

AMNESTY INTERNATIONAL @CONCERNS IN EUROPE November 1991 - April 1992

This bulletin contains information about Amnesty International's main concerns in Europe during the period November 1991 - April 1992. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin. A complete list of Amnesty International's external information on Europe from November 1991 to April 1992 is contained in an appendix to this document.

During the period under review, in December 1991, the Union of Soviet Socialist Republics (USSR) was dissolved, Latvia, Lithuania and Estonia having already been recognized by the USSR as independent states in September 1991. All but one (Georgia) of the remaining 12 republics agreed to form a Commonwealth of Independent States (CIS), but sovereignty lies with the constituent republics and there are individual entries in the bulletin for those republics where there are Amnesty International concerns to report. The five Central Asian republics, Kazakhstan, Kyrgyzstan, Tadzhikistan, Turkmenistan and Uzbekistan continue to be dealt with by the Europe region and to be included in this bulletin because of their membership of the CIS and the Conference on Security and Cooperation in Europe (CSCE).

ALBANIA

Change of government; the death penalty

Elections were held in March 1992 which resulted in the formation of a non-communist government. Ramiz Alia was replaced as president by Sali Berisha of the Democratic Party.

For the first time Amnesty International received unofficial figures summarizing death sentences and executions in 1991. Information has continued to come in about cases in 1992. Six death sentences were reported to have been imposed in 1991: four of these resulted in executions, the fifth prisoner had his sentence commuted to 25 years' imprisonment by the review of the president and the sixth was sent for retrial.

In the period from January to April 1992, five death sentences were passed, (including the case from 1991 which was retried and which again resulted in the passing of a death sentence). Arjan Boja (born in 1973) was originally sentenced to death by the District Court of Elbasan in November 1991. After a retrial in early 1992 he was again found guilty under Article 102 of the penal code, which relates to assault with intent to rob, and was sentenced to death by firing squad. As with all death penalties in Albania, the case was passed to the Supreme Court for review of the sentence but the death sentence was upheld.

The four other cases were: Zamir Loçi and Hamit Bitri who were found guilty in separate trials under Article 84, Paragraph a of the penal code, which relates to wilful murder; Hajdar Gjuriqi who was sentenced to death by firing squad, for triple murder under Article 84, Paragraphs a, b and c; and Arben Haxhiu who was found to have murdered a naval officer and was sentenced to death under Article 84, Paragraph a.

Amnesty International notes that the reports indicated an apparent increase in the passing of death sentences - five death sentences in the first four months in 1992 in comparison with four death sentences which were passed and carried out in the whole of 1991. According to press reports, violent crime increased dramatically in the first months of 1992. Albania's chief investigator was reported to have stated that the tradition of the blood feud, which was repressed under communist rule, was reviving and that revenge killings were on the increase. While recognising the gravity of the crimes which may have been committed, Amnesty International opposes the death penalty in all cases on the grounds that it is incompatible with international human rights standards prohibiting all forms of "cruel, inhuman or degrading treatment or punishment". Crime figures from abolitionist countries do not show that abolition results in increases in the crime rate.

ARMENIA

The death penalty

In March Amnesty International received statistics on the use of the death penalty from the Armenian authorities, dating from 1989. In that year four death sentences were passed. One of these was subsequently commuted by the Presidium of the Armenian Supreme Soviet on 5 March 1990, and another was commuted by the President of the USSR on 12 February 1991. In 1990 three persons were sentenced to death. In all these cases they have petitioned for clemency and their requests were being considered. No death sentences were passed in 1991, although two of the people sentenced to death in 1989 were executed on 30 August 1991. The criminal code currently retains the death penalty for a total of 32 crimes in peace and war.

Amnesty International is continuing to urge the Armenian authorities to reduce the scope of the death penalty as a step towards total abolition, in line with current worldwide trends, and to impose a moratorium on death sentences and executions pending a review of this punishment.

Conscientious objection to military service

The first moves towards a civilian alternative to military service for religious believers were made in the "Law on Freedom of Conscience and Religious Organizations", passed by parliament on 17 June 1991. This stated that where religious convictions conflicted with civil obligations an alternative could be agreed between state bodies and religious organizations in accordance with procedures set up in law. However, no law on an alternative service has yet been adopted. Parliament has held initial discussions on a draft in the period under review, but the text has been sent back for further elaboration.

In January 1992 Amnesty International wrote to the Armenian authorities urging that any alternative service be completely civilian in nature; that it be open to all those with a religious, political, ethical or other conscientiously-held objection; and that it be of non-punitive length with impartial decision-making procedures for applying it.

Alleged human rights violations in Nagorno-Karabakh

In March Amnesty International wrote to the President of Armenia, Levon Ter-Petrosyan, in connection with the situation of armed conflict in the Nagorno-Karabakh area of Azerbaydzhan, specifically about allegations of deliberate and arbitrary killings of non-combatants by paramilitary forces of Armenian origin (for further details see the entry on the Azerbaydzhani Republic). Amnesty International recognizes that the Government of Armenia has no jurisdiction over the territory concerned, but nevertheless urged the President to exert all influence possible to ensure that international humanitarian and human rights principles are observed in Nagorno-Karabakh by all those associated with the conflict.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of Armenia welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed its hope that the Republic of Armenia would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

AUSTRIA

Alleged torture and ill-treatment in police custody

In December 1991 Amnesty International published a 28-page document entitled *Austria: Torture and ill-treatment - Update to report of January 1990* (AI Index: EUR 13/04/91). According to the report the organization continued to receive consistent and regular allegations of police ill-treatment, sometimes amounting to torture.

In the same month the Austrian Government wrote to Amnesty International rejecting the report's major findings. According to the Austrian authorities the report was based solely on allegations, which in a number of cases had been rejected by independent courts. (Amnesty International has consistently stressed that, although not in a position to confirm or reject the accuracy of each individual allegation of ill-treatment it has received, the consistency and general credibility of the allegations have given reason to believe that the problem of ill-treatment in police custody is not one of a few isolated incidents.)

The Austrian Government expressed regret in its letter that Amnesty International had not shown the same appreciation as the European Committee for the Prevention of Torture (ECPT) for many of the steps taken or envisaged by the Austrian authorities to combat the problem of ill-treatment. (The ECPT visited Austria in May 1990 and submitted a report to the Austrian Government in November of the same year. The report, which was published in October 1991, confirmed many of Amnesty International's findings, reaching the conclusion that "there is a serious risk of detainees being ill-treated while in police custody".)

The Austrian Government concluded its letter by stating that the recommendations made by Amnesty International in its report were under careful consideration by the Ministry of Justice and the Ministry of the Interior in their work on additional reforms to prevent ill-treatment.

Update to the case of Karoline O. (see AI Index: EUR 03/02/90 and EUR 01/01/91)

In November 1991 two police officers were found guilty of abuse of authority (*Mißbrauch eines Autoritätsverhältnisses*) under Article 212 of the penal code. Their conviction related to an incident in May 1990 at Karlsplatz police station, Vienna, where a 19-year-old female detainee alleged that the two officers had forced her to have oral sex with them. According to information sent to Amnesty International by the authorities in March and April, the prosecution was unable to prove that the woman had been subjected to violence or threats of violence. Both officers received a suspended sentence of one year's imprisonment. A third officer charged with failing to intervene although aware of the incident was acquitted. One of the two officers found guilty has since resigned from the police force while disciplinary proceedings are continuing against the other two officers involved.

Update to the case of Helmut Lang (see AI Index: EUR 03/01/90, EUR 03/02/90 and EUR 01/01/91)

During the period under review Amnesty International learned that Helmut Lang's complaint to the Constitutional Court had been dismissed. Helmut Lang had alleged in January 1990 that the police had carried out a search, without a warrant, of the house he and his father shared, had arrested him, and had taken him to Kohfidisch police station where they had beaten him in order to coerce a confession to theft. His original complaint to the Eisenstadt Public Procurator had been rejected after his father had apparently stated to police that his son had consented to the search and had accompanied the police to the station of his own free will. Furthermore, his son had shown no signs of ill-treatment after being questioned at Kohfidisch police station. (As the complaint had not been made until 17 days after questioning, it was no longer possible for the allegations of ill-treatment to be investigated by medical examination.)

In its written ruling the Constitutional Court did not examine that portion of Helmut Lang's complaint which referred to the alleged ill-treatment. Instead the court concentrated on the other two elements of the complaint. In doing this it heard evidence from Helmut Lang, his father, and the police officers involved. While Helmut Lang and the police officers repeated the previous statements they had made, Helmut Lang's father maintained that the records produced by the police of their interviews with him were inaccurate, despite the fact that they appeared to carry his signature. The court ruled that there was insufficient evidence to uphold the complaint against the officers.

Conscientious objection to military service

In December 1991 an amendment to the law on Alternative Military Service (*Zivildienstnovelle*) abolished the need for applicants for conscientious objector status to appear before an Alternative Service Commission (*Zivildienstkommission*) and to submit to an oral examination of their objection, on grounds of conscience, to military service. Since 1 January all applications for conscientious objector status are dealt with by the Interior Ministry in a purely administrative procedure. The new law, which will provisionally apply for a two-year period only, also increases the length of alternative service to 10 months. For certain categories of service where work can be particularly stressful (for example caring for the old or the sick) the existing length of eight months (the same length as that of military service) is retained.

In December 1991 Amnesty International wrote to the Austrian Government asking whether the new law had retained the provision for a suspension of call-up orders once an objection to military service on grounds of conscience has been officially registered. This would prevent a situation occurring whereby an objector might be required to commence his military service before the outcome of his application for objector status was known. No reply had been received to this letter by the end of April.

AZERBAIDZHAN

Alleged human rights violations in Nagorno-Karabakh

Allegations of human rights violations continued in the disputed region of Nagorno-Karabakh, and in March Amnesty International appealed to all those associated with the conflict to ensure that international humanitarian and human rights principles are observed in the region.

In accordance with its limited mandate Amnesty International was specifically concerned about reports of extrajudicial executions and other deliberate and arbitrary killings of unarmed civilians, and of the torture or ill-treatment of people detained in connection with the fighting.

Deaths of civilians

Over one thousand people are said to have died in recent years during the conflict in Nagorno-Karabakh, although factors such as a state of emergency have often made it difficult to ascertain the circumstances. In a number of cases, however, it has been alleged that non-combatant civilians were deliberately killed. Two such instances are outlined below.

Scores of non-combatants of Azeri origin, including women and children, were said to have been killed deliberately and arbitrarily by Armenian paramilitary forces while attempting to leave the scene of fighting around the town of Khodzhalı at the end of February. Some bodies recovered were reportedly mutilated. Other Azeri non-combatants from Khodzhalı allege they were taken hostage briefly before being exchanged for Armenian prisoners, and that while in the custody of Armenians they were beaten and otherwise ill-treated.

On 10 April at least 45 non-combatant Armenian inhabitants of Maraga, again including women and children, are said to have been killed deliberately after Azerbaydzhani army units entered the village. Exhumed bodies of those said to have died in the attack showed signs of mutilation and burning. Ten days later at least six people were said to have been killed during a hostage exchange when the dead body of a person taken from Maraga turned out to be mined.

Ill-treatment in detention

Numerous allegations of ill-treatment in detention, by both law enforcement officials and informal groups holding hostages, continued during the period under review. Ethnic Armenian Eleanor Grigoryan, for example, was said to be bleeding from wounds on her leg, arm and breast when she spoke in March after having been recently released. She claimed to have been held for one month with her four-year-old son Dmitry, and to have been passed round various Azerbaydzhani military units during which time she was repeatedly raped and otherwise physically assaulted. Her son was also said to have been subjected to abuse,

including cigarette burns on his hand. She also reported being deprived of food and water, at one point for eight continuous days, and when water was finally brought to the cell where she was kept with her son it had a dead rat in it.

A number of Azeri civilians trying to escape from Khodzhalı claim they were ill-treated by Armenian forces while being held hostage in late February/early March. Durdana Agayev said she and other women had been beaten when held in a cell containing some 30 women in a police station in the Armenian-populated town of Askeran. Gulaya Orudzheva, whose place of detention is not known, claimed that while she was held she saw two young Azerbaydzhani men shot in cold blood, other prisoners beaten and one woman raped.

Amnesty International takes no position on territorial disputes. It is also aware of the often contradictory nature of allegations from Nagorno-Karabakh, and the difficulty of verifying them. However, allegations that non-combatants have been deliberately and arbitrarily killed, and ill-treated while in custody, have come from a number of different sources and are consistent as to the nature of the violations reported. The information available indicates that all sides to the conflict have been involved in such violations, and in its appeal Amnesty International called on all sides to protect non-combatants from all acts of reprisal and violence and to treat prisoners in their custody humanely.

The death penalty

In March Amnesty International urgently appealed on behalf of five ethnic Armenians sentenced to death for murder. Grachik Petrosyan, Gagik Arutyunyan, Arno Mkrtchyan, Arvid Mangasaryan and Garnik Arustamyan were convicted by the Azerbaydzhani Supreme Court in Baku on 19 March, accused of murdering an Azerbaydzhani correspondent and three military personnel in the disputed region of Nagorno-Karabakh. Amnesty International feared that the men faced imminent execution. The Azerbaydzhani Supreme Court is the court of highest instance, and death sentences passed at this level need not be confirmed by any other authority before being carried out. An execution date of 2 April, just two weeks after the trial, was later replaced by a stay of execution until 16 May.

In addition to calling for the commutation of this and all other pending death sentences, Amnesty International urged that all persons sentenced to death in Azerbaydzhani be granted the opportunity to appeal to a court of higher jurisdiction, in accordance with internationally agreed human rights standards. The organization also expressed concern that an article entitled "The trial of the murderers has begun", appearing in the leading newspaper *Bakinsky rabochy* on 4 March, referred to the defendants as guilty as charged prior to their conviction and may have prejudiced their right to a fair trial.

In a letter to the Minister of Justice in April Amnesty International welcomed the recent admittance of Azerbaydzhani to membership of the United Nations and to the Conference on Security and Cooperation in Europe, and urged publication of official death penalty statistics in line with resolutions passed by both these bodies. The organization also asked if the proposed exemption of women from the death penalty and a reduction in the

number of offences carrying the death penalty to five, as outlined in a previous letter from the Minister, had now passed into law in Azerbaydzhani.

In a separate development the new Azerbaydzhani Law on States of Emergency, dated 4 February 1992, specifies in Article 28 that death sentences passed for crimes committed during a state of emergency are not to be carried out while this state is in force, or for 30 days after it is lifted.

Conscientious objection to military service

In January Amnesty International wrote to the Azerbaydzhani authorities welcoming the introduction of an alternative service for conscientious objectors. Article 9 of the new law On the Armed Forces of the Azerbaydzhani Republic, dated 9 October 1991, provides for an alternative service lasting two years for young men aged between 18 and 25 who for reasons of conscience refuse to perform military service. Amnesty International asked for further information on the procedures for implementing this alternative service; if it will be completely civilian in nature; and the reasons why it is six months longer than the duration of military service.

Ratification of international human rights instruments

In March Amnesty International wrote to the Acting President of the Azerbaydzhani Republic welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed its hope that the Azerbaydzhani Republic would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

BELARUS

The death penalty

Belarus retains the death penalty for 18 different offences in peacetime, although information on its application is very limited in the absence of any official statistics. The most recent indication comes from unofficial sources which report that in 1990 the Presidium of the republic's Supreme Soviet (parliament) reviewed 13 death sentences, all for premeditated murder under aggravating circumstances, but commuted only one. In 1989 eight petitions for clemency were reviewed, but none granted.

Amnesty International has consistently pressed the government of Belarus to reduce the scope of the death penalty as a step towards total abolition; to impose a moratorium on death sentences and executions pending a review of this punishment; and to publish comprehensive statistics on its application. In a letter to the Minister of Justice in April the organization welcomed the recent admittance of Belarus to membership of the Conference on Security and Cooperation in Europe (CSCE), and urged publication of official death penalty statistics as agreed by participating states at the CSCE's second Conference on the Human Dimension held in Copenhagen in June 1990.

Conscientious objection to military service

Belarus has as yet no legal provision for those of its citizens who have a conscientious objection to military service. One such objector on whose behalf Amnesty International had been campaigning was reportedly released early from a corrective labour colony at the beginning of the period under review. Nikolay Isaakovich Shust, a Jehovah's Witness, had been sentenced to two years' imprisonment on 24 October 1990 by a court in Mozyr after being convicted of "evading regular call-up to active military service" under Article 77 of the Belorussian Criminal Code. He had previously served a 20-month sentence for refusing his call-up papers. Each time his refusal had been because his religious beliefs forbid him to bear arms or swear an oath of military allegiance. According to the authorities he was released on 14 November 1991 after his sentence had been reduced.

In January Amnesty International wrote to Stanislav Shushkevich, Chairman of the Supreme Soviet, and the newly appointed Minister of Defence, Lt.-General Petr Chaus, urging that Belarus consider this issue as a matter of priority and take steps to provide a civilian alternative service of non-punitive length for all those who have a religious, political, ethical or other conscientiously-held objection to military service.

Ratification of international human rights instruments

In November 1991 Amnesty International received a reply from Stanislav Shushkevich, Chairman of the Supreme Soviet, in response to its letter of the previous month urging that the republic ratify the first Optional Protocol to the International Covenant on Civil and Political Rights. The Chairman enclosed a statement by the Supreme Soviet on 2 October 1991 which expressed the intention to accede to the first Optional Protocol, although the necessary formal notification had not been deposited with the United Nations by the end of April.

In its letter of October 1991 Amnesty International had also reiterated its hope that the Republic of Belarus would consider ratifying the 1951 Convention relating to the Status of Refugees, which provides fundamental protection for asylum-seekers by providing that States Parties shall not forcibly return a person to a state where they face a genuine risk of being persecuted.

CYPRUS

Conscientious objection to military service

Legislative reform

On 9 January the House of Representatives passed draft legislation recognizing for the first time in Cyprus the right to have conscientious objections to military service. The legislation is expected to enter into force around July 1992. In the form in which it was passed, the legislation provided for an unarmed military service and a service defined as "unarmed military service...without a military uniform and outside military camps" which would last for 42 months; ordinary military service lasts for 26 months. It was not clear whether the alternative service would be open to conscientious objectors on religious grounds only or whether it also applied to conscientious objectors on other grounds. The legislation made provision for reservists to perform alternative service lasting the same length of time as each reservist exercise. It also allowed people already performing ordinary military service or unarmed military service to opt for service without a military uniform outside the military camp if they develop conscientious objections after joining the armed forces. However, this right was cancelled during periods of emergency or general mobilization.

Amnesty International appealed to the Cypriot Government to bring the legislation into line with international standards. In particular it expressed the following concerns: ♦ In accordance with international standards, conscientious objectors should be able to perform an alternative civilian service which is completely civilian and under civilian control. A military service which takes place outside a military camp would be unacceptable to most conscientious objectors.

- ♦ An alternative service which is about 1.6 times as long as ordinary service appeared to be punitive, particularly in view of the fact that conscientious objectors would have to perform supplementary service equivalent to periods of reservist exercises.

- ♦ Civilian service should be open to conscientious objectors on religious, ethical, moral, humanitarian, philosophical, political or similar grounds.

- ♦ The right to transfer to alternative civilian service from military service or unarmed military service should not be suspended during periods of emergency or general mobilization.

Amnesty International pointed out that it would consider as prisoners of conscience any people who were jailed for refusing to perform alternative service which did not meet the above-mentioned standards.

On 17 March President Vassiliou informed Amnesty International that provision would be made for an entirely civilian service, under civilian control with no direct or indirect connection to military aims or operations and that this service would be open not only to religious objectors but objectors on "ethical, moral, humanitarian, philosophical and political grounds". However, he further stated that the length of alternative service "is in no way regarded as punitive" especially given current relations with Turkey and the occupation of

part of the island by the Turkish armed forces. He stated that the government did not envisage permitting people performing ordinary military service or unarmed military service to switch to alternative civilian service during periods of emergency or general mobilization, if they developed conscientious objections after being conscripted into the armed forces. He stated that "this provision aims only at discouraging those who are not genuine conscientious objectors from applying for alternative service".

At the end of April Amnesty International wrote to President Vassiliou welcoming the fact that the legislation will make provision for a completely civilian service open to conscientious objectors on a variety of grounds. It stated that it remained concerned about the punitive length of the civilian service and the fact that there would be no possibility for people performing ordinary military service or unarmed military service to opt for alternative civilian service during periods of emergency or general mobilization.

Jailing of conscientious objector Sideris Georgiou Isidorou

Amnesty International called for the immediate and unconditional release conscientious objector Sideris Georgiou Isidorou, a Jehovah's Witness, who was sentenced to four months' imprisonment on 2 March after he refused on religious grounds to perform reservist exercises. Amnesty International considers him to be a prisoner of conscience.

Trials pending against a further seven conscientious objectors, Panikos Makri, Aristos Aristidou, Filippou Filippou, Konstantinou Andreas Tavelli, Chrisostomou Kosta Chrisostomou, Michail Loizos and Sotiris Kyriakou Florentzou, during April and the beginning of May were postponed until 24 August. All of these men are Jehovah's Witnesses. If they are imprisoned for their conscientious objection, Amnesty International will consider them to be prisoners of conscience.

Antonios Damianos: health concern

Amnesty International was concerned about the health and welfare of conscientious objector Antonios Damianos.

Antonios Damianos was declared unfit for military service by his doctor after undergoing surgery three times in the United Kingdom to treat severe ulcerative colitis. The treatment involved, among other things, the removal of his large intestine and the fitting of an ileal pouch to restore bowel continuity. The operation he underwent has been developed only very recently and requires close medical supervision, frequent follow-up visits and facilities which are not available in prison. From July 1990 Antonios Damianos served a two-month prison sentence for refusing to perform military service. Although he notified the military authorities of his health problems when he was called up and prior to his trial, he was unable to obtain exemption from military service on grounds of ill-health because he would have had to enlist in the armed forces before he could be examined by the medical board. Enlisting in the armed forces under any circumstances is in conflict with his religious beliefs as a Jehovah's Witness.

While he was in prison Antonis Damianos experienced problems with his ileal pouch and bleeding. Despite his repeated requests, he was reportedly not allowed to see a doctor. According to Antonis Damianos' doctor in London, his patient's health deteriorated as a result of his imprisonment in 1990 and following his release he was forced to return to the United Kingdom for further treatment. Another doctor has informed Amnesty International that no person who has undergone a colostomy would be fit to perform military service.

In April 1992 police officers came to Antonios Damianos' house and warned him that he would be called up again in June or July 1992. Amnesty International wrote to the Cypriot Government stating that it would consider Antonis Damianos to be a prisoner of conscience if he were imprisoned because of his refusal on conscientious grounds to perform military service. It also voiced concern that Antonis Damianos' health will be at risk if he is imprisoned again and that the conscription procedure is preventing him and other conscientious objectors with serious health problems from gaining access to a medical examination which could determine whether or not they are fit to perform military service or serve a term of imprisonment.

Alleged torture and ill-treatment of Andreas Zinonos

In February the Cypriot authorities informed Amnesty International that the police officers charged in connection with the alleged torture of Andreas Zinonos in May 1991 (see AI Index: EUR 01/02/91) were still awaiting trial. By the end of April Amnesty International had no further news regarding the case.

CZECH AND SLOVAK FEDERAL REPUBLIC

Concern over provisions restricting freedom of expression

Amnesty International was concerned about the provisions of Article 52 of a new law amending and supplementing the criminal code. This law was adopted by the Czech and Slovak Federal Parliament on 11 December 1991. The crucial article states the following:

"Whoever supports or propagates a movement which is demonstrably aimed at suppressing the rights and liberties of the citizen or proclaims national, racial, class or religious hatred (as for example fascism or communism) will be punished by one to five years' imprisonment."

On 1 April, in a letter to President Vaclav Havel, Amnesty International expressed its concern that the inclusion of the words in parenthesis, "(as for example fascism or communism)", would allow the interpretation that some political thinking or movements, particularly those cited as examples, necessarily lead to the violation of human rights and that such thinking or movements always assume the incitement of national, racial, religious and other forms of hatred.

Amnesty International was concerned that such interpretations of this law could result in the prosecution of persons who exercised their right to the free expression of political or other beliefs without resorting to or advocating the use of violence.

DENMARK

Allegations of ill-treatment - the cases of Himid Hassan Juma and Babading Fatty

In March the Ministry of Justice published a report on the first part of the judicial inquiry into the treatment of refugees in Copenhagen prisons. The report included the inquiry's findings into the allegations of ill-treatment in police custody made by Himid Hassan Juma and Babading Fatty (see AI Index: EUR 03/02/90 and EUR 01/01/91). The report was especially critical of the fact that both Babading Fatty and Himid Hassan Juma were not properly informed of their rights when arrested, and were subsequently given little or no information about the reasons for their arrest or the procedures which were to be followed once they were in police custody.

In the case of Himid Hassan Juma, the report found that the police officer responsible for the case had clearly had an insufficient knowledge of the basic regulations governing arrest procedures. In the case of Babading Fatty, the Copenhagen city court judge who wrote the report accepted that the detainee had experienced both physical and mental distress while in custody, but rejected any assertion that he had been deliberately ill-treated in order to frighten him or compel him to make a confession, or that his treatment had been an expression of racial discrimination. The report expressed concern about the degree of force which had been used in both cases to restrain the detainees, and the judge recommended that an examination of the particulars of the two cases be included in the brief of a review committee on the regulations governing the use of force and the operation of existing safeguards against ill-treatment which is to be set up by the Department of Prisons and Probation's Centre for Staff Training. At the conclusion of this review, the committee may also recommend the introduction of further regulations and safeguards.

The report did not accept that the force used against the detainees constituted torture or cruel, inhuman, or degrading treatment. The mistakes made by the officers responsible for the two cases were judged to be largely a result of their relative youth, inexperience, and lack of adequate training. The judge also concluded that the Head of the Copenhagen Police must accept a share of the responsibility for this situation. While acknowledging that serious procedural mistakes were made by those police officers responsible for handling the two cases, the judge concluded that there was no reason to press charges against any of the involved police officers or prison guards. Although the report did not rule out the possibility of some disciplinary action being taken, the judge made no recommendation of any harsh disciplinary punishment such as replacement, degradation or dismissal. Immediately after the publication of the report, the Commissioner of the Copenhagen Police responded to the findings by saying that "the mistakes made by the police are fortunately only procedural, but they will now be the object of an intensive investigation which will involve both the head of the police and the staff".

ESTONIA

The death penalty

In the period under review Amnesty International engaged in extensive correspondence with the Estonian authorities, principally on the issue of the death penalty. The organization continued to call for an immediate moratorium on all death sentences and executions in Estonia and for the commutation of any pending death sentences. It also urged that the abolition of the death penalty be enshrined in the new constitution, and reflected in the new criminal code currently being revised.

In November 1991 the organization wrote to the Minister of Justice, setting out its unconditional opposition to the death penalty and repeating its concern, expressed in a letter to the Minister of Internal Affairs the previous month, about the execution of Rein Oruste on 11 September 1991 (see AI Index: EUR 01/02/91). The organization asked for information on the number of people currently under sentence of death and urged the publication of information regarding the use of the death penalty, in accordance with Resolution 1989/64 of the United Nations Economic and Social Council. Amnesty International wrote a similar letter to the new Minister of Justice in April.

In December 1991 Amnesty International wrote to Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, urging him to exercise his constitutional authority and commute the death sentence passed on an ethnic Azeri man who was believed to be still under sentence of death at the end of April.

In January Amnesty International wrote to the Director General of the Department of Statistics urging that official statistics on the death penalty be made public as soon as possible and asking for a copy of this material.

In a letter to Amnesty International received in January, the Chairman of the Supreme Council informed the organization that the death penalty was applied only in very rare cases where particularly serious crimes had been committed. Further information on this was supplied to Amnesty International by the Chairman of the Supreme Court who, in a letter of 23 March, confirmed that in the last three years (1989-91) three persons had been sentenced to death in Estonia, all for the crime of premeditated murder under aggravating circumstances. In one case clemency was granted, in another the sentence was carried out, and in the third execution had been delayed until the adoption of the new criminal code. The reply also stated that official statistics on the use of the death penalty were published in statistical yearbooks for the first time last year.

Ratification of international human rights instruments

In January Amnesty International wrote again to the Chairman of the Supreme Council, welcoming the decision of the Estonian government to accede to a number of international human rights instruments (see AI Index: EUR 01/02/91) and urging the government to

consider acceding to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto.

FRANCE

Conscientious objection to the national service laws

Large numbers of conscientious objectors to the national service laws continued to be imprisoned. The vast majority were Jehovah's Witnesses basing their objection to both military and alternative civilian service on religious grounds; according to unofficial estimates, between 500 and 600 Jehovah's Witnesses are imprisoned each year as a result of their refusal to perform military service.

Conscripts who declare themselves opposed to "the personal use of arms" for "reasons of conscience" are accepted for alternative civilian service in a state administration or in local organizations of a social or humanitarian nature "in the general interest".

Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service. However, Amnesty International believes that an essential component of the right to conscientious objection to armed service is that alternative service should not be imposed as a **punishment** for such objection. In December 1991 parliament gave final approval to a bill on national service which reduced the length of military service from 12 to 10 months and the length of alternative civilian service from 24 to 20 months. As the length of civilian service in France therefore remains twice that of ordinary military service, Amnesty International considers that it does not provide an acceptable alternative to military service and that those imprisoned for rejecting both services are prisoners of conscience.

There was still no right to conscientious objector status for individuals developing conscientious objection to military service after joining the armed forces. Amnesty International believes that conscientious objectors, whether conscripts or volunteers in the armed forces, are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time.

The alleged ill-treatment and death in custody of Aïssa Ihich (update to information given in AI Index: EUR 01/02/91)

On 18 February a doctor attached to Versailles appeal court was charged with the involuntary homicide (*homicide involontaire*) of Aïssa Ihich, an 18-year-old high-school student and chronic asthmatic who died on 27 May 1991 after spending approximately 36 hours in police custody.

Aïssa Ihich had been arrested on the night of Saturday, 25 May 1991 when he was reportedly amongst a group of youths attacking cars and throwing stones at police officers during disturbances in Mantes-la-Jolie, a suburb west of Paris.

It was alleged that at the time of arrest he was beaten by law enforcement agents using truncheons and that during his detention he was deprived of medication to alleviate his asthma and held in conditions likely to exacerbate it.

For administrative reasons, the police requested the Public Prosecutor to extend the preventive detention of Aïssa Ihich and that of five other youths arrested with him by 24 hours, so that they could remain in custody until appearing in court on Monday, 27 May. At approximately 6pm on the evening of Sunday, 26 May Aïssa Ihich was examined in Mantes-la-Jolie police station by a doctor attached to the Versailles court before which Aïssa Ihich was due to appear on the following day. The doctor issued a medical certificate confirming that the detainee's state of health was compatible with an extension of his preventive detention by a further 24 hours and recording that the detainee had suffered "minor injuries" ("*lésions traumatiques mineurs*") caused by blows. He did not refer in his certificate to Aïssa Ihich's asthma nor did he give any instructions to the police relating to his treatment or conditions of detention.

However, Aïssa Ihich was dependent on regular medication to alleviate his asthma. During the period in which he was held in the police station, the police refused to pass on medication which was brought into the station by his family on two separate occasions. When Aïssa Ihich collapsed at the onset of his fatal asthma attack on Monday, 27 May, the ventilator which he carried at all times to alleviate his condition was empty.

Aïssa Ihich's family made a formal complaint regarding his treatment in police custody and a judicial inquiry was immediately opened into his death. According to the findings of an autopsy carried out in May 1991, Aïssa Ihich's death resulted from his asthmatic condition. The autopsy report also recorded injuries to his head and pelvis caused by blows. Further forensic tests were apparently unable to establish any direct causal link between blows to his head and pelvis and the onset of the fatal asthma attack.

At the end of April the judicial inquiry was still investigating several other aspects relating to the circumstances surrounding the detention and death of Aïssa Ihich. It had reportedly still not been able to establish which police agency carried out the arrest and alleged ill-treatment of Aïssa Ihich. Both the urban police (a section of the National Police) and the CRS (*Compagnies républicaines de sécurité*), who were involved in the disturbances in Mantes-la-Jolie on the night of 25 May 1991, have denied responsibility for the arrest and ill-treatment of Aïssa Ihich.

GEORGIA

The first Amnesty International visit to Georgia took place in February. Planned while President Gamsakhurdia was still in power, it was postponed owing to fighting that resulted in a change of government. Amnesty International discussed its concerns with a range of people, both official and unofficial.

The death penalty

On 21 February Georgia became the first republic of the former Soviet Union to abolish the death penalty completely when the 1921 constitution of the briefly independent Democratic Republic of Georgia was restored. Article 19 of this constitution enshrines abolition.

Prior to this the Amnesty International delegates had met the Minister of Justice, John Khetsuriyani, who is himself an abolitionist. He provided a detailed breakdown on the application of the death penalty in the republic over the last 10 years. According to these figures 124 people were sentenced to death between 1981 and 1991, and 65 were executed. Seven death sentences were handed down in 1991, and the last executions took place in October that year when two people were shot. All sentences passed and carried out since 1989 were for premeditated murder under aggravating circumstances. The Amnesty International delegates visited Ortachala prison in Tbilisi, the capital, and talked with the prison's governor about the procedures for executions, traditionally shrouded in secrecy in the former Soviet Union. The governor explained that Ortachala was the only place in Georgia where persons were held on death row, and where executions were carried out. Until recently it had also served as a place of execution for those convicted in the neighbouring republics of Armenia and Azerbaydzhan. Executions were carried out by a single gunman, in a special chamber. Just prior to the execution a group of officials including a representative from the procuracy was present to approve the reading of the execution order. The bodies of those executed were not handed over to families, but buried in unmarked plots in the prison grounds. The governor stated the present prison administration's desire to turn this plot into a proper cemetery.

Delegates were also given free access to the nine prisoners then on death row at Ortachala prison. Two of those most recently sentenced to death confirmed that, having been tried by the Supreme Court of Georgia, they were not able to appeal against the sentence. Before the demise of the Soviet Union an appeal had been possible to the Supreme Court of the USSR. The Minister of Justice explained that people in such a position could have their sentence overturned following a protest by the relevant procuracy or court official, and could lodge a petition for clemency. Speaking with him before abolition, Amnesty International nevertheless urged that all persons sentenced to death in Georgia be granted the opportunity to appeal to a court of higher jurisdiction, in accordance with internationally agreed human rights standards.

Review of the criminal code

The Minister of Justice told Amnesty International that he heads a commission working on amendments to the criminal code, and hoped that these could come before the new parliament, when elected, for approval. He confirmed that Article 71, "anti-Soviet agitation and propaganda", had been abolished. This had been used widely in the past in the USSR to punish those expressing views politically unacceptable to the authorities. Article 65, "treason", had been amended in 1991 so that "flight abroad or refusal to return home from abroad" was no longer a treasonable offence. Previously it had been extremely difficult for Soviet citizens to leave their country on grounds of conscience, and those who tried to leave without official permission risked up to fifteen years' imprisonment, or even death, under this article.

The Minister explained that two articles which specifically circumscribe freedom of religion - Article 148 ("violation of the laws on separation of church and state and of church and school") and Article 233 ("infringement of person and rights of citizens under appearance of performing religious ceremonies") - remained at present but were not used, their formal abolition awaiting parliamentary approval of the new criminal code. Another article no longer being enforced is 121, the first part of which punishes consenting homosexual activity between adult males. It is intended to revise this to decriminalize such actions.

Article 81 punishes refusal to respond to call-up for compulsory military service, but in June 1991 a law was introduced providing a civilian alternative service. The Minister provided delegates with a copy of the law. Amnesty International expressed the hope that conscientious objectors would no longer be liable to imprisonment. Conscription into the new Georgian army is to begin on 10 May 1992.

Allegations of ill-treatment

During the visit the delegates were able to obtain further information on allegations of ill-treatment from people who claimed they were held by supporters of President Gamsakhurdia in a bunker under Government House during fighting in December 1991 and January 1992. One, a journalist, said he had been detained on 3 January while reporting on a pro-Gamsakhurdia meeting and was taken to the bunker where he was held with 32 other people. The number had risen to 45 by the time he was released on 6 January, after President Gamsakhurdia left the capital. When he appeared on television the day of his release the journalist had obvious facial injuries, which he said had resulted from ill-treatment inflicted during his detention. He said he and other detainees were regularly beaten in a smaller room off a common area occupied by supporters of President Gamsakhurdia, and also when they had to cross the common area to use the toilet. He had also been handcuffed to pipes in the smaller room and had electric shocks applied to his fingers. A 19-year-old student wounded in the fighting before being taken to the bunker is said to have bled to death after adequate medical treatment was refused.

Another man, speaking in a video shot in the bunker after President Gamsakhurdia had left, showed the camera a room containing two pairs of manacles, electric wires and a

transformer where he said he had been undressed, handcuffed and tortured. Electric wires were attached to his fingers, he claimed, and he was forced to wear a gas mask to muffle his screams.

Several different sources also alleged that two teenage boys held in the bunker were forced to take part in homosexual acts. Those allegedly responsible for this and the beatings were said to have gone into hiding.

GERMANY

Imprisonment of conscientious objector to military service

In February Amnesty International wrote to the German authorities expressing its concern regarding the case of Thomas Biskupek, a conscientious objector who spent 81 days in military detention for refusing to obey military orders.

On 16 July 1991 Thomas Biskupek was informed that he was to be called up on 1 October 1991. On 5 August 1991 he submitted an application to perform alternative service to the Regional Office of Military Administration (*Kreiswehrrersatzamt*) in Bergisch Gladbach. Before he had been notified of the outcome of his application his call-up had taken effect, and on 17 October 1991 he was placed under disciplinary arrest for refusing to obey orders to put on his uniform. He spent one day in detention before being released for medical reasons.

On 29 October 1991 Thomas Biskupek's application to perform alternative service was rejected. He subsequently appealed against this decision and was finally recognized as a conscientious objector on 27 January. In the intervening period he had spent a further 80 days in detention - 73 days as punishment for refusing on four further occasions to put on his uniform, and seven days for returning late to barracks after a period of illness shortly after he was called up.

In its letter to the authorities Amnesty International expressed its concern that Thomas Biskupek had been imprisoned for his refusal on conscientious grounds to perform military service, in the first instance before his application to be recognized as a conscientious objector had been considered, and subsequently before his appeal had been heard. The organization urged the authorities to consider the adoption of some procedure, such as the automatic suspension of call-up once an application to perform alternative service is submitted, in order to prevent similar situations from occurring in the future.

In April Amnesty International received a reply from the Ministry of Defence stating that the Law on Conscientious Objection (*Kriegsdienstverweigerungsgesetz*) did provide for a suspension of call-up papers until a decision had been taken on a person's application to be recognized as a conscientious objector, provided the application was submitted before call-up papers were issued. Amnesty International believes, however, that persons should be able to seek conscientious objector status at any time, including after receiving call-up papers or after entering military service.

Alleged ill-treatment of prisoners

Alleged isolation of prisoners detained under anti-terrorist laws

Since 1979 Amnesty International has expressed concern to the authorities of the Federal Republic of Germany (FRG) about the prolonged isolation of prisoners detained under anti-terrorist legislation, mainly Article 129a of the penal code.

In January the Federal Ministry of Justice replied to a letter the organization had written in August 1991 in which it asked whether a decision of the Düsseldorf Higher Regional Court of 16 May 1988 forbidding Barbara Perau-Hofmeier from participating in church services or any other communal activities, except exercise, was still in force and whether a review of it was planned. Barbara Perau-Hofmeier had been in investigative detention since August 1986. In its reply the Ministry of Justice informed Amnesty International that on 7 June 1991 Barbara Perau-Hofmeier had been sentenced to eight years' imprisonment by Düsseldorf Higher Regional Court for offences under Article 129a of the penal code. With respect to the current conditions of her imprisonment, the Ministry confirmed that Barbara Perau-Hofmeier was not allowed to attend religious services "for security reasons". According to the Ministry a ruling of the Düsseldorf Higher Regional Court on 5 November 1990 had given her permission to take part in a sports group. The question of further relaxing the conditions of her imprisonment was, the Ministry said, under examination.

In its reply the Ministry of Justice also referred to the case of Christian Klar. In September 1990 Amnesty International had written to the Ministry of Justice commenting on a decision by Stuttgart Regional Court in March 1990 to lift a long-standing requirement that Christian Klar be strip-searched before and after association with other prisoners. The organization had stated that since other less intrusive means of security control had been available for a number of years, the court's decision raised questions about the authorities' claims that strip-searching was conducted solely for security purposes without any intent to degrade or humiliate. In its reply the Ministry stated that such strip-searches had been carried out solely for the purpose of preventing the handing over of concealed messages and prohibited objects. The Ministry added that despite the seizure of clandestine messages following a court-ordered cell search in March 1991, the conditions of Christian Klar's imprisonment had not been tightened up again.

The Ministry of Justice also commented on the conditions of imprisonment of Brigitte Mohnhaupt, reportedly kept in isolation (see *Amnesty International Report 1991*) in Aichach prison in Bavaria since her transfer there in November 1991. The Ministry denied that the conditions of her imprisonment amounted to isolation, stating that she was accommodated with six to 10 other prisoners and that she took part in communal outdoor exercise and in the "open cells" in her section. According to the Ministry she also had the opportunity of participating in communal activities for the whole of the women's section. Amnesty International does not know how large this section is. According to Brigitte Mohnhaupt's lawyer all activities for the small group of prisoners with whom Brigitte

Mohnhaupt is accommodated are held separately from the rest of the prison population. Amnesty International is concerned that prolonged isolation, including "small-group" isolation, can have serious physical and psychological effects and may constitute cruel, inhuman or degrading treatment.

Allegations of forcible treatment of prisoners

For several years Amnesty International had received allegations that prisoners held at *Haus III*, the secure psychiatric unit attached to Straubing prison in Bavaria, were subjected to involuntary medication.

In late February and early March 1991 an Amnesty International delegation, comprising a Swiss psychiatrist, an Austrian forensic neuropathologist and a staff member of Amnesty International's International Secretariat visited Straubing prison. The delegation felt unable to draw firm conclusions about the specific allegations of forcible treatment. However, it did express concern that the close link between the prison and the psychiatric facility tended to result in the placing of prison objectives before patients' needs. In a letter written to the Bavarian Ministry of Justice in November 1991 Amnesty International recommended that the mental health facility be re-established as an independent and separate clinic which serves, and is clearly seen to serve, the mental needs of those who are referred there, irrespective of the crimes for which they are committed. The Bavarian Ministry of Justice replied to the organization in February stating that the matter was being investigated and that Amnesty International would be informed of the results of the investigation.

GREECE

Conscientious objection to military service

Some 400 conscientious objectors, virtually all of them Jehovah's Witnesses serving four-year prison sentences, continued to be imprisoned. Amnesty International considered all of them to be prisoners of conscience. There was still no change in the law to allow conscientious objectors to perform alternative civilian service despite numerous assurances by members of the Greek Government. Over 40 men who are not Jehovah's Witnesses have publicly declared themselves to be conscientious objectors. Most have not been arrested but they are unable to leave the country and some have arrest warrants pending against them. Amnesty International repeatedly called on the Greek authorities to release all imprisoned conscientious objectors and to introduce alternative civilian service of non-punitive length in line with international standards.

In December 109 conscientious objectors held in Avlona Military Prison were transferred to Sindos Military Prison, a new prison near Thessaloniki. The conditions of imprisonment there are reportedly good and most conscientious objectors are able to work there, meaning that the overall time they spend in prison should decrease to about two and a half years. Conscientious objectors awaiting trial continued to be held in Avlona Military Prison where most do not work.

On 16 January total objector Pavlos Nathaniel was released from prison after being sentenced to one year's imprisonment by Rouf Military Court in Athens charged with insubordination. His prison sentence was suspended for three years on condition that he does not commit any other act punishable under the law. Pavlos Nathaniel had been in prison since September 1991 after he was arrested for sticking up posters in solidarity with another total objector (see AI Index: EUR 01/02/91). During his arrest he and another detainee, Kostas Diavolitsis were allegedly ill-treated by police. At the end of April their complaint against the police was still being investigated by the authorities.

Religious discrimination

The military authorities continued to discriminate against Jehovah's Witness ministers who sought exemption from military service under Law 1763/88, which exempts ministers of recognized religions from military service. In February Amnesty International issued a report entitled *Greece: Religious discrimination - minister imprisoned* (AI Index: EUR 25/03/92) after a further Jehovah's Witness minister, Anastasios (Tasos) Georgiades was imprisoned on 20 January. Tasos Georgiades' application for exemption was rejected on the grounds that he was not a religious minister of a recognized religion.

On 16 March Athens Military Court, acknowledging that the Jehovah's Witness faith is a recognized religion, acquitted Tasos Georgiades of insubordination and ordered his release. He was released from prison the following day on a 15-day leave permit in order to obtain the necessary papers from the military authorities to exempt him in future from

further call-up. On 2 April, however, the recruiting office informed him that they would not grant him exemption from military service and called him to appear at Nafplion Military Camp on 4 April to perform military service. He complied with these orders and was immediately put in the disciplinary section of the camp. He was transferred to Avlona Military Prison and is due to stand trial on 8 May.

Amnesty International believed that Tasos Georgiades had been imprisoned for the exercise of his right to freedom of thought, conscience and religion and on the basis of discriminatory treatment by the military authorities against Jehovah's Witness ministers and called for his immediate and unconditional release as a prisoner of conscience.

Tasos Georgiades is the fourth Jehovah's Witness minister known to Amnesty International to have his application for exemption rejected by the military authorities since Law 1763/88 came into force. The other three, Daniel Kokkalis, Dimitris Tsirlis and Timothy Kouloubas, all now released from prison, were adopted as prisoners of conscience by Amnesty International. In all of their cases the Council of State (the highest administrative court in Greece) ruled that they should have been exempted from military service under Law 1763/88 and emphasized that the Jehovah's Witness faith was a recognized religion (see AI Index: EUR 03/02/90, EUR 01/01/91 and EUR 01/02/91).

Torture and ill-treatment

Amnesty International continued to receive reports of torture and ill-treatment of detainees and prisoners by police and prison staff.

In November 15 people lodged a complaint against six police officers from the Z squad and a number of security police officers at the Athens Security Headquarters who allegedly ill-treated them for some 10 hours after they and others were arrested while sticking up political posters in central Athens.

Maria Nikolaidou, a pregnant woman, alleged that a senior plainclothes police officer grabbed her by her hair, banged her head against a wall and shouted sexual abuse at her, although she had informed him of her pregnancy. Other women reported similar ill-treatment. The female detainees also stated that "the female prisoners were ordered to get completely undressed so they could carry out body searches. These were carried out under conditions which were offensive, crude, irregular and humiliating for us. They left the doors open and we were naked in full view of policemen who were wandering about outside...who made comments of a sexist nature such as, 'Look at them - they're like sexually frustrated bitches' and many other such comments."

Members of the MAT (riot police) and other police officers allegedly beat Ioannis Balis all over his body and on the face, with the result that he suffered a fractured arm. Georgios Meriziotis was allegedly beaten on the head, ribs and legs with clubs. Christos Stagopoulos suffered a black left eye and marks from blows all over his body. Police officers hit Theofanis Mihas on the face and chin and broke his dental crown. He was also allegedly hit on his right arm and leg. Georgios Gerontidis, Ilias Boundouvas, Dimitrios Fasolis, Christos Sierras, Georgios Kosmas, Apostolos Kalostipis and Konstantinos Kalaremas stated they had been kicked, punched or beaten with clubs.

The 15 detainees along with 18 others were held in detention until 13 November when they were each sentenced to six months' imprisonment for illegal posting of bills and verbal abuse by the Three Person Court of Athens. At the end of April they remained free pending appeal.

Amnesty International received further allegations from people in prison that prison authorities had subjected them to torture or ill-treatment as a punishment. On or around 17 May 1991, 18 prisoners in Patras Closed Prison were singled out as ringleaders in an escape attempt and as a punishment were put in isolation cells for 11 days during which they were tortured and subjected to cruel, inhuman or degrading treatment. Following their release from isolation they were transferred to different prisons throughout Greece. The prisoners concerned were:

Erdal Karasu, Ismet Süslü, Ali Mirzanli, Fikri Önver, Hüseyin Dinar, Eyüp Duman, _ehmus Uku_, Muzaffer Yorulmaz, Muharrem Turcan, Mehmet Emin Çelik, Ömer Kama, Muhammed Ludin, Nasreddin Akram, Abus Hamis Suphi, Hamid Riyat, Sabri Eyt, Sait (full name not known), Ferhan (full name not known)

Reportedly three to four people were put in a concrete isolation cell measuring about 1.8 x 1 x 2 metres. The cells reportedly contained no furniture and had no lighting or ventilation, apart from a hole in the middle of the ceiling. Because the cell was so small the occupants could not lie down but had to sit or stand. For the first seven days the prisoners reportedly received no food; the last four days they received food once a day. The prisoners reportedly were stripped down to their underpants and were given one blanket per cell. Allegedly prison warders and medical staff beat these prisoners with sticks, electric cables, rubber whips and truncheons and poured ice cold water on them throughout the 11 days they spent in isolation.

Erdal Karasu, who reportedly spent two weeks in hospital after he suffered fractures to his ribs, mouth injuries, blood in the urine and bleeding ears, lodged a complaint with the Prosecutor in July 1991. The progress and outcome of this complaint are not known.

Amnesty International also received a report that five prisoners, Aliriza Cemsidi Heyderi, Hasan Ahmedi, Abbas Surici, Ekber Zeyneli and Islami Mensur, all of whom are reportedly Iranian, were kept in isolation for 18 days in Korydallos Prison from around 2 September 1991 onwards after they were suspected of intending to escape. During this period, they are said to have been tortured, denied food, kept naked and not allowed outside for any exercise.

In February Amnesty International wrote to the Greek authorities expressing concern about these allegations. In its letter it regretted to note that these allegations were not the first that it had received concerning the torture of prisoners as a punishment. It reminded the authorities of its inquiries regarding alleged beatings in Korydallos and Larisa Prisons in February 1991 to which it had not received any response. Amnesty International urged the authorities to initiate immediate investigations into these allegations and asked that their

findings should be made public and that any prison personnel found responsible for the alleged torture should be brought to justice.

Violations of the right to freedom of expression

On 8 November 1991 the chief editor of the gay and lesbian magazine *Amphi*, Irene Petropoulou, was sentenced to five months' imprisonment (convertible to a fine of 1,000 drachmes per day for each day of her prison sentence) and a 50,000 drachmes fine on charges of violating Articles 29, 30 and 31 of Law 5060/1981 for a comment she published in issue 4/1991 of the magazine. The comment was in the classified section and asked why so many homosexual and heterosexual men were interested in corresponding with lesbian women. The court ruled that the comment "offends public feelings of decency and sexual morals and cannot be considered to be a work of art and science". Irene Petropoulou is free pending appeal. If her appeal is rejected and she is unable or unwilling to convert her prison sentence into a fine, she will face a term of imprisonment. If she is imprisoned Amnesty International will consider her to be a prisoner of conscience.

On 4 May, a month after their arrest in central Athens, four members of the Anti-War Anti-Nationalistic movement, Stratis Bournazos, Christina Tsamoura, Vangelis Sotiropoulos and Maria Kalogeropoulou, were each sentenced to a total of 19 months' imprisonment for distributing leaflets entitled "Our Neighbours are not our Enemies. No to Nationalism and War" to members of the public. They were convicted on three charges: disseminating false information; inciting citizens to acts of violence or to dissension and disturbing friendly relations with another country. They remained freed pending appeal.

There is no indication whatsoever from the contents of the leaflet that these four people have advocated violence and if they are imprisoned Amnesty International will consider them to be prisoners of conscience.

Amnesty International considers that these convictions contravene Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which Greece ratified in 1974 which states:

"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."

Amnesty International is calling on the Greek authorities to take immediate steps to have the convictions against Stratis Bournazos, Christina Tsamoura, Vangelis Sotiropoulos and Maria Kalogeropoulou and Irene Petropoulou quashed.

HUNGARY

Reported ill-treatment of detained foreign nationals

On 27 February Amnesty International wrote to the Hungarian Government urging it to investigate reports of ill-treatment of foreign nationals detained in the Kerepestarcsa detention camp near Budapest. In one case a Chinese man was reportedly hit about the face and head and as a result lost consciousness, after which he was kicked. Following pressure from fellow inmates he was taken to hospital. Beatings are reported to have occurred often in the camp; for example, when inmates demonstrated against what they considered to be unacceptable poor hygiene and other conditions in December 1991. Many of those in the camp are apparently asylum-seekers and Amnesty International asked for assurances that all asylum seekers in Hungary would be granted access to a fair and satisfactory asylum procedure and that no person would be returned to a country where she/he risks serious human rights violations.

In its reply to Amnesty International's letter the Hungarian Government pointed out that official inquiries had not come up with evidence to suggest any unlawful action on the part of the authorities. They also stated that all asylum-seekers in Hungary are treated in accordance with international standards.

Amnesty International is concerned about continuing reports of ill-treatment of detainees in the Kerepestarcsa camp and is investigating recent cases brought to its attention.

IRELAND

Presidential pardon for Nicky Kelly

In April the Minister of Justice, Pdraig Flynn, announced that he would advise President Mary Robinson to issue a pardon for Nicky Kelly. Nicky Kelly, Osgur Breatnach and Brian McNally were convicted in 1978 of involvement in the 1976 Sallins mail train robbery, solely on the basis of confessions allegedly obtained by ill-treatment during incommunicado detention. The Court of Criminal Appeal in 1980 ruled that the confessions of Osgur Breatnach and Brian McNally had been involuntary and quashed their sentences. Nicky Kelly was released on "humanitarian grounds" in 1984. John Fitzpatrick had been charged initially with involvement in the Sallins robbery, but the charges against him were dismissed. Amnesty International has repeatedly called for an independent inquiry into allegations of ill-treatment in custody made in connection with the robbery (see AI Index: EUR 03/01/90 and EUR 01/02/91).

The Minister of Justice stated that Nicky Kelly had been wrongly imprisoned, and that "he is innocent in the eyes of the law of the charges made against him". Negotiations for compensation are now expected to begin between Nicky Kelly's lawyers and the Irish Government, and the decision to grant the pardon is also expected to add support to claims for compensation made against the state by Osgur Breatnach and Brian McNally. However, the Minister of Justice has ruled out the possibility of an investigation into the allegations of ill-treatment in the case, stating that the Director of Public Prosecutions had advised that an investigation would produce "no clearer resolution" of the matter.

ITALY

Interim reply to Amnesty International's October 1991 Memorandum to the government concerning torture and ill-treatment - Exchange of correspondence with the Minister of Justice (update to information given in AI Index: EUR 01/02/91)

On 6 February Amnesty International wrote to the Prime Minister's office pointing out that almost three months had passed since its meeting with the Prime Minister in October 1991 and that no reply had yet been received to the memorandum which it had handed over during the meeting. The memorandum contained a selection of cases of alleged torture and ill-treatment arising in or near Milan, Naples, Padua, Rome, Salerno and Verona between 1986 and early 1991 where Amnesty International had been particularly concerned by the failure of the Italian authorities to reply to its requests for information, or where there had been no news of progress in official inquiries opened into the alleged ill-treatment for a considerable period of time. During the October 1991 meeting the Prime Minister gave assurances that he would ask for a thorough examination of each of the cases described in the memorandum and that Amnesty International would be informed of the results.

The Prime Minister's office responded immediately to Amnesty International's February letter and stated that, following the October 1991 meeting, the Ministry of Justice had been asked to review in detail the cases described in the memorandum. The investigation was taking some time because the information had to be collected through local authorities and the relevant courts of justice but it was expected that the necessary information would soon be available.

On 20 February Amnesty International received a letter from the Minister of Justice, together with a copy of a note dated 13 February which the Minister had addressed to the office of the Prime Minister. The note listed the information so far sent to the Ministry by the Procurators General responsible for the judicial areas in which the cases of alleged ill-treatment described in Amnesty International's memorandum had occurred.

In some cases the Ministry had still not received a response from the Procurator General concerned; other procurators had apparently so far provided only information already described in Amnesty International's memorandum. However, new information was supplied concerning developments in judicial inquiries opened into allegations of ill-treatment in Milan in 1988 and in Fuorni Prison, Salerno, in December 1990 (see below).

In his letter the Minister stressed that the omissions and delays in the replies were principally the result of various institutional processes and the length of time required by the various judicial offices to complete the inquiries and the criminal prosecutions which had been opened. He informed Amnesty International that he had given strict instructions for these institutional processes to be speeded up as much as possible so that the information required could be available in the shortest possible time.

On 16 March Amnesty International wrote to the Minister expressing the hope that the organization would receive more comprehensive information on all the cases described

in its memorandum as soon as possible. It also drew the Minister's attention to the allegations of ill-treatment emanating from Sollicciano prison, Florence (see below) and the lack of response from his office, from the Director General of Prison Administration and from the judge of surveillance responsible for Sollicciano prison to the inquiries which Amnesty International had made about the allegations during 1991. The letter also expressed concern about reports which Amnesty International had received about the alleged ill-treatment and death of Alessandro Ruver in Rome in February 1992 (see below) and about the alleged ill-treatment of Daud Addawe in Rome in March 1992 (see below).

Alleged torture and ill-treatment in Fuorni Prison, Salerno (Update to information given in AI Index: EUR 01/01/91)

In its memorandum to the Italian government Amnesty International had described its concern about the alleged torture and ill-treatment of inmates of Fuorni prison during a search operation apparently carried out by between 100 and 150 masked prison guards on 15 December 1990. Prisoners claimed that the guards forced them to strip and perform press-ups and repeatedly kicked and beat them with truncheons and batons. They alleged that they were held in a common room and made to kneel, facing the wall, with their arms in the air and were beaten if they turned. They also alleged that some prisoners were sodomized with broom handles and that younger prisoners were forced to spit at and slap elderly prisoners.

It was claimed that in the days immediately following the search the prison infirmary issued around 100 medical certificates recording injuries which the medical staff estimated would require three, four or five days to heal. It was also claimed that one prisoner lost an eye, one sustained a burst ear-drum, one had the bones of one hand smashed and another had several teeth broken. Four or five prisoners were reportedly hospitalized but in January 1991 there were allegations that other injured prisoners had received inadequate medical treatment.

The communication which the Minister of Justice sent to Amnesty International in February 1992 said that on 23 January 1992 the Salerno Procurator General had informed the Minister of Justice that the legal proceedings relating to the alleged incidents at Fuorni prison were transferred to the judge for the preliminary investigations (*giudice degli indagini preliminari*) with a request that they be "partially archived" ("*richiesta di archiviazione parziale*"); the dossier had since been requested by the Public Prosecutor for further investigation.

On 30 April the United Nations Committee against Torture, meeting in Geneva, considered Italy's first periodic report on its implementation of the provisions of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture). The Committee asked the Italian delegation to provide information on the current stage of the investigation into the serious acts of ill-treatment which had allegedly occurred at Fuorni prison. The delegation stated that the judicial investigation was still under way but that the Department of Prison

Administration had taken administrative measures against two prison officers. The Committee asked to be informed of the outcome of the judicial investigation and of any criminal prosecutions arising from it when Italy presented its second periodic report, due in two years' time.

Judicial inquiry into the alleged ill-treatment of 47 or more detainees in Milan, 1988 (Update to information given in AI Index: EUR 03/01/89 and EUR 03/02/89 and the Amnesty International Report 1989 to 1991).

In its memorandum to the Italian government, Amnesty International had described reports which appeared in the Italian press during April 1988 stating that earlier that month a dossier had been sent to the Milan Public Prosecutor's office by the medical staff of San Vittore prison, Milan. It was said to record an alarming increase over the immediately preceding months in the number of prisoners requiring medical treatment on arrival at the prison for injuries consistent with physical ill-treatment. In a few cases the prisoners' injuries apparently required several days' treatment in the prison's hospital wing.

The press reports claimed that the Public Prosecutor's office had received the cases of approximately 47 detainees, the majority of them North African immigrants, who had been transferred to San Vittore prison after spending short periods in the custody of either the police, the *carabinieri* or the *guardia di finanza* (customs and excise officers). The names of the detainees were not reported.

The press also reported that the Public Prosecutor's office had opened a judicial inquiry into the alleged ill-treatment in April 1988. The inquiry was apparently to investigate not only the treatment the prisoners received while in the custody of the law enforcement agencies but also their treatment by the San Vittore prison guards immediately after their arrival at the prison.

No reply was ever received to letters of inquiry which Amnesty International sent to the Italian authorities during 1988 seeking confirmation of the opening of the investigation and asking to be informed of its progress and eventual outcome.

The communication which the Minister of Justice sent to Amnesty International in February 1992 contained the following information.

The Public Prosecutor's office in Milan started a judicial investigation in May 1988 concerning injuries allegedly suffered by detainees at the hands of law enforcement agents and noted by the medical staff of Milan prison when the detainees were medically examined on their entry to the prison.

The medical staff of San Vittore prison had not in fact sent a dossier to the Public Prosecutor's office. The Public Prosecutor's office had, however, decided to appoint a magistrate to examine various reports which it had been sent by the office of the prison director whenever a prisoner stated during the medical examination that he had been ill-treated by law enforcement agents.

The inquiry was to establish whether the various single incidents alleged indicated a common practice of ill-treatment by the various law enforcement agencies. The inquiry was also to clarify the extent and origin of any ill-treatment and establish whether the law enforcement agents might be using violence to force detainees "to cooperate". This

possibility was to be explored "because the common element apparently linking the various episodes of alleged violence against Italian and foreign nationals at the time of, or immediately after, arrest seemed to be the particular kind of crime for which they had been arrested - connected in the great majority of cases with drug-trafficking."

The investigation continued until the new Code of Criminal Procedure came into force (October 1989). It concluded that there was "no proof of a general tendency by the police to use gratuitous violence against detainees, including in cases involving foreign citizens". The investigation also concluded that in the great majority of cases of alleged ill-treatment where injuries had been observed during medical examinations, the detainees' injuries "were attributable to acts of violence or resistance towards a state officer...". On looking into these cases the investigation found that "virtually all of these detainees had already been convicted on such charges" shortly after arrest by a court using a summary procedure (*rito direttissimo*¹). In some cases the medical certificates attached to the reports sent by the office of the prison director "lacked supporting evidence of the alleged ill-treatment". In such cases and in cases where the prognosis for the injuries recorded was given as one or two days, where the detainee in question had made no formal request to press charges, the prosecutor's office requested the investigating magistrate to archive the proceedings.

The investigation was pursued in cases where the alleged victim had made a formal request to press charges and "in the objectively most serious cases, regardless of whether a formal request to press charges had been made or not. As a result of the summary investigations - apart from cases which were closed with a request for a decision to archive the proceedings or ended with a ruling to stop proceedings (*sentenza di non doversi procedere*) - committal for trial was requested in the following cases."

◆ One police officer serving with the sixth division of the Milan police was committed for trial on the offences of causing aggravated light physical injuries (*lesioni personali lievi*) to and making a false declaration against Soje Diop, a Senegalese national. On 19 March 1990 Milan Tribunal convicted the officer and sentenced him to nine months' imprisonment with a conditional suspension. No date has yet been fixed for the hearing of his appeal against the sentence.

◆ Four carabinieri formerly serving with the third 'Lombardia' battalion of Milan were committed for trial on an offence of aggravated physical coercion (*violenza privata aggravata*) against Giovanni Stella, an Italian national. The prosecutor requested that a charge of causing light personal injuries against the alleged victim should not be proceeded with because the alleged victim had failed to present a formal request to press charges.

¹Accelerated trial proceedings under the Code of Criminal Procedure in force until October 1989, omitting the instruction phase. Applied to defendants arrested *in flagrante* where no special investigation was considered necessary. After a summary interrogation by the Public Prosecutor such detainees could then be brought immediately before a trial judge.

♦ One police officer serving with the sixth division of the Milan police was committed for trial on an offence of aggravated physical coercion and aggravated light personal injuries against Andrea Dapò, an Italian national.

The Procurator General stressed to the Minister of Justice that "the investigation was made public for specific purposes" to remind the law enforcement agencies "of the need to respect the rules of civilization and to fulfil the duties of correctness in carrying out their functions. They should also be informed about the new practice initiated by the prison authorities which made the judicial authorities responsible for evaluating any anomalous behaviour during arrests, regardless of whether the possible victim ... had pressed charges or not".

The Procurator General also stated that "after the news of the investigation was made public" - the investigating office became convinced that "in more than a few cases where detainees, in particular North African and South American nationals", had alleged ill-treatment but where there was "no objective supporting evidence" - the alleging of ill-treatment became "a sort of ritual practice aiming at vindictive retaliation" against the arresting officers.

Further allegations of ill-treatment in Sollicciano Prison, Florence (Update to information given in AI Index: EUR 01/02/91)

Amnesty International was concerned by a letter, apparently written by prisoners held in the female wing of Sollicciano prison, which was published in the Florence edition of the national daily newspaper *La Repubblica* on 21 December 1991. The letter alleged that both male and female prisoners held in Sollicciano were regularly subjected to unprovoked physical attacks by groups of prison guards armed with batons and claimed that the prison administration was ignoring the situation.

During April and May 1991 inmates of Sollicciano prison had alleged to the relevant judge of surveillance² and to the Director General of Prison Administration, as well as to the press and members of the national and regional parliaments, that prison guards regularly subjected prisoners to ill-treatment, including beatings (see AI Index: EUR 01/02/91). The majority of the allegations concerned prisoners of North African origin, constituting some 40 per cent of the prison's population. The director of Sollicciano prison subsequently informed the press that the judge of surveillance was responsible for investigating the allegations.

Following the allegations of April and May 1991 Amnesty International wrote to the judge of surveillance, the Minister of Justice and the Director General of Prison Administration, seeking confirmation that an investigation was being carried out into the allegations of ill-treatment, and cooperation in communicating to the organization the

²a magistrate with - inter alia - specific responsibility for monitoring the treatment of the inmates of prisons under his/her charge.

progress and eventual findings of any such investigation and of any eventual judicial or administrative proceedings arising from it. No replies were received to Amnesty International's letters.

On 7 February 1992 Amnesty International therefore wrote again to the Italian authorities, asking to be informed of the steps taken to investigate the allegations of ill-treatment made by both male and female inmates of Sollicciano prison. A letter which Amnesty International sent to the Minister of Justice in March 1992 (see above) also drew attention to the allegations of ill-treatment in the prison and the lack of response to the organization's requests for information.

On 30 April the UN Committee against Torture, during its consideration of Italy's first report on its implementation of the provisions of the UN Convention against Torture, asked the Italian delegation for information on the allegations of ill-treatment emanating from Sollicciano prison, specifically whether an investigation had been completed and whether it had resulted in any criminal prosecutions.

The Italian delegation stated that an investigation had been opened by the Department of Prison Administration in April 1991 and that the resulting report had been sent to the relevant Prosecutor General on 17 July 1991. However, on 18 December 1991 the Prosecutor General had declared that he would not be proceeding further because he had not found any evidence of criminal responsibility. The judicial inquiry was then closed.

The alleged ill-treatment of Alessandro Ruver in Regina Coeli prison, Rome

Amnesty International was concerned by press reports regarding the alleged ill-treatment of Alessandro Ruver by a prison guard in Regina Coeli prison, Rome, during the last week of January 1992 and his subsequent death on 6 February 1992.

According to these reports, Alessandro Ruver was arrested while in the act of purchasing heroin and committed to Regina Coeli prison, Rome, on 27 January 1992. His mother and sister claimed that when they visited him in the prison on 31 January he was covered in bruises and had to use a wheel-chair to move about. He indicated a prison guard standing nearby and said that the man had attacked and beaten him. However, the family claimed that another prison guard informed them he had received the injuries during a fight between prisoners. One newspaper report noted that no such incident was, however, recorded in the prison's disciplinary records. The newspaper also related that, after Alessandro Ruver's death, the Director of Regina Coeli prison sent a report to Diana De Martino, the Deputy Public Prosecutor (*Sostituto Procuratore della Repubblica*) investigating the circumstances of the prisoner's death, which stated that during his imprisonment Alessandro Ruver had accidentally fallen out of his bed, thus suffering the injuries seen by his relatives.

Alessandro Ruver was due to appear before Rome Tribunal in connection with the drugs offence on an unspecified date some time after 27 January but the court received a

note from Regina Coeli prison stating that the prisoner was unable to appear because he was in a "confused state" (*stato confusionale*).

On 3 February Alessandro Ruver's sister returned to Regina Coeli prison but was informed that her brother had been transferred to San Giovanni Hospital, Rome. At the hospital the family apparently discovered that this was Alessandro Ruver's second admission to the hospital since his imprisonment. The hospital informed the family that he was dying from "fulminant meningitis". Alessandro Ruver died at San Giovanni hospital on 6 February.

Following the family's allegations, Rome Deputy Public Prosecutor Diana De Martino opened an investigation into the alleged ill-treatment of Alessandro Ruver and the circumstances surrounding his death. In the context of this investigation she ordered that the body of Alessandro Ruver be exhumed and a new autopsy carried out.

Amnesty International was concerned by the reports of the contradictory explanations given by prison officials for the injuries which Alessandro Ruver's family claim to have observed on his body when they visited him at Regina Coeli prison on 31 January and is seeking information from the relevant authorities regarding the findings of any autopsy carried out at San Giovanni hospital immediately after Alessandro Ruver's death as well as the findings of the new autopsy. Amnesty International has also asked to be informed of the progress and eventual outcome of the judicial investigation.

On 30 April the UN Committee against Torture, during its consideration of Italy's first report on its implementation of the provisions of the UN Convention against Torture, raised the case of Alessandro Ruver with the Italian delegation. The delegation stated that both an administrative and a judicial inquiry had immediately been opened into the circumstances of Alessandro Ruver's death and were still under way. The Committee asked to be informed of the outcome of the investigations and of any resulting criminal proceedings, when Italy presented its second periodic report.

The alleged ill-treatment of Daud Addawe Ali in police custody, Rome

Amnesty International sought information from the Italian authorities about official steps being taken to investigate the alleged ill-treatment of Daud Addawe, a 34-year-old Somali national, in police headquarters in Rome on 3 March 1992.

It was reported that on the morning of 3 March Daud Addawe, an asylum seeker from Somalia, who had been resident in Italy since leaving Mogadishu approximately a year previously, went to the aliens' registration office located in the headquarters of the Rome police, in order to renew his residence permit.

When the office opened for business Daud Addawe, along with a number of other people who had been waiting in the long queue which had formed in the street outside, jostled to get into the small reception area. According to press reports of an eye-witness account, a female police officer, noticing a disturbance, approached and blamed Daud Addawe for creating the disturbance. An argument then apparently ensued in which some male police officers became involved and which ended in an exchange of blows. It was

reported that a police officer received injuries requiring up to three days to heal as a result. Four police officers then escorted Daud Addawe to a room on the floor below.

A trade union official, who was in the police station by chance on the morning of 3 March, later informed the press that she heard shouts and cries for help coming from the room where Daud Addawe had been taken. At about 1pm a Red Cross ambulance arrived at the police station and Daud Addawe was taken to Santo Spirito hospital under arrest and apparently in an unconscious state. At the hospital he was reportedly given heart massage to resuscitate him and put on an intravenous drip; a medical certificate was also issued recording a trauma to his head and bruising to his left leg and to his thorax.

The medical certificate also reportedly recorded that he should be sent to the clinic of Regina Coeli prison for observation. He was transferred to the prison later that day, apparently under investigation on a charge of insulting an officer of the state (*oltraggio a pubblico ufficiale*), resisting arrest and injuring an officer of the state. Daud Addawe's sister visited the prison within approximately 24 hours of his arrest and subsequently informed the press that he was being held in a normal cell and not in the prison clinic, that he was limping and in a confused state, suffering severe pain and had bruises all over his body. On 5 March two members of parliament addressed written questions to the Ministers of Justice and the Interior, in which they requested an inquiry into the behaviour of the police officers involved in the reported incidents.

Daud Addawe was released from prison on 20 March. He alleged to a doctor who examined him on 25 March that police officers had struck him to the ground with batons and that he had received blows to the thorax, back, wrists and legs and that his head was repeatedly knocked against a wall. The medical examination apparently found evidence of recent injuries to his head, wrists and legs, together with possible neurological damage. Daud Addawe is making a formal complaint of ill-treatment against the police.

On 30 April the UN Committee against Torture, during its consideration of Italy's first report on its implementation of the provisions of the UN Convention against Torture, drew the attention of the Italian delegation to the apparently serious injuries suffered by Daud Addawe and the existence of a medical report issued after his release from prison. The delegation stated that, according to information supplied by the relevant authorities, Daud Addawe had become impatient at being kept standing in a queue outside the aliens registration office and had tried to force his way to the front of the queue. When a police officer tried to stop him he reacted very violently and more police officers intervened to physically restrain him. However, this had apparently inflamed him even more. After this violent episode the police officers had taken him into the police station, placed him under arrest and laid charges against him. However, the detention order was later annulled and Daud Addawe was therefore released from prison. The Committee asked to be informed of any official investigation into the alleged ill-treatment and of any resulting criminal prosecutions when Italy presented its next periodic report.

Delay in introduction of new legislation on conscientious objection to military service (update to information given in AI Index: EUR 01/02/91)

On 16 January the Senate (upper chamber of parliament) approved draft legislation replacing Law 772, the current law governing conscientious objection to military service and passed it on for the final approval and signature of the President of the Republic. However, the President refused to sign the draft law and on 1 February sent it back to parliament for further consideration of its constitutional and financial implications. The draft law proposed, *inter alia*, widening the grounds on which conscientious objector status might be granted, reorganizing alternative service and reducing its length from the 20 months set down in Law 772³ to 15 months, making it three months longer than ordinary military service. The draft law stipulated that the 15 months of alternative civilian service should begin with a three-month training period - to include general training for the type of employment to which the objector would be assigned and further training within the specific institution or organization in which he would carry out the major part of his service. The draft law made no provision for individuals to claim conscientious objector status after incorporation into the armed forces.

On 2 February the President dissolved parliament and called general elections for 5 and 6 April. In March, after a number of unsuccessful attempts to pass an amended text through parliament sitting in extraordinary session, parliament agreed that new legislation on conscientious objection to military service would be a matter for urgent discussion by the next legislature.

³In practice, recognized conscientious objectors have been allowed to terminate their civilian service after 12 months since the Constitutional Court ruled in July 1989 that the eight-month difference between military and alternative service laid down in Law 772 was punitive to conscientious objectors.

KAZAKHSTAN

The first Amnesty International visit to Kazakhstan took place in April. The delegation discussed the organization's concerns with senior government officials and had meetings with a range of other people.

The death penalty

The Kazakhstan Criminal Code retains the death penalty for 18 offences. The Amnesty International delegation was informed by senior officials at the Ministry of Justice, however, that no one has been executed for economic crimes in the past 10 years. The delegates were shown statistics which revealed that between 1987 and 1991 the death penalty had been applied for only four offences: murder under aggravating circumstances, rape, threatening the life of a police officer, and banditism.

In 1991, 66 people were sentenced to death for murder, and one person for threatening the life of a police officer. To date 26 of those death sentences have been commuted. The figure for the number of executions carried out in 1991 was not made available to Amnesty International. Execution is by shooting.

Officials of the Interior Ministry informed the delegation that people under sentence of death are held in a number of locations in Kazakhstan. The delegates visited the death row at an investigation-isolation prison in the capital, Alma-Ata, and briefly interviewed six of the people being held there. Subsequently, Amnesty International appealed for commutation of their death sentences. Three of the six, all of whom had been sentenced for murder, had already exhausted the appeals process, and were awaiting the results of petitions to the President for clemency.

Legislative review

State Adviser Yury Khitrin told the Amnesty International delegation that a general revision of the criminal code would take place after the adoption of a new Constitution, which is expected in late 1992 or early 1993. A commission headed by the Chairman of the Supreme Court is already working on this revision. The existing Criminal Code of Kazakhstan dates from 1959.

Justice Ministry officials confirmed that Article 56, "anti-Soviet agitation and propaganda", had been abolished by decree of the Kazakhstan Supreme Soviet in 1989. This had been used widely in the past in the USSR to punish those expressing views politically unacceptable to the authorities, and the officials noted that the last conviction for this offence had been in 1986. They confirmed that Article 170-1 ("circulation of fabrications known to be false which defame the Soviet state and social system") had also been abolished.

The officials explained that two articles which had specifically circumscribed freedom of religion - Article 130 ("violation of laws on separation of church and state and of church

and school") and Article 200-1 ("infringement of person and rights of citizens under appearance of performing religious ceremonies") - had been automatically rendered invalid by the entry into force in January 1992 of a new law on freedom of faith and religious association.

Article 66 of the Kazakhstan Criminal Code, which punishes refusal to respond to call-up for compulsory military service, remains in force. The State Adviser informed Amnesty International that the question of introducing alternative service was being considered in the context of discussions about a new law on military service by a working group attached to the Supreme Soviet. The new legislation is expected to be passed in early 1993.

Laws defending the honour and dignity of the President and people's deputies

The Amnesty International delegation expressed concern about Articles 170-3 and 170-4, which were added to the Kazakhstan Criminal Code in June 1991. Article 170-3 punishes "infringement upon the honour and dignity of the President of the USSR [and] the President of the Republic of Kazakhstan" by up to six years' imprisonment, while Article 170-4 punishes "infringement upon the honour and dignity of a people's deputy" by up to five years' imprisonment. Amnesty International is concerned that these laws may contravene the right of individuals to freedom of expression.

Homosexuality

The first part of Article 104 of the criminal code prohibits consenting homosexual activity between adult males. However, Justice Ministry officials told the Amnesty International delegation that in practice consenting homosexual activity between adult men in private was not punished.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of the Republic of Kazakhstan, Nursultan Nazarbayev, welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

State Adviser Yury Khitrin informed Amnesty International in April that Kazakhstan plans to ratify these international human rights instruments. Kazakhstan is currently taking part in discussions which are being coordinated by the Russian Federation Ministry of Foreign Affairs concerning the accession of the members of the Commonwealth of Independent States to international treaties and instruments to which the USSR was party.

By special decree of the **Kazakhstan Supreme Soviet**, pending independent ratification **Kazakhstan** considers itself bound by the treaty obligations of the former **USSR**.

KYRGYZSTAN

The first Amnesty International visit to Kyrgyzstan took place in April. The delegation discussed the organization's concerns with senior government officials and also had meetings with people outside official circles.

The death penalty

The Minister of Justice, Usup Mukambayev, informed the Amnesty International delegation that the Criminal Code of Kyrgyzstan retains the death penalty for a total of 32 offences. It is planned to reduce this to three or four offences in a new penal code currently in preparation. The Procurator General, Cholpon Bayekova, noted that in current practice death sentences are passed only for murder under aggravating circumstances.

Justice Ministry officials made available to Amnesty International statistics for the number of death sentences passed and carried out between 1987 and 1991. These showed that on average eight death sentences had been passed annually between 1987 and 1990, and that all of these had been carried out. In 1991 the number of death sentences rose sharply to 21, seven of which have already been carried out. The head of the Clemency Department in the President's Office, Ainabek Kachkynbayev, informed Amnesty International that three of the death sentences passed in 1991 had been commuted, leaving 11 people currently on death row.

Amnesty International obtained detailed information about two men currently under sentence of death. They were convicted of murders committed during intercommunal violence in June 1990 between Kyrgyz and Uzbeks in Kyrgyzstan's Osh region. Their sentences have already been upheld by the Supreme Court of Kyrgyzstan, and they are awaiting the outcome of appeals to the President for clemency. Amnesty International has called on the Kyrgyzstan authorities to commute these and all other death sentences in the republic.

Amnesty International was informed that previously people sentenced to death in Kyrgyzstan were executed in Alma-Ata, the capital of neighbouring Kazakhstan. This practice was discontinued by the Kazakhstan authorities after both republics gained full independence at the end of 1991. Since then, no one has yet been executed in Kyrgyzstan.

Review of the Criminal Code

The Justice Minister told the Amnesty International delegation that a working group, headed by the Chairman of the Supreme Court, is preparing a general revision of the criminal code. This is not expected to be ready until early 1993.

The Minister confirmed that Article 64 of the criminal code, "anti-Soviet agitation and propaganda", had been abolished. This had been widely used in the USSR to punish those expressing views politically unacceptable to the authorities, but the Minister declared that no

one had been convicted under this article in Kyrgyzstan since the existing criminal code came into force in 1961.

Two articles which specifically circumscribe freedom of religion - Article 141 ("violation of laws on separation of church and state and of church and school") and Article 136-1 ("infringement of person and rights of citizens under appearance of performing religious ceremonies") - remain in the criminal code at present but are in abeyance. Also no longer in use is Article 77, which punished illegal exit abroad.

Conscientious objection to military service

In March Amnesty International wrote to the Chairman of the State Committee for Defence Affairs, Major-General Dzhanybek Umetaliyev, raising its concerns about the rights of conscientious objectors to military service. The Justice Minister confirmed to Amnesty International in April that Article 74 of the criminal code, "evasion of regular call-up to military service", remains in force, and was last used in 1990. A project to introduce alternative service is currently being worked out by the State Committee for Defence Affairs.

Homosexuality

The first part of Article 112 of the criminal code punishes consenting homosexual activity between adult males. The Justice Minister told the Amnesty International delegation that decriminalizing such actions would be considered when this article is revised. Other Justice Ministry officials informed Amnesty International that no criminal cases had been brought under this article in 1991, but that there had been convictions in 1990.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of the Republic of Kyrgyzstan welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

First Deputy Minister of Foreign Affairs Marat Saralynov informed the Amnesty International delegation that Kyrgyzstan is currently taking part in discussions which are being coordinated by the Russian Federation Ministry of Foreign Affairs concerning the accession of the members of the Commonwealth of Independent States to international treaties and instruments to which the USSR was party. These discussions are due to conclude in May 1992.

LATVIA

The death penalty

Amnesty International continued to call for an immediate moratorium on all death sentences and executions in Latvia and for the commutation of any pending death sentences, including that of Aleksey Volkov, an ethnic Russian who, according to unofficial sources, was sentenced to death in the Republic of Latvia on 11 September 1991 after being convicted of murder. The organization also urged that the abolition of the death penalty be enshrined in the new constitution, and reflected in the new criminal code currently being revised.

In letters to the Minister of Justice in November 1991 and to the Chairman of the State Committee for Statistics in January, Amnesty International urged that statistics on the use of the death penalty be published, as recommended by Resolution 1989/64 of the United Nations Economic and Social Council and echoed at the second Conference on the Human Dimension of the Conference on Security and Cooperation in Europe. The organization also requested information on the number of people currently under sentence of death and asked what stage had been reached in any appeals or petitions for clemency on their behalf.

In a reply received in February the Ministry of Justice informed Amnesty International that the death penalty was currently in force for nine different offences committed under aggravating circumstances. A committee of lawyers and members of the Supreme Soviet has been set up to review the criminal code, including the question of whether the death penalty should be retained or abolished. According to the letter nine people were sentenced to death in 1989, five were executed and one was granted clemency; in 1990 five people were sentenced to death, three were executed and one was granted clemency; in 1991 four people were sentenced to death, three of whom were executed. All those sentenced to death and executed had been convicted of premeditated murder under aggravating circumstances. In April Amnesty International wrote to the Ministry of Justice asking for clarification of the nine offences which still carry the death penalty. The organization also asked whether the death penalty can be used in cases where a person is ruled to have been mentally ill at the time the offence was committed or at the time of the court judgment of the case, and whether a death sentence is commuted in the case of a woman who is pregnant at the due time of execution. Finally, the organization asked whether persons charged with one of the offences which carry the death penalty are automatically tried before the Supreme Court as the court of first instance, and if so whether these persons have the right to appeal against a decision of the court to convict them, as guaranteed, for example, by Resolution 1984/50 of the United Nations Economic and Social Council.

In March Amnesty International received a reply from the Chairman of the State Committee for Statistics in which it was stated that the death penalty cannot be imposed on persons under the age of 18, or on women who were pregnant either at the time the offence was committed or when the sentence was passed. According to the reply, information on

the use of the death penalty will henceforth appear regularly in the Statistical Yearbook of the Republic of Latvia.

Conscientious objection to military service

In January Amnesty International wrote to the Latvian Minister of Defence and repeated its concern, first expressed in a letter to Anatolijs Gorbunovs, Chairman of the Supreme Council of the Republic of Latvia (see AI Index: EUR 01/02/91) in April 1991, about the length of alternative service. In a reply received in March the Minister of Defence agreed that the length of both alternative and military service should be the same. He also stated that the Ministry was currently working on a draft for a new law which should reflect this.

LITHUANIA

The death penalty

In November 1991 Amnesty International wrote to the Minister of Justice setting out its unconditional opposition to the death penalty and asking for confirmation that no person was currently under sentence of death. The organization urged that information regarding the use of the death penalty be published.

In a letter received in January the Ministry of Justice stated that on 3 December 1991 the Supreme Council had adopted an amendment to the criminal code, in accordance with which only premeditated murder under aggravating circumstances carries a possible death sentence. Persons under 18 at the time the crime was committed, as well as women pregnant at this time are exempted from the death penalty. Persons who develop limited responsibility after sentencing, as well as women who become pregnant or who give birth after sentencing, may not be executed. According to the reply three people had been sentenced to death in Lithuania since March 1990. All three people had been convicted of murder and had had their sentences commuted. The Minister of Justice also informed Amnesty International that statistics regarding convicts and the penalties imposed on them are made available to the public. Furthermore, the issue of the death penalty was being considered in discussions taking place over the drafting of a new criminal code.

In April Amnesty International wrote to the authorities asking for clarification as to whether the death penalty could be imposed in cases where a person was ruled to have been mentally ill or mentally retarded at the time the offence was committed or at the time sentence was passed. The organization also asked whether persons charged with premeditated murder under aggravating circumstances, the one remaining offence which may carry the death penalty, are automatically tried before the Supreme Court as the court of first instance, and if so whether these persons have the right to appeal against a decision of the court to convict them, as guaranteed, for example, by Resolution 1984/50 of the United Nations Economic and Social Council.

Ratification of international human rights instruments

In December Kazimieras Motieka, one of the Deputy Chairmen of the Supreme Council, wrote to Amnesty International affirming the Republic of Lithuania's commitment to international human rights standards. In its reply of January Amnesty International welcomed Lithuania's recent accession to international human rights treaties and expressed the hope that Lithuania would soon consider acceding to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto.

LUXEMBOURG

Prolonged solitary confinement of prisoners

In March Amnesty International wrote to the Luxembourg authorities expressing its concern at allegations it had received that some prisoners in Schrassig Prison had been kept in total isolation for prolonged periods of time.

One prisoner, Jean-Marc Mahy, claimed in a letter to the organization that he had spent 36 months, from April 1987 until March 1990, in solitary confinement. According to other information received by Amnesty International, a number of prisoners are currently being held in isolation for periods of between two and three months. It is alleged that prisoners kept in isolation spend 23 hours per day in their cells and are transferred for one hour a day into another cell where they exercise alone. Isolation is reportedly used by the prison authorities for disciplinary reasons. Amnesty International is concerned that prolonged isolation may have serious effects on the physical and mental health of prisoners and may constitute cruel, inhuman or degrading treatment.

In its letter to the Minister of Justice the organization sought information about the use of isolation by the Schrassig Prison authorities and about the procedures which exist for monitoring and alleviating the physical and psychological effects of prolonged isolation. The Minister of Justice stated in a reply in April that the points raised in Amnesty International's letter would be examined in detail and that the organization would be contacted again in due course.

MOLDOVA

The death penalty

In April the President of the Republic of Moldova, Mircea Snegur, wrote to inform Amnesty International that on 1 April parliament had introduced an amendment to the criminal code whereby the death penalty was abolished for economic crimes, counterfeiting, violation of rules for currency transactions, espionage, and evading mobilization in time of war. The amendment also exempted from the death penalty all women, and men under the age of 18. Previous legislation already exempted persons under 18.

The death penalty is retained for murder under aggravating circumstances, rape of a minor aged under 14, making an attempt on the life of a police officer, and for various serious military offences. Previously, the criminal code prescribed the death penalty for 18 different offences in peacetime. Amnesty International had repeatedly urged the Moldovan authorities to reduce the scope of the death penalty as a step towards total abolition, and to impose a moratorium on death sentences and executions pending a review of this punishment.

Details on the application of the death penalty remain meagre in the absence of official statistics. However, a member of the parliamentary Commission on Human Rights and Nationalities, in an interview published on 10 December, stated that "unfortunately the death penalty is used quite frequently in our republic. On 21 June 1991 there were 10 people on death row in Chisinau [the capital]".

In a letter in April to the Minister of Justice, Vasily Volosyuk, Amnesty International welcomed the recent admittance of Moldova to membership of the United Nations and to the Conference on Security and Cooperation in Europe, and urged publication of official death penalty statistics in line with resolutions passed by both these bodies.

Conscientious objection to military service

In July 1991 Moldova became one of the first republics of the former USSR to introduce a civilian alternative to military service. Amnesty International understands that the law on alternative service states that "citizens of the Republic of Moldova have the right to refuse to do military service on religious, pacifist or political grounds"; that the alternative service is outside the armed forces; and that its length is 24 months, the same as for military service.

In April Amnesty International wrote to the Minister of Defence, Lt-General Ion Grigore Costas, in connection with remarks attributed to him by the *Interfax* news agency the previous month which indicated that he was dissatisfied with the high numbers of young men applying for alternative service, and which quoted the head of the department for alternative service, Anton Skudilenko, as saying that the number of young men enlisted for such service would be reduced to not more than 5% of the total number of conscripts. Amnesty International sought assurances that conscientious objectors to military service would continue to be offered a fully civilian alternative, of a non-punitive nature. The organization

also requested a copy of the law on alternative service, and details about the procedures for applying it. A similar letter was sent to the President in his capacity as Commander-in-Chief of the armed forces.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of the Republic of Moldova welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed its hope that the Republic of Moldova would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

THE NETHERLANDS ANTILLES AND ARUBA

Allegations of torture and ill-treatment by the police

In November 1991 Amnesty International wrote to the Kingdom Minister for Justice and Netherlands Antilles and Aruban Affairs in connection with the allegations of torture and ill-treatment of criminal suspects which had been received from the Netherlands Antilles and Aruba, two of the three autonomous countries within the Kingdom of the Netherlands. Copies of this letter were sent to the Ministers of Justice in the Netherlands Antilles and Aruba.

The allegations in the Netherlands Antilles concerned a number of individual cases received since 1989, such as that of Henry K. Every who was found dead on arrival at the St Elisabeth Polyclinic in Curaçao in June 1990 after police allegedly kicked and beat him in the street during his arrest. On 12 February 1990 Leroy Neil, a Jamaican, died in Curaçao jail of a reported stomach infection. Fellow prisoners stated that he claimed that a prison officer had forced a truncheon into his anus and alleged that they had heard him screaming. Moreno Fabias alleged he was beaten by a police officer, whom he named, in Curaçao on 22 May 1991. He was obliged to seek medical assistance for his injuries and attempted to file a complaint with the court.

On 9 August 1991 the Minister of Justice in the Netherlands Antilles signed an agreement establishing a commission of inquiry into unspecified allegations of unlawful behaviour by the police. In its November letter Amnesty International asked for full details of its mandate and a description of its powers and methods of work. These were considered to be especially important in view of reports of persistent controversy over the establishment of such a commission dating back to an earlier agreement made by the Minister in July 1989, partly in response to a hunger-strike by Michael Bijkerk, a prominent lawyer in Bonaire (one of the islands of the Netherlands Antilles).

Amnesty International also received reports of serious beatings and other forms of torture and ill-treatment from people imprisoned in Aruba. José Luis Mengual Arriza was arrested on 20 October 1990. He alleged that he was kicked and beaten in the stomach and kidneys by three officers, whom he named, in the police station. After he began to spit and urinate blood he was taken to hospital where he was held for 17 days. A doctor issued a medical certificate. Ernesto Melendez, a Colombian citizen, was arrested on 18 July 1990 and interrogated by three police officers, whom he named. He alleged that they kicked and beat him, damaging his left eye permanently and also damaging the bone in his nose, thereby causing him respiratory difficulties.

Paul Glenn Potes Palacios, a Colombian citizen, was arrested in Aruba on 30 September 1990. He alleged that, while being questioned, he was beaten severely by two police officers, whom he named. He was released that same day but was rearrested and alleged he was beaten again on 2 and 6 October to force him to sign a false confession. He was subsequently imprisoned. He claimed that, although he was in pain, he received no medical assistance until two months after his arrest. Carlos Eduardo Hernandez Vinache, a

Venezuelan citizen, was arrested in November 1990 and alleged that he was severely beaten by officers in the police station of Playa. In particular, he claimed that the policemen knocked him to the floor and jumped on his body. He was admitted to hospital on 20 November for an operation for his haemorrhoids which had burst. The doctor reportedly told him that this had been caused by his treatment in the police station at Playa. Roland A. Geerman, a native Aruban, was arrested on 1 October 1990 at the airport. He alleged that two police officers, whom he named, beat him severely in order to force him to sign a false confession. During his trial he complained to the judge that he had been ill-treated and had been denied legal assistance in the police station. Reportedly no inquiry was established into any of these allegations.

Amnesty International noted that in the report submitted by the Netherlands to the United Nations Committee Against Torture in March 1990 the section on Aruba stated that "to date no complaint of torture has ever been filed in Aruba". It also described the legal mechanism to deal with complaints of torture against the police including the institution of a Complaints Commission. The Minister of Justice deals with complaints in the first instance but after that an appeal to the Complaints Commission is possible. However, the Report revealed that "...to date the Complaints Commission has not been functioning". Further complaints of ill-treatment have been received from prisoners in Aruba in recent months. Walter Ramirez Meneses was arrested on 12 July 1991 on suspicion of drug trafficking. He alleged that three or four days later he was beaten by detectives who claimed that he had made a false statement. Alan Gary Kumet was arrested on 28 August 1991 and alleged that he was beaten on two occasions. He claimed that he wished to file a complaint but did not do so because of threats from a police officer.

In February Amnesty International received a reply from the Kingdom Minister to its letter of November. The Minister pointed out that constitutionally, under the Charter of the Kingdom, each country has a duty to ensure the observance of fundamental human rights and freedoms, the rule of law and the integrity of administration. However, the protection of these rights and freedoms, which are the autonomous affairs of the countries, can also be a Kingdom affair in the event of there being no redress possible for an unacceptable situation. The Kingdom Minister said that he had requested the governments of both countries to cooperate with Amnesty International and to provide all necessary information.

The Minister of Justice of the Netherlands Antilles replied to Amnesty International in April and gave brief details of the commission's principal object which was to investigate unspecified allegations of unlawful behaviour by the police and to provide suitable recommendations. No information was given regarding the individual cases cited by Amnesty International in its November letter. No reply had been received from the Minister of Justice in Aruba by the end of April.

PORTUGAL

Trial of two police officers charged with causing bodily harm to Paulo Jorge Gomes Almeida (update to AI Index: EUR 01/02/91)

On 10 April, Dr Ernesto António da Silva Maciel, the Head of the Office of the Attorney General of the Republic, replied to Amnesty International's inquiries concerning the case of Paulo Jorge Gomes Almeida.

Officers of the Public Security Police (*Polícia de Segurança Pública - PSP*) in Oporto had been under judicial investigation after alleged assaults by officers on two young men in the street and the police station. Paulo Jorge claimed that he was thrown violently against a glass door which then broke, causing extensive injuries to his right arm which required 59 stitches and resulted in permanent and serious disfigurement.

One officer was charged with causing bodily harm, another was charged with causing serious bodily harm, applied when a person is seriously mutilated or disfigured. The Attorney General's office informed Amnesty International that, following a judicial inquiry, the case was due to be heard in the First Section of the Second Criminal Court of Oporto on 27 April. The trial took place as scheduled but the verdict will not be announced until 11 May.

Further information on the alleged ill-treatment of Isidro Albuquerque Rodrigues by the Judiciary Police in Setúbal (update to AI Index: EUR 01/02/91)

Isidro Albuquerque Rodrigues was arrested in June 1990 and charged with suspected involvement in assault, robbery and with being an accessory to murder.

In a statement to the court in Setúbal, where he was arrested, he alleged that he had been tortured for two nights by the Judiciary Police before being committed to prison.

He was taken to the prison hospital of Caxias for medical treatment to the injuries he claimed he had received while in police custody. He made a complaint to the court in Setúbal alleging that he had been stripped naked, kicked, punched, whipped with a metal shower-hose and had a bottle of shampoo forced up his anus.

In April 1991, Amnesty International wrote to the Minister of Justice requesting his comments on a number of cases of alleged torture and ill-treatment, including the case of Isidro Albuquerque Rodrigues.

A judicial inquiry was opened, based on the complaint made to the court in Setúbal, but in August 1991 Dr Marques Vidal, the Director General of the Judiciary Police, was interviewed on *Radio Comercial*. In reply to a question about reports by Amnesty International that a prisoner had been allegedly ill-treated in Setúbal by the Judiciary Police he said that the allegations had been investigated internally but it had been concluded that they were completely unfounded. Isidro Albuquerque Rodrigues was the only prisoner in Setúbal about whom Amnesty International had published allegations of ill-treatment and he subsequently wrote to the press with further details of his treatment by the police.

On 24 March the Head of the Office of the Attorney General of the Republic replied to Amnesty International's inquiries about Isidro Albuquerque Rodrigues. He confirmed that a judicial inquiry was being conducted into officers of the Judiciary Police whom Isidro Albuquerque Rodrigues had accused of assault.

Letter from the Attorney General regarding the complaint of ill-treatment made by Daniel Rodriguez Perez (update to AI Index: EUR 01/02/91)

Daniel Rodriguez Perez was arrested in April 1988 in Sto Tirso. He alleged in a statement to the court in Matosinhos in November 1988 that over a two-week period he was repeatedly beaten by officers of the Judiciary Police and the Public Security Police during questioning in Sto Tirso and in Chaves. He required hospital treatment in Sto Tirso because, according to his statement, he had been struck on the head with a pistol. The doctor attached to Chaves prison, who examined him on three separate occasions, recorded a stitched scalp-wound and bruising of differing degrees of severity to his face, chest, throat, shoulder and ears. In May 1988 the doctor registered a formal complaint as to his physical state with the court in Chaves. In July 1989 the prosecutor in Chaves (*Delegado do Procurador-Geral*) decided to file the case on the grounds of insufficient evidence.

Since August 1989 Amnesty International has repeatedly asked the Portuguese authorities to investigate Daniel Rodriguez Perez's complaints of ill-treatment. In September 1990 Amnesty International delegates interviewed him in Chaves prison and spoke to various prison and judicial officials connected with the case. In February the Attorney General wrote to Amnesty International explaining that, under Portuguese law, the judicial inquiry into Daniel Rodriguez Perez's complaint could only be reopened in the event of new evidence being received. The Attorney General referred to the organization's disagreement with the conclusions of the inquiry and, in particular, to the information which the Amnesty International delegates had obtained in Chaves which apparently conflicted with the conclusions of the inquiry. He indicated that Amnesty International should therefore send him further specific documentation on the case in order to establish whether, under the law, the inquiry could be reopened.

The alleged ill-treatment of Joaquim José de Jesus Matoso in police custody

On 12 March Joaquim Matoso was arrested in a bar in Miratejo. He was reportedly drunk and had made a scene with the owner of the bar who had refused to serve him another drink. An officer from the post of the Republican National Guard (*Guarda Nacional Republicana* - GNR) stationed in Miratejo was called to the bar. According to the report received by Amnesty International, the officer of the GNR knew that Joaquim Matoso was on parole from prison. On entering the bar, he lifted Joaquim Matoso up by the hair and then dropped him on the floor. Joaquim Matoso was then taken to the GNR post in Miratejo where he claimed he was seriously assaulted by the officers and subsequently taken to the hospital in Almada. He was examined in hospital, given a head x-ray and the following day appeared in court in Almada where he was sentenced to seven months' imprisonment.

On 14 March he was seen by a visitor to Setúbal prison and reportedly had clear signs of ill-treatment on his head and face, including split lips and numerous black marks on his

chest and back. This report was supported by an official from the Social Security who saw him in prison and agreed as to the state Joaquim Matoso was in.

Amnesty International is currently seeking information regarding the action taken by the authorities over this incident.

ROMANIA

The case of Eugenia Marie-Jeanne Curelescu

Amnesty International wrote to the Romanian authorities on 30 December 1991 about the case of Eugenia Marie-Jeanne Curelescu who was allegedly raped and beaten during the evening of 3 January 1990 at Police Station number 4 in Bucharest. Reportedly, she was charged with misappropriating pharmaceutical drugs sent from abroad and was subsequently held in prison for eight months. Reportedly, at the time of the investigation into her case Eugenia Marie-Jeanne Curelescu had informed Adrian Draguta, the official carrying out the investigation, of the rape and beating but no steps were taken to investigate her allegations. At the hospital of Jilava prison she insistently asked for a gynaecological examination, but only in the fifth month of her pregnancy was it medically confirmed.

On 23 September 1990 Eugenia Marie-Jeanne Curelescu gave birth to a child. An examination carried out by the Medico-Legal Institute on the instructions of the Military Procurator of Bucharest confirmed that the father of the child could be Sergeant Simon Tudor, the police officer who had allegedly raped her.

The Romanian Ministry of Internal Affairs informed Amnesty International on 18 February that the Military Procurator's Office was conducting an investigation into this case. Following the opening of the investigation Simon Tudor committed suicide.

Amnesty International called on the Romanian Government to adopt regulations which would specifically deal with the treatment of women in police detention, preventing further such occurrences. Amnesty International also expressed concern that Eugenia Marie-Jeanne Curelescu, as a victim of torture, should receive compensation from the State, taking into account her material responsibilities to the child, which are a direct result of her torture.

Death threats against Bishop Laszlo Tokes

Amnesty International received reports of death threats against Bishop Laszlo Tokes and his family. It is believed that threats are directed against Bishop Tokes because of his role in the Timi_oara Events in December 1989 and his ethnic origin.

In November 1991 a self-proclaimed "Romanian People's Court" accused Bishop Tokes of "defamation and denigration of Romania and the Romanian people", sentenced him to death, and offered a reward of \$150,000 to any person who carried out this punishment. Anonymous letters and telephone calls have contained death threats against Bishop Tokes as well as his wife and children. Unknown perpetrators have defaced with insulting graffiti the walls, gate and fence of the rectory in which they reside.

On 13 April Amnesty International called on the Romanian Government to take all possible measures to secure and preserve the safety of Bishop Tokes and his family. The Romanian authorities were also urged to identify and bring to justice the perpetrators of these threats and acts.

RUSSIA

The death penalty

Amnesty International has consistently pressed the government of Russia to reduce the scope of the death penalty as a step towards total abolition; to impose a moratorium on death sentences and executions pending a review of this punishment; and to publish comprehensive statistics on its application. In the period under review there have been several developments on the issue of the death penalty.

On 5 December 1991 the Russian parliament abolished the death penalty for three economic offences: speculation (Article 88), aggravated bribe-taking (Article 173) and large-scale theft of state property (Article 93-1). No amendment was mentioned for Article 87, "making or passing counterfeit money or securities" which provides for the death penalty for this offence if committed as a form of business. However, further reductions in the scope are proposed in a new draft criminal code. If passed this would limit the number of offences carrying a possible death sentence from the current 27, including 18 crimes in peacetime, to three: war crimes, genocide and premeditated, aggravated murder. In a move to limit the application of the death penalty the proposed criminal code would exempt women from this punishment, while retaining the existing exemption of minors and anyone ruled to have been insane at the time of the offence or when sentence is passed. The exact timetable for parliamentary discussion of the draft criminal code is not known.

A new law on the Russian Procuracy passed in February goes some way to addressing the previous situation whereby a death sentence, suspended during an appeal, could legally be carried out before a judicial review of a protested sentence had been completed. Article 34 of the law now states that a death sentence is stayed if the Procurator General of the Russian Federation or his/her deputy lodges a judicial protest against it. However the position with regard to procurators at lower levels is not clear. Previously procurators and court chairpersons at appointed levels had the right to suspend the execution of a protested judgement, but the law did not state explicitly that they were obliged to exercise this right in cases involving a death sentence. It is also not known if a death sentence is automatically suspended pending a petition for clemency, although unpublished guidelines from the Ministry of Internal Affairs are said to provide for such a stay of execution.

In March the Chairman of the Committee for Legislation submitted a draft amnesty for parliamentary discussion. One of the proposals was to replace pending death sentences with a 20-year sentence of imprisonment. However this is said to have provoked widespread opposition, and it was not clear if deputies had completed discussion of the draft by the end of the period under review. Russian press coverage of the debate reported that there were currently 332 people on death row in the Russian Federation.

Legislative review

As indicated above a new draft criminal code has been prepared for discussion in the Russian parliament. If passed it would incorporate many amendments that Amnesty International has long been urging. The most pertinent areas of concern to the organization are outlined below.

Freedom of conscience

In October 1991 the Russian parliament had already abolished two articles in the criminal code - 142 and 227 - which specifically circumscribed the right to freedom of religion, and under which hundreds of people had been imprisoned as prisoners of conscience. The draft criminal code would amend a third article under which many other religious prisoners were convicted: Article 80, which punishes refusal to respond to compulsory call-up for active military service. As reformulated this article in the draft carries a note explicitly stating that persons who avoid conscription in connection with their religious or pacifist beliefs are exempt from criminal responsibility. This, together with a proposed new law introducing a form of civilian alternative to military service, would be welcome moves towards ensuring that conscientious objection is recognized as a legitimate exercise of thought, freedom and conscience in line with international standards. However, the proposed law on alternative service has not yet come before parliament for discussion, and indeed criminal proceedings for evading call-up have been instigated against one of the members of the parliamentary committee drawing up the draft. It appears highly unlikely that any such provision will be available to the young men facing the current round of conscription which will last from April to June 1992.

Right to leave one's own country

In the past it was extremely difficult for ordinary Soviet citizens to obtain official permission to leave the country and would-be emigrants trying to leave illegally risked up to five years' imprisonment for "illegal exit abroad" (Article 83) or up to 15 years' imprisonment and internal exile - and even death - for "treason in the form of flight abroad or refusal to return home from abroad" (Article 64) if caught. Under the new draft there is no longer any reference to "flight abroad" as a treasonable act and the new offence of "illegal crossing of the state border" only carries a sentence of imprisonment on a repeat offence. The proposed changes mirror recent practice under which arrests of would-be emigrants dropped noticeably since the authorities began to relax their policy on leaving and entering from 1987. Amnesty International knows of no one currently imprisoned in Russia for attempting to leave the country on grounds of conscience.

Homosexuality

At present male homosexual acts, specifically sodomy, are illegal in Russia even between consenting adults. The draft criminal code would decriminalize such activity, which is

currently punishable by up to five years' imprisonment under Article 121, while continuing to penalize homosexual acts committed by use of force, threats, or against minors. During the period under review Amnesty International sought further information on the case of one person whom the organization believed may have been imprisoned under Article 121 (part 1) solely as a result of his consenting homosexual activity with an adult, consenting partner in private. *Vladimir Mironov* was arrested on 11 October 1990 and sentenced to three years' imprisonment by a Moscow court on 7 May 1991, but was eventually acquitted on 17 March 1992 after a reinvestigation of the case was ordered. The court accepted Vladimir Mironov's contention that the acts involved did not constitute sodomy, and also that police had threatened witnesses in order to obtain testimony during the preliminary investigation.

Alleged extrajudicial executions

Death of a KGB major in the Chechen Republic

In November 1991 Amnesty International expressed its concern to the Chechen and Russian authorities over allegations that Major Viktor Nikolayevich Tolstenev, of the Shelkovsky district department of the KGB (state security), had been executed extrajudicially.

On 12 November USSR Central Television reported that Major Tolstenev had been detained at a rally in Grozny, the Chechen capital, by elements in the crowd who apparently believed he was spying on them. He was shown in the custody of an officer of the Chechen special police (OMON) who stated that the major would be judged by the people rather than by a court. Major Tolstenev was taken to the KGB prison where his body was found the following day. According to one report he had bled to death from a severed carotid artery. Amnesty International understands that the Chechen procuracy was to carry out an investigation into the death, but no further details on its outcome are available. The organization urged that the investigation be comprehensive and impartial, and that the results be made public.

Deaths of allegedly unarmed demonstrators in Vilnius, Lithuania

Following the break-up of the USSR, Soviet responsibility for the investigation into the deaths of 13 allegedly peaceful, unarmed demonstrators in Vilnius (see AI Index: EUR 01/01/91) passed to the Russian authorities. As far as Amnesty International is aware, however, no proceedings have yet been opened by Russian officials against any individuals in connection with the deaths. The Lithuanian authorities have been conducting their own investigation. They have named 23 people they wish to interview but have been unable to proceed further as none is apparently still on Lithuanian territory. Amnesty International has continued to press for a full and impartial investigation, and for the results to be made public.

SPAIN

Conscientious objection to military service

Under Law 48/1984, regulating conscientious objection to military service and alternative civilian service, the right to conscientious objection may only be exercised "until the moment of incorporation into the armed forces" ("*hasta el momento en que se produzca la incorporación al servicio militar en filas*"). However, Amnesty International believes that conscientious objectors to military service are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time, both up to and after their incorporation into the armed forces. Amnesty International considers conscientious objectors who are denied this right and imprisoned as a consequence to be prisoners of conscience.

Conscripts who refuse to complete their military service on grounds of conscience and leave their military units face charges of desertion, a military offence which, until the end of 1991, carried a penalty of between three months and a day and two years' imprisonment. Amnesty International was therefore concerned by an amendment to the Military Penal Code, which came into force on 1 January 1992, increasing the penalty for desertion to between two years and four months' and six years' imprisonment.

The case of Manuel Mulero Castellano

In October 1991 Amnesty International adopted Manuel Mulero, a 19-year-old conscript from Logroño in the Rioja region, as a prisoner of conscience.

Manuel Mulero commenced his military service in Cartagena on 9 May 1991 and was subsequently posted to barracks in El Ferrol, in the military region of La Coruña. After completing two months' service he was granted an 11-day exit permit to visit his family. On his return to barracks he suffered increasingly from nervousness and severe depression and eventually concluded that further military service was incompatible with his conscientiously-held beliefs. He left the barracks on 25 July 1991 and returned to his home in Logroño.

On 30 July he sent a statement to the military judge responsible for the La Coruña region, informing him that he had left his barracks after suffering serious psychological problems and contemplating suicide. He declared his conscientious objection to military service and stated that he rejected the use of all firearms. He also informed the judge that he wished his statement to be passed on, as a formal application for conscientious objector status, to the *Consejo Nacional de Objeción de Conciencia* (the National Council on Conscientious Objection), the authorized-decision-making body.

Legal proceedings were subsequently opened against him and an arrest warrant on a possible charge of desertion was issued in his name.

In a written statement to Amnesty International Manuel Mulero explained that his objection to military service was based on ethical, humanitarian and ecological grounds. He

could not accept the idea of being taught to kill, wound or harm another human being and refused to carry arms which might harm other people. Similarly, he rejected wars and therefore armies which could wage wars and also destroy humans, animals and the environment.

Manuel Mulero was arrested in early October 1991 when he presented himself voluntarily at a police station in Logroño. On 8 October, after a brief period of detention in a military barracks in Burgos, he was transferred to the military prison of Alcalá de Henares. On 2 December he was granted a temporary release from military obligations, on health grounds, and released from prison. Although it is unlikely that Manuel Mulero will be recalled to complete his military service he still faces possible prosecution on the charge of desertion.

Allegations of torture and ill-treatment following detention of suspected members and collaborators of ETA "Bizkaia" Commando

In an operation beginning on 29 January the Civil Guards carried out numerous arrests in the Basque province of Vizcaya. The persons arrested were suspected of belonging to or collaborating with the "Bizkaia" commando of the armed Basque group, *Euskadi Ta Askatasuna* (ETA). This unit of ETA is believed to have been responsible for numerous murders of members of the security forces, bombings and robberies. Two of the persons arrested were suspected of having taken part in the murder of a police officer earlier that month.

The operation lasted from the morning of 29 January to the beginning of April and during that period it is estimated that 43 persons were arrested in connection with the operation and over 30 of them were committed to prison by the court, awaiting judicial investigation. The other persons arrested were freed without charge.

Reports have been received claiming that nearly all the persons arrested in the operation, particularly those arrested in the first week, were tortured or ill-treated while in detention. The majority of reports alleged that torture or ill-treatment took place in the Civil Guard barracks of La Salve in Bilbao and the Civil Guard General Headquarters in Madrid where the detainees were transferred in order to appear before the National Court. All of the detainees were held incommunicado for varying periods of time of up to five days under the anti-terrorist legislation.

Kepa Urrea Guridi was arrested on the morning of 29 January in Basauri. It was alleged that the Civil Guard took him into the country (*al monte*) for approximately one hour before taking him to their barracks at La Salve. Approximately eight hours after he arrived there he was transferred under escort to the Civil Hospital in Basurto. The doctor in La Salve advised this transfer after having reportedly diagnosed a strong alteration in the rhythm of his heartbeat. A preliminary medical examination noted that he was apparently in a state of shock. An examination recorded numerous injuries to his face and body including his left eye, hands and wrists, buttocks and both legs, with corresponding damage to the muscular tissue. All these injuries were diagnosed as having been caused within the previous

24 hours. A cervical collar or neck brace was fitted pending further examination of his spine. A Civil Guard detail was present in the hospital at all times. At 8.30pm on 30 January the hospital records showed that he was heard to cry out for help. A nurse went to his room where she found two armed officers of the Civil Guard and that the patient had blood in his mouth.

A further medical examination was carried out on 31 January which recorded other injuries to the face, shoulder and stomach as well as two lesions on the neck which Kepa Urrea claimed had been caused by two karate blows from Civil Guards officers before he was admitted to hospital.

In a statement to the court doctor on 31 January he claimed that all these injuries were inflicted after his arrest and before his transfer to hospital. He alleged that he was hit by officers numerous times with their fists, feet and truncheons both on the mountain and in the police station. He claimed he was stripped completely naked and hooded with a plastic bag to cause near-asphyxia and, on one occasion, he had undergone a simulated execution when a pistol was placed in his mouth.

A further report was prepared on 2 February by a judicial commission consisting of a court doctor, a judge and the secretary of the hospital. The court doctor, who wrote the report, stated that there were basically three different types of injuries to Kepa Urrea. The first set were cuts and scratches of different shapes and size. Because of the large number of them and their distribution he presumed they had been caused by sharp points such as could be found on brambles or thorn bushes. The second set were contusions which were caused by direct blows from flat-surfaced objects. The third set, which were a combination of the two, had been caused by indirect or glancing blows from flat-surfaced objects to areas with underlying bone.

Kepa Urrea was too ill to be moved from hospital to appear in the National Court in Madrid on 2 February with a group of 15 of the 19 persons first arrested. Among them was Juan Ramon Rojo who was accused with Kepa Urrea of having murdered a police officer on 14 January. Juan Ramon Rojo, who claimed to have been tortured, appeared in court wearing a cervical collar or neck brace. Many of the others, such as Aitor Olabarria, had, according to witnesses, visible marks in the form of serious bruising to their faces.

Nearly all the persons arrested alleged that they had been hooded and beaten. Many of the women complained that they had been forced to undress and had been sexually humiliated by officers who searched them and made obscene remarks and threats. One of the women, Itsaso Sevillano, was seven months pregnant. Further details were given in other cases. For example, Ana Isabel Iriate claimed she was forced to open her legs and was sexually assaulted with objects, while Lagundu Sánchez, released without charges or appearing in court, stated in a newspaper that she had been forced to dance naked in front of officers. Encarni Blanco, who was held for four days before appearing in court, stated that she suffered a vaginal haemorrhage while naked under interrogation. Her husband, Josu Eguzkitza, who appeared in court with her, appeared severely disorientated and claimed that he had been beaten and drugged.

Judicial investigations have been opened into the allegations.

Police officer acquitted of homicide of Mikel Castillo (update to information given in AI Index: EUR 01/02/91)

From 18 to 20 February Maître David Lachat of the Bar of Geneva observed on behalf of Amnesty International the trial in Pamplona of a police officer accused of homicide in September 1990. Rafael Navarro Vacas, an officer of the *Cuerpo Superior de Policía* in Pamplona had shot Mikel Castillo, a 23-year-old ETA member, during a chase. Mikel Castillo, who died later the same day in hospital (see AI Index: EUR 03/02/90), was shot in the back and it was claimed by some sections of the media and by the family, who brought an action against the police, that he was shot at close range while he was unarmed. There were conflicting police and eyewitness statements as to the circumstances leading up to the shooting and as to whether Mikel Castillo was armed or not. The policeman, who did not deny shooting Mikel Castillo, claimed that he had acted in legitimate self-defence because he could see that Mikel Castillo was armed and was attempting to shoot him during the chase - however, no shot was fired by Mikel Castillo. The weapon, which the police claimed to have been carried by Mikel Castillo, was found in forensic examination to have been jammed.

The court acquitted Rafael Navarro in full. In its judgment it argued that there was no forensic evidence which could show that Mikel Castillo was unarmed and accepted the statements made by the police and some other eyewitnesses who claimed that he was armed.

Amnesty International's concern in this case was that the circumstances of the killing should be examined fully, promptly and impartially in order to remove any possibility that it had been an extrajudicial execution.

The view of the Amnesty International observer at the hearing was that it had been satisfactorily conducted in terms of procedure and in accordance with the internationally recognized rules of procedure. On the main issue he concluded that there were elements of doubt in the outcome of the trial and that one should, in his view, apply the principle that in doubtful cases one finds in favour of the defendant (*in dubio pro reo*).

In his view, there were certain, though not necessarily decisive, areas of the investigation, such as the ballistic evidence, which were insufficiently researched. It should also be noted that from the documentation which was made available to Amnesty International it was clear that one of the central questions in the case - whether Mikel Castillo was armed or not - had been made unanswerable by the actions, deliberate or otherwise, of the authorities. None of the forensic tests carried out on Mikel Castillo's hands showed that he had handled a weapon. The decisive evidence on this point was destroyed because, according to the authorities, *both* his hands were probably washed while he was in the operating theatre at the hospital, prior to having a drip attached to his left arm. This, according to the National Institute of Toxicology in Madrid, who examined the skin from both palms, would have obliterated any possible traces of mineral oils from a weapon on his right palm.

An appeal against the verdict will be entered.

Sixteen officers and guards in the Modelo prison, Barcelona, charged with torture (update to Amnesty International Report 1991)

At the beginning of April after a two-year judicial investigation, the prosecutor of the High Court of Justice for Catalonia brought charges of torture against 16 officers and guards including the Deputy Director and senior administrator of the Modelo prison in Barcelona. The prosecutor requested penalties of five years' imprisonment for all the accused, eight years' disqualification for all the guards, rising to 10 years for the officers. He also requested financial indemnities to be paid to all the prisoners who had been injured.

On 14 May 1990 a dispute between two prisoners had developed into a violent disturbance in the fourth gallery of the prison with guards being pelted with objects including rubbish bins. The prisoner who had been the apparent originator of the dispute was transferred to an isolation cell and the disturbance was quelled. At this point, the prosecutor alleged in his charge, a group of guards led by the senior duty officer decided to remove certain prisoners from their cells.

The prosecutor alleged that they had been selected at random by the guards. They were then transferred to another gallery. In order to get there they had to pass through a group of guards who had been detailed by the officer and were waiting for them on the ground floor of the gallery.

In the course of this transfer the prosecutor alleged that 17 prisoners, many of whom had been forced to strip, were "deliberately and repeatedly" punched, kicked and beaten with rubber truncheons. The prisoners suffered numerous injuries, some requiring medical treatment.

Two senior officers were suspended in May 1990.

SWEDEN

Report of the European Committee for the Prevention of Torture

In March 1992 the Swedish Government made public the *Report to the Swedish Government on the Visit to Sweden Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*. The Committee carried out its periodic visit to Sweden in May 1991. The Committee's report concludes that persons held in police custody or imprisoned at present in Sweden "...run little risk of being physically ill-treated". However, the report does contain strong criticism of the frequent isolation of prisoners being held on remand in Sweden. While acknowledging that certain restrictions on contact between prisoners on remand may be necessary in the interests of an investigation, the Committee concluded that "...the fact that a half of the remand prisoners at Stockholm Remand Prison were subject to restrictions at the time of the delegation's visit is in itself prima-facie evidence that such restrictions are being applied too liberally". In seeking to improve the situation, the Committee has recommended to the Swedish authorities that restrictions on contact between prisoners be limited to exceptional circumstances and that decisions to isolate prisoners be reviewed regularly.

SWITZERLAND

Progress of legislation abolishing the death penalty (update to information given in AI Index: EUR 01/02/91)

On 2 March the Council of States (one of the chambers of parliament) approved, by a vote of 31 to eight, a proposed amendment to the Military Penal Code which would eliminate the death penalty from the code and thus abolish it for all offences. Under the Military Penal Code of 1927 the death penalty is applicable in time of war and imminent threat of war for a wide range of offences. The National Council, the other chamber of parliament, had approved the amendment unanimously in October 1991.

The amendment was published in the official gazette in March but will not come into force before June 1992. During the three-month period following its official publication the amendment is subject to an optional referendum which will be held only if 50,000 signatures are collected requesting one. At the end of the three-month period the Federal Council will set a date for the amendment to come into force.

Conscientious objection to military service (update to information given in AI Index: EUR 01/02/91)

Military service is a binding obligation under Article 18 of the Federal Constitution with male citizens normally carrying out regular periods of military service, amounting to a total of approximately 10 months, between the ages of 20 and 42. There is limited access to unarmed military service but no provision for alternative civilian service. This could only be introduced by amending the Constitution through a national referendum.

National referendum on the introduction of an alternative civilian service

In November 1991 the Council of States approved a proposal to amend Article 18.1 of the Federal Constitution which states that all Swiss male citizens are obliged to perform military service ("*Tout Suisse est tenu au service militaire*" / "*Jeder Schweiz ist wehrpflichtig*") by the addition of a clause stating that "The law provides for an alternative civilian service" ("*La loi organise un service civil*" / "*Das Gesetz sieht einen zivilen Ersatzdienst vor*"). This proposed constitutional amendment, already approved by the National Council in September 1991, is now the subject of a national referendum taking place on 17 May 1992. In order for the amendment to become law, it must be approved by a majority of both the voters and the cantons. In national referenda held in 1977 and 1984 a large majority voted against the introduction of an alternative civilian service. Amnesty International has for many years expressed concern publicly and to the federal authorities about the lack of any civilian alternative to compulsory military service in Switzerland and the imprisonment of large numbers of conscripts each year as a result of their refusal, on grounds of conscience, to carry out military service. Over the last 12 months Amnesty International has distributed

literature to the Swiss public setting out its position on conscientious objection and the international standards on which this is based.

Application of the Military Penal Code to conscientious objectors

Conscientious objectors to military service who were tried during the period under review were sentenced under the provisions of the amended Military Penal Code which came into force in mid-July 1991. Under these provisions refusal to perform military service remains a criminal offence. If a military tribunal concludes that a conscript is unable to reconcile military service with his conscience because of "fundamental ethical values" then he is sentenced to a period of work in the public interest, entailing no criminal record. The law provides for sentences of compulsory work ranging from one and a half times the total length of military service refused by the conscript, up to a maximum of two years. However, some tribunals have reportedly imposed sentences equal to the length of service refused. Those objecting to military service on grounds of conscience which are not recognized by the military tribunals, such as political grounds, and those failing to convince the tribunals that their refusal of military service is based on fundamental ethical values which are irreconcilable with military service continue to receive prison sentences and a criminal record.

Amnesty International has repeatedly expressed concern that the amendment to the Military Penal Code continues to punish people for refusing military service on grounds of conscience and does not provide a genuine alternative civilian service outside the military system.

No sentences of compulsory work had been carried out by the end of April 1992 as the enabling legislation had not yet come into force. The new system of compulsory work is expected to come into operation during the second half of 1992.

A small number of conscientious objectors whom the military tribunals considered eligible for a sentence of compulsory work announced during their trials that they would not serve any such sentence; they did not consider that a sentence imposed by a military tribunal following a trial for a criminal offence constituted a genuine alternative civilian service.

In some cases tribunals apparently used a rather narrow interpretation of what constituted "fundamental ethical values" irreconcilable with military service. For example, conscripts recognized as putting forward ethical objections to military service were not considered eligible for a sentence of compulsory work if they were also considered to have political objections; conscripts putting forward ethical objections or non-violent views were sometimes considered ineligible for a work sentence if they could not demonstrate that these views were supported by any active personal commitment through voluntary work in a charitable organization.

Conscientious objectors who failed to convince the tribunals that they qualified for a sentence of compulsory work and those who declared they would not carry out such a sentence were liable to up to three years' imprisonment but in practice sentences of up to 10

months' imprisonment were imposed. The majority entered appeals and, therefore, had not begun their sentences by the end of April.

Conscientious objectors tried and sentenced before the Military Penal Code was amended in July 1991 continued to enter prison to serve sentences of full imprisonment, *arrêts répressifs* or semi-detention. For example, in November 1991 **Stefan Hasinger**, a 24-year-old printer from Stäfa, near Zürich, entered Gmünden prison to commence a sentence of seven months' imprisonment which had been imposed by a military divisional tribunal in Glarus in September 1989. He carried out his military recruit school training in 1988, as ordered, but in September 1989 wrote to the military authorities informing them of his refusal to perform any further military service. Criminal proceedings were opened against him when he failed to report for a refresher course of military training in October 1989 and for subsequent shooting practice and kit inspection in November and December 1989.

He explained the ethical grounds for his refusal of military service in a public statement sent to the military authorities in 1989 and during his trial in September 1990. He stated that, as he had matured, his beliefs had developed. He now found that any further military service, either armed or unarmed, was incompatible with his respect for life and human dignity and with his ideal of peaceful coexistence between nations. He believed in the importance of personal example in advancing the cause of peace and considered that by refusing to bear weapons and to learn how to kill he would make a positive contribution towards his ideal of world peace. He therefore felt compelled to refuse to serve in the army in any capacity. He also stated that he was prepared to carry out an alternative civilian service, were this to exist in Switzerland.

In its written verdict, the military tribunal acknowledged the presence of certain ethical considerations in Stefan Hasinger's decision to refuse military service but concluded that the reasons for his refusal were predominantly egoistic and, to some extent, political. He was sentenced to seven months' imprisonment, plus costs of 510 Swiss francs and excluded from further military service.

Official statistics on refusal of military service

In February the Federal Military Department published its annual statistics on refusal to perform military service. During the year ending 31 December 1991 the military tribunals found a total of 475 people guilty of refusal to perform military service (1990: 581; 1989: 534).

Before the new sentencing system for refusal of military service came into force in mid-July 1991, following the amendment of the Military Penal Code, the tribunals found that in 86 cases refusal was based on religious grounds; in 69 of these cases the refusal was said to be accompanied by "a severe conflict of conscience", 40 of these cases concerned Jehovah's Witnesses. In 70 cases the refusal was considered to be based on ethical/moral grounds. In 33 of these cases the refusal was said to be accompanied by "a severe conflict of conscience".

According to the official statistics, between the amendment of the Military Penal Code in mid-July 1991 and the end of the year, the military tribunals found that in 110 cases of refusal to perform service the conscripts concerned had fundamental ethical values incompatible with military service. One hundred of these conscripts received sentences of compulsory work. In the cases of the remaining 10 the military tribunals made use of a new provision allowing them to transfer conscripts willing to perform **unarmed** military service to this branch of the armed services.

The statistics of the Federal Military Department also indicated that during 1991 the tribunals had concluded that in 39 cases, refusal of military service was based on political grounds and that in a total of 170 cases the refusal was considered to be the result of "aversion to discipline" (33), "fear of exertion or danger" (12) or other (unspecified) reasons (125).

TADZHIKISTAN

The death penalty

According to Amnesty International's information, the Criminal Code of Tadjikistan retains the death penalty for 18 offences in peacetime. Details on the application of this punishment are very limited in the absence of any published official statistics.

Amnesty International has consistently pressed the authorities in Tadjikistan to reduce the scope of the death penalty as a step towards total abolition; to impose a moratorium on death sentences and executions pending a review of this punishment; and to publish comprehensive statistics for its application.

Conscientious objection to military service

In March Amnesty International wrote to the State Defence Adviser, Major-General Bakhrom Rakhmonov, concerning reports that the Government of Tadjikistan had recently drafted legislation on military and civilian service. The organization sought information about whether alternative service would be available to those who declared a conscientious objection to military service, and whether alternative service would be of a non-punitive length.

Fair trials for political prisoners

Maksud Ikramov

Amnesty International wrote at the end of March to the Acting Procurator General of Tadjikistan, General Tukhta Pochomulloyev, expressing concern about allegations that Maksud Ikramov, formerly the chairman of the executive committee of the city council in the capital, Dushanbe, and a member of Tadjikistan's parliament, had been denied adequate access to defence counsel since his arrest in Dushanbe on 6 March on charges of abuse of official position and taking bribes. The organization also expressed concern at allegations that the true motive for bringing these criminal charges against Maksud Ikramov was to punish him for supporting the demands of the political opposition to the Tadjikistan Government during demonstrations in Dushanbe in September 1991.

Unofficial sources reported that the authorities were placing unwarranted restrictions on access by Maksud Ikramov to lawyers acting on his behalf, by refusing on a number of occasions to allow the lawyers to interview their client, and by transferring Maksud Ikramov on 18 March from detention in Dushanbe to the investigation-isolation prison in the city of Khodzhent, some 200 km away.

Amnesty International is concerned that these restrictions may adversely affect Maksud Ikramov's right to a fair trial, and called upon the Acting Procurator General to

ensure adequate access for Maksud Ikramov to his defence lawyers, in accordance with Article 13(3)(b) of the International Covenant on Civil and Political Rights.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of the Republic of Tadjikistan, Rakhmon Nabyev, welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed the hope that Tadjikistan would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

TURKEY

Torture, extrajudicial executions and "disappearances"

In May Amnesty International published a 31-page document entitled *Turkey: Torture, extrajudicial executions, "disappearances"* (AI Index: EUR 44/39/92).

In spite of very outspoken undertakings from the new government of Prime Minister Suleyman Demirel, which came to power in November 1991, that torture in police custody would be stopped, none of the necessary practical or legislative steps were taken and the widespread routine practice of torture continued unabated. During the last two weeks of April alone there were four deaths in custody in circumstances which suggested that the victims died as a result of torture (see AI Index: EUR 44/WU 03/92).

There was an alarming increase in alleged extrajudicial executions, with death-squad style killings in Mardin province in the southeast of Turkey. Reports of "disappearances" were also received.

Between the formation of the new government and the end of April over 80 civilians were killed as a result of security forces firing on demonstrations. In most of the incidents the demonstrators were clearly unarmed. Amnesty International expressed its concern on a number of occasions about the use of lethal force in controlling demonstrations, and appealed to the Turkish Government to ensure that security forces policing demonstrations should respect the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which require law enforcement officers to respect and preserve human life.

TURKMENISTAN

The death penalty

To Amnesty International's knowledge, the Criminal Code of Turkmenistan retains the death penalty for 18 offences in peacetime. Information about the application of this punishment is meagre in the absence of any published official statistics.

Amnesty International has consistently pressed the Turkmen authorities to reduce the scope of the death penalty as a step towards total abolition; to impose a moratorium on death sentences and executions pending a review of this punishment; and to publish comprehensive statistics on its application.

Conscientious objection to military service

In a press interview published in March Turkmenistan's Minister of Defence, Lieutenant-General Danatar Kopekov, stated that his republic would maintain universal compulsory military service. He also stated that legislation was being prepared whereby deserters would face "very severe measures, including criminal responsibility". Amnesty International wrote to the Minister raising its concerns about the rights of conscientious objectors. The organization expressed the hope that Turkmenistan would introduce regulations providing a civilian alternative service, of non-punitive length, for young men who object to performing compulsory military service on grounds of conscience.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of Turkmenistan welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed the hope that Turkmenistan would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

UKRAINE

The death penalty

Death sentences are regularly passed and carried out in Ukraine, although the exact figures are not available in the absence of any official statistics. The most recent indication of the scale came from the head of the parliamentary Clemency Commission of the former USSR in July 1991, who reported that most of the 208 executions recorded in 1990 in the USSR were carried out in two republics - Ukraine and Russia. The great majority of these executions were said to have been for aggravated murder. The death penalty may be imposed for 18 different offences in peacetime. In the period under review Amnesty International learned of six people sentenced to death in Ukraine, and in each case urged the commutation of their sentences.

Amnesty International has consistently pressed the government of Ukraine to reduce the scope of the death penalty as a step towards total abolition; to impose a moratorium on death sentences and executions pending a review of this punishment; and to publish comprehensive statistics on its application. In a letter to the Minister of Justice in April the organization welcomed the recent admittance of Ukraine to membership of the Conference on Security and Cooperation in Europe (CSCE), and urged publication of official death penalty statistics as agreed by participating states at the CSCE's second Conference on the Human Dimension held in Copenhagen in June 1990.

Conscientious objection to military service

In December 1991 Amnesty International wrote to the President and Commander-in-Chief of the armed forces of Ukraine, Leonid Kravchuk, and the newly appointed Minister of Defence, Major-General Konstantin Morozov, following the first parliamentary reading of a law introducing an alternative to compulsory military service. The organization expressed concern that the law limited eligibility for such service to those whose religious convictions would not allow them to perform military service, and urged that it be open to all those with political, ethical or other conscientiously-held objections. Amnesty International also asked if the alternative service would be completely civilian in nature, and why it would be longer than military service. The law as eventually passed retained the limitation on eligibility to those with "a genuine religious conviction", and specified that the term of alternative service is to be twice as long as that for military service. No reply had been received by the end of the period under review.

In the letters Amnesty International also raised the case of prisoner of conscience *Sergey Aleksandovich Osnach*, arrested on 13 April 1991 and sentenced to 18 months' compulsory labour by Shostka People's Court on 18 June for refusing his call-up papers (Article 72 of the criminal code). Sergey Osnach had refused to perform military service in the then Soviet army on the grounds that it "does not defend the motherland and the nation, but the socialist choice". In April Amnesty International learned that he had been released

from compulsory labour, which involves working under strict surveillance at a location determined by the authorities with restrictions on freedom of movement. He can again choose his place of residence and work, but is obliged to pay 20% of any wages he does earn to the authorities until the end of his sentence in October 1992.

Homosexuality

In December 1991 Ukraine became the first republic of the former USSR to decriminalize consenting homosexual acts (specifically sodomy) between adult males. Prior to this, Article 122 of the criminal code made such acts punishable by up to three years' imprisonment. Amendments to the law passed on 12 December limited criminal responsibility to those engaging in sodomy with a minor, or with the use of physical violence, threats, or by taking advantage of the dependent condition of the other party.

UNITED KINGDOM

Ill-treatment in Northern Ireland

In November 1991 Amnesty International published an 11-page report entitled *United Kingdom: Allegations of ill-treatment in Northern Ireland* (AI Index: EUR 45/19/91). The report focussed on the situation in Castlereagh interrogation centre in Belfast because the organization was concerned by the number of allegations it had received concerning ill-treatment of detainees there by police officers during interrogation. The organization concluded that existing safeguards were inadequate to prevent ill-treatment and in particular that, contrary to international standards, detainees were being denied prompt access to families, lawyers and judges.

On 13 November the United Nations (UN) Committee against Torture examined the first periodic report by the United Kingdom (UK) on the implementation of its obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The 10-member committee of experts concluded that the UK may be in violation of its international obligations to prevent ill-treatment and torture in Northern Ireland. Specifically the committee referred to the fact that lawyers have no right to be present during interrogation of their clients, in contrast to the position in the rest of the UK, and to the seven-day detention powers under the Prevention of Terrorism Act. (For more details see AI Index: NWS 11/43/91.)

During a visit to Northern Ireland in April, Amnesty International delegates ascertained that the number of allegations of ill-treatment in interrogation centres had significantly decreased since August 1991, after international publicity and protest over reported abuse. However, the organization continues to be concerned that without adequate safeguards in place, allegations could again increase. Amnesty International continues to urge the government to reform its interrogation and detention procedures.

At the same time, Amnesty International has continued to receive allegations of ill-treatment by police or military patrols of people who are stopped on the streets for routine checks.

Killings by security forces

The Killing of Gerard Maginn

Gerard Maginn, aged 17, was a back-seat passenger in a stolen car, which was being chased by the Royal Ulster Constabulary (RUC), when he was shot dead on 3 November 1991. RUC accounts suggested that officers fired at the car during a high-speed chase. However eye-witness accounts state that they had not heard the sounds of sirens or of speeding vehicles.

The driver of the car, John Brady, who survived the incident, stated that uniformed police had approached the car after it stopped. He told his father "that the cops shot into the

car as he was winding the window down and shouting `joyriders' [that is, people who steal cars to drive around in them]. He put his arm up and was hit in the elbow and then the back." When the firing stopped John Brady reportedly drove off. The second passenger, a 15-year-old youth, survived unhurt. Eyewitnesses claimed that the shots were fired by plainclothes police who were in another car and that "all three cars involved in the incident were stationary during the shooting and the stolen car was not posing a threat to members of the RUC".

The RUC Chief Constable appointed a senior RUC officer to investigate; the investigation is to be supervised by the Independent Police Complaints Commission. The police officers involved in the shooting have not been suspended pending the investigation.

The inquest into the killing of Brian Robinson

The inquest into the killing of Brian Robinson in September 1989 (see AI Index: EUR 45/04/91) by undercover soldiers took place on 27 and 28 April. The soldiers did not testify, but their written statements were read out.

There were discrepancies between the accounts given by the soldiers and those of eyewitnesses. Soldier A said in a statement read out to the jury that a gun had been pointed at them as they pursued the motorcycle carrying Brian Robinson and after the soldiers' car collided with the motorcycle Brian Robinson ran towards a bus shelter where he appeared to trip. "I ran around the back of the car. He [Robinson] appeared to trip and then he picked himself up. He looked towards me. I believed he was going to shoot me. I was in fear for my life and I shot him twice." A civilian eyewitness said one soldier fired a number of shots as Brian Robinson lay on the ground. He said the same soldier then walked to the motionless figure "and fired several more shots from six or seven feet".

The pathologist stated that 11 shots were fired by two of the soldiers and the first of four which hit Brian Robinson struck him in the back "as he was bent over or trying to crawl away from the scene possibly on all fours". He said that the close association of the two bullets to the head indicated they had been fired at very close range while he was on the ground. "They must have been fired at the spot where he lay or fell. I conclude that he was on the ground when these shots were fired."

The jury at the coroner's inquest stated in their findings that Brian Robinson had been shot "at close proximity" while lying on the ground and that he had not been carrying his gun just prior to being shot. (The jury had heard that his gun, found 55 feet from the body, was empty.)

The family of the Ulster Volunteer Force (UVF) man is to take a civil action against the Ministry of Defence.

Amnesty International is concerned that allegations that Brian Robinson was deliberately killed rather than arrested were not able to be examined fully by the coroner's inquest. The discrepancies between the soldiers' written statements and those of eyewitnesses could not be explored due to the absence of the soldiers. In particular Amnesty International

is concerned by the eyewitness account of the soldier continuing to shoot at Brian Robinson from close range after he lay incapacitated on the ground.

The killing of John McNeill, Edward Hale and Peter Thompson

In February the Director of Public Prosecutions for Northern Ireland announced that there would be no prosecutions of the undercover soldiers involved in the killing of the three men in January 1990 (see AI Index: EUR 45/04/91). The Belfast-based Committee on the Administration of Justice questioned whether the renewed police investigation into the circumstances of the killings had been thorough.

The inquest into their deaths has not yet been scheduled.

The killing of Fergal Caraher

The Director of Public Prosecutions (DPP) announced on 31 January that two British soldiers would be charged with the murder of Fergal Caraher and a third soldier with the attempted murder of Fergal's brother, Míceál, who was seriously wounded in the incident (see AI Index: EUR 45/04/91). The soldiers were charged on 5 February. This decision followed an unprecedented move on the part of the DPP, which was to request a senior barrister to reinterview all the witnesses.

The 80-page report of the public inquiry into the killings, organized by the Cullyhanna Justice Group and a community-based organization, the Irish National Congress, was published on 23 January.

Collusion between security forces and armed opposition groups (see AI Index: EUR 45/04/91)

John Stevens, a senior British police officer, investigated allegations of collusion between members of the security forces and armed Loyalist groups. Brian Nelson, one of the people arrested as a result of the Stevens inquiry, was the intelligence officer of the Ulster Defence Association (UDA), working with its armed wing, the Ulster Freedom Fighters (UFF); as such he was responsible for obtaining and storing information on Republican suspects, and providing such information to assassins. At the same time he worked for British Army intelligence, regularly providing information to the army and at times warning the army of planned killings. It is alleged that during the time he worked for army intelligence, 18 people were killed.

Brian Nelson was charged with 34 offences, including two charges of murder and four charges of conspiracy to murder. His trial, to which Amnesty International sent an observer, took place in January. However at the trial the Crown withdrew the murder charges and Brian Nelson pleaded guilty to conspiracy charges, thereby removing the need for a lengthy trial and for evidence to be heard. The Crown decision was taken "after a painstaking and scrupulous assessment of possible evidential difficulties with the prosecution, and a rigorous

examination of the interests of justice". Brian Nelson was sentenced to 10 years' imprisonment.

Fair Trial

The Broadwater Farm cases (see AI Index: EUR 45/01/88 and EUR 45/04/91)

The appeal hearing of the convictions of Winston Silcott, Engin Raghıp and Mark Braithwaite for the murder of a police officer during a riot on the Broadwater Farm public housing estate took place between 25 and 28 November 1991. Amnesty International sent observers to the appeal hearing.

The grounds for appeal included the unreliability of confession evidence based on the lack of access to a lawyer and on the misconduct of the senior investigating police officer. The conviction of Winston Silcott was quashed on 25 November and in the judgment delivered on 5 December the Court of Appeal judges said that the behaviour of Detective Chief Superintendent Graham Melvin and Detective Inspector Maxwell Dingle rendered his conviction unsafe and unsatisfactory. The sole evidence against Winston Silcott had been notes of an interview in which he had made supposedly damaging statements. However ESDA tests on the notes indicated that they had not been made contemporaneously. The judgment of 5 December further quashed the conviction of Engin Raghıp on the basis of new psychological evidence which affected the reliability of his confession, and that of Mark Braithwaite on the basis that the interviews had been wrongly conducted, in particular because access to a lawyer had been denied.

The senior police officers mentioned above have been charged. Detective Chief Superintendent Melvin has been charged with perjury and conspiracy to pervert the course of justice; Former Detective Inspector Maxwell has been charged with conspiracy to pervert the course of justice.

AI Submission to the Royal Commission on Criminal Justice

The Royal Commission on Criminal Justice in England and Wales was established by the Secretary of State for Home Affairs on 14 March 1991 as a direct consequence of the release of the "Birmingham Six" after 16 years' wrongful imprisonment for Irish Republican Army (IRA) bombings in 1974 (see AI Index: EUR 45/04/91).

In November 1991 Amnesty International made a 42-page submission to the Royal Commission. The submission examined selected laws and practices relevant to criminal proceedings in England and Wales in the light of international standards for human rights. It also included references to certain laws and practices in Northern Ireland which are illustrative of the disparate treatment of alleged suspects there.

Amnesty International's submission focussed on the following areas: protection of the presumption of innocence throughout the pre-trial and trial stages; pre-trial issues including notice of rights to legal advice; notice of reasons for detention and/or arrest, notice of

charges, the right to effective assistance of a lawyer, interrogation procedures and protection against coerced confessions, facilities for the preparation of a defence, including disclosure of evidence and the use of expert witnesses; trial issues including the right to effective legal assistance, guarantees against self-incrimination, and the admissibility of uncorroborated confession evidence; and post-conviction proceedings. The submission contained 21 recommendations.

Conscientious objection to military service - the case of Vic Williams

In March Vic Williams, conscientious objector and prisoner of conscience, was released from prison after serving seven months of his 14-month sentence. Vic Williams had been a soldier in the British Army's Royal Artillery, and had been found guilty in a September 1991 court martial on three charges relating to deserting his regiment and speaking out against the Gulf War. Amnesty International considered him to be a prisoner of conscience, imprisoned for acting in accordance with his conscientiously-held beliefs, and called for his immediate and unconditional release. A paper was published in October 1991 giving details of the case (see AI Index: EUR 45/15/91).

Amnesty International considers as a prisoner of conscience any conscientious objector whose detention or imprisonment is a consequence of "...his or her leaving the armed forces without authorization for reasons of conscience...if he or she has taken reasonable steps to secure his or her release from the military on the grounds of conscience or *if he or she did not use those means because he or she has been deprived of reasonable access to the knowledge of them...*".

Amnesty International was concerned that in the case of Vic Williams, such "reasonable access" to information about procedures for registering his conscientious objection to military service in the Gulf War was not guaranteed. The regulations setting out the procedure whereby a soldier in the British Army can apply for conscientious objector status are classified as a restricted document - to which only Army officers have access. They are contained in a separate document from the Queen's Regulations (regulations governing soldiers' conduct), and were not made available to the defence lawyers in Vic Williams' case until the court martial itself. Amnesty International's concern was supported by the evidence given by officers and a soldier during the court martial, and by the statement made by the Judge Advocate at the conclusion of the proceedings. In his summing up, the Judge Advocate acknowledged that it was "not in dispute that Vic Williams was not specifically made aware of procedures for conscientious objection".

Legalization of homosexuality on the Isle of Man

In February Amnesty International delegates visited the Isle of Man to investigate the legal situation of homosexuals. With a new Sexual Offences Bill about to be debated in the Isle of Man parliament, the House of Keys, Amnesty International was concerned that the existing legislation allowed for the arrest, prosecution and imprisonment of adult males for

engaging in homosexual acts in private, with sentences ranging from two years to life imprisonment.

On 19 March Amnesty International wrote to the Chief Minister of the Isle of Man urging the House of Keys and the government to ensure that the island's legislation governing sexual offences would no longer permit imprisonment solely for homosexual acts between adult men in private, who would be considered by the organization to be prisoners of conscience.

The provisions of the existing law did not conform with the European Convention on Human Rights. Article 8 of the Convention states that "everyone has the right to respect for his private and family life, his home and his correspondence". In its judgments the European Court of Human Rights has maintained that legislation categorically prohibiting homosexual acts breach Article 8.

Amnesty International also expressed concern that the right of individual petition to the European Court of Human Rights, which was withdrawn in respect of the Isle of Man in 1976, has not yet been restored. Amnesty International has been informed that the government's position is that restoration of that right should await an amendment of the legislation on sexual offences which would bring the Isle of Man into conformity with Council of Europe human rights standards. Amnesty International noted this commitment, and urged the restoration of the right of individual petition to the European Court of Human Rights at the earliest possible date.

On 31 March the House of Keys voted to amend the Sexual Offences Bill in order to legalize homosexual acts in private between men over the age of 21.

UZBEKISTAN

The first Amnesty International visit to Uzbekistan took place in April. The delegation discussed the organization's concerns with senior government officials and had meetings with a range of other people.

The death penalty

The Criminal Code of Uzbekistan retains the death penalty for 19 offences. However, senior officials told Amnesty International's delegation that regulations introduced in December 1991 reduced the number of offences which in practice still carry the death penalty to four: treason, murder under aggravating circumstances, murder of a minor, and aggravated rape.

Minister of Justice Muhamed-Babur Malikov told Amnesty International that the use of the death penalty in the republic was declining, but he was unable to provide the delegation with statistics. Amnesty International urged the Uzbek authorities to publish comprehensive statistics on the application of the death penalty, pointing out the agreement on the publication of official death penalty statistics by participating states of the Conference on Security and Co-operation in Europe (CSCE). Uzbekistan was admitted to the CSCE in January 1992.

Legislative review

Amnesty International sought from officials during its visit to Uzbekistan clarification of the current status of articles in the criminal code which previously had been used to detain people whom the organization considered prisoners of conscience.

The Minister of Justice confirmed that Article 60 ("anti-Soviet agitation and propaganda") and Article 191 ("circulation of fabrications known to be false which defame the Soviet state and social system") had been abolished. These had been widely used in the USSR to punish those expressing views politically unacceptable to the authorities.

Two articles which specifically circumscribe freedom of religion - Article 145 ("violation of laws on separation of church and state and of church and school") and Article 147-1 ("infringement of person and rights of citizens under appearance of performing religious ceremonies") - remain in the criminal code but are no longer used. Also in abeyance is Article 73, which punishes illegal exit abroad. A new law on entry to and exit from the country is in preparation.

Legislation defending the honour and dignity of the President and the Chairman of the Supreme Soviet

The Amnesty International delegation expressed concern to the Minister of Justice about the recently-added Article 191-4 of the criminal code, under which people may be imprisoned for "infringement upon the honour and dignity of the President of the Republic of Uzbekistan or the Chairman of the Supreme Soviet of Uzbekistan". Amnesty International is concerned that this law may contravene the right of individuals to freedom of expression.

Conscientious objection to military service

In December 1991 Amnesty International wrote to the Minister of Defence, Rustam Akhmedov, raising its concerns about the rights of conscientious objectors to military service.

Currently, residents of Uzbekistan continue to be conscripted into the joint armed forces of the Commonwealth of Independent States, and have no possibility to declare a conscientious objection. A new law on military service is in preparation. Senior officials told the Amnesty International delegation in April that this will retain compulsory military service except for people who declare a religious objection, or who are required to look after their parents because of illness.

Homosexuality

The first part of Article 100 of the Criminal Code punishes consenting homosexual activity between adult males. The Justice Minister told Amnesty International that a small number of convictions continue to be brought under this article. He also stated that, while serving as Chairman of the Supreme Court prior to his appointment as Minister, he had proposed abolition of the first part of this article, and expects this to be considered by the Supreme Soviet.

Administrative detention

Amnesty International continued to receive reports of people in Uzbekistan being placed under "administrative arrest", which can be imposed by a single judge without right of appeal for up to 15 days, for taking part in unsanctioned meetings and demonstrations. Amnesty International is concerned that some people may have been detained because they exercised their rights to freedom of expression and association, and not because they threatened public order.

On 25 April Yusuf Narov, a member of the registered opposition party Erk ("Will"), was detained following a peaceful demonstration in Kashkadarya region, and was placed under administrative arrest for five days. Around 60 other participants were briefly detained by police.

Ratification of international human rights instruments

In March Amnesty International wrote to the President of the Republic of Uzbekistan, Islam Karimov, welcoming the admittance of his republic to the United Nations earlier that month and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed the hope that Uzbekistan would urgently consider the abolition of the death penalty, and thereby be in a position to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

YUGOSLAVIA (and former constituent republics)

The conflict in Croatia

Amnesty International continued to receive reports of extrajudicial executions and other deliberate and arbitrary killings of unarmed civilians or captured or wounded members of armed forces by police, military or paramilitary forces and of the torture or ill-treatment of people detained in connection with the fighting. The available information indicated that all sides in the conflict had committed atrocities.

Amnesty International repeated its earlier appeals to all parties in the conflict to treat prisoners in their custody humanely and to protect them and the non-combatants under their control. It called upon them to ensure that international humanitarian and human rights principles were observed throughout the country and that non-combatants were protected from all acts of reprisal and violence.

Amnesty International seeks to be impartial in its work for the promotion of human rights. It believes that all human rights violations are to be deplored and cannot be weighed up one against another. Abuses committed by one party cannot be considered to exonerate those responsible for abuses committed by another party.

For a fuller description of Amnesty International's concerns and information about specific incidents see *Yugoslavia: Torture and deliberate and arbitrary killings in war zones* (AI Index: EUR/48/26/91), issued in November 1991, and *Yugoslavia: Further reports of torture and deliberate and arbitrary killings in war zones* (AI Index: EUR/48/13/92), issued in March 1992.

The conflict in Bosnia-Herzegovina

Amnesty International is investigating reports of deliberate and arbitrary killings and ill-treatment of non-combatants in the context of the conflict in Bosnia-Herzegovina. Information is difficult to obtain and at the end of April it had not been possible to verify any of the reports received.

Concerns in Kosovo-Metohija province

Torture and ill-treatment, extrajudicial executions and deaths in custody

Amnesty International has received numerous reports of abuses by police in Kosovo province of Southern Serbia which indicate that incidents are occurring almost daily. These include beatings and ill-treatment which are carried out by police during routine checks of traffic, in the streets, during house searches or in the course of arrest or detention. The victims are generally ethnic Albanians. Two men died as a result of injuries reportedly sustained while in custody in November 1991 (see AI Index: EUR 48/30/91 and EUR 48/25/91).

Three people died in the village of U_ a near Istok as a result of shootings by police on 31 January. The three men, Bajram Hoxhaj, Muharrem Hysenaj and Hasan Hysenaj (all reportedly unarmed), had reportedly intervened when police had tried to arrest 16-year-old school pupils who were going to unofficial lessons in a private house (state education in the Albanian language is no longer functioning due to a dispute between the Serbian authorities and the ethnic Albanian community over the curriculum).

Sixty-day prison sentences

As a result of changes to the Yugoslav federal criminal code and an apparent reluctance on the part of the authorities to use the remaining articles which relate to political offences, prosecutions for non-violent political offences which might result in long prison sentences have become rare. However, a large number of cases have been brought under the "Law on public law and order" of the Republic of Serbia. This allows for up to 60 days' imprisonment for petty offences such as making statements or performing actions which denigrate the social or political order of Yugoslavia, its citizens or international policies. Those sentenced to 60 days' imprisonment include Jonuz Fetahu, a journalist, who wrote about unofficial education in the Albanian language; Rustem Sefedini, a former school director who organized a protest at his old school in connection with the education dispute and Limon Selman Muhadini, a technician, who took part in the organization of an unofficial independence referendum in Kosovo.

Legal concern

Mentor Kaçi and 10 others were arrested between November and December 1991 for allegedly belonging to a terrorist group. According to a decision of 21 December 1991 of the investigating judge in Pe_, for "national defence and security" reasons lawyers were denied access to their clients and to documents relevant to the case during the investigation. Amnesty International was concerned that the defendants were denied legal safeguards during their detention. AI was also concerned at allegations that some of them were tortured during detention. At the end of April revised charges against them and nine others had been brought and a trial was imminent.

THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE (CSCE)

Seventeen years after signing the historic Helsinki Final Act, the Conference on Security and Cooperation in Europe (CSCE) has returned to Helsinki for its fourth Follow-Up Meeting, from 24 March to 10 July. With the end of old conflicts but the rise of new tensions this meeting, known as Helsinki II, will decide on major structural reforms of the organization. It must also deal with the implications of the dramatic increase in its size to a total of 52 participating states, following the recent admission of the states of the Commonwealth of Independent States (CIS), the Baltic states, Georgia, Slovenia, Croatia and Bosnia-Herzegovina. The outcome of Helsinki II may reveal whether the CSCE has found a new and credible long-term role in the protection of human rights in the pan-European region.

Although the meeting is considering all aspects of CSCE concern, including security and environmental and economic cooperation, Amnesty International is concerned only with certain human rights issues on the agenda. Amnesty International has welcomed the moves to enhance the ability of the CSCE to react rapidly and effectively to urgent crises and conflicts in Europe and in particular the recent focus on events in Nagorno-Karabakh and Bosnia-Herzegovina. It is not clear, however, how human rights monitoring and implementation fits into the vision of the CSCE as a peacemaker and peacekeeper. Amnesty International is concerned that serious gaps in the human rights monitoring process may remain, and has urged the CSCE to ensure that it develops ways to ensure that all participating states implement the wide range of CSCE human rights commitments.

Amnesty International is therefore supporting the proposal to establish a High Commissioner for Minorities which would have an "early warning" and "early action" function. Furthermore, to ensure that a wider range of human rights problems are addressed in a timely manner, Amnesty International has urged the CSCE to establish an annual human rights implementation meeting - an intention already foreshadowed in broad terms by the Council of Foreign Ministers. Such meetings should bring together all participating states and have the power to make decisions binding on all members; it should have access to adequate fact-finding tools; should scrutinize the human rights situation in individual states as well as study themes of regional concern, and non-governmental organizations (NGOs) should be able to give substantive written and oral input.

NGOs can help the CSCE work more effectively. They can provide the CSCE with information on human rights in member states, provide expertise on those issues, help publicize the work of the CSCE and represent the views of important segments of society. Although access for NGOs to major meetings of the CSCE has improved in recent years, NGOs have still not been invited to contribute directly and substantively to the continuing CSCE human rights process. Amnesty International has urged the CSCE to give NGOs a formal role in the process by authorizing the various CSCE institutions and structures to solicit and receive written information from a wide range of individuals and groups, and by inviting NGOs to give oral input to certain CSCE meetings in the future.

Furthermore, if the CSCE is to emerge as a credible leader in the new Europe, and if organizations outside of government are to contribute to the process, Amnesty International also considers that information about the CSCE process must become significantly more accessible to the public on a regular basis. Amnesty International hopes that the CSCE will develop a more open working relationship with individuals and organizations outside of government.

Finally, as well as considering structural reform of the CSCE, Helsinki II is also likely to carry on standard setting activities. Rather than reformulating well accepted fundamental human rights, already contained in existing international human rights norms and standards, Amnesty International has urged the CSCE to adopt commitments in areas which have not yet been adequately dealt with by other intergovernmental organizations or where a CSCE agreement would be a significant demonstration of the commitment of all participating states to implement a particular existing international standard.

One such area is the protection of refugees which so far has not received substantial discussion within the CSCE. As an intergovernmental organization comprising some 52 states of the northern hemisphere, Amnesty International believes that the CSCE is ideally suited to provide a forum for a comprehensive approach to refugee protection issues. Amnesty International believes that the CSCE should, as a first step, explicitly recognize their existing obligation under international law not to forcibly return people to countries where they risk serious human rights violations. Further, CSCE participating states who have not acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto should be encouraged to do so, without geographical limitations.

Amnesty International has also called on the CSCE to build on the commitment made in the Vienna concluding document to keep the question of the death penalty under review, by taking further positive steps during Helsinki II towards abolition of the death penalty.

The commitment made during the 1990 Copenhagen meeting of the Conference on the Human Dimension of the CSCE relating to conscientious objection to military service, unfortunately was significantly weaker than existing standards adopted in the United Nations, the Council of Europe and the European Parliament. Amnesty International is therefore calling on the CSCE, during its review in Helsinki of past commitments, to bring its commitment in this area in line with existing international standards by reaffirming that conscientious objection to military service is a right, and a legitimate exercise of the right to freedom of thought, conscience and religion.

RATIFICATIONS

States which have ratified or acceded to a convention are party to the treaty and are bound to observe its provisions. States which have signed but not yet ratified have expressed their intention to become a party at some future date; meanwhile they are obliged to refrain from acts which would defeat the object and purpose of the treaty.

Bulgaria

On 26 March Bulgaria acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights.

Cyprus

On 15 April Cyprus ratified the first Optional Protocol to the International Covenant on Civil and Political Rights.

Latvia

On 24 December 1991 the Republic of Latvia acceded to the four Geneva Conventions of 12 August 1949 and to their Additional Protocols. These instruments will come into force for Latvia on 24 June. On 14 April the Republic of Latvia acceded to a number of other international human rights instruments, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Lithuania

On 20 November 1991 Lithuania acceded to the International Covenant on Civil and Political Rights and its first Optional Protocol, and to the International Covenant on Economic, Social and Cultural Rights.

Monaco

On 6 December 1991 Monaco acceded to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It made declarations recognizing the competence of the Committee against Torture to receive inter-state complaints (Article 21) and to receive individual complaints (Article 22).

Poland

On 7 November 1991 Poland acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights. On 26 November 1991 Poland signed the European Convention for the Protection of Human Rights and Fundamental Freedoms.