". Amnesty International was especially concerned about the Government's official opinion on the draft law on the moratorium, signed on 30 April by the Deputy Prime Minister Boris Nemtsov, that the death penalty should not be abolished because of the expense of providing life imprisonment for some 1,300 death penalty

prisoners by the year 2000, according to the Government's own estimates. In other words: it would be cheaper to kill than to protect human rights. During the mission in May, representatives of the Presidential Administration told Amnesty International that Deputy Prime Minister Nemtsov had made a mistake and was not aware of the content of the official opinion he had signed. Nevertheless, because of this negative government opinion, the State Duma in May decided to postpone the review of the draft law on the moratorium until later in the year.

Executions under the Shari'a law in the Chechen Republic

Amnesty International condemned the execution on 18 June of Salan Bakharchiyev, sentenced to death by the Chechen Supreme Shari'a Court for the premeditated murder of four people, and called on the President of the Chechen Republic, Aslan Maskhadov, to commute the death sentences of up to 30 people believed to be awaiting the Shari'a courts' verdicts on charges of kidnapping. Salan Bakharchiyev was convicted of allegedly shooting and killing Chechen First Deputy Shari'a and State Security Minister Shamsudin Uvaisayev, former Foreign Minister Ruslan Chimayev, and two others on 15 May. It was not known whether Salan Bakharchiyev had access to legal representation.

Amnesty International knows of five executions which took place in 1997 in the Chechen Republic. In a media interview on 15 April, Magomed Magomadov, a high ranking official of the Chechen Shari'a National Security Ministry, reportedly stated that 26 criminal cases involving 48 people, arrested on suspicion of kidnapping and hostage-taking, had been sent to the Supreme Shari'a Court in the first four months of the year. Eleven of these cases had already been examined, with 20 of the 48 people receiving various measures of punishment. These included two people sentenced to death on charges of kidnapping. Another nine people, including a woman, were apparently also convicted of kidnapping and received life sentences.

In March, Amnesty International called on President Maskhadov, during a meeting with him

in London, to immediately grant clemency to all prisoners on death row in the Chechen Republic. During the mission to the Russian Federation in May, the Representative of the Chechen Republic to the Russian Federation, Vakha Khasanov, told Amnesty International's delegation that there was a "de facto" moratorium on executions in Chechnya, because of the wide international outcry and condemnation of the five executions in 1997. However, it was reported on 30 June that the Chechen Supreme Shari'a Court ruled blood feud murders illegal and punishable by the death penalty.

(See also *Women in Europe*, page 83.)

SLOVAKIA

See the entry under Women in Europe, page 82.

SPAIN

Amnesty International delegation visits Spain

In March Amnesty International delegates visited Spain and held talks with a large number of national and autonomous government representatives and opposition party leaders in Catalonia (Barcelona), the Basque Country (Vitoria) and Madrid. These included the president of the Basque Government, the *lehendakari*, and the Minister of the Interior of the Spanish Government. The visit took place in the context of the campaign by the Spanish Section of Amnesty International to mark the 50th anniversary of the Universal Declaration of Human Rights and to launch a "Program for the Protection and Promotion of Human Rights" ("*Programa para la Protección y Promoción de los Derechos Humanos*"). Publicity about the visit in both the regional and national media was extensive. The

talks covered a very wide range of issues, in Spain and abroad.

Within Spain, Amnesty International was concerned by continuing reports of illegal detention, ill-treatment and torture by law enforcement officers. It particularly stressed its longstanding concern at the way in which detainees may be detained incommunicado for up to five days, with accompanying restrictions on the right of access to lawyers of their choice - a system which, in the view of Amnesty International - as well as inter-governmental organizations such as the United Nations (UN) Human Rights Committee and the UN Committee against Torture - facilitates ill-treatment and torture. The delegation also discussed with government ministers and other political leaders a growing tendency towards assaults on persons of non-European ethnic origin by different police forces, including the local or municipal police. The delegation sought information from national and local authorities on the initiatives that were being undertaken, or planned, to incorporate human rights into the training programs of magistrates, police, and other law enforcement officers. It also addressed, *inter alia*, the issue of lengthy delays in torture-related trials and effective impunity of law enforcement officers, and that of conscientious objection that occurs after incorporation into military service (see below).

National and local government ministers and representatives assured the delegation that they believed human rights to be an essential component of professional training and undertook to inform Amnesty International about their plans in this context. The delegation found, among many of those with whom it held talks, a willingness to accept that there may be a problem of racially-motivated violence in Spain, and that this would need to be addressed, but there was little agreement between Amnesty International and government representatives on the issue of incommunicado detention.

The case of Encarnación Blanco

In May the UN Committee against Torture issued a decision that the Spanish authorities had violated Articles 12 and 13 of the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment, which govern the right of an individual to a prompt and impartial investigation where there is reasonable ground to believe that an act of torture has been committed, or where the individual alleges that he or she has been subjected to torture.

The Committee examined a submission by Encarnación Blanco Abad, whose allegations of torture had been rejected as unfounded by Spanish courts and who had exhausted all judicial remedies in Spain by 1995. Encarnación Blanco alleged she was tortured after being arrested by the *Guardia Civil* in 1992 for supposed activities on behalf of the armed Basque group *Euskadi Ta Askatasuna* (ETA, Basque Homeland and Liberty). She stated that, while being held for five days in incommunicado detention, she had been beaten with a telephone directory, a sack had been placed over her head and she had been subjected to electric shocks. She had been forced to undress and threatened with rape, and while being made to stand against a wall with her arms raised and legs apart, she had been beaten on the head and genitals, and continually insulted. Six medical reports were submitted to court. Five referred to the detainee's allegations but found no external evidence of torture or ill-treatment. One, conducted in the period after incommunicado detention, referred to the presence on her body of haematoma and contusions.

The State party argued that inquiries into Encarnación Blanco's allegations had been prompt and impartial, despite the absence of any formal complaint by the detainee or evidence to justify pursuit of the case. However, the Committee considered that the allegations referred to in the medical reports should in themselves have been sufficient to open a prompt inquiry, and that the failure to investigate these allegations and the length of time allowed to elapse between the moment at which the alleged torture had occurred and the opening of proceedings were incompatible with Article 12 of the Convention. The Committee also observed that Article 13 does not require the lodging of a formal judicial complaint of torture; a simple statement by the "victim" should be understood as a "tacit but unequivocal expression" of their desire for a prompt and impartial inquiry according to the terms of the Convention.

The Committee also criticized as "inexcusable" the failure to examine the officers of the *Guardia Civil* reportedly involved, as well as the failure to hear other witnesses, and considered that such lack of diligence contravened the obligation of impartiality laid down by Article 13.

Developments and outcomes in other trials related to ill-treatment and torture

A large number of trials related to ill-treatment and torture took place. Some of these highlight Amnesty International's continuing concerns with regard to effective impunity of law enforcement officers and the way in which lengthy delays in judicial proceedings may reinforce such impunity. In January the trial opened in Bilbao, after 14 years, of five national police officers (*Cuerpo Nacional de Policía*) accused of torturing two alleged members of a Basque armed band called *Iraultza* (Revolution), connected with the Basque Communist Movement (*Movimiento Comunista de Euskadi* - EMK) in 1984. Three officers were sentenced to a total of five months' detention (*arresto*) and two years, eight months' *inhabilitación* (barring from public office) for the torture of José Ramón Quintana and José Pedro Otero. However, the court decided that two other officers could not be tried because more than five years had elapsed between the alleged acts of torture and the opening of proceedings against them. An appeal against the decision is being lodged.

During February and March Amnesty International received reports that a sergeant of the *Guardia Civil* convicted in 1997 for the illegal detention and torture of ETA member Kepa Urrea six years earlier (see AI Index: EUR 01/01/98) and sentenced to four years' imprisonment and six years' *inhabilitación*, had been selected for a promotional course, despite one of the conditions for acceptance on the course being that a candidate should not be convicted for a deliberate criminal act. The *Dirección General* of the *Guardia Civil* argued that because the conviction was not yet definitive, pending appeal to the Supreme Court, presumption of innocence should apply until that time. In a parliamentary answer in March, the

government reportedly recognized the "gravity and reprehensibility" of the crime committed and stated that, if the conviction were confirmed, appropriate action could still be taken against the sergeant. However, Amnesty International is concerned that, by actually appearing to be in haste to reward an officer immediately after conviction (without awaiting the outcome of the appeal) the authorities are not taking the torture of Kepa Urrea seriously.

In March two trials of police officers for alleged illegal detention and ill-treatment were suspended. In both instances Amnesty International had expressed concern at the allegations and urged a prompt and impartial inquiry into them (see AI Index: EUR 01/02/96 and EUR 01/01/98). The trial in the Alicante region of two municipal police officers for ill-treatment of Moroccan immigrant Salah Essabah was suspended at the request of one of the officers because of a technical error in the judicial proceedings. The trial of four municipal police officers at Pontevedra (Galicia) for the ill-treatment of Senegalese immigrant Mamadou Kane was postponed owing to the failure to appear in court of a witness for the prosecution and a witness for the defence.

In April ETA member Fernando Elejalde Tapia was sentenced by the National Criminal Court to 37 years' imprisonment for the killing of a prison psychologist. Amnesty International had expressed concern that Fernando Elejalde, who was belatedly taken to hospital with multiple injuries after arrest, may have been tortured (see AI Index: EUR 41/01/97 and EUR 01/06/97). However, the court stated that examination of the medical documentation did not provide evidence that his injuries had been inflicted after, rather than at the time of arrest, when he had been involved in a collision with a stationary vehicle and in a struggle with police officers.

In April 10 *Guardia Civil* officers from the barracks of Colmenar Viejo, near Madrid, were given prison sentences ranging from eight to two months for multiple acts of torture, ill-treatment and threats, after arresting three young men in a bar in 1994. Three officers were acquitted. Amnesty International had followed the case closely from its inception.

GAL investigations

In May the trial opened before the Supreme Court of a former interior minister, a former secretary of state for security and 10 others, including a former leading politician, senior officials and senior police officers, for involvement in the kidnapping by the *Grupos Antiterroristas de Liberación* (GAL, Anti-Terrorist Liberation Groups) of the businessman Segundo Marey. The trial was expected to conclude in July 1998.

Abuses by armed Basque group ETA

ETA continued to target councillors, particularly those of the ruling *Partido Popular* and its allies, and was held responsible for the murder of six people, including a retired *Guardia Civil* officer. In January José Ignacio Iruretagoiena Larrañaga died after a car bomb exploded. Later that month Alberto Jiménez Becerril and his wife, Asunción García Ortiz, were shot dead in a street near Seville cathedral. In May Tomás Caballero was killed in Pamplona. In June Manuel Zamarreño was killed in Rentería. He had recently replaced José Luis Caso (killed in December 1997). Amnesty International reiterated its unreserved condemnation of the human rights abuses committed by ETA and demanded a halt to ETA killings of political representatives.

Conscientious objection to military service (updated information to AI Index: EUR 01/01/97)

In June the Senate examined a draft organic law reforming existing legislation on conscientious objection to military service and alternative civilian service. It had been drawn up by the Catalan *Convergència i Unió* party and the ruling *Partido Popular* and presented to and approved by the Congress of Deputies in April.

Amnesty International wrote to the Senate Constitutional Commission prior to its examination of the draft law, expressing concern that the text, like the legislation in force since 1985, made no provision for conscientious objection developed after incorporation into the armed forces, during active military service.

The organization explained that it believed that conscientious objectors to military service should have the right to claim conscientious objector status and to perform an alternative civilian service at whatever point in time they developed their objections, whether before or during their military service. It pointed out that it had repeatedly called for the introduction of this right into Spanish law. Amnesty International considers conscientious objections denied this right, and imprisoned as a consequence, to be prisoners of conscience. Over a dozen cases of Spanish conscripts imprisoned as a result of their refusal to complete their military service on grounds of conscience developed after joining the armed forces have come to Amnesty International's attention since 1985.

The organization stated that the proposed law undermined the basic right to freedom of conscience, pointing out that international standards relating to conscientious objection to military service, developed by the United Nations and the Council of Europe, also support the right to conscientious objection during military service.

Amnesty International also pointed out that in 1996, following its examination of the Spanish Government's implementation of the International Covenant on Civil and Political Rights, the UN Human Rights Committee stated that it was "greatly concerned" that individuals had no right to claim conscientious objector status after entering the armed forces as this did "not seem to be consistent with the requirements of article 18 of the Covenant" - relating to freedom of thought, conscience and religion. The Committee urged Spain "to amend its legislation on conscientious objection so that any individual who wishes to claim the status of conscientious objector may do so at any time, either before or after entering the armed forces".

Amnesty International called on the Senate Constitutional Commission to do everything in its power to ensure that Spain respond positively to the UN Human Rights Committee by amending the text of the new draft law. However, the final text approved by a plenary session of the Senate in June made no provision for conscientious objection developed after incorporation into the armed forces. The law was ratified by the Congress of

Deputies later in June and was due to come into force in July.

SWEDEN

Deaths in custody: Osmo Vallo (update to information given in AI Index: EUR 01/01/98)

A third post-mortem examination was performed in February on the body of Osmo Vallo after the Prosecutor-General referred the case to two Swedish forensic doctors, Professor Jovan Rajs and Jan Lindberg, for further examination (see AI Index: EUR 01/01/98). The findings of the third post-mortem examination were made public in May. The forensic pathologists concluded that the main cause of death was the police violence applied to him and, in particular, the forceful pressure which caused the rib fractures and which resulted in impaired breathing and heart failure. As a consequence of these findings, the Prosecutor-General was reconsidering whether to bring charges against the police officers involved in the arrest and alleged ill-treatment of Osmo Vallo. A decision was expected in the second half of 1998.

SWITZERLAND

The alleged ill-treatment of detainees

Progress towards harmonization of the cantonal codes of penal procedure

Amnesty International welcomed the progress towards eventual harmonization of the 26 different cantonal codes of penal procedure, demonstrated by the publication, in February, of the preliminary findings of a study being carried out by a committee of experts working under the auspices of the Federal Office of Justice. In the context of their concern about allegations of police ill-treatment, both the UN Human Rights Committee (see AI Index: EUR 01/01/97) and the UN

Committee against Torture (see AI Index: EUR 01/01/98) had recommended, in 1996 and 1997 respectively, that Switzerland intensify discussions aimed at harmonizing the cantonal codes, particularly concerning the provision of fundamental guarantees for detainees. The preliminary study was intended to identify only the broad guidelines to be followed in drawing up, by 2005, a code unifying both cantonal and federal codes of penal procedure. Its contents indicated that the need to improve guarantees and thereby introduce better safeguards against police intimidation and ill-treatment was being taken into account by the committee.

Report by the Council of Europe's Commission against Racism and Intolerance

A report on Switzerland published by the Council of Europe's Commission against Racism and Intolerance (ECRI [98] 21) in March noted "... reports concerning police brutality towards suspects in custody, particularly non-citizens". It suggested that "an independent commission might be set up, empowered to conduct a full and impartial enquiry into all allegations of ill-treatment by the police, and that police brutality should be stringently and publicly punished. Furthermore, special training for the police concerning human rights and relations with minority groups should be maintained and developed further..."

Individual cases of alleged ill-treatment

There were significant developments in the case of Clement Nwankwo, a prominent Nigerian lawyer and human rights activist arrested in Geneva in April 1997 (see AI Index: EUR 01/01/98). He had alleged that police officers had assaulted him at the time of arrest and subjected him to further abuse in the police station. He was released after about 72 hours' detention during which he was tried under a summary procedure and found guilty of shoplifting and resisting the police. His formal challenge against the conviction resulted in a full trial in June 1997 which acquitted him of shoplifting but again convicted him of resisting the police. When his

appeal against the conviction was rejected by a Geneva court in September 1997 he lodged an appeal with the Federal Court. That appeal was rejected in April 1998 and Clement Nwankwo stated that he was considering a complaint against Switzerland via the European Court of Justice.

In 1997, following an administrative investigation, the Geneva cantonal authorities had rejected his allegations of physical assault but apologized for "the conditions" of his detention in the police station and promised sanctions against the officers concerned (the officers entered appeals against the subsequent sanctions). In January the Geneva Procurator General dismissed a criminal complaint which Clement Nwankwo had lodged against the officers in July 1997. He cited the conclusions of the internal administrative investigation and of the Geneva appeal court which had confirmed the conviction for resisting the police. Regarding his treatment *inside* the police station the Procurator acknowledged that he had not been treated correctly insofar as, after being strip-searched, he had been "prevented - for almost an hour - from getting dressed again". The Procurator said this treatment might be considered a criminal offence of abuse of authority but that it appeared from the administrative inquiry that the delay in returning his clothes was the result of "negligence rather than of a deliberate intention to do harm". He concluded that the disciplinary sanctions being applied to the officers responsible appeared to be sufficient punishment.

In his annual report to the UN Commission on Human Rights, covering 1997, the UN Special Rapporteur on Torture observed that "the facts in the Nwankwo case, where there was overwhelming evidence of abuse leading finally to some welcome disciplinary action against the law enforcement officials involved, suggest a judicial disposition precipitately and prematurely to believe the police and to disbelieve the foreign accused/complainant, as well as a reluctance to fully rectify the original wrong".

The UN Special Rapporteur on the independence of judges and lawyers, in his annual report for 1997, highlighted his concern, raised in correspondence with the Federal Government, that during his detention Clement Nwankwo "was apparently denied the right to obtain the counsel of

his choice and was made to sign the record of the proceedings before the examining magistrate without the presence of his counsel. He was also compelled to sign this document despite the fact he was unable to read it because it was in French. Finally, he was reportedly tried, convicted and sentenced without a lawyer to defend him in what appeared to be a trial not open to the public, raising questions as to independence and impartiality of the tribunal".

The Rapporteur noted that the Federal Government had provided "no information ... with regard to the alleged lack of independence of the tribunal which had convicted Clement Nwankwo in defiance of the principles of due process". He also said that he viewed "with concern that despite the fact that the appeal court had set aside the conviction of theft imposed on Mr Nwankwo, the same court found it fit to convict him on the charge of resisting arrest for an offence which he never in law committed".

While awaiting the outcome of Clement Nwankwo's appeal to the Federal Court before commenting further, the Rapporteur said that "in the light of the Government's apologies to Mr Nwankwo and its suggestion that he could file a civil suit against the State for compensation" he recommended that the Government offer him "adequate compensation, thereby avoiding protracted civil litigation and the resultant costs and expense". In April the Federal Government informed the Rapporteur that the Federal Court's decision of that month "having put an end to the judicial proceedings regarding Mr Nwankwo, the Geneva authorities will be able to examine the question of compensation as soon as possible".

Several demonstrations held in Geneva in May, to protest against policies of the World Trade Organization, which was meeting in the city at the time, led to violent clashes between demonstrators and the police and to hundreds of arrests. Dozens of allegations of ill-treatment and excessive force by Geneva police, on the streets and in places of detention, were subsequently made by people claiming to have been offering no violence or resistance to the police at the time of the alleged incidents, and many of whom indicated their intention of lodging criminal complaints against the police.

Geneva's Cantonal Government promptly appointed a committee of experts charged with, amongst other things, analysing the causes of the violence arising from the demonstrations and evaluating the preparation and role of the police. A Cantonal Parliamentary Committee was also set up with a similar mandate.

A judicial investigation was opened in June after Felipe Lourenço, a Brazilian national, lodged a criminal complaint against a guard at Champ-Dollon Prison, Canton of Geneva, accusing him of grievous bodily harm. He lodged the complaint from hospital where he was being treated for quadriplegia and acute breathing difficulties.

Felipe Lourenço was detained in June after violating an expulsion order from the Geneva Canton: he was reportedly also accused of credit card fraud. On the day of his admission to Champ-Dollon Prison, he appeared before the judge of instruction who extended his detention for eight days. He said that, when a guard escorted him back to a small cell, he began to feel claustrophobic and resisted the guard's efforts to make him enter it, eventually going down on all fours. He alleged that the guard then grasped him and threw him violently against a wall. He said that he fell to the ground and, realizing that he was unable to move his arms and legs, asked for help. He claimed that the guard then tried to force him into a sitting position, told him he believed he was faking injury and that there was a delay of around two hours before he was given any medical assistance.

He was transferred to a local hospital in the early evening where he was first examined in the psychiatric ward before being admitted to the neurosurgical department just before midnight. He was then operated on but hospital doctors reportedly said that there was irreversible damage to the spinal cord and, at best, he might recover the use of his arms: his breathing difficulties were due to his lungs having been punctured by fractured vertebrae.

Following publication of the allegations in the local media, the prison administration indicated that, according to the guard in question, after resisting entry into the cell Felipe Lourenço had suddenly thrown himself head-first against a closed door, thus incurring his injuries. The authorities

also indicated that there was no unnecessary delay in providing medical assistance. It was noted that there was no doctor on duty at the hospital on the day of the alleged incidents, a Sunday, and that, therefore, a doctor had to be called in to examine the prisoner.

Judicial and police administrative inquiries were opened into allegations made by Mamadou Sidibé, a national of Côte d'Ivoire, following his detention by Bern Municipal Police on the afternoon of 11 December 1997, during his first journey overseas. The following account of his detention is based on a criminal complaint which he lodged against the police on 31 December 1997.

Mamadou Sidibé was detained by two plain clothes police officers shortly after stopping to admire a view in central Bern. He said the officers offered no explanation for detaining him, used unnecessary force to handcuff him and then led him by foot to a police station while subjecting him to racial abuse.

At the police station he provided the telephone numbers of his sister and brother-in-law, resident in Bern, so that the police could check his identity. He also stated that he was a tourist, innocent of any offence and asked the reason for his arrest. He claimed the officers said it was because he was "black" and a "drug-dealer", subjected him to further racial abuse, required him to strip naked for a body search, and subjected him to slaps and repeated kicks and punches. He was told his passport was forged, that his sister was dead, and was threatened with imprisonment and deportation as a drug-dealer. His request to make a telephone call was refused and he agreed to sign a typed document in German, a language he did not understand, because he feared further ill-treatment in case of refusal. He was held overnight and released in the afternoon of the next day, after being told that his papers were in order.

A press release issued by Bern Municipal Police after his allegations had been made public said that, on the basis of a written statement by and questioning of the officers concerned, Mamadou Sidibé's allegations of ill-treatment and racial abuse could not be confirmed in any way. On the day of his arrest, Bern police had been checking on African and Albanian drug addicts in the precise area where he had been observed to stop. He had

been taken to the police station for an identity check. Discrepancies had then been found in his travel documents: apparently, the Swiss Embassy in Abidjan, which had issued his visa, had entered the permitted length of his stay as 90 days but, in error, had entered a last departure date falling 60 days after his arrival in Switzerland. Initial police inquiries had also found that a Bern resident with the same name as his sister had died in 1984.

He said that he stopped his car at a police checkpoint at around 1.30am on 9 October 1997 and that relatives travelling in a car behind were witnesses to his detention. He alleged that upon opening his car door, in response to a police officer banging on it, the officer kicked him so hard that he fell out of the car and that two other officers then kicked him as he lay on the ground. He said one of them seized him around the neck with one hand and held his other hand over his mouth and nose so that he could not breathe for 30 to 40 seconds. He was accused of being a drug-dealer.

He was put into a police car and transferred to a police station where he was made to strip naked for a body search. He alleged that he remained naked for some five to 10 minutes while a police officer questioned him. He was told that he had been arrested because he was drunk, although his alcohol level had not then been tested and a subsequent test proved negative. He was also told he had been arrested because he had tried to flee the scene of the police check point, which he denied, and that the police had been checking for drugs. No drugs were found on his person or in his car. He said that his requests to be allowed to telephone his wife and lawyer were denied.

Within hours of his release at around 6am Samuel Abridaga was examined by both hospital doctors and a private doctor. Their medical reports recorded, amongst other things, multiple bruises and abrasions, pains around the stomach and thorax and possible bruising to the kidneys.

A judicial investigation was opened into his complaint. In February the Public Prosecutor's office informed Samuel Abridaga that he himself was under investigation for using threats and violence against police officers.

He had been kept in custody because of the need for further inquiries.

In January Samuel Abridaga, a 63-year-old former Minister of Health and Social Welfare in Angola and an ordained Protestant minister, who was granted political asylum in Switzerland in the 1980s, lodged a criminal complaint against three officers attached to Zurich Municipal Police.

TAJIKISTAN

Political prisoners (update to information given in AI Index: EUR 01/06/97 and EUR 01/01/98)

On 12 March Abdulkhafiz Abdullayev, the younger brother of Abdumalik Abdullojonov, a former Prime Minister and the head of the opposition National Revival Bloc, and five other men were sentenced to death for treason, banditry and terrorism by the Supreme Court, apparently without right of appeal. Abdulkhafiz Abdullayev, Firdavs Dustboboyev, Ilkhom Dodojonov, Buriboi Akbarov, Jumaboy Juraev and Rustam Shaykhidinov were found guilty of having planned and carried out an assassination attempt on President Rakhmonov in Khujand in April 1997. Nine other co-defendants received prison sentences ranging from 14 years to one year.

Supporters of Abdulkhafiz Abdullayev claimed that the motive for his inclusion in this criminal case and for the charges against him was to intimidate the Khujand-based opposition which has been excluded from the peace process in Tajikistan. There were serious allegations that during the investigation and even during the trial co-defendants had been forced under duress to incriminate Abdulkhafiz Abdullayev. According to a report by Human Rights Watch Firdavs Dustboboyev, Buriboi Akbarov and Ilkhom Dodojonov were severely beaten after they denied in court that Abdulkhafiz Abdullayev had been involved in the assassination attempt. They were reportedly tortured by electric shocks and beaten with sticks at the Ministry of Security. Firdavs Dustboboyev allegedly had two of his ribs broken, one hand severely injured, and lost sight in one eye. Of grave concern was the fact that Abdulkhafiz

Abdullayev was sentenced to death despite medical evidence that he was critically ill with cancer and that he was unfit to stand trial. He was reportedly still not receiving appropriate medical attention a month after the being sentenced despite a further recommendation by a medical panel that he be transferred to a specialized oncological unit. He was denied chemotherapy treatment and remained on death row, where his condition was said to deteriorate steadily. He was reportedly unable to walk unaided.

Petitions for clemency by the six men sentenced to death were submitted to President Rakhmonov and were still pending by July.

The death penalty

In June parliament passed a new draft criminal code which would reduce the number of articles carrying a possible death sentence from 44 to 15. Under the new Criminal Code a death sentence could be commuted to 25 years' imprisonment. The new Criminal Code was due to come into force on 1 September 1998.

Prospects for the decriminalization of homosexuality

The new draft criminal code passed by parliament in June was reported to abolish the criminalization of consenting homosexual acts between adult males. The draft criminal code repealed part one of Article 125 which punished consenting sex between adult men. The new Criminal Code was due to come into force on 1 September 1998.

Law on the protection of the President of Tajikistan's honour and dignity

At the end of May parliament adopted a new law on the protection of the honour and dignity of the President of Tajikistan. The law provides for punishment, including terms of imprisonment of up to six years, for insulting the honour and dignity of the President. Terms of imprisonment are applicable only to slander on radio or television and libel in the printed media. Under the law the

media outlets themselves are liable to fines for publishing or broadcasting alleged insults to the honour and dignity of the President and may face closure for repeat offences. Amnesty International recognizes that the President may wish to seek legal redress for written or oral statements that he may consider defamatory. However, it is widely recognized that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person. The organization believes that public officials, including the President, should address slander complaints in civil proceedings in which any complainant, regardless of status or function, can seek redress for personal injury to their reputation. Criminal legislation should not be used in such a way as to stifle criticism of public officials, or to intimidate those who voice legitimate concerns about the actions or practices of public officials, including the President. Amnesty International is concerned that the law on protecting the honour and dignity of the President of Tajikistan is in violation of the right to freedom of expression as set out in Article 19 of the International Covenant on Civil and Political Rights. The law was due to be submitted to the President for final approval and signature in July.

TURKEY

Armed forces re-assert their role in politics

On 16 January the Constitutional Court closed the Islamist Welfare Party - the main parliamentary opposition - and imposed a five-year political ban on the former Prime Minister and party leader Necmettin Erbakan. Since 1997, when Necmettin Erbakan resigned as a result of pressure from the military, the Turkish armed forces have repeatedly and publicly demanded action against islamists' political, social, educational and economic organizations. In response to comments

from the Prime Minister Mesut Yılmaz that he had not given orders for the Turkish armed forces to pursue islamists, the armed forces made a sharp statement which expressed loyalty with the proviso: "...but nobody, irrespective of their position or post, can display an attitude or make any suggestion or comment that will discourage, confuse, weaken or overshadow the determination of the Turkish armed forces to struggle against separatist or fundamentalist activities which threaten the country's security."

An apparently genuine draft of a law severely limiting freedom of expression related to religious issues leaked in late September 1997 provides for heavy terms of imprisonment (up to 15 years and eight years respectively) for leaders and members wishing to establish an organization which intends to convert the state to religious rule "aiming to change the characteristics or right of exercise of sovereignty or bring the use of basic rights and freedoms and the structure of the state in conformity with religious principles", and up to five years for persons spreading propaganda for such purposes or six years for those participating in demonstrations to the same end.

Such provisions are virtually a restatement of the infamous Article 163 of the Turkish Penal Code, the abolition of which Amnesty International publicly welcomed in 1991.

Amnesty International, which recognized a number of people jailed under Article 168 as prisoners of conscience, would consider any renewal of such repressive provisions as a grave retrograde step.

President of the Turkish Human Rights Association attacked - pressure on human rights organizations

On 12 May Akın Birdal, president of the Turkish Human Rights Association (HRA), was shot down by two gunmen who had entered the association's headquarters in Ankara. Akın Birdal very nearly died from loss of blood after being hit by six bullets.

The Turkish authorities had helped to provoke the attack by leaking spurious but highly dangerous allegations about Akın Birdal contained

in confessions alleged to have been made by a former military commander of the Kurdish Workers' Party (PKK) taken prisoner by the security forces two months previously. Although Turkish law provides that evidence collected during preliminary investigation is confidential, enormous publicity was given to these statements which falsely cited Akın Birdal as well as numerous other prominent personalities critical of the government as having actively supported the PKK.

While Akın Birdal was struggling very close to death the Prime Minister Mesut Yılmaz compounded the offence by describing the attack as an "internal dispute" among people connected with the PKK. In fact, seven men close to right wing political groups - one of them a gendarmerie officer - were shortly afterwards arrested and charged with planning and carrying out the attempted killing.

The authorities consistently failed to investigate or condemn earlier fatal attacks in which at least 10 HRA officials have died.

Official harassment continued to be a daily hazard for human rights organizations in Turkey. The Diyarbakır and Şanlıurfa branches of the HRA are still closed by order of their respective local governors. A medical referral centre for survivors of torture established by the Turkish Human Rights Foundation (a sister organization of the HRA) was opened in Diyarbakır on 13 June in the presence of EU officials, three ambassadors and representatives of Amnesty International but was closed after just four days by 15 police officers acting on the orders of the government office which regulates foundations. The Human Rights Foundation has challenged the closure. Meanwhile on 27 April 1998, the Association for Human Rights and Solidarity with the Oppressed (Mazlum-Der) was raided by police who took away large quantities of documents without issuing any form of receipt.

On 8 May police barred the weekly silent vigil of relatives of Turkey's "disappeared" at Galatasaray in central Istanbul - popularly known as "the Saturday Mothers" - from reaching their meeting place, and detained several relatives of "disappeared" persons and bystanders, two of whom were beaten. Since then the relatives'

traditional place of meeting for silent vigil has been occupied every Saturday by a large contingent of uniformed police officers. The vigil continues and will continue until the Turkish authorities initiate a full and impartial commission of investigation in line with Article 13 of the UN Declaration on the Protection of All Persons from Enforced Disappearance.

Prisoners of conscience

In the period under review the number of prisoners of conscience was once again on the increase, in spite of government assurances that freedom of expression is to be secured through amendments of the Anti-Terror Law and Articles 159 (insulting the organs of state), 311 (praising a crime) and 312 (incitement) of the Turkish Penal Code (TPC). Writer and biologist Edip Polat was imprisoned on 5 April under Article 159 of the TPC to serve a 10 months' sentence. Lawyer Eşber Yağmurdereli was re-imprisoned on 1 June under Article 8 of the Anti-Terror Law (separatist propaganda) to serve the remainder of a 10-months sentence, but as a consequence he also lost remission on the remainder - 16 years - of an earlier life sentence imposed after an unfair trial.

The publicist and writer Dr Haluk Gerger was imprisoned on 26 January under Article 7 of the Anti-Terror Law (for separatist propaganda) to serve a 10-months sentence, and has since had a further sentence of one year and eight months confirmed. The journalist Ragıp Duran was convicted under Article 8 of the Anti-Terror Law and surrendered on 16 June to serve a 10-months sentence. All were imprisoned for speeches and writings which contained no advocacy of violence.

People expressing Islamist opinion were increasingly the targets of prosecution. On 21 April Diyarbakır State Security Court imposed a 10-month sentence on Recep Tayyip Erdoğan, the mayor of Istanbul, under Article 312 of the Turkish Penal Code, for a speech he had delivered in Siirt on 6 December 1997. The indictment referred specifically to a verse from a work by the poet Ziya Gökalp - lines which in no way advocate violence, and which, moreover, appear in a book recommended to students and teachers by the

Ministry of Education. The sentence, which is clearly in breach of the European Human Rights Convention, has been referred to the Court of Appeal. If the sentence were to be upheld and Recep Tayyip Erdoğan imprisoned, Amnesty International would consider him a prisoner of conscience.

Four "disappearances" in Western Turkey

Amnesty International is extremely concerned about the apparent "disappearance" of Neslihan Uslu, Hasan Aydoğan, Metin Andaç and Mehmet Mandal, who were last seen in Izmir on 31 March 1998. Fears that they have "disappeared" are heightened by the fact that all four are known to the police and have reportedly been threatened with death and "disappearance" on numerous occasions.

Their lawyers have made inquiries in person to Izmir State Security Court, the Izmir State Prosecutor, Police Headquarters and local gendarmerie stations, but they have been told that the four persons are not held in any of these places.

Neslihan Uslu has for many years been the editor of the journal *Devrimci Gençlik* (Revolutionary Youth), which is published in Izmir, and has for this reason frequently been detained by the police. Her lawyers state that she told them that on one occasion during detention the police told her "we will kill you and throw you into a corner and nobody will know about it". She has a number of previous convictions under the Anti-Terror Law for her work as editor of *Devrimci Gençlik* and there is an arrest warrant for her issued by Istanbul State Security Court.

Hasan Aydoğan served 18 months in Kayseri Prison for membership of the Revolutionary People's Liberation Party-Front (DHKP/C) and is wanted to serve an outstanding sentence of three years and nine months for assisting the same organization.

Metin Andaç, a resident of Bergama and father of two children, was involved in popular protests against Eurogold, a mining company which is allegedly using cyanide in gold exploration work in the Bergama region. In 1995 he was convicted by Izmir State Security Court of

providing assistance to an illegal organization (DHKP/C) and served a prison sentence in Buca Prison.

Mehmet Mandal, to Amnesty International's knowledge, has never been detained or prosecuted.

Amnesty International wrote to the Turkish Prime Minister about the case, urging that a prompt and impartial investigation be initiated. By the end of June no reply had been received.

Amnesty International has raised previous cases of people with a history of prosecution for DHKP/C membership who "disappeared" - for example, Lütfiye Kaçar, who "disappeared" on 11 October 1994. This and several other cases are still unresolved.

Abductions and killings by MLKP

Amnesty International was appalled to learn of the abduction and killing of Tacettin Asçi, treasurer of the Bursa branch of the Turkish Human Rights Association, and Ahmet Aydın by the Marxist-Leninist Communist Party, MLKP. According to reports, Tacettin Asçi and Ahmet Aydın were abducted in mid-May. A statement was sent to the Istanbul branch of the HRA on 7 June saying that the two had been "executed" as police informers. The HRA issued a statement condemning the killing.

Amnesty unconditionally opposes the killing of any prisoners. Moreover, the fact that the bodies have not been recovered suggests that the victims may have been interrogated under torture by their captors. Those who killed Tacettin Asçi and Ahmet Aydın have not handed over the bodies or revealed their whereabouts. When dealing with the pattern of "disappearances" perpetrated by the security forces in Turkey, Amnesty International has underlined that this is an especially cruel abuse committed not only against the victim but also against their relatives -- it is a method of torturing a whole family. The same is true for those missing after abduction by illegal armed organizations. In a press statement issued at the time, Amnesty International urged that the bodies be surrendered, and also that those responsible for these murders be brought to justice.

In a separate incident, Satım Can, an official of the extreme right-wing National Action Party (MHP), was fatally wounded by two assailants outside his place of work in the Esenler district of Istanbul on 18 May. Reportedly, a leaflet issued by MLKP was left at the scene of the murder.

Nine people were taken from a minibus near Sağan village, Pertek in Tunceli province on 3 June and shot dead. No organization claimed responsibility for the attack. Amnesty International unreservedly condemns such arbitrary killings.

TURKMENISTAN

Prisoners of conscience and political prisoners

Detention of opposition leader Abdy Kuliyeu

Abdy Kuliyeu, a former Minister of Foreign Affairs and a leader of the Turkmen opposition, was arrested at Ashgabat airport on 17 April after returning to Turkmenistan - after five years in exile - on the eve of President Niyazov's first official state visit to the USA. He was first detained at the investigation-isolation prison of the Committee for National Security in Ashgabat but later released and placed under house arrest. He was reportedly charged with trying to overthrow the Government of Turkmenistan, organizing an anti-state demonstration and extortion. Amnesty International was concerned that the charges against Abdy Kuliyeu were linked to possible prisoners of conscience Mukhametkuli Aymuradov and Khoshali Garayev and the cases of the "Ashgabat Eight" (see below). Mukhametkuli Aymuradov and Khoshali Garayev were convicted in 1995 of anti-state crimes including "attempted terrorism" and are serving 15 and 12 years respectively in a maximum security prison. There is strong evidence to suggest that they are innocent of these crimes, and that the case against them was fabricated to punish them solely for their association with exiled opponents of the Government of Turkmenistan, in particular, Abdy

Kuliyev. Supporters of Abdy Kuliyev claimed that he was accused by the authorities of having orchestrated the plot to overthrow the Niyazov regime, to which the two men were allegedly party. Abdy Kuliyev was returned to Russia on 24 April. It was not clear whether the charges against him were dropped.

Political abuse of psychiatry: Durdymurad Khodzha-Mukhammed

Prisoner of conscience Durdymurad Khodzha-Mukhammed, who had been confined against his will in a psychiatric hospital for political reasons since February 1996, was released on 21 April. The release was announced in the USA during President Niyazov's visit. Upon his return to Ashgabat Durdymurad Khodzha-Mukhammed confirmed that he had been confined in a psychiatric hospital to punish him for his opposition political activities. It is believed that he was released following sustained international pressure on the Turkmen authorities.

The "Ashgabat Eight"

On 23 April President Niyazov announced at a press conference in the White House, USA, that the political prisoners known as the "Ashgabat Eight" had been released from detention.

The "Ashgabat Eight" had been serving long prison sentences after being convicted of criminal offences, some involving violence, arising from their participation in an unprecedented anti-government protest in Ashgabat on 12 July 1995. In January concerns for the safety of one of the men, Khudayberdi Amandurdyev, were heightened by the sudden death of one of his co-defendants, Charymyrat Gurov. According to reports Charymyrat Gurov died in prison at the beginning of January following sustained beatings. There were allegations that he also lost his eyesight as a consequence of ill-treatment in detention. In a meeting with Amnesty International representatives the Turkmen government disputed the allegations of ill-treatment and claimed that Charymyrat Gurov had died of tuberculosis. It

was feared that Khudayberdi Amandurdyev was also suffering constant beatings in prison.

Khudayberdi Amandurdyev along with Amanmyrat Amandurdyev, Charymyrat Amandurdyev and Kakamyrat Nazarov were released from detention on 23 April as announced by President Niyazov. It emerged that two of the "Ashgabat Eight", Begmyrat Khojayevev and Batyr Sakhetliyev had been released earlier. Amnesty International welcomed the release of the above men but expressed grave concern that at least one of the "Ashgabat Eight", Gulgeldi Annanyazov, remained in detention. Unofficial sources claimed that he was not released because he was seen by the authorities as being one of the organizers of the July 1995 protest. He was sentenced to 15 years' imprisonment, the longest term of imprisonment of the "Ashgabat Eight". Amnesty International also received allegations that Gulgeldi Annanyazov's health was failing and that in April he was only "skin and bones".

Gurbanmurat Mammetnazarov

In June information emerged of a ninth man serving a prison sentence for his participation in the July 1995 anti-government protest. According to unofficial sources Gurbanmurat Mammetnazarov was reportedly given an additional four-year prison term on a narcotics charge in May while serving the last year of his first sentence. There were claims that this charge was fabricated and that narcotics were deliberately planted in his prison cell. It was not clear on what charges Gurbanmurat Mammetnazarov had initially been sentenced for his participation in the anti-government protest.

Imprisonment of conscientious objector

On 25 June Roman Sidelnikov received a prison sentence for his conscientious objection to serving in the armed forces. Amnesty International regarded him as a prisoner of conscience and called for his immediate and unconditional release. Roman Sidelnikov, an ethnic Russian and a Jehovah's Witness, was sentenced by Kopetdag District Court of Ashgabat to two years' imprisonment for "evading regular call-up to active

military service" under Article 219 of the Turkmen Criminal Code. He was reportedly taken into custody from the court room. Roman Sidelnikov had previously received a conditional two-year sentence in May 1996 for refusing his call-up papers on grounds of conscience. He had been amnestied six months later. An appeal against his second sentence was pending.

The death penalty

Amnesty International learned of three new death sentences in the period under review but believed the number of death sentences passed to be much larger. In each case the convicted men were at the last stage of the appeals process and faced imminent execution. There were serious allegations of torture and ill-treatment in the case of Andrey Voronin and Kamal Nepesov sentenced to death on 1 April by Mary Regional Court for the murder of the director of Bayram-ali sanatorium. They claim that threats were made against their families, their toes crushed with pliers and that electric shocks were applied to the anus. Additionally, they did not gain access to a lawyer until one month after their arrest and subsequent to signing the confessions. The original investigator in charge of their case was also apparently removed from his job for failing to gather evidence to support the charges laid against them.

UKRAINE

The death penalty

In January Amnesty International urged the Parliamentary Assembly of the Council of Europe to take strong action at its session that month to insist that Ukraine honour its commitment to stop executions immediately on acceding to the Council of Europe in November 1995. After accession, Amnesty International had received alarming reports that executions were continuing in Ukraine in flagrant violation of Ukraine's commitment to the Council of Europe. Up to 207 people were executed in Ukraine between November 1995 and

March 1997. Of those, at least 194 people were executed only in 1996, according to official information in March 1998, which contradicted previously issued official information of 167 executions in 1996. The continuing executions earned the government strong condemnation from the Parliamentary Assembly of the Council of Europe, which adopted resolution 1145 (1998) on 27 January demanding that Ukraine stop all further executions.

The Council of Europe resolution called on Ukraine to introduce a full legal moratorium and put an immediate end to the secrecy surrounding all executions. The Parliamentary Assembly stated that unless it received formal notification of a moratorium on executions, it would consider revoking the credentials of the Ukrainian delegation at the Assembly's next meeting. This was the third such condemnation of Ukraine's disrespect of commitments, after the passage on 28 June 1996 of Parliamentary Assembly resolution 1097 (1996) and the passage on 29 January 1997 of Parliamentary Assembly resolution 1112 (1997), both demanding that Ukraine honour its commitments and halt any executions still pending. Following the passage of resolution 1112 (1997), Ukraine's signature of Protocol No. 6 on 5 May 1997 was a welcome development. However, Amnesty International was extremely disturbed to learn that at least 13 prisoners were executed in 1997 and the last of these 13 executions was carried out on 11 March, more than one month after the passage of Parliamentary Assembly resolution 1112 (1997).

Amnesty International has been investigating allegations that a further execution was carried out after 5 May 1997. The organization was concerned that any suspension of executions remained unofficial and tenuous, depending solely on the decision of one person, namely the President. It could easily be reversed, especially as the mechanism for carrying out executions evidently remained in place. This was shown by the text of an instruction, received by Amnesty International, which was reportedly sent by the Supreme Court of Ukraine to the head of a regional court in October 1997 informing him that the instruction to carry out the sentences of two prisoners under sentence of death would be sent to

him as soon as the President of Ukraine decided whether or not to commute their sentences to terms of imprisonment. The Parliamentary Assembly delegation which visited Ukraine in November 1997 was informed that there were 264 prisoners under sentence of death.

According to information from the Minister of Justice in March, following instructions by the Ukrainian President and the Prime Minister, the Ministry of Justice lifted the secrecy from data and information concerning execution of the death penalty. It was reported that on 11 March the Ministry of Justice registered the order of the State Committee on State Secrets and Technical Protection of Information, which introduced changes to the "Code of information that constitutes state secrets of Ukraine". However, Amnesty International was concerned that the alleged lifting of secrecy regarding executions of the death penalty in Ukraine was itself introduced by a secret government order and has not been secured in national law.

In April Amnesty International learned about the case of Yuriy Vladimirovich Buby, 29 years old, who was sentenced to death by the Donetsk Regional Court on 9 July 1997. The Supreme Court of Ukraine upheld the death sentence passed on him in a ruling of 22 January. In addition, Amnesty International was concerned that, allegedly, Yuriy Buby was convicted on the strength of an investigation which resorted to evidence extracted under duress. Moreover, Yuriy Buby was reportedly held incommunicado following his arrest, and a defence lawyer was only granted access to him five days after the arrest.

The Parliamentary Assembly of the Council of Europe met again from 22 to 26 June, but as a new Ukrainian delegation had not yet been constituted, following the elections which were held in March, the question of the death penalty did not arise.

Allegations of torture and ill-treatment in custody

Ill-treatment and torture in detention continued to be reported. In January Amnesty International called on the Ukrainian authorities to investigate

the case of artist Dmytro Volodymyrovich Vazhnenko, who had been allegedly tortured and ill-treated while held in police custody and in pre-trial detention in the Lukianivsky prison in the Shevchenko District of Kiev from 13 June 1997, charged with murder of a police officer and illegal possession of "cold" weapons (non-firearms). According to unofficial sources, at the time the police officer was killed Dmytro Vazhnenko was walking in the Nyvky District of Kiev on 12 June 1997 at approximately 10pm with his girlfriend Oksana Konovalova and another friend Vladyk Bakhtiev. The three reportedly bought some cigarettes at a kiosk and left the area in a car.

This account was at first given to police by Oksana Konovalova, who was then allegedly forced under threats to change her testimony after having been detained by police on the evening of 12 June and taken to a police station. Oksana Konovalova alleged that law enforcement officers in the police station threatened that if she did not change her statement she would be put into a cell with 30 male prisoners for one or two hours. Therefore she signed a statement addressed to the Procurator of the Leningrad District of Kiev, testifying that she witnessed Dmytro Vazhnenko and Vladyk Bakhtiev kill the police officer. After signing the testimony Oksana Konovalova was released from detention, but was reportedly told by law enforcement officers that she should not talk to anyone. Unofficial sources reported that sometime later Oksana Konovalova retracted her statement and sent a letter explaining the circumstances of her forced confession to the office of the Procurator General of Ukraine.

Dmytro Vazhnenko himself was detained on 13 June 1997 close to his apartment in the Obolon area of Kiev. He was then taken to the Leningrad District Department of the Ministry of Internal Affairs. It was alleged that between 10 and 15 police officers were present in the room when Dmytro Vazhnenko entered, and that a person of high rank in the Ministry of Internal Affairs was present as well. Dmytro Vazhnenko was reportedly subjected to torture and severe ill-treatment by law enforcement officers in the course of the interrogation. He was severely beaten, and lost consciousness at least three times. Details of Dmytro Vazhnenko's alleged treatment while

being interrogated include having his head banged against a table and being beaten on the spine with a stick. At one point three police officers allegedly threw Dmytro Vazhnenko down on the floor, one police officer kicked Dmytro's knee caps, another held him by the back and the third sat on a stool with a sharpened wooden stick in his hand, and proceeded to indicate where on Dmytro Vazhnenko's body he intended to pierce his skin with the stick, and threatened to break his fingers and stick needles under his fingernails. Dmytro Vazhnenko was allegedly threatened with being shot, being buried alive, and one law enforcement officer allegedly drew a cross on Dmytro Vazhnenko's forehead, saying he would practice his shooting in the forest.

It was alleged that the District Procurator was present for some of the time when Dmytro Vazhnenko was being beaten. It was reported that following the beatings, Oksana Konovalova was led into the interrogation room and spoke unclearly of her testimony. She was reportedly shaking, pale and stuttering. Eventually Dmytro Vazhnenko signed a confession of his guilt of the murder of the police officer. On arrival at the pre-trial detention centre, Dmytro Vazhnenko was allegedly beaten again by prison officers with clubs. Officers of the Leningrad District Department of Internal Affairs allegedly threatened to kill Dmytro Vazhnenko and his lawyer, Oleksiy Mykolayovych Senchyk. Amnesty International learned in January that Dmytro Vazhnenko was released from detention, pending trial.

Amnesty International urged the authorities to ensure that a full and comprehensive inquiry into the allegations of the ill-treatment of Oksana Konovalova and torture and ill-treatment of Dmytro Vazhnenko was instigated, with the findings made public, and anyone found responsible for torture or ill-treatment brought to justice in accordance with the norms of international law.

UNITED KINGDOM

Prisoners of conscience: discriminatory anti-gay criminal laws

Amnesty International expressed concern about laws in Guernsey and the United Kingdom (UK) which set a higher age of consent for homosexual relations in private places than for heterosexual relations and urged both parliaments to equalize the age of consent for all sexual activity. In a document *United Kingdom: Time to Repeal Anti-Gay Criminal Laws* (AI Index: EUR 45/11/98), the organization also urged the repeal of laws which criminalize consensual sex between men in private places if more than two people are present or take part.

In February Amnesty International took action on behalf of seven men, known as the "Bolton 7", who had been convicted of engaging in consensual sexual activities in private homes. Amnesty International informed the authorities that it would consider as a prisoner of conscience any man detained or imprisoned solely on account of his having engaged in consensual homosexual relations in private places under such discriminatory laws (AI Index: EUR 45/02/98). None of the men received a custodial sentence; two are appealing their convictions.

On 22 June an overwhelming majority of the House of Commons voted in favour of equalizing the age of consent to 16 in Great Britain, but there will be no imminent change of law unless the House of Lords agrees in July. The government has initiated a review of legislation regulating sexual offences. The organization urged the government to ensure that there is one set of laws which applies consistently and without discrimination on the basis of sex or sexual orientation.

Reports indicate that laws in Guernsey, the Isle of Man and Jersey still set discriminatory higher ages of consent for gay male sex in private places.

The death penalty

On 20 May the parliament voted to amend the Human Rights Bill to incorporate Protocol 6 of the European Convention on Human Rights into UK

law. Protocol 6 commits the government to the permanent abolition of the death penalty in peacetime. The government stated that it would also ratify Protocol 6.

Alleged torture and ill-treatment: prisons

In March evidence emerged of a pattern of wide-ranging and systematic abuse of prisoners at Wormwood Scrubs prison (London) by prison officers, particularly but not only in the prison's Segregation Unit. The abuses were reported to have spanned several years. Accounts reportedly described low level physical and verbal abuse of inmates almost on a daily basis in the prison's Segregation Unit. In addition, certain prisoners were targeted for repeated and vicious physical assaults because of the nature of their convictions, their ethnicity or their perceived "attitude". In some cases, the allegations amounted to claims of repeated acts of torture: one lawyer stated that there was evidence of torture in at least four cases he was aware of. Other allegations included serious assaults on prisoners. Prisoners alleged that they were assaulted during "squat" searches; frequently slapped, beaten or kicked; hosed with cold water at high pressure; locked naked in the shower room for hours; subjected to humiliating strip-searches and verbal and racist abuse. Prisoners also alleged that when they did make complaints, they did not receive replies or prison officers filed counter-charges.

Lawyers submitted a dossier of evidence to the Chief Inspector of Prisons on 16 March, on the basis of which the Prison Service instituted an internal inquiry. On 31 March a police criminal investigation was launched, and eight prison officers and one governor were suspended from duty.

Amnesty International urged the government to establish a wide-ranging and independent inquiry into the abuses in Wormwood Scrubs prison, to examine what caused the failure of the existing mechanisms and complaints procedures to detect and deal with systematic abuse. The inquiry should examine the roles of all bodies which receive and deal with complaints and should examine the reasons why the Prison Service allowed the situation in the prison to deteriorate

over the years, despite warnings from various organizations. The inquiry should also examine the role of the Prisons Ombudsman in relation to complaints of abuse and consider giving the Ombudsman greater powers to carry out investigations. Amnesty International considers that such an inquiry is vital in order that the necessary lessons can be drawn, and in order that recommendations can be made to ensure that future complaints of torture and ill-treatment are dealt with effectively in all UK prisons.

In May two police inquiries were initiated into allegations that prison officers in Stafford prison sexually assaulted a male inmate and physically attacked two other prisoners; up to 19 Stafford prison officers were accused of taking part in the assaults.

Inquiry into police investigation of racist attack on Stephen Lawrence

A judicial inquiry, set up to investigate the police investigation into a racist killing, began in March 1998. Eighteen-year-old Stephen Lawrence was stabbed to death in an unprovoked racist attack in south London in April 1993. The police failed to thoroughly investigate and to date no one has been successfully prosecuted for the murder. The first part of the inquiry, completed in July, heard detailed evidence of the failure of the police to carry out an impartial and thorough investigation into all the available evidence. Amnesty International sent observers to parts of the proceedings.

Deaths in police custody and prisons; and inquiries

Three police officers were charged in February with manslaughter in connection with the death in 1994 of Richard O'Brien (see AI Index: EUR 01/02/95; EUR 01/01/96; EUR 01/02/96; EUR 01/01/98). They were charged after the Crown Prosecution Service (CPS) admitted that there had been flaws in its original decision not to bring charges. The decision had been the subject of a judicial review in the High Court and then an

inquiry by a former judge into the CPS's handling of several deaths in custody cases. The findings of the inquiry have not been published to date.

In March an inquest jury ruled that a remand prisoner, Alton Manning, had been unlawfully killed after prison officers restrained him in a necklock, leading to positional asphyxia, during a violent struggle. After the inquest, seven officers were suspended at Blakenhurst prison, which is run by the private company UK Detention Services. The findings of the inquest were referred to the CPS for further consideration.

On 1 April Christopher Alder, aged 38, died at Queens Gardens police station, Hull; five Humberside police officers were suspended from duty pending investigation into the death. Christopher Alder had been arrested following an incident outside a nightclub.

Northern Ireland

Judicial inquiry into Bloody Sunday

Amnesty International welcomed the government's 29 January announcement of the initiation of a full-scale judicial inquiry into the events of Bloody Sunday. The organization expressed hope that the inquiry would be fully independent, impartial and thorough, and would establish what led to the events of 30 January 1972, when British Army soldiers killed 13 unarmed people and wounded 15 others, including one who subsequently died (see AI Index: EUR 45/01/98). The Inquiry itself was postponed until February 1999 due to the volume of information which has to be processed. In June reports indicated that the Inquiry was seeking to limit the families' legal representation; the families also expressed concern that to date they had not received any classified documents.

Torture and ill-treatment: *David Adams*

In February the High Court in Belfast awarded David Adams £30,000 compensation for the ill-treatment he suffered at the hands of the police during his arrest on 10 February 1994 and subsequently at Castlereagh police station. The ill-

treatment was accompanied by sectarian verbal abuse. The injuries he sustained from the ill-treatment included fractured ribs, a punctured lung, a broken leg, wounds to the back of his head requiring stitches, eye injury, and cuts and bruising to his face and body (see *United Kingdom: Ill-Treatment of David Adams in Northern Ireland*, AI Index: EUR 45/10/98). The Court concluded that "at least most of the injuries suffered by David Adams were more likely to be the result of direct, deliberate blows". The judge also stated that he questioned the truth and accuracy of evidence offered by members of the police.

Amnesty International welcomed the fact that the Independent Commission for Police Complaints for Northern Ireland (ICPC) appointed two Scottish police officers to conduct an investigation into the ill-treatment of David Adams and the issues alluded to in the High Court judgment, including any criminal or disciplinary offences. However, the organization expressed concern that, more than four years after this incident, no police officer has yet been brought to justice. The organization believes that such failure raises serious questions about the accountability of the police and about decisions taken by prosecuting authorities, and may contribute to a belief that there is impunity for human rights violations.

Policing

In March Amnesty International urged the government to take the necessary steps to ensure that Colin Duffy was afforded protection from injury and attempts on his life (see AI Index: EUR 01/01/98). The organization expressed alarm that posters with Colin Duffy's picture labelling him as a "Republican terrorist" had been mounted on streets in Portadown and considered that these posters represented direct threats to his safety. The organization called on the government to investigate whether any member of the security forces had provided the information which appeared in the media (at least one newspaper report quoted "a security source") regarding Colin Duffy.

UN Report on Intimidation of lawyers

Amnesty International welcomed the publication in April of a United Nations (UN) report critical of emergency law practices in Northern Ireland. The report by Param Cumaraswamy, the UN Special Rapporteur on the independence of judges and lawyers, resulted from his fact-finding mission in October 1997 to investigate allegations that police officers in Northern Ireland routinely intimidated and harassed defence lawyers. Param Cumaraswamy concluded that police officers engaged in "activities which constitute intimidation, harassment, and hindrance" of lawyers and recommended an inquiry into such practices.

The Special Rapporteur also urged the government to initiate a judicial inquiry into the killing of a lawyer, Patrick Finucane. Amnesty International is concerned that the government rejected the call for a judicial inquiry; the organization believes that the killing of Patrick Finucane raises serious matters of urgent public importance which must be impartially examined. The internal inquiries carried out by John Stevens, a senior police officer, had not allayed concerns of official involvement in the killing of Patrick Finucane. Indeed, the refusal by the government to institute a judicial inquiry contributes to the suspicion of an official cover-up.

Amnesty International joined other international NGOs in urging the UK Government to implement all of the Special Rapporteur's recommendations. Amnesty International issued a report, *United Kingdom: UN Report criticizes emergency law practices in Northern Ireland* (AI Index: EUR 45/06/98) which details measures which require urgent action to increase the protection of human rights in Northern Ireland.

Multi-Party Agreement

In April, the process of political talks culminated in the Multi-Party Agreement which was approved overwhelmingly in a referendum in May. The Agreement proposes a Northern Ireland Assembly (which was elected in June), a North-South Ministerial Council and a Council of the Isles which would include representatives of the UK and Irish governments, and the Scottish, Welsh and

Northern Ireland devolved institutions, as well as representatives of the Isle of Man and the Channel Islands.

Amnesty International welcomed the repeated commitment within the Agreement to respect for human rights and the mechanisms outlined to promote and protect human rights. The organization urged the government to ensure that those commitments would be put into practice, and that the human rights institutions and commissions of inquiry would be effective. In June, Amnesty International urged the government to consult widely on proposals for the establishment of a Human Rights Commission for Northern Ireland. The organization stressed that only a body which has the remit, powers and resources to initiate and carry out impartial and thorough investigations will be able to gain public confidence in its ability to effectively protect human rights. Amnesty International also called for the establishment of a wide-ranging commission of inquiry to examine the criminal justice system as a whole, to work alongside other commissions or groups, in order to provide a holistic framework for change.

NGE abuses

Armed groups carried out about 16 killings between January and April in Northern Ireland. The following Catholics were killed by Loyalist armed groups: Terry Enright, Fergal McCusker, Larry Brennan, Ben Hughes, John McColgan, Damien Trainor, Philip Allen and Adrian Lamph. The following Protestants were killed by Republican armed groups: Jim Guiney, Cyril Stewart, David Keys, Trevor Deeney.

Amnesty International continued to receive reports of a large number of "punishment" shootings and beatings by members of both Republican and Loyalist paramilitary groups. The organization was concerned about alleged intimidation of Republicans who did not support Sinn Féin's role in the peace process and the IRA ceasefire. On 28 June Michael Donnelly, chairperson of Republican Sinn Féin in London/Derry, was beaten in his home in front of his family. Five masked men, armed with

handguns, iron bars and baseball bats entered the house and reportedly beat him and sprayed family members with a type of mace gas. Michael Donnelly suffered a compound fracture in his leg from the beating. Members of the family claimed that the attack was carried out by the IRA because Michael Donnelly headed a campaign to boycott the elections to the Northern Ireland Assembly.

UZBEKISTAN

Harassment of human rights defenders

Fear for safety

Amnesty International was concerned for the safety of Zafarmirza Iskhakov, a human rights activist and former political detainee, who was forced to go into hiding after he received death threats from the Committee for National Security at the end of April. Zafarmirza Iskhakov had been monitoring the human rights situation in the Fergana Valley and had passed information of arrests and ill-treatment of alleged "Wahhabists" to international human rights organizations. Following contacts in March with a delegation from Human Rights Watch, members of the US embassy and several foreign journalists, officers from the Committee for National Security reportedly came to question Zafarmirza Iskhakov about his human rights monitoring activities and to warn him that "something could happen" to him or his children if he did not stop contributing to the "disinformation" spread by international human rights groups and foreign journalists. He was also reportedly asked to write an open letter denouncing the activities of human rights groups and repudiating his own activities. Zafarmirza Iskhakov had been formerly detained as a political prisoner on a number of occasions, as a result of his activities as deputy chairman of the outlawed non-violent opposition "Birlik" group and as a member of the banned independent Human Rights Organization of Uzbekistan in Andizhan. In 1993 he was fired from his job as a driver, apparently for political reasons, and has had difficulty finding work since. He has five young children.

Beatings of exiled human rights activist

On 2 January Abdulfattakh Mannapov, an Uzbek human rights activist and the director of the Moscow-based Society for Monitoring the Observance of Human Rights in Central Asia, was attacked by two unknown men in a Moscow street and severely beaten. The men also set their dog onto Abdulfattakh Mannapov. He suffered multiple fractures and dog bites and had to be hospitalized. No money or valuables were stolen which led human rights monitors to believe the unprovoked attack was politically motivated. Abdulfattakh Mannapov had previously been attacked in Moscow on 15 August 1987 by three unknown men who had threatened to beat him and also made threats against his family if he did not stop his "treacherous activities against sovereign Uzbekistan and her government". At the time Abdulfattakh Mannapov recognized at least one of his attackers as Uzbek. It was alleged that the second attack was intended to frighten Abdulfattakh Mannapov into stopping his human rights monitoring activities.

Detention of a member of the Human Rights Society of Uzbekistan

Former prisoner of conscience and head of the Kashkadarya branch of the Human Rights Society of Uzbekistan, Shovruk Ruzimuradov, was arrested at his home in Kashkadarya Region in southern Uzbekistan on 3 April on charges of illegal possession of 12 firearms cartridges. Human rights activists believed the cartridges were planted by law enforcement officers during a reportedly unsanctioned search of his house in order to provide a basis for his detention. Shovruk Ruzimuradov was said to have been questioned on several occasions about his human rights activities by law enforcement officers since October 1996. He had allegedly been asked repeatedly by the authorities to stop promoting human rights activities and to resign from the Human Rights Society. Shovruk Ruzimuradov was released on 15 April after members of the Human Rights

Society raised his case with the OSCE chairman-in-office who was visiting Uzbekistan at the time.

Possible prisoners of conscience (update to information given in EUR 01/01/98)

Arbitrary arrests of alleged "Wahhabists" following a spate of murders of police officers and regional officials in the Fergana Valley in November and December 1997 continued throughout the period under review. Some human rights monitors estimated the number of those detained to be over a thousand. Amnesty International continued to receive reports that many of those detained had weapons and/or narcotics planted on them in order to fabricate a criminal case against them. Persistent allegations that a large number of those detained were threatened, beaten and ill-treated in police custody also continued to be made.

On 31 March the brothers Abdulkhai and Murod Egamberdiyev were sentenced to four years' imprisonment by Andijan Regional Court for illegal possession of narcotics and weapons. Abdulkhai and Murod Egamberdiyev claimed the charges against them were fabricated and that they were sentenced solely for refusing to shave their beards. The brothers were reportedly arrested in Andijan on 10 January by plainclothes police officers two weeks after they had been ordered by their local police station to shave off their beards. The police allegedly beat them and planted a small quantity of narcotics and ten bullets in their pockets during the arrest. Representatives of Human Rights Watch who tried to attend the trial confirmed that neither brother had a beard at the beginning of the court proceedings.

On 29 April the Fergana Regional Court sentenced Abdumalik Nazarov, the youngest brother of independent Islamic leader Obidkhon Nazarov, to nine years' imprisonment for illegal possession of narcotics and forgery of official documents. Abdumalik Nazarov had been detained on 26 December 1997 together with his father and brother at the Uzbek-Kyrgyz border. A small quantity of narcotics was found in their car. While his father and brother Umarikhon were released without charge Abdumalik was arrested and 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 credible allegations that the charge against Abdumalik Nazarov was fabricated in order to punish him for his relationship with Obidkhon Nazarov. Amnesty International was concerned that Abdumalik Nazarov's sentence was part of a clampdown against Islamic leaders and congregations not affiliated to the state-regulated Muslim Spiritual Directorate, including imam Obidkhon Nazarov.

Obidkhon Nazarov was last seen on 5 March when Uzbek security forces surrounded his house in Tashkent allegedly in an attempt to take him and another imam, Tulkin Ergashev, to the Procurator General's office to answer questions about their activities. There were reports that arrest warrants had been issued against the two men for promoting "Wahhabism", preaching illegally and trying to set up an Islamic state. An Islamic student, Ikromiddin Yusupov, claimed that he had been detained by officers of the Ministry of Internal Affairs in February and forced under duress to incriminate Obidkhon Nazarov and Tulkin Ergashev of anti-state activities. On 21 April security forces again surrounded the Nazarov house, this time in order to enforce an earlier court decision to evict the family from their home. However, the presence of some three hundred supporters of imam Nazarov, as well as human rights activists, journalists and foreign representatives outside the house prevented the eviction from taking place.

Political prisoners

Over twenty men were sentenced to long terms of imprisonment in three separate trials in connection with the 1997 murders in Namangan and the Fergana Valley. On 11 May 1998 Namangan Regional Court sentenced eight men to five- to eight-year prison terms for terrorism, attempt to overthrow the constitutional order and creation of a criminal group. The men were also accused of seeking to promote "Wahhabism". In a further trial on 15 May Namangan Regional Court sentenced another six men to similar terms of imprisonment. They were also charged with

attempting to undermine the country's constitution and forming an illegal criminal group. On 5 June the Supreme Court sentenced seven men to prison sentences of six to ten years for attempting to destabilise the country and establish an Islamist state. In all three trials there were serious concerns that the defendants had been beaten or otherwise ill-treated in detention and had allegedly been forced under duress to confess to the charges. There was also concern that these men were punished for their alleged affiliation to independent Islamic congregations.

Amnesty International was gravely concerned that the outcomes of the trials might have been influenced by negative statements against Islamic activists by President Karimov, including that "fundamentalists should be shot" in a public address to parliament on 1 May.

The death penalty

On 6 July the Supreme Court sentenced Talib Mamadzhanov to death for the murder of eight people. Seven co-defendants received prison sentences ranging from three to ten years. Talib Mamadzhanov reportedly confessed to having carried out a series of murders between 1994 and 1997, including the murders of five police officers in the Fergana Valley, which sparked the wave of arrests of alleged "Wahhabists" in December 1997. Talib Mamadzhanov was quoted as saying that the murders were religiously motivated. There were reports that the defendants had been beaten or otherwise ill-treated in pre-trial detention and that one defendant claimed to have been tortured and forced under duress to give false evidence. Human rights monitors expressed concern that the defendants had not been judged for concrete criminal actions but for their alleged adherence to the "Wahhabi" ideology.

Freedom of conscience and religion

On 1 May the Uzbek parliament adopted a new law on freedom of conscience and religious organizations. The law which came into force on 15 May is a revised version of the 1991 law on freedom of conscience and religious organizations.

Although the law enshrines religious freedom it requires 100 Uzbek citizens who have reached the age of 18 and who live permanently in Uzbekistan to form a religious organization (whereas the 1991 law only required ten citizens). All religious groups must be registered and the law criminalizes any activities by unregistered religious organizations, whether the organization was refused registration or did not seek registration. According to new articles in the criminal code which entered into force on 19 May, anyone organising an unregistered religious group could face a punishment of up to five years in prison. The law similarly punishes private religious teaching or missionary activity by three-year prison terms. Amnesty International is concerned that the restrictions and penalties imposed by the new law on religious groups may lead to persecution of their members by law enforcement officials and possibly to future prisoners of conscience.

FEDERAL REPUBLIC OF YUGOSLAVIA

The situation in Kosovo province of Serbia deteriorated sharply from the end of February as the police responded to attacks upon them and Serb civilians by armed ethnic Albanians with excessive force and extrajudicial executions of ethnic Albanians. By April the situation had clearly become one of armed conflict between the Serbian police and Yugoslav Army on one side and armed ethnic Albanians of the Kosovo Liberation Army (KLA, or in Albanian Ushtria Çlirimtare e Kosovës - UÇK) on the other. Human rights violations by police in effect encouraged many young ethnic Albanian men to take up arms and join the KLA.

More than 250 ethnic Albanians had been killed by the beginning of July. Most were killed by the Serbian police or Yugoslav Army but more than 50 Serb, Montenegrin or Albanian civilians who might have been regarded as "loyal" to the Serbian authorities were killed by armed ethnic Albanians. Many of these victims were unlawfully killed. There were also significant numbers of people, Albanians, Serbs and Montenegrins,

unaccounted for: many of these appeared to have been victims of “disappearances” by police or to have been deliberately abducted by armed ethnic Albanians.

Despite the fact that ethnic Albanians suffered by far the greater number of victims of human rights abuses and casualties of the fighting, by June the KLA effectively controlled at least 30 per cent of the area of Kosovo.

Away from the scenes of armed conflict human rights violations by police against ethnic Albanians continued unabated. Besides routine ill-treatment on the streets and in police stations ethnic Albanians were beaten before, during and after demonstrations which were staged to protest against police violence.

More than 150 ethnic Albanians were acknowledged to have been detained by the authorities between January and June and there was evidence that many of these were tortured during interrogation. The few that reached trial appeared not to have received fair trials.

Summary details of these concerns are given below. For more details see the series of five documents, *A human rights crisis in Kosovo province, Series A* (AI Index: EUR 70/32/98, EUR 70/33/98, EUR 70/34/98, EUR 70/35/98 and EUR 70/46/98), which were issued in June and July.

The pattern of unlawful killings of ethnic Albanians and excessive use of force by police

A clear pattern was seen in a series of incidents which account for a significant number of the ethnic Albanian victims who were unlawfully killed by police.

The pattern typically consisted of an incident in which one or two police officers were either attacked or perceived to have been attacked, producing a massive police response. The police response typically included the deployment of a large force of police at the nearest village a few hours later, which then bombarded the village with mortar, artillery or direct fire before moving and patrolling from house to house. Men were separated from women and children and some of

By July more than 70,000 ethnic Albanians had become displaced persons inside Kosovo or had been displaced to Montenegro. Some 13,000 fled as refugees to Albania. A smaller number of Serbs and Montenegrins were also displaced. the men were then ill-treated, extrajudicially executed and/or “disappeared”.

Equally disturbing is the absence of proper investigations into the recent police killings of ethnic Albanians. In particular, few if any autopsies appear to have been carried out on the bodies of the victims.

Likošane and Ćirez

Between 28 February and 1 March the Serbian police killed 26 ethnic Albanians in the villages of Likošane and Ćirez (Likoshani and Qirez in the Albanian language). There was evidence that many of these were unlawfully killed.

The police claimed that one of their patrols had been attacked by the KLA, killing two officers, and that the ensuing operation was mounted against the armed men who had attacked them on the morning of 28 February. Reports from ethnic Albanian witnesses contradicted this, saying that the events began on the evening of 27 February when the KLA fired at a school housing Bosnian or Croatian Serb refugees in the nearby town of Srbica (Skënderaj in Albanian). The vehicle carrying KLA men was chased by police towards Likošane and a short firefight ensued. Police brought in reinforcements and the KLA may also have done so. In the fighting which followed, apparently mainly on 28 February, the police used heavy force including armoured vehicles and helicopters and the KLA apparently withdrew.

Amnesty International believes that most of the ethnic Albanians who died were killed after the KLA had withdrawn as the police moved into the villages. The victims included Rukije Nebiu, a mother of two who was pregnant with her third child, who was shot in the head in her house with a high velocity weapon in Ćirez village. Rukije's husband Xhemsir Nebiu and brother-in-law Ilir Nebiu were shot in or close to their house. Other victims included 10 male members of the Ahmeti family aged between 16 and 60 years, who were apparently extrajudicially executed in Likošane. A

female member of the family claimed that police came to the house at about 4pm on 28 February, locked up the women and children inside the house and ordered the Ahmeti men out. The men were unaccounted for until the next day when their bodies were located by accident in the main hospital morgue in the provincial capital, Priština. Observers noted the words "This is what will happen next time, too" written on the wall of the Ahmeti's yard.

Donji Prekaz

On 5 and 6 March police mounted a large operation against armed ethnic Albanians in the village of Donji Prekaz (Prekaz i Poshtëm in Albanian) about 10 kilometres from Likošane, in which at least 54 ethnic Albanians were killed. The police claimed that a patrol had been attacked by the KLA early on 5 March and that the operation was in response to this. This explanation looks implausible and all the indications are that the operation had been planned in advance.

The main target of the police operation appeared to be a resident of the village, Adem Jashari, who had been convicted *in absentia* of "terrorism" in an unfair trial in July 1997 along with Avni Klinaku and 18 other ethnic Albanians of whom three were in custody (see EUR 01/06/97).

The police had previously launched an operation against Adem Jashari's house in January but withdrew after fire was returned by men in the house. In a statement after the incident the police claimed that Adem Jashari had been involved in the attack on a police patrol in Likošane.

Although full information about what happened in Donji Prekaz is not available Amnesty International is seriously concerned that at least some of those killed were extrajudicially executed and that others may have been unlawfully killed as a result of the excessive force which was used without regard to the fact that women, children and men who were not armed were among those in the houses at the point when they were attacked by the police. There appears not to have been any intention to effect the arrest of armed suspects with proper precautions and while minimizing the use of

force to protect life, as both national and international law requires. Rather, the operation appears to have been carried out as a military operation by forces under apparent orders to eliminate the suspects and their families.

Accounts from witnesses interviewed by Amnesty International and information from other sources indicated that the police operation focussed on the Jashari's compound. The police used machine guns, automatic rifles, cannons, armour piercing weapons and probably mortars in their attack which was led by special police units. It is difficult to estimate the strength of the resistance which came from armed men in the village, but it was clearly the strongest from the Jashari's compound. Women and children and some men were gathered in the strongest rooms in houses in the Jashari's part of the village while armed men returned fire.

Amnesty International believes that grossly excessive force was used in the initial attack on the compound and that no adequate attempts were made by police to protect the life of unarmed people in the houses. The organization believes that, not only were the minimum standards provided for in case of internal armed conflict in the Geneva Conventions of 1949 violated, but also the higher standards of national and international law governing the use of force in policing operations which should have been applied in the circumstances.

Only one person, an 11-year-old girl, survived from the Jashari's compound. She told journalists how, after sheltering for several hours with her family, she found the dead bodies of her three sisters (aged between seven and 10 years), mother and four brothers after the firing stopped. The dead appeared to have been killed by combinations of shrapnel wounds, bullets, falling masonry and possibly fire.

Around 35 children, women and some men were gathered in a house across the track from the Jashari's compound. Witnesses from this house told how they sheltered in the house from about 6.30am until 1.30pm listening to the attack on the Jashari's compound. At about 1:30pm the house they were in came under fire from the police and then police moved in on the house and ordered them out. According to the witnesses from the

house three men who were in the house, Nazmi, Qazim and Beqir Jashari, were extrajudicially executed after they came out and a fourth was wounded by a shot. Examination of photographs of Nazmi's body broadly supported the witnesses testimony.

The aftermath of the Donji Prekaz killings

In the aftermath of the police operation 56 people were buried. The police failed to ensure that autopsies were carried out on the bodies or to supervise systematic identifications of them by relatives. A team of ethnic Albanian doctors from Priština which sought to examine the bodies before their burial was reportedly denied access by police to the location where they were stored outside. The police buried the bodies before the ethnic Albanian community had completed its informal identification of the bodies, and they had to be disinterred for identification and reburial in accordance with Muslim custom. Two were identified as people who had been killed in other incidents in a neighbouring village. Of the 41 bodies which were identified 12 were women and 11 were children up to 16 years of age. Another 11 women were unaccounted for and may have been among bodies, mainly those which had been badly burnt, which could not be identified.

The US-based human rights organization Physicians for Human Rights proposed a mission of forensic experts from four countries to exhume the bodies and carry out post-mortem examinations, but the authorities refused permission to come and work as an integrated team as they requested. The authorities did, however, propose that the International Committee of the Red Cross (ICRC) open an investigation, something which the ICRC refused, pointing out that this was not within its mandate and that such an action would jeopardize its primary humanitarian functions.

Despite police claims that the operation in Donji Prekaz was against "terrorist" suspects, not a single person was reported to have been arrested from the village during the operation. The authorities claimed more than 20 people (of around 54) killed in the operation had been "terrorists".

The pattern repeated in Ljubeni_ and Poklek

On 25 May a civilian car carrying one or two police officers was shot at early in the morning near the village of Ljubenić (Lybeniq in Albanian), near the town of Dečani (Deçan). Police again responded with a massive police deployment in the afternoon. After bombarding the Albanian part of the village with artillery and direct fire, causing most of the population to flee, the police started foot patrols from house to house. In one house they found about 14 people who were sheltering. The women and children were ordered away and four men, all apparently unarmed, were beaten and then summarily executed in the yard. A fifth man survived the shooting after being hit and then pretending to be dead. Four other men were reportedly killed in similar circumstances in other houses.

Six days later there was an incident in which a civilian car driven by a police officer crashed near the settlement of Novi Poklek (Poklek i Ri) on the outskirts of Glogovac town. Police again arrived in strength a few hours later, bombarded the village and then searched from house to house. Eight men who were reported to have been detained by the police during this operation remain unaccounted for and the bodies of one or two other men are alleged to have been seen.

Lawyers instructed by relatives of the missing men submitted a letter to various authorities claiming that nine men were dead and demanding that the authorities open an investigation, carry out autopsies and return the bodies for burial. As of July 1998 the letter appeared only to have been acknowledged and not acted upon.

Forcible displacement

By July the United Nations High Commissioner for Refugees reported that more than 50,000 people, the majority ethnic Albanians, had been displaced within Kosovo; that around 20,000 people had fled to the neighbouring Republic of Montenegro and that around 13,000 had fled into Albania.

The people fled in a variety of circumstances: some fled in advance of an attack by the police or army; some during an attack and

some after being ordered out of their homes by police. The police and military operations appeared particularly to aim at emptying the population in the region adjoining the Albanian border, across which supplies for the KLA passed. Many displaced persons described to Amnesty International how they remained for days in woods, hills or mountains close to or overlooking their villages hoping to return, but gave up when they saw houses being deliberately damaged and destroyed, particularly in the Deçani area. Amnesty International believes that the looting and deliberate destruction of houses is being used to discourage return and “punish” ethnic Albanians.

Amnesty International is also concerned at reports that some men fleeing into Montenegro have been detained and ill-treated by Yugoslav Army soldiers.

Ill-treatment and shooting of demonstrators

Cases of ill-treatment of ethnic Albanians continued virtually as a daily occurrence, but there were also hundreds of cases of ethnic Albanians beaten on the occasion of demonstrations against police violence.

One of the worst examples came from the town of Peć (Peja) on 18 March when 97 people were reported to have been beaten. Police tried to prevent demonstrators, who were arriving from surrounding villages, from entering the town by blocking the road close to the railway line on the eastern side of town. At around 11am a shot believed to come from an apartment building killed Qerim Muriqi. The crowd became agitated and some started to throw stones at the police. In response the police fired into the crowd wounding at least five men. As the crowd started to flee the police pursued and beat them. Some were pursued into their houses. Among victims interviewed by Amnesty International, one 16-year-old girl described how she fled with others into a house after the shooting began. Four police broke into the house and beat the occupants. She stated that police pointed an automatic weapon at her head and then hit her on the head and beat her about the body.

Unfair trials, torture and abuses of due process

Between January and June some 150 ethnic Albanians were detained on political charges such as “terrorism” or other charges alleging that they were members of or assisted the KLA. Amnesty International was seriously concerned that many of these detainees were tortured during their interrogation by police. For example, in February Mehmet Memçaj and four other men were arrested in Prizren. At the time the police announced that they had been arrested in connection with terrorist activities in Likošane (see above). However, the charges brought against them bore no relation to the events in Likošane, but alleged that they had smuggled and hidden arms and attempted to set off a bomb in Prizren.

Their lawyers complained not only of the torture of their clients during which they were made to sign “confessions”, but also that they were denied free communication with their clients. In May four defendants and a fifth man, who was tried *in absentia*, were sentenced to between three and seven years’ imprisonment. Amnesty International does not yet have full details of the trial but has strong indications that it was unfair.

“Disappearances”

In the chaos surrounding the police operations in Drenica and around Deçani which created tens of thousands of refugees there are reports of hundreds of missing ethnic Albanians. It is unclear as to how many have gone missing, are in hiding, have been killed or have been made to “disappear” in the custody of the police or army. However, there are clear reports of the arrest and “disappearance” of some individuals. For example, Dr Hafir Shala, a physician at the Medical Centre in Glogovac, was detained by police on 10 April 1998 at Slatina near Priština along with two other men. Dr Shala was taken to the main Priština police station in a separate vehicle from the others, who were released the same day. Dr Shala has not been seen since, but the authorities have not released any information about his whereabouts nor responded to appeals for his release or requests for

information about him from his family, lawyer and human rights organizations.

In another example, at least eight men “disappeared” in Novi Poklek on 31 May as described above.

Human rights abuses by opposition groups

Amnesty International is concerned at reports that armed opposition groups in the form of members or associates of the KLA have also perpetrated human rights abuses. Common Article 3 of the four Geneva Conventions of 1949 places obligations on all parties to an internal armed conflict not to carry out “violence to life and person ... mutilation, cruel treatment and torture”, the taking of hostages and “outrages upon personal dignity”.

The KLA took effective control of Glodjane (Glogjan in Albanian) in April following police operations there in which the police perpetrated human rights abuses. Some Serbs who had fled from the area attempted to return to collect possessions and check on relatives or their property. Some of these were reportedly subject to human rights abuses. For example, on 12 April two Serb men, Novak Stijović and Staniša Radošević, who had gone to check on an elderly relative were reportedly taken to what they called the KLA headquarters in Glodjane where they were questioned and beaten. They were made to retrieve and hand over a hunting rifle from the house of one of them before they were released. On 18 April Dragoslav and Mijat Stojanović and Veselin Stijović were also reportedly detained and beaten with rifle butts and clubs in the KLA “headquarters” in Glodjane before being released.

In addition to the reports of unlawful detention and ill-treatment Amnesty International is also concerned about allegations of the abduction by the KLA of men and women, predominantly Serbs and Montenegrins, but also “loyal” Albanians. Amnesty International is aware of the details of at least 30 people who are reported to have either been abducted by men believed to operate under the auspices of the KLA or to have gone missing on territory under KLA control between January and June 1998. The Serbian authorities state that there are 56 in total unaccounted for.

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 Belgium, Bulgaria, Croatia, Italy, Turkey, Ukraine and Yugoslavia for further references to human rights violations against women in Europe.

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".

AZERBAIJAN

Ill-treatment in detention - conviction for rape

Although the great majority of ill-treatment allegations in Azerbaijan relate to male detainees, their wives and other female relatives have also reportedly faced threats, including of rape, as a further way of exerting pressure on prisoners to confess. On 6 May a former police officer was sentenced to three years' imprisonment for, among other things, raping the mother of a detainee.

Baku City Court heard that Adyl Ismaylov, then head of the investigation department of Baku City Police Administration, had noticed the women while interrogating her son in June 1996. Ismaylov had asked her to accompany him to his office, where the rape took place.

GEORGIA

In March the Deputy Procurator General of Georgia responded to a number of allegations of torture and ill-treatment raised by Amnesty International, including that of the reported rape of a 16-year-old woman on 7 September 1997 at a police station in Marnuli (see AI Index: EUR 01/01/98). He confirmed that the assault had taken place, on a woman under 18, while she was in an office in the administrative section of Marnuli Regional police station. An arrest warrant was issued for the police

officer concerned, who was then the subject of a police search after he had gone into hiding.

Alleged ill-treatment

HUNGARY

On 20 June, at around 6.30pm Khurjan Davletova came to Keckskemet prison and spoke to her son, Shakirzhan Babazhanov¹⁰, who was on the other side of the prison wall. Two other women with small children were similarly communicating with relatives detained in the prison. Shortly afterwards two prison guards came towards them shouting and the three women started to run. Khurjan Davletova was apprehended by a guard who reportedly raised his hand as if to strike her with his truncheon and then sprayed her with tear-gas. The guard then reportedly kicked her from behind making her fall to the ground. Khurjan Davletova, who was temporarily blinded and in a state of shock, was then taken by a friend to the local hospital where she received ophthalmological treatment. She returned to her home in Szeged on the same evening. Because she felt sick and repeatedly vomited she was taken to the New Clinic on 21 June 1998. A certificate issued at the hospital stated that she had suffered concussion.

In July Amnesty International wrote to Dr Kálmán Györgyi, the

¹⁰See main entry on Hungary for a report about his ill-treatment in

Kiskunhalas police station.

Chief Prosecutor, urging him to ensure that the investigation into the reported ill-treatment of Khurjan Devletova is conducted 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 Hungary has ratified.

KAZAKSTAN

Natalya Zabolotnaya lives in the city of Pavlodar. She was born in 1973. According to information received by Amnesty International, Natalya Zabolotnaya was detained on 21 February 1997 on suspicion of having murdered her mother, after she had applied to the Regional State Investigation Committee to search for her mother's killer. Following her arrest, Natalya Zabolotnaya was reportedly kept in solitary confinement at the building of the Department of the State Investigation Committee (DSIC) of Ilyichyovsk. It is alleged that drunken law enforcement officers forced her to confess her guilt by beating her with sticks on the back, heels, abdomen and head; twisting her fingers; and putting a cellophane bag on her head, restricting the air supply. They also allegedly demanded a bribe of US\$10,000. Apparently, a forensic medical report supports the allegations that Natalya Zabolotnaya was ill-treated. According to reports, the Procurator of Pavlodar Region instituted criminal proceedings against the officers involved, but the outcome of those proceedings is not known.

SLOVAKIA

According to information received by Amnesty International, in the afternoon of 22 March, in Bratislava on Detvianska street close to *Nadej* cinema, Viera O. was putting up posters about a peaceful demonstration organized by the Ecological Party when two police officers approached her and asked her to remove the posters. She explained that the demonstration had been duly approved by the authorities and that she was acting as the local coordinator of the Ecological Party. One officer then reportedly grabbed the last poster from Viera O.'s hand which she tried to take back. Both police officers reportedly grabbed her by the arms twisting them and forcefully pushed her face forward against a fence. They would not release her and asked for her identity documents. Although she threatened to file a criminal complaint about their abusive and violent conduct the officers refused to release her and reportedly held her with her arms twisted, pressed against the fence, for approximately 20 minutes. When she started to call for help they reportedly tugged her by the jacket, tearing a button on her right sleeve, held her by the right shoulder and violently pulled her left hand and insulted her with abusive language. Two more police officers also from the municipal force arrived in a police car. Viera O. however refused to get in the car and asked to be handed over to the state police. Later a patrol of the state police came and took her to the Ra_janska street police station where she was questioned in connection with allegedly assaulting police officers.

On the same evening Viera O. was medically examined and a certificate which was issued to her described contusions and haematoma on her left arm and shoulder.

Amnesty International urged the Slovak authorities to promptly and impartially investigate the reported ill-treatment of Viera O., to make public the results and bring to justice anyone found responsible for human rights violations.

Possible prisoner of conscience acquitted

GREECE

The case of Eva Androutsopoulou

In June Eva Androutsopoulou was acquitted of charges of "attempting directly or indirectly to intrude on the religious beliefs of a person of a different religious persuasion...with the aim of undermining those beliefs", an offence under Article 4 of Law 1363/1938 which prohibits proselytism. According to the indictment issued against her, Eva Androutsopoulou had "made frequent references...to Buddhism and to the religious beliefs of the Orient" during a German language class she gave at a private school in Komotini, northern Greece, in May 1995. The matter was reportedly brought to the attention of the prosecuting authorities by the Bishop of Komotini. If found guilty, Eva Androutsopoulou, who is not herself a Buddhist, would have faced a term of imprisonment of between 10 days and five years.

The trial of Eva Androutsopoulou, postponed from February, was the first trial for proselytism in Greece since the European Court of Human Rights ruled in May 1993 that the conviction of Jehovah's Witness Minos Kokkinakis for attempting to convert an Orthodox Christian woman during a visit to her home

violated Article 9 of the European Convention.

In a letter to the Greek authorities in February, Amnesty International stated that in its view the prosecution of Eva Androutsopoulou on charges of proselytism represented a violation of Article 9 of the European Convention and Article 18 of the ICCPR, both of which guarantee the right to "freedom of thought, conscience and religion". If imprisoned, Amnesty International said, she would be adopted by the organization as a prisoner of conscience. No response was received from the authorities.

Arbitrary detention

AZERBAIJAN

Alleged arbitrary detention of ethnic Armenians

A 30-year-old woman named Armine Kurdoyan is reportedly among a number of ethnic Armenian civilians detained in a special holding centre at Gobustan prison (see Azerbaijan entry). She is said to have been detained in February at Baku airport, after arriving from Moscow on a flight which she believed would make only a transit stop in Azerbaijan. No criminal charge or charges have reportedly yet been brought against her, and unofficial sources allege that she is being held as a hostage, on grounds of her ethnic origin.

Women and the death penalty

RUSSIAN FEDERATION (Chechen Republic)

Chechen woman on death row
(Update to information given in AI Index: EUR 01/01/98)

According to reports in May, Assa Larsanova, who had been found guilty of murder in 1997 but had her execution postponed when doctors established at the last moment that she was pregnant, gave birth in prison and was still detained in Grozny, awaiting her execution. Unofficial sources reported that, asked about the case of Assa Larsanova, the Chechen Minister of Interior, Kazbek Makhashov, allegedly said: "Yes, the case of Assa Larsanova became widely popular internationally. We should never do the executions publicly in the future..." Amnesty International continued to campaign against the death penalty of Assa Larsanova, urging the authorities to grant her clemency.

Alleged political killing

RUSSIAN FEDERATION

Alleged politically-motivated killing of a journalist

According to reports, Larissa Yudina, a journalist and an editor of the opposition newspaper "Sovetskaya Kalmykia" in the southern Russian Republic of Kalmykia, was murdered on the night of 7 June. It was alleged by a variety of sources that her murder was politically-motivated and aimed to silence her as one of the main opponents of the Kalmykian President, Kirsan Ilyumzhinov. Her body was found in a local pond on the outskirts of the city of Elista, with a fractured skull and multiple stab wounds. She had been repeatedly warned to stop her critical reporting of President

Ilyumzhinov, whom she had repeatedly accused in her articles of corruption. On the night she was murdered, she reportedly received a call from a man offering her documents that would help her in her investigation of corruption within the Kalmykian Presidential administration. She reportedly went to meet the caller and that was the last time she was seen alive.

In her last interview given to foreign journalists a month before the murder, Larissa Yudina had reportedly stated: "Democratic freedoms and rights are violated here as nowhere else in Russia. They violate human rights here. We have laws here which contradict the Russian Constitution. I live in Russia, but I am not sure that Russian laws can protect me here. He creates laws 'for Ilyumzhinov', laws which contradict the Russian Constitution. If you speak against Ilyumzhinov today, tomorrow your husband, your daughter will lose their jobs. Even old age pensioners, and those who have financial support are afraid to speak up. Kalmykia today is like Chechnya in 1993 in the way human rights are violated, how money disappears from the budget, and how many weapons there are in the republic. It is absolutely out of control."

It was reported that the killing drew condemnation from President Boris Yeltsin and was described by Russian officials as politically motivated.

According to reports, a criminal investigation into the murder of Larissa Yudina has been opened by the North Caucasus Directorate of the Office of the Procurator General of the Russian Federation. Three men have been reportedly detained as suspects, including two former aides of President Ilyumzhinov, who have allegedly confessed to the murder. Amnesty International called on the Russian authorities to take urgent

measures to stop the persecution of journalists and government opponents in the Republic of Kalmykia and to bring to justice anyone found guilty in the murder of Larissa Yudina. The organization also called on the federal authorities to undertake urgent investigation into all allegations of violations of human rights, corruption and unconstitutional local laws and practices in the republic.

widely publicized among the public in general and in particular, *inter alia*, among law enforcement officials and prison staff.

Other concerns and issues

AZERBAIJAN

Committee on the Elimination of Discrimination against Women reviews Azerbaijan's first periodic report

In January the Committee reviewed Azerbaijan's first periodic report under the United Nations Convention on the Elimination of All Forms of Discrimination against Women. Amnesty International had presented a short report to Committee members outlining its concerns, including the alleged arbitrary detention and threats of rape made against female relatives of detainees (see above). Among the Committee's recommendations were to encourage the elaboration of a National Plan of Action for the implementation of the Beijing Platform for Action, along with close and enhanced cooperation with human rights non-governmental organizations to enhance gender awareness and combat traditional stereotypes; to recommend the introduction of human rights education, including the Convention, in schools and universities; and to recommend that the provisions of the Convention be

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 entries on Belarus, Belgium, Croatia, France, Italy, and Yugoslavia, above, for further references to human right violations against children and juveniles.

Alleged ill-treatment of children and juveniles

AZERBAIJAN

Amnesty International expressed concern at reports that a 12-year-old boy was beaten and harassed by police in Mingechevir, in an attempt to extract information about his mother, Sakhiba

Rasulova (head of the local branch of a non-governmental organization). Yashar Rasulov, the boy's father and husband of Sakhiba Rasulova, alleged that the family's troubles began after his wife spoke out in defence of a local inhabitant, intervening with the local procurator's office after reports that the man had been detained illegally by a senior police officer who was seeking a payment of US\$1,500 for his release. The man was later freed, but the Mingechevir police then instigated criminal proceedings against Sakhiba Rasulova on a charge of swindling (Article 147 of the Criminal Code), and on 6 December 1997 they reportedly detained her two teenage children, a boy and a girl, in order to obtain evidence against her. It is alleged that two police investigators and an official from the procuracy physically abused the woman's son, Vusal Rasulov. The ill-treatment reportedly included shutting Vusal's fingers in the door and beating him on the soles of his feet.

Vusal Rasulov was taken the same day by his family to Mingechevir's Polyclinic No. 2 where doctors were said initially to have confirmed the presence of bodily injuries, but to have then destroyed the relevant documents under pressure from the law enforcement agencies who also ordered staff not to treat the boy. Yashar Rasulov reportedly then took his son to a local hospital in the Kakh district, but after several days the boy was found there at 2.00pm on 9 December by Mingechevir police officers who

are said to have held him illegally in the village of Khanabad in Yevlakh district until 14 December, when he was discovered and released by Kakh district police. Vusal Rasulov was said to have been held in the home of a Mingechevir police officer.

On 16 January this year Vusal Rasulov was again detained. Speaking to reporters three days later, Vusal said that he had been forcibly picked up by the same police officer as he was returning from school, taken to the police department, and beaten there by a police officer. Vusal claimed that he had been beaten for giving evidence against the officer alleged to have abducted him in December, and that the police threatened to beat him again unless he changed his testimony. Yashar Rasulov added that his son had not received treatment at Mingechevir's clinic No. 20 for injuries sustained, and so was taken to the Agdash district where doctors noted that he was suffering from torn abdominal muscles.

In a further development the following month, Yashar Rasulov alleged that on 7 February Mingechevir police officers tried to exert pressure on two pupils at his son's school who were said to have witnessed Vusal's beating at the police station. He claimed that police officers attempted to persuade Parviz Niftaliyev and Tarhan Mamishov, pupils at school No. 11, to change their testimony and say instead that Vusal Rasulov had sustained abdominal injuries after falling from a tree.

Amnesty International understands that the procurator's

office of Sheki district has begun an investigation into these allegations, and has urged that any inquiry be comprehensive and impartial, with the results made public and any perpetrators brought to justice.