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Summary of Amnesty International's Concerns in the Region

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Europe and Central Asia

Summary of Amnesty International's Concerns in the Region

January – June 2007

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe and Central Asia between July and December 2007. Not every country in the region is reported on; only those where there were significant developments in the period covered by the bulletin, or where Amnesty International (AI) took specific action.

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

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

AI Index EUR 01/01/98	Concerns in Europe: July - December 1997
AI Index EUR 01/02/98	Concerns in Europe: January - June 1998
AI Index EUR 01/01/99	Concerns in Europe: July - December 1998
AI Index EUR 01/02/99	Concerns in Europe: January - June 1999
AI Index EUR 01/01/00	Concerns in Europe: July - December 1999
AI Index EUR 01/03/00	Concerns in Europe: January - June 2000
AI Index EUR 01/001/2001	Concerns in Europe: July - December 2000
AI Index EUR 01/003/2001	Concerns in Europe: January-June 2001
AI Index EUR 01/002/2002	Concerns in Europe: July - December 2001
AI Index EUR 01/007/2002	Concerns in Europe: January - June 2002
AI Index EUR 01/002/2003	Concerns in Europe and Central Asia: July - December 2002
AI Index EUR 01/016/2003	Concerns in Europe and Central Asia: January - June 2003

AI Index EUR 01/001/2004 Concerns in Europe and Central Asia: July – December 2003
AI Index EUR 01/005/2004 Concerns in Europe and Central Asia: January – June 2004
AI Index EUR 01/002/2005 Concerns in Europe and Central Asia: July – December 2004

PARTNERS IN CRIME: EUROPE'S ROLE IN US RENDITIONS

Europe's governments have repeatedly denied their complicity in the US programme of renditions – an unlawful practice in which numerous men have been illegally detained and secretly flown to countries where they have suffered additional crimes, including torture and enforced disappearance. As evidence of this programme has come to light, however, it has become clear that many European governments have adopted a "see no evil, hear no evil" approach when it comes to renditions fights using their territory, and that some states have been actively involved in individual rendition cases (see *Partners in crime: Europe's role in US renditions*, AI Index: EUR 01/008/2006).

European airports and airspace have been used by planes operated or leased by the US Central Intelligence Agency (CIA) that have repeatedly been linked to renditions. Agents of a few European countries have participated in the apprehension of people destined for rendition or in the interrogation of such detainees once they have been transferred to countries where torture is known to be rife. Reports suggest that the USA may have operated secret detention facilities, known as "black sites", in eastern Europe. The rendition programme has also highlighted that foreign intelligence agencies operate in Europe outside the rule of law and without accountability.

Inquiries into complicity in the US-led programme of renditions were launched in 2005 by both the Council of Europe and the European Parliament, and have been actively pursued since – including in the

face of obstructions from some governments.

New report by Council of Europe on secret detentions and renditions

On 8 June 2007 the Parliamentary Assembly of the Council of Europe's Committee on Legal Affairs and Human Rights released the second report of its inquiry, led by Swiss Senator Dick Marty, into secret detentions and renditions in Europe (the first report had been issued on 12 June 2006). The report confirmed that the CIA operated secret detention centres in Poland and Romania, and perhaps in other Council of Europe member states, between 2003 and 2005. These secret facilities formed part of the "high-value detainee" programme, in which terror suspects were subjected to enforced disappearance, which had been an open secret until US President Bush confirmed its existence in September 2006.

Among the most interesting findings of the report were that the CIA exploited North Atlantic Treaty Organisation (NATO) military agreements to help it run the secret prisons, adding that the CIA conducted "clandestine operations under the NATO framework". With CIA assistance, military intelligence agencies in countries, including Poland and Romania, disguised the use of secret flights, operations and detention facilities from the days immediately following 11 September 2001 until at least the end of 2005. Moreover, the report made clear that collusion with the US at the highest levels of government came not just from the countries most directly involved in the secret detention programme, but from all the members and partners of NATO, who signed up to terms that allowed free reign to CIA operations.

The report, coming a year after Dick Marty's first report into rendition and secret detention, resulted from an investigation initiated in November 2005 by the Council's Parliamentary Assembly (PACE). The 2007 report concluded that there was "now enough evidence to state that secret detention facilities run by the CIA did exist in Europe from 2003 to 2005, in particular in Poland and Romania." The report also concluded that these countries were aware that there were CIA-run secret detention centres on their territories, and that former President Aleksander Kwasniewski of Poland and former President Ion Iliescu of Romania may have directly authorized them.

The report strengthened AI's finding that three former secret detainees, whose cases were extensively documented by AI in 2005 and 2006, had been held in an eastern European black site.

Secret detainees were held incommunicado, and in solitary confinement, for years on end, and were subjected to other cruel, inhuman or degrading treatment. The report found that the detainees were subjected to "interrogation techniques tantamount to torture". Among those who were allegedly held in Poland were the 14 "high-value detainees" transferred in September 2006 from secret CIA custody, where they had been held for up to four-and-a-half years, to military detention in Guantánamo. A number of these detainees have since said they were tortured in US custody.

'Abd al-Rahim al-Nashiri, for example, had been identified in news reports as one of the secret detainees who had been held in Poland. At his Combatant Status Review Tribunal (CSRT) hearing in Guantánamo in March 2007, he claimed that: "From the time I was arrested five years ago, they [the CIA] have been torturing me. It happened during interviews. One time they tortured me one way and another time they tortured me in a different way." The following exchange between the CSRT

President and 'Abd al-Nashiri then took place, according to the unclassified version of the transcript:

"President: Please describe the methods that were used.

Detainee: [Redacted]. What else do I want to say? [Redacted]. Many things happened. They were doing so many things. What else did they do? [Redacted]. They do so many things. So so many things. What else did they do? [Redacted]. After that another method of torture began [Redacted]."¹

The Council of Europe report condemned the role of European governments in facilitating the CIA programme and attempting to obstruct the Council's investigations. "Many governments have done everything to disguise the true nature and extent of their activities and are persistent in their uncooperative attitude," the report stated. Many countries, as well as NATO, did not respond to questionnaires distributed by the Council of Europe's investigators. "Some European governments have obstructed the search for the truth and are continuing to do so by invoking the concept of 'state secrets'." The report singled out the US, Poland, Romania, Macedonia, Italy and Germany for particular criticism.

The report provided new information – gained from confidential interviews with more than 30 current and former members of intelligence services in the US and Europe – about how the rendition programme operated. It included details from Eurocontrol's aviation records, showing how CIA-operated aircraft, identifying themselves as private flights, had crisscrossed European airspace, making a number of unrecorded landings at remote airstrips in Poland and Romania. A new analysis of computer "data strings" from

¹ Transcript available at http://www.defenselink.mil/news/transcript_ISN10015.pdf.

the international flight planning system demonstrated how the destination and departure points of some rendition flights were deliberately disguised.

Both the 2006 and 2007 Council of Europe reports cited the involvement of European governments in specific cases of rendition. The report criticized Italian and German involvement in the illegal transfer of Hassan Mustafa Osama Nasr, also known as Abu Omar, kidnapped in Milan, Italy in February 2003.

On the day the report was released, the trial opened in Milan of 25 CIA operatives, one US Air Force officer and seven members of the Italian security services, accused of involvement in Abu Omar's abduction and rendition. For over a year, Italian prosecutors had been asking their government to request the extradition of the US operatives, but the Italian government had not agreed to do so, and the trial opened without any of the US defendants present. The trial was then suspended because the Italian government petitioned the court to drop the charges on the grounds that prosecutors had violated state secrecy laws in gathering evidence against the security services, including by using wiretaps and classified documents. The Constitutional Court will hear arguments on this petition, and was expected to rule in October.

The Council of Europe report also discussed the case of German citizen Khalid el-Masri, who was apprehended in Macedonia and held there for three weeks before being flown to a secret CIA prison in Afghanistan. German authorities issued arrest warrants in January against 10 CIA agents implicated in Khaled el-Masri's rendition. Prosecutors wanted the agents to be extradited to Germany to stand trial. US officials had made emphatically clear that if asked, they would refuse to extradite their nationals to stand trial in either Italy or Germany.

The report's key recommendations included urging European states to:

- establish parliamentary and/or judicial oversight of both domestic and foreign intelligence agencies and other secret services operating on their territories;
- ensure that state secrecy cannot be used to shield "evidence concerning the civil, criminal or political liability of the State's representatives for grave human rights violations";
- ensure that the victims of rendition and secret detention are fittingly rehabilitated and compensated;
- establish a "genuine European parliamentary inquiry mechanism" guided in particular "by the Canadian procedures followed in the case of Maher Arar and by national parliamentary inquiry procedures such as the rules of the German *Bundestag* commissions of inquiry providing for the possibility of the commission's appointing a special investigator";
- ensure that controls sufficient to prevent illegal detainee transfers are established over both civilian and state aircraft transiting European airspace.

AI's recommendations

AI urges the members of the Council of Europe's Parliamentary Assembly (PACE), its Committee of Ministers and the 47 member states to take concrete action to ensure that the truth about their involvement in secret detention and unlawful detainee transfers is revealed to the public, those responsible for human rights violations are brought to justice, and effective control is established over foreign and national security services, so that such abuses never happen again.

In particular AI calls for the following actions to be taken:

- The governments must ensure that the truth about unlawful activities carried out by national and foreign officials in their territory or elsewhere in the context of the US-led rendition and secret detention programme is exposed.

Blanket denials and the obstruction of judicial and/or parliamentary inquiries by states and NATO must be replaced by independent, impartial and thorough investigations. State secrecy and national security cannot be used as a pretext to block the disclosure of evidence of official involvement in serious violations of human rights.

- The Council of Europe member states must ensure that multilateral and bilateral agreements and actions taken to implement them, including those made in the context of NATO, are consistent with their duties to respect and protect human rights.
- The Council of Europe's Committee of Ministers and the Council of the European Union (EU) must end their silence, in the face of the information revealed by the investigations of inquiries carried out by the PACE, the Council of Europe's Secretary General and the EU's European Parliament.
 - They must publicly condemn rendition, secret detention, and enforced disappearance;
 - They must demand that the member states initiate independent, impartial and effective investigations; bring those responsible for unlawful conduct to justice and ensure adequate reparation for the victims of rendition and secret detention.
- The Committee of Ministers must also take action to address existing gaps in international law which may have facilitated these practices. In particular, the Ministers should immediately mandate groups to draft, in a transparent manner, the standards recommended by the Secretary General a year ago. These proposed standards should aim at:
 - ensuring effective democratic oversight and accountability for all intelligence services -- civilian,

military, national and foreign -- on its territory or within its jurisdiction;

- the respect of human rights by transiting civilian and state aircraft; and the waiver of immunity for state officials reasonably suspected of involvement in grave violations of human rights.
- The Council of Europe should develop standards which make it clear that information related to the involvement of agents of the State in grave human rights violations can not be protected as a "state secret".
- The Committee of Ministers must also take measures to implement Recommendation 1754 (2006), concerning involvement by European states in renditions and secret detentions, made by the Parliamentary Assembly, a year ago.
- The Council of Europe should establish an adequately resourced European parliamentary inquiry mechanism.

These measures are essential to demonstrate the real commitment -- in action as in words -- of the Council of Europe and its member states to the founding principles of the Council of Europe.

Respect for human rights and the rule of law demand no less. Our future collective and individual security depends on it.

ALBANIA

Background

Local elections took place on 18 February, following a campaign period accompanied by arguments about technical aspects of the voting procedure, and mutual accusations of malpractices and corruption. The Albanian Helsinki Committee (AHC) criticized the hate-speech used by political parties and their exaggerated promises to the electorate. The elections took place, nonetheless, without major disturbances.

In April the Minister for Integration initiated a review of the national action plan towards implementing the commitments made in a Stabilization and Association Agreement which had been ratified by the European Parliament in September 2006.

In May the Parliamentary Assembly of the Council of Europe (PACE) applauded the progress made by Albania since joining the Council of Europe in 1995, but urged the authorities inter alia to adopt without delay amendments to the Civil and Criminal Codes to decriminalize libel and reform civil defamation provisions; to "enforce speedily" recommendations made in July 2006 by the European Committee for the Prevention of Torture (CPT) and ensure the effective implementation of the Framework Convention on the Protection of National Minorities. The PACE also called on Albania to "implement effectively" the law on the prevention of domestic violence.

By the end of June, government and opposition leaders had failed to agree on a presidential candidate to replace President Alfred Moisiu, whose mandate was due to expire on July 24.

Death Penalty

On 6 February Albania officially ratified Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms (ECHR), thereby abolishing the death penalty in all circumstances. In April Parliament subsequently adopted

amendments to the Military Criminal Code revoking all provisions providing for the death penalty, which had been abolished for ordinary crimes in 2000.

Torture and ill-treatment

Amendments to Article 86 of the Criminal Code (CC) ("Torture and any other degrading or inhuman treatment") introduced in February adopted the definition of torture as set out in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention). The previous wording of Article 86 had been so vague that it failed to define the elements of the crime of torture and ill-treatment, and consequently had been criticized in 2005 by the UN Committee against Torture, which called for its amendment. The minimum penalty for this offence was reduced from five to four years' imprisonment; the maximum penalty remained 10 years' imprisonment, except in cases resulting in permanent injury or death which was punishable under Article 87 by up to 20 years' imprisonment.

However, other articles of the CC under which those suspected of torture and ill-treatment (not resulting in death or permanent injury) have previously been indicted, in particular Article 250 ("arbitrary acts") were not abolished or amended. AI was concerned that in practice police who ill-treat detainees may continue to be charged with such offences, which are generally punished by non-custodial penalties – fines or suspended prison sentences. (In separate trial proceedings before Tirana District Court two police officers were convicted of "arbitrary acts" in February and May respectively, and sentenced to fines.)

At the end of the period under review the Albanian authorities had not yet given the CPT permission to publish its report on its visit to Albania in March 2006.

Police custody

According to a press report, at a meeting in January with the Ministry of the Interior to review the work of the police during 2006, the Ombudsperson referred to 18 complaints received concerning ill-treatment by police, of which six, on investigation, had been found to be justified. There had also been 149 other complaints, relating to breaches of procedure, arbitrary fines, corruption, or other forms of misconduct. The Ombudsperson reportedly cited a case which had occurred a few days earlier, in which three men were taken to Tirana police station no.3 for an administrative check of their identity, despite the fact that they had their identification documents. They were held at the police station from midnight until 9.30am without any check or questioning. According to the Ombudsperson, after 9.30am they were questioned by police and beaten with a plastic hose: "An examination of them showed clear marks of the violence used by the police officers".

The case of Eriguert Ceka (Update to AI Index: EUR 11/005/2005)

On 23 January Mirdita District Court issued its ruling in a civil compensation suit brought by the mother of Eriguert Ceka, who died following ill-treatment in police custody in July 2004. The Court ordered Mirdita Police Station to pay Eriguert Ceka's mother 2,301,750 leks' compensation (approximately 19, 208 euro) for the death of her son and for the pain and suffering caused by her loss.

In May 2004 Eriguert Ceka, aged 17, was arrested and remanded in custody on a charge of theft at Mirdita Police Station. On 5 July 2004 he became severely ill, and in the early hours of the next morning – after he had fallen into a coma – he was taken to Tirana Military Hospital where he died on 8 July 2004.

On 10 December 2004 Tirana District Court convicted Gjon Reçi, a police officer on duty in the remand section of Mirdita Police

Station, of contravening guard service rules, but failed to establish how Eriguert Ceka had died. Gjon Reçi was sentenced to a year's imprisonment, reduced to eight months. However, on 18 January 2005 Tirana Military Appeal Court found that Gjon Reçi had hit Eriguert Ceka, causing him to fall and injure his head, and that his death was caused by this injury. The Court convicted Gjon Reçi of "contravening guard service regulations with serious consequences" and sentenced him to three years' imprisonment. However, Gjon Reçi had already been released after serving eight months' imprisonment, and the Court suspended the remainder of his sentence.

Conditions of detention and prisons

In January the Ombudsman called on the Director General of Prisons to take measures against the ill-treatment of prisoners by guards; he referred to several incidents of ill-treatment, the most recent of which had taken place on 12 January at Rroghozhinë prison. Also in January, parliament adopted an amnesty law which resulted in the release of some 400 prisoners and a temporary reduction in prison over-crowding. However, by the end of June there were a reported 750 prisoners in prisons in excess of capacity.

By the end of February, responsibility for remand detention had finally been transferred from the Ministry of Interior to the Ministry of Justice, and many remand prisoners held in police stations had been moved to prisons. However, AHC monitors who visited remand facilities in Korça (attached to Korça police station) in April, while welcoming improvements in the treatment of detainees, also noted that conditions remained very poor. Cells were over-crowded (81 persons were held in cells with capacity for between 45 and 60 persons), and were humid, lacking in light and with inadequate ventilation. Little attention was paid to cleanliness or sanitation, and in the absence of beds detainees slept on mattresses on the floor. Medical care for detainees failed to meet the relevant regulations, while social

workers or educationalists were not available in the facility.

In May the Ombudsperson reminded the Prime Minister of his undertaking to have telephone cabins installed in police stations and prisons to enable detainees who had been ill-treated to make complaints to the relevant ministries. He also called on the Minister of Justice to ensure that the Commission for Supervising the Execution of Prison Sentences resumed its functions. This Commission, to which prisoners may complain about violations of their rights, had reportedly not operated since 2005.

Also in May a draft of a new regulation governing the treatment of prisoners in prisons was sent to the Ministry of Justice. This reportedly provided for the education of prisoners who had not completed basic nine-year schooling, for improved access to family and lawyers, and the regulation of prisoners' working conditions. It also provided for disciplinary measures for guards who ill-treated prisoners.

At the end of June new improved food rations for prisoners were introduced.

Enforced "disappearance" and impunity: the case of Remzi Hoxha – update to AI Index: EUR 01/005/2004

Little progress was reported in the investigation reopened in October 2006 into the "disappearance" of Remzi Hoxha, an Albanian from Macedonia, who was taken from his workplace in Tirana on 21 October 1995 by men in civilian clothes driving a car reportedly belonging to the National Information Service (ShIK), the secret police. In March the Albanian press reported that prosecutors investigating the disappearance of Remzi Hoxha considered that there was evidence to support a charge of "torture resulting in death", under Article 87 CC, an offence which was not amnestied in 1997 when many other offences, including "torture" (Article 86 CC) were amnestied. At the end of March, Arben Sefgjini, a former ShIK officer who

had been arrested in 2003 in connection with Remzi Hoxha's enforced disappearance, but was released in 2004 under the terms of the 1997 amnesty, was appointed Director General of the Office of Enforcement of Civil Court Decisions.

In February Albania was among 57 countries which signed the UN International Convention for the Protection of All People from Enforced Disappearances, adopted by the General Assembly on 20 December 2006.

Domestic violence – update to AI Index: EUR 01/001/2007

The law "On Measures against Violence in Family Relations" drafted by a coalition of domestic non governmental organizations (NGOs), and which had been adopted by the parliament in December 2006, entered into force on 1 June 2007. This civil law aims both to prevent such violence and to introduce procedures to give victims of domestic violence effective protection. Article 25 requires the government to issue enabling legislation within three months of the law coming into force (i.e. by 1 September); no progress in drafting such legislation was reported by the end of June.

A press report in February noted an increase in the reporting of domestic violence in the capital, Tirana, towards the end of December 2006 and throughout January 2007. However, prosecutors had reportedly expressed concerns that they were obliged to stop proceedings in all these cases because the injured party withdrew the complaint. Prosecutors and psychologists were apparently alarmed that failure to prosecute violent spouses might lead to further physical and psychological violence.

In March the chief of police for Elbasan held a meeting attended by the Director General of Police and other senior police, local government and education officials and NGOs, at which he noted an increase in reports of domestic violence in the district during the 15- month period covering 2006

and the first three months of 2007. According to the Chief of Police, out of 54 cases reported some 20 involved serious violence by men against their wives including two murders, two attempted murders, 11 threats, two woundings, two beatings and one case in which property was destroyed.

In April the Director General of State Police undertook to establish domestic violence units, as foreseen in the new law. A domestic violence unit was established within the Directorate of Serious Crimes, with overall responsibility for the establishment of such units in major centres of population. By June one such domestic violence unit had been set up in Tirana.

From March onwards the Organization for Security and Co-operation in Europe (OSCE) together with the Council of Europe and NGOs organized training for lawyers, judges, prosecutors and police.

Trafficking in human beings

On 6 February Albania ratified the Council of Europe's Convention on Action against Trafficking in Human Beings. On 7 February OSCE officials and officials from the Albanian Ministries of the Interior, Tourism and Culture, Youth and Sport signed a memorandum which requires Albania to draft a code of conduct for tourist operators in Albania guaranteeing the protection of children from sexual exploitation. This code is to be based on the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism, a project initiated by the international NGO End Child Prostitution, Pornography and Trafficking (ECPAT), co-funded by the UN Children's Fund (UNICEF) and developed with the support of the World Tourism Organization.

Witness protection continued to be weak, although efforts at improvement were made. At the end of 2006 the Office for the Protection of Witnesses was up-graded to Directorate level, and in May 2007

Directorate employees received training on witness protection from the OSCE and the Police Assistance Mission of the European Commission to Albania (PAMECA). In April 2007 the Government approved standards for the treatment of victims of trafficking, proposed by the Ministry of Labour and Social Affairs. These covered social support, accommodation, information, medical, psychological and material care, education, employment, training and measures for social protection.

According to official statistics, during 2006 there were 103 prosecutions relating to charges of trafficking women for forced prostitution, and 11 to charges of trafficking children. Over the same period, 12 people were convicted of trafficking women for prostitution, and six people for trafficking children.

In January 2007 the Serious Crimes Court sentenced Fatos Kapllani and Arben Osmani to 16 and 15 years' imprisonment respectively for trafficking children to Greece and forcing them to work as prostitutes or beggars. The court found that the two men had targeted families living in great poverty and persuaded the children's parents to let them be trafficked, and that they had ill-treated children who resisted their orders. In February 2007 it was reported that two Albanian women, a Greek woman and a Greek lawyer had been arrested in Thessaloniki, Greece, on a charge of selling the baby of one of the Albanian women to a Greek couple.

Reported arrests and convictions of defendants accused of trafficking women for prostitution included the conviction of Spartak Balilaj by the Serious Crimes Court in January. The court found him guilty of trafficking his girlfriend in 2001 and forcing her to work as a prostitute in the UK. He was sentenced to seven years' imprisonment.

Access to Housing

AI appealed to the authorities in May following concerns that 15 people in the

town of Korça, who were orphaned as children, the majority of them women in their twenties and thirties, would find themselves homeless, as they were due to be evicted from a student hall in which they had been living – in some cases for 15 years – in advance of its renovation (see AI Index: EUR 11/001/2007). A similar threat reportedly hung over some 40 other adults who were orphaned as children in Shkodër. The Albanian authorities had failed to ensure them adequate alternative accommodation in breach both of domestic law providing for orphans and Albania's obligations under international and regional human rights standards.

Following demonstrations by the Korça orphans, the press on 2 June reported that the city authorities had decided to find temporary accommodation for them and to pay their rent pending a durable solution to their housing problems. However, the orphans themselves were reportedly not directly informed of this decision and remained wary of broken promises.

In the event, the orphans gained a further reprieve. Works on the student hall came to a halt later in June 2007, when the private firm entrusted with the renovation was deprived of its licence following an industrial accident at a student hall in Tirana for which it was held responsible.

Counter-terrorism

In June a report by Dick Marty for the PACE clarified Albania's role in the unlawful rendition of Khaled el-Masri, a German national of Lebanese origin (see *Partners in Crime: Europe's role in US renditions*, AI Index: EUR 01/008/2006). Khaled el-Masri had been unlawfully transferred to the US authorities in Macedonia and flown to Kabul where he had been held for over four months. He subsequently alleged that on his return he had been dropped on the Albanian side of the Macedonian border, before he was flown back to Germany from Tirana airport. Senator Marty, on the basis of flight reports, confirmed that Khaled el Masri was flown out of Kabul on 28 May

2004 on board a CIA-chartered Gulfstream aircraft to Berat-Kuçova Aerodrome, a military airbase in Albania, before being driven to the border in an apparent attempt to suggest that he had returned to Macedonia.

Eight men who had been unlawfully detained by the US authorities in Guantánamo Bay, including an Algerian, an Egyptian, an Uzbek and five Uighurs from China remained in Albania after the government in 2006 had agreed with the US government to provide them with asylum, following their release from detention. In June the Italian daily *La Repubblica* reported that the US State Department had asked Albania to give refuge to 15 other detainees, but that this request had been refused.

ARMENIA

Discrimination against religious minorities

AI received reports of physical attacks on Jehovah's Witnesses by unknown assailants, and is concerned that the reported failure to investigate and punish such crimes may contribute to a climate of impunity and intolerance.

On 28 February in the Shengavit suburb of the capital Yerevan, Jehovah's Witnesses Ruben Khachaturian and Narine Gevorkian were reportedly beaten and allegedly threatened with being thrown out of a window by a neighbour living in the same block. On 13 March Jehovah's Witness Vartan Gevorkian was reportedly attacked by unknown men in the street in Shengavit. His attackers were prevented from beating him by intervening passers-by. On 17 March a Jehovah's Witness meeting in the village of Sevabert in Abovian region was allegedly interrupted when unknown men broke down the door, stole a music system and cut the electricity supply. Jehovah's Witnesses have reported that police responses to these allegations have reportedly been non-existent or very slow.

Jehovah's Witnesses in Yerevan also reported to AI that a youth organization by the name of 'One Nation' had been sticking up posters in Yerevan allegedly describing Jehovah's Witnesses as 'dangerous'. Representatives of the organization believed that this alleged activity, combined with a lack of successful prosecutions, contributed to a climate of impunity for physical attacks on Jehovah's Witnesses. An AI delegate expressed concern regarding the allegations of the dissemination of hate speech directed against Jehovah's Witnesses to the Head of Division for Human Rights and Humanitarian Issues in the Ministry of Foreign Affairs in March; it was agreed that these allegations would be investigated

Human rights activists expressed concern at the adoption of a new law in February conferring a number of new rights on the Armenian Apostolic Church (AAC). The law followed an amendment introduced into the Constitution after the referendum of November 2005 affirming the AAC's unique role in the spiritual life of the Armenian people. Armenian human rights activists expressed concern that the new law entrenched discrimination against organizations and individuals of other religious beliefs. The law confers upon the Armenian Apostolic Church a range of rights and benefits not available to other religious organizations and groups, including financial support from the state budget, the right to implement educational programmes in state education institutions, the right to have its official reports published in the media without changes, and recognition of weddings and divorces conducted by the AAC.

On 13 February the European Commission against Racism and Intolerance (ECRI) published its Second Report on Armenia, which had been adopted on 30 June 2006. The report noted progress in the establishment of a Department of National Minorities and Religious Affairs entrusted with promoting minority languages and cultures, and in criminalizing hate crimes. However, the report also observed that despite progress with legislation on national

minorities, no comprehensive body of civil and administrative provisions against discrimination has been adopted. According to the report current mechanisms do not allow for national minorities to access wider civil and political life in Armenia. The report also criticized the Law on Alternative Service as failing to provide a viable framework for an alternative civilian service for conscientious objectors, the majority of whom are Jehovah's Witnesses.

Conscientious objectors still imprisoned (update to AI Index: EUR 01/001/2007)

Armenia continued to imprison conscientious objectors to military service, in defiance of its obligations and commitments as a member state of the Council of Europe to respect the right to freedom of thought, conscience and religion, and despite the introduction of an alternative service to military service in national legislation in July 2004. Conscientious objectors continued to complain that in both its legislative framework and implementation, Armenia's alternative service was under the supervision and control of the military and so did not constitute a real civilian alternative to military service.

Jehovah's Witnesses informed Amnesty International that as of 1 June 2007 there were 75 Jehovah's Witnesses imprisoned in Armenia (70 tried and convicted, five charged and in pre-trial detention). Numbers of conscientious objectors imprisoned have increased due to lengthened sentences and greater reluctance to release them on parole.

Death in custody of Levon Gulyan

On 12 May Levon Gulyan, a restaurant-owner in Yerevan, died in suspicious circumstances while in police custody. Levon Gulyan was detained for questioning on 10 May as a possible witness to an incident outside his restaurant earlier that evening, in which one man was shot dead. He was questioned until late in the evening

on 10 May, then released for a few hours before being required to return the following morning. According to his relatives, he told the police questioning him that among the participants of the fight outside his restaurant he could only identify the murder victim, Stepan Vardanyan, the son of a local businessman. Having returned to the police station in the morning of 11 May Levon Gulyan was then held for 24 hours, before being released on 12 May for a few hours to return home and to vote in the general election. According to Levon Gulyan's family, after presenting himself at the police station again on 12 May he was then taken to the Ministry of Internal Affairs. Later that day at 5pm his family were informed of his death.

Ministry sources claim that Levon Gulyan died as a consequence of falling out of a third floor window, either as a result of an attempt to escape or to commit suicide. A number of human rights activists and his family members rejected these explanations and claimed that he died as a result of torture and ill-treatment. Relatives alleged that they had observed bruises on Levon Gulyan's body on the occasions when he was allowed to come home after his initial detention. A forensic expert affiliated to the Armenian Helsinki Association, who was able to examine only photographs of Levon Gulyan's body, also asserted that what he had seen was consistent with the family's claim that Levon Gulyan had been tortured. An autopsy carried out by German and Danish experts concluded that while some of his injuries were consistent with a fall, some of the lesions present on his body could have been caused by blows to the body prior to a fall. The results of the official forensic examination carried out under the auspices of the Prosecutor's Office, which were published on 31 May, supported the Ministry's conclusion that Levon Gulyan's injuries were consistent with a fall. Levon Gulyan's relatives also claimed that journalists reporting on his death received anonymous death threats. The investigation was still under way at the end of the period under review.

Threats to freedom of expression

Civil society and human rights activists continued to express concern that although conditions for freedom of expression in the print media were relatively good, the electronic media remained overwhelmingly pro-governmental. Monitoring conducted by the Yerevan Press Club, a non-governmental organization (NGO) specializing in media freedom, found significant bias towards pro-government parties across seven television channels during the campaign period prior to parliamentary elections in May. Moreover, many human rights activists and representatives of civil society believed that a number of opposition political figures were 'black-listed' by electronic media during the pre-election period and given no coverage, an observation supported by the Yerevan Press Club's findings. Moves to reconfigure appointments to media regulatory bodies did not result in the intended decrease in presidential or ruling party influence in their composition. There were incidents of the harassment of independent journalists writing on themes of corruption and official malpractice, and the damaging of journalists' property. An AI representative expressed concerns relating to issues of freedom of expression to the Head of Division for Human Rights and Humanitarian Issues in the Ministry of Foreign Affairs in March.

The case of Gagik Shamshian (update to AI Index: EUR 01/001/2007)

On 17 January the trial of Gagik Shamshian, a freelance correspondent for the *Chorrord Ishkhanutyun* (Fourth Power) and *Aravot* (Morning), newspapers began. Gagik Shamshian was charged with libel, fraud and extortion under Articles 136, 178 and 182 of the Armenian Criminal Code, charges brought against him shortly after he claimed to have been assaulted in the Nubarashen suburb of Yerevan by associates of the local mayor in July 2006. Gagik Shamshian told AI in March that he rejected all charges made against him. He stated that the six alleged victims of

extortion were in fact all close associates of the local mayor. He also claimed that both judiciary and security forces personnel had tried to induce him to withdraw his allegations regarding the July assault against him, and that the local prosecutor had threatened him with a month's incarceration in a psychiatric hospital. He had also received a number of threatening phone calls during the reporting period.

On 6 June the court sentenced Gagik Shamshian to a suspended sentence of two and a half years' imprisonment with a probationary period of two years. He was further required to pay AMD 200,000 (approximately equivalent to US\$590) in damages. The sentence related to the charge of fraud, while the other charges were rejected by the court. Proceedings instituted against Gagik Shamshian's alleged attackers in 2006 by the Prosecutor's Office of the Erebuni and Nubarashen suburbs had been dropped in November 2006 due to a reported lack of evidence. Gagik Shamshian challenged this decision in February, but the case was again closed on 5 February.

Freedom of assembly restricted

During the campaigning period preceding the 12 May parliamentary election, there were widespread and credible reports of administrative obstacles being used to forestall public rallies by opposition groups, such as the artificial booking up of public spaces for other activities and unreasonable delays in granting authorizations to hold demonstrations. On 9 May police reportedly used truncheons and tear gas to disperse several thousand participants at an opposition rally staged by the opposition parties Hanrapetutian (Republic), Nor Zhamanakner (New Times) and Aylentrak (Alternative). Officials blamed what they called the 'cynical and disrespectful' behaviour of the protestors for the rally's violent dispersal.

International scrutiny

Armenia in European Court of Human Rights judgments

In its first ruling on Armenia, on 11 January the European Court of Human Rights ruled that the 14 May 2002 arrest of plaintiff Armen Mkrtchian, after attending an opposition rally organized by the Hanrapetutian party was a violation of the right to freedom of assembly. Significant numbers of protesters were detained under similar circumstances in February-March 2003 and April-May 2004.

PACE adopts resolutions on Armenia's compliance with Council of Europe standards and the situation of women in the South Caucasus

On 23 January the Parliamentary Assembly of the Council of Europe (PACE) adopted resolution 1532 on the honouring of Armenia's obligations and commitments as a member state of the Council of Europe. The Resolution welcomed a number of reforms in the Constitution which was amended as a result of the November 2005 referendum. These included the granting of a right of access to the Constitutional Court for ordinary citizens, the Ombudsman (also known as the Human Rights Defender), members of the National Assembly (subject to the support of the application by at least one-fifth of its total membership), local authorities and the courts,. The Resolution also welcomed the strengthening of the Ombudsman's position represented by the incorporation of principles on the Ombudsman's selection and tenure into the Constitution, and the end of practices of administrative detention. However, the Resolution also deplored continued allegations of ill-treatment in police custody and extortion perpetrated by police and the National Security Service. It also called for the Armenian authorities to implement their obligation to create a genuinely alternative civilian service for conscientious objectors. Concern was also expressed regarding excessive governmental influence in media regulatory bodies.

On 16 March the Standing Committee of PACE adopted on behalf of the Assembly Resolution 1544 (2007) and Recommendation 1790 (2007) on "the situation of women in the South Caucasus". The Resolution contained a call by PACE on Armenia, Azerbaijan and Georgia to take part in the Council of Europe campaign to combat violence against women, including domestic violence. It also urged the authorities of these countries to "raise awareness among all relevant authorities and the public at large about the existence of violence against women, in particular domestic violence"; to "take effective measures to combat such violence by adopting legislation, if they have not already done so, including on marital rape, and by establishing penalties in line with the seriousness of the offences committed and providing compensation for victims, including by setting up a compensation fund"; and to "set up shelters for victims when there is no other way of protecting them against the perpetrators".

AZERBAIJAN

Harassment of religious minorities

On 13 January, Cengiz Hüseyinov, a British citizen and Jehovah's Witness arrested on 24 December 2006 while attending a Jehovah's Witness religious meeting, was deported, allegedly for 'engaging in religious propaganda'. Cengiz Hüseyinov claimed that he had not been able to lodge an appeal against deportation. Equipment and literature confiscated during the December raid was reportedly not returned.

On 25 May the European Commission on Racism and Intolerance (ECRI) published its second report on Azerbaijan. The report noted progress in the areas of education for children of non-citizens without legal status and the teaching of minority languages, and in the implementation of measures to improve the socio-economic situation of internally displaced persons and refugees. However, the report also expressed concern at instances of inflammatory rhetoric and

hate-speech directed against Armenians, Russian citizens of Chechen ethnicity and some religious groups.

In May AI received reports of discrimination against the Evangelical Baptist Church in the village of Aliabad in the ethnic Georgian-populated district of Zaqatala. This region is known as Saingilo to the local Georgian-speaking population, Muslim representatives of which are known as Ingilos. The Baptist Church, whose congregation is made up of Christian converts from the Ingilo population, has been denied legal status in Azerbaijan for 13 years and there have been repeated reports of harassment directed against it. On 20 May the Church's minister, Zaur Balaev, was arrested on charges of violently resisting the police, charges which he and human rights activists in Georgia and Azerbaijan claimed were false. Relatives making enquiries at the Zaqatala police station where he was being held were allegedly beaten and not permitted to visit him. According to reports Zaur Balaev's health deteriorated following his arrest and in mid-June he was transferred to the hospital unit of the prison in the city of Gəncə. Zaur Balaev was still in detention at the end of the period under review.

No respite for journalists as freedom of expression continued to be curtailed (update to AI Index EUR 55/003/2007)

A number of opposition and independent newspapers were prosecuted under libel and insult laws. In several cases charges of libel related to published allegations of corruption and abuse of office by state officials. One journalist was seriously assaulted by unknown men. AI also received persistent reports of the routine use by police of undue force in preventing journalists from reporting or filming public events such as authorized and unauthorized opposition party rallies, and dispersing demonstrations organized by journalists. There were also persistent reports that journalists associated with opposition media

were not admitted to report on trials with a substantial political content, such as that of former Minister of Health Ali İnsanov, whereas journalists reporting for media associated with the government were freely admitted.

On 14 June a reported 200 policemen dispersed an unauthorized rally by some 50 journalists protesting government curtailment of freedom of speech. According to reports, journalists were kicked and punched, and one had to be hospitalized with stomach injuries.

There were some positive developments. In early February the Court of Appeals reduced fines imposed on the opposition *Azadlıq* (Freedom) newspaper for articles printed in the newspaper allegedly libelling state officials in the Ministry of Internal Affairs and the armed forces. On 27 April the National Television and Radio Council granted a six-year licence to the television channel *ANS*, which had been temporarily taken off air in November 2005 as a result of alleged violations of industry standards. However, on 3 February Economic Court No.1 rejected the appeal of opposition daily newspaper *Azadlıq*, the news agency *Turan* and the opposition newspaper *Bizim Yol* (Our Way), which were required to vacate their premises at 33 Xagani Street in the Azerbaijani capital Baku on 24 November 2006. These outlets were offered alternative premises after eviction from 33 Xagani Street which they claimed was inadequate. A cassation complaint against Court No.1's decision was rejected by the Supreme Court on 25 May.

The case of Faramaz Novruzov and Sardar Alibeyli

Despite President Ilham Aliyev's call for reduced application of Azerbaijan's libel and insult laws to imprison journalists, on 30 January journalist Faramaz Novruzov (also known by the surname Allahverdiyev) and editor-in-chief Sardar Alibeyli of the *Nota Bene* (Note Well) newspaper were sentenced to two years' imprisonment and one and a half year's corrective labour

respectively. Their appeal was rejected by the Court of Appeals on 13 April. The case was brought against the *Nota Bene* newspaper by the Minister of Internal Affairs, Lt.-Gen. Ramil Usubov, and chair of the State Committee for Work with the Diaspora, Nazim Ibrahimov. The charges related to two articles written by Faramaz Novruzov and published in *Nota Bene* in December 2006. Based on 'undisclosed' sources the first article alleged the involvement of the head of the presidential administration Ramiz Mehtiev and Nazim Ibrahimov in claims made on Turkish television relating to the personal life of Vasif Talybov, head of the administration of the Autonomous Republic of Nakhchivan, while the second reportedly speculated on the Minister of Internal Affairs' relations with previous president Heydar Aliyev. Without taking a position of the content of the articles authored by Faramaz Novruzov, it is a source of concern that journalists continue to be imprisoned on account of published articles.

The case of Eynulla Fatullayev and the Realny Azerbaydzhan and Gundelik Azerbaijan newspapers (update to AI Index: EUR 55/008/2007)

A persistent campaign targeting Eynulla Fatullayev, an outspoken opposition journalist and editor of the opposition *Realny Azerbaydzhan* (Real Azerbaijan) and *Gundelik Azerbaijan* (Azerbaijan Daily) newspapers, culminated in his imprisonment in April on charges of libel and insult and the closure of both newspapers. AI considers Eynulla Fatullayev a prisoner of conscience.

In a separate incident on the night of 20 April an editor and military affairs reporter for *Gundelik Azerbaijan*, Uzeyir Jafarov, was assaulted by two men as he left the newspaper offices. He was hit about the face and head with metal objects; reportedly, his attackers drew a knife but withdrew after seeing other staff from the newspaper coming to his assistance. Uzeyir Jafarov was hospitalized and was treated

with stitches. According to reports he recognized one of his attackers as having been present during the court proceedings against Eynulla Fatullayev. Earlier that day Uzeyir Jafarov had testified in defence of Eynulla Fatullayev.

One month after Eynulla Fatullayev's sentencing to two years' imprisonment on 20 April, the premises held by the *Realny Azerbaydzhan* and *Gündelik Azərbaycan* newspapers were targeted by a series of inspections by state agents apparently aimed at shutting both newspapers down. On 20 May staff from the Ministry of Emergency Situations conducted an operation removing the employees of both newspapers and sealing their offices shut on grounds of structural deficiency; the newspapers' technical equipment was not removed. According to reports, the building is a recent construction and residents inhabiting apartments in its upper floors were not asked to move out. On 25 May the offices' landlord cancelled the rental agreement with *Realny Azerbaydzhan* and *Gündelik Azərbaycan* and all remaining property belonging to the newspapers and their staff was removed from the building by police. The equipment was returned to the newspapers.

State investigators on 22 May instituted a new criminal case against Eynulla Fatullayev under Article 214.1 of the Criminal Code (perpetration or incitement of terrorist acts), punishable by up to 12 years' imprisonment. The charges related to an article published in *Realny Azerbaydzhan* on 30 March, which criticized the Azerbaijani government's support for the UN Security Council resolution on Iran. The article then listed a series of strategic objects which could become targets of Iranian military action if hostilities were to open between Iran and Azerbaijan. State Prosecutor Zakir Qaralov claimed this constituted a threat of terrorist action against Azerbaijan. At a hearing in the Court of Appeals on 6 June, Eynulla Fatullayev reported that a gun had been pressed to his head while he was being transferred from Bayil Prison to the detention centre of the Ministry of National

Security on 29 May, and that in his new place of detention he was being denied food and water.

The case of Rovshan Kebirli and Yaşar Agazade

On 16 May Yasamal District Court sentenced editor-in-chief Rovshan Kebirli and journalist Yaşar Agazade of the opposition daily newspaper *Müxalifət* (Dissent) to two and a half years' imprisonment each for 'libel and insult'. The charges related to a February article alleging the abuse of political connections in the import-export business run by Jalal Aliyev, the uncle of President Ilham Aliyev.

The case of Bextiyar Hacıev

On 13 January Bextiyar Hacıev, a youth activist and chair of the local chapter of the international students organization AIESEC (an acronym originally standing for *Association des Étudiants en Sciences Économiques et Commerciales*), was arrested and then reportedly held in solitary confinement in the Narimanov district police station in Baku. He was charged with refusal to cooperate with the police, a charge which he denied. On 14 January Bextiyar Hacıev was sentenced to 12 days' imprisonment by the Narimanov district court after a closed court session taking place on Sunday night. Reportedly, Bextiyar Hacıev had no legal representation at the hearing. He was, however, released two days later. He attributed his arrest to his initiation of a recent campaign against corruption in higher education institutions in Azerbaijan. He had also founded a website entitled www.susmayaq.biz (meaning 'let's not remain silent' in Azeri) as a platform for protests against price rises in fuel and communal services announced by the Azerbaijani Tariff Council on 8 January. The website posted petitions and messages of protest against the price rises and was closed after only two days.

The case of Rafig Taği and Samir Sadagatoğlu (update to AI Index: EUR 01/001/2007)

On 4 May journalist Rafig Taği and editor Samir Sadagatoğlu of the independent newspaper *Senet* (Art) were sentenced to three and four years' imprisonment respectively under Article 283.1 of the Azerbaijani Criminal Code (incitement of national, racial or religious hatred). The charges related an article published in the newspaper in November 2006 entitled 'Europe and Us', in which it was claimed that Islam had hindered Azerbaijan's economic and political development. The article did not advocate violence.

Human rights activists intimidated

AI received reports of the harassment of human rights activists, which they believed was directed at intimidating them in order to curtail their activities for human rights. On 18 April Javid Aliəv, the son of Akifa Aliəva, Gəncə coordinator for the Helsinki Citizens Assembly, was stopped by traffic police for hanging a curtain in the back window of his car. When Javid Aliəv asked the policemen to refrain from using obscene language and to identify themselves, he was arrested on grounds of resisting the police. His family were not informed of the arrest, nor was Javid Aliəv permitted to call his family. On 19 April he was sentenced to three days' imprisonment at a hearing during which he was not permitted access to a lawyer. Akifa Aliəva had received threats from police officers in 2006 that her human rights activism was putting her children in danger; two days before her son's arrest she had submitted a report on human rights violations to the United States embassy in Azerbaijan.

The Yeni Fikir case (update to AI Indexes: EUR 01/017/2006, EUR 55/004/2006 and EUR 01/001/2007)

A presidential decree annulled the five year suspended sentence given to Said Nuri, a member of the Yeni Fikir (New Idea) youth

movement arrested on 12 September 2005 on charges of conspiring to violently overthrow the Azerbaijan government. In June, the father of Yeni Fikir leader Ruslan Başirli, sentenced to seven years' imprisonment on the same charge in July 2006, claimed that his son was being subjected to mental and physical abuse in prison.

Allegations of torture and other ill-treatment

National Committee against Torture presents findings

According to the annual report issued by the non-governmental organization the National Committee against Torture on 6 February, 10 people died of torture and ill-treatment in Azerbaijan in 2006, while a further 43 cases of torture and ill-treatment were documented by the organization. No instances of disciplinary action other than the demotion of some officials involved in cases of torture and ill-treatment were recorded in the report. Some improvements were noted, however, in the standards of food, medical treatment and living conditions of prisoners administered by the Ministry of Justice.#

Allegations of torture not investigated as trial of three minors reached conclusion (update to AI Index: EUR 55/007/2007)

On 18 June the Court of Grave Crimes sentenced teenagers Dmitri Pavlov, Maksim Genashilkin and Ruslan Bessonov, charged with the murder of another teenager Vusal Zeynalov, to 10 years' imprisonment in a strict regime prison, after an unfair trial. The three boys continued to deny the charge. The verdict attributed primary responsibility to Dmitri Pavlov, despite the fact that witnesses providing an alibi for him had testified during the trial. According to the boys' families, both Dmitri Pavlov and Maksim Genashilkin had been beaten by Procuracy officials in the days preceding the hearing and bore bruises on their faces

and necks. No investigation of these allegations was initiated by the authorities. The boys' parents claim that the trial had been characterized by multiple irregularities. They told AI that the alleged time of the murder had shifted on a number of occasions in the light of the alibis presented during the trial, and that they believed forensic evidence had been artificially manufactured. The boys continued to be detained in pre-trial detention facilities pending their appeal.

Conditions in Qobustan still a concern

Three deaths in custody, hunger strikes, living conditions and the failure of the authorities at the maximum security prison in Qobustan to protect inmates from violence by other prisoners, including those reportedly suffering from mental illness, continued to be sources of concern. No progress was made in the investigation of the death of Maxir Mustafaev, who died of burns in December 2006 (see AI Index: EUR 01/001/2007).

In February reports were received that prisoner Mexman Muradov had cut open his stomach in order to protest his continued serving of a life sentence as opposed to having his sentence commuted to 15 years. Allegedly, he did not receive adequate medical care for his injuries.

On 17 February lifer Ayaz Imanov died in his cell after a three-day meeting with his mother and sister, who alleged he was in good health. Prison staff suggested that he may have died of an overdose, although Ayaz Imanov was not reported as having a history of drugs use.

On 16 June lifer Famil Mirzoev was murdered in his cell in Qobustan's medical unit. His throat had been cut. According to information supplied by relatives, Famil Mirzoev was sharing his cell with three other prisoners including one with a history of mental illness. According to reports, this prisoner had already been identified by a monitoring group and other prisoners as a prisoner at risk of self-harm or harming

others, yet he was not separated from other inmates.

On 17 February prisoners serving life sentences and their relatives sent an appeal to President Ilham Aliyev to intervene to improve prison conditions in Qobustan. The appeal cited cases of deaths in custody, torture and failure to administer necessary medical care; there were some 130 prisoners serving life sentences at the time

International Scrutiny

Council of Europe, OSCE express concerns

On 16 April the Parliamentary Assembly of the Council of Europe passed resolution 1545 (2007) on Azerbaijan's honouring of commitments and obligations as a Council of Europe member state. The resolution noted that the Assembly could 'not consider the issue of political prisoners to have been finally resolved'. The resolution noted the presidential decree of 19 March pardoning 14 individuals appearing on a list drawn up by the task force established in 2005, comprised of representatives of government and civil society. However, it also called for greater activity on the part of the task force in its review of outstanding cases. The resolution further noted the Assembly's serious concerns with regard to continued violent incidents directed against journalists, and urged the Azerbaijani authorities to decriminalize defamation.

On 17 May Miklós Haraszti, the Representative for the Freedom of the Media for the Organization for Security and Co-operation in Europe (OSCE), expressed concern at the continuing imprisonment of journalists for libel and insult. He said that Azerbaijan had become one of the most dangerous places for journalists in the OSCE region.

Azerbaijan in European Court of Human Rights judgments

On 11 January the European Court of Human Rights issued a Chamber judgment on the case of *Mammadov (Jalaloğlu) vs Azerbaijan*. The case related to the treatment of Sardar Mammədov (known more widely by the name of Sardar Jalaloğlu), who was arrested on 18 October 2003 when serving as Secretary General of the opposition Democratic Party of Azerbaijan (DPA). The European Court ruled that Articles 3 of the European Convention on Human Rights (prohibition of torture and investigation into allegations of torture) and 13 (the right to effective remedy) had been violated in Sardar Mammədov's case.

On 1 February the European Court issued a judgement ruling that the right to freedom of assembly and association (Article 11 of the European Convention on Human Rights) had been violated by the four-year delay in the registration of the non-governmental organization (NGO) 'Assistance to the Human Rights Protection of the Homeless and Vulnerable Residents of Baku' by the Ministry of Justice.

Refugee and extradition concerns

On 10 January the Council for Chechen Refugees in Azerbaijan addressed an appeal to UN's refugee agency, UNHCR. The appeal described what the Council saw as a seriously worsening situation for Russian citizens of Chechen ethnicity seeking refuge in Azerbaijan, including incidents of abduction and officially sanctioned intolerance. There were reportedly more than 4,000 Russian citizens of Chechen ethnicity in Azerbaijan during the period under review, of which 2,500 were reported as having been registered by the Baku Office of UNHCR. In April it was reported by *Chechenpress* that the body of Ruslan Eliyev, a refugee from the Russian Federation granted mandate status by UNHCR's Azerbaijan office and then abducted from Baku on 9 November 2006, had been found among a number of mutilated bodies discovered in the

Samashki forest in Chechnya. It was reported that his body bore the marks of severe torture and ill-treatment.

The case of Hadi Musevi

Hadi Sid Javad Musevi, an Iranian citizen and activist of the Southern Azerbaijan National Awakening Movement (SANAM), was arrested on 7 April and on 12 April extradited to Iran despite the risk of torture or other ill-treatment. Hadi Musevi fled Iran for Azerbaijan in September 2006 after previously being arrested and reportedly tortured in connection with activities associated with SANAM, an organization lobbying for the rights of Iran's estimated 25-30 million ethnic Azeris. SANAM is an organization registered with the Unrepresented Nations and Peoples Organization (UNPO) and does not advocate violence. Hadi Musevi's application for refugee status was refused by the State Committee for Refugees and Internally Displaced Persons in February. Hadi Musevi's lawyer, Alovzat Aliyev, reported that he had been prevented from meeting his client, who he claimed was not given the opportunity to lodge an appeal against extradition at the Court of Appeals. A protest action planned on 16 April by the youth group Dalğa (Wave) in response to Hadi Musevi's deportation was dispersed by police.

The case of Elif Pelit (update to AI Index EUR 01/001/2007)

On 1 May the UN Committee Against Torture (CAT) issued a decision relating to the case of Elif Pelit, a Turkish citizen of Kurdish ethnicity extradited by Azerbaijan to Turkey on 13 October 2006. The Committee ruled that Elif Pelit's extradition was in breach of Article 3 (against the *refoulement* of persons to states where there is substantial risk of their being subjected to torture) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

PACE resolution on the situation of women in the South Caucasus

On 16 March the Standing Committee of the Parliamentary Assembly of the Council of Europe (PACE) adopted on behalf of the Assembly Resolution 1544 (2007) and Recommendation 1790 (2007) on "the situation of women in the South Caucasus". The Resolution contained a call by PACE on Armenia, Azerbaijan and Georgia to take part in the Council of Europe campaign to combat violence against women, including domestic violence. It also urged the authorities of these countries to "raise awareness among all relevant authorities and the public at large about the existence of violence against women, in particular domestic violence"; to "take effective measures to combat such violence by adopting legislation, if they have not already done so, including on marital rape, and by establishing penalties in line with the seriousness of the offences committed and providing compensation for victims, including by setting up a compensation fund"; and to "set up shelters for victims when there is no other way of protecting them against the perpetrators".

BELARUS

International concern about human rights in Belarus

In a resolution on the "State of Human Rights and Democracy in Europe", adopted on 18 April, the Parliamentary Assembly of the Council of Europe identified Belarus as "a country of particular concern where democratic principles and the rule of law had not yet been implemented". On 17 May, UN Member States did not vote in favour of the candidacy of Belarus for the UN Human Rights Council. General Assembly resolution 60/251, establishing the Human Rights Council, stipulates that when electing members of the Council, Member States "shall take into account the contribution of candidates to the promotion and protection of human rights and their voluntary pledges and commitments".

Freedom of Expression

The authorities continued to harass opposition activists by detaining them and charging them under both the Administrative and Criminal Codes in violation of their rights to freedom of expression and assembly. Opposition activists were targeted during the preparations for the Freedom Day march on 25 March. The date is the anniversary of the creation of the Belarusian People's Republic in 1918, and is not recognized by the government, but is celebrated as a symbol of national pride by opposition members. Prominent opposition activists, Vintsuk Vyachorka, and Vyachaslau Siuchyk, alleged that they were detained and charged under the Administrative Code to hamper their activities. Vintsuk Vyachorka was arrested on March 13 at the entrance to his home and charged with using obscene language. Police initially detained Vyacheslav Siuchyk for his likeness to a known criminal and then charged him with urinating on the street. Both politicians denied these charges. At separate trials on 4 April both were found guilty of petty hooliganism, but the judge did not impose a fine or detention because the offences were so "insignificant". According to local human rights activists police used fists and batons against the demonstrators on 25 March in an effort to stop them gathering on October Square in the centre of the capital city of Minsk. Some 50 to 60 demonstrators were reportedly detained, and subsequently sentenced by a court to up to 15 days' administrative detention.

On 3 April, Andrei Klimov, an opposition leader, was arrested and accused of "calling for the overthrow or the change of the constitutional order with the aid of the mass media." He had published a number of articles on the internet calling for peaceful change of government. In July, he remained in detention awaiting trial, and facing a potential prison sentence of two years.

On 26 April, after the traditional "Chernobyl Way" march in commemoration of the

consequences of the Chernobyl disaster, police reportedly used force to disperse the participants, and detained several dozen demonstrators briefly.

On 29 May, five members of a non-governmental youth organization named Malady Front (Young Front) were convicted under Article 193, Part 1 for 'organizing or participating in an activity of an unregistered non-governmental organization'. Four of the accused were fined and the fifth member of the group received an official warning. AI continues to campaign for the release of Zmitser Dashkevich, a leader of Malady Front who was sentenced to one and half years' of imprisonment under article 193, Part 1 in November 2006 (see AI Index: EUR 01/001/2007).

Human Rights Defenders

Belarusian Helsinki Committee (Update to AI Index: EUR 01/017/2006)

Pressure against Belarus' only remaining national registered human rights organization continued. On 19 December 2006, the property department of the presidential administration informed the organization that they must vacate their office premises by 20 January 2007. However, after considerable international pressure, the Presidential Administration granted them an extension of the lease on their office for a further year on 31 January.

Death Penalty

The courts continued to hand down death sentences and to carry out executions. There were no figures available for the number of executions carried out in the period under review. Execution is by a gunshot to the back of the head, and relatives are not officially told of the date of the execution or where the body is buried. According to press reports, on 22 May the Supreme Court imposed a death sentence on Alyaksandr Syarheychyk. He was convicted of six murders, of concealing a

murder as well as rape, theft, malicious hooliganism, and several other offences.

Restrictions on Religious communities

Restrictions on religious communities continued. Under the restrictive 2002 Religion Law, only registered nation-wide religious associations have the right to establish monasteries, missions and educational institutions, as well as to invite foreign citizens to preach or conduct other religious activity in Belarus. State permission is required to hold religious services in non-religious buildings, yet communities such as Protestant churches which do not own their own property find it increasingly difficult to rent property.

In June AI wrote to the Prosecutor General concerning Jaroslaw Lukasik, a Protestant pastor and member of the Union of Evangelical Faith Christians. Jaroslaw Lukasik had been detained on 27 May when police raided a church service that was being held in the home of Pastor Antoni Bokun of the John the Baptist Pentecostal Church. He was released the same day after the Polish consul visited the police station. On 30 May he was sentenced under Article 23 (43) of the Code of Administrative Infringements for holding an unsanctioned meeting, and engaging in "illegal religious activity". He was issued with a deportation order and fined one month's salary. Jaroslaw Lukasik is a Polish citizen who has been resident in Belarus since 1999, and his wife and three children are all Belarusian citizens. AI was concerned that Jaroslaw Lukasik had been found guilty of offences that amounted to no more than the peaceful exercise of a number of rights including the right to freedom of thought, conscience, and religion, and the rights to freedom of expression, and to peaceful assembly. The organization called on the Belarusian government to rescind the order for Jaroslaw Lukasik's deportation, but Jaroslaw Lukasik was deported regardless on 8 June.

BELGIUM

Allegations of police ill-treatment

Allegations of ill-treatment by law enforcement officers were made in connection with attempts to forcibly expel the Tahiri family from Belgium to Albania on 5 June, following their failed asylum claim. On the night of 4 June the family were allegedly held in an isolation cell at the detention centre of Steenokkerzeel 127bis in Brussels, where they were allegedly harassed throughout the night by staff from the centre telling them to "prepare to return", which prevented them from being able to sleep.

According to the testimony of Naim Tahiri, at 4.30am numerous police officers arrived at the detention centre to take the family to the Zaventem airport. At this time, the family members were separated and the baby was taken by social service workers, despite Naim Tahiri and Etleva Tahiri's protests. Naim Tahiri claims that he and his wife were insulted and threatened by police officers who told them the expulsion would be more aggressive and they would be drugged (by injection) if they did not cooperate. Naim Tahir was tied by the ankles, thighs and waist with adhesive tape. Etleva Tahiri was made to strip naked and was humiliated and insulted. Her arm was twisted.

They were allegedly carried on to the plane by police officers and once on board the officers tried to silence them using violent means. Naim Tahiri was beaten by officers present while being restrained by the neck. Two other people were being expelled on the same flight and became distressed by witnessing the incident. Their shouts attracted the attention of other passengers boarding the flight who demanded that the police officers cease their use of violence.

The attempted expulsion was aborted and the Tahiri family was returned to the detention centre. During the return journey Naim Tahiri states that he was kicked and he and his wife were insulted by officers again. He claims the three family members

were separated again and on return to the detention centre they did not receive a medical examination.

On 11 June the Tahiri family was transferred to the Merksplas detention centre near Anvers. Two non-governmental organisations (NGOs), the Ligue des droites de l'Homme and CIRE have made a complaint with the police inspectorate (Comité P) regarding the ill-treatment suffered by the family during the expulsion attempt. The family's lawyer intends to make a criminal complaint and has made a request for subsidiary protection. At the time of going to print the family was still awaiting deportation.

In a separate incident, four police officers from Bruxelles-Ixelles were charged on 25 June for assaulting a detainee, according to media reports. It is alleged he was punched and kicked by the four officers after being detained for "suspicious behaviour" but he was not charged with any crime. After an internal hearing by the police on 25 June the suspects appeared before the public prosecutor who has sent the case directly on to the criminal court to be heard in October, without being investigated by an investigating judge. The officers are currently suspended from duty pending the outcome of the case. One of the officers is also accused of ill-treatment in another case.

Asylum

New asylum legislation (see AI Index: EUR 01/001/2007) came into full effect from 1 June. The change in asylum request procedures aims to have all claims resolved within 12 months of presentation and transfers competency for first instance decisions on asylum requests from the Aliens' Affairs Department (l'Office des étrangers) to the Commissioner General's Office for Refugees and Stateless People (Commissariat général aux réfugiés et aux apatrides, CGRA). Appeals will be heard by a newly created independent body, the Council for Aliens' Disputes (Conseil du contentieux des étrangers). A

spokesperson for UNHCR, the UN refugee agency, has raised concerns that the new procedures are more formalised than the previous process, rely more heavily on written submissions and have shorter submission deadlines. As a result, asylum-seekers may be at greater need of specialist legal representation which, particularly in the case of those held in detention centres, can be difficult to obtain. The new law also increases the grounds on which asylum-seekers can be held in detention.

The new law has also been criticised by human rights organisations, particularly those working with migrants, for failing to address the problems of irregular migrants seeking regularisation of their status.

According to figures cited in the press, the number of asylum demands fell by 27 per cent in 2006 compared to 2005, to produce a total of 14,648. This is the lowest figure in 15 years and follows a consistent falling tendency seen since 2000. There are estimated to be around 100,000 irregular migrants in Belgium.

According to media reports 16 of the Afghan asylum-seekers occupying the Minimes church in Brussels (believed to be between 60 and 100 people in total) went on hunger strike in March, protesting at the difference in treatment of Afghan asylum-seekers arriving before and after 2003. Those arriving before 2003 had been entitled to a renewable six-month residence permit which was frequently replaced by permits of undetermined duration after two years. Those arriving after 2003 were not entitled to such measures, although they still had the right to seek asylum. The hunger strike ceased after assurances were given that their claims for asylum and/or subsidiary protection would be heard. AI does not have any further information on whether their asylum claims were accepted.

In June, the case of an Iraqi couple seeking asylum in Belgium came to public attention. In December 2004 they fled Iraq, describing how they had suffered death threats as a result of sectarian conflict, and travelled to Greece where they were

detained for three months on the grounds of illegal entry. They applied for asylum, but this was rejected in the first instance decision. They were unable to appeal because Greece has suspended all decision-making on Iraqi cases at the appeal level since 2003. They were ordered to leave the country.

In November 2005, the couple travelled to Belgium, where their son was living legally. On arrival they applied for asylum and were held in detention by the Belgian authorities, who argued that Greece was responsible for their asylum claim under the so-called Dublin II Regulation, which establishes criteria and mechanisms for determining which European Union (EU) state will examine an asylum application. The Belgian authorities sent the couple back to Greece, where they were held for two weeks at the airport before being issued with an order to leave the territory on the grounds that their case had already been decided on and was closed.

In 2007 they travelled to Belgium again and were detained upon arrival on February 7. UNHCR has called on the Belgian authorities to allow the couple to remain. On 8 June a final decision was made by the Belgian authorities and they were released from detention on 15 June. At the time of writing AI was not aware of whether they had been granted asylum or not.

Children continued to be detained in closed centres for failed asylum-seekers and irregular migrants pending return to their country of origin. A study published in April, commissioned by the Minister of the Interior, concluded that such centres were not suitably equipped for the detention of children and that child-friendly family centres should be created. The report failed to analyse possible alternatives to detention for children.

Discrimination

On 20 June the Centre for Equal Opportunities and Against Racism (Centre pour l'égalité des chances et la lutte contre

le racisme, CECLR,) published its annual report. In 2006 it recorded 20 complaints of racism and anti-Semitism under judicial investigation. It received a total of 1,649 complaints of discrimination, racism and incitement to hatred during the year, of which 40 per cent were racially or ethnically motivated. Racial or ethnic discrimination featured in 50 per cent of cases relating to employment. Complaints of anti-Semitism on the internet doubled. The CECLR also looked into cases of discrimination on the grounds of disability and sexual orientation.

New legislation came into force from 30 May aimed at combating discrimination. A public education campaign against discrimination was launched on 1 June.

Counter-terrorism (update to AI Index: EUR 01/001/2007)

On 19 April the Supreme Court quashed the convictions in the case of Bahar Kimyongur and others, on the grounds that a statement made by the trial judge (Freddy Troch) gave rise to an appearance of partiality in the proceedings. A re-trial has been ordered which will be conducted by the Court of Appeal in Anvers, expected to commence in September 2007.

On 28 February 2006, Bahar Kimyongur and six other people (Kaya Saz, Musa Asoglu, Sükriye Akar, Fehriye Erdal, Zerin Sari, and Dursun Karatas) were convicted by Bruges Criminal Court to between four and six years' imprisonment (later increased to seven years for some) under new Belgian legislation (introduced 19 December 2003) for belonging to a terrorist organisation. Bahar Kimyongur is a Belgian national and supporter of the Turkish opposition group Revolutionary People's Liberation Party-Front (Halk Kurtuluş Partisi/Cephesi,, DHKP-C). The DHKP-C is illegal in Turkey and was declared a terrorist organisation by the EU in 2002. On 7 November 2006 the Court of Appeal in Gand rejected the appeal presented by Bahar Kimyongur and his co-defendants against their original conviction and increased several of the sentences. All

seven defendants were convicted on charges relating to membership of or support for a terrorist or criminal organisation but were not charged for committing or planning terrorist acts.

Lawyers for some of the defendants have made allegations of ill-treatment, particularly in relation to the "special detention regime" which has been applied to them. AI is concerned that elements of this regime may constitute a violation of human rights. AI is concerned in particular at reports that Sükriye Akar was blindfolded during transfer from prison and that during her court hearing on 27 March 2007 she was shackled and handcuffed, and that while in prison Kaya Saz, Musa Asoglu and Sükriye Akar were subjected to intrusive half-hourly cell checks throughout the night, which prevented them from being able to sleep. The organisation is also concerned by reports that these prisoners have been subjected to excessively frequent strip-searching and intimate body searches. AI is furthermore deeply concerned that between April and December 2006 the prison authorities of Bruges and the Ministry of Justice repeatedly failed to comply with the judicial ruling of the Court of First Instance in Brussels which ordered the suspension of the "special detention regime" on 6 April 2006. The Court's decision found that no convincing or objective argument had been presented by the prison authorities to confirm that the affected prisoners posed a greater than average threat which would justify special security measures. This decision was reconfirmed by the Court of Appeal in December 2006.

BOSNIA AND HERZEGOVINA

General and political developments

Bosnia and Herzegovina (BiH) remained divided in two semi-autonomous entities, the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), with a special administrative status

granted to the Brčko District. The international community continued to exert significant influence over the political process in BiH, as part of the civilian implementation of the Dayton Peace Agreement, led by a High Representative whose nomination is proposed by the Peace Implementation Council (PIC), an intergovernmental body that monitors implementation of the Dayton Peace Agreement. Preparations to close down the Office of the High Representative (OHR) in 2007, which had been ongoing since mid-2006, were halted after the PIC decided in February against the closure of the OHR including as a result of the lack of progress in the process of political reform and of the backlash of nationalist rhetoric that had accompanied the general elections held in October 2006.

Following the October 2006 elections, in February a new State government took office, headed by Prime Minister Nikola Špirić of the Alliance of Independent Social Democrats (Savez nezavisnih socijaldemokrata, SNSD). The government coalition also includes six other parties.

Also in February, the European Union (EU) Political and Security Committee gave final approval to reduce the number of troops of the EU-led peacekeeping force EUFOR from approximately 6,000 to 2,500. EUFOR's reconfiguration and the withdrawal of troops was completed at the end of the period under review. In addition to EUFOR, a small North Atlantic Treaty Organisation (NATO) presence remained in BiH, mainly to assist the BiH authorities in defence reform and also ostensibly providing support to the International Criminal Tribunal for the former Yugoslavia (Tribunal) with regard to the detention of persons indicted for war crimes.

Following the judgement in February by the International Court of Justice (ICJ) in the case BiH vs. Serbia and Montenegro (see below), local residents of Srebrenica, mainly Bosniak (Bosnian Muslim) returnees, formed a coalition to request a special status for Srebrenica outside the RS. Although demands to separate Srebrenica

from the RS were rejected by the RS leadership, extra funding was earmarked by the RS government to promote development in Srebrenica and in April a high level coordination group, composed by representatives of the OHR, the RS and FBiH authorities, was created to address the social and economic problems affecting the municipality.

No progress was made by BiH towards EU integration. Although technical talks between the EU and BiH on a Stabilisation and Association Agreement (SAA) were completed, the EU made the signing of the SAA conditional to progress in the areas of police reform, cooperation with the Tribunal, the reform of public broadcasting and public administration. However, at the end of the period under review political parties failed in particular to reach an agreement on police reform.

War crimes and crimes against humanity (update to AI Index: EUR 01/001/2007)

International investigations and prosecutions

The Tribunal continued to try alleged perpetrators of war crimes and crimes against humanity committed during the violent collapse of Yugoslavia. Under the terms of the "completion strategy", laid down in UN Security Council Resolutions 1503 and 1534, the Tribunal was expected to complete all trials including appeals, by 2010. As a result of the tight deadlines imposed by the "completion strategy", the Tribunal continued with its policy of referring cases involving lower level perpetrators to national jurisdictions in the former Yugoslavia. In April the Tribunal's referral bench decided to transfer the case of Milan and Sredoje Lukić to BiH. The two former members of a Bosnian Serb paramilitary group are indicted on counts of war crimes and crimes against humanity committed against the non-Serb population in the Višegrad area, including persecutions, extermination, murder, inhuman acts and cruel treatment. In June the case of Milorad

Trbić was transferred to BiH, following a decision by the Referral Bench in April. He is accused of genocide, conspiracy to commit genocide, as well as crimes against humanity and war crimes for his alleged role, as a Captain in the Bosnian Serb Army (Vojaska Republike Srpske, VRS) in the systematic killing of thousands of Bosniak men and boys in Srebrenica in 1995.

In April the Tribunal's Appeals Chamber reversed certain first instance convictions against Radoslav Brđanin in particular with regard to the commission of torture in detention camps by members of Bosnian Serb forces in north-western BiH and the wanton destruction of cities, towns or villages in the municipality of Bosanska Krupa and reduced his sentence to 30 years' imprisonment. Radoslav Brđanin, a former Bosnian Serb leader, had been sentenced by the Trial Chamber in 2004 to 32 years' imprisonment for crimes against humanity and war crimes committed against the non-Serb population.

Also in April, Dragan Zelenović, a former member of a VRS military unit in Foča, was found guilty of torture and rape committed against Bosniak women and girls in 1992. He was sentenced to 15 years' imprisonment.

In May, the Appeals Chamber partly reversed Vidoje Blagojević's first instance conviction finding him not guilty of complicity in genocide and reducing the sentence of 18 years' imprisonment imposed on Vidoje Blagojević in 2005 by the Trial Chamber to a sentence of 15 years' imprisonment. A former VRS officer, Vidoje Blagojević had been also found guilty of murder, persecutions, and inhuman acts committed against non-Serbs.

In June Tribunal indictee Zdravko Tolimir was transferred to the Tribunal's custody after having been arrested at the border between Serbia and BiH by the RS police, reportedly acting after a tip-off by the Serbian police. Zdravko Tolimir, former Assistant Commander for Intelligence and Security of the VRS Main Staff, is accused of genocide, conspiracy to commit genocide, crimes against humanity and war crimes for

his alleged role in the killing of thousands of Bosniak men and boys in Srebrenica in 1995.

Cooperation between BiH and RS authorities and the Tribunal improved. In June, in her address to the UN Security Council, the Tribunal Prosecutor stated that BiH's level of cooperation with her office had progressed in recent months and was now generally satisfactory. She pointed to improved coordination between the State and entity level institutions in targeting the fugitives' support networks and welcomed the role of BiH and the RS in facilitating the arrest and transfer of Zdravko Tolimir to the Tribunal.

In February the ICJ ruled in the case of BiH vs. Serbia and Montenegro confirming that genocide was committed in Srebrenica in 1995. The judgement, which is binding, found that Serbia did not commit or was complicit in genocide but that it had violated its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) by having failed to act to prevent genocide in Srebrenica and by having failed to transfer Ratko Mladić, indicted *inter alia* for genocide and complicity in genocide, to the Tribunal. The ICJ decided that Serbia should immediately take effective steps to ensure full compliance with its obligation under the Genocide Convention, and to transfer individuals accused of genocide, as well as other indictees, to the Tribunal.

Domestic investigations and prosecutions

War crimes proceedings before domestic courts continued, including at the War Crimes Chamber (WCC) within the BiH State Court, although efforts to bring perpetrators to justice remained insufficient to provide justice to the victims given the scale of the crimes committed and the potentially huge number of crimes to be investigated and prosecuted. In February a joint financing agreement was signed by the BiH Ministry of Justice, the Registry of

the Court and the BiH Prosecutor's Office and the development agencies and authorities of a number of European countries. The donors have pledged approximately 8 million Euros for the period 2007-2009 to support the work of the BiH State Court and Prosecutor Office.

In January, an Appellate Panel at the BiH State Court revoked the first instance verdict in the case of Boban Šimšić and ordered a retrial. Boban Šimšić had been found guilty in 2006 of having assisted members of the VRS in committing in 1992 the crimes of enforced disappearance and rape of Bosniak civilians in the Višegrad area. A retrial started in March.

In February, Gojko Janković, a former leader of a military unit of the Foča Brigade of the VRS, was sentenced to 34 years' imprisonment for crimes against humanity including murders, torture, rape, sexual slavery, and forcible transfer of population, committed against the Bosniak population in the Foča municipality in 1992 and 1993.

In March Radisav Ljubinac, a former member of Bosnian Serb forces, was found guilty of crimes against humanity committed against non-Serbs in the Rogatica area and sentenced to 10 years' imprisonment. In particular, he was found guilty of having taken part in the forcible transfer of non-Serbs, of having inflicted great suffering or serious physical or mental injuries on detained civilians and of having driven 27 civilians to the village of Duljevac, where they were used as human shields during an attack by the VRS.

Also in March, an Appeal Panel increased the prison sentence imposed on Radovan Stanković from 16 to 20 years. He had been convicted in 2006 of having participated in the enslavement, torture, forced pregnancy and persecution of women held in detention by Bosnian Serb forces in 1992 in the Foča municipality. The case of Radovan Stanković was the first which had been transferred from the Tribunal to BiH. Radovan Stanković escaped from detention in May, while he was being escorted to a medical examination outside the prison. Following the escape, the

director and the deputy director of the Foča Prison, where he was detained, were sacked by the RS Minister of Justice and criminal charges were brought against prison guards who were escorting Radovan Stanković when he escaped.

In April the appeal filed by Marko Samardžija was partly upheld and a retrial was ordered. Marko Samardžija, former VRS commander in the Ključ area, had been found guilty of crimes against humanity in 2006 and sentenced to 26 years' imprisonment, including for his role in the killing of at least 144 Bosniak detained men.

Also in April, former member of Bosnian Serb forces Radmilo Vuković received a prison sentence of five years and six months having been found guilty of the physical abuse and repeated rape in 1992 of a woman in Miljevina, in the Foča municipality.

Goran and Zoran Damjanović were found guilty of war crimes they committed against the non-Serb population as members of the VRS in 1992 in the Sarajevo area. They were sentenced to 12 and 10 years' imprisonment respectively. Also in June, a former member of the VRS was found not guilty and acquitted of all charges of crimes against humanity of which he was accused.

Gojko Kličković, former Prime Minister of the RS between 1996 and 1998, was extradited from Serbia to BiH in June. He had been arrested in Belgrade in 2006 and was suspected of having committed crimes against humanity against the non-Serb population during the initial phase of the 1992-95 war.

Some war crimes trials of low-level perpetrators were also held in local entity courts, which continued to face difficulties in dealing with war crimes cases, including as a result of lack of staff and other resources. In these proceedings, victims and witnesses remained without adequate protection from harassment, intimidation and threats including as a result of a failure to implement existing witness protection legislation.

In January, in proceedings at the Mostar Cantonal Court, eight former members of the Army of Bosnia and Herzegovina were found guilty of the inhuman treatment in 1993 of Bosnian Croat detainees in the Mostar municipality, some of whom died as a result. The accused were sentenced to between one and four years' imprisonment.

In February, the Sarajevo Cantonal Court sentenced Predrag Mišković, a former member of Bosnian Serb forces, to eight years' imprisonment for war crimes against the civilian population committed in the Sarajevo suburb of Grbavica. Predrag Mišković was found guilty of taking part in the ill-treatment and rape of a Bosniak woman in 1992.

In April the trial of Kosta Kostić, a former member of Bosnian Serb forces, ended at the Brčko Basic Court with a guilty verdict and a prison sentence of 15 years. He was found guilty of having participated in the murder of 14 non-Serb civilians and in the rape of a non-Serb woman. Two other co-defendants were acquitted.

In May Dominik Ilijašević, former member of the Croatian Defence Council, (Hrvatsko vijeće obrane, HVO), the war-time Bosnian Croat armed forces, was sentenced at the Zenica Cantonal Court to 15 years' imprisonment for war crimes, including for his role in the killing of 38 non-Croat civilians in the village of Stupni Do in 1993.

Proceedings at the Sarajevo Cantonal Court were ongoing against a man suspected of having committed, as a member of Bosnian Serb forces, war crimes against the civilian population and prisoners of war. The indictment *inter alia* alleges that the suspect was involved in the beating and abduction of Vladimir and Radislav Mađura from their home in Ilidža, a suburb of Sarajevo. The bodies of Vladimir and Radislav Mađura had been exhumed and identified in 2004.

Enforced disappearances (update to AI Index: EUR 01/001/2007)

According to estimates by the International Commission on Missing Persons (ICMP), over 13,000 persons who went missing during the 1992-1995 war were still unaccounted for. Many of the missing were victims of enforced disappearances, whose perpetrators continued to enjoy impunity.

Progress continued to be slow in transferring competencies from the missing persons commissions of the FBiH and the RS to the national Missing Persons Institute (MPI). In May BiH Prime Minister Nikola Špirić pledged to take the necessary measures to make the MPI operational and in June the BiH Council of Ministers nominated its appointed members to the Steering Board of the MPI.

In May the bodies of 28 victims were exhumed from a mass grave in Sokolac, near Sarajevo. The remains are thought to be those of non-Serb detainees of the Kula detention camp, run by Bosnian Serb authorities. In June four complete and 44 incomplete skeletons were exhumed from a mass grave in the Zeleni Jadar area, near Srebrenica. The bodies are believed to be those of victims of killings by members of the VRS in and around Srebrenica in 1995.

Although in December 2006 a commission tasked with investigating the enforced disappearance of Avdo Palić had been reactivated, reported attempts to locate his mortal remains were unsuccessful. ABiH Colonel Avdo Palić had "disappeared" after reportedly being forcibly taken by VRS soldiers from the UN Protection Force compound in Žepa on 27 July 1995. He had gone there to negotiate the evacuation of civilians from the town which had just surrendered to the VRS.

Right to return (update to AI Index: EUR 01/001/2007)

Since the end of the war, out of an estimated 2.2 million people displaced during the conflict, more than a million refugees and internally displaced persons

were estimated to have returned to their homes. Progress in the return of those still displaced was limited. The Office of the UN High Commissioner for Refugees in BiH registered approximately 800 returns between January and March. Of these, approximately 700 were returns in a minority situation.

In the period under review the security situation for returnees and members of minority communities improved. Reportedly, initial investigation into the murder in May of a Bosnian Croat returnee in Banja Luka suggested that the crime was not ethnically motivated.

Minority returnees continued to face discrimination in access to economic and social rights. Lack of access to employment continued to be a major obstacle to the sustainable return of refugees and the internally displaced. The unemployment rate was high in general, reflecting the weak economic situation and difficulties of economic transition and post-war reconstruction. In addition, returnees faced discrimination on ethnic grounds. Budget resources to cover the cost of claims for severance pay of those workers who were unfairly dismissed during the war remained insufficient.

'War on terror' (update to AI Index: EUR 01/001/2007)

The six men of Algerian origin who in 2002 were unlawfully transferred by the authorities in BiH to US custody and detained in Guantánamo Bay, Cuba, remained in detention. The BiH authorities continued to fail to take meaningful steps to assist the men and ensure their release.

In January, the European Court of Human Rights decided to grant priority treatment to applications filed in September 2006 on behalf of the six men detained in Guantánamo. The applications claim that the failure of the authorities in BiH to implement binding decisions by domestic courts and to act to protect the rights of the detainees is in violation of a number of

provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols No. 6 and No. 13.

Also in January, the European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners adopted its final report. The report *inter alia* condemned the extraordinary rendition in 2002 of the six men of Algerian origin acknowledging that they were abducted in Sarajevo, handed over to US soldiers and then flown to Guantánamo Bay, where they remain detained without trial or legal guarantees. The report welcomed the fact that the Government of BiH is the only European government that does not deny its participation in such an extraordinary rendition and has accepted formal responsibility for its illegal actions. However, it regretted that the steps undertaken by the BiH authorities have not yet resulted in the release of the six men from Guantánamo.

The BiH State Commission for the Revision of Decisions on Naturalization of Foreign Citizens, which had begun its work in March 2006, continued its activities amidst numerous statements to the media by politicians to the effect that those stripped of their citizenship, and in particular those deemed to represent a "threat to BiH's national security" would be deported. Moreover, it was reported that the Commission concluded that only three of the six men of Algerian origin detained in Guantánamo were BiH citizens. The Commission can propose to the BiH Council of Ministers to withdraw the citizenship of, among others, those who are deemed to have obtained it not in accordance with the relevant regulations, or on the basis of false information, in those cases where the individuals affected would not be rendered stateless. Reportedly, the activities of the Commission could affect approximately 1,500 individuals, many of whom reportedly came to BiH to join Bosniak forces as volunteer foreign fighters during the 1992-

95 war, or to work for Islamic charities during and after the war.

In May AI, the Helsinki Committee for Human Rights in BiH and Human Rights Watch sent an open letter to the BiH authorities raising their concern about the deportation, extradition or other removal of those stripped of their citizenship to countries where they would be at risk of serious human rights abuses. The organizations urged the authorities in BiH to safeguard the fundamental rights of those who could be subjected to removal after having been stripped of their BiH citizenship.

Discrimination against Roma (update to AI Index: EUR 01/001/2007)

Members of Romani communities continued to suffer discrimination in the enjoyment of their human rights. Primary school attendance rates for Romani children were low and extreme poverty remained one of the main causes of the exclusion of Roma from education. Moreover, Romani language, culture and traditions were not included in a systematic way in school curricula. Insufficient progress was made by the authorities at state, entity and cantonal level, in the implementation of the 2004 Action Plan on the Educational Needs of Roma and Members of Other National Minorities. A Council for National Minorities of Bosnia and Herzegovina, tasked with overseeing the implementation of the Action Plan, was not yet operational.

In April, representatives of Romani refugees from Kosovo who remain in BiH expressed concern about the authorities' plans to lift their temporary admission (protection) on 30 June 2007. According to UNHCR, some 3,057 persons from Kosovo remained in BiH, of whom approximately 27 per cent are Roma. AI considers that many members of minority communities from Kosovo, including Roma, continue to remain in need of international protection.

In June the Council of Europe's Commissioner for Human Rights urged the BiH authorities not to withdraw temporary

admission permits for Kosovo refugees at the set deadline of 30 June and called for a lasting solution to be found for those refugees who could not return to Kosovo involving the granting of asylum, a permanent residence permit or citizenship. On 28 June, the BiH Council of Ministers extended for a further 90 days the temporary admission status of refugees from Kosovo.

Violence against Women (update to AI Index: EUR 01/001/2007)

The reported incidence of domestic violence remained high. In the first six months of 2007, Cantonal Ministries of Internal Affairs in the FBiH recorded 377 criminal acts of violence in the family, eight more than in the corresponding period of 2006. However, both local non-governmental organizations and police authorities estimated that a significant proportion of cases of domestic violence went unreported.

BiH continued to be a country of origin, transit, and destination for women and girls trafficked for the purpose of sexual exploitation. In March the BiH Council of Ministers adopted its Operational Plan for the Implementation of the State Action Plan for combating trafficking in human beings and illegal migration for 2007. The Operational Plan inter alia envisaged the ratification, by June 2007, of the Council of Europe Convention on Action against Trafficking in Human Beings and a number of legislative measures and the coordination of different institutions involved in combating trafficking and in providing assistance to victims. At the end of the period under review, BiH had not yet ratified the Council of Europe Convention on Action against Trafficking in Human Beings.

In June the BiH Council of Minister adopted the Annual Report on state of human trafficking and illegal immigration in BiH and implementation of the Action Plan for combating human trafficking and illegal immigration in BiH for 2006. The document reported a decrease in the number of foreign victims of trafficking and an

increase in the number of BiH citizens who had been trafficked

Human rights defenders

In February member and co-founder of the RS Helsinki Committee for Human Rights Duško Kondor died from injuries after being attacked by persons with machine gun fire in his own apartment in Bijeljina (see AI Index: EUR 63/001/2007). His daughter was seriously wounded in the attack. Duško Kondor had repeatedly reported death threats to the RS police. However, no security measures had been undertaken by the RS police to protect him. Following the murder, local police arrested two persons on suspicion that they took part in the murder. Reportedly, police investigation indicated that the murder was not in direct connection with the activities of Duško Kondor as a human rights activist.

BULGARIA

Background

On 1 January Bulgaria and Romania became member states of the European Union (EU). On 27 June the European Commission (EC) issued its report on the progress made by both states in meeting the accompanying measures decided by the EC when they joined the EU. The EC warned both states to take more action to fight corruption, but did not impose any sanctions for their failure to meet reform targets. The EC noted that Bulgaria and Romania had made progress with judicial reform but needed to do more to implement the changes. The EC urged Bulgaria to adopt constitutional amendments on the independence of its justice system; continue with reforms of the judiciary; and investigate high-level local government and border corruption. The Bulgarian authorities were also told to implement a strategy to fight organised crime.

Discrimination

A National Plan for Protection against Discrimination (NPAD) was passed on 19 January. The NPAD includes all the grounds of discrimination featured in the Bulgarian Law for Protection against Discrimination, including sexual orientation and "gender expression". The priorities of the NPAD include: education and training, further development of the anti-discrimination legislation, coverage of issues in the media and the creation and maintenance of a national database on discrimination.

However, in spite of such legislative initiatives, members of the far-right "Attack" party (*Ataka*) continued to make declarations against minorities in the country. In February, one of the leaders of the party reportedly placed an anti-Turkish poster in the parliament building. The poster, which stated "No to Turkish votes," made reference to the possibility for the Bulgarian citizens of Turkish ascent to vote the Bulgarian representatives in the European Parliament (EP) on 12 May's election.

The Romani community

On 12 March, the non-governmental Friedrich Ebert Bulgaria foundation issued a report stating that between 65 and 70 per cent of Bulgaria's Roma labour force were unemployed. According to the report, the main obstacles encountered by Bulgarians of Romani descent were in access to housing, employment, professional qualifications and education. On education, the report found that some 18 per cent of the Roma in Bulgaria were completely illiterate and another 65 per cent never completed their high school education.

The UN Children's Fund (UNICEF), in its report *Breaking the cycle of exclusion. Roma children in South-East Europe* issued in March, reported that around 50 per cent of Romani homes in Bulgaria were not connected to running water and that 20 per cent of Romani children never went to school.

Violations of the rights of asylum-seekers and refugees

According to a report in the newspaper *Kapital* in June, at least 36 people had been held at the Special Centre for Temporary Accommodation of Foreigners (SCTAF) in Busmantsi, near the capital Sofia, for more than six months. Some of these 36 people had also been held previously in another centre. The non-governmental organizations (NGOs) Legal Clinic for Refugees and Immigrants (LCRI), the Bulgarian branch of the International Helsinki Federation and the Bulgarian Helsinki Committee (BHC) have persistently alleged that asylum-seekers, refugees and other migrants detained in that centre are detained for months and even years waiting for expulsion. They are allegedly not informed of the internal regulations and of the applicable disciplinary rules, and not brought promptly before a judicial or other authority. The Law on Foreigners stipulates that detention at a Special Centre be used only as a last resort, but there is no maximum period set for such detention.. The LCRI and BHC claim that detention of asylum-seekers, refugees and migrants at the SCTAF has become customary practice, being used routinely, rather than on a case by case basis as a last resort.

The LCRI has also claimed that the authorities at the SCTAF in Busmantsi have allegedly used the isolation room in an arbitrary way and without proper guarantees for the health of persons. For example, they report that on 21 May, 14 people detained in the centre requested an explanation for the reasons of their detention and its length. As a result they were allegedly sent as a punishment to the isolation room for about seven to 10 days until they signed a declaration acknowledging that they had allegedly broken the "residential rules".

Case of Annadurdy Khadzhiev

Annadurdy Khadzhiev, a leader of the Turkmen opposition group Watan and the husband of Turkmen human rights defender

Tadzhigul Begmedova, was held in detention in Bulgaria on 19 February in connection with a request lodged by Turkmenistan with Interpol. Reportedly, Turkmenistan had requested his extradition to try him on embezzlement charges. Both Annadurdy Khadzhiev and his wife have lived in Bulgaria since 2001 and were granted humanitarian status in March 2003. To AI's knowledge, an earlier extradition request by the Turkmen authorities was turned down by Varna district court in May 2003. Reportedly, in its decision the court referred to Annadurdy Khadzhiev's membership in the opposition Watan movement and to human rights violations in Turkmenistan, including limitations of the right to freedom of expression.

AI contributed to a letter of support on behalf of Annadurdy Khadzhiev that was submitted to Varna district court on 13 March, and urged the Bulgarian authorities not to extradite him to Turkmenistan where he would have been at risk of serious human rights violations, including torture and ill-treatment, and imprisonment after an unfair trial (see AI Index EUR 15/001/2007). Any attempted return would have been a violation of Bulgaria's obligations under regional and international human rights law. On 12 April, Varna district court ruled that Annadurdy Khadzhiev should not be extradited to Turkmenistan and was released. However the Prosecutor protested the court's verdict and an appeal hearing was scheduled for 3 May.

The appeal court finally decided not to extradite Annadurdy Khadzhiev to Turkmenistan and he was subsequently released.

International scrutiny (Update AI Index: EUR 01/001/2001)

On 11 January, the European Court of Human Rights (ECtHR) found Bulgaria in breach of Article 8 (right to respect for private and family life) and Article 13 (right to an effective remedy) of the European Convention on Human Rights (ECHR) in the

case *Musa and others v. Bulgaria*. The case involved Ahmad Naim Mohammed Musa, a Jordanian national of Palestinian descent, who obtained a residence permit in 1994 following his marriage to a Bulgarian national. On 25 May 2000, he was informed that his permanent residence permit was being withdrawn, on grounds of state security, and told to leave Bulgarian territory within 10 days. Ahmad Naim Mohammed Musa was not informed of the factual grounds on which the order had been based, but was told that no appeal was possible against it. He nevertheless submitted appeals to the Ministries of Justice and Interior, the General Prosecutor's Office and the Bulgarian President, which all were dismissed. The Sofia Court declared his appeal inadmissible in September 2001.

Ahmad Naim Mohammed Musa was detained on 4 August 2000 and held at the Sofia detention centre until 6 August 2000, when he was expelled by the Bulgarian authorities to Jordan. AI expressed concern at the time that the decision of the Directorate of National Police to expel him from Bulgaria was arbitrary and in violation of international human rights standards

The ECtHR noted that it had already held that an expulsion carried out in application of the 1998 Bulgarian Law on Foreigners did not meet the requirement of lawfulness on account of the absence of sufficient guarantees against arbitrariness. The ECtHR also considered that, where matters touching on fundamental human rights were concerned, the national legislation would run counter to the rule of law if, as in the present case, the margin of appreciation granted to the executive was unlimited. As the Bulgarian Supreme Administrative Court (SAC) did not amend its case-law in this matter until 2003, the ECtHR noted that the interference in the applicant's right to respect for his family life had not been "in accordance with the law". Hence, it concluded unanimously that there had been a violation of Article 8. The ECtHR further noted that, at the relevant time, no judicial review was possible against a withdrawal order of a residence permit on

the grounds of national security. There was no reversal of the case-law in this area by the SAC until 8 May 2003. Thus, the ECtHR concluded unanimously that there had been a violation of Article 13. The applicants were also awarded 1,500 Euros jointly for costs and expenses by the ECtHR.

Policing concerns

In its annual report issued in March the BCH noted that the use of firearms by law enforcement officials continued to violate international standards and that investigations into such use by law enforcement officials remained inadequate. The BHC also reported several cases of ill-treatment by police officials, in particular towards Roma.

CENTRAL ASIA

European Union strategy for Central Asia

At the end of March Foreign Ministers of the five Central Asian Republics -- Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan -- met in Astana, Kazakhstan, with the Foreign Minister of Germany, the holder of the six-month rotating European Union (EU) Presidency, and other high-ranking EU officials, to discuss the EU's efforts to strengthen its relations with the region. As the EU was developing a new long-term strategy for its relations with Central Asia - which it hoped to finalize and adopt by the end of June - and more attention was being focused on the region, AI encouraged the EU to make human rights and the rule of law key components in its strategy and political engagement with the Central Asian governments. The organization urged the EU to impress upon the governments of Central Asia the need to undertake concrete steps to implement and enforce legislative measures that would provide effective and durable guarantees for the protection of the human rights and the dignity of all the people of Central Asia. AI called on the EU and the governments of

Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan to make respect and observance of human rights and human dignity the cornerstone of their engagement.

Human Rights Concerns

Ahead of the meeting in Astana AI issued a summary of its most pressing human rights concerns in Central Asia with a particular focus on the plight of human rights defenders in Uzbekistan. (see AI Index: EUR 04/001/2007 and EUR 62/002/2007).

Rule of Law and Impunity

AI remained concerned that despite professed efforts by governments in Central Asia to fulfil their human rights obligations and actual efforts by some states to remedy the worst abuses, grave human rights violations routinely continued to be committed with virtual impunity. Very few law enforcement officers were brought to trial and held accountable for violations they had committed and yet thousands of people routinely alleged that they had been arbitrarily detained and tortured or ill-treated in custody in order to extract a confession. Corruption in law enforcement and the judiciary contributed largely to a climate of impunity in the region. This climate of impunity led to a lack of public confidence in the criminal justice system. People did not lodge complaints as they felt that they would not obtain justice, nor get compensation. Many were not willing to testify against police officers out of fear of reprisals against themselves or their relatives and associates.

Beatings by law enforcement officers, especially in temporary pre-charge detention centres and in the streets, were still considered routine. Torture or other ill-treatment in detention continued to be widespread throughout the region and systematic in Uzbekistan. Evidence based on confessions extracted under torture were still routinely admitted in court

In 2006 the UN Special Rapporteur on torture reiterated his concerns about the apparent widespread use of torture in Uzbekistan.

Human rights violations as a consequence of counter-terrorism measures

The fight against terrorism and issues of national security were frequently quoted as crucial in securing stability, but only too frequently used as a cloak to clamp down on dissent, consolidate power and target vulnerable groups or groups perceived as a threat to national or regional security, such as banned Islamic groups and opposition political movements. Asylum-seekers and refugees were frequently extradited to China and Uzbekistan, where they were at grave risk of torture, as part of the "war on terror" and counter-terrorism agreements in blatant contravention of international refugee and human rights law.

Although the presumption of innocence was enshrined in law, it was violated on a regular basis, especially in the context of national security and "the war on terror", with suspects branded guilty in public before the start of their trials. Most of the trials in Uzbekistan of people charged with terrorism in 2005 and 2006 were closed or even held in secret, with no advance notice of the start date, no access to relatives or lawyers of the defendants' choice, no publication of the verdict after the sentencing, and no indication as to where the defendants were being held. Defendants in criminal cases in Uzbekistan and other republics were usually held in a cage during the trial, which might impact on the presumption of their innocence.

Human Rights Defenders and Freedom of Expression

Although provided for in law, in practice freedom of speech and of the press was severely restricted in Central Asia with few independent media outlets operating freely and governments controlling access to the

internet. Libel and slander remained criminal offences and government officials, national and local, used criminal libel suits in order to restrict criticism and limit freedom of expression. Journalists and human rights activists were frequently charged with libel and some went to prison for publishing articles on corruption allegations or reports of torture or ill-treatment by police officers.

In Turkmenistan and Uzbekistan freedom for the independent media, both local and international, remained severely restricted. All domestic media in Turkmenistan were state-controlled and the authorities routinely blocked websites that publicized "unwanted" information, and were known to pay intimidating house calls on individuals whom they had identified as visiting such sites. Foreign journalists, photographers and human rights monitors had in many cases been refused access to Turkmenistan to prevent them from gathering information about the repressive regime. Turkmenistani civil society activists who cooperated with foreign journalists risked imprisonment after unfair trials and torture or other ill-treatment. They also risked being labelled as "traitors" by the authorities. Uzbekistan exercised virtual control over the media and the internet, controlling output by local media organizations as well as transmissions into the country from abroad and limiting access and free movement of foreign correspondents.

Repressive actions to silence human rights activists and journalists were particularly harsh in Turkmenistan and Uzbekistan and showed no sign of abating. In Uzbekistan the imprisonment, ill-treatment and harassment of individual human rights defenders accelerated as a consequence of protests over the killings of hundreds of unarmed men, women and children in Andizhan on 13 May 2005. The authorities continued to reject calls for an independent, international investigation into the Andizhan killings.

Death penalty

A new constitution enshrining abolition was adopted in November 2006 in Kyrgyzstan and in June its President signed into law amendments to the criminal and criminal procedural codes replacing the death penalty with life imprisonment. Kazakhstan and Tajikistan had moratoria on executions in place although the death penalty remained on the statute books. Uzbekistan refused to impose a moratorium on executions despite a presidential decree introducing the abolition of the death penalty from 2008. Secrecy remained an issue in all the countries, with relatives not given the body of the executed person or told the burial site and statistics on the death penalty not published. AI continued campaigning for Central Asia to become a death-penalty-free zone.

Comments on and Recommendations for the EU Central Asia strategy

Institutionalized human rights dialogues

The April draft EU strategy for Central Asia set out a human rights dialogue with each Central Asian country as a key component of respect for human rights. In written comments to the EU Presidency in May AI welcomed the initiative to establish human rights dialogues with the Central Asian states, in particular the proposal that they should take place on a regular basis and should be result-oriented. The organization also noted as a positive step that these human rights dialogues would take place within the framework of existing EU Guidelines on Human Rights Dialogues.

However, the organization was concerned that the draft strategy did not make reference to benchmarking, an instrument AI considered essential. The organization recommended that the EU develop specific benchmarks which would need to be met within given timeframes. There were concerns that without doing so the EU would not be able to measure real progress made by the Central Asian governments in the field of human rights and the rule of law.

Concrete proof, not oral statements by governments, should be the measure of whether positive steps towards ending human rights violations had been taken.

AI also welcomed the fact that these dialogues would enable the EU to raise concerns about the human rights situation in the countries and to seek clarification and improvements. The draft strategy made clear that the human rights dialogues were also a forum to discuss issues of mutual interest. However, the organization was concerned that the absence of any real shared interest in addressing human rights in some instances would make it unlikely for these dialogues to succeed. Whereas Kazakhstan, Kyrgyzstan and Tajikistan had achieved some progress in the field of human rights and the rule of law and showed willingness to address human rights issues, there was a lack of political willingness to effectively address serious and long-standing human rights violations in Turkmenistan and Uzbekistan. This would make it difficult to raise certain human rights concerns and get a firm commitment from these countries to address shortcomings and improve the human rights situation. AI therefore urged the EU to ensure that human rights would always be and without compromise, an issue of priority in every political meeting at all levels as stated in the EU Guidelines on Human Rights Dialogues.

Against this background AI pointed out the need to develop detailed country-related strategies and programmes which took the specificity of the human rights situation in each country into account.

The organization welcomed the proposal in the draft strategy that the EU Special Representative for Central Asia be given a supervisory role in monitoring the implementation of the strategy. The organization hoped that this office would be provided with sufficient resources to monitor the human rights situation in the Central Asian states and that his reports would be made available to other interested parties, such as non-governmental organizations working to improve the

human rights situation in Central Asia, and that his office would be open to consultation and cooperation with such groups.

The organization also welcomed the commitment by the EU to open Commission delegations in all five Central Asian countries. AI expected these delegations to have a strong human rights mandate which would enable them to strongly and effectively support Central Asian authorities in their reforms in the field of human rights and the rule of law.

Benchmarking: AI's recommendations

Benchmarks needed to be developed separately for each of the five countries as the human rights situation in each country is different. Such benchmarks should be created on the basis of the EU Guidelines on Human Rights. AI welcomed the fact that the draft strategy made reference to these guidelines as the basis for the human rights dialogues, but recommended that those specific guidelines relevant to the region were spelt out in the strategy. In AI's opinion the most relevant were the:

- *EU Guidelines on Human Rights Defenders;
- * EU Guidelines on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- * EU Guidelines on the Death Penalty.

AI urged the EU to call for the implementation of those international human rights conventions which have already been ratified by the Central Asian states, and to ratify and implement other core international human rights conventions and optional protocols. These included the 1951 Refugee Convention, which has not been signed and ratified by Uzbekistan, or the First Optional Protocol to the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP CAT), which none of the Central Asian states was party to.

Based on AI's assessment of the specific human rights situation in each country, the

organization strongly recommended that the benchmarks which needed to be developed before the start of the human rights dialogues should include the following areas of concern where relevant:

- *immediate and unconditional release of prisoners of conscience;
- *protection of human rights defenders, civil society activists and independent journalists;
- *guaranteeing freedom of expression;
- *effectively combating torture and ill-treatment, including addressing impunity of law enforcement personnel;
- *guaranteeing fair trial standards;
- *providing unfettered access to the International Committee of the Red Cross to all detention facilities and allowing public monitoring of all detention facilities;
- *abolition of the death penalty or immediate introduction of a moratorium on executions pending abolition;

Adoption of the strategy

At the end of June following its General Affairs and External Relations Council (GAERC) meeting the EU adopted a Central Asia strategy. The EU Council Conclusions stated that the strategy would serve as an overall framework for EU relations with Central Asia. Human rights, the rule of law, good governance and democracy were to form the basis of these relations. The strategy was said to define the EU's priorities for its cooperation with the region as a whole, but implementation would be tailored to specific requirements and performance of each Central Asian state. The strategy established Human Rights Dialogues with all five republics. The EU also stated its intention to develop relations with the regional countries in education, economic development, trade and investment, energy and transport, environmental policies, migration and inter-cultural dialogue.

The European Council asked the Council and the Commission to submit a first progress report on the Central Asia strategy's implementation in a year by the middle of 2008. [Please see note below]

Prior to the June meeting AI had written a letter to the German Foreign Minister in his capacity as President of the Council of Ministers of the EU to remind him of the organization's major recommendations for the Central Asia strategy and to strongly recommend that the benchmarks which needed to be developed before the start of each of the human rights dialogues should include AI's most pressing concerns where relevant, e.g. fair trial standards, release of prisoners of conscience, combating torture, addressing impunity and abolition of the death penalty.

CROATIA

General and political developments

Croatia continued to pursue the objective of full integration into the European Union (EU). At the end of the period under review, 10 negotiating chapters of the *acquis communautaire* (the body of EU common rights and obligations that candidate countries must accept) had been opened. The main purpose of the negotiations is to demonstrate Croatia's capacity to adopt EU law and to translate each of the 35 chapters of the *acquis communautaire* into national legislation.

The future of the Organization for Security and Co-operation in Europe (OSCE) Mission to Croatia continued to be discussed, after the Mission's activities in the areas of media and electoral legislation, police reform, civil society development and political and educational rights of minorities had ceased in December 2006. AI wrote in May to key OSCE member countries urging them to ensure that ongoing discussions on the future of the OSCE Mission to Croatia be conducted taking into account the significant gaps that remain in the areas of rule of law and war crimes investigations and prosecutions (see below). AI called for

continued international human rights monitoring and assistance in these areas, including through an international presence on the ground with a significant human rights component. In her statement to the UN Security Council in June, the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (Tribunal) stated that "[s]ince the question whether the OSCE should continue to monitor trials in Croatia is being debated, I wish to re-affirm the importance of the monitoring process carried out by the OSCE and recommend that it pursue this activity in Zagreb".

War crimes and crimes against humanity (update to AI Index: EUR 01/001/2007)

International prosecutions

In February the Tribunal found Croatian freelance journalist Domagoj Margetić guilty of contempt of the Tribunal. He was sentenced to three months' imprisonment and to a fine of 10,000 Euros for having published on his internet site a complete confidential witness list containing the names of witnesses who had testified in the case against Croatian Army General Tihomir Blaškić, which included a significant number of protected witnesses. The identity of protected witnesses had been also revealed in a number of accompanying articles by Domagoj Margetić.

In March the Tribunal's Appeals Chamber rejected an Appeal by Vladimir Kovačević against a decision in November 2006 of the Tribunal's Referral Bench ordering the transfer of his case to Serbia. The accused, a former commander of the Yugoslav People's Army, was suspected of having committed war crimes, including murder, cruel treatment and attacks on civilians, during an attack on the Croatian City of Dubrovnik. Vladimir Kovačević had been declared unfit to stand trial in 2006 on mental health grounds.

In June Milan Martić, who held various leadership positions in the self-proclaimed Serbian Autonomous District (Srpska

autonomna oblast, SAO) and Republic of Serbian Krajina (Republika Srpska Krajina, RSK) was found guilty of various counts of crimes against humanity and war crimes, including persecutions, murder, torture, deportation, forcible transfer and attacks on civilians, and sentenced to 35 year's imprisonment, for his role in crimes committed against non-Serbs in areas under Croatian Serb control. He was acquitted of the charge of extermination as a crime against humanity. The Tribunal *inter alia* found that Milan Martić took part in a joint criminal enterprise whose purpose was "the establishment of an ethnically Serb territory through the displacement of the Croat and other non-Serb population".

Domestic investigations and prosecutions

A considerable number of trials for war crimes continued or started before Croatian courts and the Croatian judiciary continued to actively investigate and prosecute war-time human rights violations. However, in the vast majority of cases, criminal proceedings were related to cases where the victims were ethnic Croats. The practice of holding trials *in absentia* continued, usually against Croatian Serb accused. There continued to be widespread impunity for crimes allegedly committed by members of the Croatian Army and Croatian police forces, despite some steps taken with a view to investigating and prosecuting cases of war crimes against Croatian Serbs.

Proceedings against Branimir Glavaš for his alleged involvement in war crimes, including murders, committed against Croatian Serb civilians continued. Following an earlier suspension of proceedings in December 2006, due to a reported deterioration in the suspect's health after a hunger strike, Branimir Glavaš was again declared fit to follow proceedings in February. In April an indictment was issued by the office of the Osijek County Prosecutor in the so-called "Sellotape" case, charging Branimir Glavaš and six other indictees with the unlawful arrest, torture and killing of Croatian Serb civilians in Osijek in 1991. In May he was also indicted

in a second case, the so-called "Garage" case, which had been transferred to the Zagreb County Court in 2006. The indictment alleges that, in 1991, in his capacity as secretary of the Osijek Municipal Secretariat for National Defence and commander of the First Osijek Battalion, Branimir Glavaš failed to prevent his subordinates from detaining, ill-treating and killing civilians and directly participated in some of the crimes. Also in May, the Croatian Supreme Court decided the transfer of the "Sellotape" case as well to Zagreb, following a request by the Chief State Prosecutor, aimed *inter alia* at reducing pressure on witnesses. Branimir Glavaš had formerly been a local leader of the ruling Croatian Democratic Union (Hrvatska demokratska zajednica, HDZ) Party in the Osijek region.

In a separate case, after proceedings at the Osijek County Court which ended in March, two former members of Croatian forces were sentenced to 14 and three years' imprisonment for their roles in war crimes, including murders, committed against Croatian Serbs in the Osijek region in 1991.

Despite significant developments with regard to crimes committed against Croatian Serbs in Osijek, in other areas there was no progress in tackling impunity for crimes allegedly committed by members of the Croatian Army and police forces. Proceedings in Sisak, for example, remained still at the "pre-investigative" stage. According to local organizations, more than 100 people, mostly Croatian Serbs, were victims of murders or enforced disappearances allegedly committed in 1991-92 by Croatian forces.

In June the trial started at the Zagreb County Court against Rahim Ademi and Mirko Norac. The accused are former Croatian Army commanders and are suspected of having committed war crimes against Croatian Serbs during military operations in the so-called "Medak pocket" in 1993. Their case had been transferred by the Tribunal to Croatia in November 2005.

Missing persons and enforced disappearances (update to AI Index: EUR 01/001/2007)

Despite the recent creation in 2006 of a unified list of approximately 2,100 persons who went missing during the war, in various public statements, the Croatian authorities continued to claim that they were still searching for approximately 1,100 missing persons, mostly from the first phase of the 1991-95 war. This figure does not include people, mostly Croatian Serbs, who went missing during military operations "Storm" and "Flash" in 1995.

Many of those reported as missing are believed to be victims of enforced disappearances. Impunity for these crimes, especially with regard to those allegedly committed by the Croatian Army and Croatian police forces, remained widespread.

In June the remains of approximately 160 people, were reportedly exhumed from a mass grave in the town of Petrinja. The mortal remains were believed to be those of Croatian Serbs killed during military operation "Storm".

Right to return (update to AI Index: EUR 01/001/2007)

At least 300,000 Croatian Serbs left Croatia during the 1991-95 war, of whom only approximately 130,000 are officially registered as having returned. This figure is widely considered to be an overestimation of the real numbers of those who have returned and remained in Croatia. A survey commissioned by the United Nations High Commissioner for Refugees (UNHCR) and published in May estimated that less than half of registered returnees live in Croatia.

Croatian Serbs continued to be victims of discrimination in access to employment and in realising other economic and social rights. Many Croatian Serbs, especially those who formerly lived in urban areas, could not return because they had lost their occupancy/tenancy rights to socially-owned apartments. Implementation of existing

programmes to provide "housing care" to former occupancy/tenancy rights holder remained slow. According to the OSCE Mission to Croatia, approximately 8,500 applications for "housing care" were pending at the end of the period under review, despite pledges by the authorities to accelerate the processing of applications. Among those who had formerly lived in private properties, and who have formally reposessed their homes, some could not return because their homes had been rendered uninhabitable by looting and devastation.

In May the Croatian Government adopted a Civil Service Employment Plan setting targets for the employment of members of minority communities in the public administration. Despite provisions in the Constitutional Law on the Rights of National Minorities providing for proportional representation of minorities in the State administration, progress in this area has been slow.

Impunity for past serious ethnically motivated attacks continued, including the murder in 2005 of an elderly Croatian Serb man in Karin, near Zadar. To AI's knowledge, no progress was made in the investigation of this crime.

Discrimination against Roma

Members of Romani communities in Croatia lacked full access to primary education, especially in geographical areas not covered by existing governmental and other programmes to promote the inclusion of Roma in education.

Although "Roma only" classes were increasingly rare, Romani children still experienced discriminatory treatment because of teachers' negative stereotyping and low expectations. Romani children with little or no command of the Croatian language faced extreme difficulties when they started school. The languages spoken by Roma in Croatia were not used in schools, unlike other minority languages. The majority of Romani children remained

excluded from pre-school programmes (see also AI Index: EUR 05/002/2006).

In June a report supported by the Open Society Institute, a non-governmental organization, and the World Bank, presented an assessment of progress in implementing the objectives to which countries taking part in the Decade of Roma Inclusion have committed. Croatia ranked sixth out of nine countries which have joined the Decade of Roma inclusion. The report highlighted that the authorities have introduced a range of measures, especially with regard to education, which however remain sporadic and need to be integrated into more systemic policies. The report further noted that "Croatia does not have a systematic policy to deal with the challenges of improving the health status among the Roma population". The Decade of Roma Inclusion is a regional intergovernmental initiative launched in 2005 "to reduce disparities in key economic and human development outcomes for Roma through implementing policy reforms and programs designed to break the vicious cycle of poverty and exclusion".

In May, in the case of *Šečić v. Croatia*, the European Court of Human Rights found Croatia in violation of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), prohibiting torture or inhuman or degrading treatment or punishment, as well as of Article 3 in conjunction with Article 14, the latter prohibiting discrimination in the enjoyment of the rights and freedoms set forth in the European Convention on Human Rights. Šemso Šečić, a Romani man, had been attacked in 1999 by two men who beat him all over his body with wooden planks shouting racial abuse and, as a result, had sustained multiple rib fractures. Following the attack, the Croatian authorities failed to promptly, thoroughly and impartially investigate this crime, whose perpetrators have remained unpunished.

Violence against women (update to AI Index: EUR 01/001/2007)

Croatia was reported as being increasingly a country of destination for women and girls victims of trafficking for the purpose of sexual exploitation. It remained a country of transit for trafficking victims. In April the Delegation of the EU Commission to Croatia and the Office of Human Rights of the Government of Croatia presented a EU-funded project to combat trafficking in human beings. The project *inter alia* aims at improving coordination between the Croatian police forces and the office of the State Prosecutor in investigating and prosecuting the cases of trafficking in human beings as well as the cooperation among law enforcement agencies, social welfare institutions, non-governmental organizations and international organization, with the aim of improving protection for victims of trafficking.

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

In March the CPT published its report following a visit in 2003 to a number of detention facilities and social care and psychiatric establishments. The CPT found that allegations of ill-treatment of persons in police custody, although diminishing in number since the last CPT visit, continued to remain a problem. The CPT also received allegations of ill-treatment of detainees in prison establishments in Osijek, Split, and in the Lepoglava Prison. The CPT *inter alia* called on the Croatian authorities to ensure that senior police officers remind their subordinates that ill-treatment, including verbal abuse, is not acceptable and will be the subject of severe sanctions; a thorough and independent inquiry is carried out into the allegations of ill-treatment of inmates by prison staff at Split County Prison in April 2003; and a clear message is delivered to prison officers in establishments throughout the country that all forms of ill-treatment, including verbal

abuse, are not acceptable and will be the subject of severe sanctions.

CZECH REPUBLIC**Ratifications**

The Czech Republic remained the only European Union (EU) member state not to have ratified the Statute of the International Criminal Court.

Discrimination against Roma

The Romani minority continued to face discrimination at the hands of public officials and private individuals. On 26 April, a poll from the STEM agency showed the prevalence of prejudice against Roma. Only one out of 10 respondents said that Romani neighbours would not become a problem for them. Some 40 per cent said that Romani neighbours would be unacceptable for them, 26 per cent considered such a situation difficult, and 24 per cent said they would not feel good about having Romani neighbours. The percentage of those who consider Romanies as neighbours unacceptable has risen from 32 to 40 per cent during the last two years, according to STEM. Another STEM released on 4 May showed that more than two-thirds of Czechs have a negative relationship to Roma and only one in 20 assesses Roma positively.

On 11 June, the government approved a new anti-discrimination bill, which should have been passed three years ago when the Czech Republic joined the EU. The law still has to be approved by parliament, where a previous anti-discrimination proposal fell when the Senate objected to its vagueness and pledges of affirmative action.

Review by CERD

On 10 April, the UN Committee on the Elimination of Racial Discrimination (CERD) made public its concluding observations on the Czech Republic's compliance with the

International Convention on the Elimination of All Forms of Racial Discrimination. The CERD raised concerns about allegations of ill-treatment by police officers of Roma, in particular children, their placement in detention and coercion into confessing minor crimes.

The CERD also noted the particularly high unemployment among Roma and the fact that Roma face persistent discrimination in recruitment. On housing, the CERD raised concerns about the particularly vulnerability of Roma to evictions and segregation in housing, and regretted that the Czech Republic had not taken sufficient action to tackle this issue. The CERD mentioned the autonomy of municipalities under domestic law as an obstacle to the fulfilment of its obligations to ensure the enjoyment of the right to housing by all without discrimination. It was further concerned that domestic regulations did not clearly prohibit racial discrimination in the enjoyment of the right to housing.

On education, the CERD expressed deep concerns on the racial segregation experienced in schools by Romani children. It also raised concerns about the disproportionately large number of Romani children removed from their families and placed in state institutions or foster care.

Discrimination in education (update to AI Index: POL 10/001/2007)

On 18 January, the Great Chamber of the European Court of Human Rights (ECtHR) began hearing the appeal by the families of the 18 Romani children from Ostrava against the first decision of the ECtHR which concluded that the Czech Republic had not breached the prohibition on discrimination and the right to education in the European Convention on Human Rights and the related Protocol. The children had been placed in special elementary schools for children with learning difficulties. The result of the appeal was still pending at the end of the period under review.

Evictions (update to AI Index: EUR 01/001/2007)

The Minister without portfolio Džamila Stehlíková from the Green Party announced on 19 February that the 10 Romani families evicted from the town of Vsetín in October 2006 as rent-defaulters and moved to ramshackle houses in the Jeseník region might be given some subsidies for the basic repairs of their houses. She withdrew her proposal the following day and announced instead a public collection to help the Romani families, arguing that the impossibility of granting subsidies on private properties was the cause of her change of mind.

The decision by the town hall of Vsetín to evict the Romani families from the town's centre was also labelled a mistake by the Public Rights Defender (Ombudsperson) Otakar Motejl on 13 June. He said that "the export of socially excluded families from municipalities in which the families have long been living cannot be accepted as an efficient solution."

Hate speech

On 9 April, Roma rights activists decided to file a lawsuit against Deputy Prime Minister and Christian Democrat leader Jiří Čunek (and former Mayor of Vsetín at the time of the evictions of the Romani families) over his comments regarding the Romani community. Some days earlier, Jiří Čunek said in the tabloid Blesk (Lightning) that "in order to be entitled to state subsidies like Romanies, other people would need to get a suntan, behave in a disorderly way and light fires on town squares before politicians would regard them as badly off." The Roma rights activist said that his statements might amount to inciting hatred against the ethnic group. Over 100 protesters gathered outside the Office of the Government on 11 April demonstrating against these declarations. The following day, Jiří Čunek distanced himself from the statements by saying his behaviour "had never had a racist or xenophobic

motivation" and he "had always strived for equal treatment for everybody."

Forced sterilization of women (update to AI Index: EUR 01/001/2007)

On January 17, the High Court in Olomouc issued a ground-breaking verdict in the case of the illegal sterilization of Helena Ferenčíková in 2001, requiring the hospital which performed the sterilization to apologize. The verdict upheld that of the Ostrava Regional Court in November 2005, but the court did not award Helena Ferenčíková the compensation of 1 million Czech koruna (approximately 35,400 euros) she sought for physical and psychological damages. In a letter dated February 27, the Vítkovice Hospital apologized to Helena Ferenčíková for its "encroachment on ... [her] right to protection of personality."

In its review (see above) the CERD also raised concerns about women, a high proportion of them Romani, who had been subjected to coerced sterilization. It was also concerned that the Czech Republic had not taken sufficient action to abide by its positive obligation to impede the illegal performance of such operations by doctors after 1991, and that sterilizations without the prior informed consent of women were reported to have been carried out as late as 2004.

On 20 February, a working group of Romani women at the Government Council for Romani Issues proposed establishing a fund from which the victims of involuntary sterilization would be compensated. The working group also noted that the victims should be entitled to an apology.

Fair trial concerns and allegations of torture and ill-treatment

Case of Yekta Uzunoglu

On 28 March, AI wrote to the authorities expressing its concerns about the alleged denial of a fair trial on the case of the

German citizen Yekta Uzunoglu who was arrested in 1994 (see AI Index: EUR 71/001/2007). Yekta Uzunoglu, who is of Kurdish origin, also alleged that he had been subjected to torture and ill-treatment.

According to information received by AI, Yekta Uzunoglu was arrested outside his flat in Prague on 13 September 1994 and charged with a range of offences, including torture, limitation of personal freedom, conspiracy to murder, robbery, fraud, and possessing arms without a licence. The arrest was based on testimony received from a Turkish citizen, Göksel Otan, who had been living in the Czech Republic under the alias of Gurkan Gönen and reportedly working as a police agent. Göksel Otan accused Yekta Uzunoglu of abducting and torturing him. However, in statements given by Yekta Uzunoglu to his lawyer at the time, several witnesses -- representatives of the pharmaceutical company Boots and of a Turkish cosmetic company, as well as several Czech individuals -- said that Yekta Uzunoglu had been with them at the time the act of torture on Göksel Otan was alleged to have taken place. Yekta Uzunoglu alleged that shortly after his arrest and while being held in custody he was subjected to "physical torture, torment and psychological terror." In 1996 the then Minister of Interior, Jan Ruml, is said to have admitted that Yekta Uzunoglu had been abused by the police.

Yekta Uzunoglu appealed a judgment decision from September 2003 to close down his case, on the grounds that he wished to assert his right to have a court acquit him of the charges of torture and limitation of personal freedom.

The main court hearing on this appeal began on 25 June 2004. However, the hearing was considerably delayed because Göksel Otan had not appeared in court on numerous occasions and the police had failed to secure his presence in court. On 24 August 2006 Göksel Otan retracted his original testimony, repeatedly declaring that Yekta Uzunoglu "did not torture him, nor was he able to torture him, because he was not present during the act of torture".

At the last main hearing on 6 October 2006, Göksel Otan reiterated that Yekta Uzunoglu was not present. On 29 March 2007 Yekta Uzunoglu received a suspended sentence of two years with five years of probation. He appealed against this decision.

AI urged the Czech authorities to investigate the alleged procedural violations of Yekta Uzunoglu's fair trial rights including the rights to be tried without undue delay, to ensure Yekta Uzunoglu's right to call and to question witnesses under the principle of equality of arms, and to an effective defence. AI also requested details on the investigations into the allegations of torture and ill-treatment during custody.

Trafficking and migrants

On 2 May, the Chamber of Deputies (lower house of parliament) passed an amendment to the Penal Code that will tighten sentences for people smuggling and illegal border crossing, in accordance with EU requirements. The bill would need to be approved by the Senate and signed by the President to become law, which had not happened by the end of the period under review. The amendment mainly tightens sentences for people smugglers who help irregular migrants on Czech territory for money. The law also defines a completely new crime - assisting in an illegal stay on the territory of the Czech Republic.

ESTONIA

Minority rights

Discriminatory practices, including barriers to employment, continued towards the country's linguistic minority, affecting some 420,000 people, approximately 30 per cent of the population. In February, the legal status of the Language Inspectorate, a state agency charged with overseeing the implementation of the Language Law, was enhanced, effectively making it harder for persons who have been fined or reprimanded by the Language Inspectorate

to challenge the practices of the Language Inspectorate in court. The Language Inspectorate is allowed to do announced as well as unannounced visits to places of work to control that individuals have the language certificates and skills required for various types of jobs.

An amendment to the Language Act made it possible to translate public signs and advertisements into a foreign language. Previously, all public signs, also in regions inhabited primarily by non-Estonian speakers, could be in Estonian only.

Racism

In June, the European Union (EU) sent a formal request to Estonia to implement the EU Racial Equality Directive (2000/43/E), which Estonia has so far failed to do.

FRANCE

Right to housing

On 22 February the National Assembly adopted a bill presented by the Minister for Housing and Social Cohesion, Jean-Louis Borloo, with the stated aim of creating a legally enforceable ("*droit opposable*") right to housing. The bill had already been approved, on 1 February, by the Senate.

The bill aimed to guarantee the right to "decent" accommodation ("*Le droit à un logement décent*") to anybody who is legally resident in the country, and who is unable to access such accommodation, or to remain in it, without support ("*toute personne qui, résidant sur le territoire français de façon régulière et dans des conditions de permanence [...], n'est pas en mesure d'y accéder par ses propres moyens ou de s'y maintenir*").

To that end the bill creates, by 1 January 2008, an 'arbitration commission' ("*commission de médiation*") in every region (*département*) of the country, which will assess and prioritize complaints from individuals who allege that their right to

adequate housing is not being fulfilled, or is threatened, for instance by an imminent prospect of eviction where alternative accommodation is not available. Individuals who have been designated as "priority cases" by these commissions, and who have not received, within a specified period, an offer of accommodation which meets their needs, will be entitled to appeal to the administrative court. However individuals who are not designated "priority cases" by the commissions will have no direct right of access to the courts in order to assert their right to adequate housing. Moreover, irregular migrants are specifically excluded from benefiting from the new provisions. The bill therefore fell short of creating a genuine right to housing for all residents of France, without discrimination or exception.

The right to lodge an appeal in the administrative court in the event of a failure to provide adequate accommodation will come into force on 1 December 2008 for certain categories of the "most urgent" cases, and from 1 January 2012 for anyone in at-risk housing.

Counter-terrorism

On 22 May the Court of Appeal in Paris confirmed the verdict and increased the sentences imposed at first instance by the Criminal Court of Paris on members of the so-called "Chechen network", accused of planning terrorist attacks in France in 2001 and 2002. One of the defendants, Said Arif, was originally arrested in Syria on 12 July 2003 and held in the Farah Falastin interrogation centre in Damascus. In April 2004 a French investigating judge, together with officers from the secret services, travelled to Syria to discuss the case of Said Arif with the Syrian authorities. Said Arif was eventually extradited to France on 17 June 2004. Allegedly the French officials did not participate actively in the interrogation of Said Arif, but were debriefed directly by their Syrian counterparts. During the trial in France the judge in the court of first instance stated that all evidence originating in Syria must be disregarded as "it is almost certain that

the 'confessions' of Said Arif were obtained under torture".

Of the 27 defendants, 13 appealed against the sentence imposed at first instance. Said Arif's sentence was increased by the Court of Appeal to 10 years' imprisonment (an increase of one year); Hafsa Benchellali (the former wife of Chellali Benchellali, an Algerian imam expelled from France on 7 September 2006 after being convicted of criminal conspiracy) was sentenced to two years' imprisonment. Hafsa Benchellali was also banned from remaining on French territory ("interdite de séjour"), and may therefore be at risk of deportation to Algeria upon completion of her custodial sentence. There are concerns that she may, if returned to Algeria, be subjected to torture or other ill-treatment.

Trial of former Guantánamo detainees (update to AI Index: EUR 01/001/2007)

Proceedings continued at the Criminal Court of Paris in the case against six French citizens previously detained in US military custody at Guantánamo Bay, Cuba, before being returned to France in 2004. The defendants appeared before the court in July 2006 on terrorism-related charges. However, the case was suspended when the judge ordered additional information to be provided concerning the visits of officers from the French secret services and Ministry of Foreign Affairs to Guantánamo, where they allegedly interviewed the six detainees. Previously classified documents now in the judge's possession confirm that the detainees were indeed interviewed by French officers. The defendants' lawyers argue that their clients are appearing in the French court on the basis of testimony extracted from them in Guantánamo, outside legal jurisdiction and whilst illegally detained, and that, as a result, the French criminal proceedings must be declared void. The prosecution claims the visits of the French officers were purely for the purposes of "information", not interrogation. The case against the six detainees is due to be reopened between 3 and 12 December at the Court of Appeal in Paris.

Extradition and death penalty

On 20 March France signed an extradition agreement with China. France's then Minister of Justice, Pascal Clément, stated that extradition requests for people accused of political or military crimes in China "could" be rejected, and that those wanted for other crimes punishable by the death penalty would be extradited under "sufficient guarantee" that they would not be executed. However, it was reported that the agreement contained no measure to prevent a detainee from being extradited under guarantee and subsequently executed under new charges. AI had called on the French government on 4 January not to sign the treaty, due to the grave violations of human rights that continue to take place in China, including the use of the death penalty, the abusive use of administrative detention and the practice of arbitrary detention, torture and cruel, inhuman or degrading treatment and punishment. Before it can come into force, the agreement will need to be ratified by the French parliament.

Discrimination

On 31 January the Representative Council of Black Associations in France (Conseil représentatif des associations noires de France, CRAN) published the results of a survey it had conducted, which it described as a "census of 'Black France'". The researchers conducting the survey telephoned over 13,000 individuals across France and French overseas territories and departments and asked those individuals – 581 in total – who identified themselves as "black" or "of mixed race, with black parents or grandparents" a number of questions about their experience of discrimination in France. According to the survey's findings, 56% of those interviewed reported having been the victim of discrimination in their everyday lives, whilst 37% of those interviewed claimed that discrimination had worsened in the previous year.

On 27 January the National Commission on Data Processing and Freedom (Commission nationale de l'informatique et des libertés, CNIL), based on its own findings and those published in a survey by Eurobaromètre, proposed conducting similar surveys to that of CRAN, in order to establish accurate data on ethnic minority populations in France. However, the president of the High Commission for Equality and against Discrimination (Haute Autorité de Lutte contre les Discriminations et pour l'Égalité, HALDE) and the National Crime Observatory (Observatoire national de la délinquance, OND) opposed the proposal. Official policy in France has traditionally rejected all such surveys based on ethnicity as contrary to principles of equality.

The National Consultative Committee on Human Rights (Commission nationale consultative des droits de l'homme, CNCDH) revealed its annual survey results at the end of March. The Committee found that 29% of those surveyed in 2006 considered themselves "racist". This represents an increase from 25% in 2004 but a significant overall decrease from 40% in 1990. According to the same report, the 885 violent racist incidents of which the Committee was made aware in 2006 constituted a 10% decrease from 2005. Despite the overall decrease, the Committee noted a 35% increase in violent anti-Semitic attacks against individuals.

Statistics from HALDE cited 4,000 complaints of discrimination of all types presented to them in 2006 and 1,700 cases in the first three months of 2007. The majority of cases (35%) related to ethnic or racial discrimination, followed by discrimination against people with disabilities (18%).

A rabbi from Nord-Pas-de-Calais reported being subjected to anti-Semitic insults and violently assaulted by a man at the Gare du Nord train station in Paris on 19 April, suffering injuries to his eye as a result. The victim filed a complaint with the police but the suspect escaped from the scene. On the same day, 52 graves in the Muslim section of the military cemetery of Notre Dame de

Lorette, Arras, were defaced with Nazi inscriptions. On 21 April 180 graves in the Havre cemetery, approximately a quarter of which were of Jewish individuals, were defaced. In both cases suspects were arrested and criminal investigations were underway at the end of the period under review.

Representatives of the Roma community wrote open letters in March to the candidates running in the French presidential elections, demanding the abrogation of certain articles of the 2003 law on internal security and the 2007 crime prevention law, claiming that they discriminated against Roma and other travelling communities. The 2003 law made the illegal parking of caravans, which had previously been a civil offence, a criminal offence, punishable by up to six months' in prison, a 3,750 euro fine, seizure of the vehicle and suspension of a driving licence. The 2007 law allows the eviction of all vehicles from a caravan site on the orders of a local Prefect following instruction from the mayor. All other forms of eviction, including of squatters, require a court order. Community representatives also highlighted the lack of suitably equipped caravan sites. Under the Besson law of July 2000, 40,000 new and fully equipped sites were supposed to be created by the end of 2004, of which only 10,500 are said to have been created to date.

Policing concerns

In January residents of the Roma camp at Saint-Denis alleged they were treated in a violent and degrading manner during a police search of the campsite which took place early in the morning of 5 January. During the incident residents, including children, were allegedly forced from their beds and made to lie on the ground outside in their nightclothes, threatened with beating and photographed in humiliating positions. It is alleged that a police officer also aimed his gun at a child's head. The non-governmental organization Parada, which works with Roma children, together with the mayor of Saint-Denis and the local

member of parliament demanded the opening of an enquiry into the incident. The case was referred to the National Commission on Ethics and Security (Commission nationale de déontologie de la sécurité, CNDS) on 10 January. However, the residents did not make a criminal complaint to the police, as they were afraid of the possible consequences. On 9 January the regional director of the judicial police announced that they would be presenting a complaint of defamation against those who had claimed ill-treatment.

On 8 February the judicial investigation into the death of two young men who died in October 2005 while hiding from police in a power transformer in Clichy-sous-Bois was closed. The investigating judge has brought charges against two of the police officers involved, for failing to assist persons in danger. The death of the two young men was the catalyst of a period of rioting in France in early November 2005. The police trade union (Syndicat Général de la Police, SGP) and then Minister of Interior Nicolas Sarkozy have rejected all allegations of police responsibility for the deaths, claiming that it was "unjust and disproportionate" to blame the police. To date, neither the Minister nor the police hierarchy have sought to suspend the officers from duty.

A report by the OND published on 2 March reported that the number of complaints of unjustified police violence investigated by the Parisian and national police inspectorates in 2004 had increased by 18.5% over the previous year. This made 2004 the seventh consecutive year to show an increase in such complaints. More than 80% of the complaints relate to incidents that have occurred in the Paris area including Hauts-de-Seine, Seine-Saint-Denis and Val-de-Marne. Over the past eight years the number of complaints made by police officers alleging assaults on their physical integrity has increased by a total of 72%.

The CNDS published its annual report on 8 March. It noted an increase of 25% in the number of complaints against law enforcement officers it had received in 2006

compared to 2005, following an upwards trend since the creation of the CNDS in 2000. Whilst this increase is probably, as the CNDS Annual Report itself notes, due in part to the increasing awareness among the public of the existence and role of the CNDS, the overall number of cases reported each year, give cause for concern nonetheless. A total of 140 complaints were registered in 2006. National police officers (la police nationale) were the subject of complaints in 62% of these cases. The CNDS referred seven cases to the public prosecutor for possible criminal investigation and 15 to the Minister of the Interior for disciplinary sanction.

In its report the CNDS also noted "an inflation in the number of charges brought for 'insulting behaviour' (outrage), brought in an excessively systematic manner by law enforcement officers", which figured in 13 of 69 cases involving police officers. The CNDS considered that the offence of "outrage" was being interpreted too broadly by police officers.

On 15 May a "government representative" designated by the prime minister was appointed to the CNDS, in line with a recent legislative reform creating such a post. Human rights organisations have expressed concerns that this post could compromise the independence of the body.

Asylum

According to the annual report of the French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides, OFPRA) published on 13 March, 2006 was the third consecutive year to register a decrease in asylum applications in France. The number of new applications made was 38% lower than in 2005. The rate of recognition of first instance asylum requests by the OFPRA was 7.8% (2,929 cases).

On 5 March the then Minister of Interior, Nicolas Sarkozy, welcomed the fall in asylum applications in France during a meeting on immigration, claiming that "the

asylum process is no longer a 'factory for illegal immigrants'". Human rights organisations, including AI, have criticized France's policy of "dissuasion", exemplified by the creation in 2003 of a list of "safe countries" from which asylum claims would be assessed under a fast-track procedure, with a presumption that they were unfounded. The short time frame for making an asylum claim, as well as the complexity of the procedure, has also been issues of concern to AI. Furthermore, the organization has noted that appeals to the Refugee Appeal Commission (Commission des recours des réfugiés, CRR) against refusal of asylum claims have shown a consistent rise in success rates over recent years, currently standing at around 16%, indicating a tendency towards excessively restrictive decisions made at first instance.

Immediately following his election as President of France, Nicolas Sarkozy created a new post of "Minister of Immigration, Integration, National Identity and Co-Development" currently held by Brice Hortefeux. This ministry will take over competency for asylum from the Ministry of Foreign Affairs. AI has expressed serious concern that this joint responsibility for immigration and asylum matters will lead to a blurring of perceptions and legal boundaries which could negatively affect the implementation of France's legal obligations under international law relating to refugees.

The case of Houssine Tarkhani

On 3 June Tunisian asylum-seeker Houssine Tarkhani was forcibly returned from France to Tunisia.

Houssine Tarkhani was, according to information received by AI, arrested at the French-German border on 5 May, as an irregular migrant, and held in a local administrative detention facility (local de rétention administrative) in Metz, pending the execution of a prefectoral removal order (arrêté préfectoral de reconduite à la frontière). On 6 May Houssine Tarkhani was brought before a judge (Juge des libertés et

de la detention), who authorized his detention for a further 15 days, and informed him that he was being investigated by the French police on suspicion of providing logistical support to a network which assists individuals to travel to Iraq to take part in the armed conflict there – an allegation which he denied. When he discovered the nature of the suspicions against him he made a claim for asylum, on 6 May. On 7 May he was taken to the regional administrative detention centre (centre de rétention administrative, CRA) at Mesnil-Amelot, to be detained while his asylum claim was processed.

On 10 May Houssine Tarkhani was taken from the CRA by officers from the French intelligence services (Direction de la Surveillance du Territoire, DST), to be questioned by a judge in relation to suspected terrorism-related activities. He was questioned in particular about his relationship with Mohamed Msahel, a Tunisian national currently imprisoned in Morocco on terrorism charges, with whom Houssine Tarkhani had, on his account, become acquainted when they attended the same mosque in Milan. At no stage was Houssine Tarkhani charged with any terrorism-related criminal offence.

On 11 May Houssine Tarkhani was returned to the CRA at Mesnil-Amelot. On 15 May he was interviewed by officials from OFPRA. On 25 May he was told that his asylum application, which had been assessed under the accelerated procedure (procédure prioritaire), had been rejected. An appeal against this decision was lodged with the CRR. Nonetheless he was, on 3 June, forcibly returned to Tunisia.

AI has since learnt that Houssine Tarkhani was, as he feared, detained by officers of the Tunisian state security (Sûreté de l'Etat) on his arrival in Tunisia. According to information available to the organization he was, on arrest, taken to the State Security Department of the Ministry of Interior in Tunis, where he was reportedly tortured and threatened with death. He was then held in incommunicado detention for a period of nine days – longer than is

permitted by Tunisian law – without being allowed to contact his family. He has reportedly now been charged with a number of broadly-defined offences under Tunisian counter-terrorism legislation.

AI is concerned that Houssine Tarkhani was returned to Tunisia before the CRR was able to determine an appeal which he had made against the decision to refuse his claim for asylum in France. AI further notes that, following its decision in the recent case of Ferdi Aydin, the CRR appears to regard any appeal which is outstanding at the moment when a person is forcibly returned, as Houssine Tarkhani was, to be without merit, as long as the person is not outside his/her country of origin.

The case of Adel Tebourski: update to AI Index: EUR 21/006/2006

On 11 May, the UN Committee against Torture (CAT) issued a decision on the case of Adel Tebourski, who was forcibly returned from France to Tunisia in August 2006, having been stripped of his dual French-Tunisian nationality. AI had previously urged the government not to return Adel Tebourski due to the possible risks of ill-treatment (AI Index: EUR 21/006/2006).

Adel Tebourski was returned to Tunisia before his appeal against the refusal of his claim for asylum in France had been heard, and despite a request from the CAT itself for France to suspend his expulsion while the Committee examined his case. In the light of these facts the CAT found that France had not acted in good faith when it expelled Adel Tebourski, and that his expulsion constituted a violation of Articles 3 and 22 of the Convention Against Torture – that is, respectively, the obligation of non-refoulement and the obligation on states who have recognized a right of individual complaint to the CAT to respect that right. The CAT has invited France to make submissions to the Committee on how it plans to make reparation for this violation.

In its decision the CAT notes that Adel Tebourski claims to have learnt, from a friend who works in the police, that an internal circular had been sent around all police in Tunisia at the time of his return to the country, to the effect that he should not be arrested for any reason in the weeks following his arrival. Adel Tebourski believes that the reason for this circular was the international media attention which his case had received.

The case of Asebeha Gebremedhin: decision of the European Court of Human Rights

On 26 April the European Court of Human Rights ruled that France had violated Articles 3 and 13 of the European Convention on Human Rights in the case of Asebeha Gebremedhin, an Eritrean asylum-seeker who arrived at the Charles de Gaulle airport on 29 June 2005. On arrival Asebeha Gebremedhin made an immediate claim for asylum, but his application was rejected a week later and he was put under an expulsion order (*arrêté préfectoral de reconduite à la frontière*). He made an appeal against the decision, which was rejected. He then made an emergency application to the European Court and as a result was able to remain in France while the European Court's decision was pending: a few months later he obtained refugee status. The European Court noted in its ruling that under the European Convention on Human Rights there exists an obligation to provide a right of appeal with suspensive effect against a decision to return an individual to a country where he or she may be at risk of torture or other serious ill-treatment.

Immigration

On 26 May Selif Kanaté, an irregular migrant of Malian origin, was the subject of an attempted forcible expulsion from France, on board a flight from Paris to Bamako. The expulsion and the flight were aborted following protests from passengers against

the alleged violent ill-treatment of Selif Kanaté by the two law enforcement officers accompanying him. Witnesses claim to have seen the officers punching and strangling Selif Kanaté.

In June the new Minister for Immigration announced an objective of expelling 25,000 irregular migrants in 2007.

A draft immigration bill, to be voted on in the second part of 2007, was published. The bill would restrict the procedures for family reunification. Under the proposed law family members wishing to join relatives in France would have to pass tests of their French language skills and their knowledge of 'French values', while still in their country of origin. Families in France would have to ensure their integration, and the integration of their children, into French society. Failure to do so could result in the suspension of family benefit payments. The government also announced an intention to make more rigorous the conditions (relating to sufficient financial means, adequate housing and a job) that immigrants already living in France would have to satisfy in order to demonstrate that they would be able to support family members intending to join them.

GEORGIA

Torture, Ill-Treatment, Excessive use of force and Impunity

OPCAT

Georgia acceded to the UN Optional Protocol to the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on 22 June 2006. Under the OPCAT, Georgia was to designate or establish one or more independent national mechanisms for the prevention of torture within a year. While the authorities have established an Inter-agency Coordination Council to implement activities directed against torture, inhuman, cruel and degrading treatment or punishment (Inter-agency Coordination Council), tasked with providing assistance to the National Preventive Mechanism, AI was concerned that they had yet to

designate or establish a National Preventive Mechanism.

The Inter-agency Coordination Council was established through a decree issued by President Mikheil Saakashvili on 20 June 2007. The President decreed that representatives of intergovernmental and non-governmental organizations, and of the Ombudsman's Office, should take part in its work along with government representatives. According to the statute of the Council, the main objectives of the body include monitoring; assistance to and coordination of the work of relevant government agencies with regard to prevention of and the fight against torture or other ill-treatment and rehabilitation of victims; and the submission of recommendations to the President. The statute also stipulates that the newly-formed body should provide "assistance to the activities of the National Preventive Mechanism established according to [OPCAT]".

Any national monitoring mechanism for the prevention of torture and other ill-treatment should work according to the Principles relating to the status of national institutions for the promotion and protection of human rights adopted by the UN General Assembly in December 1993.² When designating or establishing such a body in Georgia AI believes that it will be key to ensure that it enjoys functional independence and that particular attention is paid to the selection of its members as well as to their training. The selection of members must be conducted in a transparent manner; the members must have the required capabilities and professional knowledge, and they must be independent. In line with the requirements outlined in OPCAT, the members of the national visiting bodies should be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison

or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty and should include doctors, psychiatrists and lawyers. Members should be trained in how to effectively monitor conditions of detention.

Identification tags for police (update to AI Index: EUR 56/001/2005)

On 19 February the Minister of Internal Affairs issued an order requiring that personal identification numbers be distributed to police officers across Georgia who carry out investigative actions and who, in the course of their work on criminal cases, are in direct contact with detainees or prisoners, as well as to all employees of preliminary detention facilities who are in direct contact with detainees. The order did not appear to request police officers to wear identification tags during the arrest of suspects.

On 11 May the Head of Administration of the Ministry of Internal Affairs informed AI delegates during a visit to Georgia that officers of the special police unit were still not required to wear identification badges.

On 31 May AI wrote to the Head of Administration of the Ministry of Internal Affairs seeking further information about the February 2007 order, including when police officers were required to start wearing the identification numbers; the manner in which they were required to wear them; and whether they were required to wear them at all times when in contact with detainees or prisoners. The organization also raised concern that officers of the special police unit were not required to wear identification numbers.

AI has repeatedly called on the authorities of Georgia to ensure that all law enforcement officers wear visible and traceable identification tags at all times when conducting arrests, when visiting places of detention and deprivation of liberty as well as during meetings with detainees and prisoners. In recent years AI has repeatedly raised particular concern

² General Assembly resolution 48/134 of 20 December 1993. (UN Doc. A/RES/48/134).

that officers of the special police unit have not been required to wear identification badges, given that this unit has been implicated in numerous cases in using excessive force and ill-treatment when conducting arrests.

AI believes that the anonymity of police officers increases the risk of torture or other ill-treatment and perpetuates impunity. Name tags and/or visible identification numbers are important safeguards against torture or other ill-treatment and are a crucial element in governments' efforts to end impunity for torture and ill-treatment.

European Court of Human Rights rules on October 1999 attack on Jehovah's Witnesses (update to AI Indexes: EUR 01/004/2000 and EUR 01/002/2005)

On 3 May the European Court of Human Rights issued a ruling in the case entitled *97 Members of the Gldani Congregation of Jehovah's Witnesses & 4 Others v. Georgia*. The ruling related to the 17 October 1999 attack on a religious gathering of several dozen Jehovah's Witnesses by some 200 followers of defrocked Georgian Orthodox priest, Father Basil Mkalavishvili. Sixteen worshippers reportedly needed hospital treatment. The police reportedly failed to respond adequately to complaints lodged by the congregation and the victims were unable to achieve justice through the Georgian courts. AI had at the time and subsequently urged a comprehensive and impartial investigation into the attack, to bring the perpetrators to justice. On 29 June 2001 members of the congregation lodged a complaint with the European Court of Human Rights regarding the October 1999 attack. The October 1999 attack was one in a series of violent attacks against religious minorities that peaked in the years from 1999 to 2003. Many of the perpetrators of these attacks have not been brought to justice.

The European Court of Human Rights found violations with regard to Article 3 (prohibition of inhuman or degrading

treatment), Article 9 (right to freedom of thought, conscience and religion) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights. With regard to the violation of Article 3 the Court noted that "the police refused to intervene promptly at the scene of the incident to protect the applicants concerned, and the children of certain of their number, from ill-treatment [...] and that the applicants were subsequently faced with total indifference on the part of the relevant authorities who, for no valid reason, refused to apply the law in their case." The Court ordered the authorities of Georgia to pay compensation to the victims and to cover legal costs.

This is the first ruling in a total of four cases the Jehovah's Witnesses have submitted to the European Court of Human Rights on violent attacks in Georgia.

The case of Sandro Girgvliani (update to AI Index: EUR 56/002/2007)

Sandro Girgvliani died in January 2006 as a result of severe beatings by officers of the Ministry of Internal Affairs at the cemetery of the village of Okrokana near the capital, Tbilisi. On 6 July that year Tbilisi City Court sentenced four officers to terms of imprisonment for causing his death. On 11 December Tbilisi Appeal Court upheld the sentences. In the period under review there continued to be allegations that the police officers who beat Sandro Girgvliani acted on the orders of senior officials of the Interior Ministry. Non-governmental sources alleged that the authorities covered up the crime of those senior officials. Reportedly, no thorough and independent investigation was carried out into the allegations.

Among those in favour of constructively addressing doubts raised by the public about the way the authorities had dealt with Sandro Girgvliani's death was Nino Burdzhaneladze, Speaker of Parliament and a leader of the ruling party. On 13 February, she was reported by the online magazine *Civil Georgia* as stating at a session of Parliament the same day that "it is of

principled importance for us that the trial ends once and forever in a way that society expects it to be finished and the truth is revealed about this tragedy”.

A draft resolution drawn up by opposition politicians calling for a special parliamentary investigatory commission into the death of Sandro Girgvliani and Amiran Robakidze, another young man who died at the hands of police officers in November 2004 (see AI Index: EUR 56/001/2005), was voted down by Parliament on 16 February.

AI was concerned that crucial evidence remained undisclosed. According to Shalva Shavgulidze, the lawyer of Sandro Girgvliani's family, although investigators of the Ministry of Internal Affairs obtained detailed lists of telephone calls made over the period of three weeks starting 10 January 2006 by a number of people allegedly implicated in the case, only fragments of these records were included in the case file. Despite repeated petitions to the courts, the material was not made available to him. Shalva Shavgulidze also repeatedly and to no avail petitioned the courts to make available to him video footage of a security camera installed at a house situated on the way to the village of Okrokana. Shalva Shavgulidze told AI: “The authorities are reluctant to disclose these materials as they would shed light on those that are behind the crime, those that ordered that Sandro Girgvliani be ‘punished’.”

Investigation into allegations of excessive force used by special forces to put down March 2006 prison disturbance (update to AI Index: EUR 01/017/2006)

On 21 May the Human Rights Protection Unit of the Prosecutor General's Office informed AI that the investigation into allegations that law enforcement officers had used excessive force against inmates of investigation-isolation prison no. 5 in Tbilisi in March 2006 was still ongoing.

Early on 27 March 2006 at least seven inmates of the investigation-isolation prison died and many others were wounded as a result of a prison disturbance that was suppressed by special forces. Non-governmental sources alleged that the special forces that entered the investigation-isolation prison did not use alternative non-violent means to establish control of the prison, but instead fired automatic weapons and rubber bullets, and beat detainees with truncheons. The Ombudsman alleged that special forces were likely to have “continued to fire even when the revolt [had] actually ended and the prisoners did not resist [...] anymore”

In its letter of 21 May the Human Rights Protection Unit stated that the director of investigation-isolation prison no. 5 and other officials had repeatedly “called on the prisoners to calm down”. However, according to the Unit, the inmates “began to move towards the officers, throwing stones and pieces of metal and wood at them”. Later special forces officers reportedly used rubber bullets, but only in response to inmates who were shooting with firearms.

The Unit stated that 190 inmates had been interviewed as witnesses in the course of the investigation. Reportedly, 37 inmates of investigation-isolation prison no. 5 told prosecutors that staff of the penitentiary department had repeatedly called on the inmates to “stop resistance” and that the officers only started shooting with rubber bullets after one inmate had fired at them with a pistol. Then “the inmates started to move towards the officers and soon they heard [shouts] that one of the staff members was wounded. After this the officers opened fire. However, they were firing in the air and not in the direction of the inmates.”

Allegations of excessive use of force by police against demonstrators on 26 May 2007

On 26 May representatives of the non-governmental organization (NGO) the

Equality Institute and supporters of prisoner Irakli Batiashvili (see below) gathered in the centre of Tbilisi near the military parade that was held to celebrate Georgia's Independence Day. They wanted to protest against the imprisonment of persons who they believed were prisoners of conscience in Georgia. Police dispersed the demonstrators and reportedly took away some of their placards. There were allegations that police used excessive force. According to Equality Institute representative David Dalakishvili, police beat him on his back and head; then they kicked him from behind so that he fell down. His supporters reported that police continued kicking him when he was lying on the ground. It is not known whether the authorities opened an investigation into the allegations that police used excessive force against the demonstrators.

Fair trial concerns

The case of Irakli Batiashvili (update to AI Index: EUR 01/001/2007)

On 23 May Irakli Batiashvili, leader of the Forward Georgia opposition group and former Security Minister, was sentenced to seven years' imprisonment on charges of "complicity" and "conspiracy or uprising to overthrow the constitutional order by force" (under Article 25 and Article 315, part 2 of the Criminal Code of Georgia, respectively). During the trial the charges of "high treason" (Article 307 of the Criminal Code) and "failure to report a grave crime" (Article 376 of the Criminal Code) were dropped. An appeal against the sentence remained pending before Tbilisi Appeal Court at the end of the period under review.

Irakli Batiashvili's arrest in July 2006 was related to a conflict between the central authorities and Emzar Kvitsiani, who served until 2004 as former President Eduard Shevardnadze's representative in the Kodori Gorge area of Georgia. He also was the leader of the armed group Monadire (Hunter), which initially existed as a paramilitary group and was later formally subordinated to the Ministry of Defence.

Under the government of President Mikheil Saakashvili there have been attempts to disband Monadire or to restructure it, and the Ministry of Defence has reportedly proposed subordinating it to the Ministry of Internal Affairs of Abkhazia in exile.

The judgment of Tbilisi City Court, among other things, stated that "Irakli Batiashvili decided to render assistance to E. Kvitsiani through providing him with instructions, advice and necessary information whereby he facilitated him to achieve the outlined objective. I. Batiashvili informed E. Kvitsiani and assured him that through his public appearances and those of representatives of some political parties he would assist him in the formation of public opinion supporting the insurrection [...] I. Batiashvili provided favourable assessment to their public movement and actions against the authorities whereby he inspired them and called for prolongation of the insurrection."

In the course of the trial and since Tbilisi City Court issued its verdict, there have been allegations that there was insufficient evidence to prove that Irakli Batiashvili intended to facilitate a violent overthrow of the government. On the contrary Irakli Batiashvili and others claim that, in an attempt to avoid bloodshed in the region, Irakli Batiashvili's aim was to act as a peace broker between Emzar Kvitsiani and the Georgian authorities.

AI was concerned about allegations that the criminal proceedings against Irakli Batiashvili failed to comply with Georgian law and international human rights standards. Among other things, Irakli Batiashvili's lawyers have appealed against the refusal of the trial court to agree to the defence's request to summons some witnesses, including an expert witness, to the court, in violation of Georgian law and the internationally guaranteed rights to a defence and to obtain the attendance and examination of witnesses on behalf of the accused under the same conditions as witnesses against the accused. At trial and on appeal, the lawyers have also argued that the CD that was included in the case file as evidence and was relied on in the

judgment was not the original nor was it a complete recording of the telephone conversations between Irakli Batiashvili and Emzar Kvitsiani and with Emzar Kvitsiani's sister. It was alleged that in some places the Ministry of Internal Affairs used a buzzer to make certain words unrecognizable. The original recording was not made available to the lawyers. In addition it is alleged that Irakli Batiashvili was detained in violation of Georgian law and international human rights standards after November 2006, as no court had extended his preliminary detention beyond that date.

Alleged coup plotters

On 6 September 2006 police detained at least 29 members of the opposition Justice Party and other supporters and alleged supporters of Igor Giorgadze, former Security Minister and leader of the Justice Party, who is wanted by the Georgian authorities on suspicion of involvement in the 1995 assassination attempt against former President Eduard Shevardnadze. All but 13 defendants were released the same or the next day.³

On 8 September Tbilisi City Court ordered 12 detainees to be placed in preliminary detention while Maia Nikoleishvili, chairperson of the Anti-Soros Movement, was released on bail after pleading guilty to plotting a coup and stating that a conspiracy meeting had taken place in Tbilisi on 4 May 2006. The other detainees insisted they were innocent.

The charges against the defendants included "conspiracy or uprising to overthrow the constitutional order by force" (Article 315 of the Criminal Code) and "high

treason" (Article 307 of the Criminal Code). Kakhaber Kantaria and Maia Topuria were additionally charged with offences concerning the "illegal purchase and storage of firearms, explosives or ammunition" (Article 236 of the Criminal Code).

The trial started in Tbilisi City Court on 26 March. The judge ordered the entire trial to be closed to the public, for the purpose of protecting the identity of witnesses for reasons of their security and because the trial would deal with classified documents. AI sought information on why the entire trial was closed, but did not receive an adequate reply.

The lawyers claimed that in the proceedings evidence emerged of the alleged planting of evidence; of changing the date of the alleged conspiracy meeting after evidence had emerged that some defendants had an alibi for the date that they had initially been arrested for; the possible coercion of at least one prosecution witness; and alleged unreliable evidence of state witnesses.

Domestic Violence

Failure to approve long overdue Action Plan on Measures to Prevent and Combat Domestic Violence long overdue (update to AI Index: EUR 56/009/2006)

As part of the Law of Georgia on Combating Domestic Violence, Prevention of and Support to Its Victims (Law on Domestic Violence), adopted by Parliament on 25 May 2006, the government of Georgia was required to approve the Action Plan on Measures to Prevent and Combat Domestic Violence (Action Plan) within four months after the law had come into force, i.e. by 9 October. The Action Plan was drafted with significant NGO input, set out time frames for the implementation of activities and specified which stakeholders, including government agencies and NGOs, would be responsible for implementing strategies to raise public awareness, protect and assist victims of domestic violence, prepare further legislation, and consider budgetary

³ The thirteen detainees were: Guram Papukashvili, Teimuraz Zhorzholiani, Maia Topuria, Vakhtang Talakhadze, Varlam Galdava, Ramaz Samnidze, Maia Nikoleishvili, Zaza Davitaia, Giorgi Akhobadze, Revaz Bulia, Yakob Kvinikadze, Giorgi Metreveli, Kakha Kantaria. An arrest warrant was issued for Gela Archvadze, who was reportedly hiding from the authorities.

implications. However, by the end of the period under review, i.e. over a year after the Law on Domestic Violence had come into force, the government had yet to approve the Action Plan.

On 7 June AI and several Georgian NGOs⁴ jointly called on the government to demonstrate its commitment to combat domestic violence by:

Promptly approving an updated version of the draft Action Plan on Measures to Prevent and Combat Domestic Violence;

Ensuring that all relevant government agencies including the Ministry of Internal Affairs; the Ministry of Labour, Health and Social Affairs; the Ministry of Education and Science; the Ministry of Justice; and the Ministry of Finance swiftly move towards its implementation;

Ensuring that sufficient funds are promptly made available to implement activities necessary to end domestic violence in Georgia and provide protection to the victims.

Parliamentary Assembly of the Council of Europe

On 16 March the Standing Committee of the Parliamentary Assembly of the Council of Europe (PACE) adopted on behalf of the Assembly Resolution 1544 (2007) and Recommendation 1790 (2007) on "The situation of women in the South Caucasus". The Resolution contained a call by the Parliamentary Assembly on Armenia, Azerbaijan and Georgia to take part in the Council of Europe campaign to combat violence against women, including domestic

violence. It also urged the authorities of these countries to "raise awareness among all relevant authorities and the public at large about the existence of violence against women, in particular domestic violence"; to "take effective measures to combat such violence by adopting legislation, if they have not already done so, including on marital rape, and by establishing penalties in line with the seriousness of the offences committed and providing compensation for victims, including by setting up a compensation fund"; and to "set up shelters for victims when there is no other way of protecting them against the perpetrators".

The internationally unrecognized territories of Abkhazia and South Ossetia

Death penalty

On 12 January the Parliament of Abkhazia adopted the law entitled "Moratorium on the death penalty", establishing a moratorium on executions during peacetime. Since 1993 there had been a de facto moratorium on executions in place in Abkhazia. According to the Abkhaz news agency Apsnypress, death sentences can still be handed down for "particularly grave crimes against life, the foundations of the constitutional order, against the security of the state, and crimes against military service". Reportedly, there are currently two male prisoners on death row in Abkhazia: Mr Tarba and Mr Khaghba (first names not known).

South Ossetia continues to have a moratorium on death sentences and executions in place.

On 26 June PACE adopted Resolution 1516 (2007) entitled "Promotion by Council of Europe member states of an international moratorium on the death penalty". It reiterated its call on Abkhazia and South Ossetia to abolish the death penalty. It also urged that "the sentences of all prisoners currently on death row in [Abkhazia] should be immediately commuted to terms of

⁴ See public statement: EUR/whatever. The NGOs signing together with AI were as follows: Caucasus Women's Research and Consulting Network, Centre For Protection Of Constitutional Rights, Georgian Association for Psychosocial Aid "Ndoba", Georgian Young Lawyers Association, Sakhli – Advice Center for Women, Union "Saphari", Women's Centre, and the Women's Information Center.

imprisonment in order to put an end to the cruel and inhuman treatment of those who have been kept on death row for years in a state of uncertainty as to their ultimate fate”.

Alan Parastaev allegedly ill-treated in detention in South Ossetia

Alan Parastaev, who in the past occupied senior posts as de facto Minister of Internal Affairs, Minister of Justice, and Chairman of the Supreme Court of South Ossetia, was reportedly detained by armed men on 11 November 2006, who took him to the office of the security services of South Ossetia. Reportedly, the same evening he gave a statement on a local radio station confessing that he had attempted to find someone willing to assassinate Eduard Kokoity, the President of the internationally unrecognized region. Alan Parastaev alleged that he was tortured, and otherwise pressurized to “confess” to the crime while he was being detained by the security services.

Alan Parastaev alleged that he was forced to kneel down for hours, being beaten with truncheons on his torso, especially in the region of his kidneys; and that he was blindfolded and subjected to a mock execution. AI viewed photos of Alan Parastaev reportedly taken on 20 November that show his body covered in bruises. Reportedly, a medical doctor, who managed to see Alan Parastaev on 23 November despite the lack of official permission, later told his relatives that his body was covered in bruises, that his legs were reportedly swollen, and that he may have had internal bleeding.

Reportedly, it was only on 4 December that a lawyer was allowed to see him in prison colony UIK no. 1 in the town of Tskhinvali/Tskhinval. AI was concerned that this may have constituted a violation of his right to a fair trial.

Alan Parastaev’s family alleged that he did not receive necessary medical treatment and that the reported beatings and ill-

treatment of their relative had seriously damaged his health. The family repeatedly approached the authorities of South Ossetia and urged those in charge of the prison facilities in Tskhinvali/Tskhinval to provide immediate necessary treatment to him. However, it was only on 4 May that he was seen again by a medical doctor who was given official permission to visit him. Reportedly, the medical doctor who saw him on that date came to the interim conclusion that he should be hospitalized as he was suffering from damage to his kidneys and possibly other health problems. To AI’s knowledge, he had not been hospitalized by the end of the period under review.

In June AI wrote to the Foreign Minister of the Russian Federation and the Minister of Foreign Affairs of South Ossetia expressing concern about the case of Alan Parastaev, who is a citizen of the Russian Federation.

GREECE

Police ill-treatment

In June the European Court of Human Rights held unanimously that there had been a violation of Article 2 (right to life) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) in the case of *Karagiannopoulos v. Greece*. The case concerned an incident in January 1998 in which a Romani man, then aged 17, was left disabled after being shot in the head by a police officer after arrest. The Court found that “it appeared that the applicant’s arrest was followed by events which could have been avoided if the policemen responsible for taking him to the police station had not taken senseless initiatives and if the police officer had had better control of his weapon. Further, the Court considered that the fact that the situation degenerated as it did is all the more inexcusable in that it took place in the context of a police operation planned in advance, which the police officers involved were able to plan carefully,

including the stage of taking arrested individuals to the police station.”

In January and May the European Court of Human Rights also found Greece in violation of Article 3 of the ECHR (prohibition of torture or degrading treatment or punishment). In the case of *Alsayed Allaham v. Greece*, the Court recalled that “where a person is injured while in detention or otherwise under the control of the police, any such injury will give rise to a strong presumption that the person was subjected to ill-treatment”. In the case of *Zelilof v. Greece*, the Court reiterated “that in respect of a person deprived of his liberty, recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3.”

Nevertheless, AI was concerned to receive reports from lawyers and local human rights organizations that allegations of ill-treatment by police officers were on the increase during the period under review.

- On 8 June a Moldovan woman legally residing in Greece was allegedly ill-treated by police officers at the General Police Headquarters of Attica in Athens. The woman said that she had been repeatedly beaten, forced to strip to her underwear and had had clumps of her hair pulled out by police officers, who also threatened to destroy her residence permit. Despite her reported willingness to testify against the police officers, by the end of the period under review, no steps had been taken to investigate the incident and bring the perpetrators to justice.
- On 16 June video footage appeared on the website *YouTube* showing two young migrants at the Omonia police station in central Athens being beaten by police officers and being forced to insult and slap each other repeatedly (see AI Index: EUR 25/007/2007). At least five officers faced prosecution in relation to the incident. Subsequently, two further videos appeared online,

depicting instances of ill-treatment, including sexual abuse, of detainees in police custody. Investigations were ongoing at the end of the period under review.

- An Iraqi asylum-seeker reported to the Committee for Human Rights of the Chania Bar Association in Crete that he was severely beaten on 1 June, when he arrived at the Chania police station to claim asylum. An investigation was underway at the end of the period.

Conditions of detention

At the end of February, the Council of Europe's Committee for the Prevention of Torture (CPT) visited 26 places of detention around the country. The CPT's findings from this visit were not publicly available by the end of June.

Throughout the period under review, overcrowding, poor standards of hygiene and ill-treatment continued to be reported in prisons and other places of detention.

At the end of April, the alleged ill-treatment of an inmate at the Malandrino prison in central Greece sparked protests which subsequently spread to 10 other prisons throughout the country. Prisoners in Malandrino reportedly said that the incident had been “the final straw”. Some alleged that their water supply had been cut off for three days. The Greek authorities refuted the allegations. According to media reports, the capacity of Malandrino prison is 280 inmates, while at the time of the incident 460 people were held there.

AI has repeatedly urged the authorities to ratify and implement the Optional Protocol to the UN Convention against Torture.

Deaths in custody

A number of deaths in custody were reported during the period under review, with at least 10 occurring in the period March-June according to the non-governmental Prisoners' Rights Initiative. In

April, the death of a 20-year-old man of Albanian origin in a cell at the Ilion police station in Athens sparked debate about the reported increase in the number of apparent suicides and drug-related deaths occurring in custody in Greece. An investigation was launched into how the man died, after his mother disputed the explanation by the police that he had hanged himself.

Trafficking in human beings for sexual exploitation

On 2 February, the UN Committee for the Elimination of all forms of Discrimination Against Women recommended that Greece "increase its efforts to prevent human trafficking and provide assistance and support to women victims".

AI launched a report on the subject, Greece: Uphold the rights of women and girls trafficked for sexual exploitation (AI Index: EUR 25/002/2007) on 12 June. AI was concerned that trafficked women and girls remained unidentified as such by the Greek authorities; that because of this they were subsequently unable to exercise their rights to protection and assistance; that many remained at risk of detention on suspicion of offences such as unlicensed prostitution or illegal entry into Greece, or of deportation without risk assessment to countries where they were at risk of further human rights abuses including re-trafficking; and that those who were correctly identified as trafficked were offered protection beyond the initial period for recovery and reflection only if they agreed to cooperate in legal proceedings against their suspected traffickers. Meanwhile, helplines for trafficked women, guidelines for police officers in recognizing them, and witness protection remained inadequate. The recovery and reflection period was not long enough for women to begin recovering from their experience and make informed decisions about their future; trials of suspected traffickers were protracted, adding to the psychological strain they experienced; and access to reparations and subsequent health care and assistance with

integration were inconsistent. AI called on Greece to ratify the Council of Europe Convention on Action against Trafficking in Human Beings and made specific recommendations to the authorities as to how to address the concerns raised in the report. By the end of the period under review no response to the report or its recommendations had been received from the authorities.

Denial of refugee protection

The long-awaited new legislation on asylum remained in draft form. Lawyers reported to AI that in practice asylum-seekers could expect their application to be rejected at first instance. Incidents where groups of people arriving in Greece to seek asylum were detained or forcibly expelled - without access to asylum procedures and without having their cases individually examined - continued to be regularly reported.

Harassment of human rights defender

In January AI published its concerns about the possible extradition from Greece to Pakistan of human rights defender and President of the Pakistani Community in Athens, Javed Aslam (see Greece: Investigation not Extradition: Threatened return of human rights defender to Pakistan highlights failures in investigation of alleged abduction, AI Index: EUR 25/001/2007). The organization was concerned that the Interpol warrant for Javed Aslam's arrest originating in Pakistan may have constituted a tactic of judicial harassment against him to prevent him from defending the rights of six other Pakistani nationals in Greece who alleged that they had been abducted by agents of the Greek intelligence services in the aftermath of the London bombings of 7 July 2005 (see AI Index: EUR 01/007/2006). In March, the Supreme Court upheld a unanimous decision of the Athens Appeals Committee that Javed Aslam should not be extradited to Pakistan. However, in April, the

competent committee of the Supreme Court called for a retrial of the case to begin on 4 May, apparently after learning from the Greek Ministry of Foreign Affairs that no extradition agreement existed between Greece and Pakistan and that documents had passed unofficially between the Pakistani embassy in Athens and the Supreme Court. Meanwhile Javed Aslam reported that pressure aimed at silencing him and other members of the Pakistani community in Greece about the alleged abductions continued. AI wrote to the Greek authorities prior to the May hearing reiterating its concerns about the case. The Supreme Court finally rejected the extradition request on the basis that Javed Aslam had committed "no violation of the penal code".

Conscientious objection to military service

In the continuing pattern of harassment of conscientious objectors, a fifth attempt to arrest conscientious objector Dimitris Sotiropoulos, Board Member of the Association of Greek Conscientious Objectors, was made in May. He has not to date been apprehended. Dimitris Sotiropoulos has declared his conscientious objection since March 1992 when he was first called up for military service. (See AI Index: EUR 25/003/2006).

Domestic violence (update to AI Index: EUR 01/001/2007)

In January Law 3500/06 on Combating Domestic Violence came into force. AI has previously welcomed some provisions of the new law, but remained concerned that parts of the law were not fully in line with the duty of the state to protect the rights of women.

HUNGARY

Violence against women

Rape and sexual violence in the home

Two thirds of sexual crimes in Hungary are committed by people known to the victim, yet few of the perpetrators are tried for their crimes. Widespread prejudice, government inactivity and deficiencies in the criminal justice system pose at times insurmountable obstacles for women to obtain justice or redress. These were the main findings of AI's research on this issue, published on 10 May in a report entitled *Hungary: Cries unheard: The failure to protect women from rape and sexual violence in the home* (AI Index: EUR 27/002/2007).

In 1997, rape within marriage was recognized as a crime within the Hungarian penal code. However, the most serious failing in the Penal Code's definition of rape is its requirement that women must prove that they physically resisted, no matter the level of threat or violence that they face. This stipulation leaves unprotected thousands of women in intimate relationships.

A large number of cases do not reach court or do not result in criminal convictions. Either the crime is not reported, or the police fail to identify the attacker and label the case as a 'false report'. Sometimes, the victim or other witnesses withdraw their statements or decline to press charges under duress.

Women are reluctant to report rape because they may fear the abuser, most often the husband or a former partner, will attack her again. The reporting procedure is humiliating and may further discourage the victims from taking legal action. Police officers frequently do not conduct a proper investigation with victims and potential perpetrators not interviewed and forensic evidence not gathered properly. Police investigations are also often marred by prejudice.

In court, in the presence of their attackers, women have to relive time and again the horror of the sexual attacks they were subjected to and to prove their innocence. They have to challenge public attitudes that it is acceptable for a husband to force his wife to have sex and that it is the woman who provokes rape. Such attitudes prompted a Hungarian judge, for example, to tell AI that she herself would be reluctant to report rape.

Rape in the family is rarely discussed publicly. Victims are rarely heard to speak about the physical and psychological injuries they experience. The number of studies on this issue is extremely small. A 2006 public opinion survey revealed that 62 per cent did not know that marital rape was a crime.

As a result, in Hungary there is a high rate of attrition for cases of rape and other crimes of sexual violence, women do not have access to justice and redress, and do not receive adequate support and services for victims. On the contrary they are being blamed, stigmatized and humiliated.

Among other things, AI has called on the Hungarian authorities to ensure legislative changes that would guarantee access to justice, including by amending the present law on the definition of rape and other crimes of sexual violence and the requirements for establishing such crimes to be amended, in order to reflect women's rights to physical, psychological or sexual freedom and integrity; to provide standards and training for professionals working with victims of sexual crimes; to set up support services for victims of sexual violence, including medical treatment, psychological care, legal and advocacy counselling, as well as quality forensic practice for the purposes of effective investigation; to carry out research and compile data that will inform policy making; and to actively combat social prejudices through public education.

Following the publication of AI's report, which received wide publicity within Hungary, a prominent member of parliament from the minority party in

Hungary's governing coalition, the Alliance of Free Democrats (*Szabad Demokraták Szövetsége*, SzDSz), brought the issue before parliament in May and supported AI's recommendations. Additionally, a spokesperson from the Ministry of Justice and Law Enforcement mentioned in the same month that the Criminal Code would be reviewed, and agreed that the current procedure was traumatizing for women.

Police excessive use of force and ill-treatment

On 2 February, the Special Commission of Experts on the Demonstrations, Street Riots and Police Measures in September-October 2006 (Special Commission) issued a report on its conclusions after the investigation on the policing of the demonstrations, in which police reportedly used excessive force on peaceful demonstrations that later turned violent in the capital, Budapest. In November 2006, the Prime Minister had decided to set up this Special Commission to "analyse the historic and social causes, to examine the proportionality of the measures taken and to evaluate the institutional... [and] legal framework with respect to the actions taken by the authorities, with special regard to the human rights of those affected."

Echoing recommendations already made by AI (see AI Index: EUR 01/001/2007). The Special Commission also called on the authorities to ensure that law enforcement officers engaged in crowd control and those who make arrests are wearing visible forms of identification, such as name tags or identification numbers, as well as the insignia of the force to which they belong. The Special Commission also called for the establishment of a fully resourced independent agency to investigate all allegations of serious human rights violations by law enforcement officers. It further urged that the authorities ensure that the complaints by individuals concerning alleged violations of their human rights in the context of the policing of the demonstrations and their aftermath

are promptly, thoroughly, independently and impartially investigated.

On 6 February, the UN Committee against Torture (CAT) made public its concluding observations on Hungary's compliance with the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). The CAT expressed its concern at the length of the initial pre-trial detention phase (up to 72 hours), at ongoing pre-trial detention on police premises and the high risk of ill-treatment which it entails and greatly regretted that pre-trial detention of up to three years is provided for under the Criminal Procedure Act.

In addition, the CAT was concerned that minors were held with adults during pre-trial detention and noted that the need for them to be held separately should be included in the Draft Penitentiary Code. It also expressed concerns at allegations that fundamental legal safeguards for persons detained by the police or Border Guard staff, including the rights of access to a lawyer and medical examination, are not being observed in all situations.

The CAT also noted with concern the allegations of excessive use of force and ill-treatment by law enforcement officials, especially in the course of or in relation to apprehension. It expressed its concerns at reports that law enforcement officers did not carry identification badges during the Budapest demonstrations, which made it impossible to identify them in case of a complaint of torture or ill-treatment. The number of reports of ill-treatment by law enforcement agencies, the limited number of investigations carried out by the State party in such cases, and the very limited number of convictions in those cases which are investigated were also objects of concern to the CAT.

The CAT expressed continuing concerns about reports of police ill-treatment of and discrimination against persons belonging to national minorities and non-citizens by law enforcement officials and regretted the lack of information about any assistance

provided to victims of trafficking and training of law enforcement personnel and other relevant groups.

The CAT observed that all elements of the definition of torture as provided by Article 1 of the Convention against Torture are still not included in the Criminal Code.

Update on the Case of Ángel Mendoza (see AI Index: EUR 01/001/2007)

Charges relating to an alleged attack on police officers by Ángel Mendoza and his 14-year-old friend during the demonstrations of September 2006 were withdrawn in March. They were both detained on the night of 20 September in Budapest, when they were trying to return safely to their building, close to where the main demonstration was taking place. They were both sent to the 10th District police station on Harmat Street and detained there. While Ángel Mendoza and other detainees were waiting in the in the reception of the police station, a group of policemen arrived and reportedly started to insult them and hit them with batons. According to medical reports, Ángel Mendoza's nose was broken and one rib seriously damaged. The case against the police officers involved in the reported ill-treatment against Ángel Mendoza and the other detainees is still on-going. Both Ángel Mendoza and his friend were represented by the human rights organization Hungarian Helsinki Committee.

Conditions of detention

Detention of asylum-seekers and non-citizens

As part of its February review (see above), the CAT expressed concern at the detention policy applied to asylum-seekers and other non-citizens, including reports that they often face lengthy periods of detention, including in the context of the so-called "alien policing procedure", with detention for up to 12 months in alien policing jails maintained by the Border Guard service.

The CAT regretted that individuals were not, in all instances, able to enjoy full protection under the relevant articles of the Convention against Torture in relation to expulsion, return or extradition to another country. The CAT was also concerned at information that the right of non-citizens seeking protection to have access to the asylum procedure is not fully guaranteed at the border, and there were reports of unlawful expulsions of asylum seekers and other non-citizens to third countries implemented by the Border Guard service.

Prisons

On 28 June, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) made public its report to the Hungarian government following its visit from 30 January to 1 February. The visit revealed that the use of handcuffs and body-belts was grossly excessive at Szeged Prison's Special Regime Unit for prisoners serving lengthy sentences (HSR Unit). All HSR prisoners were both handcuffed and body-belted when taking outdoor exercise in the secure exercise yard on the roof and when receiving visits, as well as during consultations in the doctor's office. Indeed, they were even routinely handcuffed and body-belted during all out-of-cell movements within the Unit itself. Additionally, inmates remained handcuffed during telephone calls in the Unit and allegedly also when taking showers. Nevertheless, the CPT noted the improvement made by Hungarian authorities in the material conditions of the HSR unit.

Discrimination

On 22 May, the UN Committee on Economic, Social and Cultural Rights (CESCR) made

public its Concluding Observations of on Hungary's compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR). The CESCR noted that the rights recognized in the ICESCR are not directly applicable in the courts; that the shared burden of proof under the Equal Treatment Act, where the victim is merely required to establish a prima facie case of discrimination, whereupon the burden of proof shifts to the alleged discriminator, is reportedly rarely applied by the courts; and that the low level of resources provided, and now recently reduced, to the Equal Treatment Authority might adversely affect its capacity to deal with an increasing caseload.

On the access of Roma to social and economic rights, the CESCR also expressed concerns inter alia in the areas of: discrimination in the labour market; lack of an adequate safety net for disadvantaged individuals and families such as Roma; inadequate housing conditions, increasing forced evictions and discriminatory barriers to access social housing; denial of access to health services, segregation in hospital facilities and inferior quality of health services provided; and the high number of Romani children segregated in separate schools and classes.

IRELAND

International treaties

In March Ireland signed the UN Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities and the UN Convention for the Protection of All Persons from Enforced Disappearances.

Criminal justice

There was widespread opposition to the introduction of the Criminal Justice Act 2007, which significantly amends Irish criminal law and procedure, laws of evidence, and sentencing. Following

publication of the Bill in March, the Law Society and individual lawyers called for its adoption to be postponed until it could be fully debated. The Irish Human Rights Commission (IHRC), an independent body established by statute, also criticized the limited time-frame within which the Bill was being brought forward, stating that "[d]esire to change the law should be balanced by the need to discuss, analyse and reflect on provisions which involve a significant restriction of long established rights".

The Act extends the categories of offences in relation to which people may be held in police custody without charge for up to seven days. The IHRC expressed "doubt as to the rationale behind reform in this area", and concern that, in this respect, implementation could lead to violations of Ireland's obligations under the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The Act extends the circumstances in which a decision on the part of individuals who have been charged with a criminal offence to exercise their right to remain silent could result in adverse inferences being drawn against them, and does not incorporate the IHRC's proposal that any such drawing of inferences should be made conditional on the accused having been advised by a solicitor.

The Act also includes provisions requiring an individual charged with certain serious offences to supply a written statement as a precondition to being granted bail. The IHRC considered that these provisions raise serious concerns as to the right to liberty and the principle of the presumption of innocence, and expressed concern that certain information demanded in this statement, for instance as to the source of the individual's income and the individual's possession of assets, does not have a direct bearing on those factors which are of relevance in a decision to grant bail – that is, the likelihood that the individual will attend court to stand trial, will attempt to interfere with witnesses or will commit offences while on bail.

Policing

The case of John Carthy (update to AI Index: POL 10/001/2007 – Ireland)

Having reviewed the 2006 findings of the Tribunal of Inquiry (the Barr Tribunal) into the fatal shooting of John Carthy by the Garda Síochána (police) Emergency Response Unit (ERU) at Abbeylara, County Longford, in April 2000, the Garda Síochána Inspectorate published a report on so-called 'barricade incidents' in March. The report defines 'barricade incidents' as "situations in which persons secure themselves at a location, with or without hostages, and are perceived to present a threat to themselves or others".

Amongst the recommendations in the Inspectorate's report were: that An Garda Síochána should develop protocols on responding to and investigating barricade incidents; that special training should be given to on-scene commanders; and that access to equipment to enhance the safety of the police should be improved. It recommended the establishment of a roster of mental health professionals to work with Garda Síochána Negotiation Teams during siege situations, and the development of protocols and training in this area between the Garda Síochána and the Health Service Executive.

In its report the Inspectorate also supported a proposal by the Garda Commissioner to provide the ERU with conductive energy devices ('tasers') as a "less lethal" alternative to firearms. In 2002, the Garda Síochána introduced three "less lethal" options – bean-bag cartridges, 12-Gauge OC (more commonly known as pepper spray) cartridges and Mark 9/12 OC aerosol projectors. These are currently available only to the ERU. While noting concerns about the use of these devices in terms of their safety, the Inspectorate concluded that the Garda Commissioner was "taking a measured approach in recommending their procurement for use by the ERU in defined circumstances". It recommended that any extension of the

deployment of tasers to Garda personnel other than ERU personnel should be the subject of careful consideration, taking into account the ERU's experience and the experience of usage in other police services.

AI considers the use of tasers to be an inherently excessive use of force when used on certain vulnerable groups, including people with mental illness. The organization therefore recommends that tasers should not be used at all in cases such as that of John Carthy. AI believes that taser use in such cases constitutes a violation of international standards which provide that law enforcement officials should use only the minimum necessary force. Individuals with mental illness should receive appropriate treatment, and alternatives to the use of force should be found, in line with best practice.

Police complaints mechanisms (update to AI Index: POL 10/001/2007 – Ireland)

The Garda Síochána Ombudsman Commission (GSOC), established in December 2005 to investigate complaints of ill-treatment by members of the police service, became operational in May. Complaints against the police were therefore no longer dealt with by the Garda Síochána Complaints Board (GSCB), which had been widely criticized, including by AI, as ineffective and lacking in independence. The GSCB continued to process cases already before it, but all new cases from May onwards would go to the GSOC. Investigators employed by the GSOC will now investigate all cases where it appears that "the conduct of a member of the Garda Síochána may have resulted in the death of, or serious harm to, a person", but other complaints may continue to be investigated by Gardai themselves.

Places of detention (update to AI Index: POL 10/001/2007 – Ireland)

Following the enactment of the Prisons Act 2007, an Inspector of Prisons was appointed on a statutory basis for the first time. The Act provides that it is not a

function of the Inspector to investigate or adjudicate on individual prisoner complaints.

A study of young male offenders in detention schools published in May by the School of Psychology at University College Dublin, entitled Emotional Intelligence, Mental Health and Juvenile Delinquency, found that 83 per cent had at least one psychiatric disorder, and that the vast majority did not receive any treatment for such disorders.

Residential facilities for vulnerable groups (update to AI Index: POL 10/001/2007 – Ireland)

The Health Act 2007, which was enacted in April, places the Social Services Inspectorate (SSI) on a statutory basis, under the name of the Office of the Chief Inspector of Social Services, and provides for its role to be expanded beyond residential centres for children in care to include the inspection and registration of residential services in the public, private and voluntary sectors for older people and people with a disability. The sections of the Act that confer these functions will be enacted on a phased basis and, until they are brought into force, the registration and inspection system for such residential services remains inadequate.

Asylum-seekers and victims of trafficking (update to AI Index: POL 10/001/2007 – Ireland)

The Immigration, Residence and Protection Bill, published in April, contained proposals for consolidating and reforming Ireland's immigration and asylum legislation, and for the establishment of single protection procedure to assess all claims for protection.

Concerns were raised in relation to several proposals in the Bill, including the lack of clarity in distinguishing between refugee protection and subsidiary forms of protection, and the failure, in provisions relating to the establishment of a Protection Review Tribunal, to address the lack of

transparency and the inconsistent decision-making in the current appeal mechanism. Proposals set out in the Bill did not address the continued inappropriate use of prisons for holding immigration detainees. The Bill had not become law by the time of the general election in May, but following the election was revived by the new Government.

Ireland signed the Council of Europe Convention on Action Against Trafficking in Human Beings in April. However, while a Scheme (i.e. a proposal) for a Criminal Law (Trafficking in Persons and Sexual Offences) Bill had been published in 2006, no such Bill emerged prior to the dissolution of the Oireachtas (parliament) in May ahead of the general election. Trafficking, other than of children under 16 years of age for the purposes of sexual exploitation, was therefore still not specifically criminalized. Neither the 2006 Scheme of this Bill nor the Immigration, Residence and Protection Bill contained specific measures for the protection and support of trafficked persons.

Arms trade (update to AI Index: POL 10/001/2007 – Ireland)

The Control of Exports Bill 2007 was published in February and, while it contained many welcome proposals for military, security and police (MSP) trade export controls, many gaps remained.

The Bill did not address the control of overseas licensed production agreements undertaken by Irish companies, despite the Irish Government having previously stated its support, in principle, for the regulation of such production agreements, at least at a European level. Furthermore, although the Bill contained provisions for the control of physical exports, and the supply of some intangible technical assistance, it introduced no controls or reporting mechanisms specifically covering the supply of military and security services and personnel.

The Bill may even weaken existing controls on the transit and transshipment of military and security goods. It required export

licences for "the exportation of goods brought into the State for re-export", but did not specify whether this covers goods held under bond. The current Control of Exports Act 1983, by contrast, explicitly imposes export controls on "goods brought into the State for transshipment, whether under bond or otherwise".

Nor did the draft Bill specify whether export controls would apply to arms and equipment transiting through Irish ports and airports for technical stop-overs or refuelling, without passing through customs. Existing aviation rules on the carriage of weapons and munitions also exempt military personnel and their "personal weapons"; thus, military forces with a record of human rights violations, or destined for conflict zones, could pass through Irish airports and airspace with their weaponry, without any notification or scrutiny.

The Bill introduced, for the first time, a statutory requirement for the Department of Enterprise, Trade and Employment (DETE) to submit an annual report to the Oireachtas (parliament) on its export control activities. However, it did not specify what is to be included in these annual reports; in the past, the DETE has released far less information on export licences than is required for adequate scrutiny of the potential human rights impact of military and security exports.

The Bill did not provide for post-export monitoring of delivery and end-use. AI welcomed the Bill's introduction of more extensive powers for Irish authorities to inspect and audit companies exporting MSP goods and services, but such inspection powers could uncover only some abuses of the licensing system, unless complemented by a systematic and rigorous process for monitoring the delivery and end-use of exports themselves, to ensure that the goods have been delivered to the stated end-user. The Bill did not mandate post-shipment checks of this sort.

Treatment of people with intellectual disabilities (update to AI Index: POL 10/001/2007 – Ireland)

In its annual report for 2006, published in March, the Inspectorate of Mental Health Services found mental health provision to be *ad hoc* in nature, with "serious deficiencies in community mental health teams" around the country, "basic staffing" unavailable in children's mental health services, and "no teams in mental health services for people with intellectual disability". The Inspector concluded that in-patient units would "continue to be the first-line treatment locations", long-stay wards "will not close", and there would be "little or no access to alternatives to medication if community mental health and other multidisciplinary teams are not resourced". The report also found: that there was a lack of information provided to services users about their diagnosis and treatment; that waiting lists for children's services continued to be long, sometimes over a year; that there was an almost complete absence of in-patient facilities for people with intellectual disability with a mental disorder who require in-patient treatment; and that these patients were receiving treatment in units that were not approved under the Mental Health Act 2001, and that the patients were not protected by the Act.

The Inspector highlighted the lack of therapeutic activities for inpatients, especially for patients within 'long-stay wards' but also in a number of acute units. The Inspector expressed particular concern at the number of vulnerable patients remaining in long-stay wards, living in unacceptable conditions in institutional environments that were drab, bare and in some cases, dirty, with no way of developing their interests or leisure pursuits, and sometimes locked into the wards. In many long-stay wards patients were observed by the inspectors to be "wandering around aimlessly or sitting motionless, and this is the pattern for these patients every day of the year, punctuated by the odd outing or Christmas party".

Women (update to AI Index: POL 10/001/2007 – Ireland)

A National Women's Strategy was published in April, outlining the Government's commitments towards achieving women's equality in the period 2007-2016. However, it lacked measurable targets and timescales, and also lacked specific quotas to encourage an increase in the representation of women in decision-making structures.

Non-governmental organizations (NGOs) working in the area of violence against women responded to the announcement, in April, of a new executive office within the Department of Justice, Equality and Law Reform, known as COSC -- the Irish Office for the Prevention of Domestic Violence -- stating that they would not work with this office if it were established in its proposed form. Shortcomings they identified in this office included: it was limited to prevention of domestic violence, rather than protection and criminalisation all forms of violence against women; it did not provide for NGO involvement, and did not recognize the NGOs' expertise in these areas; and it emphasised awareness-raising over law enforcement.

Children (update to AI Index: POL 10/001/2007 – Ireland)

Following the government's consultation with key stakeholders in late 2006 to agree a wording for a Constitutional referendum on children's rights, the Twenty-Eighth Amendment of the Constitution Bill 2007 was published in February. While welcoming the proposal in the Bill to create a new, free-standing article in the Constitution entitled 'children', the Ombudsman for Children concluded that the proposed provisions appeared to represent a restricted application of the principles of the UN Convention on the Rights of the Child, and did not meet the specific recommendations of the UN Committee on the Rights of the Child, as set out in its Concluding Observations on Ireland's Second Report, issued in September 2006. It noted that there was a limited application

of the 'best interests' principle in the Bill. It also noted that, while the proposed article includes a statement of children's rights, there was no requisite commitment on the part of the state to defend and vindicate those rights, and the statement did not include express provision for the right of children to participate.

Renditions (update to AI Index: POL 10/001/2007 – Ireland)

In its programme for government for 2007 to 2012, entitled *An Agreed Programme for Government*, the new Irish Government appointed in June declared that it was "completely opposed to the practice of extraordinary rendition", and made some limited commitments in this regard, mainly through prioritizing effective enforcement by An Garda Síochána of the Criminal Justice (United Nations Convention Against Torture) Act 2000 and other statutes. It also stated that Ireland would seek European Union and international support to address deficiencies in aspects of the regulation of civil aviation under the Chicago Convention.

Discrimination (update to AI Index: POL 10/001/2007 – Ireland)

In May, the European Commission Against Racism and Intolerance (ECRI) issued its third report on Ireland. It found that progress had been made in a number of areas it had highlighted in its 2001 report, but that a number of its recommendations had not been implemented, or had only been partially implemented.

In particular, ECRI noted: that Ireland had not yet ratified Protocol 12 to the ECHR, which contains a general prohibition on discrimination; that, although it was under review, the criminal legislation had not yet been amended to include sufficiently strong provisions for combating racist acts affecting in particular visible minorities and Travellers; that further measures were necessary to raise awareness among members of minority groups of existing

mechanisms for seeking redress against racism and racial discrimination; and that there was also still a need for the establishment of policies aimed at integrating asylum-seekers and refugees into Irish society.

ECRI noted that the Employment Permits Act 2006 required close monitoring in order to ensure that its implementation addressed some of the problems faced by non-Irish workers in the workplace, such as racism and discrimination. It called for measures for integrating Travellers into society to be reinforced, in particular in the area of employment, and for national Traveller organizations to be further involved and included in such initiatives.

ECRI's also recommended that the Housing (Miscellaneous) Provisions Act 2002, which converted trespass on private or public land from a civil offence into a criminal offence, with significant implications for the Traveller Community, due to the dearth of government-provided Traveller accommodation, be reviewed and amended where necessary to prevent Travellers being further disadvantaged with regard to access to adequate housing. It also found that the IHRC was under-resourced, and recommended that the Irish authorities allocate it sufficient human and financial resources.

ECRI recommended that the implementation of the Immigration Acts 2003 and 2004 be monitored and that any problems of, *inter alia*, racial profiling against visible minorities noted in this regard be addressed. ECRI recommended that the Irish authorities take into consideration submissions made by NGOs and civil society organizations on the Scheme for an Immigration, Residence and Protection Bill (see above), and that they continue their consultation process before adopting the final Bill.

ITALY

Counter-terrorism

Rendition of Abu Omar (update to AI Index EUR 01/001/2007)

On 16 February an Italian judge issued indictments against seven Italian citizens, primarily operatives of the Italian military and security agency, Servizio per le Informazioni e la Sicurezza Militare (SISMI), in connection with the abduction of Abu Omar. Abu Omar, of Egyptian nationality and resident in Italy, was abducted from a street in Milan four years ago and sent to Egypt as part of the US-led programme of secret detention and renditions. On arrival in Egypt Abu Omar was immediately detained and allegedly subjected to torture; he was released on 11 February 2007 without charge. A Milan court issued extradition requests against 26 US citizens suspected of being involved in the rendition in July 2006 and in February 2007 it issued indictments against them. By the end of the period under review the Italian Minister of Justice Clemente Mastella had still failed to forward to the US authorities the extradition requests for the 26 US citizens, most of them thought to be agents of the US Central Intelligence Agency (CIA).

Following these indictments, the Italian government appealed to the Constitutional Court on grounds of 'conflict of powers', claiming that the judiciary had taken on powers it was not constitutionally allowed to. Concretely, the government alleged that several pieces of evidence collected during the investigation were protected by state secrecy and therefore should not be used at trial. In April the Constitutional Court declared the government's appeal admissible, and on 18, during the preliminary hearings in the trial against the 26 suspected CIA operatives and seven Italian citizens charged in connection with the rendition of Abu Omar, the trial was suspended pending the outcome of the Constitutional Court's review. It was the legal representative of Nicolò Pollari, the head of the SIMSI at the time of Abu Omar's rendition, who had asked for the trial to be suspended.

In April, a court in Brescia opened investigations into whether eight persons were responsible for the publication of acts which were covered by state secrecy in the trial against those suspected of being responsible for Abu Omar's rendition. Those investigated in this regard two prosecutors in the Abu Omar trial, Ferdinando Pomarici and Armando Spataro, as well as the former Head of the Italian Police, Gianni De Gennaro.

Pisanu Law

Italy retained its counter-terrorism legislation, known as the Pisanu Law (Law 155/05). The Pisanu Law allows expulsion orders of both regular and irregular migrants to be decided and implemented based on well-grounded reasons to believe that an individual's stay in Italy could favour in any manner terrorist organizations and activities. The law does not require the person deported to have been convicted of or charged with a crime connected to terrorism. The expulsion can be ordered by the Minister of Interior or, under his/her delegation, by a Prefect -- and the Pisanu Law does not provide for judicial confirmation or authorization of the expulsion decision and of its implementation. A decision to expel under the law may be appealed before a judge, but the appeal does not have a suspensive effect on the deportation. AI is therefore concerned, among other things, that the expulsion procedure lacks effective protection against refoulement. Below are examples of persons for whom expulsion orders have been issued under the Pisanu Law.

Expulsion of Cherif Foued Ben Fitouri

On 4 January, Cherif Foued Ben Fitouri was expelled from Italy to Tunisia under the Pisanu Law without being able to exercise his right to legal counsel or his right to a judicial remedy, and without any protection against the risk of refoulement. Cherif Foued Ben Fitouri had resided legally in

Italy for a decade, and is married to an Italian woman with whom he has young children. According to the expulsion order, he was removed from Italy for being an acquaintance of persons involved with Islamic groups allegedly planning terrorist acts ("ha un consolidato circuito relazionale con elementi di primo piano nel panorama dell'integralismo islamico presente in Italia, coinvolti in progettualita' terroristiche"). In Tunisia he was held between 5 and 15 January in solitary confinement in the Tunisian Ministry of Interior. On 16 January he was transferred to a prison under military jurisdiction. According to reports received by AI, he has been subject to torture and other forms of ill-treatment whilst in detention in Tunisia. Cherif Foued Ben Fitouri has never been investigated for or charged with any crime, in Italy or elsewhere. Cherif Foeud Ben Fitouri has appealed his expulsion, which is still pending. At the end of the period under review he remained in detention in Tunisia.

Abdelmajid Zergout and Abdelillah El Kafloui

In the morning of 29 May, Abdelmajid Zergout and Abdelillah El Kafloui were taken to a police station (Questura) in Varese in order to be expelled to Morocco. Their expulsions were temporarily suspended following an interim measure by the European Court of Human Rights. Abdelmajid Zergout and Abdelillah El Kafloui had previously been investigated and tried in court in Italy for terrorist activities. On 24 May 2007, both of them were found innocent by a court in Milan. Both Abdelmajid Zergout and Abdelillah El Kafloui have resided lawfully in Italy with residence permits for over 10 years.

Nassim Saadi

On 29 May the Italian authorities requested that the Tunisian Government to provide diplomatic assurances that, if Nassim Saadi were to be deported from Italy to Tunisia, he would not be subjected to treatment

contrary to Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights.

Although having convictions for forgery, amongst other things, Nassim Saadi had never been convicted in Italy for terrorist related crimes. On 8 August 2006, the Minister of the Interior had ordered Nassim Saadi to be deported to Tunisia, applying the provisions of the Pisanu Law. The applicant was therefore placed in the Milan temporary holding centre pending his deportation. On 14 September 2006, Nassim Saadi launched an appeal to the European Court of Human Rights to suspend his expulsion. The Court issued an interim measure and the expulsion was suspended until further notice. On 3 November, Nassim Saadi was released from detention.

In Tunisia, Nassim Saadi had been convicted in absentia to 20 years of imprisonment by a military court. If expelled to Tunisia, Nassim Saadi may be afforded a re-trial; however it is unlikely that such a trial would meet international standards regarding fair trial. He may also face a real risk of torture or other forms of ill-treatment.

Policing concerns

Roma-Manchester football match

On 4 April, law enforcement officers reportedly used excessive force to break up a potentially violent clash between Roma and Manchester United supporters during a football match at the Stadio Olimpico in Rome.

Images and witness statements suggest that Italian police officers severely beat a number of football supporters with batons as they moved in to prevent clashes provoked by what the media have claimed was a 'small minority' of fans. Eyewitnesses to the events have stated that police officers repeatedly hit persons who were lying on the ground. One witness described some officers' actions as being 'over the top' and making 'the problem worse'.

According to British Embassy figures, 13 people were hospitalized although it is not clear how many of these were victims of the force used by the police officers.

On 5 April, Achille Serra, the Prefect (Prefetto) of Rome and responsible for the Rome police, stated that the force used was "justified" and that there was "no plan for an inquiry" unless evidence was provided to demonstrate that such an inquiry was necessary.

G8 trials (see also EUR 01/001/2007)

Trials against law enforcement officials involved in the policing of the G8 summit in Genova in 2001 continued. It is estimated that over 200,000 people participated in anti-globalization demonstrations on the streets of Genoa in the days immediately preceding and during the summit in 2001. A great number of reports of human rights violations committed by law enforcement officers, prison officers and medical personnel against Italian citizens and foreign nationals emerged immediately and have continued to do so ever since. By the end of the summit, one protester, Carlo Giuliani, had been shot dead, hundreds of people had been injured and more than 280 people, many of them foreign nationals, had been detained.

Evidence disappears

On 17 January, it emerged during a hearing in the trial of 29 police officers facing charges of, inter alia, violence and the fabrication of evidence in relation to the so-called Diaz raid, that key evidence against the police officers (namely a number of Molotov cocktails) had disappeared. The Diaz raid was an overnight police raid on a school building used as a dormitory for demonstrators and as centre for the Genoa Social Forum, the umbrella group organizing the main programme of demonstrations. The charges against the police officers range from abusing their powers as state officers, falsifying and

planting evidence and causing serious bodily harm.

The Molotov cocktails, which a police officer had confessed to planting in the school on orders from the deputy police chief in Genoa, were originally used to charge the occupants with possession of explosives and to justify the raid. After it emerged that they had been planted by police officers, they were used in the trials against police officers. On 25 January, a Genoa judge dismissed requests by lawyers defending the policemen to exclude, "as unfounded", those elements of the charge relating to the missing evidence from proceedings. The prosecuting magistrate's efforts to find the missing evidence were met by a reply from the Genoa Questura stating that they may have been "destroyed by mistake".

The responsibility for keeping the Molotov cocktails had rested with the Genoa division of the Division of General Investigations and Special Operations (Digos). In April, Genoa prosecutors opened preliminary investigations against several police officers for the disappearance of the Molotov cocktails.

High ranking officials under investigation

In June, Gianni De Gennaro, who had been the Head of the Italian police at the time of the G8 events in 2001, came under investigation for instigating perjury. Later that month, he was appointed head of the Minister of Interior Giuliano Amato's Office (Capo di Gabinetto).

In May, an investigation was launched against Francesco Colucci, the Questore (local chief of police) in Genova at the time of the G8 events in 2001, for perjury during a testimony he had given in one of the G8 trials on 3 May.

First sentence

In May, the first sentence against a police officer involved in the G8 events was handed down. In a civil court in Genoa, the Ministry of Interior was sentenced to pay

reparations of €5,000 to Marina Spaccini, a 59 year old woman who had been beaten repeatedly by law enforcement officials in via Assarotti, near the piazza Manin square in Genoa during demonstrations at the G8 summit in 2001.

*European Court of Human Rights:
Giuliani vs. Italy*

In March, the European Court of Human Rights declared admissible the application lodged in the case of Giuliani v. Italy. The case regards a man called Carlo Giuliani who was fatally shot by a law enforcement official during the G8 summit in Genoa in 2001. Relying on Article 2 (right to life) of the European Convention on Human Rights, the applicants (three members of Carlo Giuliani's immediate family) claimed that Carlo's death was caused by excessive use of force and that the organisation of the operations to maintain and restore public order was inadequate. They also argued that the failure to lend immediate assistance to Carlo Giuliani amounted to a violation of Articles 2 and 3 (prohibition of torture).

Carlo Giuliani's family further complained that there was no effective investigation into his death, contesting that although the investigation concerned two military police officers (carabinieri), several investigative measures were entrusted to the carabinieri. The applicants refer in this regard to Articles 2, 6 (right to a fair trial) and 13 (right to an effective remedy) of the Convention.

Migrants and refugees' rights

Italy remained without a specific and comprehensive asylum law in line with the Convention relating to the Status of Refugees.

In February, the Ministry of the Interior declared that it would participate in the Committee established by the United Nations High Commissioner for Refugees (UNHCR), the National Order of Journalists

and the National Federation of the Italian Press (Comitato Scientifico della Federazione Nazionale della Stampa, FNSI) to promote a more positive use of language in the media when reporting on immigration issues.

A governmental draft bill approved on 24 April by the Council of Ministers contained new proposals for detention of migrants. The bill set out guidelines for amendments to the Comprehensive Law on Immigration 286/98 (Testo Unico Immigrazione, known as the Turco-Napolitano law) as modified by Law 189/02 (known as the Bossi-Fini law). These guidelines included rules on unaccompanied minors, detention and deportation. However, the draft bill did not contain any amendments to the provisions of the Bossi-Fini law that relate specifically to asylum. The Bossi-Fini law therefore still provides for generalised detention of asylum-seekers throughout the asylum procedure. Moreover, with respect to detention of migrants and asylum-seekers upon arrival, the text of this bill did not clearly indicate the difference between the current system of centres of first reception (centri di prima accoglienza - CPA) and Identification centres (Centri di identificazione - CID) with the proposed system of centri di accoglienza (reception centres).

In April, a directive was issued from the office of the Minister of the Interior, requesting that the relevant Prefetti allow access to the UNHCR, 'humanitarian and international organisations', local non-governmental organizations and journalists to centres holding asylum-seekers and irregular migrants.

International Scrutiny

On 18 May, the UN Committee against Torture published its Concluding Observations on Italy. The Committee recommended that Italy incorporate into domestic law the crime of torture and adopt a definition of torture that covered all the elements contained in article 1 of the UN Convention against Torture. The Committee

recommended that Italy urgently take appropriate measures to considerably reduce the length of preventive detention and restrict such detention to those cases where it is deemed to be strictly necessary and also encouraged Italy to apply alternative non-custodial measures. The Committee further urged Italy to establish an independent national human rights institution, in accordance with the UN Principles relating to the Status of National Institutions (the Paris Principles).

Regarding detention of asylum-seekers, the Committee stated that Italy should take effective measures to ensure that detention of asylum seekers and other non-citizens was used only in exceptional circumstances or as a measure of last resort, and then only for the shortest possible time and that Italy should also ensure that courts carried out a more effective judicial review of the detention of these groups. The Committee further urged Italy to adopt appropriate measures to ensure that all asylum seekers had access to a fair and prompt asylum procedure and to proceed with the adoption of a comprehensive legislation on political asylum.

Regarding the risk of refoulement, the Committee expressed particular concern regarding collective expulsions from the island of Lampedusa and recommended that Italy should ensure that it complied fully with article 3 of the Convention against Torture regarding refoulement; that individuals under the Italy's jurisdiction received appropriate consideration by its competent authorities; and that there be guaranteed fair treatment at all stages of the proceedings, including an opportunity for effective, independent and impartial review of decisions on expulsion, return or deportation. The Committee stated that Italy should ensure that the relevant alien policing authorities carried out a thorough examination, prior to making an expulsion order, in all cases of foreign nationals who have entered or stayed in Italy unlawfully, in order to ensure that the person concerned would not be subjected to torture, inhuman or degrading treatment or

punishment in the country to which he or she would be returned.

The Committee expressed particular concern regarding the so-called "Pisanu Law" (see above), highlighting that it lacked effective protection against refoulement. The Committee reminded Italy that when determining the applicability of its non-refoulement obligations, under article 3 of the Convention, it should examine thoroughly the merits of each individual case and ensure that adequate judicial mechanisms for the review of the decision were in place.

Regarding policing, the Committee recommended that all law enforcement officers were adequately equipped and trained to employ non-violent means and only resort to the use of force and firearms when strictly necessary and proportionate. It stated that "in this respect, the Italian authorities should conduct a thorough review of current policing practices, including the training and deployment of law enforcement officials in crowd control and the regulations on the use of force and firearms by law enforcement officials."

The Committee noted with concern continued allegations of excessive use of force and ill-treatment by law enforcement officials. The Committee was particularly concerned at reports emerging of alleged excessive use of force and ill-treatment by law enforcement officials during the demonstrations in Naples (March 2001) in the context of the Third Global Forum, the G8 Summit in Genoa (July 2001) and in Val di Susa (December 2005). The Committee recommended that Italy ensured that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duty and that all law enforcement officials on duty be equipped with visible identification badges to ensure individual accountability and the protection against torture, inhuman or degrading treatment or punishment.

Regarding accountability for law enforcement officials who engage in disproportionate and unnecessary violence, the Committee recommended that Italy

strengthen its measures to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials. The Committee emphasized that such investigations should not be undertaken by or under the authority of the police, but by an independent body. In connection with prima facie cases of torture and ill-treatment, the suspect should as a rule be subject to suspension or reassignment during the process of investigation, especially if there is a risk that he or she might impede the investigation. The Committee further recommended that Italy review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention against Torture so that acts of torture as well as attempts to commit torture and acts by any person which constitute complicity or participation in torture, could be investigated, prosecuted and punished without time limitations.

The Committee also recommended that Italy combat racial discrimination, xenophobia and related violence, ensure prompt, impartial and thorough investigations into all such motivated violence and prosecute and punish perpetrators with appropriate penalties which take into account the grave nature of their acts; and that the Italian authorities publicly condemn racial discrimination, xenophobia and related violence and send a clear and unambiguous message that racist or discriminatory acts within the public administration, especially with regard to law enforcement personnel, was unacceptable.

LATVIA

Freedom of assembly for lesbians, gays, bisexual and transgender persons

On 3 June, a Pride march was held in Riga to celebrate the rights of lesbian, gay, bisexual and transgender persons. While participants in similar events in 2005 and 2006 had been subject to physical attacks

and did not receive adequate police protection, the 2007 march was adequately protected and no major attacks were carried out.

Over 400 persons, including Latvian lesbian, gay, bisexual and transgender group Mozaika and dozens of Latvian activists, an Amnesty International delegation of approximately 70 persons, several Members of the European Parliament and a Swedish government minister, marched in a park in central Riga. The park was closed off and guarded by hundreds of Latvian law enforcement officials, making it virtually impossible for counter-demonstrators to carry out attacks on participants in the Pride parade.

There was, however, a noticeable presence of a large number of counter-demonstrators at the march. Counter-demonstrators, engaging in loud verbal abuse and making obscene gestures towards the Pride march participants, ranged from persons of retirement age to pre-teen youngsters. Two home-made explosives were set off inside of the park.

Racism

In January, the first ever prison sentence was handed down under Section 78 of Latvia's Criminal Code regarding racially motivated assault. The case concerned a man who was attacked in central Riga in the middle of 2006. The second ever prison sentence for a racially motivated crime was announced in May when two teenagers were sentenced for a racially motivated attack which had taken place against a woman of Brazilian origin in December 2006. One of the teenagers was given a prison sentence.

In February, the Prosecutor's Office of the Riga Regional Court fined a man for publishing racially offensive comments on the Internet.

In June, the European Union (EU) sent a formal request to Latvia to implement the EU Racial Equality Directive (2000/43/E), which Latvia has so far failed to do.

International scrutiny

United Nations Committee on Economic, Social and Cultural Rights

On 22 May, the United Nations Committee on Economic, Social and Cultural Rights (the Committee) published its Concluding Observations on Latvia. The Committee expressed its concern that "the State Language Law which mandates the use of Latvian in all dealings with public institutions, including administrative districts, may be discriminatory in effect against linguistic minorities living in the State party, including the Russian-speaking minority which constitutes a significant proportion of the population. In particular, the Committee is concerned that members of linguistic minorities, especially older persons, may be disadvantaged in their claims to public authorities with regard to their entitlement to public services. This has a negative impact on their enjoyment of economic, social and cultural rights".

The Committee urged Latvia "to ensure that the lack of citizenship of the permanent residents does not hinder equal enjoyment of economic, social and cultural rights, including employment, social security, health services and education" and to "ensure that adequate support is provided to members of linguistic minorities, especially older persons, through, inter alia, increased allocation of resources to subsidize language courses, with a view to enhancing opportunities for those wishing to acquire fluency in Latvian. The Committee also recommends the State party, in line with article 10 of the Framework Convention for the Protection of National Minorities to which Latvia is a party, to consider providing translators and interpreters in State and municipal offices, in particular, in regions that have a high concentration of minority language speakers."

The Committee urged Latvia to comply with the second paragraph of article 2 of the International Covenant on Economic, Social and Cultural Rights by enacting

comprehensive anti-discrimination legislation without further delay and to consider ratifying the revised European Social Charter (CETS No. 163) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

LITHUANIA

Freedom of assembly for lesbians, gays, bisexual and transgender persons

On 21 May, the mayor of Vilnius, Juozas Imbrasas, refused to give permission for a European Union (EU) sponsored anti-discrimination bus tour to make its planned stop in the city. The bus tour took in 19 member states as part of a 'For Diversity. Against Discrimination' information campaign to make its planned stop in Vilnius. The purpose of the bus tour was to raise awareness and distribute information about the European Year of Equal Opportunities for All. The Vilnius City Council also voted unanimously to ban a tolerance campaign rally in support of human rights of various groups, including the rights of lesbian, gay, bisexual and transgender persons, which had been due to take place on 25 May, citing "security reasons". The European Commission commented on the bans stating that "the decision by the city authorities shows how much still needs to be done to change behaviour and attitudes towards discriminated groups and to promote awareness of diversity."

The mayor of Vilnius also supported the decision by local bus drivers in Vilnius not to drive buses which had advertisements supporting LGBT rights on them. The mayor stated that "with priority for traditional family and seeking to promote the family values, we disapprove the public display of 'homosexual ideas' in the city of Vilnius." The advertisement had been paid for by the Lithuanian Gay League with money granted from the EU.

Racist incidents

On 9 June, European football governing body UEFA imposed a US\$12,000 fine on the Lithuanian football federation for fans waving a racist poster during the European qualifier against France, which was played on 24 March. The fans had drawn the outlines of the African continent with the French flag on it. Beneath it, it was written "Welcome to Europe". Lithuanian police also initiated investigations into the incident.

MACEDONIA

Political Developments

At the end of January two ethnic Albanian parties, the Democratic Union for Integration (Demokratska Unija za Integracija, DUI; in Albanian, Bashkimi Demokratik për Integrim) and the Party for Democratic Prosperity (Partija za Demokratski Prosperitet, in Albanian, Partia e prosperiteti demokratike) left the parliament accusing the government of breaching the Ohrid Agreement, which concluded the 2001 internal conflict. At the end of May, the DUI agreed to return following an agreement with the ruling party, the Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity, (Vnatrešno-Makedonska Revolucionara Organizacija-Demokratska Partija za Makedonsko Nacionalno Edinstvo, VMRO-DPMNE) under the supervision of US and European Union (EU) ambassadors. Agreements on the adoption of laws on the rights of members of the former National Liberation Movement (NLA) and introducing Albanian as the second official language were not implemented by the end of the period.

In February the EU Enlargement Commissioner Olli Rehn expressed alarm at the slow pace of implementing the reforms set out a Stabilization and Association Agreement with the EU. In April the Council of Europe urged the authorities to speed up their reforms on decentralization, the police, justice, rule of law and in combating organized crime and corruption.

In May the Council of Europe proposed a motion to take measures to "to clarify the allegedly suspicious death" of former President Boris Trajkovski, who died in a plane crash together with eight members of his staff, over Mostar in Bosnia and Herzegovina in February 2004.

Impunity for War Crimes [update to AI Index: EUR 01/001/2007].

The trial of former Minister of Internal Affairs Ljube Boškovski opened on 16 April at the International Criminal Tribunal for former Yugoslavia (Tribunal). He had been indicted in 2005, for violations of the laws and customs of war, including for his failure to investigate, prevent or punish his co-indicted, Johan Tarčulovski, an Escort Inspector in the President's Security Unit. Johan Tarčulovski was indicted for the detention and cruel treatment of ethnic Albanians in the village of Ljuboten in August 2001 when seven ethnic Albanian men died and over 100 more were detained and subjected to torture and ill-treatment.

On 12 January government representatives met with the President and Prosecutor of the Tribunal to discuss inter alia the draft Law on Cooperation (adopted on 5 June), in preparation for the return to Macedonia of four cases over which the Tribunal had seized primacy, but for which indictments had not been issued. The cases were not returned in January as previously announced; in June, a spokesperson for the Office of the Prosecutor, reportedly stated that the cases would be transferred to Macedonia later in the year, following the training of prosecutors and judges and the introduction of new legislation. On 29 March the Organization for Security and Co-operation in Europe (OSCE) began training

judges and prosecutors in international humanitarian law.

No further progress was reported on the whereabouts of three ethnic Albanians – Sultan Memeti, Hajredin Halimi and Ruzdi Veliu – who are believed to have been “disappeared” by the Macedonian authorities during the 2001 internal conflict.

Armed opposition groups Update to AI Index: EUR 01/012/2005 and AI Index: EUR 01/007/2006

Ethnic Albanians Agim Krasniqi and Shekat Ramadani were convicted of kidnapping and causing general danger, and sentenced in absentia to 18 month’s imprisonment on 3 January, for the attempted kidnapping in October 2004 of Sheval Muaremi during a period when Agim Krasniqi, a former NLA leader had taken control of the Skopje suburb of Kondovo, threatening to bomb the capital.

On 16 February Agim Krasniqi and other members of the Kondovo group were acquitted of charges related to their control of Kondovo. Lawyers for Albanian journalists Bujar and Rajmonda Malecka, charged with terrorism and sentenced in 2005 to five years’ imprisonment for possession of a video of Agim Krasniqi and other members of the Kondovo group apparently conducting military exercises, stated that they would demand a retrial; they had already been released.

Counter-terrorism (Update to AI Index: EUR 01/017/2006, EUR 01/001/2007, see also Albania entry)

On 18 May 2007 a Macedonian parliamentary committee, in a closed hearing of written statements by the Ministry of the Interior and on behalf of Khaled el-Masri, a German citizen of Lebanese descent, concluded that the security services had not overstepped their powers in relation to his detention. The authorities had allegedly held him for 23 days in 2003 in a Skopje hotel, before

rendering him to the US authorities at Skopje airport, from where he was flown to Afghanistan.

The committee chair noted that unless provided with “strong evidence” to the contrary, the committee would continue to believe the Ministry, but were ready to cooperate with the investigations conducted by the Parliamentary Assembly of the Council of Europe (PACE). In June a report by the PACE concluded that the Macedonian authorities’ account had become “utterly untenable”, and urged the authorities at the highest level to cooperate in establishing the truth about the rendition of Khaled El-Masri.

Torture, ill-treatment and possible extra-judicial execution

In January 2007 the Helsinki Committee for Human Rights in Macedonia initiated a project which aimed to provide free legal assistance and representation to alleged victims of torture and ill-treatment. Cases of torture, ill-treatment and a death in custody were reported in which the Internal Control and Professional Standards Sector of the Ministry of the Interior had failed to conduct investigations according to internal procedures, domestic law, and international standards. In June NGOs raised concerns that the draft Law on the Public Prosecution Office failed to prescribe time-limits within which investigations, including into alleged torture and ill-treatment, should be conducted and the victims informed of the outcome.

On 15 February, the European Court of Human Rights held in the case of Pejrušan Jašar, a Macedonian national of Romani ethnic origin from Štip, that that there has been a violation of Article 3 of the European Convention on Human Rights (the right not to be subjected to torture or other ill-treatment) due to the failure of the authorities to conduct an effective investigation into the applicant’s allegations. Pejrušan Jašar alleged that he had been beaten during his detention in police custody in 1998, and that the authorities had failed to carry out an investigation into his complaint of ill-treatment. Macedonia

was ordered to pay Pejrušan Jašar some 3,000 euros in non-pecuniary damages.

In February, the investigative judge appointed to investigate the death in custody of Sabri Asani - an ethnic Albanian arrested in 2000 in connection with the killing of three police officers on 1 January 2000 - reported that 20 witnesses had been examined in connection with his possible extra-judicial execution. The investigation opened in November 2005; no further progress was reported.

Discrimination against minorities

On 23 February the Advisory Committee on the Framework Convention for the Protection of National Minorities adopted their opinion on Macedonia's implementation of the convention by "the former Yugoslav Republic of Macedonia". Their opinion had not been made public by the end of June. The authorities remained reluctant to consider a draft law on discrimination, proposed by NGOs.

In May, the UN Committee on the Elimination of Racial Discrimination (CERD) found Macedonia in breach of its obligations towards the Romani community in Macedonia, including with respect to citizenship, language; and access to documentation. Recognizing that many Roma were unable to access basic rights through a lack of documentation the CERD urged Macedonia to "remove all administrative obstacles that currently prevent Roma from obtaining personal documents that are necessary for the enjoyment of economic, social and cultural rights, such as employment, health care, social security and education". The CERD also expressed concerns about the education of ethnic Albanian, ethnic Turkish children and Romani children, and urged Macedonia to address discrimination in employment against women, Roma and members of other ethnic minorities through the adoption of measures to combat discrimination in the workplace giving effect to the 2006 Law on Labour Relations.

A report on progress made by the nine countries participating in the Decade of Roma Inclusion ranked Macedonia in seventh place, noting that where measures had been taken towards implementation of the action plan, they had largely been carried out by Romani and other domestic NGOs in conjunction with international NGOs, and with international funding.

Refugees from Kosovo [Update to AI Index: EUR 01/001/2007]

An estimated 1,920 predominantly Roma and Ashkalia from Kosovo who remained in Macedonia had been denied refugee status under the Law of Asylum and Temporary Protection, but had been granted temporary protection. Contrary to reports circulating in May, some 458 persons (whose applications for asylum had been refused or temporary protection had ceased) were not forcibly deported after interventions from UNHCR, the UN refugee agency. In response to concerns expressed by the PACE, the Macedonian authorities publicly stated that they would not be deported until after the status of Kosovo had been resolved. Members of the PACE had raised concerns about the process by which persons seeking protection had received a determination of their status, including the lack of transparency in the appeals process, failure to evaluate the merits of appeals and negative decisions based on the application of an internal flight alternative - which UNHCR had advised was not an option.

Violence against women (Update to AI Index: EUR 01/001/2007)

Although many measures set out in the Council of Europe's Convention on Action against Trafficking in Human Beings were in force, Macedonia failed to ratify the Convention. In February a Memorandum of Understanding (MoU) was signed between the Ministry of Interior and the Ministry of Labour and Social Policy, establishing protocols for the protection of trafficked children, including the presence of social workers during police raids. The Interior Ministry also signed a MoU on cooperation

with an NGO providing shelter for an increasing number of internally trafficked persons.

MALTA

Migrants and asylum-seekers

Search and rescue obligations

In June AI wrote to the Minister of Foreign Affairs expressing concerns that during the previous month the Maltese authorities had reportedly failed on at least two occasions to respond in a timely manner to prevent serious and imminent threats to the right to life to people stranded at sea.. On 21 May, an aircraft belonging to the Maltese Armed Forces spotted 53 people in a sinking vessel approximately 88 nautical miles south of Malta. According to reports, it took 12 hours for a rescue vessel to reach the location of the distressed vessel by which point the boat had disappeared. The individuals on the boat, who may have been seeking international protection, reportedly managed to return to Libya where they were allegedly detained at the Al Zoura detention centre.

On 26 May, a Maltese vessel reportedly refused to take on board 27 migrants whose boat had sunk. Although the ship-master did allow them to hold onto to a tuna cage to prevent them from drowning, they remained in the water for three days causing serious risk to their health and lives. Malta reportedly failed to take any action to rescue them or ensure their safety and they were finally rescued by an Italian vessel.

Detention of migrants

Malta continued its policy of automatically detaining migrants and asylum-seekers arriving in Malta, contrary to international laws and standards. At the end of June, approximately 3,000 migrants and asylum-seekers were detained in Malta, with over

1,300 of those being detained in closed detention facilities.

MOLDOVA

Torture and Ill-treatment

Torture and ill-treatment in police detention was still widespread, and during a mission to Moldova in March AI delegates met a number of people who had been subjected to torture and ill-treatment while in police detention. The most common methods of torture reported were: hanging from a metal bar (also known as Palestinian hanging), electric shocks, beating with plastic water bottles, mock executions, and nails inserted under fingernails. The use of torture was explained on the basis that law enforcement officers were under pressure to solve crimes, relied too heavily on confessional evidence, and were chronically under-resourced. During meetings with AI delegates, representatives of the Ministry of Interior and the Prosecutor General's office readily admitted that torture and ill-treatment were a problem and expressed willingness to work with AI.

On 29 June, parliament approved amendments to the Law on the Parliamentary Ombudsmen which set up an independent body to monitor places of detention in accordance with Moldova's obligations under the Optional Protocol to the Convention against Torture. The amendments proposed setting up a Consultative Committee within the office of the Parliamentary Ombudsmen to include representatives of non-governmental human rights organizations. AI was concerned that this proposal fell short of the requirements of the Optional Protocol because the amendments to the law failed to guarantee the functional or financial independence of the Consultative

Committee, and did not allow for the participation of independent experts.

In this period the European Court of Human Rights found in two judgments that Moldova had violated the right to be free from torture and other ill-treatment.

In the case of Istratii and others v. Moldova the Court found that Viorel Istratii had been subjected to torture and other ill-treatment because of inadequate medical treatment. On 12 November 2004, Viorel Istratii was detained along with two other people on suspicion of fraud. Between 12 November 2004 and 23 February 2005 Viorel Istratii was held in the detention centre of the Centre for Fighting Economic Crime and Corruption (CFECC) in the capital, Chişinău, and while there he suffered severe bowel problems requiring surgery. He was handcuffed to a radiator in the civilian hospital for a day while awaiting surgery, and then transferred to the prison hospital only four hours after the operation.

In the case of Pruneanu v. Moldova, Ion Pruneanu alleged that he had been beaten on two separate occasions on 10 May 2001 and 10 July 2002 by officers from Călăraşi and Buiucani police stations. The European Court ruled that there had been a violation of Article 3 of the European Convention on Human Rights because the applicant had been subjected to torture and ill-treatment and the state had failed to conduct an effective investigation into the allegations of torture.

Update: Case of Sergei Gurgurov (see AI Indexes: EUR 59/006/2005, EUR 59/007/2005 and EUR 01/017/2006)

Sergei Gurgurov allegedly sustained head and spinal injuries at the hands of the police in Chişinău, and as of October 2005 he could only walk using crutches, talked with difficulty, and had impaired hearing in one ear. The Prosecutor General's Office has repeatedly denied that there was any evidence of torture in the case of Sergei Gurgurov despite medical and audio-visual

evidence, including most recently in a letter to AI dated 11 June.

Update: Case of Vitalii Colibaba (see AI Index: EUR 01/017/2006)

In the same letter of 11 June 2007, the Prosecutor General's Office denied that there was any evidence of torture in the case of Vitalii Colibaba. Vitalii Colibaba had been arrested in April 2006 and allegedly suspended from a crowbar and beaten on the head and neck by three police officers until he lost consciousness.

LGBT organization discriminated against

In April, Chişinău City Hall denied permission to the LGBT organization, Gender Doc-M, to hold a gay pride march for the third year running. This decision was made despite a Supreme Court ruling in February that the refusal to allow Gender Doc-M to hold a march in April 2006 had been illegal.

Violence against women

According to the US State Department Trafficking in Persons Report published in June, Moldova failed to address complicity in severe forms of trafficking by government officials. The report referred to the failure to prosecute the director and several other employees of the the government Centre to Combat Trafficking in Persons for assisting a prominent trafficker to evade prosecution. In August 2006 the officials had been dismissed from their jobs.

AI was concerned that despite the existence of witness protection programmes on paper, very few victims of trafficking were able to benefit from effective witness protection if they agreed to testify. Protection only applied in cases tried under the Law on the Prevention of Trafficking and only lasted as long as the case lasted; yet up to 70 per cent of trafficking cases were reclassified as soliciting cases thus incurring lesser sentences and depriving the witnesses of protection. The witness protection

programme was under-resourced and equipment such as conference phones was only available in Chişinău. Finally, women were only offered witness protection if the risk of attack by traffickers could be proven and in most cases this required evidence of a previous attack or threat.

Self-proclaimed Transdnistrian Moldavian Republic

The last two remaining members of the "Tiraspol Six", Andrei Ivanţoc and Tudor Petrov-Popa, who were sentenced to prison terms in Transdnistria in 1993 for "terrorist acts", including the murder of two DMR officials, were released on 2 and 4 June respectively on the expiration of their sentences. Until then they had remained imprisoned in Tiraspol, despite a July 2004 judgment by the European Court of Human Rights which found their detention to be arbitrary and in breach of the European Convention on Human Rights (see AI Index EUR: 01/017/2006). Both men were expelled from Transdnistria following their release. Andrei Ivanţoc attempted to return to Transdnistria as he was released at the border crossing with Moldova, but was forced into a car and driven to Chişinău.

In June, local elections were held throughout Moldova. However, Transdnistrian authorities prevented local elections from taking place in the village of Corjova, one of nine villages that are located geographically in Transdnistria, but are under the control of the central government of Moldova. Valentin Besleag, who was candidate for mayor in the local elections, was detained at the police station in Dubasari for 15 days and charged with the administrative offence of distributing agitational materials, for having brought back election materials from Chişinău in his car. It is an offence in Transdnistria to bring in election materials from abroad (in this case from Moldova), and AI believed that Valentin Besleag was detained for legitimately exercising his right to freedom of expression. Iurie Cotofan, who tried to cast his vote on 3 June, was allegedly beaten by several Transdnistrian police

officers. He was then taken to the Dubasari police station, where he was held until midnight on 3 June before being released with no explanation or charge (see AI Index: EUR 59/001/2007).

MONTENEGRO

General and political developments

On 15 March Montenegro signed a Stabilization and Association Agreement (SAA) with the European Union (EU), the first step towards membership of the EU.

On 3 May the parliament passed a Law on Gender Equality. Later in May the Ministry of Foreign Affairs concluded an agreement with the US government not to surrender any US citizens to the International Criminal Court, which violated decisions by the European Union and which AI considered to be unlawful. Requests to discuss the agreement in parliament were dismissed on the grounds that such agreements did not require parliamentary approval.

On 11 May Montenegro joined the Council of Europe, following an agreement on 12 March by the Parliamentary Assembly of the Council of Europe's political committee. On accession, Montenegro agreed to fulfil certain obligations, which included: cooperation with the International Criminal Tribunal for the former Yugoslavia (Tribunal); the resolution of past human rights violations and war crimes; and the prompt initiation of independent, impartial and effective investigations into allegations of torture or other ill-treatment, (included after lobbying by AI). Other conditions included the implementation of the strategy and action plan for the Decade of Roma Inclusion (see below); increased efforts in combating trafficking in human beings and the provision of adequate assistance and protection to the victims. Montenegro was also required to issue personal documentation to internally displaced persons and refugees, and adopt measures

to ensure their access to basic economic, social and political rights in order to prevent persons, especially from Kosovo, from becoming stateless.

In June the Venice Commission, the Council of Europe's advisory body on constitutional matters, published recommendations on a draft constitution for Montenegro. The recommendations included that the section on human rights and freedoms be amended to correspond more fully with the rights set out in the European Convention on Human Rights (ECHR), some of which were not fully guaranteed. They called for provisions on the independence of the judiciary, including the appointment and dismissal of judges and on the functions and composition of the Judicial Council to be amended and for provisions related to discrimination against minorities to be more fully and clearly articulated.

Impunity for War Crimes

On 17 June the Montenegrin authorities took part in the arrest in Budva of Vlastimir Djordjević, indicted by the Tribunal for war crimes in Kosovo, and previously believed to be at large in Russia (see entry on Serbia).

The right to redress and reparation for the families of the "disappeared" (update to AI Index: EUR 66/001/2006).

Civil proceedings continued against the state of Montenegro in connection with the enforced disappearance in 1992 of some 83 Bosniak civilians from Montenegro to territory in the Republic of Bosnia and Herzegovina (BiH) then under Bosnian Serb control (Republika Srpska).

Out of 22 first instance judgments received by the end of June, two claims were rejected, including on the basis that siblings of a victim were ineligible for compensation. In 20 cases, Montenegro was found responsible for deaths of the Bosniak civilians and compensation of between 15-

30,000 euros was awarded to family members for emotional suffering due to the death of their relative. Claims for the violation of the rights of the relatives under Article 3 (the right not to be subjected to torture or other ill-treatment) of the ECHR for the pain and suffering caused by the authorities' failure to provide information as to the fate and whereabouts of their relatives were all rejected.

There was little consistency in the compensation awarded to two men who had survived deportation to Foča prison (Kazneno-Popravni Dom), where detainees were routinely subjected to beatings amounting to torture and others killed. Rasim Hanjalić, who had been detained for 26 months, was awarded 208,000 euros, while Ekrem Čemo, who spent 28 months in Foča, was awarded only 30,000 euros.

The state appealed against each decision on the basis of a statute of limitations, and the lack of a causal link between the actions of the Montenegro police and the deaths of persons in BiH. Little progress was made in criminal proceedings related to the arrests and enforced disappearances; Momir Bulatović, former president of the republic of Montenegro, twice failed to appear in response to a summons from the investigative judge.

Torture and ill-treatment (Update to AI Index: EUR 01/001/2007).

In March the Head of the Section for Internal Control within the Ministry of the Interior announced the results of an internal investigation into allegations of the torture and ill-treatment of some 17 ethnic Albanian men during their arrest and subsequent detention in Podgorica police station between 9 to 12 September 2006. They had been detained during the so-called Orlov let (Eagle's flight) arrest operation, which had the stated aim of countering terrorism. The internal investigation had established that the detainees had been injured, but had found no evidence of how the men's injuries had

been inflicted or to suggest that police officers had abused their position.

The state prosecutor only then opened investigations based on a criminal complaint made by seven of the detained men in September 2006, and on 2 June complained that he been unable to obtain information from the police about the identity of officers who might be suspected of ill-treatment. The names of officers involved in interrogations of the detained men were made public by a relative, based on evidence in proceedings against the 17 men which opened on 14 May at Podgorica District Court. Proceedings were not conducted in accordance with the criminal procedure code, including in the use of evidence unlawfully seized from the defendants. The judge refused to exclude testimonies which defendants stated had been extracted under duress, but instead – until his decision was overturned by the Appeal Court – excluded testimonies of nine suspects who had not been advised of their right to use their own language before being questioned by the police.

Possible extrajudicial executions and political killings (Update to AI Index: EUR 01/001/2007).

In January the trial started of 10 defendants indicted in August 2006 suspected of the murder in August 2005 of former chief of the Montenegrin police Slavoljub Šćekić. According to, his sister, Slavica Šćekić, he had received death threats in the course of an investigation into bomb attacks on the construction site of a new hotel in Bečići, thought to have been carried out by an organized criminal group. The trial had not concluded by the end of June.

No suspect was identified for the murder on 24 October of Srdjan Vojičić, driver of the right wing author Jevrem Brković who was attacked in the same incident.

Human Rights Defender at Risk

In May, over 70 non-governmental organizations (NGOs) petitioned the government calling for an investigation into threats against the life of journalist Aleksandar (Saša) Zeković, a member of the Council for the Civilian Control of Police in Montenegro. In April, after taking part in a radio programme about the 1992 enforced disappearances (see above), Aleksandar Zeković had received telephone calls from an individual accusing him of working against the interest of the state, and threatening to make public photographs of his private life. After his neighbours informed him that they believed that he had been followed and filmed, Aleksandar Zeković requested the authorities to inform him whether he was under surveillance; the president of the Supreme Court refused to provide this information citing state security concerns.

Police refused to accept in evidence a mobile-phone recording of one such call. Some of the calls were broadcast by a local radio station which received allegations that the voice was that of the bodyguard of the Chief of Security of the Montenegrin police force; this was denied by the authorities. Aleksandar Zeković was subsequently provided with police protection, only during working hours, and an investigation was reportedly opened; by the end of June, no progress had been reported.

Roma refugees from Kosovo (Update to AI Index EUR: 01/001/2007)

The Ministry of Interior in February opened discussions with the Kosovo authorities on the return of an estimated 16,000 refugees to Kosovo, despite recommendations by UNHCR, the UN refugee agency, that Roma, who made up the majority of such, persons should not be returned. Romani refugees had been denied the right to seek international protection in the absence of additional legislation required to implement the 2006 Law on Asylum, and AI remained concerned that they might be forcibly returned to Kosovo at the end of July when

a Memorandum of Understanding between the UN Interim Administration Mission in Kosovo (UNMIK) and the Montenegrin authorities was due to cease.

UNHCR reported that a further 2,000 people were awaiting decisions on displaced person status, and that up to 6,500 persons without documentation remained at risk of statelessness. Between November 2006 and May 2007, UNHCR had assisted in 146 cases in obtaining proof of birth and/or nationality, so that displaced persons/refugees might access basic social, economic and political rights.

Minority Rights

The Romani community continued to be denied access to political, social and economic rights. A May 2007 report from international NGO Save the Children had established that Romani children, including the children of Romani refugees from Kosovo, were particularly vulnerable to trafficking because of poverty and a denial of the right to education (with some 87 per cent of the population estimated to be illiterate). In June a survey (supported by the Open Society Institute and the World Bank) of the nine states participating in the Decade of Roma Inclusion, ranked Montenegro in ninth place in terms of government input towards achieving the aims of the decade.

Trafficking in Persons

Women's NGOs in April organized a seminar on trafficking in persons, attended by representatives of Interior Ministries, labour inspectors and tourist agencies in Montenegro, Serbia and Bosnia and Herzegovina. Arguing that measures to combat trafficking had focussed only on trafficking for forced prostitution, the seminar aimed, *inter alia*, to encourage collaboration – especially during the tourist season – in addressing cases of forced labour. Travel and tourism businesses had been encouraged by the Organisation for Security and Co-operation in Europe to sign

the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism in 2006. Montenegro has signed but not ratified the Council of Europe Convention on Action against Trafficking in Human Beings.

POLAND

Renditions and secret detention centres (update to AI Index: EUR 01/001/2007)

International bodies continued to raise concerns about Poland's alleged involvement in the USA's programme of secret detentions and renditions (the illegal transfer of people between states outside of any judicial process), and its inadequate responses to their investigations.

On 14 February members of the European Parliament's Temporary Committee on allegations of illegal activity in Europe by the US Central Intelligence Agency (CIA) released the results of their investigation. In relation to Poland they concluded that the investigation by the Polish parliament into claims that the USA may have operated secret detention facilities on its territory was not conducted independently, and that statements to their delegation were "contradictory" and compromised. The findings of the Polish parliament's own investigation were never made public on grounds of national security, and the government declared itself that the allegations were unfounded] in November 2005. AI had raised concerns that last-minute attempts to weaken the Temporary Committee's report were a worrying sign of the European Parliament's vulnerability to national and party interests, despite the grave nature of abuses: kidnapping, torture and disappearances (see AI Index: IOR 61/005/2007)

On 21 May, the UN Committee Against Torture (CAT) urged Poland to disclose details regarding its parliamentary investigation into the presence of secret

CIA prisons in the country, expressing concern about allegations that Poland participated in running terrorist suspect prisons in the country. Prime Minister Jarosław Kaczyński said that the government regarded the allegations as a "closed issue" when questioned about the CAT's request for more information. The CAT noted that while recognizing the government's refutation of Polish participation in the programme of secret detentions, it needed more information from the confidential inquiry conducted by the Polish parliament.

On 8 June, the Rapporteur on secret detentions of the Parliamentary Assembly of the Council of Europe (PACE), Senator Dick Marty, issued a second report revealing new evidence that US "high-value detainees" were held in secret CIA prisons in Poland and Romania during the period 2002-2005 and alleged a secret agreement among members of the North Atlantic Treaty Organization (NATO) in October 2001 which provided the basic framework for this and other illegal CIA activities in Europe. In an explanatory memorandum made public the same day, Dick Marty said he had cross-referenced the credible testimonies of over 30 members of intelligence services in the US and Europe with analysis of "data strings" from the international flight planning system. AI applauded the report and the extraordinary investigative work undertaken by Dick Marty's office in getting to the well-concealed truth about the US-led secret detention programme (see AI Index: IOR 30/013/2007). The report strengthened AI's finding that three former secret detainees, whose cases were extensively documented over a year ago, had been held in an Eastern European "black site".

Later that month as PACE was preparing to debate Senator Marty's report, AI called on Poland and Romania to conduct independent, impartial and thorough investigations into new information concerning CIA flights and secret detention centres on their territories (see AI Index: EUR 37/003/2007). AI also called on PACE to adopt the draft Resolution and

Recommendation on rendition and secret detention accompanying Senator Dick Marty's report. PACE subsequently endorsed Senator Marty's report on 27 June, with 124 votes in favour, 37 against and eight abstentions, backing its conclusions that "it is now established with a high degree of probability that secret detention centres operated by the CIA, forming part of the High Value Detainee (HVD) program, existed for some years in Poland and Romania..". When adopting the Recommendation, the PACE called on the need for democratic oversight of military intelligence services and foreign intelligence services operating on their territory; urged the restrictions on the investigations on the grounds of "national security" to be lifted; and urged compensation to the victims of the unlawful transfers and detention. Both Poland and Romania denied their involvement with secret detention centres and the Romanian delegation announced its withdrawal from the PACE.

Discrimination on grounds of sexual orientation

During the period under review AI continued to express its concerns to a number of Polish officials about the openly homophobic language used by highly placed politicians, as well as in relation to proposed measures against the 'promotion of homosexuality' that would restrict students' access to information and violate their freedom of expression.

Openly homophobic language by highly placed politicians contributed to the persistence of discriminatory attitudes against lesbian, gay, bisexual and transgender (LGBT) people. On 2 March, for example, Deputy Prime Minister and Minister of Education Roman Giertych reportedly stated during a meeting of European Ministers of Education, "We ... cannot promote as normal same-sex partnerships when teaching youth, as those partnerships objectively constitute deviation from the natural law." In February, President Lech Kaczyński reportedly said on 20 February during his visit to Ireland that

"LGBT people should not promote their sexual orientation" and attacked what he called the "homosexual culture" and suggested that widespread homosexuality would lead to the disappearance of the human race.

With regard to legislation, a proposal announced by the government on 13 March would "prohibit the promotion of homosexuality and other deviance" in Polish schools. The purpose of the measure was to "punish whoever promotes homosexuality or any other deviance of a sexual nature in educational establishments", Deputy Minister of Education Mirosław Orzechowski announced at a press conference. Failure to comply could lead to dismissal, fine or imprisonment.

AI was concerned that the measures would be in violation of Poland's international obligations (such as set out in the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms), as well as the Polish Constitution and the commitments undertaken when the country joined the European Union (EU) in 2004.

The measure would deprive students of their right to freedom of expression, of a full education, and of the right to associate freely. It would institutionalize discrimination in Poland's school system, and criminalize anybody who promotes equality regardless of sexual orientation or gender identity.

Reacting to these proposals, on 25 April the European Commissioner for Employment, Social Affairs and Equal Opportunities Vladimir Špidla stated that the European Commission would use all the powers and instruments at its disposal to combat homophobia. He also said that "were such a bill ever to be drafted, it would lead to the stigmatisation of a category of people on the grounds of sexual orientation, and for that reason it is unacceptable from the point of view of European law". On 26 April, the European Parliament (EP) issued a [resolution](#) condemning homophobia in Europe and urging member states to

strengthen the protection of human rights of LGBT people. Several Polish members of the parliament (MEPs) walked out after a vote to suspend the debate failed. The EP censured far-right Polish MEP Maciej Giertych for publishing a homophobic pamphlet bearing the EP's logo. Entitled "European values" the opinion piece stated that homosexuality is "biologically useless" and "reversible" as long as there is "the desire to become heterosexual and the spiritual motivation."

On 26 April, the EP expressed outrage at growing intolerance towards lesbian and gay people across Europe, singling out Poland for special criticism. It passed a resolution declaring that it would mark 17 May every year as International Day against Homophobia. The resolution calls for worldwide de-criminalisation of homosexuality and urges all EU governments to bring forward laws to tackle discrimination against same-sex couples. Polish authorities were particularly called "to publicly condemn and take measures against declarations by public leaders inciting discrimination and hatred based on sexual orientation". The EP called on its political group leaders to send a delegation to Poland "for a fact-finding mission, with a view to getting a clear picture of the situation and enter into dialogue with all parties concerned."]

On 20 June, Thomas Hammarberg, the Council of Europe's Human Rights Commissioner, published a Memorandum on his visit to Poland in 2007 in which he expressed strong concerns about a number of aspects of the Polish government's approach to LGBT people. The Commissioner made reference to the withdrawal from circulation in early 2006 by the Ministry of Education of the Polish version of Compass – Human Rights Education with Young People, a Council of Europe anti-discrimination handbook and a manual on human rights for young people. During the Commissioner's visit, he was given an example of the sort of manual which the government considered suitable for the education of young teenagers. This manual stated that "homosexuality is an

unnatural inclination and that the person affected should be shown particular care and assistance in fighting this shameful deviation." It also linked homosexuality to "a fear of responsibility, an incorrect hierarchy of values, a lack of a proper idea of love and a hedonistic attitude, as well as prostitution." The Commissioner found "the portrayal and depiction of homosexuality... offensive, out of tune with principles on equality, diversity and respect for the human rights of all. While the Polish authorities are of course free to decide on which materials they use for human rights education, the human rights principles, including the principle of non-discrimination, contained within such materials are not optional." The Commissioner also expressed his concerns about the proposed measures to penalize the alleged promotion of homosexuality in schools. The Commissioner deplored any instances of hate speech towards homosexuals and called on the Polish authorities not to tolerate them.

In March, the non-governmental organization Campaign Against Homophobia (Kampania Przeciw Homofobii, KPH) issued a report entitled Situation of bisexual and homosexual persons in Poland, 2005 and 2006 report. KPH reported that 17.6 per cent of the respondents had experienced physical violence on the grounds of their known or suspected their sexual orientation. This included having been pushed, hit or kicked. Fifty-one per cent of the respondents also alleged psychological violence, which was manifested by insults and the whole spectrum of vulgarisms referring to the intimate life and relationships of LGBT people, "alienating such people from a society leading to social exclusion." The report also reported cases of discrimination at educational institutions such as high schools and universities by teachers and peers, at workplaces by employers and colleagues, and by police and staff of health services centres.

Violation of freedom of assembly and freedom of speech

On 3 May, the European Court of Human Rights delivered its decision in the case of *Baczowski and Others v. Poland* in which LGBT activists from Poland successfully challenged a ban on LGBT Equality Parade in Warsaw in June 2005 by the then Mayor of Warsaw, Lech Kaczyński (see AI Index: EUR 01/012/2005). The court unanimously decided that such ban was illegal and discriminatory because it breached three articles of the European Convention on Human Rights: Article 11 (freedom of association and assembly), Article 13 (right to an effective remedy) and Article 14 (prohibition of discrimination).

International scrutiny

On 2 February, the UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) made public its concluding comments on the Poland's compliance with the International Convention on the Elimination of All Forms of Discrimination against Women. The CEDAW expressed its concerns about the repeated rejection by the Parliament (Sejm) of a comprehensive law on gender equality. It also expressed concerns about the abolition of the Government Plenipotentiary for Equal Status of Women and Men. It considered that its new location in the Department for Women, Family and Counteracting Discrimination at the Ministry of Labour and Social Policy could result in issues related to discrimination against women being given a low priority. The CEDAW remained concerned about the persistence of prejudice and stereotypical attitudes regarding the division of roles and responsibilities of women and men in the family and in the society. According to the CEDAW, "such stereotypes perpetuate discrimination against women and are reflected in many areas, such as in women's situation in the labour market, their low level of participation in political and public life and the persistence of violence against women."

Forcible return of asylum seekers

On 2 March AI wrote to the Office for Repatriation and Foreigners in Warsaw regarding a Chechen citizen of the Russian Federation and her family members, applying for asylum in Poland. AI expressed concern that were they to be forcibly returned to the Russia they would be at a high risk of torture and other ill-treatment, and that therefore their forcible return would be in breach of the principle of non-refoulement. It was reported that the woman's son died in detention in Russia as a result of torture, and that she has faced threats because of her efforts to seek justice in Russia and at the Council of Europe. This case was one highlighted by AI in its report *Russia/Chechen Republic: "Normalization" in whose eyes* (AI Index EUR/46/027/2004). The asylum claim was rejected in April, but at the time of writing the forcible return had not taken place.

Lustration law

Under the new Lustration Law passed in February (which supersedes the earlier, and less extensive, 1998 law) everyone born before 1972 in "public positions"⁵ would have to make a declaration as to whether they co-operated with state security organs of the Polish People's Republic from 1944 to 1990. This declaration would then be verified by the Institute of National Remembrance (INR). Where there were any doubts as to the truth of the declaration, court proceedings could be brought in the

⁵ Defined by the law as judges, lawyers, tax advisors, certified accountants, court enforcement officers, journalists, diplomats, municipal officials, university teachers, heads of public and private educational institutions, heads of state controlled companies, and members of the management and supervisory boards of companies listed on the stock exchange are included.

Lustration Court (Warsaw Court of Appeal), which could result in the person losing his or her job. A refusal to submit a declaration could also result in losing one's job for up to 10 years. The law was estimated to apply to about 700,000 people.

The new law on lustration was examined by the Constitutional Court, after a motion against it was brought by the Democratic Left Alliance (Sojusz Lewicy Demokratycznej) party. The court decided on 11 May that the law was partially unconstitutional and ruled that the law would have applied collectively to entire groups of people considered to be "people filling public functions". The court also ruled that vetting would have to be carried out on a case-by-case basis. Among the clauses rejected by the court were those which would have required journalists, managers of listed state-owned firms, and principals of private schools to submit declarations stating whether they had collaborated with the communist-era secret police. The court also said it was unconstitutional to have allowed the names of all former "informal collaborators" with the communist secret police to be published on the Internet.

The ruling was not welcomed by the government. On 14 May the Prime Minister made accusations "that the Constitutional Court is anti-vetting and its members are part of the conspiracy of former communists who have too strong an influence on society and business." As response to the ruling, he called for a new law which would open secret service files on Polish citizens to the public.

PORTUGAL

Police ill-treatment and shootings

On 16 January a policeman who shot and killed a man in Porto in 2002 was sentenced to a 720 euro fine for negligent homicide. After firing a shot into the air when attempting to detain the suspect (driving a stolen car) the officer did not secure his gun properly. It went off and killed the man while he was being restrained. The

policeman in question was off duty at the time and claims to have had only four lessons in the use of firearms. On 11 April another officer was convicted of negligent homicide and given a one year suspended prison sentence for the fatal shooting of a man during a police chase in 2005. The court considered as an attenuating factor the fact that the officer had never been trained in the use of firearms. AI has repeatedly raised concerns about the lack of adequate training of law enforcement officers in this area.

In April the police inspectorate (Inspecção Geral da Administração Interna, IGAI) produced its findings in two cases of police shootings, one of which was fatal, in Porto in October 2006. The first incident occurred on 3 October when one man was killed and another gravely injured during a police chase of a car carrying four young men. A police officer fired five shots at the vehicle, allegedly aiming for the tyres but killing one occupant and injuring another. The police officer was charged before a Magistrates Court in Porto on 4 October with attempted homicide and reckless homicide, and immediately freed to await trial on the grounds that he had been acting in the course of duty with no homicidal intent. He was not suspended from duty. The IGAI investigation concluded that the actions of the police involved had been excessive and recommended that a disciplinary procedure be opened. In the second case, also involving a man who was shot during a police chase, the IGAI found that the officer had acted in legitimate self defence and recommended the closure of the criminal investigation underway.

In June the Office of the Public Prosecutor formally accused five police officers of participating in the ill-treatment of a suspect named Leonor Cipriano in October 2004 during interrogations. Three officers were accused of torture, one was accused of failing to prevent the ill-treatment and one for falsification of official documents. The police trade union, the Association of Criminal Investigators (Associação Sindical dos Funcionários de Investigação Criminal, ASFIC) declared in May that they

considered the case "closed" and had previously accused the Public Prosecutor of acting in bad faith. The trade union argued that there was a lack of evidence to support the prosecution.

On 29 May the seven prison officers accused of assaulting Albino Libânio, an inmate of Lisbon prison, on 11 November 2003, were acquitted on the grounds of lack of evidence (see AI Index: EUR 38/001/2004, and AI Index: POL 10/001/2005). The acquittal came despite a report into the incident by the prison services inspectorate (Serviço de Auditoria e Inspecção – Delegação Sul) and by the IGAI which concluded that Albino Libânio had indeed been assaulted by prison officers as he had alleged. An appeal was launched on 21 June to the Court of Appeal (Tribunal da Relação de Lisboa) and was pending at the end of the period under review.

Visit of Committee for the Prevention of Torture

On 25 January, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published reports on its ad hoc visit to Portugal in 2002 and on its fourth periodic visit to Portugal in 2003. The reports highlighted numerous cases of alleged police ill-treatment. The majority of allegations of ill-treatment occurred at the time of arrest, but some occurred within police detention facilities. The CPT noted that the main problems were the insufficient training of police officers and the lack of an independent and impartial body to investigate complaints made against the police. It recommended better training and selection procedures, and that complaints be investigated by persons independent of the forces implicated in the incident, with guarantees of efficiency and speed in the inquiries.

The 2002 ad hoc visit focused on the situation at Oporto Central Prison. In previous visits to this establishment, the CPT had found the prison overcrowded,

prisoners' living areas unhygienic, a high level of inter-prisoner intimidation/violence, a wide availability of drugs and inadequate staffing levels. The report on the 2002 visit highlighted that while some improvements had been made, there remained significant challenges. In the course of the fourth periodic visit to Portugal in 2003 the CPT's delegation examined the treatment of persons detained by law enforcement agencies and the fundamental safeguards against ill-treatment offered to such persons. It also reviewed the conditions of detention in prisons, including at Oporto Central Prison, and examined for the first time the treatment of patients in a penitentiary psychiatric hospital.

Violence against women

According to statistics from the Commission for Equality and Women's Rights, 20,595 cases of domestic violence were reported to the police services in 2006. This represents an increase of some 30% compared to the previous year. The Portuguese Association of Victim Support (Associação Portuguesa de Apoio à Vítima, APAV) claims that this figure reflects barely half of the true total – their records indicate that 53% of the cases referred to them in the same time period were not reported to the police or judicial authorities. Those working to eradicate domestic violence in Portugal have hailed the increase in complaints as an indication that public education campaigns are having an impact.

The number of women killed as a result of domestic violence in the year to November 2006 was recorded at 39, with 43 attempted murders during the same period (according to figures from the non-governmental organisation Alternative Women's Union, UMAR). The figure represents a total of approximately one in six of all murders during the year. Fifty per cent of cases presented to the Victim Support Unit for Immigrants and Racial and Ethnic Discrimination (Unidade de Apoio à Vítima Imigrante e de Discriminação Racial ou Étnica, UVAIDRE) concerned domestic violence.

On 5 April a bill was approved by parliament to exempt victims of domestic violence from medical fees, considering them as an "at-risk" population (alongside pregnant women, children under 12, firemen, and various other groups).

The creation of a new government shelter for victims of domestic violence in Viana do Castelo was approved on 17 January, bringing to a total of 12 the number of such government facilities across Portugal. In total, including those run by non-governmental organisations there are 34.

On 12 April parliament passed a resolution associating itself with the European campaign to combat domestic violence and committing to evaluate the existing judicial mechanisms for tackling domestic violence in order to improve it.

Debate continued over the reform of the Criminal Code, including proposals relating to the treatment of domestic violence as a crime. The current draft requires that domestic violence be "intense" or "repeated" violence to qualify under its definition. Campaigners are lobbying for these requirements to be removed.

Migration

Following the entrance into force of the new nationality law on 15 December 2006, 320 immigrants were granted Portuguese nationality on 20 May in a public ceremony presided over by the prime minister. The new law permits the acquisition of Portuguese nationality by immigrants legally resident in Portugal for six years (previously 10 years), immigrants who have been married to or lived in de facto union with a Portuguese citizen for three years, and to immigrants born in Portugal to parents also born in Portugal or with at least one parent resident for over five years.

Trafficking in human beings

Under the proposed National Action Plan against People Trafficking, whose period of public consultation ended on 30 May,

victims of trafficking will have the right to remain in Portugal for between 30 and 60 days while they decide whether to assist in criminal investigations into their traffickers. During this time they cannot be deported. They will also be able to apply for a temporary residence permit of up to one year, independently of any decision to collaborate with the authorities. The government also plans to build centres for temporary shelter of trafficking victims.

Counter-terrorism

On 14 February the European Parliament approved the final version of the report of its temporary committee of inquiry into alleged flights by the US Central Intelligence Agency (CIA) operating in Europe as part of the USA's programme of renditions – the illegal transfer of people between states outside of any judicial process. Many of the flights were believed to have transported prisoners to the Guantánamo Bay detention facility. The report found there had been stopovers by flights operated by the CIA in Portuguese territory, believed to be part of the network involved in renditions, on 91 occasions and evidence of an additional 17 suspect flights travelling to or from Guantánamo Bay that had stopped over in Portugal between 11 January 2002 and 24 June 2006. The current president of the European Commission, José Manuel Durão Barroso, is named in the document as former Prime Minister of Portugal and it is alleged that his government must have been aware of the nature of the CIA flights stopping over in Portuguese territory. The current Minister for Foreign Affairs, Luís Amado, claimed that the committee had gone beyond its mandate and that the allegations that Portuguese officials had been aware of the nature of the illegal flights were not supported by any real evidence.

On 25 January Luís Amado had declared that the investigations of the Portuguese government into alleged CIA flight stopovers in Portugal had been closed on the grounds that there was no evidence to support the continuation of such an inquiry.

However, on 5 February the Office of Public Prosecutions announced that it was opening an criminal investigation into possible crimes of torture and ill-treatment on the basis of information provided to it concerning the CIA flights, by the Portuguese Member of the European Parliament Ana Gomes and journalist Rui Costa Pinto.

ROMANIA

Background

The first half of 2007 was marked by political instability caused by the rivalry between Prime Minister Călin Popescu-Tăriceanu and President Traian Băsescu. On 18 April members of the Romanian parliament voted to suspend President Băsescu from office after he had been accused of constitutional violations. In a subsequent 19 May referendum on impeachment an overwhelming majority -- 74 per cent -- of Romanians who went to the polls that day voted against dismissing President Băsescu.

On 1 January Bulgaria and Romania became member states of the European Union (EU). On 27 June the European Commission (EC) issued its report on the progress made by both states in meeting the accompanying measures decided by the EC when they joined the EU. The EC warned both states to take more action to fight corruption, but did not impose any sanctions for their failure to meet reform targets. The EC noted that Romania had made progress with judicial reform but needed to do more to implement the changes. The EU urged Romania to ensure a more transparent and efficient judicial process; to establish an agency to check conflicts of interest; and to take more effective action against high-level corruption.

Renditions and secret detention centres (update to AI Index: EUR 01/001/2007)

International bodies continued to raise concerns about Poland's alleged involvement in the USA's programme of secret detentions and renditions (the illegal transfer of people between states outside of any judicial process), and its inadequate responses to their investigations.

On 14 February members of the European Parliament's Temporary Committee on allegations of illegal activity in Europe by the US Central Intelligence Agency (CIA) released the results of their investigation. They concluded that Romania did not investigate properly the claims that the USA may have operated secret detention facilities in its territory; criticized Romania's inquiry report as superficial, and expressed concern about the lack of control by Romanian authorities over US activities in military bases in their country. AI had raised concerns that last-minute attempts to weaken the Temporary Committee's report were a worrying sign of the European Parliament's vulnerability to national and party interests, despite the grave nature of abuses: kidnapping, torture and disappearances (see AI Index: IOR 61/005/2007).

On 8 June, the Rapporteur on secret detentions of the Parliamentary Assembly of the Council of Europe (PACE), Senator Dick Marty, issued a second report revealing new evidence that US "high-value detainees" were held in secret Central Intelligence Agency (CIA) secret detention centres in Poland and Romania during the period 2002-2005, and alleged a secret agreement among members of the North Atlantic Treaty Organization (NATO) in October 2001 which provided the basic framework for this and other illegal CIA activities in Europe. In an explanatory memorandum made public the same day, Senator Dick Marty said he had cross-referenced the credible testimonies of over 30 members of intelligence services in the US and Europe with analysis of "data strings" from the international flight

planning system. AI applauded the report and the extraordinary investigative work undertaken by Dick Marty's office in getting to the well-concealed truth about the US-led secret detention programme (see, AI Index: IOR 30/013/2007). The report strengthened AI's finding that three former secret detainees, whose cases were extensively documented over a year ago, had been held in an Eastern European "black site".

Later that month as PACE was preparing to debate Senator Marty's report, AI called on Poland and Romania to conduct independent, impartial and thorough investigations into new information concerning CIA flights and secret detention centres on their territories (see AI Index: EUR 37/003/2007). AI also called on PACE to adopt the draft Resolution and Recommendation on rendition and secret detention accompanying Senator Dick Marty's report. PACE subsequently endorsed Senator Marty's report on 27 June, with 124 votes in favour, 37 against and eight abstentions, backing its conclusions that "it is now established with a high degree of probability that secret detention centres operated by the CIA, forming part of the High Value Detainee (HVD) program, existed for some years in Poland and Romania..". When adopting the Recommendation, the PACE called on the need for democratic oversight of military intelligence services and foreign intelligence services operating on their territory; urged the restrictions on the investigations on the grounds of "national security" to be lifted; and urged compensation to the victims of the unlawful transfers and detention. Both Poland and Romania denied their involvement with secret detention centres and the Romanian delegation announced its withdrawal from the PACE.

Unlawful killings by Romanian members of UNMIK Civilian Police (see also entry on Serbia/Kosovo)

Eleven members of a Romanian Special Police Unit were repatriated from Kosovo on 21 March. The law enforcement officers

were reportedly assisting in an investigation by the UN Interim Administration Mission in Kosovo (UNMIK) Department of Justice into the deaths of two men -- Mon Balaj and Arbën Xheladini -- and the serious injury of another -- Zenel Zeneli -- during a demonstration on 10 February in Priština/Prishtinë, Kosovo. This investigation had established that the men had been killed by members of the Romanian Formed Police Unit, who had been deployed to the largely non-violent demonstration, and had discharged apparently out-of-date rubber bullets which killed and injured the men (see also AI Index: EUR 70/002/2007).

Despite requests by UNMIK and by AI, the Romanian authorities withdrew from Kosovo the 11 police officers who had been assisting the investigation and who were reportedly in possession of crucial information. AI urged the Romanian Ministry of Interior to return the 11 police officers be returned to Kosovo, noting that any continuing evasion in a case involving such serious human rights violations seriously undermined the international community's credibility in Kosovo and elsewhere. AI also reminded the Romanian authorities of the provisions of international standards relating to the use of force and firearms.

International scrutiny

On 15 March the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment issued an Addendum following up on recommendations made after visits to several countries including Romania. With regard to Romania the Special Rapporteur expressed his concerns that the number of inmates exceeded the officially designated capacity of existing detention centres. He also called on the General Police Inspectorate to establish effective procedures for internal monitoring of the behaviour and disciplining of their agents, in particular with a view to eliminating practices of torture and ill-treatment.

Failure to protect people with mental disabilities

Concerns remained on the situation of people, children in particular, in institutions for people with mental disabilities.

In April, the non-governmental Centre of Legal Resources (Centrul de Resurse Juridice, CRJ) and the UN Children's Fund (UNICEF) released a report entitled *Monitoring the rights of mentally disabled children and young people in public institutions*. The report cited cases of alleged violations of the human rights of children and young people with mental disabilities, which included lack of food, adequate clothing and footwear, of sheets, pillows or beds; lack of activity and stimulation; lack of adequate medication and treatment; lack of training and motivation of staff; abusive application of patient restraint measures and isolation from the rest of the community.

In more than two thirds of the institutions visited, the conditions of accommodation reportedly did not meet the minimum compulsory standards set out for residential care services addressing children with mental disabilities which stipulate a space of six square metres per child and a maximum of four children in a dormitory. In some institutions, the living conditions were reported as extremely precarious with "very low temperatures... broken windows and no hot water." The report also highlighted cases of children who were allegedly arbitrarily admitted to psychiatric hospitals without a specific treatment or diagnosis and in some cases of parentless children, the local authorities alleged as a reason the temporary lack of alternative care.

On 19 June, the non-governmental organization (NGO) Inclusion Romania denounced "the still alarming situation of people with intellectual disabilities" and called for the creation of an independent body which would regularly monitor the human rights situation of persons with intellectual disabilities in institutions, with clear accountability for violators. It also

called for the deinstitutionalization process to be accelerated, and for the development of community based services.

On 28 June, following a visit to the Neuropsychiatric Rehabilitation and Recovery Centre in Bolintinul din Vale, the CRJ reported that conditions were virtually unchanged since its previous visit in 2003. Almost all the 107 residents were reportedly poorly dressed or undressed, there were no rehabilitation activities, and patients were lacking sufficient food. Living conditions were inadequate with no privacy for the patients and extremely poor hygiene, resulting in the alleged spread of parasites and infections among inmates.

The Romani community

UNICEF in its report *Breaking the cycle of exclusion. Roma children in South-East Europe* issued in March, reported that in Romania less than half of poor households have running water at home, but around 70 per cent of Roma households are without a water supply. Roma have also low rates of health insurance (estimated at only one third), the most common reason reportedly being the cost of the scheme. School segregation of Romani children continued to be a subject of concern as those schools have poorer facilities and employ unqualified teachers.

On 23 May, the Committee of Ministers of the Council of Europe adopted the conclusions on the Romania's implementation of the Framework Convention for the Protection of National Minorities. The Committee expressed continuing concerns about the implementation of measures adopted towards minorities, Roma in particular, who continue to confront serious difficulties and manifestations of discrimination in different fields, including employment, housing, health and education.

The Committee of Ministers also mentioned in its conclusions the reported public manifestations of hostility and intolerance by the media, certain members of public

authorities and, in spite of improvements in this area, in the conduct of certain members of the police.

On 19 May, President Traian Băsescu reportedly called a journalist a "dirty gypsy", but apologized later for causing the journalist "an undeserved moral damage." Several national and international Roma NGOs (including Romani-CRISS and the Strasbourg-based European Roma and Travellers Forum) wrote to the president accusing him of "racist, discriminatory and offensive behaviour", and the National Council Against Discrimination called for the president to explain himself..

LGBT rights march attacked

On 9 June around 500 activists marched through the capital, Bucharest, to demonstrate against discrimination and to call for the legislation of same-sex marriages, on the occasion of Gayfest 2007 organized by the lesbian, gay, bisexual and transgender (LGBT) community. Romanian riot police detained dozens of counter-demonstrators as hundreds of them tried to violently break up the march. Police fired tear gas to hold the counter-demonstrators at bay after some threw stones and attempted to break through protective cordons staffed by 700 officers. This was the second year that the parade had been allowed by the authorities, after previous attempts.

RUSSIAN FEDERATION

Clampdown of freedom of expression and assembly

The authorities continued to clamp down on the rights to freedom of expression and assembly. Human rights defenders and independent civil society also came under continued pressure. The implementation of the new law on non-governmental organizations (NGOs) led to NGOs facing a disproportionate burden of administrative

requirements which may even have affected their ability to conduct their work.

Demonstrations

Riot police (OMON) repeatedly used excessive force to disperse peaceful marches by political opposition groups (known as Dissenters' Marches). In several Russian cities, including St Petersburg, Nizhnii Novgorod and Moscow, opposition groups and civil society activists were prevented from expressing their dissenting opinion during peaceful marches and demonstrations. Hundreds of people were detained prior to and during these marches. Many of them were charged with violations of the administrative code in trials which raised questions about the respect for international fair trial standards.

During an unsanctioned march in Moscow on 14 April, but also at a sanctioned rally on the same day, police detained several journalists, ignoring the fact that they had identified themselves as press. A journalist for a Japanese TV company was badly injured by police.

Following a sanctioned meeting in St. Petersburg on 15 April, the police detained and beat numerous people who were about to leave the place of the demonstration. Several people reported suffering concussions and other injuries for which they sought treatment. On 22 April several human rights defenders, who visited the places where the police had beaten and detained demonstrators the previous week, were also briefly detained but released without charge.

Prior to a Dissenters' March in the city of Samara at the time of the G8 summit, which was held in Samara Region, the offices of the local outlet of the newspaper *Novaia Gazeta* were raided and computers and other office equipment were confiscated. Several people, including a representative from Human Rights Watch, were prevented from flying to Samara to either participate in or monitor the march and the police response to it. Under the

pretext of checking the validity of their tickets, several people were kept at the airport until the flight to Samara had left. Others were taken off the train to Samara and detained until it was too late to get there in time to attend the march.

Gay pride parade banned

On 27 May a group of Russian and foreign activists, including parliamentarians from different European countries, attempted to hand over a petition to Moscow mayor Yuriy Luzhkov, asking him to respect and protect the rights of sexual minorities. The group was attacked by anti-gay rights activists, several of whom were beaten and had eggs and tomatoes thrown at them. The police detained some of the attackers and several of the gay rights activists, including a member of the German parliament and an Italian member of the European Parliament. The Russian organizer of the event was charged with breaking the law on demonstrations. Earlier that month, Yuriy Luzhkov had banned a gay pride parade in Moscow. He also claimed that such gay pride parades were "satan's work" and would never be allowed in Moscow.

Closure of Educated Media Foundation

In January the head of the non-governmental organization (NGO) Educated Media Foundation (formerly *Internews*), Manana Azlamazian, was stopped at customs at Moscow's Sheremetyevo airport. She had failed to declare money she had brought back to Russia when returning from a private trip to Paris. While according to Russian law, the maximum amount one can bring into the country is the equivalent of US\$10,000, Manana Azlamazian had about 10,000 Euros (about US \$13,000) on her person. She admitted her fault and declared that she had brought the money to Russia as a private person, not in her capacity as the head of an NGO. However, the investigation focussed on the work of the Educated Media Foundation. Criminal

proceedings were instigated against Manana Azlamazian under Article 188, part 2 of the Russian Criminal Code (contraband) for allegedly unlawfully financing NGOs. In April, police from the Department for Economic Crime searched the organization's office and confiscated computers, training equipment and files while the accounts of the organization were closed. In connection with this the organization was forced to close its offices as staff and students were unable to continue their work without the necessary equipment and documents. *Internews*, which had been operating in Russia for about 10 years, had conducted training for journalists and had produced independent media material for further distribution in Russia. Russian human rights activists and journalists considered that the authorities' response to Manana Azlamazian's failure to comply with the law had been exceptionally harsh, and are concerned that she was targeted for her work for the independence of the media.

Attack on Mari activist Galina Kozlova (update to AI Index EUR 01/012/2005)

Galina Kozlova, an activist for the protection of the Mari language (which belongs to the family of Finno-Ugric languages) and culture from the Republic of Mari El, was attacked on 25 January on her way home by an unknown man, who sprayed what she believes to be teargas in her face, kicked her and beat her. When she fell to the ground he dragged her along the icy street for several metres. According to Galina Kozlova, the man did not attempt to take her bag or any of her possessions. She was hospitalized for 11 days, only returning to work in March. Galina Kozlova was concerned that the attack may have been linked to her work for the Mari culture as this was not the first attack on Mari activists in similar circumstances. The European Parliament adopted a resolution on 15 March, calling on the authorities to bring the perpetrators of this crime to justice and ensure respect for freedom of expression. Her husband, Vladimir Kozlov,

had been beaten up in a similar attack in February 2005. At the time of writing, no one had been brought to justice for the attacks.

Harassment and persecution of NGOs in Novorossiisk

On 23 January members of the NGOs Novorossiiskii Human Rights Committee and FRODO in Novorossiisk, Krasnodar Region, held a meeting with two foreign visitors in a public art school in Novorossiisk, where the group was discussing a project on tolerance among youth. The meeting was broken up by a group of police officers, staff from the Federal Migration Service (FMS) and the Federal Security Service (FSB). The participants were separated and most of them were questioned by the law enforcement officials without being given an official reason and without the presence of a lawyer. Vadim Karastelev, a member of both NGOs, was accused of holding an unsanctioned meeting and charged with violations of Article 20.2 of the Administrative Code of the Russian Federation (violations of the regulations for organizing and holding meetings, demonstrations and vigils) and was ordered to pay a fine. Following an appeal against his sentencing, a regional court reduced the fine for Vadim Karastelev.

Racism

Racially motivated attacks continued. The Sova Information-Analytical Centre, an NGO, reported that between January and May, 32 people had been killed and 215 people had been injured as a result of attacks motivated by xenophobia or extremist ideologies. The victims were members of ethnic minorities or foreigners living in Russia, or anti-racism activists or sympathisers. The number of attacks recorded by Sova was an increase on the same period in 2006. Sova also recorded an increase in the number of prosecutions for racially-motivated crimes, although it was disproportionately low in comparison to the

number of reported racist crimes. There were violent mass clashes between ethnic Russians and ethnic groups from the Caucasus in Stavropol in May and in Moscow in June, during which police made a number of arrests. The authorities made statements emphasizing Russia's multi-ethnic character.

During the period under review, AI spoke to African and Asian students, refugees and asylum-seekers living in Moscow, some of whom said the number of attacks against them and their acquaintances had recently decreased, although verbal and physical racist attacks continued. However, they said that any decrease was not attributable to any improved work of the police, who they said continued to refuse to record reports of racist attacks. In addition, refugees and asylum-seekers who were registered at the office of the UN refugee agency, UNHCR, told AI delegates that the police in Moscow failed to accept their documents as valid, leaving them vulnerable to extortion by the police and increasing their reluctance to report racist incidents.

"Joseph" (not his real name), an asylum-seeker from the Democratic Republic of Congo, came to Russia in 1997. Joseph told AI that in March he was beaten up and stabbed while travelling on the metro in Moscow. About 16 youths, with close-shaven heads, attacked him without warning at around 6pm one evening, as he was travelling from a church service. They beat and stabbed him, shouting "let's kill him, let's kill him!" Joseph said he thought they attacked him because he was black. When the train arrived at the next station, they ran away. Police officers at the metro station called first aid personnel. Joseph subsequently spent a week in hospital for treatment of his injuries, including head injuries and a stab wound in his chest. However, when Joseph returned to the police station at the metro station Tulskaia, in order to officially report the incident, the police officers there reportedly refused to record the incident, saying it was impossible to find the attackers. He told AI that when he first arrived in Russia violent

racism had been even worse, and he had been physically attacked four times in one year.

In May the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance issued his report on his mission to the Russian Federation undertaken in June 2006. The Rapporteur concluded that "while there is no State policy of racism... the Russian society is facing an alarming trend of racism and xenophobia". He stated that the most striking manifestations included the increasing number of racially motivated crimes and attacks, the growing level of violence with which some of these attacks were carried out, the extension of this violence to human rights defenders, intellectuals and students engaged in the combat against racism, the climate of relative impunity that the perpetrators of such acts enjoyed, and the rise of anti-Semitism as well as other forms of religious intolerance, in particular against Muslims. The Rapporteur recommended, *inter alia*, the adoption of a Federal Plan of Action designed in consultation with and the participation of all actors concerned, and the establishment of an independent institution working to combat all forms of discrimination including racism.

Acquittals in prosecution for murder of Vietnamese student (update to AI Index: EUR 01/002/2005)

On 1 March the Supreme Court of the Russian Federation upheld the verdict of a St Petersburg court in October 2006, acquitting 17 defendants charged with attacking a Vietnamese student in St Petersburg in 2004. Twenty-year-old Vu An Tuan, studying at the St Petersburg Polytechnic University, had been stabbed to death on 13 October 2004 as he was walking to a metro station in the city. On 17 October 2006 a jury had found five of the defendants not guilty of killing the student, and the other 12 defendants not guilty of charges in connection with the attack. The jury reportedly considered that

the prosecution had failed to establish the defendants' guilt.

Conviction of individuals for the murder of Roland Epossek

On 19 June the St Petersburg City Court sentenced four men to terms of imprisonment ranging from seven to 14 years, for the murder of 29-year-old Congolese student Roland Epasak, beaten to death in September 2005. A jury had found the four men guilty of murder by a group, motivated by racial hatred (Article 105 of the Russian Criminal Code). The defendants had previously been acquitted in July 2006 but the prosecution had appealed the verdict.

Investigation into murder of Lamsar Samba Sell, (update to AI Index: EUR 01/017/2006)

Eleven individuals were reported to have been arrested in April in connection with the murder of Senegalese student, Lamsar Samba Sell, shot dead in St Petersburg in an apparent racist attack in April 2006. The attack has been investigated as racially motivated. The suspects remained in detention awaiting trial at the end of the period under review.

Torture and ill-treatment

AI continued to receive a number of reports of torture and other ill-treatment in police custody.

According to information received from a human rights organization in Krasnodar Region, on 5 March Mikhail Sloian, who was working as head of a unit in a chemical factory in Belorechenska in the Krasnodar Region, was questioned by police regarding a theft in the factory. According to Mikhail Sloian's parents, during the questioning, which was done by four police officers, he was handcuffed, beaten and tortured with electroshocks in order to make him sign a prepared statement admitting to the theft.

A gas-mask was put over his head and the air was cut off periodically. His father, who was looking for him after he did not return home from the questioning, found him late in the evening in the police station to which he had been called and took him to a hospital. He was diagnosed with compressed fractures to his spine in three places and injuries to his rib cage. Allegedly, the police made him sign a statement that he had self-inflicted these injuries. However, on 10 March a criminal case was opened and an investigation against the perpetrators initiated.

Fair Trial concerns

The case of Mikhail Khodorkovskii and Platon Lebedev (update to AI Indexes: EUR 01/002/2005, EUR 01/012/2005, EUR 01/017/2006)

A court in Moscow, the Basmannyi District Court, ruled on 20 March that the decision by the Office of the Prosecutor General to hold the investigations of a further criminal case, opened against Mikhail Khodorkovskii and Platon Lebedev, in the town of Chita, eastern Siberia, was unlawful. The court ruled that the prosecutor's office had failed to provide an adequate and reasoned explanation, as required by Russian law, as to why the case should be investigated in Chita, rather than in Moscow where the alleged crime was committed, as is standard practice. The court found that the failure to provide this explanation amounted to a violation of Mikhail Khodorkovskii's and Platon Lebedev's constitutional right to a defence. This decision was upheld by the Moscow City Court on 16 April when the decision entered into force. However, at the end of the period under review, the prosecutor's office had failed to either provide an adequate explanation for the decision to hold the investigation in Chita, or move the investigation to Moscow. Not only was this failure by the prosecutor's office to respect the decision of the Basmannyi District Court a serious violation of Russian procedure, and arbitrary in nature, AI was also

concerned that it amounted to a violation of the right of Mikhail Khodorkovskii and Platon Lebedev to effective legal assistance in preparation of their defence. The vast distance (approximately 6,000 km) and time difference of six hours between Moscow and Chita, where the two men are serving eight-year terms following a previous conviction, presented a significant logistical obstacle to the legal team and their clients in the preparation of their case.

Harassment of legal team of Mikhail Khodorkovskii and Platon Lebedev

Mikhail Khodorkovskii and Platon Lebedev's legal team alleged that they had been subjected to harassment and intimidation in the form of undue searches at airports when travelling to and from their clients in Chita, and that attempts had been made by prosecutor officials to pressure them into signing documents. In May the office of the Prosecutor General initiated a complaint to the Moscow Bar Association against one of the lawyers, Karinna Moskalenko, whom the prosecutors accused of having failed to represent Mikhail Khodorkovskii with due diligence. However, the Moscow Bar Association found no evidence to substantiate this complaint.

Igor Sutiagin (update to AI Indexes: EUR 01/002/2002, EUR 01/005/2004)

In March Igor Sutiagin was placed in a punishment cell where he remained for eight weeks, for allegedly using a mobile phone in violation of prison rules. His lawyers claimed he was singled out for such punishment in order to reduce his chances for an early release, as using mobile phones in Russian prison – while it may be prohibited – is common practice.

Mikhail Trepashkin (update to AI Indexes: EUR 01/007/2006, EUR 01/017/2006)

During the period under review, the health of Mikhail Trepashkin remained of concern.

On 9 March a district court in Nizhnii Tagil, Sverdlovsk Region, decided that Mikhail Trepashkin should be transferred to a standard prison colony, which has a stricter regime than the open prison colony where he had been imprisoned. The decision followed allegations that on several occasions he had violated the prison rules. Following this decision Mikhail Trepashkin was kept in an isolation cell from March to June, where according to him there was very poor air quality and the light was permanently switched on. In June he was transferred from Nizhnii Tagil to a pre-trial detention facility in Yekaterinburg, in order to attend further hearings in his case. He was placed in an isolation cell otherwise designed for prisoners sentenced to life imprisonment and was reportedly forced to wear handcuffs when leaving the cell for walks. According to Mikhail Trepashkin, the other cells in the pre-trial detention centre were overcrowded with two or three persons to one bed.

Fair trial concerns expressed at the Council of Europe

In April the Parliamentary Assembly of the Council of Europe (PACE) voted in favour of a resolution on fair trial issues in criminal cases concerning espionage and divulging state secrets (resolution No. 1551, 2007). The resolution called for the Russian authorities to "use all available legal means" to release without delay Igor Sutiagin, Valentin Danilov and Mikhail Trepashkin and to provide them in the meantime with adequate medical aid.

Changes to the structure of the Office of the Prosecutor

On 5 June President Vladimir Putin signed into law amendments to the Federal Law "On the Office of the Prosecutor" and to the Criminal Procedure Code, establishing a new Investigation Committee ("Sledstvennyi komitet") within the structure of the office of the Prosecutor.

The law was due to come into force 90 days following its official publication.

The aim of the amendments, as set out by the committee of the State Duma (Russia's lower house of parliament) that had proposed them, was to demarcate the office's different functions. The office of the Prosecutor has a dual role, being responsible both for the investigation and prosecution of serious crimes, and the supervision of the legality of actions of state officials. The amendments to the law separate out the supervisory function of ensuring that law enforcement officials observe the law, from the function of preliminary investigation of crimes. The Investigation Committee would take responsibility for the preliminary investigation of crimes.

It remained to be seen whether these changes to the structure of the Russian office of the prosecutor would adequately address the systematic weaknesses of its role in investigating human rights violations. For example, the dual role of the office of the prosecutor has meant that investigations into allegations of torture by police investigators have been carried out by one and the same prosecutor's office that was responsible for leading the police investigation, during which the alleged torture took place. Such a system failed to meet the necessary requirements of independence and impartiality.

Concerns relating to refoulement to Uzbekistan

Thirteen Uzbeks in Ivanovo (update to AI Indexes: EUR 001/007/2006, EUR 01/001/2006)

On 5 March 13 Uzbekistani nationals were released from detention in Ivanovo, after court rulings that the period during which they could be held in pre-trial detention had expired. All men were registered as asylum-seekers in Russia.

Rustam Muminov (update to AI Indexes: EUR 004/001/2007, EUR 001/001/2007)

Uzbek media reported that Rustam Muminov was convicted in Uzbekistan in March and sentenced to over five years' imprisonment, apparently in connection with alleged membership of Hizb-ut-Tahrir. In May the head of the detention centre for foreigners in Moscow, where Rustam Muminov had been held prior to his deportation to Uzbekistan, was found guilty of exceeding official powers when he allowed the deportation to go ahead.

Feared refoulements to Uzbekistan arising during period under review

Dilshod Kurbanov

Dilshod Kurbanov, a citizen of Uzbekistan who has lived in the Russian Federation since 2003, was detained on 30 May in the Tula Region and was taken to the Police Department for the Fight Against Organized Crime. At the end of the period under review he was being held in a pre-trial detention centre in Tula Region. He had recently applied for recognition as a refugee to the UNHCR. The Russian authorities claimed he was wanted by the Uzbekistani authorities for alleged membership in the banned movement Hizb-ut-Tahrir. AI considered that Dilshod Kurbanov would be at high risk of torture and other serious human rights violations, should he be forcibly returned to Uzbekistan.

Mukhamadsolikh Abutov

Mukhamadsolikh Abutov's house in Uzbekistan was searched in January. The police took away religious literature in order to check it for "extremist content". According to Mukhamadsolikh Abutov, the same literature had been confiscated before but a court in Uzbekistan had ruled that there was no reason to classify the texts as "extremist". However, Mukhamadsolikh Abutov had been imprisoned in Uzbekistan in the 1990s on what he claims were fabricated charges. Therefore, fearing he

would again be denied a fair trial and imprisoned, he left Uzbekistan for Russia in February, and in June he sought advice from a Russian NGO on achieving refugee status. Before he could approach the authorities to seek international protection as a refugee, he was reportedly detained by what seem to have been members of the Uzbekistani Security Service on 13 June outside his apartment in Krasnogorsk, Moscow Region, who handed him over to the local police department. While in detention, he filled in an application form for refugee status with the UNHCR but the police refused to hand over his application to the UNHCR. On 26 June the city court in Krasnogorsk ordered his detention to continue, pending his extradition to Uzbekistan. On 27 June he was transferred to a pre-trial detention centre in the town of Mozhaisk, in Moscow Region, from where he was able to apply for asylum in the Russian Federation. AI considered that Mukhamadsolikh Abutov would be at high risk of torture and other serious human rights violations, should he be forcibly returned to Uzbekistan.

Abdulaziz Boimatov

AI wrote to the Russian authorities to express grave concern about the apparent forcible return of Uzbekistani national Abdulaziz Boimatov from Sverdlovsk Region in Russia to Uzbekistan in April. Abdulaziz Boimatov was feared to have been forcibly returned to Uzbekistan despite his application for refugee status still pending at the Sverdlovsk Regional Directorate of the FMS. AI was concerned that Abdulaziz Boimatov, accused of anti-constitutional activities in Uzbekistan, was at risk of being subjected in Uzbekistan to arbitrary and incommunicado detention, torture and ill-treatment and long-term imprisonment following an unfair trial.

North Caucasus

Serious human rights violations, including enforced disappearances and abductions,

arbitrary detention, torture including in unofficial places of detention, and extrajudicial executions, were reported in the Chechen Republic, Ingushetia, Dagestan and North Ossetia.

Reports indicated that members of the Ministry of Internal Affairs and law enforcement organs were increasingly the target for attacks by armed groups in Ingushetia. Those involved in Islamic education institutions also seemed to have been targeted by armed groups. Akhmed Makhmudovich Kartoev was reported to be an Islamic scholar who was abducted from his car on 22 May, by armed men wearing masks. On 3 June a bomb exploded at the house of the vice-chancellor of the Islamic Institute, Magomed Bashir Aushev. Arbitrary detentions, abductions and extrajudicial executions were also reported in Ingushetia during the period under review. Two men were shot dead in February in Nazran by law enforcement officers; witnesses attested that they had not put up any resistance to being detained. On 29 June protestors blocked the federal highway near Nazran to call for a halt to arbitrary detentions, enforced disappearances, and killings by law enforcement structures in Ingushetia.

Similarly in Dagestan, law enforcement personnel were the targets of violent attacks by armed groups. For example, on 1 April an official from the Republic's prosecutor's office, Abdul Basyr Omarov, and another man were found shot dead in a house near the capital of Dagestan, Makhachkala.

The Chechen Republic

On 5 April, Ramzan Kadyrov was sworn in as President of the Chechen Republic, following the almost unanimous approval of his candidacy by the Chechen parliament on 2 March.

Shortly after his appointment, on 13 March, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) issued an

unprecedented third public statement relating to torture and ill-treatment in Chechnya, along with excerpts of its findings of its visits in 2006 to the region. The CPT highlighted gross inadequacies in many of the investigations opened into allegations of torture, and was also critical of the Russian authorities' response to the allegations the CPT received in 2006 of unlawful detention of individuals in unofficial detention facilities in Chechnya. The fact the CPT again felt obliged to resort to a public statement, additionally releasing with it detailed excerpts of its report and the Russian authorities' comments, indicated that the CPT considered Russia was failing to effectively tackle torture in Chechnya. This conclusion was supported by the Commissioner for Human Rights of the Council of Europe, who visited Chechnya, including detention centres there, at the end of February and beginning of March. He stated that he had "got the impression that torture and ill-treatment are widespread in Chechnya" and added that perpetrators of torture had a feeling of "utter impunity" (see AI Index: EUR 46/009/2007). On 4 April Russian news agency Itar-tass quoted the Russian Federal Human Rights Ombudsperson, Vladimir Lukin, as stating that: "the situation is far from being perfect". He was reported as stating that people continued to go missing in Chechnya, and that "arbitrary actions" had been registered on the side of federal, regional authorities and the remaining illegal armed groups. Chechen officials, including President Kadyrov, claimed that there had been positive progress in terms of respecting human rights, including those of detainees.

Ongoing violations in Chechnya

There was a significant decrease in the number of reported enforced disappearances and abductions in Chechnya during the period under review, compared to the same period in 2006. In the months December 2006 - May 2007 30 individuals were reported to have been arbitrarily detained or abducted in the republic. Of

these, 16 individuals were released or bought out by their relatives; three were found dead; five were later "discovered" to be in detention undergoing investigation; and six individuals remained missing. It was not clear from the information available to AI whether any of those who went missing were detained by state agents.

During the period under review, AI received information about further cases of arbitrary detention and torture in Chechnya. For example, according to the information available to AI, Usman Temirbulatov was detained on 4 December 2006 by police officers from Kurchaloevskii District Police station and was then transferred to the armed base at Tsenteroi, in Gudermes, under the command of President Kadyrov. He was released from Tsenteroi on 11 December and was immediately admitted to hospital where he died on 14 December. He reportedly died as a result of serious injuries sustained from being beaten while in detention. A criminal investigation was opened into his death by the district prosecutor's office.

Further reprisals

Reportedly, a mother seeking an investigation into the killing of her son in 2005 was subject to reprisals. The mother, 76-year-old Sumaia Abzueva, was allegedly beaten up on the street in the town of Argun on 9 January as she was walking to the market. Reportedly, a group of young men got out of a car and attacked her. She said she had been threatened more than once by the men who had detained and taken her son away from the family home. Former members of the anti-terrorist centre (an armed group under the control of Ramzan Kadyrov which had unclear legal status at the time and has since been disbanded, with members subsumed into other armed structures) were suspected of involvement in the killing Sumaia Abzueva's son.

During the period under review, AI learnt of another case of apparent reprisal against an applicant to the European Court of Human

Rights and her family. Early one morning in March 2006, several military servicemen dressed in camouflage uniforms and wearing masks seized the son of Fatima Giseeva (not her real name) in the backyard of their house in a suburb of Grozny. He returned one and a half hour's later, bruised and marked, complaining of a terrible headache. He suffered permanent damage to one of his eyes.

He said that he had been beaten by the military servicemen who had demanded that his mother withdraw her complaint about the enforced disappearance of her husband. Fatima Giseeva's husband was detained by Russian federal forces in 2000 and subsequently disappeared. Fatima Giseeva has searched for him since then, calling on law enforcement agencies to investigate, and has submitted an application to the European Court of Human Rights.

Investigations of abuses

Investigations were reported to have been opened into alleged torture at detention facilities run by the Operational/Search Bureau No. 2 of the Main Department of the Ministry of Internal Affairs of the Russian Federation responsible for the Southern Federal Region (ORB-2), and against individual members of the Chechen security services.

Four convicted of killing six civilians (update to AI Indexes: EUR 01/005/2004, EUR 46/027/2004, EUR 01/002/2005, EUR 01/012/2005, EUR 01/007/2006 and EUR 01/001/2007)

Four members of a special unit of the Russian Military Intelligence (GRU) were convicted on 14 June for killing six unarmed Chechen civilians near the village of Dai, Chechnya, in January 2002. Captain Eduard Ulman, Aleksander Kalaganskii, Vladimir Voevodin and Major Aleksei Perelevskii were convicted of murder and of "exceeding official authority" in a third hearing of the

case by the North Caucasus district military court in Rostov-on-Don and sentenced to imprisonment in strict regime prison colonies for terms of nine to 14 years. Eduard Ulman, Vladimir Voevodin and Aleksei Perelevskii were also convicted of premeditated destruction of property. The military court, made up of three professional judges rather than a jury panel as in previous hearings, ordered that compensation be paid to the victims' families. As in previous trials, the defendants pleaded not guilty, despite admitting the facts. While Major Aleksei Perelevskii was taken into custody in the court room, the other three men were tried *in absentia*, having failed to appear in court from April 2007 onwards. They were being sought by police. (See AI Index: EUR 46/025/2007.)

European Court rulings on applications concerning Zura Bitieva and others (update to AI Index: EUR 01/016/2003)

On 21 June the European Court of Human Rights issued a judgment concerning the arbitrary detention and subsequent extra-judicial execution, along with three other family members, of Chechen peace activist Zura Bitieva. In *Bitiyeva and X v. Russia* the European Court of Human Rights ruled that the Russian Federation had violated the right to life, the prohibition of inhuman and degrading treatment and the rights to liberty and security as well as to an effective remedy (Articles 2, 3, 5 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)).

Zura Bitieva, born in 1948, had filed an application to the European Court of Human Rights following her release from detention in an unofficial detention centre at Chernokozovo, Chechnya, in early 2000. She and three other members of her family were subsequently killed at home, on 21 May 2003, by unidentified armed men in camouflage. The European Court ruled that the detention of Zura Bitieva amounted to inhuman and degrading treatment. The

Court concluded that the deaths of Zura Bitieva and her three relatives could be attributed to the State. The Russian authorities had also failed in their obligation to conduct an effective, prompt and thorough investigation into the killings (see AI Index: EUR 46/027/2007).

During the period under review, the European Court of Human Rights issued another three judgments in which they found serious human rights violations committed during the second conflict in Chechnya. The judgments were *Chitayev and Chitayev v. Russia* (concerning torture in Chernokozovo detention centre), *Baysayeva v. Russia* (concerning the enforced disappearance of Shakhid Baysaev), and *Akhmadov and Sadulaeva v. Russia* (concerning the illegal detention, enforced disappearance and killing of Shamil Akhmadov).

Supreme Court rules that the case against Sergei Lapin should be re-tried (update to AI Indexes: EUR 46/027/2002, EUR 01/005/2004, EUR 01/002/2005, EUR 01/012/2005, EUR 01/007/2006 and EUR 01/017/2006)

On 17 January the Supreme Court of the Russian Federation, in response to a supervisory-review appeal by Sergei Lapin, ruled to return the case against Sergei Lapin for re-trial in Chechnya with a different panel of judges. His appeal for the case to be heard in another region of Russia and to be released pending trial was turned down. Sergei Lapin was convicted in 2005 and sentenced to 11 years' imprisonment for crimes relating to the torture and enforced disappearance of Zelimkhan Murdalov, who was detained and subsequently disappeared from police custody in January 2001 in Grozny. The trial was due to begin in July. Sergei Lapin is the only individual known to AI who has been convicted in connection with an enforced disappearance in Chechnya.

In May, AI published a report on enforced disappearances in Chechnya. "*Russian Federation: What justice for Chechnya's*

disappeared?" (AI Index: EUR 46/015/2007) highlighted the huge number of enforced disappearances and abductions during the second Chechen conflict and the almost total impunity for the violations, due to ineffective investigations by the authorities.

Dagestan

Young men go missing in Dagestan

According to reports, around 16 young men, between 20 and 31 years old, went missing in Dagestan during the period under review. The families feared that they had been arbitrarily detained by police officers and were being held in incommunicado detention in Dagestan or in Chechnya, where they would be at a high risk of torture or extra-judicial execution.

For example, Isa Alimpashaevich Isaev, born in 1982, reportedly went missing on 26 April. According to information available to AI, at 2pm he went out into the yard from the block of flats of his home in Dagestan's capital Makhachkala, at the same time that police officers were carrying out a raid on a flat in the next door building. His family reported him going missing on 30 April to the Sovetskii District prosecutor's office, and the Sovetskii District Department of Internal Affairs, but a criminal investigation into his disappearance was only opened on 29 June. The investigation has yet to yield any results.

Kabardino-Balkaria

Cremation of bodies of those killed during armed raid on Nalchik, October 2005 (update to AI Index: EUR 01/017/2006)

On 29 June the Constitutional Court of the Russian Federation ruled that a Russian federal law that allows the authorities not to return to the families the bodies of individuals killed while committing terrorist acts was constitutional. However, the court added that due process had to be followed – it had to be a court that established that

the deceased had participated in a terrorist act, and moreover, the customs and religious beliefs of the deceased had to be respected when disposing of the bodies. The Constitutional Court's ruling was in response to a claim by families of those killed during the armed raid on Nalchik, capital of Kabardino-Balkaria, in October 2005. More than 100 people were reported to have been killed during the ensuing shooting between law enforcement officials and the gunmen; many were wounded. The authorities refused to return the bodies of around 95 of those killed to their families for burial, despite a sustained legal campaign by the families, as the authorities stated that the deceased had participated in the attack.

In June, the families of the deceased discovered that their relatives' bodies had in fact been cremated in June 2006. This information came to light in a response by the Russian authorities to the European Court of Human Rights, in connection with applications to the European Court of Human Rights by the families on the response of the security forces to the armed attack. It was reported that the families planned to mount a legal appeal against the cremation which they viewed as unlawful in the light of the Constitutional Court decision, as cremation goes against Islamic tradition.

Rasul Kudaev (update to AI Indexes: 01/007/2006, EUR 01/017/2006 and EUR 01/001/2007)

During the period under review the prosecutor's office of the city of Nalchik repeatedly refused to open a criminal investigation into the alleged torture and ill-treatment of Rasul Kudaev, despite court rulings and decisions of senior prosecutor officials overturning this decision. On 25 January the prosecutor's office of the city of Nalchik refused to open a criminal investigation. This decision was appealed to the Nalchik City Court, which ruled on 7 March that the refusal had been unlawful and ordered the prosecutor's office to conduct a further inquiry. On 3 May the

deputy prosecutor at the prosecutor's office of the city of Nalchik also overturned the decision of his office of 25 January to refuse to open a criminal investigation. The prosecutor ruled again twice, on 13 May and on 20 May, to refuse to open a criminal investigation. These decisions were similarly overturned by the deputy prosecutor. Rasul Kudaev remained in detention at the end of the period under review, awaiting trial on terrorism-related charges following the October 2005 attack on Nalchik.

A second former Guantánamo prisoner, Ruslan Odizhev, was shot dead by law enforcement officers on 27 June. According to officials he had been shot during a police operation. Ruslan Odizhev had allegedly previously been tortured in detention in 2000 before leaving Russia for Afghanistan where he was detained by US armed forces.

SERBIA (INCLUDING KOSOVO)

General and political developments

Following elections on 21 January in which no party gained a majority of seats in the parliament, Serbia remained without a government until 11 May, when agreement on a was finally reached between (former) Prime Minister Vojislav Koštunica of the Democratic Party of Serbia (Demokratska stranka Srbije, DSS) and (former) President Boris Tadić of the Democratic Party, (Demokratska stranka, DS) to form a government. The right-wing Serbian Radical Party (Srpska radikalna stranka, SRS) remained the largest party in parliament.

Negotiations with the European Union (EU) on Serbia's Stabilization and Association Agreement resumed in June, having been suspended for over a year due to Serbia's continuing lack of cooperation with the International Criminal Tribunal for the former Yugoslavia (Tribunal).

On 11 May Serbia assumed the Chair of the Committee of Ministers of the Council of

Europe; AI expressed concerns that Serbia had failed to fulfil the commitments made on joining the Council of Europe in 2003.

Final status of Kosovo

Kosovo remained part of Serbia - administered by the UN Interim Administration Mission in Kosovo (UNMIK). Talks on the future status of Kosovo had concluded in October 2006 without agreement between Serbia and Kosovo. At the end of January Martti Ahtisaari, the UN Secretary General's Special Envoy for the Future Status Process for Kosovo (Special Envoy), presented his draft "Comprehensive Proposal for the Final Status of Kosovo" to the Contact Group (France, Germany, Italy, Russia, United Kingdom and USA), and to Serbia and Kosovo's negotiating teams on 2 February. Serbia refused to accept the proposal, in particular on the grounds that it violated Serbia's sovereignty and territorial integrity. Further negotiations amending the proposal were held in Vienna from 21 February; Serbia again rejected the plan on 9 March.

The final "Comprehensive Proposal for the Kosovo Status Settlement" (Ahtisaari Plan), accompanied by a short "Report" was presented to the UN Security Council (SC) on 26 March, in which the Special Envoy called for Kosovo to be granted "independence supervised by the international community". The Ahtisaari Plan proposed that the Kosovo authorities would have jurisdiction over all legislative, executive and judicial matters, with a European Security and Defence Policy (ESDP) mission responsible for international judiciary and prosecutors and an international police force, under the authority of an International Civilian Representative with overall responsibility for ensuring the implementation of the settlement. The plan provided for the protection of Serbian cultural and religious heritage; the right to return of refugees; the protection of minority communities, and the establishment of majority-Serb municipalities.

With the exception of Russia (on whose initiative a delegation from the SC travelled to Kosovo at the end of April), the Contact Group advocated implementation of the Ahtisaari Plan. No agreement on an SC resolution had been reached by the end of June; a succession of resolutions proposed by the EU and US were rejected by Russia, who suggested it might use its veto in the SC. In Kosovo, proposals for a unilateral declaration of independence in the absence of such a resolution were mooted.

The process of transferring government responsibilities from UNMIK to the Provisional Institutions of Self Government (PISG) in Kosovo continued.

Impunity for war crimes: proceedings at the Tribunal (Update to AI Index: EUR 01/001/2007).

Carla del Ponte, Chief Prosecutor to the Tribunal, continued to express serious concerns at the lack of cooperation by the Serbian authorities, until the arrest of former Bosnian Serb general Zdravko Tolimir on 31 May. The Assistant Commander for Intelligence and Security of the Bosnian Serb Army had been indicted for genocide and crimes against humanity on charges including conspiracy to commit genocide, extermination, murder, persecutions, forcible transfer and deportation of the Bosnian Muslim population, including in Srebrenica and Žepa. He was reportedly arrested in the Republika Srpska (RS) in Bosnia and Herzegovina (BiH), near the border with Serbia, as a result of a tip-off by the Serbian police. The arrest was made by RS police, assisted by the EU-led peacekeeping force (EUFOR) in BiH and by BiH state police.

Zdravko Tolimir surrendered to the Tribunal on 1 June, but claimed on 4 June that he had been arrested in Serbia and unlawfully transferred across the border. On 17 June, in cooperation with the Tribunal and the Montenegrin authorities, Serbian police arrested former general Vlastimir Đorđević - indicted for war crimes in Kosovo, and

previously believed to be at large in Russia – in the Montenegrin seaside resort of Budva.

Proceedings continued against former Yugoslav National Army (JNA) officers known as the "Vukovar Three", indicted for crimes against humanity and violations of the laws or customs of war for their responsibility for the evacuation of at least 264 Croatian men and two women from Vukovar Hospital in 1991, and their subsequent murder.

Proceedings continued against six senior political, police and military officials indicted for crimes against humanity and violations of the laws and customs of war in Kosovo. Former deputy Serbian president Milan Milutinović, former deputy prime minister Nikola Šainović, former General Chief of Staff (later Minister of Defence) Dragoljub Odžanić, former police colonel general Sreten Lukić (later Assistant Interior Minister), former Yugoslav Army colonel generals Nebojša Pavković and Vladimir Lazarević were jointly charged with crimes against humanity and grave violations of the Geneva Convention.

In June, the Chief Prosecutor criticised the Kosovo Police Service (KPS) for failing to protect some 15 prosecution witnesses due to testify against Ramush Haradinaj, fearing that insufficient evidence against the former Kosovo Liberation Army (KLA) leader and former Prime Minister of Kosovo might lead to proceedings being dropped.

On 26 February, the International Court of Justice (ICJ) ruled in a case brought by BiH that while Serbia had not committed genocide at Srebrenica, Serbia had breached the Genocide Convention by failing to prevent genocide at Srebrenica and to punish those responsible for it; the ICJ called on Serbia to honour its obligations under the Genocide Convention by handing former general Ratko Mladić, indicted for genocide and complicity in genocide, over to the Tribunal.

Serbia

Domestic war crimes trials (Update to AI Index: EUR 01/001/2007).

Between 32 and 35 cases of war crimes were reportedly under investigation by the War Crimes Chamber of the Belgrade District Court although the number of prosecutions remained low.

On 11 April four former members of the "Scorpions" paramilitary unit were convicted of war crimes for the killing in 1995 of six Bosniak civilians from Srebrenica at Godinjske bare near Trnovo in BiH, and sentenced to between five and 20 years' imprisonment. The prosecutor appealed the acquittal of one defendant and the five-year sentence of one of the convicted men.

The Humanitarian Law Centre, a non-governmental organization (NGO), considered decisions by the Supreme Court reversing guilty verdicts in cases appealed from the War Crimes Chamber to be unfounded. The court had in December 2006 overturned the conviction for war crimes of JNA soldiers who took part in the murder of non-Serbs at Ovčara farm in 1991 (see "Vukovar Three", above); the retrial began in March.

The trial continued of eight former police officers indicted on 25 April 2006 for the murder of 48 ethnic Albanian civilians in Suva Reka in March 1999. Proceedings had opened in October 2006.

The war crimes prosecutor Vladimir Vučković, assisted by the Tuzla cantonal prosecutor, continued investigations into the killing and deportation of Bosniaks by Serbian paramilitary forces near Zvornik in BiH in June 1992.

Enforced disappearances

On 28 February four further suspects were arrested on suspicion of murder of the three Albanian-American Bytici brothers in Kosovo in July 1999.

Seven years after investigations opened, indictments had still not been issued in connection with the transfer in 1999 of the bodies of ethnic Albanians in refrigerated trucks to Serbia. On 4 June exhumations commenced at the instigation of the war crimes prosecutor at the alleged site of a mass grave in a quarry on the border with Kosovo thought to contain up to 500 bodies reportedly buried in 1999; no bodies were found.

Political killings (Update to AI Index: EUR 01/007/2005)

On 16 February Milorad "Legija" Luković-Ulemek and Radomir Marković were convicted in a retrial and again sentenced to 15 years' imprisonment each for the 1999 assassination attempt on former foreign minister Vuk Drasković.

On 23 May Milorad "Legija" Luković-Ulemek and Žveždan Jovanović were convicted and sentenced to 40 years' imprisonment in prison for their respective roles in the murder of former president Zoran Djindić. Ten others were convicted (five in absentia) and sentenced to between eight and 37 years imprisonment. During the 41-month trial several witnesses had been killed and both judges in the case threatened.

Discrimination against minorities

Between January and April the NGO Youth Initiative for Human Rights documented 61 ethnically and religiously motivated incidents, including cases of "hate-speech" against Albanians, Croats, Bosniaks, Hungarians, Roma, Ruthenians and Vlachs, ranging from attacks with explosive devices to verbal abuse by fans at football matches.

Law enforcement officers often failed to bring perpetrators to justice: Zivota Milanovic, a member of the Hindu religious community in Jagodina, who had been assaulted five times since 2001, was on 29 June stabbed in the stomach, arms and legs after opening his door to his assailant who falsely claimed to be a police officer.

In June, the UN Committee on the Elimination of Discrimination against Women (CEDAW) urged Serbia to address inadequate health-care services for women, especially for Roma and rural women, including access to information and counselling on family planning. CEDAW also noted that illiteracy rates were "alarmingly high" and urged the authorities to pay "special attention ... to achieving equal access [to education] for marginalized groups of women and girls, in particular of the Roma minority". UNICEF, the UN children's agency, reported that "Over 80 per cent of Roma children living in Roma settlements are poor and practically all indicators point to their unacceptable deprivation and multidimensional discrimination".

Detentions in counter-terrorism operations (Update to AI Index EUR 01/001/2007).

In 18 March four men believed to be of the Wahhabi faith from Novi Pazar were arrested on suspicion of allegedly planning terrorist operations and charged with conspiring against Serbia's security and constitutional order; a fifth man Nedžad Memić fled and is still at large. Two other men were later arrested after the discovery of an alleged Wahhabi camp near Sjenica in mid-March. Another man, Ismail Prentić, was killed in a similar raid in the village of Donja Trnava near Novi Pazar. Another three men were arrested in June.

AI was concerned about the arrest and subsequent detention of Bekto Memić, the father of Nedžad Memić. Initially arrested on 17 March in connection with the search for his son, he was released seven days later. Aged 68 and in poor health, he was again arrested on 13 April at a clinic in Novi Pazar where he was receiving treatment. According to his family he was ill-treated on the journey to the hospital wing of Belgrade central prison, where he has been held in investigative detention on charges of alleged terrorism and the unlawful possession of weapons.

In a separate development, on 4 April Ižet Fijuljanin was convicted and sentenced for the attempted murder of three members of the Wahhhabi faith in November 2006 after they had allegedly tried to take over a mosque in Novi Pazar.

Human Rights Defenders (Update to AI Index: EUR 70/016/2005).

In June a coalition of NGOs including Women in Black, the Lawyers Committee for Human Rights and The Anti-Trafficking Centre called on the Serbian Parliament to apply the UN Declaration on Human Rights Defenders. They highlighted the risks, including physical violence, prosecutions and public stigmatization, to which women defenders in Serbia were exposed, and the impunity enjoyed by the perpetrators of such attacks.

Violence against women

In their consideration of Serbia's report on implementation of the UN Convention on the Elimination of Discrimination against Women (Women's Convention), the Committee for the Elimination of Discrimination against Women (CEDAW) expressed concern at the prevalence of domestic violence and the apparent reduction in penalties. They recommended the adoption of a national action plan on gender equality and the adoption of a law to consolidate existing provisions within the Criminal Code. CEDAW similarly urged Serbia to adopt a draft National Plan against Human Trafficking.

Kosovo

International scrutiny

(UNMIK) failed to provide responses to the UN Human Rights Committee (HRC) in connection with impunity for war crimes, including enforced disappearances, and conditions for the return of refugees, requested within six months of the HRC's consideration of UNMIK's report in July

2006. The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in March visited places of detention in Kosovo including police stations, prisons, psychiatric institutions and the NATO-led Kosovo Force (KFOR) detention centre at US Camp Bondsteel.

Impunity for the International community

In February Marek Nowicki, the former international Ombudsperson in Kosovo, was appointed chair of the Human Rights Advisory Panel (HRAP), established in March 2006 to provide persons in Kosovo with access to remedies for acts and omissions by UNMIK. The HRAP had not convened by the end of June.

On 30 May the Grand Chamber of the European Court of Human Rights ruled inadmissible two cases in which persons in Kosovo sought redress and reparations for violations of their rights by members of KFOR. The court considered that the acts and omissions of UNMIK and KFOR could not be attributed to the respondent states (France and Norway), did not take place on the territory of those states nor by a decision of their authorities.

Agim Behrani had sought redress under Article 2 of the European Convention on Human Rights (on the right to life) in the case of his 12-year-old son Gadaf, who had been killed in May 2000 by an unexploded cluster bomb, which a multi-national contingent of KFOR led by France had failed to detonate or mark; his younger son Bekim was severely injured. The second applicant, Ruzdhi Saramati had complained about the deprivation of his liberty by the commander of KFOR (at that time a Norwegian) and the denial of access to a court where he might challenge the legality of his detention, from 13 July 2001 until 26 January 2002, despite orders for his release issued by the Supreme Court in June 2001.

Unlawful killings by UNMIK Civilian Police

Mon Balaj and Arbën Xheladini were killed and Zenel Zeneli seriously injured during a demonstration on 10 February, called by the NGO Vetëvendosje (Self Determination) against the Atishaari plan. An investigation by the UNMIK Department of Justice established that the men had been killed by members of the Romanian Formed Police Unit, who had been deployed to the largely non-violent demonstration, and had discharged apparently out-of-date rubber bullets which killed and injured the men (see also AI Index: EUR 70/002/2007).

Despite requests by UNMIK and by AI, on 21 March 2007 the Romanian authorities withdrew from Kosovo 11 police officers who had been assisting the investigation and who were reportedly in possession of crucial information. Two reports on the investigation, in April and June, concluded that the deaths of Mon Balaj and Arbën Xheladini were caused by "improper deployment of rubber bullets by at least one and perhaps two Romanian gunners", but that there was insufficient evidence to bring a criminal prosecution. The June report also criticised the complete breakdown of UNMIK police's command and control operation on 10 February.

Fair trial standards: detention rights

The International Helsinki Federation (IHF) expressed concerns about the legality of the detention of Albin Kurti, leader of Vetëvendosje, detained on offences relating to the 10 February demonstration; charges relating to endangering the lives of UN personnel were dropped in June. The judge had refused the IHF access to Albin Kurti while in pre-trial detention on the grounds that he was a "category A" detainee, exclusively under the jurisdiction of the international community. In May, without having been charged, Albin Kurti was released into house arrest, where he was prohibited from contact with the media or with Vetëvendosje; AI considered detention without charge under such conditions to be tantamount to deprivation of liberty. The

IHF was also concerned about reports of collusion between the international judge and the prosecution in determining the conditions of his release.

AI was very concerned at the detention for 15 months of A.B, an Indian national and mother of two children, who was arrested on 23 February 2006 on charges related to the smuggling of migrants (her full name is known to AI). She was initially held for 45 days without any evidence being provided to her defence lawyer. Repeated appeals against her detention failed. She was indicted on 29 December 2006; according to her defence lawyer, her contact with him until that date had been limited to four five-minute phone conversations. A.B. remained in detention until 1 June, when she was released having agreed to plea to lesser charges for which she was given a two-year suspended sentence, and ordered to leave Kosovo. No evidence was presented in court. She remained in Kosovo at the end of June, unable to leave to join her children in India, as the prosecutor had yet to return her passport.

Inter-ethnic and return-related violence

In February, the HLC reported that although members of some minority communities had enjoyed increased freedom of movement and integration, this was not the case for Serbs and Roma. Ethnically motivated attacks continued and perpetrators were only occasionally brought to justice. Most attacks involved the stoning of buses carrying Serb passengers by Albanian youths. In some cases, grenades or other explosive devices were thrown at buses or houses, including in north Mitrovica/ë. Roma and other minority groups reportedly informed KFOR that they no longer reported such incidents.

Orthodox churches were looted or vandalized on 34 occasions between 19 February and 1 June. In March the windows of the Orthodox Church of St. John the Baptist in the centre of Pejë/Peć were broken, as were those of St. Nicholas church in Pristina; an attack with a rocket

propelled grenade on the Orthodox monastery in Dečan/Dečani in [date] was widely condemned; the Kosovo Police Service (KPS) reported that a suspect had been identified, but had failed to arrest him by the end of the period under review.

An Ashkali male was shot dead by unknown individuals outside his home in April. His funeral on 9 May, was reportedly attended by Ashkali community leaders from across Kosovo who reportedly requested that the KPS, KFOR and UNMIK protect their community against further violent attacks and warned that similar incidents could lead to a mass exodus of Ashkalis from Kosovo.

AI expressed concerns at plans by EU and Council of Europe member states to forcibly return to Kosovo up to 90,000 persons with temporary protection status, and including persons from minority communities, before conditions for their return in safety and security could be established.

Enforced disappearances and abductions

According to the International Committee of the Red Cross 2,087 persons, including 1,300 Albanians, 500 Serbs and 200 members of other minorities remained unaccounted for. On 16-17 May in Ohrid, Macedonia, a conference organised by the International Commission on Missing Persons (ICMP), brought together both Serbian and Albanian relatives of the missing. The ICMP expressed concerns over the transfer of competencies to the PISG Ministry of Justice.

Exhumations by the Office of Missing Persons and Forensics (OMPF) continued. Between 23 and 25 May 2007, for example, 10 previously unidentified bodies were exhumed from Piskote cemetery near Prizren; on 29 May 2007, OMPF staff examined a potential mass grave site located near the village of Rëvatskë/Rvatska in Leposaviq/Leposavic, believed to hold the bodies of some 27 Kosovo Albanians from Mitrovicë/Mitrovica. On 31 May the OMPF exhumed two bodies, believed to be those of a Kosovo Serb

couple missing since the war, from the village of Zallq/Žac, in Istog/Istok.

In June the Acting Ombudsperson found that the competent authorities had failed to conduct an effective investigation into the enforced disappearance on June 1999 of N.N. Although the Ombudsperson had initially addressed the failure of UNMIK police to conduct an investigation, the withdrawal of his jurisdiction over UNMIK limited the report to the conduct of the KPS and the district public prosecutor (DPP), who having been informed of the case in October 2004 had failed to conduct an investigation with due diligence. Neither UNMIK police nor the KPS had responded to the few requests made by the DPP in the case.

Violence against women

Trafficking of women into forced prostitution continued; according to the KPS the majority of them were internally trafficked within Kosovo. Concerns were raised about the continued failure to implement an administrative directive giving effect to provisions in the 2001 trafficking regulation, providing assistance and support to trafficked persons.

The Ombudsperson reported on the continuing failure of the judiciary to implement the provisions of UNMIK [Regulation No. 2003/12](#), "On Protection against Domestic Violence", relating to protection orders, which were not issued within the time specified by law.

In June the CEDAW requested UNMIK and the PISG to provide a report on the implementation of the Women's Convention no later than in June 2008.

SLOVAK REPUBLIC

**Forced sterilization of women
(update to AI Index: POL
10/001/2006 – Slovakia)**

On 22 January, the Constitutional Court demanded the reopening of an inquiry into the forced sterilisation of three Romani women. In a landmark decision, the Constitutional Court asked the Košice regional court to compensate the three women who were subject to forced sterilisations between 1999 and 2002. The three women were also to be awarded damages of 50,000 Slovak koruna (approximately 1,420 euros). Until that point the national authorities had always refused to admit that any forced sterilisations took place in the country's hospitals, only recognizing that there were "procedural shortcomings" regarding the sterilisation of some patients.

Discrimination and intolerance

According to a survey released on 10 May by the League for Mental Health, a non-governmental organization (NGO), Slovak schoolchildren are often intolerant of Roma, Hungarians, refugees and the homeless. The survey showed the psychologists' opinion that children follow their parents with their signs of intolerance against those groups.

On 8 June, the UN Committee of the Rights of the Child (CRC) made public its concluding observations on Slovakia's compliance with the Convention on Rights of the Child. The CRC expressed its concerns about discrimination and segregation experienced by minorities, Roma in particular, in the areas of education, health care and housing and also about the continuing incidents of excessive use of force by police officers. The CRC pointed out that Slovakia's Anti-Discrimination Act does not provide protection from discrimination in the areas of social security, healthcare, education and provision of goods and services on the grounds of ethnicity, disability, religion or belief, and sexual orientation. The CRC was also concerned that parents do not want

their children to have any contact with Roma children from residential homes and that citizens have, in some cases, rejected by referendum the existence of a children's home in a municipality, causing the re-location of the home.

Forced Evictions

On 23 January the NGOs Milan Simecka Foundation, Centre on Housing Rights and Evictions and the European Roma Rights Centre released a report on what they described as a wave of forced evictions experienced by Roma in Slovakia. The report signalled a number of causes for the increased number of forced evictions which included: amendments to the Civil Code in 2001 which weakened the legal position of tenants in municipal housing by removing the requirement for a court order for an eviction and reduced the obligations on local authorities to provide alternative housing; reforms to the social assistance system in 2004, which included a fundamental revision of housing allowances and the rights of the unemployed, weakening the ability of indigent tenants, particularly Roma, to regularly pay their rent and utility costs; a historical long-term neglect of the problem of non-paying of rents and utilities and the resistance of local authorities to using mechanisms to assist Roma pay back debts; the practice of excessive billing of Roma tenants by utilities for services such as water and energy; and municipalities moving Roma from housing in central locations, and placing them in newly built but segregated and very low quality buildings on the outskirts of towns or allocating them poor housing bought in small towns.

Attacks against foreigners and minorities

Members of minorities and foreigners continued to be subjected to racist attacks, which the police sometimes appeared reluctant to adequately respond to.

On 10 March a 30-year-old man from Nigeria was reportedly verbally and physically assaulted in Bratislava. The attackers allegedly shouted: "What are you doing here, negro?! This is not Africa!" and knocked him to the ground, according to the NGO People Against Racism (PAR). PAR reported that when police arrived on the spot and the man pointed out his attackers, the police officers allegedly told him: "Shut up, you're not in Africa!" PAR fears that the lack of police commitment could constitute a trend which could encourage such attacks in Slovakia as this was the fourth attack reported by the organization in March. The other three incidents were an attack on Mexican students and a Spaniard; on a group of Vietnamese; and on a young Romani man who was seriously injured and robbed.

Attack on a Hungarian student (update to AI Index: POL 10/001/2007 – Slovakia)

Ethnic Hungarian student Hedviga Malinová lodged a complaint with the Constitutional Court after the police halted a criminal prosecution opened in relation to the alleged ethnically motivated attack on her by two men in Nitra on 25 August 2006, after she was heard speaking Hungarian. On 1 June the Constitutional Court dismissed her complaint, ruling that she could address it to local prosecutor's office or to the general prosecutor. A police investigation in 2006 had concluded that she fabricated her account, and on 14 May criminal proceedings were opened against her for alleged perjury after a man accused her the previous November of giving false testimony. The man had killed himself on 4 May.

Refugee and asylum issues

In January, amendments made in December 2006 to the Law on Foreigners entered into force. The amendments transposed into Slovak legislation the European Union's so-called Asylum

Qualification Directive.⁶ As a result people in danger of suffering serious violations such as torture or the death penalty if returned forcibly to their country of origin, but who have been rejected by definition of refugee status, [not sure what this means? Is it eg but whose application for refugee status has been rejected?] will enjoy subsidiary protection and the right to stay in the country. Victims of human trafficking will be also allowed now to prolong their stay in Slovakia to obtain a residence permit and to work.

With regard to asylum issues, the UN's refugee agency, UNHCR, remained concerned about Slovakia's reluctance to grant asylum to refugees. The government's Migration Office reported that in 2006, Slovakia only granted refugee status to eight people from a total of 2,871 applicants.

Threat of deportation of an asylum-seeker to Algeria

During the period under review AI approached the Slovak authorities twice regarding Algerian national Mustapha Labsi, who remained in custody following his deportation from Austria to the Slovak Republic on 2 May. His family and lawyer had been unable to contact him since the deportation. They and AI feared that he might have been at imminent risk of deportation to Algeria – or might, indeed, have already been returned there -- where he faced a real risk of human rights violations.

Mustapha Labsi was detained by authorities in the UK in February 2001, on suspicion of links to a suspected terrorist group in Germany. No charges were brought against

⁶ Council Directive 2004/83/EC, of 29 April 2004, on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted

him in relation to this investigation, but in May 2001 he was re-arrested and detained pending extradition to France, to face charges of conspiracy to supply forged documents and conspiracy to possess forged passports for a purpose connected with acts of terrorism. Eventually, having been detained in Belmarsh high-security prison for more than four years, he was extradited to France in 2006. Once in France he was tried and convicted on charges of forging documents but released shortly afterwards, in view of the length of his detention pending extradition in the UK.

On release Mustapha Labsi travelled to the Slovak Republic, where his wife is from, to see his family. Once in the Slovak Republic he sought asylum, whereupon he was once again detained. According to his lawyer he was told that his claim for asylum was to be rejected and he was to be expelled from Slovak territory. Before the final appeal against this decision could be heard, he was handed over to the Austrian authorities, and again detained, pending determination of a claim for asylum in Austria. On 2 May, whilst a decision of the Austrian High Court on this matter was reportedly still awaited, he was once again expelled from Austrian territory into the custody of the Slovak Republic. AI fears that there is a serious risk that he will now be deported from the Slovak Republic to Algeria, particularly in the light of his former unsuccessful claim for asylum in the Slovak Republic, and in the light of a warrant for his arrest which is reportedly outstanding in Algeria.

On 15 May and on 7 June AI wrote to the Interior Minister of the Slovak Republic, requesting urgent clarification of Mustapha Labsi's current whereabouts, and of the possibility of any proceedings being instigated against him with a view to returning him to Algeria. AI also requested information on the current legal status of Mustapha Labsi. AI expressed its concerns that if extradited to Algeria Mustapha Labsi would face the risk of secret detention, torture or other ill-treatment, and unfair trial proceedings. Additionally, Mustapha Labsi could face the death penalty, which is carried by certain charges related to

"terrorism" in the Algerian Penal Code. By the end of the period under review AI had received no substantive response from the Slovak authorities.

SLOVENIA

The "erased" (update to AI Index: EUR 001/001/2007)

The Slovenian authorities failed to restore the status of a group of people known as the "erased" and to ensure that they have full access to economic and social rights, including their right to employment, pensions and health care. Moreover, those affected by the "erasure" continue to be denied access to full reparation, including compensation. The "erased" include at least 18,305 individuals unlawfully removed from the Slovenian registry of permanent residents in 1992. They were mainly people from other former Yugoslav republics, many of them Roma, who had been living in Slovenia and had not acquired Slovenian citizenship after Slovenia became independent. Of those "erased" in 1992, some 12,000 had their permanent residence status restored, but only with effect from 1999 or later. Others have remained without Slovenian citizenship or a permanent residence permit.

The Slovenian government continued to claim it was seeking a solution to the problems of the "erased" through the adoption of a constitutional law allowing for the restoration of the status of permanent residents of the "erased", on a case-by-case basis. Reportedly, opposition parties have insisted that the issue should be resolved in accordance with existing Slovenian Constitutional Court decisions, which have required that the status of permanent residents of those affected by the "erasure" be restored retroactively. The adoption of a constitutional law requires a wide consensus and a two-thirds majority in the Slovenian parliament. Moreover, the proposal to deal with the issue of the "erased" through a constitutional law has been criticized, including by organizations

of the "erased", for deliberately delaying a solution of the problem, for being an attempt to circumvent existing Constitutional Court decisions and for excluding other forms of reparation for the human rights violations suffered as a result of the "erasure".

In February the European Commission against Racism and Intolerance (ECRI) made public its third report on Slovenia, which had been adopted in June 2006. ECRI inter alia deplored "the fact that, as a result of the non-implementation by the Slovenian authorities of the decision of the Constitutional Court, it is still not possible for approximately 6,000 people to regain the rights of which they were unlawfully stripped over fifteen years ago". ECRI urged the Slovenian authorities to restore the rights of the "erased" and called for the "resumption and finalization of the process of issuing supplementary decisions granting retroactive permanent residence rights, and the adoption of a legal framework enabling those 'erased' persons who have not yet secured permanent residence or Slovenian citizenship to have their rights reinstated in a manner that is as fair and generous as possible".

In May the European Court of Human Rights issued a partial decision on the admissibility of an application filed in 2006 by 11 "erased" people, claiming that the "erasure" resulted in violations of a number of rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. Having decided to examine the admissibility and merits of the case together, the European Court of Human Rights considered that, on the basis of the case file, it could not determine the admissibility of the complaint concerning the overall situation affecting the applicants and the failure to afford retrospective recognition of permanent residence (Article 8), the lack of an effective legal remedy in that respect (Article 13), the allegedly discriminatory treatment (Article 14) and the denial of pension benefits (Article 1 of Protocol No. 1). The European Court of Human Rights decided to give notice of

these parts of the application to Slovenia to submit its written observations. Other parts of the application were declared inadmissible.

Discrimination against Roma (update to AI Index: EUR 001/001/2007)

The Slovenian authorities failed to fully integrate Romani children in the Slovenian educational system and tolerated in some cases the creation of special groups for Romani children, where often a reduced or simplified curriculum is taught. On 3 May AI wrote to the Slovenian Minister of Education and Sport, requesting information and clarifications on a recently conducted evaluation of the so-called "Bršljin model", which is being implemented at the Bršljin School in Novo Mesto. This model provides for the creation of separate groups of children experiencing difficulties in certain subjects. Teachers in Bršljin admit that such groups are composed mostly, and in some cases only, of Romani pupils. This model had been criticized in Slovenia by education experts for being de facto a continuation of the old segregation approach. The Slovenian authorities had claimed, including in communication with AI, that evaluation of the "Bršljin model", has shown that such model does not result in the segregation of Romani children and that it simply involves the temporary placement of pupils in groups for those children who do not perform sufficiently well in certain subjects. However, at the end of the period under review, AI had not received further details on the evaluation and its outcome.

In its third report on Slovenia (see above), ECRI called on the Slovenian authorities to ensure that all measures provided for in the Strategy for the Education of Roma in the Republic of Slovenia are implemented in practice and that time frames, resources, responsibilities, outcomes and monitoring mechanisms are clearly set out in order to facilitate implementation; to ensure that no Roma child without learning disabilities is sent to a special needs school; to promptly address any instances of separate Roma classes in schools; to strengthen their

efforts to: recruit a number of Roma teaching assistants that meets the needs; improve participation of Roma children in pre-school education; extend provision of Romani language classes; ensure that curricula for all children reflect Roma culture, history and identity and promote appreciation for diversity.

In April a Law on the Romani Community in the Republic of Slovenia entered into force with the purpose of regulating the legal status of the Romani community. The Law has a very limited number of provisions dealing with the inclusion of Roma in education which stipulate that the Republic of Slovenia should create the conditions for the inclusion of Roma in education and for an improvement in their educational level including through a policy of scholarships. The Law however does not define in detail the framework through which the right to education of members of Romani communities is to be fully realized.

In June residents of Cesta v Gorice, on the outskirts of Ljubljana, protested against plans to resettle there members of the Strojan family, who had previously lived in the village of Ambrus. Since October 2006, they had mostly continued to live in temporary accommodation after having been forced to leave their homes under police escort, when targeted in ethnically motivated attacks by ethnic Slovenes. Impunity remained for the perpetrators of ethnically motivated attacks which had forced the Strojan family to leave Ambrus.

SPAIN

General background

Basque Country issues

Following the attack of the armed group Euskadi Ta Askatasuna (ETA) on the airport in Madrid on 30 December 2006 the Spanish president, José Luís Rodríguez Zapatero, declared an end to the dialogue process opened following the group's declaration of a permanent ceasefire on 22 March 2006. On 5 June ETA formally

announced in the media that it was ending its ceasefire.

Elections in the autonomous community of the Basque Country were held on 27 May. In the run up to the elections legal action was brought by the public prosecutor against two parties presenting candidates in the Basque Country region. In the case of the Basque Patriotic Socialist Union (Abertzale Sozialisten Batasuna, ASB) the public prosecutor argued that the newly formed party was a de facto continuation of the banned Batasuna party, allegedly the political wing of ETA, and as such should be banned outright from the elections. The second case concerned the Basque Nationalist Action (Acción Nacionalista Vasca- Eusko Abertzale Ekintza, ANV-EAE) party, which has operated legally for a number of years. The prosecutor argued that many of its lists of candidates had been "infiltrated" by former Batasuna members. On 5 May the Supreme Court ruled unanimously to ban all 246 candidature lists presented by ASB and 133 of the ANV's lists. The ANV appealed against this decision to the Constitutional Court, but on 10 May the decision of the Supreme Court was confirmed. AI has previously raised concerns that the ambiguity of the 2003 Law on Political Parties could lead to the banning of parties which had similar goals to armed groups but did not condone or use violence, in violation of the Spanish Constitution, the European Convention on Human Rights and the International Covenant on Civil and Political Rights.

In June the main spokesman for the banned Batasuna party Arnaldo Otegi, was sentenced to 15 months' imprisonment and seven years barring from public office on charges of "glorifying terrorism" as a result of his tribute to an ETA activist on the 25th anniversary of his death.

Migration

Statistics available at the start of the year from the Canary Islands Autonomous Community government confirmed that the

number of migrants arriving on the islands in 2006 exceeded 31,000 – a figure almost seven times higher than that of 2005. At the end of May the same source reported that the number of migrants arriving in 2007 was down by 63% compared to the same period in 2005. The Minister of the Interior, Alfredo Pérez Rubalcaba, stated on 21 February that Spain had repatriated over 99,000 irregular migrants in the course of the year, an increase of 7% compared to 2005.

The non-governmental organisation (NGO) Human Rights Association of Andalucía (Asociación Pro Derechos Humanos de Andalucía, APDHA) claimed that at least 1,167 people died during 2006 attempting to migrate irregularly to Spanish territory. Spanish authorities put the figure far higher, at an estimated 6,000 deaths, although the true total is impossible to gauge.

On 12 June the Interior Ministers of EU countries discussed proposals put forward by Malta and supported by Franco Frattini, Commissioner for Justice, Liberty and Security, to create a mechanism to distribute amongst EU countries the migrants intercepted at sea on Europe's southern border. Franco Frattini also requested states to provide more material resources for Frontex.

A new bill has been presented to the Spanish parliament to modify previous legislation to allow for the extraterritorial prosecution of people trafficking.

Extra-territorial processing of migrants and asylum-seekers

On 30 January 2007, the Spanish sea rescue service intercepted a vessel, *Marine I*, with 369 people aboard. It is believed that the passengers were from Asia and Sub-Saharan Africa and were travelling to the Canary Islands. The Spanish rescue service assisted the boat to a position 12 miles off the coast of Mauritania where it remained stranded off the coast for almost two weeks until an agreement was reached between the Mauritanian and Spanish authorities on 12 February to allow the boat

to land in Mauritania. Part of the agreement allowed the Spanish authorities to manage the welfare and processing of the migrants and asylum seekers in Mauritania.

The Spanish authorities agreed to process the asylum claims of nine Sri Lankans on board, who were transferred to the Canary Islands. Despite a positive report from UNHCR, the United Nations refugee agency, their asylum claims were rejected. The Spanish Commission for Refugee Aid (Comisión Española de Ayuda a Refugiados, CEAR) wanted to launch an appeal on their behalf but they were deported before CEAR had time to do this.

The remaining 360 migrants were detained in a disused fish factory in Mauritania in overcrowded conditions that could amount to cruel, inhuman and degrading treatment or punishment. They were made to stay in one area of the factory, had to sleep on the floor and were reportedly prevented from leaving this area by Spanish police officers. They were not allowed to go outside and had to request permission to use sanitary facilities.

On 11 April 2007 the newspaper *El País* reported that of the 369 migrants who were on board the *Marine I*, 23 still remained in Mauritania; 35 were returned to Guinea-Conakry, 161 to India, 115 to Pakistan and 35 were transferred to the Canary Islands.

AI received allegations that the remaining 23 men were held in a room that measured 25m². According to reports received before their transfer to Mauritanian jurisdiction, their physical and mental health had seriously deteriorated and they showed symptoms of severe anxiety and stress.

On 4 July AI wrote to the Spanish government to express concern regarding the continued detention of the 23 migrants and possible asylum-seekers in Nouadhibou, the conditions of their detention, possible inadequacies in the processing of asylum claims and risk of refoulement. No reply had been received by the end of the period under review.

Interceptions at sea

AI continued to be concerned by violations of the rights of migrants and asylum-seekers attempting to reach Spanish territory. In March a boat, *Happy Day*, was intercepted by an Italian vessel operating under the European Union (EU) border control force (Frontex) approximately 80 miles off the coast of Senegal apparently heading towards the Canary Islands. Some 260 irregular migrants and possible asylum-seekers were on board the boat, operated by a Georgian crew. On Spanish orders the boat was directed to return to Senegal, accompanied by the Frontex vessel, but the Senegalese authorities refused to accept the boat. It is claimed that Spanish authorities then instructed the Frontex crew to accompany the boat back to Guinea-Conakry (believed to be its original departure point). An agreement had allegedly been reached between the Spanish government and the crew of *Happy Day* that if they returned the boat to its port of origin they would not be prosecuted for people trafficking. The following day the Spanish Ministry of Foreign Affairs issued a statement retracting the one made the previous day and claimed that it had formally requested the government of Guinea-Conakry to bring legal action against the crew and had sought help from the International Organisation for Migration (IOM) to repatriate the migrants to their country of origin. A spokesperson for the government of Guinea-Conakry denied all knowledge of this request. The Frontex boat accompanied *Happy Day* to the edge of its area of jurisdiction (between Senegalese and Guinean waters) where they were obliged to send the boat on alone. *Happy Day* then spent a week anchored at the port of Kamsar in Guinea-Conakry as the authorities refused to allow the migrants to disembark. On 3 April in a statement to *El País*, a spokesperson for the Spanish Ministry of Foreign Affairs stated that he no longer considered Spain to be an interested party.

Return of unaccompanied minors

Human rights organisations continued to raise concerns regarding the return alone of unaccompanied minor migrants and asylum-seekers to Morocco and other North and West African countries without ensuring adequate opportunities for them to seek asylum where appropriate and with inadequate legal and physical protection. Two NGOs, CEAR and SOS-Racismo presented reports on this topic to the National Ombudsman (Defensor del Pueblo) and to political parties. Furthermore, statistics published in February by the Ministry of the Interior indicate that the probability of a migrant minor being returned to their country of origin is greatly influenced by which Spanish Autonomous Community their case is processed in. Although it is the national government which orders the repatriation of migrants, autonomous governments are responsible for putting the order into effect through their own resolutions. As a result, over half of the minors repatriated from Spain in 2006 were repatriated from the autonomous community of Madrid (despite the fact that Madrid does not receive an equivalent number of minor migrants), according to media reports. AI is particularly concerned by the lack of protection guarantees in these expulsions.

Death during deportation

On 9 June the irregular migrant and Nigerian citizen Osamuyia Akpitaye died during his attempted forcible deportation from Spain to Nigeria. According to witness reports the two law enforcement officers accompanying Osamauyia Akpitaye on the Iberia flight from Madrid to Lagos tied his feet and hands and gagged his mouth, allegedly with adhesive tape, to counteract his resistance to being deported. Some witnesses also claim to have seen police officers beating him. Osamuyia Akpitaye died shortly after take off and the plane was forced to return to Spain, where it landed at Alicante at approximately 6.30pm. An autopsy determined his cause of death as asphyxiation. The victim's family

claimed that they received no communication from the police or other Spanish authorities to inform them officially of Osamuyia Apitaye's death. AI was told by the brother of the deceased man that he discovered the death when he received a telephone call from a friend who was on board the aborted flight to Nigeria and personally witnessed the incident. On 10 June he went to the police station in Torrejón, Madrid, to ask for information but was told that they had no knowledge of his brother's death and only knew he had been deported. They referred him to the Nigerian embassy in Madrid but when the family made further enquiries they discovered that the embassy had no knowledge of the death.

AI wrote to the Minister of Interior to express its grave concerns over the death and to reiterate concerns over the use of force and immobilisation techniques employed by law enforcement officers during expulsions. AI highlighted that the recommendations of international organisations relating to regulating the use of force in expulsions are not codified in official expulsion procedures ("Procedimiento para el traslado por vía aérea de nacionales de terceros países sobre los que hayan recaído resoluciones de expulsión") and called on the government to conduct an urgent and comprehensive review of official expulsion procedures and restraint techniques to ensure they comply with international human rights standards. AI also called on the Spanish authorities to respect the absolute prohibition on the use of adhesive tape and gags, as recommended by the Council of Europe Commissioner for Human Rights (Recommendation concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders, 19 September 2001, in particular Articles 12 – 18, and the prohibition of handcuffs during take-off and landing).

Police ill-treatment

AI continues to receive allegations of police ill-treatment, torture and excessive use of force and investigated numerous incidents during research missions to the country in March and June.

In April evidence became public from an operation initiated by the Director General of police in Catalonia following numerous allegations of ill-treatment in the Mossos d'Esquadra (autonomous police) station in Les Corts, Barcelona. Secret cameras installed in the station had captured video evidence of two incidents of apparent excessive use of force on detainees. In one incident a handcuffed female detainee is seen apparently being slapped in the face by a female officer. The same woman claims that she was subsequently subjected to a further beating, not captured on camera, which resulted in 38 bruises. In the second video recording, a man is beaten and forced to the ground by four officers. Both victims have brought criminal complaints against the officers involved, which are currently under investigation. The officers have all been suspended from duty pending the outcome of the inquiries. The Mossos d'Esquadra trade unions have all called for the suspension order to be lifted, some arguing that the use of force captured in the video recording was necessary and proportionate. Following the incidents the autonomous regional government has announced plans to install video cameras in all areas of Mossos d'Esquadra police stations within a year. The autonomous regional government is also in the process of creating an independent police oversight body which will have powers to demand information on allegations of ill-treatment and excessive use of force.

On 20 May Sergio Carmona González died after allegedly falling from a Mossos d'Esquadra police car taking him for an identity parade. Police sources allege that he climbed onto the roof of the car while it was in motion and died when he lost balance as the driver braked. The family of the deceased man claim he was beaten by

officers and thrown from the car. A judicial investigation into the incident was opened in Investigating Court 2 of Badalona, which ordered officers from the Civil Guard to conduct the inquiry.

In an unrelated case, the investigatory phase of a case brought against six Mossos d'Esquadra officers for assault, degrading treatment, illegal detention and falsification of official documents was closed at the end of June and referred for trial. Lucian Padurau was allegedly beaten and threatened during arrest in July 2006 when he was mistaken for a man wanted on robbery charges. His wife, three months pregnant at the time, was also violently handled and has presented a complaint of ill-treatment to the same court.

The criminal investigation into the death of Juan Galdeano Martínez (the so-called "Roquetas case") ended on 27 April with the conviction of three Civil Guard officers and the acquittal of another five. The officers were on trial for involvement in the death in custody of Juan Galdeano Martínez at the Roquetas del Mar police station on 24 July 2005 (see AI Index: EUR 41/010/2005). The commanding officer José Manuel Rivas was convicted for assault and degrading treatment and sentenced to 15 months' imprisonment, three years' disqualification from office and a fine. Two other officers were convicted of injury and abuse of authority, and fined. The public prosecutor had requested a three year and six month prison sentence for José Manuel Rivas (reduced from an original request of 11 years). The private prosecution asked for seven years and three months. The public and private prosecutions both submitted appeals, considering that there had been an error of law in the process which had led to the imposition of such low penalties. The defendants also appealed.

Violence against Women

According to official statistics from the Women's Institution of the Ministry of Labour and Social Affairs 68 women were killed by their partner or ex-partner in 2006,

representing a 13 per cent increase on the statistics from 2005. The number of women killed by other family members increased by 50 per cent to 18. Criminal complaints lodged for domestic violence increased by 8.4 per cent.

AI has expressed concern over Spain's measures to combat violence against women as being insufficient. Specifically, the organisation has highlighted the fact that many women have no legal assistance when they make a complaint of abuse; many have no access to specialised attention centres; some cases are heard by non-specialist courts; the specialised training for some judges, prosecutors and police is not available to all; some lawyers' associations do not have sufficiently resourced or specialised roster services; prosecutors and police fail to investigate cases in depth if the woman retracts her complaint, despite the offence being a publicly prosecutable crime; and irregular migrant women are impeded from accessing necessary services. AI also highlighted the importance of doctors having adequate training in this area to be able to detect evidence of abuse and report it.

On 7 March senators from the Socialist Party (Partido Socialista Obrero Español, PSOE) proposed an amendment to the Equality Law which would oblige persons reporting domestic violence to the police to testify against their abusive partner in court. At present immediate relatives and spouses are exempt from the obligation to testify against each other. The move is intended to prevent cases of domestic violence being closed due to lack of evidence when the victim is the only witness. However, the possibility of imposing sanctions against the accuser if they decide to withdraw their complaint or refuse to testify has not been resolved.

Counter-terrorism*11-March trial*

On 15 February the trial began in the case of the 29 men accused of involvement in the 11 March terrorist attacks on commuter trains in Madrid in 2004 which killed 191 people and injured more than 1,800. AI sent observers to witness the opening stages of the trial. Several of the suspects have alleged ill-treatment during detention, particularly in the period of incommunicado detention immediately following arrest.

At the start of May 13 of the suspects spent approximately one week on hunger strike (in some cases refusing both food and water) in protest at what they declared as the "unfounded" accusations against them. The chief judge in the case warned that their actions would not lead to a suspension of the trial which he said would continue in their absence, and the hunger strike was abandoned shortly after.

On 30 June the oral hearing was closed for the judges to retire for sentencing.

Guantánamo Bay interviews

In February news came to light that Spanish police officers had visited the detention centre at the US naval base in Guantánamo Bay on up to three occasions under the government of Prime Minister José María Aznar (Popular Party, PP) between 2002 and 2003, allegedly to interrogate prisoners without judicial authorisation and/or facilitate the return of Spanish nationals to Spain. It is alleged that many of those interviewed by Spanish officials were not Spanish nationals. Following the visits, two men were returned to Spain (one a Spanish national, Abderrahman Ahmed, the other a Moroccan national resident in Spain, Lahcen Ikassrim) and placed on trial. In July 2006 they were ultimately acquitted on the grounds of lack of evidence, after the Supreme Court declared all evidence originating from Guantánamo Bay null and void (see AI Index: POL 10/001/2007).

TURKEY**Armed clashes and bombing of civilians**

There was a marked increase in clashes between the armed separatist Kurdistan Workers' Party (PKK) and Turkish armed forces during the first six months of the year with recorded casualties markedly higher than during the same period in 2006. In response to the increased conflict three temporary security zones were declared on 9 June covering the areas of Siirt, Şırnak and Hakkari. Given the record of human rights abuses during the time when a state of emergency was in effect, such a declaration raised concerns that further abuses may occur.

A number of bombings resulted in the death or injury of civilians. In Izmir a bomb exploded in a marketplace on 12 May killing one person and leaving 14 others injured. The bomb went off the day before thousands of people were expected to join a demonstration in support of secularism in Turkey. No group claimed responsibility for the attack. On 22 May a suicide bombing in Ankara claimed the lives of eight civilians and injured more than 120 people. The motive and target of the attack remained unclear but it was speculated that the head of the armed forces, General Yaşar Büyükanıt, may have been the target as he was due to pass through the area where the bomb went off. Turkish authorities claimed that the person suspected of carrying out the suicide attack was a supporter of the PKK but the organization denied any involvement in the bombing.

Some progress was made finding those responsible for previous bomb attacks. In the Ümraniye district of Istanbul arrests were made after the discovery of a weapons dump containing hand grenades and detonators on 13 June. Investigations continued into the connection between the weapons dump and the attack on *Cumhuriyet* newspaper offices in May 2006 in which hand grenades of the same type were used. A retired army officer was among those arrested.

Violent Attacks and killings

Turkey witnessed an increased climate of intolerance in which journalists, human rights defenders and others attempting to voice dissenting opinions were subject to violent threats and attacks by ultranationalist groups.

On 19 January Turkish-Armenian journalist and human rights defender Hrant Dink was shot dead. Hrant Dink, 53, was a passionate promoter of the universality of human rights who appeared on different platforms with human rights activists, journalists and intellectuals across the political spectrum. Best known for his willingness to debate openly and critically issues of Armenian identity and official versions of history in Turkey relating to the massacres of Armenians in 1915, Hrant Dink also wrote widely on issues of democratization and human rights. AI believed that he was targeted because of his work as a journalist who championed freedom of expression. He had been repeatedly prosecuted under Article 301 of the Penal Code that criminalizes "denigrating Turkishness". The suspected gunman was alleged to have stated that he killed Hrant Dink after seeing him on television making statements which "denigrated Turkishness". (see AI Index: EUR 44/001/2007)

On 23 January in Istanbul as many as 100,000 mourners attended the funeral procession, many of them carrying placards declaring "We are all Armenians" and "We are all Hrant Dink" in an unprecedented show of solidarity.

The trial of the suspected gunman and 17 others who are alleged to have taken part in the murder of Hrant Dink was scheduled to start on 2 July. AI was deeply concerned over the conduct of the Turkish authorities both in the period leading up to the killing and during the subsequent investigation of the murder.

For several months prior to his death, Hrant Dink had been receiving death threats and

had informed the Şişli public prosecutor in Istanbul. According to the indictment one of those being brought to trial in connection with his death had also acted as a police informer and had repeatedly told police of the plan to assassinate Hrant Dink in the months leading up to his death. Nevertheless, the authorities failed to take the necessary steps to ensure protection for him.

Before the investigation into Hrant Dink's death started, the Istanbul Police Chief made a statement to the effect that Hrant Dink's murder was not politically motivated or organized but rather the act of a lone gunman on the basis of nationalist sentiments. AI was concerned that such a statement, coming so quickly after the incident, not only could have jeopardized the impartiality of the subsequent investigation but also illustrated an official reluctance to examine the full scope of the case.

AI was also concerned about footage that appeared in the media of law enforcement officers posing with the suspected gunman in front of a Turkish flag as if he was a "hero". Such footage contributes to the perception that some sections of law enforcement agencies may be biased.

On 18 April two Turkish nationals and a German citizen were killed in Malatya. The men reportedly had their hands and feet bound together and their throats cut. All staff members of the *Zirve* Christian publishing house, they had previously been subjected to threats from nationalist groups. AI considered the violent killings to be an attack on freedom of expression and religion and urged the Turkish authorities to condemn all forms of intolerance and discrimination and to ensure that the killings were promptly, independently and effectively investigated, with all suspected perpetrators brought to justice. By the end of the period under review charges had been brought against four men caught at the scene of the attack and against one woman who allegedly aided the group (see AI Index: EUR 44/006/2007).

On 1 April supporters of the Turkish Communist Party (*Türkiye Komünist Partisi*,

TKP) were attacked by unidentified assailants in the Ereğli district of Zonguldak in the Black Sea region of Turkey while attempting to gather signatures for a petition entitled "We are not afraid of the USA". The group fled after being stoned by the group of attackers that reportedly swelled to around 500 people. Police prevented the lynching of one TKP supporter and made eight arrests, the majority being TKP supporters.

On 4 June two Kurdish seasonal workers in Adapazarı in the Sakarya province of Turkey were subjected to an apparently racially motivated mob attack by unknown assailants. At the time of writing no charges had been brought in connection with the attack.

AI was particularly concerned that in the context of such attacks on 8 June the Chief of General Staff issued a press release containing the following statements: that individuals and organizations that support peace, freedom and democracy were being "used as a screen for the terrorist organization," and that "the military call for the Turkish nation to demonstrate a mass reflective reaction to acts of terror." In the context of increasing attacks demonstrating intolerance against members of the public the intervention from the head of the armed forces could be considered to be inflammatory, provoking further violence.

Prosecutions limiting basic freedoms / Prisoners of Conscience

Those exercising their rights and basic freedoms continued to be prosecuted under unfair laws, with some such prosecutions resulting in convictions.

In February AI urgently reiterated its concerns in the case of eight men convicted after an unfair trial solely on the basis of their non-violent political beliefs (see *Turkey: Justice Delayed and Denied: The persistence of protracted and unfair trials for those charged under anti-terrorism legislation* (AI Index: EUR 44/013/2006) and UA 31/07: *Prisoners of*

Conscience/Unfair Trial (AI Index: EUR 44/002/2007)). Evidence against them was largely based on statements allegedly extracted under torture. Following their convictions, the men were at liberty pending apprehension. By the end of the period under review, at least four of them had been imprisoned. AI considered them to be prisoners of conscience.

On 13 April, 50 officers including from the Anti-Terrorism Unit reportedly entered the offices of weekly magazine *Nokta* in the Bakırköy district of Istanbul, with a search warrant issued by the Bakırköy public prosecutor upon a complaint filed by the military prosecutor in the office of the Chief of the General Staff. *Nokta* had published an article about the relationship between certain unnamed civil society groups and the military on 5 April, seemingly arousing suspicion that *Nokta* staff or associates had gained access to confidential military information. *Nokta* believed the raid was a violation of the right to freedom of expression. AI was concerned that the raid may represent a pattern of increased military intervention against those who legitimately express views deemed to be unacceptable (see AI Index: EUR 44/005/2007). Subsequently, cases were brought against the journalist, Ahmet Şık, and defence expert, Lale Sariibrahimoğlu, based on Article 301 of the Turkish Penal Code.

Human rights groups were subjected to additional scrutiny and made the subject of attacks which represented threats to freedom of expression and association. In January AI Turkey's bank accounts were frozen and on 30 May a decision of illegal fundraising was issued by the local authorities from the district of Beyoğlu, Istanbul. AI wrote to the national authorities expressing concerns that the freezing of AI Turkey's bank accounts may amount to a tactic of harassment intended to impede its legitimate fundraising activities (see AI Index: EUR 44/010/2007).

Conscientious objectors (update to AI Index: EUR 01/001/2007)

On 26 January, following his release from detention pending his continuing trial, conscientious objector Halil Savda alleged he was ill-treated by military personnel in the military barracks in Tekirdağ where he had originally been summoned to perform military service. Halil Savda reported that he was pushed against a wall, kicked in the legs and hit by an officer and two guards until he fell to the floor. The kicking reportedly continued while he was lying on the floor, with the perpetrators shouting, "you are a traitor, you are a terrorist". Apparently as a result of the incident, Halil Savda's face was swollen and he was left with a split and bleeding lip. He reported that he was subsequently taken to a room with no chair or bed where he stayed for three days, sleeping on the cement floor without a blanket. On 12 April Halil Savda, a conscientious objector since 2004, was sentenced to six months in prison for "insubordination". AI considered him a prisoner of conscience.

Torture and ill-treatment

The non-governmental organization, the Human Rights Foundation of Turkey reported that the number of allegations of torture and ill-treatment outside official detention facilities showed an increase during the period under review. Excessive force by police against individuals arrested for ordinary crimes remained a problem and impunity for law enforcement officials remained a fundamental concern.

Mustafa Kükçe was arrested on 13 June on suspicion of theft and taken first to Dudullu then to Acarlar police station in Istanbul. He was seen appearing healthy by family members when leaving the police station to be transferred to Çakmak police station. Family members wanting to see Mustafa Kükçe at Çakmak police station were reportedly abused by police officers

shouting "dirty gypsies, dirty alevis⁷". When transferred from the police station to the State Prosecutor's Office, Mustafa Kükçe was seen by family members being supported by police officers, apparently unable to walk. He was transferred to Ümraniye Prison where he died. Of the multiple medical reports made, the last recorded marks from blows. A relative described seeing Mustafa Kükçe in the morgue: "There were swollen and open wounds on the knees. I saw an injury on his left shoulder and in his right armpit a swollen wound full of blood. The tips of his fingers were really black. There were marks on the arms. One of his testicles had burst."⁸ Mustafa Kükçe's family launched a criminal complaint against the police officers later that month.

Also of concern was the passing by parliament on 2 June of the Law on the Duties and Powers of Police (*Polis Vazife ve Salahiyetleri Kanunu*). The law, which gave wide-ranging powers of stop and search to the police in an amendment reversing previous reforms, additionally gave the police further authority in the use of lethal weapons. The law allows police officers to shoot escaping suspects in the event that a warning to stop is not obeyed. While the law requires that use of weapons be proportional, required proportionality in the use of lethal weapons in the law is descriptive rather than prescriptive and does not meet international standards on the use of firearms by law enforcement officials.

Prosecution over the Şemdinli bombing (update to AI Index: EUR 44/033/2005)

A setback occurred in the case of the three men prosecuted in the case of the Şemdinli

⁷ Alevis are a Muslim minority considered to be heterodox, and constitute perhaps up to 25 per cent of the population of Turkey.

⁸ *Radikal* newspaper, "İddia: Ölüm nedeni işkence," 22 June 2007

bombing. Ali Kaya and Özcan Ildeniz, both gendarmerie officers and Veysel Ateş, an informant, had each been sentenced to prison terms in excess of 39 years for their part in the November 2005 bombing of a bookshop in the south eastern province of Hakkari. On 16 May the 9th Penal Office of the Supreme Court of Appeals overturned the sentences against the officers, arguing that there had been insufficient investigation. It also recommended that the case should be heard by a military court. In a hearing on 13 June the 3rd Van Heavy Penal Court accepted the Supreme Court of Appeal's decree in reopening the case to further investigation but rejected the judgement that the case should be heard by a military court. The next hearing was scheduled for 11 July.

The killing of Ahmet and Uğur Kaymaz (update to AI Index: EUR 44/008/2007)

On 18 April all four police officers charged with the intentional killing of Ahmet Kaymaz and his 12-year old son Uğur Kaymaz were acquitted. During the trial the police officers claimed that Ahmet and Uğur Kaymaz had died as a result of an armed clash and claimed to have acted in self-defence. In appealing the decision, the lawyer for the Kaymaz family claimed that the forensic medicine reports provided concrete evidence against the testimonies of the police officers and blamed the court of "failing to provide justice".

The case relates to the 21 November 2004 fatal shooting of Ahmet Kaymaz and his 12-year old son Uğur Kaymaz outside their home in Kızıltepe, Mardin, in southeast Turkey. In immediate statements after the shooting, Mardin Governor Temel Koçaklar claimed that two PKK members had been killed in a clash with the security forces. Forensic reports indicate that the father and son were repeatedly shot at close range and that nine bullets had been fired into Uğur Kaymaz's back and four bullets into his arm and hands, and that six bullets had been fired into Ahmet Kaymaz's chest and

stomach and two more into his hand and leg.

Arrests and excessive use of force by police at demonstrations

Newroz⁹ new year celebrations on 21 March for the most part passed without incident. However, on 21 March more than 300 arrests were made including 92 in Istanbul, 68 in Diyarbakır, and 43 in Mersin. Further arrests occurred on subsequent days. In some cases prosecutions were launched on charges of organizing illegal meetings and demonstrations.

On 1 May peaceful demonstrators in Istanbul were met by police using batons and tear gas. In Istanbul police forcibly prevented protesters reaching the main square in Taksim using excessive force. At least eight journalists were among those injured by police who were accused of arbitrarily attacking journalists, bystanders and protestors alike. Relatives of 75-year-old Ibrahim Sevindik claimed that his death was caused by the use of tear gas by police. Although it was not known how many arrests were made it was thought that the number exceeded 800 in Istanbul alone.

Prison Conditions (update to AI Index EUR 01/001/2007)

On 22 January the Ministry of Justice published a circular substantially addressing concerns regarding isolation procedures in F-type prisons. According to the circular, a prisoner could meet with up to 19 other prisoners in groups of not more than 10 to engage in social, cultural or sporting activities for up to 10 hours per week

⁹ Newroz (Kurdish)/ Nevruz (Turkish) is the traditional festival of New Year in the Persian calendar which celebrates the arrival of spring at the March 21 equinox and which is celebrated especially by the Kurdish community in Turkey.

subject to certain conditions. Hunger strike protests held by supporters of the prisoners were halted as a result of the circular. However, six months after the publication of the circular, there appeared to be very limited implementation with prisoners either not being made aware of the changes in regulations, being informed but not allowed to benefit from the regulations, having the regulations subjected to unacceptable conditions such as meetings being restricted to those prisoners in adjacent cells, or meetings cancelled due to bureaucratic hurdles.

Widespread demonstrations were held to protest the continued isolation of convicted PKK leader Abdullah Öcalan together with claims that he was being poisoned by the prison authorities. He is being held as the sole prisoner on İmralı island. A report published on 12 March, produced by doctors sent by the Istanbul coroner's office to examine the claims, found no evidence to support the accusations of poisoning. Protests continued with demands made for an independent medical examination of the poisoning claims. On 20-23 May a delegation of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited the island in order to investigate the allegations of poisoning, conditions of detention and the practical application of Abdullah Öcalan's rights to contact with his relatives and lawyers. The findings had not been published by the end of the period under review.

TURKMENISTAN

Recommendations to new President to address abysmal human rights record

Ahead of Presidential elections on 11 February, AI issued a list of recommendations calling on the next President of Turkmenistan to put an end to stifling freedom of expression, arbitrary detention and torture, and unfair trials, as well as violations of social and economic

rights (AI Index: EUR 61/005/2007). Among other issues, AI urged to immediately and unconditionally release all prisoners of conscience; ensure that all political prisoners and those convicted in connection with the November 2002 alleged assassination attempt on President Saparmurad Niyazov are retried in proceedings which meet international standards on fairness and to which international trial observers have access; to lift travel restrictions imposed on dissidents and their families; and to introduce legislative provisions to ensure that a civilian alternative of non-punitive length is available to all those, whose conscientiously-held beliefs preclude them from performing military service. The organization also published a compilation of individual cases including prisoners of conscience, political prisoners and those that have been subjected to intimidation and harassment solely because of their family relationship with a dissident (AI Index: EUR 61/004/2007).

Lack of transparency of the Citizens' complaint commission

On 19 February newly elected President Gurbanguly Berdimukhamedov established the State commission to review citizens' complaints regarding the activities of law enforcement agencies (Citizens' complaint commission) and he became its chairman. According to the pro-government internet newspaper *turkmenistan.ru*, one of the aims of setting up the commission was to ensure that individual rights and freedoms be defended.

AI was concerned about the lack of transparency in establishing the commission, in publishing its rules and procedures, and in reporting on its work.

AI learnt of some cases where the Citizens' complaint commission passed on the complaints to those government agencies that the citizens had complained about; the replies stated that the complaints were unfounded and no details were given as to how the authorities had investigated the

complaint. For example, Ruslan Tukhbatullin, the brother of Farid Tukhbatullin, who is the director of the non-governmental organization Turkmenistan Initiative for Human Rights (TIHR) and has lived in exile since 2003, complained to the commission about his dismissal from his job in the army in 2005. Ruslan Tukhbatullin was believed to have been dismissed in order to put pressure on Farid Tukhbatullin. Ruslan Tukhbatullin received a reply from the Ministry of Defence, the very agency that had dismissed him. The Ministry stated that his dismissal had not been a violation of his rights.

Speaker of Parliament allegedly imprisoned for political reasons (update to AI Index: EUR 04/001/2007)

According to *turkmenistan.ru*, on 22 December 2006 Ovezgeldy Ataev was dismissed from his post as Speaker of Parliament at an extraordinary session of Parliament. Parliament also agreed that a criminal investigation be opened against him following a request by the Prosecutor General. The Prosecutor General was reported as stating that Ovezgeldy Ataev had "abused [his] office and flagrantly violated constitutional rights of citizens and even [incited] discord between clans". The Prosecutor General stated the latter charge related to Ovezgeldy Ataev's objection to a marriage between his stepson and a young woman earlier that year. As a result, the young woman reportedly attempted to commit suicide.

According to a 27 February report by the news agency *Ferghana.ru*, Ovezgeldy Ataev was sentenced to five years' imprisonment by the Supreme Court of Turkmenistan in a closed hearing. According to the TIHR, Ovezgeldy Ataev was sentenced to four years' imprisonment.

There were allegations that Ovezgeldy Ataev was targeted as part of a power struggle following Saparmurad Niyazov's death. According to the Constitution, the Speaker of Parliament was the

constitutionally designated successor to the President.

The Turkmenistani authorities have often extended punishment to other family members; in this case Ovezgeldy Ataev's wife may have been similarly targeted. Reportedly, Ovezgeldy Ataev's wife stood trial on similar accusations. After the trial, she was believed to have been held in the labour camp for women of the town of Dashoguz near the border with Uzbekistan.

Environmental activist Andrei Zatoka given suspended sentence and released (update to AI Index: EUR 01/001/2007)

On 17 December 2006 Andrei Zatoka was detained by local police at the airport at his home town of Dashoguz. He had been preparing to fly to Ashgabat and then on to Moscow the following day, to meet with members of the non-governmental International Social and Ecological Union and to spend his holidays with his family in Russia. Reportedly, he was initially arrested for an alleged breach of public order. Subsequently he faced four charges, including unlawful acquisition or possession of weapons or explosives, and unlawful circulation of potent or poisonous substances. The four charges carried a maximum penalty of 19 years' imprisonment. There were allegations that he was targeted to punish him for his peaceful work as an environmental activist. On 31 January, Dashoguz City Court sentenced Andrei Zatoka to a suspended sentence of three years' imprisonment and ordered his immediate release.

Geldy Kyarizov continues to be imprisoned (update to AI Index: EUR 01/001/2007)

After a period of almost five months in which the location of prisoner Geldy Kyarizov was unknown and his family had heard rumours that he may have died in detention, his wife was able to visit him in

Turkmenabad labour camp in the eastern Lebap region on 29 January. He was believed to be in a poor state of health and a relative reported "he is a skeleton with skin. His weight now [is] 45-50 kilograms. You will never recognize him. He is like a walking dead body."

On 1 February AI called for immediate intervention on behalf of Geldy Kyarizov, drawing particular attention to his urgent need of medical treatment (AI Index: EUR 61/007/2007). By the end of the period under review the authorities had not provided him with appropriate medical treatment.

Geldy Kyarizov, former director of the Government Association *Turkmenatlary* (Turkmen Horses), has been detained since January 2002. He was sentenced to six years' imprisonment in April 2002 on charges including "abuse of office" and "negligence". It is alleged that the charges against him were fabricated, and that he may have been charged arbitrarily after falling out of favour with the late President, Saparmurad Niyazov. It is believed that Geldy Kyarizov was caught up in the politically motivated clampdown on senior government officials carried out by the government. As part of the clampdown numerous officials were demoted or dismissed from their workplaces, and scores were imprisoned.

Possible prisoner of conscience Vyacheslav Kalataevsky

Vyacheslav Kalataevsky, a leader of a Baptist congregation in the Caspian port city of Turkmenbashi, was detained by officers of the Ministry of National Security (MNS) on 12 March. When questioning him, MNS officers reportedly focused on his religious activities. On 17 March he was reportedly charged with illegal border crossing (Article 214, part 2 of the Criminal Code of Turkmenistan).

The charge reportedly related to an incident back in June 2001 when he was caught up in a wave of deportations affecting

members of religious minorities who did not hold a Turkmenistani passport. Vyacheslav Kalataevsky was born in Krasnovodsk (now: Turkmenbashi) but holds a Ukrainian passport. In 2001 his residence permit was reportedly cancelled without explanation and shortly afterwards MNS officers took him across the border with Kazakhstan, separating him from his wife and seven children. As he had neither money nor foreign travel documents he, together with another Baptist who had also been deported to Kazakhstan, made his way back to Turkmenistan, where Vyacheslav Kalataevsky then lived without residence documents.

After Vyacheslav Kalataevsky's detention in March, his wife Valentina Kalataevskaya was refused permission to visit him for at least five weeks. She told *Forum 18*, the web-based news service working on religious freedom issues, that her request to send a letter to her husband was also turned down.

On 14 May Turkmenbashi City Court sentenced Vyacheslav Kalataevsky to three years' imprisonment for illegal border crossing. There were allegations that the court acted on the orders of the MNS. Vyacheslav Kalataevsky's lawyer was reportedly summoned to the MNS during the trial in order to put pressure on her. During the trial Vyacheslav Kalataevsky was reportedly asked several questions about his congregation that were unrelated to the charge of illegal border crossing. The court of Balkanabad region turned down his appeal on 19 June. At the end of the period under review he was serving his sentence in Seydi labour camp in eastern Turkmenistan.

There are strong indications that Vyacheslav Kalataevsky was targeted – both back in June 2001 and in 2007 – for peacefully exercising his internationally recognized right to freedom of religion. If these allegations are confirmed AI would adopt Vyacheslav Kalataevsky as a prisoner of conscience.

Conscientious objectors

Bayram Ashirgeldiev and Nuryagdy Gairov were detained on 14 June. They were charged with "evasion of call-up to military service" (Article 219, part 1 of the Criminal Code). The two young Jehovah's Witnesses were held incommunicado and their relatives were not informed where they were held. AI adopted them as prisoners of conscience as they were detained solely to punish them for refusing on religious grounds to serve in the army.

Nuryagdy Gairov had previously served a prison sentence to punish him for his conscientious objection to military service. AI had adopted him as a prisoner of conscience and campaigned for his release (see AI index: EUR 61/007/2000).

In Turkmenistan there is no civilian alternative for young men whose conscientiously-held beliefs preclude them from carrying out compulsory military service, and those who refuse conscription face imprisonment under criminal law.

AI considers a conscientious objector to be any person liable to conscription for military service who refuses to perform armed service for reasons of conscience or profound conviction. Their profound conviction may arise from religious, ethical, moral, humanitarian, philosophical, political or similar motives. But regardless of the conscientious base to their objection, the right of such individuals to refuse to carry weapons or to participate in wars or armed conflicts should be guaranteed.

AI does not question the right of governments to conscript individuals into the armed forces, nor does it agree or disagree with the motives of individual conscientious objectors, but it urges governments to give all those liable to conscription the opportunity to perform an alternative to armed service on the grounds of their conscience or profound conviction.

UKRAINE

Violence against women

In February the Ukrainian parliament held the first discussion of a new draft law "On amendments to some legislative acts of Ukraine (concerning improving the legislation of Ukraine to counteract violence in a family)", and recommended that further changes should be made to the draft law. They also proposed amendments to the Law on the Prevention of Violence in the Family and other relevant articles of the Administrative Code, which were broadly in line with the recommendations made by AI in a briefing on domestic violence in Ukraine (see *Ukraine: Domestic Violence – Blaming the Victim* AI Index: EUR 50/005/2006). However, AI was concerned that proposals did not go far enough to ensure that adequate short-term and long-term alternative housing would be made available to victims of domestic violence.

In March, the Cabinet of Ministers adopted the National Anti-Trafficking in Persons Programme covering the period up to 2010. According to the anti-trafficking non-governmental organization, La Strada, Ukraine, the Programme did not provide sufficient indicators to measure its effectiveness and was not provided with enough funding.

The US State Department *Trafficking in Persons Report* published in June highlighted the "failure of Ukraine to provide evidence of increasing efforts to combat trafficking in persons over the last year, particularly in the area of punishing convicted traffickers." According to the report many traffickers received probation rather than prison sentences; there was concern that government officials were involved in trafficking, and that victims were not provided with sufficient protection and rehabilitation services, including witness protection.

International Scrutiny of Torture and Ill-treatment

In May, the UN Committee against Torture (CAT) considered Ukraine's fifth periodic

report on the implementation of the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. AI had briefed the CAT on its concerns (see *Briefing for the Committee against Torture on Ukraine*, AI Index: EUR 50/001/2007). Many of these concerns were shared by the CAT including the return of persons to states where there was good reason to believe that they may be subjected to torture; impunity of law enforcement officers for acts of torture; the failure of the General Prosecutor's office to conduct prompt, impartial and effective investigations into complaints of torture; and the use of confessions as evidence for prosecution which created conditions that may facilitate the use of torture and ill-treatment. The CAT also expressed concern regarding violence against ethnic and national minorities, and the low level of prosecutions for domestic violence.

In June, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report of its visit to Ukraine in October 2005. The CPT found that there had been a "slight reduction as regards the scale of the phenomenon of ill-treatment", but that persons detained by the police still ran a "significant risk" of being subjected to ill-treatment, and even torture, particularly during interrogation. The CPT called on the government to give a clear message of "zero tolerance" for torture and other ill-treatment to all staff of the Ministry of the Interior. The CPT drew attention to the misuse of the Administrative Code in order to bring people into police custody for questioning about criminal offences, the fact that judges often failed to react to allegations of ill-treatment, and that forensic reports in cases of allegations of ill-treatment could only be provided subject to authorization by the police. The CPT received allegations of ill-treatment and verbal abuse by staff working at centres for the reception and dispersal of vagrants. At the Uzhgorod centre for vagrants detainees from sub-Saharan Africa were allegedly forced to strip naked and perform physical exercises in front of staff. The government

had responded that the allegations had been investigated and that several members of staff had been disciplined.

Racism

In April, in a letter to the Prosecutor General, the security service chief, and the Interior Minister, President Viktor Yushchenko asked that measures be taken to arrest and punish anybody defacing Jewish and other memorial sites, and he noted the rise of "extremist" groups in Ukraine.

At a press briefing in Geneva in June, following the murder of an Iraqi asylum-seeker in Kyiv, the UN's refugee agency (UNHCR) expressed concern that racist attacks against asylum-seekers, refugees and other foreigners were increasing. The motives for the murder of the Iraqi asylum-seeker were not clear and a police investigation was under way.

Murder of Georgiy Gongadze (Update to AI Index: EUR 01/012/2005)

The trial against three police officers charged with murdering the investigative journalist, Georgiy Gongadze, in 2000 continued. On 16 February, President Yushchenko awarded former Prosecutor General, Mykhailo Potebenko, the Order of Prince Yaroslav the Wise for his contribution to the building of a law abiding state. Mykhailo Potebenko was Prosecutor General at the time of Georgiy Gongadze's murder in September 2000. In its 2005 decision the European Court of Human Rights found that the prosecutor's office had ignored repeated requests for assistance from Georgiy Gongadze in the weeks before his death, when he reported being followed by state law enforcement officials. "The response of the Prosecutor General's office was not only formalistic," the court stated, "but also blatantly negligent." Moreover, following the recovery of Georgiy Gongadze's headless body, the European Court stated: "The

State authorities were more preoccupied with proving the lack of involvement of high-level State officials in the case than discovering the truth about the circumstances of the disappearance and death of the applicant's husband."

UNITED KINGDOM

Terrorism measures (update to AI Index: EUR 01/001/2007)

Offence of "encouragement of terrorism"

In January, the Parliamentary Joint Committee on Human Rights (JCHR) published its report on the Council of Europe Convention on the Prevention of Terrorism (Convention), which the UK had signed but not, by the end of the reporting period, ratified.

In considering whether the offence of "encouragement of terrorism" created by the Terrorism Act 2006 was compatible with the Convention, the JCHR noted that the UK government had claimed that this offence had been introduced to implement Article 5 of the Convention. The JCHR highlighted differences "between the encouragement of terrorism offence in s. 1 of the Terrorism Act 2006 and the offence of public provocation to commit a terrorist offence in Article 5 of the Convention, each of which makes the scope of the UK offence broader than the offence required to be created by the Convention". In light of this, the JCHR considered that there was "considerable risk of incompatibility with the right to freedom of expression". AI had expressed a similar concern that the scope of the offence significantly exceeded what was required by the Convention (see AI Index: POL 10/001/2007 – UK).

The JCHR also expressed concern that the offence of "encouragement of terrorism" lacked any requirement to prove the danger of a terrorist offence being in fact committed, thereby omitting "an important safeguard". The JCHR also noted that the concept of "glorification" included within the definition of the domestic offence was "too

vague". In light of its concerns, the JCHR concluded that "the Government cannot and should not ratify the Convention because the UK's domestic law is not compatible with it".

Home Secretary announces new terrorism Bill

In June, the then Home Secretary announced that a new Bill with the stated aim of countering terrorism would be brought forward later in the year. Of particular concern to AI was the government's stated belief that the maximum period for which people could be detained by the police without charge under terrorism laws should be extended beyond the existing 28-day limit. AI had opposed the previous extension from 14 to 28 days of the maximum length of pre-charge detention (see AI Index: EUR 01/001/2007).

Lotfi Raissi (update to AI Index: EUR 45/004/2006)

On 21 September 2001 Lotfi Raissi, a 32-year-old Algerian pilot, was arrested for his alleged participation in the attacks on 11 September 2001. He was subsequently detained in a cell at Belmarsh high security prison for 23 hours a day for almost five months, on the basis of an extradition request by the US authorities. In April 2002 a judge dismissed the case, saying that there had been "no evidence" whatsoever to support the allegation that he was involved in terrorism.

In June 2004, Lotfi Raissi asked to be compensated under the Home Secretary's "Ex Gratia Scheme", which exists to compensate victims of miscarriages of justice. The then Home Secretary, however, stated that the scheme was not designed for extradition proceedings and rejected Lotfi Raissi's claim.

In February, the High Court of England and Wales (High Court) endorsed the Home Secretary's position and rejected Lotfi Raissi's claim that the Home Secretary was

wrong in refusing to compensate him. At the end of the reporting period, Lotfi Raissi was seeking to appeal the High Court's ruling.

Control orders (update to AI Index: EUR 01/001/2007)

In March, the High Court held that the restrictions imposed under a control order on a dual UK/Libyan national, known for legal reasons only as "AF", amounted to a deprivation of liberty. In particular, the court paid regard to the cumulative effects of the various restrictions, as well as the possibility that at least some of them would be renewed for a number of years. It therefore quashed the order, but left it open to the Home Secretary to impose a new, "lawful" order on "AF".

In May, the Court of Appeal of England and Wales (Court of Appeal) reversed a February judgment of the High Court concerning a control order imposed on a Tunisian national known for legal reasons only as "E", holding that the cumulative effect of the order had not been such as to deprive him of his liberty. In addition, the Court of Appeal held that, while there had been, as the High Court had found, a breach of the obligation to keep the possibility of "E"'s prosecution under review, quashing the order had not been the appropriate remedy for this failure.

The Court of Appeal also confirmed the finding of the High Court that the cumulative impact of the restrictions on "E"'s children did not violate or risk violating their right to be free from ill-treatment. With respect to the right of "E"'s wife and children to private and family life, the Court of Appeal agreed with the High Court that the "serious interference with the rights of E's innocent wife and children" was justified and proportionate in light of the state's interest in preventing or restricting "E"'s "involvement in terrorism-related activity". "E" was one of those who had been interned without charge or trial and detained at Belmarsh in December 2001, under the now defunct Part 4 of the

Anti-terrorism, Crime and Security Act 2001 (ATCSA). Since March 2005 he had been made the subject of a control order.

In June, there were 17 control orders in force, pursuant to powers in the Prevention of Terrorism Act 2005 (PTA), eight of which were imposed on UK citizens, the remaining nine on foreign nationals. During the review period, one individual was charged with breaching his control order.

Mahmoud Abu Rideh (update to AI Index: EUR 01/007/2006)

In April, Mahmoud Abu Rideh won his control order appeal. The High Court quashed the control order, finding that the restrictions it imposed cumulatively amounted to a deprivation of liberty. Since March 2005 Mahmoud Abu Rideh had been subjected to: residence restrictions; a 12-hour home-curfew; prohibitions on unauthorised visitors to his house or prearranged meetings elsewhere; and other restrictions.

Unprecedentedly, lawyers on behalf of Mahmoud Abu Rideh and his family had also argued that the restrictions had had such a significant impact on his mental health, and that of his children, that they amounted to inhuman or degrading treatment. However, the judge concluded that neither in Mahmoud Abu Rideh's case, nor in his children's, did the evidence before him reach the threshold required for what had been done to amount to inhuman or degrading treatment. The judge also rejected the argument that the rights of Mahmoud Abu Rideh's wife and children to private and family life and freedom of expression had been violated.

In response to the judgment, the Home Secretary was reported as saying:

"To protect the public, I have made a new order against Mr Rideh. However, this is inevitably weaker than the original one, which means that not only is there an increased risk of him absconding but that it is also now more difficult for the police to supervise him

and prevent him from re-engaging in terrorism-related activity."

Mahmoud Abu Rideh is a stateless Palestinian and torture survivor who suffers from severe post-traumatic stress disorder. In 1998 he was granted indefinite leave to remain in the UK. He was initially arrested in December 2001 under Part 4 of the ATCSA, and was held without charge or trial until March 2005. He was "released" on bail prior to the lapsing of Part 4 of the ATCSA in March 2005, and immediately subjected to a control order.

Deportations on "national security" grounds (update to AI Index: EUR 01/001/2007)

The UK authorities continued, as they have since August 2005, to seek to deport people whom they asserted posed a threat to the UK's "national security", instead of bringing them to justice. Those attempts continued despite the fact that there were substantial grounds for believing that the men concerned would face a real risk of egregious human rights violations, including torture, if returned to their country of origin. Some of these men were asylum-seekers in the UK, while others had previously been granted refugee status in the UK.

The UK authorities maintained that these deportation attempts were a last resort, since they did not have sufficient admissible evidence to bring charges against the men. The UK authorities' assertions in relation to these men were, in the main, based on secret information, including intelligence material, never disclosed to the individuals concerned or their lawyers of choice.

AI delegates continued to observe some of the open sessions of some of the judicial proceedings arising from appeals against deportation on "national security" grounds. In February, AI issued a report (AI Index: EUR 45/001/2007), expressing profound concern at these attempted deportations.

"H" and Reda Dendani

In January, Reda Dendani and another Algerian man, known for legal reasons only as "H", were deported from the UK to Algeria. Before deportation, both men had signed documents on the understanding that they would benefit from amnesty measures once back in Algeria. They were given verbal assurances from the Algerian authorities that they were not wanted in Algeria and that they would be likely to spend at worst a few days in detention, as is customary in deportation cases. However, both men were, in fact, arrested and detained following their return to Algeria, and, at the end of the reporting period, faced charges of "participation in a terrorist network operating abroad" (see AI Index: EUR 45/001/2007).

Abu Qatada (update to AI Index: EUR 01/001/2007)

In February, the Special Immigration Appeals Commission (SIAC) dismissed the appeal of Omar Mahmoud Mohammed Othman (also known as Abu Qatada) against his deportation, on "national security" grounds, to Jordan. SIAC discounted ample evidence showing that, if returned to Jordan, Abu Qatada would face a real risk of torture and of other human rights violations, and concluded that a Memorandum of Understanding (MoU) which the UK had concluded with Jordan in 2005 was an effective mechanism to ensure Abu Qatada's safety and humane treatment in Jordan (see AI Index: EUR 45/002/2007).

Appeals against deportation to Libya

In April, SIAC blocked the attempt to deport two Libyan nationals -- known for legal reasons only as "DD" and "AS" -- to their country of origin on "national security" grounds. SIAC found that the men could not safely be forcibly returned to Libya, despite the signing in 2005 of an MoU between the UK and Libya to facilitate deportations.

The UK government had argued that the MoU would be effective in sufficiently mitigating the risk of torture that "DD" and "AS" would otherwise face upon return to Libya. Instead, SIAC concluded that the assurances of humane treatment and of a fair trial upon return which featured in the MoU were unreliable, and that there was a real risk that upon return to Libya "DD" and "AS" would be tried in proceedings that amounted to a "complete" denial of a fair trial, and that they would be sentenced to death. SIAC also concluded that the body jointly charged by the UK and Libya with monitoring the implementation and effectiveness of the MoU, the Qadhafi Development Foundation -- headed by Saif al-Islam, one of Libyan leader Colonel Mu'ammar al-Qadhafi's sons -- lacked the necessary independence from the Libyan authorities, and, therefore, could not fulfil its role effectively.

Moloud Sihali

In May, Moloud Sihali, an Algerian asylum-seeker, won his appeal against deportation on "national security" grounds to Algeria. SIAC ruled that he was not a threat to "national security". Despite having contested his appeal, the UK government eventually conceded before SIAC that Moloud Sihali was not a threat or even a "fanatic". His legal representatives pointed out that the false assertions that the UK government had made against him meant that he was now in danger of political persecution in Algeria and asked that he be allowed to stay in the UK as a result.

Moloud Sihali was among those, including Mustapha Taleb (see below), who, in 2005, were acquitted of all charges in connection with an alleged conspiracy to produce poisons and/or explosives in the UK. He was re-arrested in August 2005 and held pending deportation to Algeria on "national security" grounds.

Algerian test cases in the global fight against torture: update to AI Index: EUR 01/001/2007 and EUR 45/001/2007

In June, the Court of Appeal heard the appeals of three Algerians against their deportation to Algeria on "national security" grounds (see AI Index: EUR 45/009/2007). AI considered these to be important test cases in the global fight against torture.

All three men were appealing to the Court of Appeal against separate rulings handed down by the SIAC in August 2006 and in May 2007. SIAC had held that each man was a "threat to national security", and that it was safe and lawful to deport them to Algeria. The three were: Mustapha Taleb, formerly known as "Y" for legal reasons (see AI Index: EUR 01/001/2007 and AI Index: EUR 45/001/2007); a man known only as "U"; and another man known only by his initials, "BB".

By the end of the period under review the judgment of the Court of Appeal in these cases was pending.

Renditions (update to AI Index: EUR 01/001/2007)

In February, and again in June, AI wrote to the UK authorities outlining the organization's continuing concern about the UK's involvement in the US-led programme of secret detentions and renditions -- that is, the illegal transfer of people between states outside any judicial process -- requesting information, and making a number of recommendations.

In its February letter, AI requested information about certain flight records for an aircraft, a Gulfstream jet registered N379P, which had been linked to the US-led rendition programme since the earliest reports of the existence of that programme. Flight records show that the plane flew to the UK's overseas territory of Diego Garcia in September 2002. Shortly afterwards the plane in question travelled to, among other places, Egypt, Morocco, Afghanistan and Jordan, all of which had been destinations

key to various aspects of the US secret detention and rendition programme.

In April, AI received a reply from the then Foreign Secretary stating that the UK authorities would not “facilitat[e] the transfer of individuals through the UK to places where there are substantial grounds to believe that they would face a real risk of torture”; but that: “[i]f we were required to assist another State in a rendition operation, and our assistance would be lawful, we would decide whether or not to assist taking into account all the circumstances.” Responding in June, AI expressed dismay at the UK government’s overall position on renditions, including the apparent assumption that there might be circumstances in which it would be lawful for the UK to provide assistance to a rendition operation. AI pointed out that at a minimum renditions involved the forcible transfer of people without any legal basis or any recourse to the rule of law, and often amount to kidnapping. Hence, AI stated that it could not understand in what circumstances the UK could lawfully provide assistance to a rendition operation.

AI also expressed concern at the UK government’s focus exclusively on physical transfers of rendition victims through the UK, noting that as such, the government’s position was not enough to prevent the occurrence of this practice. A “no through the UK” policy was not enough, because it failed to address instances whereby the UK, wittingly or unwittingly, may provide material support for rendition operations other than by allowing an airplane carrying a victim to transit through the UK. For example, the government’s position would overlook cases where the UK provided logistical or other support to an aircraft which was not carrying a rendition victim at the time that UK assistance was provided, but which was nonetheless suspected of being involved in renditions.

AI was also concerned that the UK government’s policy on renditions appeared to focus exclusively on the question of whether there were substantial grounds for believing that individuals who may be

subjected to rendition would face a real risk of torture in the places to which they were to be transferred. AI expressed concern at the narrowness of this focus, pointing out that forcible transfer without recourse to legal process was itself a human rights violation, whether or not it resulted in torture. AI noted that renditions, in and of themselves, involved serious human rights violations, which may include ill-treatment short of torture. AI reminded the UK authorities that the prohibition of other cruel, inhuman or degrading treatment or punishment was just as absolute as was the prohibition of torture.

In light of these concerns, AI exhorted the UK authorities to provide a firm commitment that the UK would not facilitate renditions of any individuals in any circumstances, let alone where there were substantial grounds for believing that they would be at a real risk of torture or other ill-treatment or other serious human rights violations.

In addition, having been informed by the Foreign Secretary in her April letter that the UK authorities did not routinely keep records of flights in and out of Diego Garcia, in its June reply AI expressed grave concern at such a failure, given the UK authorities’ awareness of the US-led rendition programme. The organization considered that the UK’s failure to keep such records, as a matter of routine, impaired accountability.

*Bisher al-Rawi and Jamil el-Banna
(update to AI Index: EUR 01/001/2007)*

In April, Bisher al-Rawi, a former UK resident, was returned to the UK and reunited with his family after more than four years in US military custody at the Guantánamo detention camp. Bisher al-Rawi was not charged with any offence on his return to the UK. He, along with his friend Jamil el-Banna, had been in detention since November 2002, when the pair were arrested in Gambia. The UK government had previously tried to disavow

any responsibility for former UK residents at Guantánamo.

While AI welcomed Bisher al-Rawi's release, the organization noted that the UK's belated intervention to secure his release and return occurred only following incriminating revelations about the UK's involvement in the case, including Bisher al-Rawi's alleged relationship with MI5 (the UK's security service).

In her letter to AI in April (see above), the Foreign Secretary stated that "the UK did not request the detention of either of the men [Bisher al-Rawi and Jamil el-Banna] in Gambia and did not play any role in their transfer to Afghanistan and Guantanamo Bay".

In its June letter to the UK authorities (see above), AI pointed out that, since AI became aware of the plight of these two men in 2002, it had emerged that, prior to the departure of Bisher al-Rawi and Jamil el-Banna for Gambia, MI5 officials had told their US counterparts that: a) at the time of the men's arrest (and subsequent release without charge) in the UK, before they left for Gambia, a possible "improvised explosive device" had been found in the men's luggage, while omitting to say that this device had already been examined and shown to be in fact a modified battery charger, commercially available in an unmodified form; b) the UK's interest in the two men stemmed from the suspicion that they were associated with international terrorism; and c) the men intended to travel to Gambia, and subsequently that they had boarded a flight to Gambia, giving details of their arrival time.

In light of all of this, AI considered that the UK was indeed implicated both in the detention of the two men in Gambia and in their subsequent transfer to Afghanistan and Guantánamo Bay. The provision by MI5 of the above-mentioned information to the US authorities had devastating consequences for both Bisher al-Rawi and Jamil el-Banna and their families. Furthermore, the failure of the UK authorities to correct the misinformation that MI5 initially sent to the CIA or to

respond to Bisher al-Rawi's request for corroboration of his relationship with MI5 contributed to the continued detention of Bisher al-Rawi and Jamil el-Banna in Guantánamo Bay.

AI exhorted the UK authorities to: a) establish a full, independent, impartial and thorough investigation into the UK involvement in rendition cases, including those of Bisher al-Rawi and Jamil el-Banna; b) communicate urgently to the US authorities that the UK has no objection to Jamil el-Banna's return to the UK; and c) provide full reparations to both men.

Police shootings

Jean Charles de Menezes (update to AI Index: EUR 01/001/2007)

The family of Jean Charles de Menezes applied to the Appellate Committee of the House of Lords (the Law Lords) for permission to appeal against a December 2006 ruling of the High Court. The latter had dismissed the legal challenge brought by the family against the July 2006 decision of the prosecuting authorities that no individual police officers should be prosecuted for murder or other homicide offences in connection with the killing of Jean Charles de Menezes in July 2005. At the end of the reporting period, the Law Lords' decision on whether to grant permission to appeal was pending.

In June, the High Court dismissed another legal challenge brought by the family of Jean Charles de Menezes against the decision of the Coroner to postpone the inquest into his death until the conclusion of the prosecution of the Office of the Commissioner of Police of the Metropolis under health and safety legislation. However, the High Court indicated that an inquest should be held, whatever the outcome of the criminal proceedings under health and safety legislation, and that an inquest would be essential to comply with the requirements of human rights law.

Forest Gate operation (update to AI Index: EUR 01/001/2007)

In February, the Independent Police Complaints Commission (IPCC) concluded its inquiries into complaints from the occupants of two houses raided by counter-terrorist police in June 2006 in Forest Gate, east London. The IPCC findings included the upholding of a small number of complaints involving treatment in custody, for which an officer received a written warning, and the acceptance that at the time of the operation the police had no choice but to act, although the intelligence on which the operation had been based had subsequently been found to be wrong. The IPCC also found that, although inevitable, given the threat the police genuinely believed they were facing, the tactics they adopted were forceful and aggressive: that the police could and should have changed their response much sooner once in control of the situation, and that people not arrested at the scene should not have been taken to a police station, thereby causing unnecessary anxiety and confusion. The IPCC did not uphold any complaints about excessive force, although it did not question that some of the residents were injured by police actions.

Among other things, the IPCC recommended that: the police needed to plan for the failure of intelligence; the police should consider upgrading or relocating the cell block in Paddington Green Police Station to improve it for longer term detention; and that when innocent people are injured or publicly branded as terrorists as a result of a high-profile operation, the police should make an equally high-profile public apology.

The findings released in June resulted from the second stage of the IPCC's inquiries into the massive police counter-terrorist operation conducted in June 2006, during which police had shot and wounded Muhammad Abdulkahar.

The Al Skeini litigation and the Baha Mousa case (update to AI Index: EUR 01/001/2007)*Court martial*

In March, a court martial of seven UK military personnel ended. The proceedings, which began in the UK in September 2006, concerned allegations that seven UK servicemen stationed in Basra, Iraq -- at a time when the UK was an Occupying Power -- violated the human rights of a number of Iraqis who had been arrested in September 2003.

The men were tried on charges arising from the torture and death -- while in the custody of UK forces in Basra in September 2003 -- of Baha Mousa, a 26-year-old hotel receptionist and father of two, and from the treatment of a number of other Iraqi civilians arrested and detained at a UK military base in Basra at around the same time as him. One of the defendants had pleaded guilty to a charge of inhumane treatment of detainees, a war crime; in April he was sentenced to 12 months' imprisonment, in addition to being dismissed from the armed forces and reduced to the ranks. He was acquitted of the other charges against him. The six other defendants were acquitted of all charges.

The court martial proceedings confirmed that Baha Mousa had sustained multiple injuries as a result of being ill-treated by UK soldiers both at the time of his arrest at a hotel and during his subsequent detention at the British military base in Basra where he died following his torture in custody (see AI Index: EUR 45/005/2007). AI expressed concern that the proceedings had left many questions unanswered, and had underscored the need for the UK to take further action to ensure that justice be done and to revise the manner in which allegations of serious human rights violations by members of its armed forces are investigated.

As General Sir Richard Dannatt, Chief of the General Staff and professional head of the British Army, confirmed in a statement on

30 April, "Baha Musa died after being held in Army detention; post mortem examination show that he had suffered asphyxiation and some 93 injuries to his body. Others held in our detention centre at that time suffered similar treatment."

The Judge Advocate in the court martial stated that numerous individuals, "some identified but the majority not", had been responsible for inflicting unlawful violence on Baha Mousa and other detainees. However, as the Judge Advocate remarked, many of those responsible were "not charged with any offence simply because there is no evidence against them as a result of a more or less obvious closing of ranks".

The Judge Advocate in the court martial also noted that there had been a "wholly unacceptable delay" in bringing the case to trial, and that the use of techniques such as hooding detainees, keeping them in stress positions and depriving them of sleep had become "standard operating procedure" within 1st Battalion the Queen's Lancashire Regiment (1 QLR), whose soldiers were responsible for arresting and detaining the men in question. According to evidence heard in the court martial, these techniques were used to 'condition' detainees for interrogation, with the aim of maintaining the "shock of capture". The Judge Advocate considered that this was evidence of a "serious failing in the chain of command all the way up to Brigade and beyond".

In his statement Sir Richard Dannatt confirmed that the Iraqi detainees:

were subjected to a conditioning process that was unlawful It has always been our policy that all British military personnel deployed on operations must be in no doubt about their duty to behave in accordance with the law. It now appears that this duty was forgotten or overlooked in this case. The Iraqis we took into our custody should have been treated properly and lawfully and they were not. This was not a case of misjudgment [sic] in the heat of battle or the heat of the moment....

The end of this trial does not mean that this incident is now closed. We know how Mr Baha Musa died, but we do not yet know who was responsible. The [Army] Prosecuting Authority and the Service police will consider whether further investigation, in the light of any evidence that has become available during the course of this Court Martial, is appropriate and further formal action might follow.

JCHR scrutiny of 'conditioning' techniques

In May, the JCHR asked the Secretary of State for Defence for an explanation of the apparent inconsistency between the evidence which had emerged during the court martial (see above) of the use of unlawful techniques to 'condition' detainees, and evidence which the UK government had given to the JCHR in the course of its inquiry into the UK's compliance with the UN Convention against Torture, which had included confirmation that the use of hooding and stress positioning for the purpose of interrogation had been prohibited by the UK authorities since 1972.

In June, the then Attorney General told the JCHR that he had "asked for an inquiry" into how UK soldiers in Iraq came to be advised that they could "lawfully" use these unlawful techniques to 'condition' detainees. He described the advice given to the soldiers of 1 QLR, as it emerged in the course of the court martial, as "a matter of grave concern".

The Al Skeini case (update to AI Index: EUR 01/001/2007)

In April, in light of the fact that the death of Baha Mousa at the hands of UK service personnel was one of the cases with which the case of *Al Skeini and Others v Secretary of State for Defence* was concerned, AI wrote to the UK authorities in support of the visa application of Colonel Daoud Mousa -- Baha Mousa's father -- to enter the UK to attend the hearing before the Law Lords. Colonel Mousa eventually withdrew his visa

application; however he only did so when it became clear to him that it had no chance of being processed in time for any meaningful attendance at the hearing. AI considered that the failure of the UK authorities' to grant Colonel Mousa a visa further compounded their failure to comply with their obligation under human rights law to ensure the involvement of the next of kin in the investigation into all the circumstances of his son's death.

The *Al Skeini* litigation arose as a result of the deaths of six Iraqi civilians at a time when, and in the areas of Iraq where, the UK was an Occupying Power under international humanitarian law. Five of the six Iraqis were shot and fatally wounded, in disputed circumstances, in the course of operations carried out by members of UK armed forces. The sixth death was that of Baha Mousa.

In April, on the eve of the opening of the *Al Skeini* case, AI outlined its decision to intervene in the case jointly with 10 other organizations (see AI Index: EUR 45/007/2007)¹⁰. AI delegates then monitored the proceedings before the Law Lords.

In June, the Law Lords dismissed five of the six cases. They ruled, however, that the Human Rights Act 1998 (HRA) did apply to the case of Baha Mousa, but only to his treatment while in detention, and directed that the case should return to the court of first instance, for it to determine whether there had been a violation of Articles 2 and 3 of the European Convention on Human Rights (ECHR), enshrining, respectively, the rights to life and to freedom from torture. By the end of the period under review judicial proceedings had not yet resumed, and the family of Baha Mousa continued to push for the government to

agree to hold an independent inquiry into all of the circumstances of Baha Mousa's death without the case having to return to court.

The Law Lords declined to rule that Baha Mousa had been within the jurisdiction of the UK from the time of his initial detention at the hotel where he worked. Instead, they found that that he had come within the UK's jurisdiction only from the time of his detention at the UK military base in Basra. AI noted (see AI Index: EUR 45/008/2007) that, by so ruling, the Law Lords would deny a remedy in the UK courts under the HRA to anyone tortured by UK agents abroad, as well as to the families of those unlawfully killed by UK agents abroad, in cases where the ill-treatment or the death had occurred anywhere other than at a UK facility.

Further allegations of unlawful killings in Iraq

In May, AI wrote to the UK Defence Secretary expressing concern about the case of Ali Salam 'Abdul Hassan al-Rukabi, an Iraqi student aged 18 who had been shot dead in a Basra district, reportedly by UK troops. According to information received by AI, on 10 April 2007 Ali Salam 'Abdul Hassan al-Rukabi was visiting his uncle's house in Hay al-Muhandissin (Engineers' district) in al-Qibla, west of Basra. According to witnesses, as he stepped outside the house, he was shot, apparently by a UK soldier from a tank positioned in the same street. A neighbour who heard the shot came out of his house and rushed Ali Salam 'Abdul Hassan al-Rukabi to Basra's General Hospital where he was pronounced dead on arrival. He had sustained a fatal shot to the forehead above his left eye. His family said that Ali Salam 'Abdul Hassan al-Rukabi was not carrying any kind of weapon at the time when he was shot.

AI received a copy of an Iraqi police report that referred to UK troops "opening fire indiscriminately at passers-by," killing Mahmoud Ahmad Wahib, a policeman, and

¹⁰ The interveners were represented, *pro bono*, by Keir Starmer QC, Richard Hermer and Azeem Suterwalla of Doughty Street Chambers, by Charles Banner of Landmark Chambers, and by Raju Bhatt of Bhatt Murphy Solicitors.

two civilians, Mahir Jasim Ghodhban and Ali Salam 'Abdul Hassan al-Rukabi. In the police report no details were given as to the exact place and manner in which Ali Salam 'Abdul Hassan al-Rukabi and the other victims were killed.

In light of these allegations, AI requested clarification from the UK authorities regarding the killing of Ali Salam 'Abdul Hassan al-Rukabi, Mahmoud Ahmad Wahib and Mahir Jasim Ghodhban, including whether an investigation into the circumstances surrounding their deaths had been initiated by relevant UK authorities in Basra. AI called on the UK authorities to ensure that a civilian-led mechanism investigate these allegations.

Killings by, or with the alleged collusion of, the UK security forces in Northern Ireland (update to AI Index: EUR 01/001/2007)

Operation Ballast

In January, the Office of the Police Ombudsman for Northern Ireland (OPONI) published a report of an extensive investigation into the circumstances surrounding the death of Raymond McCord Junior in 1997. The report provided a summary of the investigation, known as "Operation Ballast". While the inquiry had begun as an investigation into allegations of collusion between police officers and loyalist paramilitaries in the murder of a single individual, Raymond McCord Junior, it led OPONI to consider the murders of 10 people and 72 instances of other crimes, including: 10 attempted murders; 10 "punishment" shootings; 13 "punishment" attacks; and a bomb attack. Many of the findings gave rise to concerns about current serving officers and practices.

The investigation disclosed institutionalized and systemic collusion between the police and loyalist paramilitaries as recently as 2003. It found that the involvement of some junior officers could not have occurred as it did without the knowledge and support of the highest levels of the Royal Ulster Constabulary (RUC, the name

of the Northern Irish police force until November 2001, when it was renamed the Police Service of Northern Ireland, PSNI), and subsequently of the PSNI. Among the most serious concerns emerging from Operation Ballast were:

- a series of instances when RUC Special Branch officers took steps to ensure that police informants who had committed a crime were protected from other police officers investigating those crimes, including "babysitting" informants through interviews to help them avoid incriminating themselves;
- instances, prior to 2003, when some RUC/PSNI Special Branch officers facilitated the continued engagement of informants in paramilitary activity, including, in some cases, involvement in murder;
- misleading information was prepared for the Director of Public Prosecutions (DPP) and vital intelligence likely to have assisted in the investigation of serious crimes, including murder, was withheld from police investigation teams;
- legally authorized systems for the handling of informants, used elsewhere in the UK, were not used by RUC Special Branch. Moreover, rules introduced by the RUC in 1997 for informant handling were set aside: "A decision was made by chief officers that those rules should not apply to Special Branch". The decision not to adopt these rules meant that it was not possible to attribute responsibility to individual officers for actual breach of rules;
- police practices had significantly changed since 2003, and, as a result of a major review, 12 per cent of police informers had their relationship with PSNI terminated because they were involved in serious crime. OPONI recommended investigating those informants suspected of serious crimes. While

the PSNI Chief Constable accepted this recommendation, it was not clear whether the police handlers of those informers would also be investigated. It was not known whether any prosecutions had followed;

- the poor standard of record keeping by Special Branch was identified as "a further significant obstacle to the [OPONI's] investigation"; "a number of important documents were either missing, lost or destroyed. ...Some material was destroyed routinely by Special Branch who had no effective systems for document retention";
- the majority of a number of retired senior RUC/PSNI officers whose cooperation the OPONI had sought "failed even to reply"; and
- other police officers "including some serving officers, gave evasive, contradictory, and on occasion farcical answers to questions. On occasion, those answers indicated either a significant failure to understand the law, or contempt for the law. On other occasions the investigation demonstrated conclusively that what an officer told OPONI's investigators was completely untrue".

In light of OPONI's findings, AI called for charges to be brought promptly against people wherever there was evidence of a recognizably criminal offence. AI reiterated its long-standing concern over collusion between the security forces in Northern Ireland, including the police, and paramilitary groups. AI also noted that perpetrators of human rights abuses had continued to enjoy impunity as a result of the UK authorities' failure to instigate effective investigations.

UK's compliance with judgments of the European Court of Human Rights

In June, the Committee of Ministers of the Council of Europe (the Committee of

Ministers) adopted its second interim resolution concerning the UK's compliance with a number of judgments of the European Court of Human Rights (ECtHR). The cases in question were brought by the families of individuals who had allegedly been killed by, or with the collusion of, the UK security forces in Northern Ireland (see case updates below). The ECtHR had unanimously held that the UK had violated Article 2 of the ECHR, enshrining the right to life, by failing to instigate adequate investigations into these killings (see AI Index: EUR 45/010/2001; EUR 45/005/2002; and EUR 45/016/2003).

The Committee of Ministers expressed regret that, in all of the cases, "progress has been limited", and that "in none of the cases [has] an effective investigation [...] been completed". The resolution noted that "the necessity of taking such measures is all the more pressing in these cases, considering the seriousness of the violations found and the time that has elapsed since the European Court's judgments became final", and urged the UK to take "without further delay, all necessary investigative steps in these cases in order to achieve concrete and visible progress".

Pearse Jordan (update to AI Index EUR 45/010/2001)

Pearse Jordan, a member of the Irish Republican Army (IRA), was shot dead in 1992 by the members of the RUC in disputed circumstances. At the time of his death he was unarmed.

A coroner's inquest into his death opened in 1995. Since then the inquest has been adjourned on several occasions because of legal challenges to aspects of the inquest procedure brought by Pearse Jordan's family.

In March, the Law Lords gave their decision in the most recent of these challenges, which concerned, among other things, the verdicts which the jury in a coroner's inquest in Northern Ireland is able to deliver. The Law Lords ruled that the

inquest into Pearse Jordan's death could go ahead under existing rules, which do not allow a jury sitting in Northern Ireland to give a verdict of lawful or unlawful killing, unlike inquest juries in England and Wales. However, the Law Lords also ruled that a coroner's inquest could make sufficient findings of fact concerning how the deceased came by his death to resolve any factual conclusions on matters in dispute. In the *McCaughey* case, heard at the same time as the *Jordan* case, the Law Lords held that the Northern Ireland police had a statutory duty to provide the coroner with all the information they had concerning the death, subject to any relevant legal privilege or immunity.

Following the Law Lords' decision in this case, it is now open for the inquest into the death of Pearse Jordan to proceed.

Gervaise McKerr (update to AI Index: EUR 01/005/2004)

Gervaise McKerr, a member of the IRA, was shot dead by officers of the RUC in 1982, in disputed circumstances. RUC officers opened fire on a car that he was driving, killing him and the two passengers, who were also members of the IRA. At the time of their deaths all three men were unarmed.

Although prosecutions were brought, no police officer was convicted. It emerged that senior police officers had concocted a false version of events and instructed policemen to give false testimony. As a result of public concern, John Stalker, a then senior UK police officer, was appointed in 1984 to examine apparent cover-ups in this and other cases where fatalities had occurred as the result of an alleged 'shoot to kill' policy on the part of the RUC. He re-examined the evidence in all the cases and believed that he had uncovered crucial new evidence. He alleged that he was obstructed from carrying out a full investigation, and before completion he was removed from duty. The inquiry was completed in 1987 by Colin Sampson, a UK Chief Constable.

The findings of the Stalker/Sampson inquiry have never been published. In 1988, it was announced that the inquiry had uncovered evidence that RUC officers had attempted or conspired to pervert the course of justice. Nevertheless, because of "national security" and "public interest" considerations, no officer was prosecuted. Disciplinary hearings resulted in 18 officers being reprimanded and one cautioned.

In 1984, a coroner's inquest into the death of Gervaise McKerr was opened. It was subsequently adjourned to await completion of the Stalker/Sampson investigation, and the outcome of two sets of judicial review proceedings. In September 1994, the coroner abandoned the inquest, after the High Court of Northern Ireland set aside the subpoena the coroner had served on the RUC for disclosure of the report of the Stalker/Sampson inquiry.

In 1993, the family of Gervaise McKerr had lodged an application with the ECtHR, alleging that there had been no effective investigation into the circumstances of his death. In 2001, the ECtHR gave judgment in this case and three others (those of Pearse Jordan, above, Patrick Kelly and others, below, and Patrick Shanaghan, below) and found that the investigations carried out by the UK into all of these deaths amounted to a violation of Article 2 ECHR, for reasons including a lack of independence, a failure to conduct the investigations with reasonable promptness, and a failure to provide relevant information – including, in the relevant cases, concerning the findings of the Stalker/Sampson investigation – to the families of victims and to the coroners conducting the inquests into these deaths.

After the HRA came into force in the UK in 2000, establishing in primary domestic legislation human rights that are "expressed in the same terms" as their equivalents in the ECHR, the family of Gervaise McKerr brought fresh legal proceedings seeking to compel the UK government to instigate a new investigation into his death. In March 2004, the Law Lords ruled that the HRA did not have

retrospective effect, and therefore that there was no obligation in domestic law on the government to carry out a new investigation into the death of Gervaise McKerr, since this had preceded the entry into force of the HRA.

According to the information that the UK government provided to the Committee of Ministers during its latest examination of the case, the case of Gervaise McKerr had been referred to OPONI, to "identify possible further evidentiary opportunities and [...] look into the original police investigation conducted". It has been reported that OPONI would be given access to evidence gathered by the Stalker/Sampson inquiry, and would consider whether there were grounds for launching a new investigation into this case. However, concern remained about whether, and if so to what extent, OPONI would be able to secure an effective investigation.

Patrick Kelly and others (update to AI Index: EUR 45/024/2001)

In 1987, during a planned ambush, members of the Special Air Service (SAS), a unit of the UK armed forces, shot and killed a group of eight IRA members – Patrick Kelly, Declan Arthurs, Seamus Donnelly, Michael Gormley, Eugene Kelly, James Lynagh, Patrick McKearney and Gerard O'Callaghan – who were reportedly about to attack an RUC barracks in Loughgall, County Armagh, Northern Ireland. A ninth man, Anthony Hughes, a passer-by who was not a member of the IRA, was also killed by the SAS after he was allowed to drive his car into the area of the attack.

The deaths of these individuals are among 3,000 cases which were being reviewed by the Historical Enquiries Team (HET) of the PSNI. The HET was set up in 2005, with a view to investigating unresolved conflict-related deaths. According to the information that the UK government provided to the Committee of Ministers during its latest examination of the case, "the review process is currently underway. Progress depends on evidential leads, and it is

therefore impossible to assess at this stage when a final conclusion will be reached".

However, families of the victims continued to be concerned about whether, and if so to what extent, the HET would be able to guarantee effective investigations. AI too remained concerned that, despite its lack of independence, it was the PSNI that was continuing to investigate unresolved conflict-related deaths.

Patrick Shanaghan (update to AI Index: EUR 45/010/2001)

In 1991, Patrick Shanaghan was shot dead while driving to work in County Tyrone. The Ulster Freedom Fighters, a Loyalist paramilitary group, claimed responsibility.

Patrick Shanaghan had been an active member of Republican political party Sinn Féin, and the RUC reportedly suspected him of being a member of the IRA. It was reported that Patrick Shanaghan had been harassed repeatedly by the RUC prior to his death, and there were allegations of RUC collusion in his killing.

At the inquest into his death, the coroner agreed to admit evidence that police officers had threatened Patrick Shanaghan's life while he was under arrest on earlier occasions, and that they had threatened to leak his name to a paramilitary group. The High Court of Northern Ireland later quashed the coroner's rulings.

According to the information that the UK government provided to the Committee of Ministers during its latest examination of the case, "the Shanaghan case [...] falls within the terms of reference of the HET, since the perpetrator of the shooting was never identified. The HET are currently reviewing this case to assess if any new evidential opportunities exist."

Dermot McShane (update to AI Index: EUR 45/005/2002)

Dermot McShane was fatally injured in 1996, in the course of a major public disturbance in London/Derry. The ECtHR found, among other things, that the

investigation into his death had not been independent, and that it had not been conducted promptly. It also found a number of shortcomings in the procedure for coroners' inquests in Northern Ireland, and concluded that UK authorities had hindered the application which Dermot McShane's wife had made to the ECtHR, since the RUC had complained to the Law Society of Northern Ireland about her solicitor – a complaint which was dismissed. The Court found that this complaint had had a chilling effect on Mrs McShane's right to petition the Court.

An inquest into his death was opened in May 1998 but adjourned pending the outcome of various judicial review proceedings. According to the latest information provided by the UK government to the Committee of Ministers, "a full-time coroner has now been assigned to this inquest [...]. He is now in the process of attempting to obtain further video footage of the incidents surrounding the death of Mr McShane as well as additional statements. [...] This case will also be reassessed by the HET."

Billy Wright (update to AI Index: EUR 01/001/2007)

In December 2006, the High Court of Northern Ireland gave judgment in the judicial review brought by David Wright, Billy Wright's father, challenging the 2005 decision by the Secretary of State for Northern Ireland to convert the inquiry into Billy Wright's death (the Billy Wright Inquiry) from one held under the Prison Act (Northern Ireland) 1953 (the Prison Act) to one under the Inquiries Act 2005 (the Inquiries Act). David Wright had objected to the conversion in particular because he was concerned that the power of the Secretary of State to terminate inquiries under the Inquiries Act (under section 14) would limit the inquiry's independence.

AI had opposed the conversion, in light of its concerns about the Inquiries Act (see AI Index: EUR 45/004/2006). As a result of these concerns, and in light of the

allegations of state collusion in the killing of Billy Wright, AI had jointly intervened in the challenge brought by David Wright.

The High Court judge had concluded that, while he would not "proceed to consider whether the sections of the Inquiries Act 2005 are incompatible with the European Convention on Human Rights", given that the death of Billy Wright had preceded the entry into force of the HRA, the conversion decision had been unlawful, because the Secretary of State had not taken into account that an inquiry, once converted, would be less independent than one held under the Prison Act.

In June, the Court of Appeal of Northern Ireland reversed the ruling of the High Court, holding that the inquiry's independence had not been compromised by the existence of the Secretary of State's power to terminate it. The Court of Appeal also held that a power to terminate an inquiry set up under the Prison Act must have existed, by necessary implication, and that such a power must have been at least as extensive as that in the Inquiries Act.

In December 2006, it had emerged that more than 800 Northern Ireland Prison Service files relevant to the Billy Wright Inquiry had been destroyed.

Patrick Finucane (update to AI Index: EUR 01/007/2006)

Since the early 1990s, AI has called for a public judicial inquiry into the killing of human rights lawyer Patrick Finucane, who was shot dead in February 1989 by Loyalist paramilitaries in front of his wife and children in Belfast, Northern Ireland. Substantial and credible allegations have emerged of state collusion in the killing (see AI Index: EUR 45/004/2006).

In 2003, the Stevens III team published a summary of its investigation into these allegations. It found evidence of state collusion in the murder of Patrick Finucane and in another murder, that of Brian Adam Lambert. It also confirmed the existence of a secret military intelligence unit known as

the Force Research Unit (FRU), which had actively colluded with Loyalist paramilitaries in targeting people, including Patrick Finucane, for assassination. It found "collusion, the wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, and the extreme of agents being involved in murder." However, the full findings of the Stevens III investigation, like those of the two previous Stevens investigations, have never been made public.

In 2003, the ECtHR ruled that "proceedings following the death of Patrick Finucane failed to provide a prompt and effective investigation into the allegations of collusion by security personnel", and that there had therefore been a violation of Article 2 ECHR.

In the information that the UK government provided to the Committee of Ministers during its latest examination of the case, the UK authorities contended that the Stevens III investigation had given full effect to the Court's judgment in this case. They pointed to the fact that a number of files were submitted by the Stevens team to the Prosecution Service in Northern Ireland in April 2003, for them to consider whether any further prosecutions should be brought (see section below). They also reminded the Committee that the government had taken steps to initiate a new inquiry into the death of Patrick Finucane, to be held under the Inquiries Act 2005. The UK government further contended that "in those cases in which Article 2 [ECHR] is engaged, the [Inquiries] Act is capable of being used to hold an inquiry that will discharge or contribute to the discharge of the state's obligations under that article to provide an effective official investigation."

However, by the end of the period under review, the UK government had yet to establish any inquiry. AI continued to denounce the prospect of an inquiry into the Finucane case held under the Inquiries Act as a sham.

Decision by the Northern Irish prosecuting authorities on Stevens III investigation material

In June, shortly after the Committee of Ministers had adopted the above-mentioned interim resolution, the Director of Public Prosecutions for Northern Ireland (DPP) announced that no further prosecutions would be brought against any individual on the basis of the evidence uncovered by the Stevens III investigation. The announcement came following the review by the Northern Irish prosecuting authorities of the material submitted by the Stevens III investigation.

AI condemned the DPP's decision, and in particular, expressed concern that the announcement had been made after an unconscionable delay -- more than four years after receipt by the prosecuting authorities of many individual files from the Stevens III investigation (see AI Index: EUR 45/010/2007).

Following the DPP's decision the UK Ministry of Defence (MoD) stated to AI: "We welcome the decision. Soldiers have been criticised for long enough and should be left to get on with their lives. The MoD has cooperated fully with the Stevens inquiries". The Irish Taoiseach (Prime Minister), Bertie Ahern, stated:

It is disappointing that the Public Prosecution Service of Northern Ireland has found there is insufficient evidence at this time for further prosecutions arising out of the third Stevens report on collusion between loyalist paramilitaries and the security forces.... The finding does not alter the need for an independent inquiry and to allay any other concerns surrounding this case It is the [Irish] Government's view that the finding adds to the case for an independent inquiry.

The PSNI told AI that it had noted "the statement released by the Public Prosecution Service. Some of the cases mentioned in the statement continue to

form part of the work of the Historical Enquiries Team."

JCHR report on the UK government's response to the ECtHR judgments

In June, the JCHR published a report concluding that, in respect of cases involving the investigation of the use of lethal force by security forces in Northern Ireland, there had been serious delays in the implementation of a series of judgments against the UK by the ECtHR.

The JCHR considered the cases of Jordan, McKerr, Finucane, Kelly and others, Shanaghan, and McShane (see above). It noted with concern that, according to statistics provided by the UK government, and even taking into account the differences between the coroners systems in Northern Ireland and in England and Wales, in 2005 the average time taken to conclude a coroner's inquest was 23 weeks in England and Wales but approximately 105 weeks in Northern Ireland.

UK government announces the establishment of a panel on dealing with the legacy of the past

In June, the then Secretary of State for Northern Ireland announced the establishment of "an independent consultative group to seek a consensus across the community in Northern Ireland on the best way deal with the legacy of the past."

Concern was widespread that that none of the individuals making up the panel appeared to have any experience of human rights, or of transitional justice issues. In addition, there was no involvement on the part of victims' representatives.

Concern was also expressed at the use of this initiative to undermine inquiries and investigations into killings in disputed circumstances, especially those raising allegations of state collusion. In particular, in announcing the initiative the UK government had made no reference to the

key role that the state itself had played in the conflict.

**Asylum-seekers and refugees
(update to AI Index: EUR
01/001/2007)**

Policy on detention following a dispute over the age of an asylum-seeker

In January, the then Home Secretary admitted that the government had operated an "unlawful" policy in respect of the detention of unaccompanied asylum-seeking children whose claim to be under 18 years of age was disputed by the immigration services.

Before a change of policy in November 2005 the government's policy had, in certain circumstances, allowed unaccompanied asylum-seeking children whose age was disputed to be detained alongside adults in Immigration Removal Centres (see AI Index: EUR 45/015/2005).

Some unaccompanied children who were seeking compensation from the government for their unlawful detention had reportedly suffered psychological damage after being held with adults in inappropriate conditions.

JCHR report on the treatment of asylum-seekers

In March, the JCHR published a report on the treatment of asylum-seekers. It concluded that "by refusing permission for asylum seekers to work and operating a system of support which results in widespread destitution, the Government's treatment of asylum seekers in a number of cases reaches the Article 3 ECHR threshold of inhuman and degrading treatment". The JCHR expressed concern about the use of fast-track detention, and about detention of vulnerable people, including survivors of torture, pregnant women and those with serious mental and physical health problems.

In respect of the detention of child asylum-seekers, the JCHR found that the "process

of detention does not consider the welfare of the child". It concluded that the detention of children for the purpose of immigration control is incompatible with children's right to liberty. The JCHR stated that children should not be detained, and that "alternatives should be developed for ensuring compliance with immigration control where this is considered necessary".

The JCHR recommended that "the Home Office policy is further revised, so as to ensure that under no circumstances are age-disputed children detained as adults". It also expressed concern that "[d]espite the welcome change in policy [see above], the Children's Commissioners have seen evidence that some children are still being processed in the detained fast track."

UZBEKISTAN

Relations between the European Union (EU) and Uzbekistan (Update to AI Index: EUR 01/001/2007)

Review of sanctions

Meeting at the beginning of March the European Union's (EU) General Affairs and External Relations Council (GAERC) decided not to review the sanctions – visa and arms bans imposed on Uzbekistan in November 2005 following the government's refusal to conduct an independent international investigation into the May 2005 mass killings in Andizhan – and to postpone discussions to its May session. This happened because Uzbekistan reportedly refused to have a second round of expert talks on the Andizhan killings. A first round had been held in December 2006 in Uzbekistan.

Following the GAERC meeting the German EU Council Presidency announced that the EU expected concessions from Uzbekistan. In his capacity as President of the EU Council the German Federal Minister of Foreign Affairs stated at a press conference in Brussels that the EU was exploring the possibility of cooperation on the international community level. According to

him three issues were being discussed with the Uzbekistani government: the government was expected to make concessions on the issues of granting the International Committee of the Red Cross (ICRC) access to all detention facilities in Uzbekistan; starting a dialogue on human rights with the EU; and continuing with expert meetings between representatives of the EU and the Uzbekistani government. According to the Minister these conditions would have to be met before the EU would discuss the possibility of intensifying cooperation with Uzbekistan.

Consequently at the beginning of April a second round of expert talks was held in Tashkent. Negotiations between the ICRC and the Uzbekistani authorities resumed.

At the beginning of May the first formal EU-Uzbekistan Human Rights Dialogue was held in Tashkent ahead of the GAERC session scheduled for mid-May (see below).

In a letter to the EU Presidency ahead of the May GAERC session AI welcomed the two rounds of expert talks that took place in December 2006 and April in Uzbekistan. However, the organization explained that it held the view that such an initiative could not substitute for an independent international investigation into the Andizhan events. The expert talks did not meet the international standards for an effective, independent and impartial investigation, including the UN Principles on the effective prevention and investigation of extra-legal arbitrary and summary executions. AI was concerned that the EU would send out the wrong signal not only to Uzbekistan, but also to the Central Asian region and other partners if it withdrew its call for such an investigation while human rights in Uzbekistan continued to be violated with impunity.

AI welcomed the holding of a result-oriented human rights dialogue with

Uzbekistan and expressed hope that this dialogue would enable the EU to raise concerns about the human rights situation in the country, and to seek clarification on

developments in individual cases and press for improvements

At the May GAERC meeting the EU Council decided to extend sanctions aimed at Uzbekistan; a visa ban imposed on 12 Uzbekistani officials was extended for six months and an ongoing arms embargo was left unchanged. However, four names were removed from the list of the 12 officials banned from travelling to the EU. Three of these were reportedly no longer in office. In a departure from previous Conclusions, the Council called for the release of human rights defender Gulbahor Turaeva and asked for restrictions on the free movement of released human rights defender Umida Niazova (see below) to be removed. The Council also said that it remained seriously concerned about the human rights situation in Uzbekistan and linked the lifting of sanctions to Uzbekistan's implementation of international human rights standards. The Uzbekistani Ministry of Foreign Affairs responded to the Conclusions, issuing a public statement on 16 May calling the EU decision "unfounded and biased" and an "instrument of systematic pressure on Uzbekistan dressed up in human rights rhetoric."

The second anniversary of the Andizhan events

The GAERC meeting coincided with the second anniversary of the Andizhan events. AI reminded the EU that two years after the Andizhan killings there had been no real progress on human rights in Uzbekistan and the government continued to refuse to allow an independent and international investigation into the killings of hundreds of unarmed people in May 2005. The organization also pointed out that recent events had provided renewed cause for concern. At the same time that the EU Presidency took steps to establish a human rights dialogue with Uzbekistan two human rights defenders and a political activist received long prison sentences. All three were in one way or another linked to the Andizhan killings. AI believed that they, as others, had been convicted on politically

motivated charges and called on the EU Presidency to request the immediate and unconditional release of those considered as prisoners of conscience.

EU-Uzbekistan Human Rights Dialogue

In May AI submitted a briefing paper to the EU Presidency ahead of the first round of the EU-Uzbekistan Human Rights Dialogue, providing background information on four key human rights challenges identified by the organization as persisting in Uzbekistan.

Firstly, AI continued to be gravely concerned about the deterioration of freedom of expression and assembly in Uzbekistan as well as the increased pressure on human rights defenders, civil society activists, political opposition activists and independent journalists. Of particular concern was the continued imprisonment of several human rights defenders, including their limited access to relatives and legal representatives, and the long prison sentences for two human rights defenders and a political opposition activist on reportedly politically-motivated charges handed down in the first half of 2007.

Secondly, the organization remained seriously concerned about continuing persistent allegations of widespread torture or other ill-treatment of detainees and prisoners by law enforcement personnel and the failure by the relevant authorities to consistently, effectively and systematically investigate such allegations.

Thirdly, the Uzbekistani authorities continued to actively seek the extradition of members or suspected members of banned Islamic parties or movements, such as Hizb-ut-Tahrir and Akramia, whom they accuse of participation in the May 2005 Andizhan events. AI was concerned that most of the men forcibly returned to Uzbekistan have been held incommunicado for long periods of time, thus increasing their risk of being tortured or otherwise ill-treated. The organization has also been concerned about allegations that the Uzbekistani authorities have pressured

refugees to return voluntarily to Uzbekistan and that access to those returned has been restricted.

Finally, the organization has been concerned by the refusal of the authorities in Uzbekistan to impose a moratorium on executions, despite a presidential decree introducing the abolition of the death penalty from January 2008.

The briefing paper also set forth a set of recommendations for each of the four areas of concern highlighted and presented individual cases to illustrate the organization's concerns and patterns of persecution and abuse. AI urged the EU Presidency to raise these key issues with its Uzbekistani counterparts

Relations between the UN and Uzbekistan

Fourth Session of the UN Human Rights Council (HRC)

In March the HRC voted to accept the recommendations of its Working Group on Situations to discontinue consideration of Uzbekistan under the HRC's confidential 1503 Procedure. This meant that the mandate of the UN Independent Expert on Uzbekistan appointed under the confidential 1503 procedure was also terminated and that Uzbekistan's human rights record would no longer be under special scrutiny by the HRC. AI had expressed serious concerns in relation to the Uzbekistani authorities' repeated failure to address grave human rights violations in their country. The human rights situation in Uzbekistan was included as one of those requiring the urgent attention and action of the HRC in a document prepared by AI for the HRC's fourth session (see AI Index: IOR 41/004/2007). AI had urged the HRC to continue to be seized of the situation of human rights in Uzbekistan.

Government Crackdown on Human Rights Defenders – Update to AI Index: EUR 01/001/2007)

Silencing dissent

The situation for human rights defenders continued to deteriorate and there was concern that the authorities might further restrict their freedom of speech, assembly and movement in the run-up to the December Presidential elections. In the first four months of 2007 two human rights defenders and an opposition political activist were sentenced to long terms of imprisonment on what appeared to be politically-motivated charges. All three cases were linked either directly or indirectly to the 2005 Andizhan events; Umida Niazova was charged in connection with a report on the mass killings in Andizhan by the non-governmental organization (NGO) Human Rights Watch (HRW) which was found on her laptop; Gulbahor Turaeva, who had worked as a pathologist in Andizhan, had told NGOs that she had seen hundreds of bodies in makeshift morgues; Isroil Kholdorov had told international media about alleged mass graves. Those human rights activists not forced into exile and not in detention were routinely monitored by uniformed or plain-clothes law enforcement officers, called in for questioning to their local police stations, placed under house arrest or otherwise prevented from attending meetings with foreign diplomats, visiting foreign delegations or from taking part in peaceful demonstrations. Human rights defenders continued to report being threatened by members of the security services for carrying out legitimate activities, several reported being assaulted and beaten and detained by law enforcement officers or people they suspected working for the security services.

Harassment of Human Rights Defenders

The case of Bakhtior Khamroev and his son Ikhtior:

In August 2006, Bakhtior Khamroev, the head of the Dzhizzakh section of the independent non-registered Human Rights Society of Uzbekistan (HRSU), was attacked by a group of some 20 women, who reportedly burst into his apartment, accused him of being a traitor to his homeland and beat him up. At the time of the attack Bakhtior Khamroev was meeting with two representatives of the United Kingdom (UK) embassy. Police officers called to the apartment apparently only intervened to stop the women when Bakhtior Khamroev was hit over the head with a blunt object. Bakhtior Khamroev was reportedly refused medical assistance at the local hospital. A UK embassy spokesperson was quoted as saying that it looked like the attack was timed to coincide with the visit of the diplomats.

Bakhtaran Khamroev's 21-year-old son, Ikhtior, was detained at the beginning of August 2006 on a reportedly fabricated charge of hooliganism (Article 277, part two, of the criminal code). It was believed that he was detained as a result of his father's human rights activities. On 25 September 2006, Ikhtior Khamroev was sentenced to three years in prison by Dzhizzakh City Court. He was transferred to a prison camp in the village of Chikurgan in Dzhizzakh Region. On 24 November 2006 an appeal against his sentence was turned down by Dzhizzakh Regional Court. At the end of December 2006 he reportedly complained about stomach problems and asked to see a doctor. According to the HRSU he received no medical treatment and the following day he was handcuffed by prison guards and ill-treated, including by being kicked in the stomach. He was then transferred to a solitary confinement/ punishment cell, but when his stomach pains did not subside the prison director ordered him to be taken to the district hospital to be examined by a

doctor. He reportedly received no treatment at the hospital and was sent back to the prison camp. However, at the beginning of January, his condition deteriorated again and he was transferred to Dzhizzakh regional hospital, where he reportedly was diagnosed as suffering from a stomach ulcer. This diagnosis was reportedly changed to gastritis on the following day. A representative of the German embassy in Uzbekistan was able to visit him while he was in Dzhizzakh hospital. In May the Dzhizzakh Regional Court for Civil Cases rejected an appeal lodged by Bakhtior Khamroev against his son's sentence. This was reportedly the 16th appeal which had been rejected by courts for criminal or civil cases of different instances and Ikhtior continued to remain in detention. However, according to his father Ikhtior's treatment in prison had improved: he was no longer beaten or otherwise ill-treated, received medical treatment whenever required and was allowed regular visits by relatives.

Members of the Human Rights Alliance of Uzbekistan:

On 23 February 2007, Akrom Khodzha Mukhitdinov, a human rights activist and member of the Human Rights Alliance of Uzbekistan, was sentenced to 10 days' administrative detention for organizing a small protest demonstration outside the Ministry of Foreign Affairs in Tashkent two days earlier. Akrom Khodzha Mukhitdinov and fellow activist Ibrogim al Hoshimi had arrived at the Ministry of Foreign Affairs with posters calling for the resignation of Foreign Minister Vladimir Norov when plain clothes law enforcement officers approached them, threatened and insulted them and tore up their posters. Ibrogim al Hoshimi reported that three unknown women then appeared and assaulted the two human rights activists, beating them and shouting: "We want peace". Law enforcement officers detained the human rights activists and took them to the Mirabad District Department of Internal Affairs where they were charged with assaulting the three women.

Elena Urlaeva:

Earlier at the beginning of January 2007, human rights activist Elena Urlaeva had also been assaulted by four unknown women who beat her and took her bag outside the Mirzo-Ulugbek District Court for Civil Cases in Tashkent. The human rights activist claimed that the four women were plainclothes law enforcement officers and that the assault was meant to intimidate her and force her to stop investigating human rights violations by law enforcement officers. An official investigation into the assault alleged that Elena Urlaeva was attacked by relatives of convicted prisoners who were reportedly disgruntled that she had accepted money from them to defend their relatives, but had not acted on their cases. Elena Urlaeva denied that she had accepted money from relatives of prisoners in exchange for obtaining their release.

On 9 March 2007, Elena Urlaeva wrote an open letter to Hina Jilani, the United Nations Special Representative on Human Rights Defenders describing how the authorities had prevented human rights activists from organizing a nationwide peaceful protest action for International Women's Day on 8 March. Human rights and women's rights activists had planned to hold demonstrations in several cities throughout Uzbekistan calling for the release of fellow women human rights activists Mutabar Tadzhibaeva, Umida Niazova and Gulbahor Turaeva. Participants in the meetings were asked to wear white or at least one white garment. Local authorities had been informed of the planned demonstrations in advance. However, law enforcement officers prevented all but one of the human rights activists from making their way to the designated meeting place in the centre of Tashkent. Most were either detained in the street and taken to local police stations or put under house arrest for the duration of 8 March.

Elena Urlaeva, who managed to get to the designated meeting place in Tashkent, was reportedly assaulted by officers from the

Tashkent City Department of Internal Affairs and beaten with a truncheon by one officer while another one reportedly tore off the white scarf she was wearing. Representatives of international organizations and media who had gathered to monitor the planned demonstration came to the help of Elena Urlaeva and reportedly prevented the officers from detaining her.

Convictions and detentions of human rights defenders*Saidzhakhon Zainabitdinov*

Prominent human rights defender, Saidzhakhon Zainabitdinov, was sentenced to seven years in prison by a court in Tashkent on 5 January 2006, after a closed trial. It was not clear when or to which prison he was transferred after his conviction. According to some reports, Saidzhakhon Zainabitdinov was moved from a prison camp in Kharshi to Tashturma (Tashkent Prison) in the second half of 2006. These reports also stated that a new lawyer apparently appointed by the family was able to meet with him in prison in December 2006. In April 2007 diplomats were granted a first visit with Saidzhakhon Zainabitdinov in Tashturma following repeated requests by the EU to be given access to him. He was reportedly very thin but appeared to be in reasonable health. It is not clear whether he had been brought to Tashturma from another place of detention for the visit or whether he continued to be detained in Tashturma.

Saidzhakhon Zainabitdinov's son, Ilhom, was detained in May 2006, reportedly for having forged official documents and paper money bills. Supporters of the family and human rights activists claimed that his detention was the result of Ilhom Zainabitdinov's meetings with contacts of his father, mainly human rights activists and independent journalists, following his father's detention. He was allegedly also beaten following one of these meetings. According to the Uzbekistani authorities Ilhom Zainabitdinov had been forging paper money, Uzbekistani sum and Kyrgyzstani

som, as well as identification and other official documents. It was not clear what happened to Ilhom Zainabitdinov following his detention and it has not been possible to establish whether and when he has been brought to trial, nor what sentence was passed. His whereabouts remained unknown. Ilhom Zainabitdinov has a prior conviction for theft, dating back to 1997. He served three years of a seven-year sentence and was released in 2000. He alleged that he had been tortured into confessing to a crime which he had not committed. His case as well as the detention and reported ill-treatment of his younger brother Mumin in 1999 were taken up by the UN Special Rapporteur on torture during his visit to Uzbekistan in 2002.

Mutabar Tadzhibaeva

On 6 March 2006, Mutabar Tadzhibaeva, chairwoman of the human rights organization Utiraklar (Fiery Hearts Club), based in Ferghana City, and one of the founders of the national civil society movement Za Pravovoe Obchshestvo (For a Just Society), was sentenced to eight years in prison on economic and political charges by a court in Tashkent. Mutabar Tadzhibaeva had been detained on 7 October 2005, on the eve of an international conference on human rights defenders in Dublin, Ireland, which she was due to attend. She had come under increasing pressure from the authorities for her human rights activities. She was convicted on 13 charges including membership of an illegal organization and using funds from foreign governments to threaten public order. She had insufficient time to prepare her defence, and consultations with her lawyer were in the presence of armed guards. In court, she was seated inside a cage. Her appeal against the verdict was turned down on 30 May 2006 and she was transferred to the women's prison in Tashkent (prison no. 64/7).

In January, Mutabar Tadzhibaeva's brother Rasul Tadzhibaev was finally granted a second visit with her. The family had not

been able to see her for five months and, at the time of writing, had not been able to since. According to her brother, Mutabar Tadzhibaeva was concerned that her health continued to deteriorate and that she was not receiving appropriate medical attention for a kidney-related illness she had developed. She also requested meetings with her lawyer. Such meetings, however, have not been granted since Mutabar Tadzhibaeva's sister took over her defence in the summer of 2006. Mutabar Tadzhibaeva's brother also claimed that she continued to be put in solitary confinement to punish her for alleged infringements of prison rules. She had reportedly been put in solitary confinement following one of his visits. On 5 March 2007, her family had reportedly been promised a three-day visit with her in prison, however, according to her daughter she was put in solitary confinement on 4 March and the family visit was cancelled. On 8 March, her brother was detained in order to prevent him from attending a demonstration in Tashkent calling for the release of Mutabar Tadzhibaeva and other detained female human rights activists. On 13 April he was again prevented from seeing his sister. He had also been evicted from his apartment on 22 March and reportedly been warned that if he continued to campaign on behalf of his sister he would be forcibly expelled from Tashkent. Mutabar Tadzhibaeva's daughter Makhlio has complained that she had been threatened by the authorities not to travel to Tashkent to visit her mother. Makhlio has not been able to visit her mother since she was detained.

Umida Niazova

On 1 May Umida Niazova, an independent human rights activist and journalist, was sentenced to seven years' imprisonment by a district court in Tashkent on charges of illegally crossing the border, smuggling and distributing material causing public disorder after a two-day trial which fell far short of international fair trial standards. The judge reportedly did not give witnesses for the prosecution and the defence adequate time to respond to questions and reportedly

prompted them from their initial signed statements to the police. He also reportedly interrupted Umida Niazova repeatedly while she questioned witnesses. Access to the trial was restricted.

On 8 May Umida Niazova was released from the court-room after a judge changed her seven-year sentence on appeal to a three-year suspended one. Umida Niazova pleaded guilty to all three charges during the appeal hearing and accused international organizations, and in particular HRW, of having misled her. AI expressed its dismay at the way her release had been obtained.

Umida Niazova had been detained on 22 January 2007 in the south-east of the country, near the border with Kyrgyzstan and later transferred to the pre-trial detention facility in Tashkent prison. She was due to meet her lawyer that day, in Tashkent, in order to collect her laptop and passport which had been confiscated from her in December 2006 by police who detained her for nine hours as she returned from a human rights seminar in Kyrgyzstan. At that time, no criminal charges were brought but she had to sign an undertaking not to leave the country and to cooperate with prosecutors in their investigation into possible offences committed by her, namely possession of anti-state materials on her laptop computer. Her laptop was sent for expert examination to establish whether any materials stored on it were of a "subversive or extremist" nature. Some of the materials contained on the laptop were said to be reports by HRW, namely its published report on the Andizhan mass killings in May 2005. Umida Niazova was working for HRW's office in Tashkent as a translator. She had previously worked for the international freedom of expression NGOs, Internews and Freedom House.

On 28 January Umida Niazova was charged under Article 223 of the Uzbekistani Criminal Code for illegally crossing the Uzbekistani border and under Article 246 for smuggling literature of a "subversive" and "extremist" nature into the country.

Both articles carry possible prison terms of up to 10 years.

Gulbahor Turaeva

Gulbahor Turaeva, a pathologist and human rights activist from Andizhan, who in 2005 had spoken out to foreign media and questioned the official version of the Andizhan May 2005 events was detained on 14 January at the border on her way back from neighbouring Kyrgyzstan, reportedly carrying around 120 publications in her bags, including books by the exiled leader of the banned secular opposition Erk party. On 24 April 2007, convicted of attempting to overthrow the constitutional order, and distributing subversive materials, she was sentenced to six years in prison by the Andizhan regional court. She was also charged with defamation, allegedly following a request by a teacher in Andizhan, and following a second trial on 7 May 2007 was found guilty and sentenced to a fine. Original reports had alleged that she had been given an additional five-year prison sentence; however, the authorities issued an official statement denying this. AI considered Gulbahor Turaeva to be a prisoner of conscience, detained solely for carrying out her human rights work, and called for her immediate and unconditional release. At the time of her detention she was accompanied by her nine-year-old son, who reportedly spent one night in detention with her. Gulbahor Turaeva's supporters claimed that the literature she was carrying did not contain calls for the violent overthrow of the constitutional system. They also claimed that it was difficult to know which materials were banned in Uzbekistan since there was no official published list of banned publications.

Gulbahor Turaeva worked as a forensic pathologist in Andizhan. During the Andizhan events, she reported to human rights organizations and foreign media that she had seen hundreds of dead bodies in makeshift morgues – figures repudiated by the authorities. She was reportedly involved in compiling an unofficial list of those killed. She became a human rights

activist and joined the NGO Anima-kor, which works to protect the rights of medical doctors and their patients. She later also became a member of the unregistered NGO Initiative Group of Independent Human Rights Defenders of Uzbekistan (IGIHRDU). She is the mother of four children, the youngest of whom was born in 2006, and she herself is 40 years old.

On 12 June Gulbahor Turaeva's prison term was commuted on appeal by Andizhan Regional court to a six-year suspended sentence and she was released from detention. Like Umida Niazova, Gulbahor Turaeva pleaded guilty to all charges at the appeal hearing and denounced her work as a human rights defender as well as the activities of other human rights activists.

Isroil Kholdorov

On 20 February 2007, Andizhan Regional Court sentenced 57-year-old Isroil Kholdorov, the chairperson of the Andizhan Regional Department of the Erk party, to six years' imprisonment. He had been charged with attempting to overthrow the constitutional order under Article 159 of the Criminal Code, distributing materials constituting a security threat under Article 244, organizing and leading a banned organization under Article 216 and illegally crossing the border under Article 233. According to his lawyer, all the charges, apart from illegally crossing the border, had been fabricated by the authorities in order to punish him for his peaceful political opposition activities.

Isroil Kholdorov left Uzbekistan for Kyrgyzstan following the May 2005 Andizhan events. He had spoken to international media about mass graves in and around Andizhan, including in Bogishamol district, which the authorities had reportedly been secretly organizing. The authorities denied that there were any mass graves following the Andizhan killings. While in Kyrgyzstan, Isroil Kholdorov organized an unsanctioned demonstration in the border town of Kara-Suu on the anniversary of the Andizhan events. In July

2006, human rights organizations in Kyrgyzstan as well as United Nations High Commissioner for Refugees (UNHCR) expressed concern that Isroil Kholdorov had "disappeared" and that he might have been abducted by members of the Uzbekistani security services and forcibly returned to Uzbekistan. Other reports, however, claimed that Isroil Kholdorov had decided to return "voluntarily" to Uzbekistan and that he had informed the Uzbekistani authorities in writing of his decision. According to these reports, he was detained by law enforcement officers in September 2006 as he crossed the border.

Dzhamshed Karimov

Independent journalist Dzhamshid Karimov "disappeared" in Dzhizzakh after visiting his mother in hospital. His family believed that his "disappearance" was linked to his journalistic activities. In October, sources reported that he had been forcibly confined to a psychiatric hospital. A court in Samarkand had reportedly ordered compulsory psychiatric treatment for six months. Local authorities continued to deny any knowledge of his whereabouts, stating merely that he had undergone psychiatric treatment in the past. He was believed to be in a maximum security ward at Samarkand city psychiatric hospital. His family were intimidated by local authorities and their phone was cut off after they alerted international organizations. Dzhamshid Karimov is the nephew of President Islam Karimov. He had worked for the Institute of War and Peace Reporting and as stringer for other independent websites. He had been harassed in the past and had expressed fears for his safety in letters to a Swedish journalist in August and was preparing to leave the country. In March Dzhamshed Karimov's compulsory treatment was reportedly extended for another six months. Access to Dzhamshed Karimov has been very limited.

Allegations of torture or other ill-treatment

AI remained seriously concerned about continuing persistent allegations of widespread torture or other ill-treatment of detainees and prisoners by law enforcement personnel and the failure by the relevant authorities to consistently, effectively and systematically investigate such allegations. In 2006 and again in 2007 the UN Special Rapporteur on torture reiterated his concerns about the apparent widespread use of torture in Uzbekistan.

Very few law enforcement officers were brought to trial and held accountable for the human rights violations they committed and yet thousands of people – in pre-trial detention or convicted – routinely alleged that they had been arbitrarily detained and tortured or ill-treated in custody in order to extract a confession. In January the deputy Minister of Internal Affairs of Uzbekistan told AI that six or seven police officers had been convicted on torture-related offences in 2005 and 2006. AI welcomed the fact that prosecutions of persons responsible for torture and ill-treatment had taken place. However, AI considered that the numbers of convictions were alarmingly low considering that international human rights organizations, international governmental organizations and the governments of UK and the United States of America, for example, estimated that at least 6,000, convicted on politically-motivated charges after reportedly unfair trials, were tortured or otherwise ill-treated in detention.

The allegations of torture which AI continued receiving stemmed not only from men and women suspected of membership of banned Islamic groups or of having committed terrorist offences, but stretched right across all layers of civil society, including human rights activists, journalists and former members of the government and security forces, often high-profile. Corruption in law enforcement and the judiciary contributed to a climate of impunity, which in turn led to a lack of public confidence in the criminal justice system.

Several thousand people convicted of involvement with banned Islamic organizations continued to serve long prison terms in conditions which amounted to cruel, inhuman and degrading treatment. Members of secular opposition parties, such as Erk and Birlik, who had been convicted of anti-state crimes following clampdowns against the political opposition in the mid-90s as well as following bomb explosions in Tashkent in 1999, also continued to serve long prison terms in very harsh conditions.

The case of Erkin Musaev

Erkin Musaev, a former Ministry of Defence official, was working for UN Development Programme (UNDP) when he was detained in January 2006. He was charged and convicted of spying for an unidentified member state of the North Atlantic Treaty Organization (NATO) state and of misusing UN funds, and was sentenced to prison terms of 15 and six years respectively, after what appears to have been an unfair trial. He and his family claim that he was falsely charged, and that he was tortured by the officers of the National Security Service (SNB). They have also claimed improper practice in the court processes.

Erkin Musaev worked for the Ministry of Defence and for the NATO Partnership Coordination Cell, before getting a job at the UNDP. In January 2006, he was working as a Country Manager of the UNDP's Border Management Programme, when he was arrested at the airport in Tashkent on his way to a UN-EC conference in Bishkek, Kyrgyzstan. In a recorded oral testimony, he claims that the SNB first told him that they had found drugs in his bag, and threatened to arrest him for drug trafficking. They then claimed instead to have found a disc in his bag containing confidential information, and accused him of espionage. He, in turn, maintained that the disc was planted in his bag by the SNB. Ten days of questioning reportedly followed his detention, in which he was denied the right to contact relatives; he was subject to psychological intimidation, being told that he would be prosecuted for involvement

with drug trafficking or with Islamic terrorist cells if he did not confess. This was allegedly followed by a month of day-time beatings, night-time interrogation, and threats to arrest his family. Consequently, he claimed that he was not allowed to see his family the following month while his bruises healed. He eventually did sign a confession on the proviso that the SNB leave his family alone. Nevertheless, he continued to be concerned for the safety of his wife and two children as he remembered seeing a warrant for the arrest of his wife while in the SNB detention centre. His family later fled the country.

On 13 June 2006 Erkin Musaev was sentenced to 15 years in prison, officially charged with "transferring military secrets to an unnamed NATO member state. However, he has remained adamant that there were many irregularities in the case. For example, he was accused of passing on information to the US which was used for the Andizhan uprising, implying an unproven allegation that the US was involved in preparing the uprising. Moreover, he claims that not one witness confirmed that he was a spy, and that a witness in fact countered the court's claims by asserting that the so-called "secret" information (relating to border crossing points) that he was accused of passing on was not actually a state secret.

Extradition requests by the Uzbekistani authorities (Update to AI Index: EUR 01/001/2007)

The Uzbekistani authorities continued to actively seek the extradition -- in the name of national security and the fight against terrorism -- of members or suspected members of banned Islamic parties or movements, such as Hizb-ut-Tahrir and Akramia, whom they accuse of participation in the Andizhan events. Such extraditions were sought from neighbouring countries as well as the Russian Federation and Ukraine. Most of the men forcibly returned to Uzbekistan have been held in incommunicado detention, thus increasing

their risk of being tortured or otherwise ill-treated. AI was also concerned about allegations that the Uzbekistani authorities have pressured refugees to return voluntarily to Uzbekistan and that access to those returned has been restricted.

Returnees from the USA

Uzbekistan confirmed that 41 refugees who had fled the country after the Andizhan events and had been evacuated by the office of the UNHCR first to Romania and then resettled to the United States (US) returned home in August 2006. A group of 12 Andizhan refugees had returned from the US in mid-July 2006, reportedly with safety guarantees from Uzbekistani officials, although human rights groups expressed doubts about the circumstances of their return. According to reliable sources the Uzbekistani Embassy in the US arranged for the return journeys of the refugees and even paid half of the air fare. A third group of refugees resettled to the US state of Idaho were reportedly preparing to return in September 2006. Two refugees resettled to Idaho died in August and September 2006 under mysterious circumstances. There were reports that some of the refugees were pressured into "voluntarily" returning to Uzbekistan. A group of the July 2006 returnees were apparently shown on Uzbekistani television saying that they had been forced against their will to leave Kyrgyzstan by international organizations and international actors intent on harming Uzbekistan and that they were very grateful to the Uzbekistani authorities for assisting them in returning to their homeland. Ten women out of the third group of refugees returned at the beginning of March 2007. AI received reports that at least two of the returnees from the US were detained some weeks after their return to Andizhan. However, the organization was unable to confirm these reports.

According to the independent news agency [Uznews.net](http://uznews.net) a group of 17 refugees who had returned to Andizhan from the US in 2006 fled the country again in May, unable to withstand the pressure exerted upon

them by the Uzbekistani security services. The group secretly made their way to neighbouring Kazakhstan and reportedly asked for asylum.

According to a spokesperson for the 17 refugees quoted by the news agency, the movements of returnees in Andizhan were closely monitored by security services. They reportedly "lived in constant fear". Some returnees were reportedly arrested on return to Uzbekistan. However, it was not possible to obtain any information on the whereabouts of those detained.

Russian Federation

Deportation of Rustam Muminov

Rustam Muminov, a citizen of Uzbekistan, had been detained in February 2006 following an extradition request from the Uzbekistani authorities. The Russian Procurator General decided on 29 September that Rustam Muminov could not be extradited to Uzbekistan and he was released the same day from detention. However, during his period in detention, his registration in the Russian Federation had expired and following his release, the authorities refused to renew it. On 17 October he was detained again at the office of the Russian human rights organization Komitet Grazhdanskoe Sodeistvie (Civic Assistance) in Moscow. The same day a court in Moscow found him guilty of violations of the Administrative Code of the Russian Federation in connection with his expired registration permit, and issued an order for his deportation. A lawyer from Grazhdanskoe Sodeistvie appealed against this order on his behalf. Rustam Muminov also appealed to the European Court of Human Rights to take interim measures to halt his deportation. Despite these two pending court decisions on 24 October Rustam Muminov was taken in handcuffs to an airport in Moscow and flown to Uzbekistan. According to the news agency *Interfax*, the Federal Security Service proclaimed Rustam Muminov guilty of crimes committed in Uzbekistan, which would constitute a violation of the principle

of presumption of innocence. A week after his deportation, the district court in Moscow found Rustam Muminov not guilty of violations of the administrative code. A criminal investigation into the unlawful deportation of Rustam Muminov was opened. Despite all this, the Federal Migration Service (FMS) informed Grazhdanskoe Sodeistvie that Rustam Muminov had left the country voluntarily on 24 October, not awaiting a final court decision. In March 2007 Grazhdanskoe Sodeistvie learned that Rustam Muminov had been sentenced to five-and-a-half years' imprisonment in Uzbekistan. He had been held incommunicado for at least three months.

Fear of forcible deportation of Abdulaziz Boimatov

According to information received by Grazhdanskoe Sodeistvie Abdulaziz Boimatov, a citizen of Uzbekistan who had been living in the Russian Federation since 1997, was detained by Russian law enforcement officers in Sverdlovsk Region on 25 April 2007. According to a relative who accompanied him to the local police station, an official from the FMS took all of Abdulaziz Boimatov's documents and then escorted him to the city of Ekaterinburg. On 26 April his relatives contacted the FMS in Ekaterinburg who reportedly had no record of Abdulaziz Boimatov. They were unable to locate Abdulaziz Boimatov in any detention centre in Ekaterinburg. However, the relatives were told by officials at the local airport that a certain Boimatov had been put on a flight to Tashkent, Uzbekistan earlier that day. The first name was not Abdulaziz, however, his relatives were certain that Abdulaziz Boimatov had been forcibly returned to Uzbekistan. According to his wife, he rang her in the morning of 26 April and told her that he was being returned to Uzbekistan. Abdulaziz Boimatov, a pious Muslim, had reportedly left Uzbekistan in 1997 out of fear of being detained for his religious beliefs. In 1998 the Uzbekistani authorities charged him with attempting to overthrow

the constitutional order and issued a search warrant for him. As a result Abdulaziz Boimatov changed his name and acquired a forged Russian passport. In early 2006 he was detained by police in Ekaterinburg. While in pre-trial detention he applied to the FMS for asylum. In December 2006 he was released after the General Procuracy refused to extradite him to Uzbekistan. In February 2007 he was sentenced to community service by a court in Sverdlovsk Region for being in possession of a forged passport.

Ukraine

Ten asylum-seekers from Uzbekistan, who had been seeking international protection in Ukraine, were forcibly returned to Uzbekistan by Ukrainian authorities during the night of 14-15 February 2006. They were believed to be still held in incommunicado detention at the end of June. Despite considerable efforts it was not possible to establish their whereabouts in Uzbekistan. Only in November did the Uzbekistani authorities inform the EU of the fate of the 10 men. In their response to the EU the Uzbekistani authorities noted that 11 men had in fact been deported from Ukraine. All had been accused of being members of Akramia and of having taken part in the Andizhan events. Two men, Ilkhom Khasanov and Ikrom Akhmedov were sentenced to prison terms of 13 and nine years respectively by Tashkent City Court on 21 July 2006. Eight men were sentenced to three years of corrective labour and the criminal case against the eleventh man, Shukhrat Khudzhaev, had reportedly only just been handed to the court at that point. According to information available at the time of detention the Uzbekistani authorities had reportedly issued extradition warrants for 11 men on the grounds that they allegedly participated in the Andizhan events. On 7 February the Security Service of Ukraine allegedly detained the 11 men in two different locations in Crimea based on the extradition warrants. They were reportedly transferred to a Ministry of Interior

detention facility in Simferopol, Ukraine, and 10 of them were forcibly returned to Uzbekistan on the night of 14-15 February. The remaining man was reportedly allowed to stay as he had relatives in Ukraine.

Kyrgyzstan

In August 2006, four Uzbekistani refugees and one asylum-seeker forcibly returned by Kyrgyzstan were detained in Andizhan pre-trial detention centre, according to the Uzbekistani authorities. A criminal investigation had reportedly been launched into the men's participation in the Andizhan events. Although the authorities reportedly had given diplomatic assurances to their Kyrgyzstani counterparts that international organizations, including representatives of the UN, would have access to the men after their return, this had not been granted by March 2007. It was not clear whether access had been granted to EU delegations since.

Death penalty

A new law adopted by the Uzbekistani Senate on 29 June 2007 amended the Criminal, Criminal Procedural and Criminal Executive Codes by replacing the death penalty with life or long-term imprisonment. The law was supposed to enter into force from 1 January 2008 marking the formal abolition of the death penalty in Uzbekistan. According to some NGOs sources, there were around 1,000 prisoners under death sentence held in conditions that are considered to be cruel, inhumane and degrading. According to the NGO Mothers Against the Death Penalty and Torture, out of at least 25 prisoners on death row in Tashkent prison, 20 people were reported to be infected with TB and not receiving an adequate medical treatment.