

# CONCERNS IN EUROPE

## January - June 2002

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 2002. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

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

This bulletin contains an index on page 83 about cases and incidents investigated by Amnesty International affecting women and children. They are not an exhaustive summary of the organization's concerns, but a reflection of the range of violations suffered by women, children and juveniles in Europe. In addition, there is also an index reflecting discrimination based on race, and the effects of the attacks of 11 September in the USA.

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

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

AI Index EUR 01/06/97	Concerns in Europe: January - June 1997
AI Index EUR 01/01/98	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
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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



## ALBANIA

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

There were further allegations that detainees had been ill-treated by police; in some cases the ill-treatment was so severe as to amount to torture. AI's concerns were set out in a report issued in May: *Albania: Alleged Ill-treatment of Detainees*, AI Index: EUR 11/006/2002.

On the evening of 5 March Sabaudin Çela from Vlora in southern Albania was returning from work when the Chief of Crime Police of Vlora police station (Z) and another man allegedly forced him into a car at gun-point. They drove him to the outskirts of the city where they and five or six other men in civilian clothes beat him until he lost consciousness. It appears they believed he had information about two men suspected of murder who had escaped from detention. After he regained consciousness, they questioned him. When he told them he knew nothing, they allegedly hit him with pistol-butts and truncheons and burned him with cigarettes. They later left him in the street, where a neighbour found him and took him to hospital. A representative of AI and the director of a local human rights organization visited him in hospital on 7 March and found that he had severe bruising on his back, head and legs; he also had marks on his body which appeared to be consistent with his allegations that he had been burned with cigarettes. Z was suspended from service on 7 March, arrested on 9 March and on 12 March remanded in custody on charges of torture. Arrest warrants were issued for three of his companions, on the same charges. Sabaudin Çela also alleged that he had previously, in February, been detained for questioning in connection with the same murder and on this occasion had also been ill-treated.

Three brothers, Dedë, Zef and Gjakë Përgjini were arrested on 5 April by police in the town of Lezha (north of Tirana) and reportedly severely ill-treated at the local police station. According to their account, they were arrested in reprisal for a dispute involving police officers and some relatives of theirs earlier that day. At about 10pm police officers carried out a search at a bar and found a pistol belonging to Zef Përgjini, whom they arrested. He has alleged that at the police station he was beaten, causing injuries to his leg. When his brother Dede Përgjini went to the police station to make inquiries, he too was arrested, and was reportedly

In April a Tirana procurator reportedly stopped proceedings against a former Elbasan police chief who

beaten, as a result of which he allegedly sustained severe bruising and possibly broken ribs. He was subsequently charged with having resisted arrest. Although a local prosecutor on 12 April signed an order for his examination by a forensic expert, nearly two weeks later this had still not taken place. He has since reportedly filed a complaint about his ill-treatment. The third brother Gjakë Përgjini was arrested later on the evening of 5 April, but was subsequently released. The three brothers, local opposition party activists, claimed that their arrest was politically motivated. The Albanian Ombudsman's Office investigated these complaints, and concluded that all three brothers had indeed been ill-treated.

On 12 May a police officer and two or more civilian companions are reported to have assaulted and beaten Ymet Xhuti, against whom the police officer allegedly held a grudge, near Lake Prespa in south-eastern Albania. Ymet Xhuti lost consciousness, and after his assailants left, friends took him to hospital in Korça, where he was admitted to the intensive care unit. He had injuries to his head and to an ear, severe bruising on his face and body, and a leg injury. The police officer was shortly afterwards arrested, charged and suspended from service. Arrest warrants were issued for two of his companions.

### ***Investigation of allegations of police ill-treatment***

In May trial proceedings before a court in Saranda started against a police officer accused of having severely ill-treated in June 2000 an 11-year-old boy whom he wrongly suspected of theft. The officer was alleged to have beaten the boy with a truncheon, cut his arm with a knife and burned his body with a cigarette. The local prosecutor had previously dismissed the case, but as a result of the repeated intervention of the Ombudsman investigation proceedings were reopened, resulting in the indictment of the police officer. AI had earlier called on the authorities to ensure that the rights of the accused - including the right to the presumption of innocence - and those of the victim, be respected, in accordance with international standards for fair trial. The organization also urged the authorities to guarantee the protection of children in custody and to ensure that those who violate their rights do not benefit by impunity.<sup>1</sup> The trial had not concluded by the end of June 2002.

was being investigated on charges of having, together with a relative, also a police officer, beaten and kicked

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<sup>1</sup>AI Index: EUR 11/004/2002

Naim Pulahu, a taxi driver on the evening of 26 December 2001. Naim Pulahu was admitted to hospital with injuries; the next day the two officers allegedly dragged him out of bed, struck and threatened him until medical staff intervened. The police chief was dismissed following this incident. The decision to stop proceedings was reportedly based on his alibi that on the evening in question he was attending a local beauty queen contest. However, the Procurator General ruled that the investigation should continue. The relative was charged with "arbitrary acts".

***Arbitrary detention in connection with attack on World Trade Centre in New York on 11 September 2001***

On 6 February police arrested Ilir Hajrullai, aged 22, at home in Ferras (Fier), reportedly without an arrest warrant. He was not informed of any charges against him and neither he nor his family were informed as to where he was being taken. On 7 February he reportedly learned that he had been charged with "collaboration with a terrorist organization"; several days later he was remanded in custody by a court. He was allegedly not permitted to choose a lawyer, but had a court-appointed lawyer, who did not know his case and apparently did not challenge his detention. At the end of April, following publicity about his case, he was released without charge. It appears that the authorities had suspected that he might be associated with al-Qaeda. Ilir Hajrullai had reportedly been studying at an Islamic college in Kuwait, where his sister was married to a Kuwaiti citizen. They had returned to Albania to visit their parents in August 2001, and had been arrested on 12 September 2001. On that occasion they had been held for three weeks for questioning about her Kuwaiti husband.

***Conditions of detention***

There continued to be reports that conditions of detention were often poor, and in some cases, due to overcrowding and lack of hygiene, may have amounted to cruel, inhuman and degrading treatment. In March 16 prisoners detained in Vaqarr prison reportedly threatened a hunger-strike in protest at the lack of water in their cells which made it impossible to clean the toilets and aggravated already poor hygienic conditions. It was also reported that in March there were 204 prisoners in this prison, which has a capacity for 130, and that at times as many as 240 prisoners were held there. Overcrowding meant that convicted prisoners sometimes could not be transferred to prisons, causing overcrowding in police cells. In May detainees in Rrëshen police station in Mirdita district

***Allegations of police ill-treatment***

went on a protest hunger strike. According to a press report, 31 detainees, including convicted prisoners, were held in six cells intended for two, or at most three, detainees, measuring 2.40 x 1.20m. A new prison was opened at Rroghozhina, but as Albanian prisoners convicted in Greece began to be transferred to Albania, the problem of insufficient prison capacity appeared not to have been solved.

***Failure to implement Albania's obligation to report to human rights treaties' bodies***

In March, the Ombudsman presented his annual report to parliament. The report urged the Albanian authorities to ensure that Albania fulfilled its duty to report to United Nations bodies charged with monitoring the implementation of human rights treaties to which Albania is party. Albania has yet to submit reports to the UN Committee against Torture, due in 1995 and 1999. Other reports which are overdue include Albania's reports on its implementation of the ICCPR.

## A U S T R I A

***Death during deportation***

On 4 March the trial of the three police officers accused of ill-treating Marcus Omofuma with death as a consequence (*Quälen eines Gefangenen mit Todesfolge*) opened at Korneuburg Regional Court in Vienna. The 25-year-old Nigerian asylum-seeker suffocated on 1 May 1999 after being gagged and bound during his forced deportation from Vienna to Nigeria, via Sofia, Bulgaria (see AI Index: EUR 13/01/00). During the trial the court considered the results of three different autopsy reports as well as the testimonies of the accused police officers, various eye-witnesses who were on board the *Balkan Airlines* flight and several former Ministers of the Interior. On 15 April, after more than 50 hours of deliberation, Korneuburg Regional Court found the three police officers guilty of the lesser crime of 'negligent manslaughter in particularly dangerous conditions' (*fahrlässiger Tötung unter besonders gefährlichen Umständen*) and sentenced them to eight-month suspended prison terms. The verdict was criticized by some civil society groups due to its alleged leniency. Conversely, at the close of the trial the lawyer representing the three police officers stated that his clients would appeal against their convictions. Despite the verdicts of guilt, the police officers will continue to serve in the police force.

In early April AI wrote to the Minister of the Interior, Ernst Strasser, welcoming the decision of the authorities to initiate an investigation into an incident in Vienna in mid-March, during which a 25-year-old Congolese national, Kambowa Mutombo, was allegedly ill-treated and racially abused by police officers. According to reports in the news media, Kambowa Mutombo was stopped by police officers in a patrol car on 15 March while walking along *Laxenburger Straße* in Vienna and asked for identification. Kambowa Mutombo was reportedly unable to produce his passport but showed the police officers his refugee identification card instead. The police officers were then said to have repeatedly asked Kambowa Mutombo for his passport, allegedly resulting in one of the police officers shouting at him: "Don't be a stupid nigger". According to media reports, Kambowa Mutombo retorted: "I am not stupid, I am not a nigger". The police officers were subsequently alleged to have grabbed hold of Kambowa Mutombo and forced him to the ground, kicked the detainee as he lay on the ground and then restrained him in handcuffs. Kambowa Mutombo was reportedly treated the same day for contusions and bruising at the *AKH* hospital in Vienna.

The police officers subsequently took Kambowa Mutombo to *Favoriten* police station in the city, where he was strip-searched. He alleged that during the strip-search police officers allegedly laughed at him as he stood naked before them and made disparaging comments. After being strip-searched, he was taken to a cell and reportedly held for a further three hours. According to reports, he was released without charge when a police officer entered the cell and told him to go home. AI has not yet received a response from the Ministry of the Interior about the incident.

### ***Intergovernmental bodies***

In March the UN Committee on the Elimination of Racial Discrimination considered Austria's 14<sup>th</sup> periodic report. In its Concluding observations the Committee expressed concern about "... allegations of racist incidents involving police officers and other State employees". The Committee urged Austria to "... strengthen existing educational measures for civil servants who deal with issues involving foreigners" and make efforts "... to recruit more members of minority groups into the public administration, in particular law enforcement".

### ***Impunity***

## **A Z E R B A I J A N**

On 14 June AI wrote to Federal Chancellor Wolfgang Schüssel expressing grave concern about allegations that an Austrian police officer, serving in the UN Civilian Police as part of the UN Mission In Kosovo, escaped from custody and illegally left Kosovo with the assistance of other Austrian personnel serving in Kosovo, and with the apparent knowledge of the Austrian government. The organization also expressed concern that despite the issuing of an international arrest warrant, the Austrian government appeared to be taking no steps to return the accused police officer to Kosovo to face the very serious charges that he, along with three members of the Kosovo Police Service, participated in the torture and ill-treatment of a Kosovo Albanian detainee (for more details see the Kosovo section of this edition of *Concerns in Europe*).

### ***Unequal age of consent***

On 24 June Austria's Constitutional Court ruled that the country's unequal age of consent for gay men was unconstitutional. In Austria the legal age of consent for heterosexuals and lesbians is 14 years of age, but 18 for gay men. Gay men convicted of contravening the relevant part of the Austrian Criminal Code - Article 209 - face up to five years' imprisonment. Under the court's ruling the Austrian parliament has nine months to introduce legislation equalizing the age of consent. While welcoming the decision to remove the discriminatory article from the Criminal Code, AI remains concerned that men currently imprisoned as a result of their convictions under Article 209 will not be released and ongoing criminal proceedings against gay men accused of violating Article 209 will not be terminated. AI is also concerned that there will be no rehabilitation of men already convicted under the law, such as the erasure of their criminal records.

AI is particularly concerned about a 37-year-old man, W., who was convicted on 24 August 2001 of having sexual relations with his then 17-year-old boyfriend and sentenced to 15 months' imprisonment, of which 14 months were suspended (see AI Index: EUR 001/002/2002). Both names are known to AI. This sentence was increased to four months' imprisonment by the public prosecutor's office on 23 October 2001. W. is expected to have to begin his four-month prison sentence in September 2002. If imprisoned, AI will consider W. to be a prisoner of conscience and will call for his immediate and unconditional release.

### ***Constitutional referendum: proposed changes***

In June, President Heydar Aliev proposed 36 changes to the constitution to be submitted to a referendum on 24 August. Among other things, the proposed amendments:

- remove a clause authorizing the use of a weapon against a person in the execution of a valid order during a state of emergency (Article 27)
- introduce the concept of an alternative to military service (Article 76)
- provide for the Milli Mejlis (Parliament) to vote on an ombudsman proposed by the President (Article 95)

These proposed changes arise out of Azerbaijan's commitments as a member of the Council of Europe. Other proposed changes to the electoral system have prompted allegations that they are designed to ease the succession from President Heydar Aliev to his son Ilham Aliev. These changes include:

- the election of the president by anything over half of the votes cast in a presidential election, instead of at least two-thirds as at present (Article 101)
- in the event of the president resigning early, the designation of the prime minister, rather than the chairperson of the Milli Mejlis as at present, as acting president until new presidential elections within three months (Article 105).

Article 118 of the constitution, to which no amendments are proposed, empowers the president to appoint a prime minister without the consent of the Milli Mejlis.

#### ***Azerbaijan's commitments as a member of the Council of Europe***

(Update to AI Index: EUR 01/001/2001, EUR 01/003/2001 and EUR 01/002/2001)

##### *Political prisoners*

Retrials of three political prisoners began during the period under review: Alakram Alakbar oglu Hummatov (also known as Alikram Gumbatov or Gummatov), Iskander Mejid oglu Hamidov (also known as Iskander Gamidov) and Rahim Hasan oglu Qaziyev (also known as Raqim or Ragim Gaziyev). They are among those identified in 2001 by the Council of Europe, of which Azerbaijan is a member, as

What happened next is in dispute. According to villagers, some hand-to-hand fighting broke out, possibly as the crowd was beginning to disperse for evening prayers in the local mosque. The shooting which followed came exclusively from law

political prisoners who should either be released or retried. AI has previously raised concerns regarding allegations of torture, ill-treatment and unfair trials in their cases.

As far as AI is aware, no such action has been taken with respect to another two prisoners identified by the Council of Europe, Natig Efendiyev (also known as Natiq Efendiyev) and Suret Davud oglu Huseynov (also known as Suret Guseynov). AI has raised similar concerns about their cases.

Natig Efendiyev and Suret Davud oglu Huseynov are being held in Gobustan (or Qobustan) strict regime prison. AI has previously raised the concern that conditions of detention in this prison, where many political prisoners are held, might amount to cruel, inhuman and degrading treatment. Reports continue to fuel this concern.

#### ***Demonstration at Nardaran: alleged excessive use of force and firearms by law enforcement officers, alleged denial of appropriate medical care amounting to ill-treatment, allegations of torture and ill-treatment***

On 3 June 2002, there were clashes between police and interior troops and civilians in the village of Nardaran, not far from the capital Baku. As a result of these clashes, one villager died, and a number of other villagers and police were wounded.

Socio-economic conditions in Nardaran have been described as "appalling". Its residents have for some years been campaigning for regular supplies of water, gas and electricity, as well as the lowering of public transport fares and other official action to improve infrastructure and reduce joblessness and general poverty.

On 7 May 2002, residents picketed the offices of the local executive in Nardaran and called for the resignation of its leading official. Seven village elders went to the District Procurator's office on the morning of 3 June 2002. Their understanding was that they had been invited to try and resolve the earlier incident. However, the District Procuracy had opened a criminal investigation into the 7 May protest and arrested the elders on charges of hooliganism and the violation of public order. The unexpected arrest of the elders together with the arrival of Interior Ministry troops and police, who cordoned off the area, provoked an unauthorised though peaceful demonstration in the village several hours later.

enforcement officers and went on for some time. According to the authorities, police attempting to restore public order were met with stones, sharp implements, firearms and Molotov cocktails. The

impression given in this version, initially at any rate, is that the villagers did the shooting.

One man named Aligasan Agaev died of a bullet wound in the head. Dozens of other villagers were reported injured. Among them, Khalid Mamedov was reported to have been shot in the neck, Rasim Radzhab oglu Alizade was reported to have received a bullet wound in the shin, and Sadig Guseinali oglu Feizullaev was reported to have suffered a bullet wound in the stomach. According to the authorities, a senior police sergeant, Metleb Melikov, received a bullet-wound in the thigh, and 35 police officers were seriously injured. However, ambulance and hospital spokespeople have been quoting as casting doubt on such reports. The authorities also claimed that 35 police officers were seriously injured, four police vehicles were burned out and six police vehicles were damaged. Other sources claim that the more serious clashes came after the firing, rather than before it.

AI is concerned about allegations that the use of force and firearms was excessive.

According to a newspaper report, the Ministry of Internal Affairs subsequently stated that any law enforcement officers who were involved in the death of Aligasan Agaev would face criminal proceedings. AI welcomes this report. We are concerned that any such investigation be prompt, thorough and impartial, that its scope, methods and findings be made public and that it include a determination about whether the use of lethal force was consistent with the principles established in international human rights instruments regarding the use of force and firearms by law enforcement officials.

AI is further concerned about numerous reports it has received from newspapers and non-governmental organizations according to which police activity prevented injured from obtaining medical treatment. This appears to have been partly due to direct action by the police, such as blocking roads and preventing medical personnel and supplies entering Nardaran. It also appears that police action at hospital, beating and arresting the injured and those who brought them, spread such fear that many villagers tried to look after the injured at home.

Some those arrested at hospital are said to have been tortured and ill-treated in places of detention. Elkhan Djabbarov was reported to have been arrested after taking an injured relative to hospital and charged with being an active participant in disorder. Mail Djabbarov, who alleged that he himself had been badly beaten in detention, claimed to have witnessed the

AI believed that Andrey Klimov, like other members of the opposition, was deliberately targeted by President Alyaksandr Lukashenka to punish him for his high-profile role in opposing the forced dissolution

severe torturing of Elkhan Djabbarov and Mekhman Ali.

AI is calling for:

- investigation into allegations that police prevented people from getting medical care
- investigation into reports that police beat some of those at hospital, and some of those subsequently arrested.

### ***Death in custody - The case of Ilgar Javadov***

(update to AI Index: EUR 01/002/2002)

Ilgar Javadov died following his detention at police station No. 9 in Baku's Sabail district in the early hours of 13 May 2001, allegedly as a result of ill-treatment by law enforcement officers.

On 5 February, the investigation into the case was reportedly put on hold for the second time as the senior police officer on duty at station No. 9 on the night in question, who had been charged with negligence and who had subsequently been dismissed from the police, was once more unavailable (his name is known to AI). On 25 February, Ilgar Javadov's family and his lawyer organized a press conference to voice concern about the alleged lack of impartiality of the investigation into his death. The next day the criminal case against three other police officers (their names are known to AI), who had initially been charged in connection with the case, were reportedly closed.

The case against the senior police officer on duty at station No. 9 remains open.

## BELARUS

### ***The release of prisoner of conscience Andrey Klimov***

Andrey Klimov's four-year deprivation of liberty came to an end on 25 March when he was released from the Minsk UZ-15 labour colony to be greeted by family and friends. AI adopted the member of the Belarusian parliament as a prisoner of conscience shortly after his arrest in February 1998 for alleged fraudulent business practice (see AI Index: EUR 49/14/00). He spent over two years in pre-trial detention before being sentenced to six years' imprisonment at a hard labour colony in March 2000. He was released after having served two-thirds of his six-year sentence.

of the democratically elected parliament in November 1996 and in the impeachment of the President. According to the news agency *INTERFAX*, he emerged from the labour colony carrying a bagful of letters of

support which he had received from abroad and stated: "If it were not for these people, for the representatives of international organizations, and for the opposition movement in Belarus, I would not have been released even in a hundred years."

***Prisoner of conscience -  
Professor Yury Bandazhevsky***

The status of prisoner of conscience Professor Yury Bandazhevsky was unchanged and he remained imprisoned at the UZ-15 labour colony in Minsk, from where Andrey Klimov was released in March (see AI Index: EUR 49/008/2001). In a post-release interview with the Belarusian human rights organization, *Spring-96*, Andrey Klimov spoke of his first encounter with the academic in prison: "When I saw Bandazhevsky it was a shock ... he was practically on the verge of collapse. For him it is very difficult under those conditions. Most of all he suffers from the fact that he can no longer undertake scientific work."

Yury Bandazhevsky and his wife, Galina Bandazhevskaya, were visited by the Ad Hoc Committee on Belarus of the Parliamentary Assembly of the Council of Europe during its visit to Minsk on 10-12 June. The head of the delegation, Wolfgang Behrendt, and delegation member Terry Davis visited Yury Bandazhevsky at the UZ-15 labour colony on 10 June, reportedly noting a recent improvement in the scientist's conditions of detention, allowing him to undertake some scientific work. The Ad Hoc Committee stated in a post-visit press release that it had also called on the authorities to review Yury Bandazhevsky's case. The Parliamentary Assembly of the Council of Europe is scheduled to consider the overall political situation in Belarus during its September 2002 session.

***Detention of peaceful protestors***

In the first four months of 2002, AI documented six different occasions in which people were deprived of their liberty as a result of peacefully expressing their concerns and frustrations with the government, particularly its poor human rights track record, on the country's squares and streets. More than 200 people were detained and at least 51 people subsequently imprisoned for periods between three and 15 days. AI On 14 March Minsk Regional Court sentenced the four men accused, among other things, of abducting and murdering the *Russian Public Television* cameraman, Dmitry Zavadsky, to lengthy prison sentences (see AI Index: EUR 001/002/2002). While Valery Ignatovich and Maksim Malik were sentenced to life imprisonment, their accomplices, Sergei Savushkin

considered them to be prisoners of conscience. In other instances, when peaceful protestors escaped imprisonment, they were fined the equivalent of several hundreds of US dollars, which many could ill afford to pay. AI documented the six incidents in the May 2002 report, *Trodden Underfoot: Peaceful Protest in Belarus* (AI Index: EUR 49/008/2002), and expressed concern at an ever increasing tendency on the part of the Belarusian authorities to use repressive measures to stifle peaceful protest.

***Freedom of expression***

On 24 June the editor of the independent *Pagonia* newspaper, Nikolai Markevich, and staff writer Pavel Mozheiko were sentenced to two-and-a-half and two-year terms of "restricted freedom" respectively for allegedly slandering President Alyaksandr Lukashenka in an edition of *Pagonia* in the run-up to September 2001 presidential elections (see AI Index: EUR 49/007/2002). Leninsky District Court in Grodno, located on Belarus' western border with Poland, convicted the two men under Article 367 (2) of the Criminal Code for raising concerns about the alleged involvement of President Lukashenka and his immediate circle of government appointees in the "disappearances" of several leading opposition figures in 1999. The edition of the newspaper was confiscated before being distributed (see AI Index: EUR 01/002/2001). As a result of their sentences of "restrictive freedom", 40-year-old Nikolai Markevich and 23-year-old Pavel Mozheiko will be subjected to forced labour of the authorities' choosing for the duration of their sentences and reportedly forced to return to a guarded barracks at a given time each evening, preventing them to all extent and purposes from practising their journalist professions. In his final statement at the trial on 21 June Pavel Mozheiko was quoted by the domestic human rights initiative, *Charter-97*, as stating: "We did not abuse freedom of expression because it is impossible to abuse something that does not exist in Belarus." The conviction of the two journalists resulted in widespread international condemnation; AI considers them to be prisoners of conscience.

***"Disappearance"/death penalty***

and Aleksey Guz, were sentenced to 12 and 25 years' imprisonment respectively. Both international and domestic monitors alleged that, although the four accused men may have been involved in the "disappearance" of Dmitry Zavadsky, President Alyaksandr Lukashenka and his immediate circle of appointees had organized this and other



“disappearances” of prominent opposition figures (see AI Index: EUR 49/013/2002). In contravention of various international human rights standards the trial, which began in late October 2001, was held behind closed doors. The government offered no credible reason why the trial was not open to public scrutiny and repeated requests for access to the proceedings from domestic human rights organizations were rejected. Dmitry Zavadsky’s wife, Svetlana Zavadskaya, was reportedly only allowed to attend the trial on the condition she did not disclose information about the trial proceedings.

Towards the end of the trial the public prosecutor’s office had called for the death penalty to be imposed on the men. Fearing that the four men would be quickly executed, AI initiated urgent membership action on 6 March. In a press release issued on 8 March the Secretary General of the Council of Europe, Walter Schwimmer, also urged Belarus not to execute the four men, stating: “The death penalty is contrary to all acceptable standards of human rights. I urge the prosecutors to refrain from it once and for all ... Belarus could never hope to be considered for Council of Europe membership for as long as it maintains these brutal punishments - I therefore urgently call on Belarus to move quickly towards a moratorium.”

This appeal was not the first time the Parliamentary Assembly of the Council of Europe had urged Belarus to introduce an immediate moratorium on the death penalty during the period under review. The introduction of a moratorium on the death penalty has repeatedly been cited as one of several preconditions which Belarus must meet if its guest status at the Parliamentary Assembly of the Council of Europe is to be reinvoled. Despite these appeals, the Belarusian lower house, the House of Representatives, rejected abolition after a parliamentary debate on the issue on 30 May.

#### ***Intergovernmental organizations***

In May the UN Committee on the Rights of the Child reviewed Belarus’ second periodic report on steps the authorities had taken to implement the UN Convention on the Rights of the Child, to which Belarus became a

Nine officers accompanied Semira Adamu onto the plane, including three officers acting as escorts during the flight and one videoing the operation. After being seated and bound hand and foot she began to sing loudly to attract the attention of fellow passengers. When officers then pushed her face into a cushion placed on the knees of one of them and pressed down on her back, she began to struggle. The so-called “cushion technique” - a method of restraint authorized by the Ministry of Interior at that time but since banned

state party in 1990. Among the Committee’s main concerns were “... the insufficient information and awareness of the ill-treatment and abuse of children in the home, in schools and in other institutions.” The Committee recommended that statistical information be collated about incidents of physical and mental violence and neglect against children in order to assess the extent, scope and nature of such practices and effective measures be taken to prevent, combat and prohibit all forms of corporal punishment in these contexts.

The Committee also expressed concern about the absence of an overall national mechanism with the mandate to monitor and evaluate the implementation of the UN Children’s Convention and the insufficient efforts made to involve civil society in its implementation. To the former end, the Committee encouraged Belarus to establish an independent and effective mechanism in accordance with the Paris Principles relating to national institutions for the promotion and protection of human rights, either as a part of a National Institution or as a separate body. The UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had made a similar recommendation in relation to torture during its consideration of Belarus’ third periodic report in November 2000 (see AI Index: EUR 49/002/2001). However, to date, no such independent mechanism has been established, despite repeated expressions of concern about Belarus’ human rights record.

## BELGIUM

### ***Dangerous restraint methods and ill-treatment during forcible deportations***

In March a Brussels court decided that five gendarmes should stand trial in connection with the death in September 1998 of Semira Adamu, a 20-year-old rejected asylum seeker from Nigeria, within hours of an attempt to deport her forcibly from Brussels-National airport.

- allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee. Semira Adamu’s face was pressed against the cushion for over 10 minutes and she fell into a coma as her brain became starved of oxygen. The emergency services were then called and she was transferred to hospital where she died of a brain haemorrhage later that day.

The court ordered the three escorting officers to stand trial for deliberately causing grievous bodily harm resulting unintentionally in death (*coups et*

*blesures volontaires ayant entraîné la mort sans intention de la donner*), along with two officers who had supervised the operation on board the plane who were charged with committing the same offence through failure to take precautionary measures (*par défaut de prévoyance ou de précaution*)

In the immediate run-up to the court's decision, AI issued a public statement underlining its belief that this was an opportune moment for Belgium and other European states to re-examine thoroughly their legislation and practice in the area of forcible deportations and ensure that they were brought in line with recommendations on the protection of human rights during expulsion procedures issued by Council of Europe bodies in the preceding six months. AI pointed out that in January 2002 the Parliamentary Assembly of the Council of Europe had drawn up extensive and detailed recommendations for member states on "expulsion procedures in conformity with human rights and enforced with respect for safety and dignity."<sup>2</sup> The Council of Europe's Commissioner for Human Rights had already issued similar recommendations in September 2001 "concerning the rights of aliens wishing to enter a Council of Europe member state and the enforcement of expulsion orders"<sup>3</sup>. For further information - see *Belgium: Semira Adamu's case an opportunity to further review expulsion procedures* (AI Index: EUR 14/001/2002).

AI pointed out that in recent years there have been regular allegations from a number of West European states, including Belgium, of excessive force and ill-treatment inflicted by escorting officers during forcible deportations.

In a letter dated 18 December 2001 sent to the Belgian Embassy in the Democratic Republic of the Congo (DRC) and to AI, EKC<sup>4</sup> stated that he was deported from Belgium to the DRC on 12 December 2001 and alleged that, after his transfer to the airport from a Belgian detention facility, six police officers started to ill-treat him. He claimed that one banged his head forcefully against a wall and that he was then bound hand and foot so tightly that the resulting scars were still visible six days later. He alleged that he was carried and thrown "like a sack" into the police vehicle which transported him to the waiting aircraft and that

The internal investigation apparently concluded that Rafik Miloudi's allegations were unfounded and his injuries self-inflicted. The Ministry of Interior released Rafik Miloudi on 3 May 2002 with an order to leave the country within five days. Rafik Miloudi

the officers carrying him on board repeatedly threw him to the ground. He said that he remained bound hand and foot throughout the eight-hour flight and that his state of health rapidly deteriorated. On arrival at Ndjili airport he said he was immediately detained by security service officers but suffered a fit, lost consciousness and was taken to a local hospital for medical treatment. He remained hospitalized for four days and was discharged on 15 December whereupon he was again detained by the security services but released after paying bail of 1,000 US dollars. In his letter he claimed that he continued to suffer intense pain to the right side of his head and asked for reparation for his treatment by Belgian officers.

Rafik Miloudi, an Algerian national, claimed that he was subjected to ill-treatment during several of the nine attempts to deport him forcibly from Belgium between October 2001 and 8 March 2002, including one attempt in November 2001 during which he said the alleged ill-treatment resulted in injuries requiring some 40 stitches to his back and two to the thumb of his right hand. He said that a doctor who examined him at the airport told him he had inflicted the wound himself but referred him for hospital treatment.

In March it was reported that efforts by a private doctor and several members of parliament to obtain authorization to visit Rafik Miloudi in St Gilles prison, where he had been detained since early November 2001, had been unsuccessful for several weeks. However, at least one member of parliament visited him in prison on 15 March, questioned him about his allegations and subsequently made public statements of concern about his treatment and injuries. An internal investigation into Rafik Miloudi's allegations was ordered by the Minister of the Interior and, following a medical visit by a doctor delegated by the Ministry of Interior in March, a private doctor was allowed to examine him in detention on 28 March. A medical report issued by the private doctor recorded, among other things, three scars to his back - one 16 cms long, one 19 cms long and one 4 cms long and the traces of 46 stitches. The doctor also recorded traces of two stitches to his right thumb and reported that the patient had difficulty in walking and sitting normally.

stated his intention of lodging a criminal complaint against the airport police.

In June the Minister of Interior informed AI that he had requested and received a report from the General Inspectorate of the Federal Police about allegations

<sup>2</sup> Recommendation 1547 (2002) [1]

<sup>4</sup> Full name known to AI

<sup>3</sup> CommDH/Rec (2001)1

made by Mohamed Konteh, an asylum-seeker from Sierra Leone (see AI Index: EUR 01/002/2002), that he had suffered ill-treatment, threats and racist abuse during numerous attempts to deport him between June and October 2001. The Minister stated that "The result of it was that no mistake was made." In a 14 November 2001 response to a letter addressed to the Prime Minister by over 50 member of parliament in October 2001 which, among other things, had expressed concern about Mohamed Konteh's allegations, as well as injuries which some of the signatories who had visited him in detention had observed on his body, the Prime Minister had indicated that he had consulted the Minister of Interior about the case. In his reply the Prime Minister gave no indication of official steps being taken to investigate the allegations. The Minister of Interior gave no indication in June of any investigation of the allegations having been carried out by a fully independent body.

### ***Racist incidents***

In March the UN Committee on the Elimination of Racial Discrimination considered Belgium's eleventh, twelfth and thirteenth periodic reports on its implementation of the International Convention on the Elimination of all Forms of Racial Discrimination. AI drew the Committee's attention in advance to its concerns about alleged ill-treatment and racist abuse of asylum-seekers and other foreigners by law enforcement officers. The Committee, while welcoming a number of positive recent developments in combatting racial discrimination in Belgium, expressed concern about a number of issues, including "racist incidents in police stations involving law enforcement officials, where the victims were immigrants and asylum-seekers" and "reports that children belonging to ethnic minority groups have experienced verbal violence." The Committee recommended that Belgium take all necessary measures to prosecute racially motivated acts of violence by law enforcement officials and to prevent such verbal offences against members of minority groups, and continue its effort to promote intercultural tolerance, understanding and respect.

While noting "the satisfactory measures taken in Belgium following the events of 11 September 2001 in the United States, in order to promote tolerance between religious communities", the Committee regretted "occurrences of racial acts against persons

belonging to ethnic minorities, especially those of the Muslim faith."

In a public statement issued jointly with Human Rights Watch in May (see AI Index: EUR 03/002/2002) AI expressed grave concern at a sharp increase in Western Europe, including Belgium, of violent attacks on persons and property prompted by intolerance of religious, racial, cultural and national differences and called on West European governments to redouble their efforts to combat racism in all its forms and to bring to justice suspected perpetrators of hate crimes.

The statement condemned racist and xenophobic violence against Arabs and Muslims in Western Europe in the wake of the 11 September attacks in the United States which in Belgium included verbal abuse, physical assaults and an attack on the mosque in Turnhout. Alarm was expressed that such attacks continued: in Brussels, in May, a Moroccan immigrant couple was shot dead and two of their children wounded by an elderly Belgian neighbour, reportedly expressing racist views.

The statement also condemned the sudden increase in anti-Semitic attacks against Jews in Western Europe which had unfolded in the wake of the Middle East crisis. In April in Belgium, for example, synagogues in Brussels and Antwerp were firebombed, the facade of a synagogue in Charleroi sprayed with bullets and a Jewish bookshop and delicatessen in Brussels destroyed by fire. Criminal investigations were under way into these incidents as well as into a physical assault on the Chief Rabbi of Brussels in December 2001.

AI noted that the Belgian government had promptly and publicly condemned such attacks and welcomed the government's 1 April statement that it would expedite bringing to justice the perpetrators of such attacks and take all measures to ensure the security of places of worship.

AI also welcomed a joint declaration against racism and anti-Semitism issued in April by the interior ministers of Belgium, France, Germany, Spain and the UK and a 25 April statement by the European Justice and Home Affairs Council condemning "the racist acts perpetrated in various places in the EU in recent weeks" and urging joint EU action to combat discrimination and racist, anti-Semitic and xenophobic violence, and to raise public awareness.

### ***Belgian national held in Camp X-ray, Guantánamo Bay, Cuba: human rights concerns***

On 31 January, in view of reports indicating that at least one Belgian national was being detained in Camp X-ray, Guantánamo Bay, Cuba, and reports of an imminent visit to the camp by Belgian diplomatic

representatives, AI wrote to the Belgian Minister of Foreign Affairs expressing concern about aspects of the detention and status of suspected al-Qaeda and Taliban prisoners in the camp, including any Belgian nationals. AI urged the government to publish the full findings of the visit regarding respect for the rights of the prisoners and conditions of detention and to ensure that questioning of any Belgian prisoner in connection with any suspected criminal activities be carried out in accordance with international human rights law and standards, and thus carried out in the presence of a lawyer. AI also asked to be informed what steps the government was taking to ensure that the human rights of any Belgian nationals being held in Afghanistan were being protected.

In a public statement issued following a visit to Camp X-ray on 3 and 4 February by a Belgian diplomat and a representative of the Federal Police, the Ministry of Foreign Affairs confirmed that a Belgian national was being detained in Camp X-ray and had been identified and interviewed by the Belgian delegation, in the presence of US military guards. The Ministry stated that the prisoner was in good health, had access to medical care, that the International Committee of the Red Cross (ICRC) had access to him and that Belgium was pursuing a dialogue with the US in order to continue contact with the prisoner. In statements to the Senate before the visit and in the February public statement, the Minister of Foreign Affairs indicated that Belgium shared the opinion of the UN High Commissioner for Human Rights and the ICRC that those detained during the military operations in Afghanistan should be presumed to be prisoners of war, under the Third Geneva Convention relative to the treatment of Prisoners of War, unless a competent court decided otherwise. The Ministry's February statement indicated that, bearing this in mind, Belgium considered the Belgian prisoner's conditions of detention to be satisfactory.

The Ministry also reported that a second Belgian national was being held in Kandahar prison.

The court's decision in the "Sharon" case was based on an analysis of Belgian law which concluded that the provisions of Article 12 of the Code of Criminal Procedure meant that no investigation can be pursued for war crimes, crimes against humanity or genocide unless the suspect is found in Belgium. AI stated that this restrictive interpretation of national law was inconsistent with international law and that it believed that the Belgian Parliament, in enacting the 1993 law, as well as its 1999 amendment, intended to provide the Belgian courts with the full extent of universal jurisdiction over these crimes permitted under international law. AI pointed out that the four Geneva Conventions of 1949 authorize Belgium to

Afghanistan. The prisoner was transferred to Camp X-ray in March.

### ***Universal jurisdiction over war crimes, genocide and crimes against humanity***

Legislation enacted in 1993 and amended in 1999 made provision for Belgian courts to exercise universal jurisdiction over war crimes in international and non-international armed conflict, genocide and crimes against humanity. In the context of this legislation, between 1998 and the end of June 2002, criminal complaints, were lodged with Belgian courts against a number of leaders and prominent members of past and present administrations of some 20 foreign states. In June 2001 four Rwandese nationals resident in Belgium were convicted of war crimes committed in the context of the 1994 genocide in Rwanda, following Belgium's first trial based on universal jurisdiction.

The complaints included one lodged in June 2001 by a group of 23 Lebanese and Palestinians in connection with the killings of at least 900 Palestinian men, women and children in the Sabra and Shatila refugee camps in Lebanon in 1982. The complaint alleged that Ariel Sharon, then Israeli Minister of Defence and currently Prime Minister, and Amos Yaron, then Brigadier General commanding Israeli armed forces (as well as other - unnamed - Israeli military officials and members of the Phalange, that is, Lebanese Christian militia) were responsible for war crimes, crimes against humanity and genocide.

On 26 June 2002, AI expressed extreme dismay at a decision by the Brussels Court of Appeal declaring the complaint inadmissible, the second such decision in this period (on 16 April a separate chamber of the same court reached the same conclusion in a case against a former minister of foreign affairs of the Democratic Republic of the Congo (DRC), Abdoulaye Yerodia Ndombasi).

open an investigation for grave breaches of humanitarian law, regardless of the location of the suspect, and to seek the extradition of any person suspected of grave breaches with a view to exercising universal jurisdiction, even if that person has never been in that country.

AI declared that, if the decision were to be upheld on appeal to the Court of Cassation, the organization would seek an amendment of Belgian law to ensure that Belgium could continue to act on behalf of the international community in investigating and prosecuting the worse possible crimes in the world when states where the crimes have occurred have failed to fulfil their responsibilities under international law.

For further information, see *Israel/Belgium: Dismay at Sharon case decision* (AI Index: MDE 15/101/2002) and *Universal Jurisdiction: Belgian court has jurisdiction in Sharon case to investigate 1982 Sabra and Shatila killings* (AI Index: IOR 53/001/2002), which discusses the implications of the judgment of the International Court of Justice (ICJ) on 14 February 2002 in the DRC v. Belgium case, in which the ICJ held that Belgium could not use its universal jurisdiction law to request the extradition of the DRC's foreign minister, Abdoulaye Yerodia Ndombasi, at the time he was still in office.

## BOSNIA - HERZEGOVINA

### ***Political background***

In January the Presidency of the Federation of Bosnia and Herzegovina rotated and Safet Halilović replaced Karlo Filipović. In March Dragan Mikerević was elected as the new chairman of the state government (of the two entities and the Brčko), the Council of Ministers, replacing Zlatko Lagumdžija.

Lord Paddy Ashdown (UK) became the new High Representative of the international community, a post to which he was appointed by the United Nations (UN) Security Council in late May.

In January Bosnia-Herzegovina became a member of the Council of Europe. In doing so it agreed to fulfil 91 commitments, most of which involved legal and institutional reform. In March, the country signed the European Convention for the Protection of Human

In February the Steering Board of the Peace Implementation Council (PIC), a multi-governmental body which provides political guidance and governance of the peace process, welcomed the establishment of a European Union Police Mission, which will take over some of the training and monitoring of the Bosnian police forces from the International Police Task Force (IPTF) in 2003. In late June, the continuing deployment of the IPTF, which is part of the United Nations Mission in Bosnia-Herzegovina (UNMIBH), was jeopardized by political manoeuvring in the Security Council, on the eve of the coming into force of the Statute of the International Criminal Court (ICC). The United States had made its support for the extension of UNMIBH's mandate through until the end of the year conditional upon US peacekeepers being awarded blanket immunity from any future prosecution by the ICC. AI was dismayed at

Rights and Fundamental Freedoms and four of its Protocols, which it ratified in July.

Intensive efforts were undertaken in the first months of the year to implement the four decisions by the Bosnian Constitutional Court on equal status and treatment of the Serbs, Croats and Bosniac peoples (as well as others) throughout the country. The main objective of these decisions was to effectively reverse ethnic discrimination and the *de facto* division of the country along ethnic lines, an important step towards the sustainable return of minority populations. In order to implement these decisions, both entities needed to substantially amend their respective constitutions, and to this end the High Representative established multi-ethnic Constitutional Commissions in January 2001 to draft the necessary amendments. The Commissions were also mandated to ensure interim protection against discrimination and could veto laws and policies which they deemed discriminatory in the entity parliaments. After protracted discussions between politicians representing key political parties, on 27 March a partial solution was reached on a set of elements necessary for the implementation of the Constitutional Court's decisions (Sarajevo Agreement). However, only three representatives from the Federation signed the entire Agreement. The Republika Srpska (RS) politicians signed a different version, which expressed reservations on some of the elements. In early April the RS parliament adopted a set of constitutional amendments which violated several provisions of the March agreement, notably those ensuring proportionate representation in RS public institutions according to the 1991 population census. After the Federation parliament failed to adopt amendments to its constitution on 18 April, the High Representative used his powers to amend both entities' constitutions in line with the Sarajevo Agreement. the subsequent unlawful decision of the Security Council in Resolution 1422 of 12 July which largely adopted the US proposals. This Resolution seeks to exempt nationals of states that have not ratified the Rome Statute of the ICC from investigation and prosecution for acts committed while participating in operations established or authorized by the UN, but AI does not believe that this resolution is legally binding on the ICC or on state parties to the Rome Statute. The Rome Statute of the ICC entered into force on 1 July. Bosnia-Herzegovina ratified the Rome Statute of the ICC in April.

### ***Impunity for wartime human rights violations***

#### *Domestic criminal proceedings for war crimes*

The international community continued its efforts to establish a mechanism for future domestic war crimes prosecutions, in order to complement and eventually take over the work of the International Criminal Tribunal for the former Yugoslavia (Tribunal).

A team of expert consultants was commissioned by the High Representative to undertake a study into the establishment of a special court for war crimes in Sarajevo, following a proposal by the Tribunal's Chief Prosecutor in October 2001. The consultants' report, which was first circulated for comment in mid-May before being published in July, proposed the establishment of a separate chamber of the nascent State Court of Bosnia and Herzegovina to prosecute violations of international humanitarian law. It was recommended that, for an initial period of up to five years, international judges preside over cases brought by an international prosecutor. Thereafter Bosnian judges and prosecutors would take over these functions. The consultants' report proposed further measures considered necessary to ensure impartial, effective and fair prosecutions, such as the establishment of a witness protection and victim support unit, a public defenders' unit and a court police force. On 28 May the Secretary General of AI wrote to the newly-appointed High Representative, Lord Ashdown, setting out the organization's comments on the proposal. While AI welcomed the initiative to establish a separate chamber at the State Court as a first step, the organization recommended that international judges, prosecutors and investigators be also attached to the local Cantonal and District Courts, which are continuing to prosecute war crimes cases. Reflecting the scope of the problem and the complexity and sensitivity of cases, AI urged the High Representative to use his powers to lay a more comprehensive foundation for a functioning judiciary which would sustain this work after the departure of the international judicial staff. However, no significant response was received from the Office of the High Representative to AI's comments by the end of June.

In May an AI representative met with several local and entity public prosecutors in the Federation and the Republika Srpska, in order to discuss AI's concerns about the continuing impunity for war-related

The pervading impunity for war-related human rights abuses is illustrated by the lack of police and judicial investigations of police officers who were de-registered by the IPTF Commissioner on the basis of information - usually transferred by the Tribunal - indicating their involvement in such crimes during the war. During the period under review, at least 13 police officers were dismissed on such grounds. AI is not aware that any investigations were opened by the responsible authorities following these dismissals,

human rights abuses. The organization expressed concern about the fact that so few war crimes prosecutions have taken place before Bosnian courts, and about the apparent lack of inter-entity and intra-entity cooperation in such cases. AI noted that, despite the vast amounts of forensic and other evidence collected by police and judicial investigators, few suspected perpetrators have been brought to justice.

In a handful of cases, however, local courts in Sarajevo and Banja Luka have started investigating perpetrators of war crimes and other criminal offences who belonged to their respective armed forces. In March, AI was informed that the Sarajevo Cantonal public prosecutor had re-activated the investigation into alleged wartime criminal activities of the *Ševe*, a paramilitary formation operating alongside the Bosnian Government Army during the war. In a briefing submitted in January to the Human Rights Chamber, in the case of Edin Garaplija, AI had called on the Federation authorities to investigate allegations made by Edin Garaplija. Edin Garaplija, a former officer of the Federation intelligence agency AID, had been involved in an internal investigation into the *Ševe* in 1996, and had reportedly uncovered evidence of the unit's involvement in unlawful killings of civilians and prisoners of war. However, the findings of this preliminary investigation have so far not resulted in judicial proceedings against any members of the unit.

In April, the Federation Public Prosecutor requested that a judicial investigation be opened into alleged criminal activities of three former high-ranking AID officials, on suspicion of their involvement in acts of terrorism, espionage and abuse of power. These alleged criminal acts included the training of *Ševe* members and the planned assassination of a Bosniac political opponent of wartime President Alija Izetbegović. Two additional suspects were subsequently arrested.

In May, RS police arrested five former police officers in Prijedor, on suspicion of their involvement in the "disappearance" of Father Tomislav Matanović and his parents in September 1995 - the first arrest by RS police for such a crime. (See also **Outstanding cases of "disappearances"**).

despite several public statements by UNMIBH officials that it was the duty of the local criminal justice system to do so.

#### *International proceedings*

Five trials are pending in the Tribunal trial chambers in relation to crimes of international humanitarian law committed in Bosnia-Herzegovina, involving ten suspects. In addition, six Bosnian Serbs came into the

custody of the Tribunal in the period under review. In April and June, NATO-led Stability Forces (SFOR) arrested Bosnian Serbs Momir Nikolić and Darko Mrdja, who had been secretly indicted by the Tribunal Prosecutor, respectively, for genocide committed in Srebrenica and war crimes and crimes against humanity committed in Skender Vakuf. In May, Serbian police arrested Ranko Šešelj, indicted for war crimes and crimes against humanity in Luka camp near Brčko; he was transferred to the custody of the Tribunal two weeks later. Three other suspects, Dušan Fuštar, Momilo Gruban and Dušan Knežević, voluntarily surrendered to the Tribunal; all of them had been indicted for superior responsibility for war crimes and crimes against humanity committed in the Omarska and Keraterm detention camps.

Currently, a total of 21 people, publicly indicted by the Tribunal, remain at large, 16 of whom were charged with crimes committed in Bosnia-Herzegovina. Most of these suspects are believed to be either in the RS or in the neighbouring Federal Republic of Yugoslavia. The Bosnian Serb political leader, Radovan Karadžić, and Bosnian Serb General Ratko Mladić, both indicted for genocide in Srebrenica, and other parts of the country, remain at large. It was hoped that, if arrested, their trials could be joined with those of suspects co-indicted with them. In March and April, SFOR troops staged two large-scale operations in a village near Foča in eastern RS where Radovan Karadžić was believed to be in hiding. However, they failed to apprehend him there and later apparently acknowledged that they had known beforehand that he was not at the site but continued the exercise anyway.

### **Returns of refugees and displaced persons**

According to statistics released by the United Nations High Commissioner for Refugees (UNHCR), the numbers of returning refugees and displaced persons in the first half of the year again increased compared to previous years, reflecting the improved implementation of property legislation. At the end of June, some 50,000 minority returns had been registered throughout the country.

Judicial proceedings came to a virtual halt in the case related to the well-known Liska Street incident in Mostar in 1997, during which one Bosnian man was shot dead and some 20 other people were ill-treated by Bosnian Croat police officers. The prosecution case was significantly weakened when Mostar Cantonal Court ruled in January that an extensive report, compiled in 1997 by IPTF policing experts on the incident, was not admissible as evidence. The court also refused to accept photographic evidence because

Incidents of return-related violence continued to be reported, especially in the RS. Although generally such incidents appeared to have decreased in frequency and severity, AI remained concerned that many appear to be carried out in an organized fashion, targeting higher-profile returnees and with the apparent objective of discouraging other people from coming back. For instance, the Bosnian Helsinki Committee reported in April that one of its members, a Bosniac returnee to Tarevci village in Modriča municipality (northern RS), endured repeated attacks on his property in March and April. Another Bosniac returnee to the same village had his new shop stoned. In May the house of another Bosniac returnee in the centre of Modriča town was attacked.

Bosniac returnees to Srebrenica and other municipalities in eastern RS, which has begun to see increased numbers of the pre-war population return, also met with violence. Among the incidents reported were arson attacks, the throwing of explosive devices, and intimidation of returnees by dozens of Serbs in Srebrenica.

The protection of returnees against violence was undermined by flawed and inadequate investigations and prosecutions of the perpetrators and organizers of these violent incidents. RS police failed to investigate promptly and thoroughly the rioting which erupted during the ceremony marking the laying of the foundation stone for the rebuilding of the Ferhadija mosque in Banja Luka on 7 May and again on 18 June 2001. Videotaped evidence which may have contributed to the identification of some of the perpetrators was not examined, reportedly as a result of lack of appropriate equipment. So far investigations have not resulted in the prosecution of those responsible for the worst acts of violence - the burning of eight buses and the death of one elderly Bosniac man on 7 May 2001. Proceedings against 16 men who were alleged to have taken part in the rioting were postponed several times. In April 2002 seven other men were convicted for violent acts they had committed - mainly assaults on RS police officers who were providing security on 18 June 2001, during the second attempt to hold the ceremony. They received sentences of up to four months' imprisonment.

It contained arrow markings by IPTF. When the prosecution witnesses did not identify the suspected perpetrators (all of whom were former police officers) the case all but collapsed. (See also AI Index : EUR 01/06/97 and EUR 01/02/99)

The sustainability of returns was jeopardized by the ever-larger funding gap as international donor aid continued to be cut. An estimated 16,000 priority housing reconstruction projects awaited funding throughout the country. During the meeting of the

Humanitarian Issues Working Group in late June, the UNHCR launched an urgent appeal for continued funding, now that the number of registered returns is nearing one million. The UNHCR stressed the need to resolve outstanding property claims, increase employment opportunities and revitalize the economy with the aim of reintegrating returnees into their pre-war communities.

Discrimination in access to employment was reportedly widespread and affected minority populations in particular. Despite anti-discrimination provisions in the entity labour laws, in practice virtually no remedy is available to those who raise complaints of discrimination. One such case concerns some 1,500 Bosniac and Serb former employees of the Mostar-based factories *Aluminij* and *Soko*. In late 1999 the Governing Body of the International Labour Organization (ILO) issued a decision, following an application by two trade unions alleging discrimination by the factories' current Croat management board to arbitrarily dismiss non-Croat workers. The ILO instructed the Bosnian authorities to compensate the dismissed workers or, in as far as possible, to reinstate them into their old jobs. In March 2002 the ILO Committee of Experts on the Applications of Conventions and Recommendations (CEACR) concluded that the government had so far not implemented the ILO decision. The CEACR noted that, though new sections had been added to the Federation Labour Law in late 1999, envisaged to provide compensation to workers dismissed during the war, it was unclear whether and how the *Aluminij* and *Soko* managements intended to use this legislation in order to implement the ILO decision.

On 5 March, an interim agreement was signed in Banja Luka by the Education Ministers of the two entities, which guaranteed the right to education to children of minority returnees. According to the interim agreement all children would be taught general subjects in accordance with the local curriculum, but parents of returnee children could choose a different curriculum for contentious subjects such as religion or history. The authorities also committed themselves to hiring more returnee teachers and to finding longer-term solutions to educational problems which would

There was virtually no progress however on another high-profile case, that of Colonel Avdo Pali\_, who "disappeared" in the former UN "safe area" of \_epa in 1995. Although Mrs Pali\_ received compensation from the RS - as ordered by the Human Rights Chamber in January 2001 - a preliminary police investigation into the "disappearance" has so far not produced any results, reportedly because of lack of cooperation by the RS military authorities.

ensure non-discriminatory treatment of returnee children.

### ***Outstanding cases of "disappearances" (updates)***

There were some developments in two cases of "disappearances", which AI had been campaigning on. In April, the wife of the former Višegrad school Headteacher Himzo Demir (a Bosniac who was abducted in May 1992 by Bosnian Serb paramilitaries) was interviewed by Višegrad police, who told her that they had received instructions from the RS Ministry of the Interior to investigate the case. In a subsequent interview with the Public Prosecutor for Srpsko Sarajevo District, an AI delegate was told in addition that his office had been made aware of the case. AI members had been working on this case for over five years.

On 8 May, RS police arrested five former Prijedor police officers for their involvement in the "disappearance" of Father Tomislav Matanovi\_ and his parents in September 1995. The bodies of the "disappeared" were found in September 2001 in a well by returning refugees to a village near Prijedor (See also AI Index: EUR 01/002/2002). The case, which had been subject to a preliminary police investigations in 2001, had been reviewed by the Tribunal Prosecutor's office under the Rules of the Road Procedure and was returned to the Banja Luka District Prosecutor in late April, concluding that there was sufficient evidence to open proceedings against the five suspects for their role in the illegal detention of the Matanovi\_ family. One day later the public prosecutor requested that a judicial investigation be opened and that the five suspects be remanded in custody. The case marks the first judicial proceedings against Serb perpetrators for war crimes by an RS court. In late May Banja Luka police announced that a further 21 police officers from Prijedor (some of whom were still serving in the force) were also suspected of involvement in the case. At the end of June criminal reports on these additional suspects were submitted by police investigators to the public prosecutor's office.

AI remained concerned that in the majority of cases of "disappearances", local authorities continue to withhold relevant information from relatives. A major impediment to bringing to justice those suspected of this serious human rights violation is the fact that acts of "disappearance" are not included as distinct offences in domestic criminal law. The only judicial body which has so far examined individual cases of "disappearances", the Human Rights Chamber, has only exercised jurisdiction over cases containing



evidence that the victim was in the custody of one of the parties after 14 December 1995 (the date the Dayton Peace Agreement was signed) - which has meant in practice that in the vast majority of cases which occurred before this date those affected have thus far not had any recourse to a legal remedy.

### ***Anti-terrorism measures breaching human rights***

AI was concerned that the transfer of six Algerian citizens, suspected of acts of terrorism, to United States custody on 18 January violated their human rights under national and international law. The men, who all reportedly held Bosnian citizenship, had been arrested in October 2001, on suspicion of participation in a plan to attack the US embassy in Sarajevo. Based on the information that was available to it, an investigation, conducted by the Federation Supreme Court investigative judge, found that there was insufficient evidence to charge the men and they were released from custody on 17 January.

AI had previously expressed concern that the men might be transferred to US or Algerian custody and had urged the Federation authorities to hand them over only following proper extradition proceedings before a court of law. The organization also urged the authorities to obtain guarantees prior to extradition that the men would not be subjected to torture or ill-treatment or the death penalty. AI also opposed the transfer or extradition of anyone to US custody if they could face trial by US special military commissions, envisaged to try persons suspected of terrorism, which the organization considers breach internationally recognized fair trial standards. On 17 January, the

Further information was received on the case of Egyptian nationals Abdullah Essindar and Eslam Durmo (also known as respectively Al-Sharif Hassan Saad and Ussama Farag Allah), who were deported from Bosnia-Herzegovina to Egypt in October 2001 (See also AI Index: EUR 01/002/2002). In November 2001, AI had written to the Federation Interior Ministry, expressing concerns that the Federation authorities prior to the transfer had failed to obtain guarantees from the Egyptian government that the men would not be subjected to torture or ill-treatment or sentenced to death after an unfair trial. In a reply sent to AI in January, the Federation Interior Minister stated that the transfer of the men and their deportation to Egypt had been carried out in line with national law and while respecting the men's human rights. The deportation was apparently based on an extradition warrant from the Egyptian state public prosecutor, which was discussed in a meeting between officials of the Federation Justice and Interior Ministries and

Human Rights Chamber issued an interim decision, ordering the Federation authorities to refrain from removing four of the men from Bosnian territory by force, pending a full examination of the application their lawyers had lodged with the Chamber. No extradition proceedings had been held and to the best of AI's knowledge the authorities had not sought or been given guarantees that the men would not be subjected to torture, the death penalty or trial before a special military commission.

In the early hours of 18 January, the men were forcibly transferred to US custody from Sarajevo prison by Cantonal and special police forces; members of these forces were alleged to have used excessive force on demonstrators who had gathered outside the prison to protest the transfers. That same day AI wrote to the US Ambassador, requesting information about the legal basis on which the US officials took custody of the six men, bypassing the Bosnian criminal justice system. The organization also asked him to immediately supply information about the men's whereabouts and urged him to ensure that they had access to their lawyers and were allowed to inform their families about their arrest and place of detention. AI stressed that the detainees should have access to a court of law to challenge the legality of their detention, and should be brought promptly before a judicial body. The US authorities have so far not responded to AI's letter.

The men were reportedly subsequently transferred to the US-run detention facility in Guantánamo Bay. Some of the Bosnian wives of the men have reportedly been unable to establish contact with them, leading them to believe the men may have been taken to other places of detention.

officials from the Egyptian and US embassies. When the Justice Ministry official explained that an extradition procedure would take at least 15 days, the US Embassy official reportedly claimed that extradition requests could be executed immediately, citing an agreement to that effect between the governments of Bosnia-Herzegovina and the US.

AI was subsequently informed that Eslam Durmo was put on trial on 16 March before an Emergency Supreme State Security Court, whose proceedings violate international fair trial standards. He alleged that he had been tortured while held in incommunicado detention prior to his trial. No further news was received on the fate and whereabouts of Abdullah Essindar.

### ***Sexual enslavement of women and girls***

AI was concerned about increasingly frequent reports about a range of human rights abuses against women

and girls in the country who are being subjected to sexual exploitation; many of them having been trafficked into Bosnia-Herzegovina from other countries. A comprehensive report, issued in late June by the Organisation for Security and Cooperation in Europe (OSCE), the UN Children's Fund (UNICEF) and the UN High Commissioner for Human Rights, indicated the extent and seriousness of the abuses suffered by trafficked women and girls. While there is a lack of reliable data on the numbers of persons who are trafficked, the International Organisation for Migration (IOM) estimated that some 10,000 women and girls, mostly from Moldova, Romania and Ukraine, are working in the sex trade in Bosnia, many of them under conditions amounting to forced prostitution.

A detailed plan of action to combat trafficking of persons, to which the Bosnian authorities committed themselves in late 2001, and joint operations between Bosnian police and the IPTF, have so far resulted in the closures of many nightclubs and bars where both Bosnian and foreign women and girls were sexually exploited, often while held in virtual captivity. Most foreign women and girls found during raids of these premises were provided with temporary shelter by international and local organizations, before being repatriated. Concern has been raised about the absence or inadequate nature of reception facilities and support for these women and girls upon return to their home countries, making them vulnerable to further human rights abuses. An unknown number of women and girls are thought to be subjected to human rights abuses, including sexual exploitation, in private locations which are not likely to come to the attention of law enforcement agencies.

By and large impunity for those involved in procuring, selling and exploiting women persists, due to gaps in domestic criminal legislation, the lack of effective witness protection and the reported collusion or acquiescence of both national and international security forces with the perpetrators of trafficking. Furthermore a lack of formal accountability

In April AI wrote to Nikola Filchev, General Prosecutor of Bulgaria, urging him to investigate the deaths of 22 men who died in the social care home in Dragash Voyvoda in 2001 and five men who died in 2002. The organization was concerned that most of the deaths were caused by lack of adequate medical treatment, inadequate heating and poor nourishment in the institution. Two cases which occurred in March 2002 had been subjected to a post-mortem examination which established pneumonia and malnutrition as the cause of death. The physician who treated the deceased residents explained to AI's representative that the residents have to pay for antibiotics, as the institution's

mechanisms within the United Nations means that international peacekeepers thought to be responsible or complicit in trafficking have escaped prosecution.

## BULGARIA

### *Social care homes for people with mental disabilities*

In the period under review AI conducted three research missions to institutions which care for children and adults with mental health disorders or developmental disabilities (hereafter referred to as people with mental disabilities). The material conditions, lack of adequate care and rehabilitation and the methods of restraints and seclusion practiced in most places visited amounted to cruel, inhuman and degrading treatment and were in violation of international law. In April AI published two reports Bulgaria - Sanadinovo: "This is truly a ghastly place" (AI Index: EUR 15/002/2002) and Bulgaria: Residents of Dragash Voyvoda are dying as a result of gross neglect (AI Index: EUR 15/004/2002). In October 2001 and January 2002 AI's representatives visited Sanadinovo, an institution which cared for over 90 women with mental disabilities. Material conditions - particularly for the most seriously affected women and therefore those who are in greatest need of care - were appalling. The women lived in a two-room single story building. At the time of both visits, they were in dirty and tattered clothing, and some were half-naked. Those who were bed-ridden lay on soiled sheets. Urine and faeces were on the floor and walls. Of particular concern was the practice of seclusion of residents. At the time of AI's first visit, six women who 'misbehaved' were secluded in a cage. Following an urgent action by AI's members the cage was no longer in use at the time of the January visit. In May the Bulgarian authorities decided that the home should be closed by the end of June and the women transferred to a more appropriate facility.

resources are very limited. He also confirmed that the conditions in the institution were not adequate for residents' treatment but could not explain why prompt and adequate treatment was not administered to these two men in a hospital or another more appropriate environment.

### *Deaths in custody in suspicious circumstances*

On 17 February at a border police outpost near Sladun, in Svilengrad region, 26-year-old Seval Sebahtin Rasin died after he was apprehended with 26 foreign nationals while illegally crossing the

Bulgarian-Turkish border. According to newspaper reports the doctor who was called to examine the body stated that Seval Sebahtin Rasin died as a result of injuries suffered from beating. The border police reportedly claimed that "special means" were used to apprehend the deceased. The military prosecutor initiated an investigation into the circumstances in which Seval Sebahtin Rasin died.

In March Sofia Military Court acquitted two police officers who had been charged with causing grave bodily injuries which resulted in the death of Mehmed Mumun (aka Milotin Mironov). On 11 January 2001 in Sofia, police officers who were reportedly searching for a murder suspect entered "Pavlovo" restaurant. Mehmed Mumun reportedly tried to avoid the police check by attempting to leave the premises through a bathroom window, but was apprehended by police officers, who reportedly kicked him all over his body after he was brought down to the ground (see AI Index: EUR 01/003/2001). The judgment, which is being appealed, is reportedly based on the fact that two witnesses, who had identified the perpetrators in the course of the investigation, did not respond to repeated summons to testify in court.

#### ***European Court rules violation of right to life***

In June the European Court of Human Rights in the case of Anguelova v. Bulgaria unanimously decided that there had been a violation of Article 2 (right to life) of the European Convention on Human Rights in respect of the death of the applicant's son, the authorities' failure to provide timely medical care and Bulgaria's obligations to conduct an effective investigation. The court also unanimously decided that there had been violations of Article 3 (prohibition of torture or inhuman or degrading treatment or punishment), Article 5 (right to liberty and security) and Article 13 (right to an effective remedy). On 30 January 1996, in Razgrad, 17-year-old Anguel

According to information received from the Human Rights Project, a local non-governmental organization on the rights of the Roma, on 2 February, near Sliven, a police officer shot Stefan Kostov, a 27-year-old Romani man, in the right leg. Stefan Kostov and three 15-year-old boys were collecting wood when the officers approached them and told the boys to go away. The officer then shot Stefan Kostov in the leg from a distance of about a metre. The boys then took Stefan Kostov to the hospital where he was treated for fractures to the knee resulting from the shooting. The same day three police officers and a photographer took the boys from the hospital to the site where the incident took place. The boys were then taken to the police station where they reportedly signed

Zabchekov was brought from the police lock-up to the hospital where he died. An autopsy subsequently established that his death had resulted from a brain haemorrhage following a blow to the head (see AI Index: EUR 15/19/96 of 28 November 1996). However, an investigation into his death was suspended on the grounds that it was impossible to establish how the injuries had been inflicted. Following the publication of the European Court's judgment it was uncertain whether the Bulgarian authorities would resume the suspended investigation into the death of Anguel Zabchekov.

#### ***New reports of police ill-treatment and unjustified use of firearms***

In the period under review AI received new reports of incidents in which police officers ill-treated people in custody. Other reports concerned incidents in which law enforcement officers resorted to firearms in circumstances which are far wider than those allowed by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which only allow the use of firearms in self-defence or the defence of others against the imminent threat of death or serious injury.

On 22 February at around 11pm in Kostinbrod, six minors aged 17 and 16 were taken to the police station on suspicion of theft of a two-way radio from a patrol car. The youths were reportedly forced to stand facing the wall and were kicked and punched by several police officers. They were then questioned for about three hours before they were released without being charged with any offence. On 12 March it was reported that two officers allegedly involved in the beating had been dismissed from the police force. However, no information had been made public on the results of a criminal investigation which had reportedly been initiated by the military prosecutor.

a statement which had not been read out to them, although they are illiterate. On 5 February, the Human Rights Project filed a complaint about the shooting with the military prosecutor who in March decided not to initiate a criminal investigation into this incident.

## CROATIA

#### ***Political developments***

A widening rift in the five-party coalition government resulted in the resignation of six cabinet ministers in February, all of whom were members of the Croatian Social-Liberal Party (*Hrvatska socialno-liberalna*

*stranka* - HSLŠ), the second-largest party in the coalition. In March the government was restructured and three new ministers appointed. However, further internal tensions emerged in late June, when the HSLŠ opposed a government-sponsored international agreement with neighbouring Slovenia on the ownership and decommissioning of a nuclear power plant in Slovenia near the Croatian border. The HSLŠ subsequently left the governing Coalition and in early July Prime Minister Ivica Račan resigned; he has since been re-appointed and formed a new government.

### **Rule of law and impunity for war-time human rights violations**

AI expressed concern that protection for witnesses testifying in a war crimes trial, which was ongoing at the time of writing, before the Split County Court - the so-called Lora case - was inadequate and could compromise these judicial proceedings (See also AI Index: EUR 01/002/2002). The trial of eight former military police officers for war crimes committed against Serb and Montenegrin prisoners in the Lora prison in Split, opened in June. Seven of the suspects had been arrested in September 2001, following the opening of an investigation into the case by the local investigative judge. According to reports received by AI, trial proceedings were continuously disrupted by an estimated 80-strong group of supporters of the accused, and no serious measures were taken by the Presiding judge or the court police to protect witnesses, most of whom had been detained in the prison and had themselves been subjected to human rights violations. Most of the 15 witnesses heard so far retracted detailed statements they had given to the investigative judge. Two of these witnesses had complained about continuing harassment since they had testified in the

These and other trials illustrated the need for comprehensive reform within the Croatian criminal justice system, an issue the government itself had announced as a priority several times. However, concrete measures still remain to be taken to initiate such a reform process. In May, some amendments were adopted to the Code of Penal Procedure, strengthening the role and authority of the public prosecutor in criminal investigations. The Organization for Security and Co-Operation in Europe (OSCE) noted, in its progress report in May, that, especially as a result of excessive length of proceedings, many citizens were denied adequate access to a court and a legal remedy, including in cases of human rights violations. In addition, in cases where court decisions had actually been delivered, enforcement was slow, if realized at all. These shortcomings of the domestic justice system reportedly led to a substantial increase in the number

investigative proceedings - these complaints were reportedly not investigated by the police with due diligence. A third witness, a former military police officer, had been put under constant police protection; however information about his whereabouts had allegedly been leaked since the opening of the trial. Other witnesses, now living in the Federal Republic of Yugoslavia (FRY) failed to come to court on 18 June; it was believed they did so as they also feared repercussions. A request by the Public Prosecutor to have the case transferred to another court in view of the constant pressure by supporters of the defendants on the court was turned down by the Supreme Court in early July and proceedings were postponed until September.

Trial proceedings continued before the Rijeka County Court in another case of five former army and police officers, who stand accused of war crimes against Serb civilians in the Gospić area, though progress in the proceedings was slow as a result of repeated adjournments. Several witnesses for the prosecution also retracted their previously given statements. One witness, a former Croatian Army officer, claimed that he had been subjected to intimidation after he had incriminated one of the suspects in his statements to the investigative judge. He also stated that during the investigation he had been interviewed by officers of the intelligence forces (*Služba zaštite ustavnog poretka* - SZUP) who suggested that he renounce his status as a protected witness (testifying under a pseudonym) as his identity was apparently already well-known. In April it was reported that the presiding judge in the case had received death threats by telephone; a police investigation into these threats had not led to the apprehension of any perpetrators by the end of June.

of cases brought against Croatia in the European Court for Human Rights (ECHR) in Strasbourg.

In May, two suspects who had been publicly indicted for war crimes in Croatia by the International Criminal Tribunal for the former Yugoslavia (Tribunal) surrendered to the Tribunal's custody. Both men had been living in the Federal Republic of Yugoslavia (FRY). Milan Martić had been charged with superior responsibility for ordering two cluster bomb attacks on the centre of Zagreb in May 1995, which killed and injured civilians. Mile Mrkić, a high-ranking officer in the former Yugoslav People's Army (JNA) had been charged with two other JNA commanders for war crimes and crimes against humanity committed in Vukovar in 1991; the two other suspects remain at large.

### **Return and reintegration of returnees**

AI remained concerned that the restitution of private property and other pre-war housing to Croatian Serbs was hindered by defective and discriminatory legislation and practices. While the Croatian authorities started enforcing decisions by courts and housing commissions in some parts of the country, by which private property had to be returned to pre-war owners, it is estimated that over 10,000 such housing units remain occupied by temporary occupants. The issue of the return of tenancy rights to thousands of owners of socially-owned apartments remained unaddressed despite the government's stated commitment to resolve the situation. Croatian Serbs were disproportionately affected by this problem since their tenancy rights were in general terminated in summary court proceedings in their absence during the armed conflict, and upon their return had been unable to reverse such court decisions.

In March the ECHR delivered a benchmark judgement in a case of a Croatian Serb family whose house in the Bjelovar area had been destroyed by unknown perpetrators in a wave of attacks against Serb property in 1991. The owners had filed a suit for damages against the state under the Civil Obligations Act before the Zagreb Municipal Court in 1994. However, in 1996 amendments to the Act were adopted in parliament, which provided that all court proceedings involving actions for damages resulting from "terrorist acts" should be stayed pending review of the section determining state liability for such damages. These amendments indirectly discriminated against Croatian Serbs whose houses had been destroyed during and after the war and who were thus unable to obtain damages from the state which would allow them to rebuild their house and return. The ECHR judgment found that the applicant's right to access to a court was violated by both the length of proceedings and the 1996 amendments to the Act.

In April the head of the Croatian government commission on missing persons stated that a total of 1,001 persons (presumed to be mostly Croatian Serbs) were still unaccounted for following Operations Flash and Storm in 1995. He subsequently put the revised number of Croats who remained missing at 1,349 in June. However, the process of exhumations and identifications proceeded very slowly, and often only as a result of persistent international pressure. In this context the ICMP expressed concerns about the refusal of the Croatian government commission on missing persons to collect blood samples from Croatian Serb relatives of missing persons which were necessary for DNA identification of exhumed remains.

which demonstrated that the state had no intention to provide a remedy for their situation. Although other legislation on reconstruction assistance for property destroyed as a result of the war was amended in 2000 to remove discriminatory provisions obstructing the return of Croatian Serbs, the OSCE reported in May that several administrative bodies continued refusing these returnees assistance on arbitrary grounds.

### ***Investigations into wartime "disappearances" and extra-judicial executions***

A breakthrough was achieved after years of unsuccessful negotiations between the FRY and Croatian authorities about the human remains of over 300 Croatian missing persons - who had likely been victims of "disappearances" - and whose bodies were recovered from the Danube in 1991 and 1992 and subsequently buried on FRY territory. The FRY authorities, supervised and assisted by the International Commission on Missing Persons (ICMP), carried out exhumations in several graveyards in Serbia in March (See also AI Index: EUR 01/002/2002). By mid-June they had exhumed the bodies of over 200 Croats - from graveyards in Novi Sad, Sremska Mitrovica and in Belgrade - and had handed these bodies over to the Croatian government commission on missing persons for identification.

In May the Croatian government commission on missing persons started exhuming the remains of over 150 persons, all believed to be Croatian Serbs, from a graveyard in Gra\_a, at the request of Tribunal investigators. The bodies had been recovered and buried in the wake of Operation Storm, during which Croatian army and police forces recaptured large parts of southern Croatia in August 1995, and may offer forensic evidence of extra-judicial executions reportedly committed in the operation.

### ***Allegations of systematic discrimination of minorities***

On 6 and 7 March the Committee on the Elimination of Racial Discrimination examined Croatia's fourth and fifth report on its observance of the rights enshrined in the International Convention on the Elimination of All Forms of Racial Discrimination. In its concluding observations, the Committee expressed concern about the delay in the adoption of a Constitutional Law on the Rights of National Minorities which would conform to international standards. The Committee also noted with concern that members of minority communities such as Roma and Croatian Serbs continued to be disadvantaged by discriminatory legislation and practice. Such

discrimination was particularly noted in the lack of access to the right to citizenship and residency, education, health and employment. In view of the lack of adequate legislative provisions prohibiting incitement to racial and ethnically-motivated violence and the fact that so far no prosecutions had taken place for such acts, the Committee recommended that the government take measures to protect people's rights under the Convention. In addition the Committee recommended that, while implementing the Convention, the Croatian authorities adhere to the Durban Declaration and Programme of Action adopted at the World Conference Against Racism in September 2001. The Durban Declaration underlines that states must ensure that victims of all forms of discrimination have access to adequate protection and redress, and that preventive measures are adopted and enforced.

In April a group of Roma parents lodged a civil action against the Ministry for Education, challenging racial segregation in most schools in Medjimurje County, where Romani children were reportedly receiving separate education of a lower standard than that provided to Croatian children. According to the European Roma Rights Centre (ERRC), an international public interest law organization, this segregation, to which some 60% of all Romani children in the County were subjected, was not necessitated by learning difficulties of these children and accelerated their exclusion from the educational system.

Frequent violent attacks by non-state actors, in particular by groups of skinheads, against members of minority communities were of particular concern. In many such cases, police apparently failed to investigate such attacks with due diligence, and prosecutions were rendered problematic by the lack of legislation prohibiting acts of racially-motivated violence or incitement to such violence. The ERRC reported in March that racist attacks on Roma were frequent, in particular in Zagreb and Split, and rarely resulted in perpetrators being brought to justice. A public

The RPP's decision not to bring charges against the police officers was appealed by the lawyers representing the families of the deceased and the other members of the group. The PCB, although not appealing the RPP's decision, had expressed the opinion that one of the two police officers should have been charged to allay concerns that the provision on self-defence may have been interpreted too broadly in his favour. In June the Director of Public Prosecutions upheld the RPP's decision not to press charges against any of the officers.

***The use of solitary confinement -  
the case of Hans Enrico Nati***

gathering following the first Gay Pride parade in Zagreb on 29 June, organized by a number of organizations, was violently disrupted when a tear gas bomb was thrown into the crowd, allegedly by a member of a group of skinheads. Although police officers were present in large numbers to provide security and arrested several violent opponents of the parade, it was reported that at least 30 people were attacked, some of them sustaining serious injury, after the gathering, including in two alternative clubs frequented by the gay and lesbian community.

## DENMARK

### ***Police shooting***

In February AI wrote to the Minister of Justice regarding the killing of two men, Claus Nielsen and Lars Jørgensen, by police officers in Tilst on 29 December 2001, when a group of six men, reportedly unarmed, was involved in a confrontation with two police officers on patrol leading to firearms being discharged. Given the controversial circumstances in which the shooting took place and the conflicting versions of events provided by the police officers involved and by the members of the group, AI stressed the importance for the investigation to be fully independent and impartial as required by international human rights law and standards, including Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

In June the Ministry of Justice informed AI that in April the Regional Public Prosecutor (RPP) in charge of the investigation had decided not to bring charges against the two police officers involved because they had acted in self-defence; and that the investigation had complied with the Police Complaints Board (PCB) scheme's rules.

Denmark has been criticized for its excessive use of solitary confinement on several occasions by international human rights monitoring bodies.

In May AI wrote to the Minister of Justice about the use of solitary confinement, and in particular about the case of Hans Enrico Nati, who has been detained in solitary confinement since March 1998. In 1991 Hans Nati was sentenced to 14 years' imprisonment for shooting and seriously wounding a police officer following an armed robbery. Hans Nati was later sentenced to a further five and a half years' imprisonment for offences committed in connection with a number of escapes.

Having documented the effects of the use of isolation and solitary confinement for over two decades

and on the basis of several expert studies, AI is concerned that prolonged isolation and solitary confinement can have seriously detrimental effects on the physical and mental health of the prisoners and may amount to cruel, inhuman and degrading treatment.

In February Hans Nati was transferred to a newly-built maximum security unit in Nyborg prison. AI understands that in this new unit detainees' association is limited to a very small number of people, who remain the same for long periods. These conditions constitute detention in "small-group isolation". AI has investigated the effects of "small-group isolation" and found that, coupled with very restrictive conditions of detention, it has harmful effects, including emotional disturbances, neuroses, impairment of concentration and ability to think, and loss of a sense of reality. Physical effects include disturbances to the autonomic nervous system, low blood pressure and circulation problems, headaches, dizziness and sleep disturbances.

In response to AI's letter, in June the Ministry of Justice informed the organization about various aspects of Hans Nati's conditions of detention and of the other three persons currently held in the new security unit of Nyborg prison (one of whom is, however, not allowed to associate with the others because he is regarded as dangerous to other people), including access to medical care, contacts with the outside world, and available purposeful activities. AI has noted the government's endeavour to provide inmates held in the maximum security unit of Nyborg prison with access to various facilities which may alleviate the harshness of their isolation. However, AI remains concerned regarding the risks of long-term "small-group isolation".

AI is also concerned that Hans Nati is denied the opportunity to challenge before a judge the prison authorities' administrative decision to place him, and in the light of reports indicating that Danish nationals were being detained in Camp X-ray, Guantánamo Bay, Cuba, in February AI wrote to the government expressing concern about aspects of the detention, and the status of Al-Qaeda and Taleban prisoners, including any Danish nationals, in Camp X-ray. The government confirmed that one Danish national was detained in Camp X-ray. An official Danish delegation visited the camp in March and interviewed him. According to the government, the interview was conducted with full respect of his rights under Danish law; the prisoner was in good health and had no complaints about the treatment he had received, leading the government to conclude that his detention conditions were consistent with international humanitarian and human rights law. AI had urged the government to publish the full findings of the delegation regarding respect for the rights of the prisoners and conditions of detention; and to ensure

to continue to keep him, in solitary confinement for such a long time. This applies to all convicted prisoners placed in solitary confinement. Furthermore, AI is concerned that the decision to place Hans Nati - and any other convicted prisoner - in solitary confinement is open-ended. Legislation which entered into force in July introduced some safeguards for remand detainees who are subjected to solitary confinement for the stated purpose of avoiding interference with a criminal investigation. However, the same safeguards were not extended to convicted inmates. A convicted prisoner can raise the matter with the Parliamentary Ombudsman, who can express criticism about the decision of the prison authorities, but cannot overrule them.

Although the decision to keep a prisoner in solitary confinement is reconsidered weekly, the records of the weekly review of Hans Nati's detention in solitary confinement in Nyborg prison show that on many occasions it was carried out mostly as a routine exercise, and not as a substantial examination of the situation of the prisoner. The absence of an adequately recorded legitimate justification for keeping a prisoner in solitary confinement in the records of the weekly reconsideration by prison authorities raises concern that the practice may be used in a punitive way, and not merely for security reasons. The government's explanation - that the decision to continue to hold a person in solitary confinement constitutes a security assessment that a court is not suited to make - does not allay AI's concern.

#### ***Danish national held in Camp X-ray, Guantánamo Bay, Cuba***

that any questioning of the prisoner in connection with any suspected criminal activities should take place in the presence of a lawyer.

#### ***Refugees and asylum seekers***

Following the victory of the Danish Liberal Party (Venstre) and of its coalition allies at the general election in November 2001, the government introduced significant and numerous amendments to the Aliens Act 1983. These amendments were expected to enter into force on 1 July. AI expressed concern about various aspects of the new legislation, including restricting the category of persons entitled to enjoy protection for reasons other than those covered by a narrow interpretation of the 1951 UN Convention relating to the Status of Refugees. The newly introduced complementary protection status does not now cover, for example, conscientious objectors; and

people who are not individually targeted but who are fleeing the indiscriminate effects of armed conflict or generalized violence in their countries of origin. These groups were covered until 1 July by the now defunct complementary so-called *de facto* refugee status. AI was also concerned about the new composition of the Refugee Board responsible for examining appeals; the withdrawal of the possibly to seek asylum in Danish embassies; and the possibility of an increased use of an accelerated procedure for examining asylum applications, which AI believes does not provide for a fair and satisfactory examination of asylum applications.

In June representatives of the organization met with the Minister for Refugees, Immigration, and Integration, and European Affairs to express these concerns.

## FINLAND

### **Prisoners of Conscience: Imprisonment of Conscientious Objectors**

(Update to AI Index: EUR 01/002/2002)

In the period under review AI adopted as prisoners of conscience four conscientious objectors. Ville Laakso, Lauri Antero Uusitalo and Valo Lankinen received prison sentences of between 186 and 197 days for refusing to perform alternative civilian service. Tomi Tuomas Tolsa's prison sentence was reduced to 186 days because he had begun alternative civilian service but after 23 days had decided, on the basis of his conscientiously held beliefs, to refuse to serve it. Ville Laakso, Lauri Antero Uusitalo and Tomi Tuomas Tolsa based their objection to alternative civilian service mainly on the discriminatory length of alternative vis-à-vis military service while Valo Lankinen, as a pacifist, rejects alternative civilian service because he

On 5 June the Minister of Justice, in a coordinated reply with the Ministry of the Interior, replied to a letter from AI of 30 November 2001 raising concern about the issue of alleged racism by police officers in Hakunila. AI had received allegations that police were failing to promptly and impartially investigate racist attacks against refugees and immigrants. In the case of Farah Muhamed, a refugee from Somalia, convicted of attempted manslaughter, it had been alleged that his conviction was the result of racist and prejudicial behaviour by the police. In its letter AI also urged the government to establish a committee of inquiry to examine the racial tensions in Hakunila.

The Minister of Justice replied to AI that he was unable to comment on the case of Farah Muhamed as it was still under consideration by the courts.

considers it as part of the military system. Although his refusal is not specifically based on the length of alternative civilian service, AI has adopted Valo Lankinen because current legal provisions fail to provide for adequate and fair alternative service conditions. Given that the length of the alternative civilian service is twice as long as for more than half of military recruits, AI considers it to be punitive and discriminatory and in breach of international human rights standards.

AI has campaigned for a shortening of the alternative civilian service since a draft bill was introduced in Parliament in 1997. The bill proposed a reduction in military service for approximately 50 per cent of army recruits while leaving the length of alternative service unchanged. Ever since the bill was passed in 1998 under the Military Service Act, AI has urged the Finnish authorities to also amend the Law on Alternative Service by shortening the length of alternative civilian service. In letters to the government AI members have been emphasizing that under the current situation Finland is in breach of international human rights standards. In October 2000 the government introduced a draft bill on a reduction of alternative service but in December 2000 the bill was defeated by a small majority.

In the period under review AI continued urging the government authorities to bring the length of alternative service in line with that of military service as required by international human rights standards and to immediately release conscientious objectors from prison. AI groups received replies from the Ministry for Foreign Affairs' Unit for Human Rights Affairs assuring AI that the Ministry will continue to work for a reduced period of service.

### **Allegations of racism and racial discrimination**

(Update to AI Index: EUR 01/002/2002)

Furthermore, the Minister of Justice confirmed that his ministry was participating in the implementation of an Action Plan for combatting racism. He pointed out that under the Pre-Trial Investigation Act, police were under obligation to report all offences, that are not minor, to the local prosecutor for appropriate action and that, according to orders by the Prosecutor General, the local prosecutor must inform the Office of the Prosecutor General of every racist incident that comes to the local prosecutor for consideration. This is so that the Prosecutor General takes over prosecution of matters of such importance. In addition, the Minister referred to other existing safeguards such as the Ombudsman for Foreigners as well as the Parliamentary Ombudsman who, the Minister wrote, had already proved to be very effective in cases where



the police, judicial or other authorities failed in their conduct, including allegations of discriminatory conduct on the part of government officials.

## FRANCE

Following May's presidential elections, when Jacques Chirac was re-elected president of France, the parliamentary elections, held in June, resulted in a landslide victory for the centre-right, ending years of "co-habitation" between a centre-right presidency and a Socialist government. The *Union pour la Majorité Présidentielle* (Union for a Presidential Majority - UMP), a coalition of parties, won an absolute majority in the National Assembly, with 369 seats - a total of 399 seats going to the centre-right and 178 to centre-left and left-wing parties. The *Front National* (FN), the far right party of Jean-Marie Le Pen, who had got through to the second round of the presidential elections, did not win any seat in the National Assembly. The presidential elections, in particular, had been marked by thousands of demonstrations against Jean-Marie Le Pen and the FN's anti-immigration policies. Lionel Jospin, the Socialist presidential candidate, who was beaten in the first round of the presidential elections by Jean-Marie Le Pen, announced his retirement from politics.

### **Racist violence**

In May, in a general joint statement, AI and Human Rights Watch condemned a wave of racist attacks on

In May the then interim Interior Minister announced that beat police (*la police de proximité*) would be authorized to carry the Flashball guns, invented in France and which, since 1996, had been supplied to specialist or anti-riot units such as the *Brigade Anticriminalité* (BAC). Although the supplies, non-perforating rubber bullets fired by the Flashball were described as "non-lethal", and were supposed to squash like pancakes on impact, evidence had been mounting that, particularly when fired at close range, they could cause significant and even lethal injuries, particularly when fired at a part of the face, such as the temple, or at areas such as the thorax, the heart, or the testicles. In its letter, AI stated that, while international standards encouraged the development of non-lethal incapacitating weapons insofar as they reduced the situations in which law enforcement officers might otherwise resort to firearms, the organization was concerned that the widespread availability of Flashball guns could lead to a corresponding increase in injuries caused by the rubber bullets fired from them. There

both Jews and Arabs in a number of Western European countries, including France. The statement mentioned that in France, hostility towards Jews had led to a particularly serious wave of attacks and that, between 29 March and 17 April, up to 395 anti-Semitic incidents had been recorded by police. In March and April several synagogues - in Lyon, Montpellier, Garges-les-Gonesses (Val d'Oise) and Strasbourg - were vandalized, while the synagogue in Marseille was burned to the ground. In Paris, a crowd threw stones at a vehicle transporting pupils of a Jewish school, and the vehicle's windows were broken. The French authorities were investigating the attacks. Muslims continued to be the main target of daily acts of a racist nature in France, and, since the events of 11 September, the number of anti-Islamist statements had reportedly multiplied.

### **Flashball gun use extended**

Following the establishment of the new French government in June, AI wrote to the Minister of the Interior, Internal Security and Local Freedoms to express its main and longstanding concerns with regard to human rights issues in France, including reckless police shootings, police ill-treatment - in particular of persons of non-European ethnic origin - and the issue of effective impunity of police officers in relation to the courts. The letter described several recent examples of its concerns, some of which are described below. It also drew the new government's attention to AI's concerns about the increased use of Flashball guns.

was also the risk that officers would begin to rely on using the weapons instead of applying non-violent means, or would fire them at dangerously close range, unless training was rigorous, frequent and regular. AI requested information on whether senior officers had to authorize the use of Flashball guns in particular circumstances, and whether every police officer who fired such a gun must immediately afterwards report on its use and circumstances.

### **Alleged police brutality: the case of Karim Latifi**

On 22 February French national Karim Latifi, a computer consultant living in Paris, was allegedly involved in an altercation with police officers in which he was racially abused and subjected to a severe physical assault. According to the complaint he lodged with the police complaints service, the *Inspection générale des services* (IGS), Karim Latifi had got out of his car after finding the road blocked by several police vehicles. He approached some officers who

were questioning a group of youths, two of whom he recognized, and asked what was happening. After he was asked for his identity papers the situation grew more tense. Karim Latifi claimed that one officer pushed him onto a flight of steps, telling him that he was a "dirty Arab"<sup>5</sup>. Up to 15 other officers were reportedly implicated in the subsequent assault, striking him with truncheons and punching and kicking him. His head began to swell and his nose was later found to be broken. Karim Latifi also claimed that he was then forced to "lick the wall"<sup>6</sup>. During the car journey to the nearby police station he was allegedly subjected to continued racial abuse. He was held at the station for about 15 minutes, after which a police lieutenant, who had not been involved in the incident, told him no charges would be brought against him and he was released. AI, having examined the judicial complaint and medical reports, brought the case to the attention of the Interior Minister and asked for prompt, thorough and impartial police and judicial investigations.

#### **Effective impunity**

*Aïssa Ihich: police convictions reduced:* Over 11 years after the death in custody of 18-year-old Aïssa Ihich, the conviction of two police officers for acts of violence was upheld on appeal, but reduced from a 10-month suspended prison term to an eight-month suspended prison term, thereby making the officers eligible for an amnesty, and allowing them to continue to pursue their career in the police force. AI has followed the case of Aïssa Ihich (for last reference see *Concerns in Europe*, AI Index: EUR 01/002/2002 ) since he died of an asthma attack in May 1991 at the police station of Mantes-la-Jolie (Yvelines). On 20 March 2001 the two police officers were convicted of committing acts of violence. A third officer was acquitted. The prosecutor had requested that all three police officers be found not guilty. A doctor was given a 12-month suspended prison sentence for "involuntary homicide by negligence". In February 2002 the Court of Appeal of Versailles, while upholding (but reducing) the convictions of the two police officers, also upheld the conviction of the doctor.

<sup>5</sup>"*sale Arabe*"

<sup>6</sup>"*lécher le mur*"

<sup>7</sup>Although the events had taken place in 1991, the police officers were not examined by a judge until 1997. Court proceedings were then suddenly hastened by the examination of the case by the European Commission and Courts. In February 1999 one officer was sentenced by a French court to

*Update: Case of Ahmed Selmouni:* In July 1999, the European Court of Justice found that France had violated international norms on torture, as well as on the length of judicial proceedings, in relation to the case of Moroccan and Netherlands national Ahmed Selmouni (*Concerns in Europe*, AI Index: EUR 01/01/00). Despite this, and the fact that, on 31 May 2000, France's Court of Cassation rejected the appeal of the five police officers, whose conviction for committing violent acts of extreme gravity against Ahmed Selmouni and Abdelmajid Madi had been upheld by the Versailles appeal court, disciplinary proceedings against the five officers were reported to be unlikely. In March a spokesman for the National Police directorate was reported as saying that the officers were no longer members of the judiciary police, but had been transferred to other police services, and it was not necessary to take specific disciplinary action against them. Ahmed Selmouni and Abdelmajid Madi were tortured by the officers while being held in custody for three days at Bobigny (Seine-Saint-Denis) in November 1991.<sup>7</sup>

#### **Pascal Taïs case re-opened**

AI has also followed, since his death on 3 April 1993, the case of Pascal Taïs, who died in custody at the police station of Arcachon (Gironde). In January the *chambre d'instruction* of the Appeal Court of Bordeaux - the section of an appeal court which examines and decides on issues at the stage of criminal investigation - made public its decision, dating from 13 December 2001, to order a third supplementary investigation (*supplément d'information*) into the case. This was reportedly based on the receipt of new information alleging brutality by police officers, and so casting fresh doubt on the version of events given by the police officers involved. Pascal Taïs, a drug addict who was suffering from AIDS, died from an internal haemorrhage caused by rupturing of the spleen, and was found also to have had two broken ribs and a punctured lung. AI brought his case, among others, to the attention of the then Interior Minister in August 1993. On 28 June 1996 a decision not to proceed with the case (*ordonnance de non-lieu*) was made by the

an "exemplary" four-year prison term. Four other officers were sentenced to non-custodial prison terms. Following a series of angry protests and demonstrations by police officers and police unions, the convictions were brought swiftly to appeal and a few months later the sentences were reduced, allowing for the immediate release of the officer who had been imprisoned. The appeal court, however, upheld the view of the first instance court that the crimes committed had been of exceptional gravity.

investigating judge, and was appealed by the Tai's family.

## GEORGIA

### **UN Human Rights Committee**

In April, the UN Human Rights Committee issued its concluding observations following its consideration the previous month of Georgia's second periodic report on compliance with the International Covenant on Civil and Political Rights. AI had previously provided the Committee with a written briefing outlining its concerns. These included concerns about: the torture and ill-treatment of detainees, especially in pre-trial detention; the failure to take effective action against persistent attacks on members of minority religious groups; the failure to implement an alternative to compulsory military service; and the right to an effective remedy for victims of human rights violations. While welcoming the detailed report and the information which had been provided on legislation relating to the Covenant obligations, the Committee regretted that the necessary information on the practical implementation of the Covenant was lacking. In a public statement, AI also urged the Georgian government not to shrink from full implementation of the human rights principles to which it subscribed (AI Index EUR 56/001/2002 - News Service Nr. 60, 8 April 2002). The Committee identified a set of specific concerns, focusing, among other things, on:

- the "widespread and continuing" torture and ill-treatment of prisoners
- the lack of rights of detainees, including those in preliminary (police) detention
- the increase in religious intolerance
- the lack of effective rights to freedom of thought, conscience and religion
- discrimination against conscientious objectors

The report describes the continuing violence perpetrated on the members of minority religious groups such as the Jehovah's Witnesses and the Baptists as "shocking", and identifies the defrocked Georgian Orthodox priest, Father Basil Mkalavishvili, as "the most notorious violator". It criticizes the Georgian government and the main political parties for not taking this problem seriously, and notes the general inactivity of the police on this issue.

The report also concludes that the law on non-military alternative labour service "is not working" because it is not being implemented by the relevant authorities. The UN Human Rights Committee in its concluding observations found that

- the lack of women's rights
- the harassment of NGOs, especially those defending human rights
- the restrictions on the powers of the ombudsman

The Committee requested the Georgian government to report within 12 months on what measures it had introduced to deal with the high death rate among detainees, the torture and cruel, inhuman or degrading treatment suffered by prisoners and the lack of rights of detainees.

In May, President Shevardnadze issued Decree No. 240, "On measures to strengthen protection of human rights in Georgia", with particular reference to the Committee's concluding observations. The decree outlined a series of measures to be taken by key ministries and other official bodies to address the problems identified. However, according to sources in Georgia, past experience suggests that such measures may not be seriously implemented. For example, in March 2001, President Shevardnadze issued Order No. 86, "On the human rights situation in Georgia in relation to US State Department Report 2000" which also specified measures to be taken by key ministries and officials to improve government performance on human rights. This order was cancelled in January on the grounds that the tasks outlined had been completed. However, the human rights situation does not seem to have improved, as the Committee's concluding observations indicate.

### **Report of the Public Defender (Ombudsman)**

Nana Devdariani's official report as Public Defender for the second half of 2001 on the protection of human rights in Georgia was published during the period under review.

In it she emphasizes how restricted her ability is to carry out her functions due to the lack of legal levers available to her and to inadequate funding.

this law was in itself discriminatory in that non-military service lasts for 36 months, twice as long as military service.

The report describes assault on and torture of detainees by police as being extremely widespread. It also links the delayed transfer of detainees from preliminary and pretrial detention to prison with torture and physical abuse committed by police officers, sometimes in order to pressure detainees to change their testimony as to the causes of their injuries. A number of one-month delays in such transfers are cited in the report, as well as one delay of 76 days. Nana Devdariani rejects explanations by the Interior Ministry and the Procuracy in which such cases are

justified by lack of finance and transport. "The key point", she concludes, "is that the lack of financing and transport facilities cannot justify physical abuse and torture of detained persons."

***Continuing allegations of torture and ill-treatment of detainees by police***

AI continued to receive allegations of torture and ill-treatment in the period under review. The organization is unaware of any prosecutions following investigations into the reported violations.

*Mamuka Rukhadze*

On 7 April, Mamuka Rukhadze was arrested by the local Criminal Investigation Department of the Ministry of the Interior in Gldani-Nadzaladevi, a district of Tbilisi. The police captain in charge (whose name is known to AI) signed the official form for the arrest although the space for the time of arrest was left blank.

On the following day, when the criminal case against Mamuka Rukhadze was opened, two lawyers met with him in a temporary isolation cell. They report seeing blood on his head and on his ears, and that he had difficulty moving his limbs and speaking. The official record of the case, this part of which was compiled before the lawyers' arrival, notes that he complained of pain in the legs, that both ears were swollen, that there was reddening on his back, that the right side of his chest was bluish, and that there was an

At the same time, the head of investigation-isolation facility No. 5 investigated the allegation that Mamuka Rukhadze had been tortured. The results of this investigation were sent to the department of the General Procuracy responsible for monitoring the observance of legality during operational search actions by the Ministry of the Interior. On 24 April, the head of the department of the General Procuracy which is responsible for prisoners' rights and prison conditions informed Mamuka Rukhadze's lawyers that all the documents in the case had been sent for further investigation to another department of the General Procuracy which is responsible for monitoring the observance of legality in local preliminary detention centres. The case was also referred to the Tbilisi city procuracy, which referred it on 13 May to the procuracy of the district in which Mamuka Rukhadze had originally been arrested. Since then, Mamuka Rukhadze's lawyers have heard nothing further about this investigation.

On 21 June, the Acting Head of the Medical Department of the Ministry of Justice reportedly confirmed the diagnosis of injury due to electric shock.

abrasion on his scalp. However, according to this record, Mamuka Rukhadze stated that these injuries had occurred prior to his arrest. The record was signed by three police officers (whose names are known to AI).

On 9 April, the lawyers again saw Mamuka Rukhadze in a preliminary detention centre, when the three of them met the detective in charge of the case. Mamuka Rukhadze's condition now appeared much worse, and he asked permission for a medical examination by Maia Nikoleishvili, a medical expert from the Ministry of Justice but this was refused. One of his legs was completely numb and, as a result, he was unable to move without assistance. Once he was alone with his lawyers, he alleged that he was being tortured in order to force him to dispense with their services. When one of them asked him what was wrong with his leg, he said: "It's from the electricity".

On the following day, Mamuka Rukhadze was transferred by order of a judge to investigation-isolation facility No. 5. Due to his condition, he was admitted to the medical section. The official medical report concluded that injuries to his left leg and foot were due to electric shock. He told the doctor that he had received these injuries on 9 April.

On the basis of this report, Mamuka Rukhadze's lawyers requested the Ministry of Justice that he be transferred to the central prison hospital (officially known as "The Medical Establishment for the Convicted and Sentenced") as the medical facilities available in investigation-isolation facility No. 5 were inadequate. This request was granted on 19 April.

Mamuka Rukhadze reportedly spent nearly two months in the central prison hospital. When he was discharged back to investigation-isolation facility No. 5 on 16 June it was said to be as a walking patient who still needed supervision.

*Aleksandr Guguneishvili*

On 20 April 2002 Aleksandr Guguneishvili was detained by around ten police officers in Rustavi, a town some 30 kilometres south of the capital Tbilisi. His lawyer told AI on 25 May that police threw him to the floor and tried to push a sawn-off gun into his trousers to fabricate a case against him for possessing firearms.

The police took Aleksandr Guguneishvili to Rustavi regional police station and allegedly tried to get him to confess to several robberies. Because he repeatedly insisted on his innocence, they allegedly hung him on an iron bar fixed between two tables for around five or six hours. They are then alleged to have put a gas mask over his head, covering the eye-openings so that he could not see anything, and to

have beaten him. As he still refused to confess, they allegedly subjected him to several rounds of electric shocks. At around 7 a.m., about 11 hours after his arrest, Aleksandr Guguneishvili allegedly gave up and agreed to sign a confession. He reportedly told his lawyer: "My legs were trembling and jumping uncontrollably and an artery in my throat was incredibly painful after the electric shocks."

The director of the Expertise and Special Research Centre at the Ministry of Justice examined Aleksandr Guguneishvili at the end of April. The expert documented a laceration of his lower lip, abrasions on his waist and both knee joints as well as in the area of both ankles. The expert also recorded that Aleksandr Guguneishvili was temporarily unable to eat. According to the expert's conclusion, the injuries on the lip and the waist could have resulted from beatings with a heavy, blunt object or objects, and injuries on the upper part of his feet resulted from electric shocks. His injuries were consistent with his story, according to the expert, including details as to timing.

So far as AI is aware, Aleksandr Guguneishvili is at the time of writing detained at investigation-isolation facility No. 5 in Tbilisi. His lawyer told AI on 14 June that no investigation had yet been opened into the torture allegations, that none of the police officers involved in the alleged torture has been suspended from duty, that his client was not informed of his rights after being detained, including his right to a lawyer of his choice, and that no medical examination was carried out at the police station.

#### ***Preliminary detention: torture/ill-treatment and fair trial concerns***

AI has received some details from the Ministry of Justice about detainees transferred from preliminary police custody to investigation-isolation prisons. These details indicate the possible scale of torture and ill-treatment in preliminary police detention, which can Mamuka Rizhamadze was found hanged in his cell in preliminary detention facilities in Kutaisi on 31 May 2000. There were allegations that he did not commit suicide, but that his death was caused by ill-treatment by law enforcement personnel.

In November 2001, Nana Devdariani, the Public Defender of Georgia (ombudsperson), informed AI that she had requested the Procurator General to reopen the investigation into allegations that Mamuka Rizhamadze died as a result of ill-treatment by law enforcement officers. A post-mortem examination carried out by the state forensic service concluded that Mamuka Rizhamadze had committed suicide by hanging. A second post mortem carried out at the request of the family by Maia Nikoleishvili, an

legally last for up to 72 hours before detainees are informed of the charges against them.

According to this information, over 70 per cent of detainees transferred from police custody to prison were found to have recent injuries and medical problems. Of these, over 11 per cent blamed the police for their condition. Over 45 per cent of them said they had been injured before arrest. However, this almost certainly understates the problem due to the difficulties of making such allegations (see the report of the Public Defender above). There was no information about the injuries of nearly 40 per cent of the detainees. The remainder, just over three per cent of detainees with injuries, said they had received them while the crime was being committed.

AI has received incomplete figures for January and February on detainees transferred to investigation-isolation prisons after spending more than 72 hours in police custody. However, even these figures are very high, amounting to over 27 per cent of the total transfers for all four months.

The reports AI receives of the torture and ill-treatment of detainees indicate that they are most vulnerable during the first hours spent in police custody. The extension of this period of detention beyond the 72-hour limit is a clear cause for concern.

However, the fact that people can be detained for up to 72 hours before being informed of the charges against them is also a matter of concern for AI, which holds that every person arrested or detained has the right to be promptly informed of the charges against them.

#### ***Death in custody***

*The case of Mamuka Rizhamadze*  
(update to AI Index: EUR 01/001/2001,  
EUR/01/003/2001 and EUR/01/002/2002)

independent forensic expert at the time, concluded that he had died as a result of a brain injury caused by a heavy blunt object. The Kutaisi procuracy then set up a commission of forensic experts which supported the original state post mortem conclusion of suicide. However, according to Nana Devdariani, Maia Nikoleishvili's conclusion had neither been proved nor disproved.

In February 2002, Nana Devdariani informed AI that a further post mortem had confirmed the original state post mortem conclusion of death by hanging. However, she made it clear that there remained, in her opinion, considerable doubt about the case.

***Continuing attacks on members of religious minorities and impunity of perpetrators***

(update to AI Index: EUR 01/03/00, EUR 01/001/2001, EUR 01/003/2001 and EUR 01/002/2002)

Although a criminal case was opened in September 2001 by Tbilisi city procuracy against the defrocked Georgian Orthodox priest Basil Mkalavishvili and another alleged leader of attacks on religious minorities, Petre (or Gia) Ivanidze, the proceedings have been subject to successive delays.

For example, at the first attempt to hear the case against Basil Mkalavishvili and Petre Ivanidze on 25 January, the prosecutor failed to appear and the case had to be postponed until February. In February, a large crowd of Basil Mkalavishvili's supporters reportedly packed the courtroom. The Jehovah's Witnesses involved in the case and their lawyer did not attend as they felt that their personal safety was compromised. On 22 April, the case against Basil Mkalavishvili and Petre Ivanidze was postponed until 16 May as the prosecutor again failed to appear. The court was reportedly filled and surrounded by militant supporters of Basil Mkalavishvili, many carrying wooden or iron crosses and acting in an aggressive manner. Only six police were reportedly present to preserve order, despite earlier requests for more effective security in the courtroom.

In addition, there have been further allegations that Basil Mkalavishvili and his followers have attacked religious minorities.

On Sunday 3 February, about 150 people, led by Basil Mkalavishvili, were reported to have broke into a Baptist warehouse in Tbilisi and burned thousands of books, including many Bibles. No official action was taken over this incident, which was televised, although it was the latest in a series of attacks dating back to 1999. The Georgian Orthodox Patriarchate condemned the attack in a statement on 4 February. On

This death in police custody became a major police scandal after it emerged that two police officers at Eigelstein police station informed a superior office that they had witnessed several colleagues beating Stephan Neisius. They stated that they witnessed five or six police officers surrounding him, as he lay handcuffed on the floor of the police station, repeatedly kicking him in the head, body, arms and legs. Three or four police officers were then alleged to have grabbed hold of his legs and dragged him down a corridor of the station into a cell, where they continued to kick and hit him as he lay on the floor of the police cell. Six police officers were suspended from service, shortly after the allegations came to light, on suspicion of having physically assaulted Stephan Neisius. According to a statement made on 24 May by Cologne's Police

7 February, leaders of the Lutheran, Catholic, Baptist and Armenian Apostolic churches together with their counterparts from the Muslim and Jewish communities signed a joint letter urging President Shevardnadze to "do his utmost to stop any action that contradicts the tolerant tradition of Georgia and its present laws". However, on 10 February, Metropolitan Athanasius Chakhvashvili of the Georgian Orthodox Church advocated the violent suppression of non-Orthodox Christian sects on "60 Minutes", an investigative program broadcast by the Rustavi-2 independent TV station. Metropolitan Athanasius Chakhvashvili was later reported to have apologised in a small-circulation Georgian Orthodox newspaper. However, Basil Mkalavishvili himself was reported to have justified the attack in a newspaper interview on 16 February. Among other things, he reportedly accused the Baptists of being a front for Satanism and for black magic practices, such as infant sacrifice.

On 7 April, a Jehovah's Witnesses meeting in the Ponichala district of Tbilisi was attacked. At least one known supporter of Basil Mkalavishvili was reported to have been identified taking part, as was a representative of the ultra-Orthodox organization Jvari.

## GERMANY

### ***Death in police custody***

Stephan Neisius died allegedly as a result of being ferociously beaten by several police officers of Cologne's First Police Inspectorate on 11 May. He was taken to Eigelstein police station after a domestic argument with his mother earlier the same evening. He was reportedly admitted to hospital later the same day, where he fell into a coma, from which he never recovered. He died on the morning of 24 May after spending 13 days on a life support system.

President Klaus Steffenhagen, a special investigative commission has been set up under the guidance of Cologne's Public Prosecutor's Office to examine the circumstances surrounding the death. On 27 May AI wrote to Cologne's Public Prosecutor's Office requesting to be informed of the findings of the investigation.

### ***Allegations of police ill-treatment***

In the period under review AI received several allegations of police ill-treatment of detainees, about which the organization contacted the relevant authorities calling for prompt, thorough and impartial investigations.

In mid-April AI wrote to the Minister of the Interior of North Rhine-Westphalia expressing concern about the alleged ill-treatment of a 59-year-old Togolese asylum-seeker, Doviodo Adekou, in the town of Mettmann on 1 October 2001. The alleged ill-treatment took place on the morning of 1 October 2001 at the Office for Foreigners' Affairs as police officers attempted to detain him for the purpose of placing him in pre-deportation detention. Three police officers allegedly grabbed hold of Doviodo Adekou's arms and pulled him face-down onto the floor of the office. Doviodo Adekou alleged that, while he lay on the floor of the office, one of the police officers deliberately punched him in the region of his right eye, causing it to bleed heavily.

The police officers subsequently gave up their attempts to handcuff Doviodo Adekou and a senior official at the Office for Foreigners' Affairs reportedly instructed a colleague to call an ambulance, which took Doviodo Adekou to a clinic in the town of Wuppertal. He was treated as an in-patient at the clinic for nine days until 9 October 2001 for a rupture to the covering of the eye which had caused bleeding in the vitreous humour of the eye. Approximately one week before the incident, Doviodo Adekou had undergone a cataract operation on his right eye. However, since suffering the blow to his eye on 1 October 2001, he has reportedly lost all sight in his right eye. AI has not yet received a reply from the authorities about this alleged incident.

In mid-March AI wrote to Nuremberg-Fürth Public Prosecutor's Office requesting to be informed of the reason for its decision to terminate criminal proceedings against police officers, who were alleged to have fractured the arm of the then 33-year-old Denis Mwakapi while during his arrest on 23 December

A medical examination conducted on 23 December 2000 revealed that Denis Mwakapi suffered a fractured arm which required immediate medical attention. His arm was subsequently put in a temporary plaster on 23 December and hospitalized on 26 December 2000, in order to undergo an operation which necessitated the insertion of a metal plate and multiple screws into the bone of his right arm. He remained in hospital until 5 January 2001 and required ongoing out-patient medical treatment thereafter. As a result of his treatment by the police, Denis Mwakapi lodged criminal complaints of physical assault and denial of assistance against the police officers, which were rejected by Nuremberg-Fürth Public Prosecutor's Office on 4 July 2001.

## G R E E C E

2000. Police officers arrested Denis Mwakapi, who is originally from Kenya, on *Luitpold Straße* in Nuremberg shortly after 2am after he had been attacked by two white American soldiers. The soldiers believed that the black African was in some way harassing a white German woman, who was in fact his wife, Ursula Mwakapi. They were said to have apologized to the couple after their relationship had been explained to them. During this assault Denis Mwakapi is said to have sustained a swollen upper lip.

Three police vehicles reportedly arrived at the scene very shortly after the two groups of people had begun to disperse. Denis and Ursula Mwakapi alleged that, while two police officers approached the American soldiers and allowed them to leave after checking their identification, the two police officers who approached them treated them in an insensitive manner and paid very little attention to Denis Mwakapi's complaint that he had been assaulted. The police officers arrested Denis Mwakapi after he became agitated and refused to calm down. One of the police officers was alleged to have taken hold of Denis Mwakapi's right arm and forcefully twisted it behind his back in order to effect the arrest, fracturing Denis Mwakapi's lower right arm in the process. The police officers subsequently handcuffed Denis Mwakapi and placed him in a police vehicle in spite of the detainee's repeated requests for a doctor and cries of pain. Denis Mwakapi was then driven to *Nürnberg Mitte* police station, where Denis and Ursula Mwakapi's renewed requests that Denis Mwakapi be medically examined were allegedly refused. Police officers placed him in an overnight holding cell where he was held until his release at around 10.30am on 23 December 2000.

### ***Allegations of unlawful use of firearms by border guards and soldiers***

On 8 March Ferhat Çeka, an Albanian citizen aged 67, was apprehended by Greek soldiers as he crossed the border clandestinely into Greece, where he intended to work as a farm labourer. He later alleged that they first beat him and then one soldier ordered him to walk on ahead and shot him in the back. He was taken to hospital in Kastoria (Greece) where, as a result of his injuries, he underwent an operation for the removal of a kidney and part of his liver. He subsequently returned to Albania for further treatment. The Greek military authorities undertook an investigation into this incident, which was concluded in May; the case-file was forwarded to the Thessaloniki military prosecutor but by the end of June no-one had been prosecuted in connection with this incident.

Another Albanian, Sokol Preng Mulaj, alleged that on 21 April, as he was waiting for darkness to fall in

order to cross clandestinely into Greece, a Greek border guard or soldier entered Albanian territory and signalled to him to approach. Instead, Sokol Preng Mulaj turned and ran, whereupon the soldier or border guard allegedly fired at him, severely wounding him in the right hip. He was admitted to hospital in Korça (Albania), where he underwent an emergency operation. The Greek authorities later denied any knowledge of this incident.

AI wrote to the Greek authorities urging that law enforcement officials on border and other duties be instructed to use firearms only when a suspected offender offers armed resistance or in other situations involving imminent threat of death or serious injury, and when less extreme measures are insufficient, in line with international standards. The organization pointed out that with the approach of summer, the number of Albanians seeking to enter Greece illegally in search of work was likely to increase, together with the potential for further incidents to occur.

### ***Trials of police officers***

In February a court in Athens convicted a police officer, Athanasios Ziogas, of the manslaughter of Stefanos Sapounas. In November 1996 Stefanos Sapounas was shot and critically wounded by Athanasios Ziogas, when he failed to stop at a road-block. Stefanos Sapounas died of his wounds five months later. At the trial Athanasios Ziogas maintained that his gun had fired accidentally, when he stumbled in his effort to avoid the oncoming car. The court, however, found him guilty and sentenced him to four and a half years' imprisonment, suspended pending appeal.

In April a court in Livadia found another police officer, Dimitrios Trimmis, guilty of manslaughter. In AI continued to receive allegations that police had tortured or ill-treated people. On 8 January police raided a Romani settlement in Aspropyrgos, west of Athens, and carried out a search for drugs. A young woman, Yannoula Tsakiri, subsequently filed a complaint that during the raid a police officer had shouted at a disabled 13-year-old boy to stand up, and then grabbed him by the arms to raise him. When she attempted to protect the boy, one police officer allegedly violently pushed her away and another kicked her in the back, knocking her to the ground. She was two and a half months' pregnant at the time, and shortly afterwards began to bleed. Four days later she suffered a miscarriage. According to the police authorities, an inquiry into these allegations found no evidence in support of them. During the raid two

October 1996 he shot dead a Rom, Anastasios Mouratis, at a road-block. This officer also told the court that his gun had fired accidentally, and evidence presented in court indicated that he was inadequately trained in the use of firearms. He was sentenced to a suspended two-year prison term and has filed an appeal. In both these cases it took more than five years for the defendant to be brought to trial.

Also in April an appeals court in Thessaloniki confirmed a suspended 27-month prison sentence imposed on a police officer, Kyriakos Vandoulis, for the manslaughter of Marko Bulatovi\_, a 17-year-old high school student from Serbia. In 1998 the police officer, who wrongly suspected Marko Bulatovi\_ of purse-snatching, shot him dead. Marko Bulatovi\_ was at the time in Thessaloniki on a school excursion. Kyriakos Vandoulis claimed his gun had fired accidentally. However, Serbian ballistic experts had presented evidence contesting this claim and Marko Bulatovi\_'s family had called for Kyriakos Vandoulis to be tried on charges of "reckless homicide", a more serious offence than manslaughter.

In April AI, in a letter to the Greek authorities, referred to other incidents in October and November 2001 in which two men (a Rom and an Albanian) died after being fatally shot by police officers, who also stated that their guns had fired accidentally. The organization stated that these explanations, if valid, indicated an urgent need for improved professional training for police. AI requested a copy of draft laws that had reportedly been prepared on police training and the use of arms by police. By the end of June the organization had not yet received a reply.

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

Romani men were also allegedly ill-treated by police officers.

Arnesto Nesto, an undocumented Albanian immigrant, was arrested on 15 April following a police chase, in the course of which he fired a gun. He was subsequently charged with attempted murder and several other offences. According to his account, police officers beat and kicked him during arrest and afterwards at a police station in Megara, in order to force him to admit to offences which he denies having committed. On 18 April he was brought before a prosecutor and an investigating judge in Athens. According to his lawyer, Arnesto Nesto was still visibly bruised and his clothes were blood-stained. He informed these officials that he had been ill-treated by police, and requested a forensic medical examination, but this request was ignored and, in violation of the



law, no investigation was undertaken into his allegations.

On 25 June police officers attempted to deport Joseph Emeka Okeke, a Nigerian detained pending judicial expulsion, from Greece. An appeal against his expulsion was pending at the time. He alleged that the officers beat him when he resisted their attempts to take him to Athens airport. He further alleged that they hit him with a black rectangular object, which gave him electric shocks. His drawing of this object indicated that it might be a stun-gun. At the airport flight staff reportedly refused to allow him to be put on the plane. Joseph Emeka Okeke was subsequently charged with "resisting authority". Following a protest by the non-governmental organization Greek Helsinki Monitor, the Minister of Public Order on 27 June ordered an inquiry to be carried out and Joseph Emeka Okeke was examined by two forensic medical experts. Later that day three plainclothes police officers allegedly threatened him that he would regret having complained.

On 23 June the Athens newspaper *Eleftherotypia* carried an article with some details of an unpublished report by the European Committee for the Prevention of Torture (CPT) on its visit to Greece in September 2001. According to this account, many detainees had complained to the CPT that they had been ill-treated by law enforcement officials, and some had injuries consistent with these allegations. The CPT, referring to the claim by the Greek authorities that cases of police ill-treatment are rare, reportedly concluded that the authorities underestimated the extent of this problem. Scores of Naples police officers were under criminal investigation by the Public Prosecutor's office in connection with alleged human rights violations occurring in the context of an anti-globalization demonstration which took place in the city in March 2001, on the occasion of a conference on technology and government. The demonstration had degenerated into violent clashes between certain groups of demonstrators and law enforcement officials, and resulted in injuries to both officers and demonstrators, as well as damage to property. However, numerous reports from various sources presented a disturbing picture of widespread abuses and violations of international human rights standards perpetrated against non-violent demonstrators and others by law enforcement officers. In a letter addressed to the Minister of Interior of the day, AI had expressed its deep concern about the allegations against law enforcement officials and called on the government to establish an independent commission of inquiry to investigate fully and impartially police tactics and behaviour during the demonstration. It also sought

The Greek authorities have yet to authorize official publication by the CPT of its report.

### ***Undocumented immigrants and asylum-seekers***

The conditions of detention of many undocumented immigrants in police stations or detention centres, the latter sometimes improvised, were often poor, and at times may have amounted to inhuman and degrading treatment. In June a group of some 200 Iraqis and Pakistanis broke out of a detention centre in north-east Greece, reportedly in protest against the poor conditions and extreme heat. They began to make their way to the town of Komotini, but were stopped by police. Local authorities then provided alternative accommodation at a sportsground. Greek non-governmental organizations reported that the authorities frequently failed to inform undocumented immigrants of their rights, and at times refused them asylum application forms.

## ITALY

### ***Human rights violations by law enforcement officers***

*During and following Naples Third Global Forum on e-government in March 2001*  
(Update to AI Index: EUR 01/003/2001)

information on the status of the internal administrative investigation opened in connection with it.

In June 2001 the Minister had responded, confirming the opening of an internal administrative investigation into alleged inappropriate use of force and any improper police deployment, and indicated that, with regard to the individual instances of alleged human rights violations described in AI's letter - cited only as illustrative examples, the judicial authorities would investigate those instances where individual complaints had been lodged with the courts or had otherwise come to light. In AI's view the scope of the investigations indicated was insufficient and an inadequate response to the call for a comprehensive investigation carried out by an independent commission of inquiry.

The investigation being conducted by the Naples Public Prosecutor's office was triggered by around a dozen individual complaints and a report filed by a former member of parliament and a trade union leader - all of which denounced police violence during and following the demonstration.

On 24 April, as part of the ongoing criminal investigation, the relevant judge of preliminary investigation endorsed the public prosecutor's request for eight of the accused police officers (including Naples deputy police chief and chief constable) to be detained. The officers were placed under house arrest on 26 April, with the exception of one who was out of the country.

Among other things, they were accused of - illegally and indiscriminately - transferring scores of individuals from local hospitals, where they had gone for urgent treatment to injuries incurred during the demonstrations, to a detention facility; preventing the detainees from communicating with relatives and having access to lawyers; subjecting them to illegal and humiliating body searches, slaps, kicks, punches, blows (including with batons), intimidation, threats and other ill-treatment whereby they were forced to spend lengthy periods kneeling with their faces against the wall and their hands behind their heads; damaging detainees' property and illegally confiscating photographic film, cameras, video cameras, mobile phones and other objects with the aim of covering up alleged crimes committed by law enforcement officers in the street clashes, for which the photographic material might provide supporting evidence.

Numerous police officers staged demonstrations in protest at the detention of the seven and government ministers and other prominent politicians also voiced concern over the detention order.

The officers' appeal against the detention order was examined by the review section of Naples Tribunal which annulled the order on 11 May. The court did not consider detention justified in that it did not perceive a danger of the officers - if they were at liberty - repeating the crimes of which they were accused.

Over 200,000 people, many of them foreigners, participated in anti-globalization demonstrations in Genoa in July 2001. The vast majority protested peacefully but some demonstrations degenerated into violence, resulting in significant injuries to people and extensive damage to property. By the end of the summit, hundreds of people had been injured, over 250, many of them foreign nationals, detained and one Italian protestor (Carlo Giuliani) shot dead by a law enforcement officer performing his military service in the carabinieri force.

AI does not condone violence aimed at law enforcement officers or property, nor does it oppose the lawful use of reasonable force by law enforcement officials. However, AI believes that policing must be carried out with full respect for international human rights standards and in such a way as to protect the rights of those people engaged in peaceful protest.

(including a crime of abduction for which the court did not believe there was sufficient supporting evidence), nor of them tampering with the evidence or taking revenge on their accusers. In lifting the detention order the court indicated that it was also taking into account the fact that the accused were already suspended from duty while the criminal investigation was under way.

The court emphasized, however, that there was consistent evidence of crimes of coercion and bodily harm and stated that there was "no doubt" that there had been "violent and oppressive" police conduct "in clear violation of legal provisions" in the detention facility and that what had occurred there had been "abnormal and absolutely unjustifiable."

There was widespread concern when, immediately after the officers' release, the police authorities revoked their suspension from duty and they returned to work.

The public prosecutor's office was entering an appeal with the Court of Cassation against the court's decision to annul the detention order.

The criminal investigation was continuing at the end of June.

*During and following G8 summit  
in Genoa in July 2001*

(Update to AI Index: EUR 01/002/2002)

Well documented reports of human rights violations by law enforcement and prison officers, committed in the context of the G8 Genoa policing operation, continued to emerge during the period under review. There was a marked consistency in the allegations which were made by hundreds of individuals - both male and female - of a wide variety of nationalities, ages and occupations.

By the end of June AI had still received no response to two letters it sent to the government in July 2001 (for the full texts of both letters see AI Index: EUR 30/008/2001). The first, sent in the lead-up to the G8 summit, urged the authorities to ensure that state officers engaged in the policing operation exercised maximum restraint in their treatment of demonstrators, and were aware of, and acted at all times in accordance with relevant international human rights standards.

The second letter, sent some 10 days after the summit, expressed AI's deep concern about the numerous reports already received of the violation of all the rights and standards set out in its first letter and sought information on the instructions and training which had been given to state officers. Among other things, it urged a thorough review of the training and deployment of law enforcement officers involved in crowd control and called on the government to take all necessary measures to ensure that no more than

reasonable force be used to control disturbances, that officers be adequately equipped and trained to employ non-lethal methods of crowd control, and be subject to strict regulations regarding the use of such methods and to a strict system of accountability. AI stated that all regulations and training on the use of firearms by law enforcement officials should be reviewed and, where necessary, amended, so as to ensure clarity and conformity with international minimum standards and to protect, to the greatest extent possible, the lives, physical integrity and safety of the public.

In its letter, AI strongly advocated the establishment of an independent, public commission to carry out a comprehensive investigation into alleged human rights violations during the G8 policing operation and the conduct of state officers. It set out some of the criteria which it believed should inform the establishment of an effective commission of inquiry. Among other things, AI recommended that such a commission should file interim reports to facilitate prompt amendments to regulations, laws, training and procedures relevant to law enforcement and prison officers. No such commission had been established by the end of June. AI continued to call for such a commission.

In February a proposal by the parliamentary opposition for the establishment of an ad hoc parliamentary commission of inquiry, with full judicial powers, was defeated by the majority in the Senate. Parliament had first rejected such an inquiry in August 2001, opting instead for a fact-finding investigation (*indagine conoscitiva*) with no judicial powers. The committee had ended its work in disagreement and acrimony between committee members in September 2001, with two alternatives to the report adopted by the majority put forward by parliamentary deputies representing opposition parties.

Alleged unprovoked assaults and excessive force by law enforcement officers during the raid on the Genoa Social Forum (GSF) headquarters (Scuola Pertini-ex Diaz premises) in the early hours of 22 July. Individuals detained in and around buildings legally occupied by the Genoa Social Forum, many of them asleep when the raid started, reported that law enforcement officers subjected them to deliberate and gratuitous beatings, resulting in numerous injuries, some of them requiring urgent hospitalization and in some cases surgical operations. Medical reports recorded injuries to 62 people detained during the raid: up to 20 people were reportedly carried out of the building on stretchers, two of them unconscious.

By the end of June dozens of police officers were under investigation, initially in connection with possible charges of abusing their authority, assault and battery, verbal abuse and/or failing to prevent such

Administrative investigations had been carried out by the Ministry of Interior (responsible for the State Police) and the Department of Prison Administration (attached to the Ministry of Justice) in July 2001. A serious lack of coordination in the policing operation emerged, as well as limited recognition by relevant inspectors of errors, omissions and gratuitous violence in isolated instances in the conduct of law enforcement and prison officers. On 2 August 2001 the Minister of Interior had announced, without further explanation that the Genoa Chief of Police, the Head of the central anti-terrorist office and the Deputy Chief of the Italian State Police (in charge of the G8 operation) were being moved to other duties. It was subsequently reported that all three had been moved to prominent positions in the state intelligence services.

A number of criminal investigations into the conduct of law enforcement and prison officers were opened by the Genoa Public Prosecutor's Office and continued. These included inquiries relating to:

The fatal shooting of Carlo Giuliani on 20 July. The carabinieri who fired the fatal shot, from a carabinieri vehicle under attack by demonstrators, remained under investigation in connection with a possible crime of homicide while analyses of ballistic, video and other forensic evidence regarding the trajectory of the shot continued. In July 2001 AI had urged that the investigation be thorough, and impartial and that it include a determination about whether the use of lethal force was consistent with the principles established in international human rights instruments regarding the use of force and firearms by law enforcement officials. These state that force and firearms should be used as a last resort, in proportion to the threat posed and designed to minimize injury and preserve life.

crimes committed by officers under their command. The investigation widened as strong evidence emerged of officers also committing perjury and falsifying evidence against the 93 detainees, apparently in order to justify the raid, the arrest of the 93 (accused of violently resisting state officers and belonging to a criminal association intent on looting and destroying property), and the degree of force used by police. *Inter alia*, two Molotov cocktails which police stated were found during the raid had apparently been found on the streets of Genoa hours before, and forensic analysis found that the damage to the bulletproof jacket worn by a police officer who said that an unidentified individual tried to stab him in the chest with a knife at the start of the raid was not consistent with his version of events.

Alleged assaults and other cruel, inhuman and degrading treatment by law enforcement and prison personnel in the temporary detention facility of Bolzaneto. Some 222 detainees, including the vast majority of those detained in the raid on the GSF centre, passed through this facility, intended to receive and hold temporarily those detained by police and *guardia di finanza* before transfer to prison proper. Prison personnel (penitentiary police and medical staff) were on duty there as well as law enforcement officers. Detainees were systematically denied the rights to have their relatives informed of their whereabouts, and to prompt access to lawyers and, in the case of foreign nationals, to consular officials. Scores of detainees have claimed that, among other things, they were slapped, kicked, punched, spat on, subjected to verbal abuse, sometimes of an obscene sexual nature, subjected to body searches carried out in a degrading manner, threatened, deprived of food, water and sleep for lengthy periods, made to line up with their legs apart and faces against the wall and forced to remain in this position for hours, and beaten, in particular on parts of their bodies already injured during arrest if they failed to maintain this position or spoke.

Such allegations were substantially confirmed by statements made to the authorities by an experienced nurse on duty at Bolzaneto during G8. By the end of June over 20 people, including prison officers, doctors,

Investigators and victims have reported difficulties in identifying the perpetrators of assaults and excessive force on the streets and elsewhere (for example, in the GSF raid), even when caught on camera, because the faces of law enforcement officers were frequently hidden by riot helmets, masks or scarves and they displayed no other means of individual identification. AI advocates that Italian practice should be brought in line with the European Code of Police Ethics (adopted by the Committee of Ministers of the Council of Europe in September 2001). This states that during interventions law enforcement officers should normally "be in a position to identify themselves as an individual member of the police." The Committee commented that "without a possibility of identifying the individual policeman/woman, personal accountability... becomes an empty notion." As the Committee pointed out, the identification of a police officer does not imply that his/her name be revealed. However, it is clear that if officers do not display prominently some form of identification - such as a service number - this can prevent the identification of alleged assailants and thus provide them with complete impunity.

nurses and carabinieri officers were under investigation for abusing their authority, assault and battery, verbal abuse and/or failing to intervene to stop such crimes. The Minister of Justice who visited the facility for 30 minutes in the early hours of 22 July 2001 informed the fact-finding parliamentary committee that he saw some detainees standing in silence with their legs apart and faces against the wall but no ill-treatment.

Alleged use of excessive force on the streets during demonstrations on 20 and 21 July 2001. Law enforcement officers were accused of inflicting indiscriminate assaults, including beatings with batons, and of using chemical agents (such as CS and pepper gas) indiscriminately and excessively on - amongst others - non-violent protestors (including minors), journalists, doctors and nurses who were there in a professional capacity and clearly identifiable as such.

In June some 10 demonstrators lodged official complaints, supported by medical reports, claiming that they were suffering long term effects of their exposure to CS gas, such as lung, throat and skin damage. AI believes that an independent review of the use of chemical agents by law enforcement officers should allow the introduction, where appropriate, of strict guidelines on their use, along with adequate monitoring mechanisms to keep the guidelines under review and to ensure that they are adhered to.

For further information see *Italy: G8 Genoa policing operation of July 2001. A summary of concerns* (AI Index: EUR 30/012/2001).

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

In its Second Report on Italy (adopted in June 2001 and made public in April) the European Commission against Racism and Intolerance (ECRI) expressed concern at reports of misconduct by some law enforcement officials, "such as discriminatory checks, insulting and abusive speech, ill-treatment and violence, including in some cases undue use of firearms." ECRI was also concerned that certain groups of people, "including Roma/Gypsies, foreigners and Italian citizens of immigrant background" were "particularly likely to become victims of this behaviour."

ECRI stated that, although the majority of such incidents did not result in a complaint being filed by the victim, there was reported to be "little investigation of these cases, and little transparency on the results of these investigations within the police. Counter-charges are reportedly frequently brought or threatened against those indicating their intention of lodging a complaint

of ill-treatment against law enforcement officers.” ECRI stressed “the urgent need for the improvement of the response of the internal and external control mechanisms” to the complaints of police misconduct against members of minority groups. It recommended, among other things, the establishment of an independent commission to investigate all allegations of human rights violations by the police, improved police training in human rights and anti-discrimination standards, encouraging members of ethnic minorities to join the law enforcement agencies and using cultural mediators to facilitate communications between law enforcement authorities and the immigrant communities.

### ***Urgent mission by UN Special Rapporteur on the independence of judges and lawyers***

In January the UN Special Rapporteur on the independence of judges and lawyers expressed concern to the government over an existing and growing confrontation between the government and the judiciary which he said could undermine the rule of law in the country. He sought an urgent mission to Italy in order to study the causes of, and assist in finding a solution to the confrontation. He announced that his action followed information received about a nationwide protest staged by hundreds of magistrates (judges and prosecutors) accusing the government of attempting to undermine the independence of the judiciary; accusations by members of the judiciary of political interference in ongoing criminal cases/trials before the Milan courts involving charges of corruption and false accounting against prominent politicians, including the Prime Minister; opposition by members of the judiciary to planned government reforms of the judiciary which they argued were aimed at bringing

He commented with regard to reform of the justice system that “the present ad hoc approach taken by the Ministry of Justice is fraught with suspicion and mistrust.” He recommended the setting-up of a coordinating committee representing all segments of the administration of justice to address reform in a “holistic and comprehensive way”. He reported that the government had acceded to this request and that the committee’s success would “depend largely on the full cooperation of all actors, who must set aside their individual interests and adopt the interest of justice for the people as their collective interest.” The Special Rapporteur said he would monitor developments and submit a further report to the UN Commission on Human Rights.

### ***Universal jurisdiction over crimes against humanity***

prosecutors under the control of the executive and protests against a reduction of police protection to magistrates involved in high profile cases.

Following his mission which took place in March, the Special Rapporteur issued a preliminary report and a statement to the UN Commission on Human Rights. He indicated that he was satisfied that there was “reasonable cause for judges and prosecutors to feel that their independence is threatened.”

He said that the ongoing tension was caused by a number of factors. The cumbersome legal system and long delays in the administration of justice had contributed. Another factor in the ongoing tension was the way legal procedures were being “taken advantage of to delay the trials” in Milan. In addition there was “the perception that legislative processes are used to enact legislation which is then used in cases already before the courts.” He called upon prominent politicians facing charges before the Milan courts to respect the principles of due process and not to use their positions to delay the proceedings unduly.

Such developments had “led to mutual suspicion and mistrust between the government and the judges and prosecutors. Every reform affecting the administration of justice is perceived with suspicion and to be a threat to their independence. Judicial decisions, particularly in the high-profile cases in Milan, are viewed as being partisan and leftist.”

He observed that, during his mission “the Council of Ministers approved a law which would separate the judicial and prosecutorial functions of magistrates. This is perceived by the magistrates as interference and another threat to their independence. On the basis of the explanation of the Minister of Justice, the Special Rapporteur finds some merit in this legislation for the separation of functions.”

(Update to AI Index: EUR 01/002/2002)

In February a Rwandese national, a Roman Catholic priest resident in Italy, flew to Tanzania and surrendered to the International Criminal Tribunal for Rwanda (ICTR) in Arusha. He subsequently pleaded not guilty to charges preferred against him. During 2001 Italy had refused to implement an international warrant for his arrest on the grounds that, under its domestic legislation, there was no legal basis to carry out any such arrest. The individual had been indicted by the ICTR on charges of genocide and crimes against humanity and his arrest was requested as a preliminary step in his transfer to the ICTR. In July 2001 AI had called on Italy immediately to fulfil its international obligations and ensure that any perpetrators of serious human rights violations were brought to justice.

A bill on Italy's cooperation with the ICTR, put forward by the government in August 2001 was approved by parliament in July.

## KAZAKSTAN

### **Detention of opposition leaders**

In the period under review, criminal cases were opened on charges of "abuse of office" and financial crimes against two well-known leaders of the opposition party Democratic Choice for Kazakhstan (DCK), Mukhtar Ablyazov - the former Minister of Energy, Industry and Trade - and Galymzhan Zhakiyanov - the former Governor of the Northern Pavlodar region. There were reports that the charges were brought to punish them for their peaceful opposition activities. Mukhtar Ablyazov was detained on 27 March, and on 28 March a criminal case was reportedly opened against Galymzhan Zhakiyanov. Galymzhan Zhakiyanov subsequently sought refuge in the French embassy in Almaty from 29 March to 3 April. He reportedly agreed to leave the embassy and be placed under house arrest on condition that he had free access to lawyers and that embassy representatives of European Union states could visit him freely. On 10 April police transferred him to the town of Pavlodar, where he was also kept under house arrest.

AI was concerned at allegations that Galymzhan Zhakiyanov's state of health severely deteriorated several times as a

result of interrogations, and that the investigator reportedly nevertheless insisted on interrogating him despite interventions by senior doctors in the cardiology department of hospital No. 1 in Pavlodar who pointed out the detrimental effect of such interrogations on the patient's health. In the night of 17 to 18 May Galymzhan Zhakiyanov, who has a long-standing heart disease, had to be taken to this hospital by ambulance after he had collapsed following an eight hour-long interrogation. He was reportedly admitted to hospital with a sudden severe attack of cardiac pain and severely elevated blood pressure. On 6 June the investigator reportedly insisted on interrogating Galymzhan Zhakiyanov despite doctors' attempts to prevent this; Galymzhan Zhakiyanov was transferred to the intensive care unit of the hospital the same day.

The trial against Mukhtar Ablyazov started on 24 June in the Supreme Court of Kazakhstan in Astana. There were allegations that journalists from media outlets close to the opposition were refused access to the courtroom. Yevgeny Zhovtis, head of the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), was reported by the news agency Reuters on 24 June as saying: "In my opinion, the trial is politically motivated, because this man is being prosecuted irrespective of whether these charges are founded or not... He is facing this trial only

because at a certain moment he joined the opposition and demanded democratic and political reforms.”

No official, comprehensive statistics on the application of the death penalty have been published since 1998, although Kazakhstan is a member of the Organization for Security and Cooperation in Europe (OSCE), which calls upon its member states to “make available to the public information regarding the use of the death penalty”<sup>8</sup>. However, on 27 June the newspaper *Stolichny Prospekt* wrote that in the first six months of 2002, 40 men were sentenced to death. According to the newspaper 11 of the men were on death row in Almaty. The newspaper also carried statistics according to which 63 executions were carried out in 1999, 40 in 2000 and 39 in 2001. The source of these statistics was not cited in the article.

In the period under review President Nursultan Nazarbaev has spoken in favour of a review of the policy on the death penalty in Kazakhstan. At a meeting with senior law enforcement officials on 26 March, the news agency Agence France Presse quoted him as saying: “Perhaps it is worth announcing a moratorium on the use of the death penalty and then discussing this issue with society and parliament and

### **The death penalty**

#### *New death penalty statistics*

abolishing the death sentence altogether in Kazakhstan.”

Kazakhstan is applying for Observer Status at the Parliamentary Assembly of the Council of Europe (PACE), which would allow Kazak delegates to attend Assembly sessions, but not to vote on resolutions. PACE resolved on 25 June 2001 that it would “only recommend the granting of Observer status with the Organisation as a whole to states which strictly respect a moratorium on executions or have already abolished the death penalty.”

#### *Death sentences*

(update to AI Index: EUR 01/002/2002)

At the end of June an appeal was still pending with the Supreme Court against the death sentences passed on Mikhail Vershinin, Sergey Kopay and Evgeniy Turochkin, who had been sentenced to death in September 2001.

At the trial in September Mikhail Vershinin had stated in court that after he was arrested police officers had pressurized him physically and psychologically to force him to confess, at Ilysky police station in the town of Energeticheskiy, some 20km

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<sup>8</sup> Point 17.8 of the Document of the Copenhagen Meeting of the Conference on the Human

Dimension of the OSCE, 1990.

from Almaty. The police reportedly questioned him for three days, and kept him in an iron cage at night. His father told AI that Mikhail Vershinin had not been given any food for three days and was not allowed out of the cage to go to the toilet. His limbs reportedly became numb while he was held in the cage because it was too small for him to move around in. The police reportedly beat him on the back of the head, and threatened to pull out his toenails. Sergey Kopay claimed during the trial that police had beaten him and Evgeniy Turochkin on the soles of their feet before and during interrogations.

Mikhail Vershinin's father told AI that since his son was put on death row in the investigation-isolation prison No. 1 in Almaty in September 2001, 13 of his fellow prisoners have been executed.

## LATVIA

### **Conscientious objection**

In March the UN Committee on the Elimination of Racial Discrimination in Geneva reviewed the initial report of Lithuania on the steps the authorities had taken to implement the UN Convention on the Elimination of All Forms of Racial Discrimination, to which Lithuania had become a state party in 1999. Among the various concerns expressed by the Committee was the discriminatory treatment of Afghan asylum-seekers in refugee determination proceedings. The Committee consequently recommended that Lithuania ensure the equal treatment of all asylum-seekers, including Afghan nationals. The Committee also urged Lithuania to ensure that all asylum-seekers and refugees, irrespective of their legal status, are able to enjoy social rights, particularly housing and health.

During its consideration of Lithuania's initial report the Committee noted that the Parliamentary

In May the Latvian parliament, the *Saeima*, passed a law to introduce a civilian alternative to military service. As was previously feared, the law remained punitive in length, forcing conscientious objectors to military service to undertake an alternative service of two years in length, which is twice as long as military service (see AI Index: EUR 01/003/2001). Conscientious objectors with graduate qualifications will serve 18 months. A draft Law on Alternative Service prepared by a special working group in the period 2000-2001 had been adopted by the Latvian government, the Cabinet of Ministers, in mid-2001 and sent to the *Saeima* in early February 2002. The *Saeima* voted in favour of adopting the draft law on 30 May, which came into effect on 1 July 2002. AI will consider anyone imprisoned for refusing to undertake alternative service for reasons of conscience as a prisoner of conscience, because it considers its length to be punitive.

### **Death penalty**

On 3 May Latvia took the first step to abolishing the death penalty in all circumstances, including in times of war and threats thereof, by signing Protocol 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Latvia was one of 36 member states of the Council of Europe which signed this optional protocol during the 110<sup>th</sup> session of the organization's Council of Ministers. Latvia ratified Protocol 6 of the Convention abolishing the death penalty in peacetime only in May 1999.

## LITHUANIA

### **Intergovernmental bodies**

ombudsperson had not received any complaints of alleged discrimination by state officials, such as police officers, on grounds of national origin. It, nevertheless, recommended that awareness of the police and judiciary be raised in this respect.

### **Death penalty**

The Lithuanian capital, Vilnius was host to the 110<sup>th</sup> session of Council of Europe's Committee of Ministers in early May. During the session 36 member states of the Council of Europe, including Lithuania, signed Protocol 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Once ratified, Protocol 13 will abolish the death penalty in all circumstances in Lithuania, including in times of war and threats thereof. Lithuania



ratified Protocol 6 of the Convention abolishing the death penalty in peacetime only in July 1999.

## LUXEMBOURG

### ***UN Committee against Torture: concerns about solitary confinement and the detention of minors in adult prisons***

In May the United Nations Committee against Torture considered the combined third and fourth periodic reports of Luxembourg on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee noted several positive developments since its examination of Luxembourg's second periodic report in May 1999, including the incorporation of a specific crime of torture into the Penal Code and the establishment of an advisory body to the government on human rights issues (the Advisory Commission on Human Rights).

However, the Committee expressed concern that Luxembourg allowed the use of solitary confinement in prisons, particularly its use "as a preventive measure during pre-trial detention." Prisoners may be placed in solitary confinement as a disciplinary measure for up to a maximum of six months, which may be extended to 12 months in cases of recidivism. The Committee recommended that "Solitary confinement be strictly and specifically regulated by law and that judicial supervision should be strengthened so that this punishment is applied only in severe circumstances." It recommended further that Luxembourg consider abolishing solitary confinement, particularly during pre-trial detention.

The detention of minors in adult prisons constituted another issue of concern to the Committee. Ramifications continued from the conflict in the north and west of the country between the National Liberation Army (NLA), an ethnic Albanian armed opposition group, and the Macedonian security forces which started in the first half of 2001. The conflict was at its height from the beginning of July until mid-August 2001, when mediators appointed by the USA and European Union (EU) helped the leaders of the four main political parties to reach a political agreement, known as the Ohrid or framework agreement. Thereafter, with the presence of forces from North Atlantic Treaty Organization (NATO) and monitors from the Organization for Security and Co-operation in Europe (OSCE) and EU, the number of violent incidents decreased although tension was still high as government forces gradually re-entered parts of the north west which had remained outside government

control. Incidents included bomb attacks and shootings at police checkpoints occasionally resulting in loss of life. Although the NLA, under the terms of the Ohrid agreement, had disbanded and handed over some of its weapons to NATO, splinter groups like the Albanian National Army (ANA) continued to operate. Inter-Albanian armed clashes began to occur sporadically as former NLA commanders began to enter the political arena. In May former head of the NLA, Ali Ahmeti, formed his own political party while other leading ex-NLA figures joined the established ethnic Albanian parties. There remained considerable tension around the issue of the return of the police to the areas which had been under the control of the NLA during the 2001 conflict with police being stopped from re-entering ethnic-Albanian villages by road blocks and other obstructions by armed men. However, by late May,

It recommended that Luxembourg "refrain from placing minors in adult prisons for disciplinary purposes."

In June an urgent parliamentary question, addressed to the Minister of Justice, expressed concern about the reported detention of a 10-year-old girl in the Luxembourg prison of Schrassig, an adult prison, and fears that the detention was in violation of Luxembourg's obligations under the UN Convention against Torture. The Minister indicated that the minor in question was a Romani girl from the Federal Republic of Yugoslavia, whose parents were currently living in Belgium, who claimed to be 10-years-old and who was detained after being caught in the act of house-breaking in Luxembourg.

She appeared before a public prosecutor who ordered that she be detained in a secure unit. She was first taken to a socio-educational centre for minors but, because this did not constitute a secure unit, she was transferred, after consultation with the prosecutor, to the female section of Schrassig adult prison, where she was held for some three days before a judge attached to the juvenile court ordered her return to the semi-open socio-educational centre for minors. The Minister indicated that it was the government's aim to create a secure unit specifically for minors in order to avoid the detention of minors in adult prisons.

## MACEDONIA, FORMER YUGOSLAV REPUBLIC OF (FYROM)

### ***Background***

control. Incidents included bomb attacks and shootings at police checkpoints occasionally resulting in loss of life. Although the NLA, under the terms of the Ohrid agreement, had disbanded and handed over some of its weapons to NATO, splinter groups like the Albanian National Army (ANA) continued to operate. Inter-Albanian armed clashes began to occur sporadically as former NLA commanders began to enter the political arena. In May former head of the NLA, Ali Ahmeti, formed his own political party while other leading ex-NLA figures joined the established ethnic Albanian parties. There remained considerable tension around the issue of the return of the police to the areas which had been under the control of the NLA during the 2001 conflict with police being stopped from re-entering ethnic-Albanian villages by road blocks and other obstructions by armed men. However, by late May,

mixed Albanian and Macedonian police units had been successfully redeployed under guidance of OSCE monitors in 120 of the 143 'problem' places, although violent incidents continued to occur. Tensions remained over a border dispute with Kosovo, and in May and June there were a number of attacks on a Macedonian border tower at Tanushevci, scene of clashes between security forces and Albanian rebels in February 2001.

The framework agreement contained reforms aimed at addressing discrimination against the Albanian minority including increased political, economic, social and cultural rights for ethnic Albanians, estimated at comprising a quarter to a third of Macedonia's population. The constitutional amendments were finally ratified on 16 November 2001 (see *Concerns in Europe*, AI Index EUR 01/002/2002) and most of the other draft legislation was adopted by the government in May and passed by parliament in June. However, agreement on travel documents was not forthcoming after strong protest from ethnic Macedonian parliamentarians and the general public led to the government withdrawing a draft proposal for the passports of ethnic Albanians to be in Albanian as well as Macedonian and English. The question of allowing Albanian to be used in parliamentary proceedings also remained unresolved.

In March, an amnesty for all those involved in the 2001 armed conflict except for those accused of war crimes under the jurisdiction of the International Tribunal for Former Yugoslavia (the Tribunal) was adopted. Under this amnesty, which followed on from the December 2001 Presidential pardon of 64 similarly accused (see *Concerns in Europe*, AI Index EUR 01/002/2002), 54 people were released leaving a reported 19 people detained in connection with the On 2 March police shot dead seven men - six from Pakistan and one from India. Although the authorities claimed that they were radical Islamic 'terrorists' planning to attack western embassies in Skopje, the evidence produced to back up these claims was suspect, and it appeared that the men were all economic migrants on their way to Greece whom the authorities accused of being Islamic 'terrorists' linked to NLA and its successors in an attempt to discredit them. The authorities linked the killings with the arrest in February of four men, two Bosnians and two Jordanians, who were arrested in Skopje en route to study in Jordan. The authorities claimed that they were a 'mujahideen' group planning 'terrorism'. However, the men had been released without charge after two days' detention in which they were allegedly ill-treated eliciting protests from the Bosnia-Herzegovinian authorities.

insurgency. The Tribunal continued its work investigating the killing of eight of the Macedonian security forces at Vejce in April 2001 and of at least six Albanians in Ljuboten by the security forces in April and August 2001 respectively, and in April exhumations of bodies into the Ljuboten case were completed, although the results of the forensic tests had still not been made public. In May Tribunal prosecutor Carla Del Ponte said her office was opening three new investigations linked to the 2001 conflict, all involving allegations against ethnic Albanian rebels.

The peace process continued to be supported by activities of the international community, including up to 200 OSCE and EU monitors protected by a NATO force of some 700 from 11 countries: Belgium, Canada, Denmark, France, Germany, Greece, Italy, the Netherlands, Norway, Poland, and Turkey. On 26 June the Netherlands took over the leadership from Germany of the NATO force.

In January new penal legislation against trafficking was introduced and on 20 May the first conviction of four men accused of trafficking in women and children took place.

### ***Displaced persons***

In June the Macedonian Red Cross (MRC) reported that the number of registered internally displaced persons (IDPs) due to the 2001 fighting was 13,603, of whom 11,089 were in host family accommodation and 2,514 in the collective centres, a decrease of 2,748 since mid-May. In April UNHCR reported a further 3,811 refugees from Macedonia registered in Kosovo.

### ***Possible extra-judicial executions***

#### ***Human rights defenders threatened***

In January following the circulation of the draft annual report of the non-governmental organization, the Helsinki Committee, for 2001 on the situation of human rights in Macedonia there was repeated criticism of the Committee in the Macedonian media and on television. This campaign appeared to have been co-ordinated by members of the government and included appearances by Prime Minister Ljupcho Georgievski and Minister of the Interior Ljube Boshkovski on a private television station in which the latter referred to the organization's chairperson, Mirjana Najchevska, as "state enemy No.1", "anti-Macedonian" and an "attorney for the Albanians" due to the Committee's criticism of human rights violations by the authorities against ethnic Albanians. She received warnings that there was a risk of her being arrested when returning to Macedonia from France.

However, following pressure by AI and others, she returned safely and the authorities denied that there was ever a threat to her.

### ***Alleged ill-treatment and police impunity***

AI continued to work on a number of cases of ill-treatment by security forces of ethnic Albanians, and Roma, as well as Albanian citizens in transit to Greece. Although allegations of ill-treatment/torture by security forces were widespread, prosecutions of officials for using excessive and unwarranted force remained, to AI's knowledge, so rare as to be virtually non-existent and in those rare cases where an officer was investigated for abuse, the public prosecutor did not pursue proceedings. This helped fuel the perception that police and other security officials could act with impunity.

In the evening of 23 January 2002, a group of masked men armed with automatic weapons attacked and severely injured Pavle Todorovski, the Deputy Leader of the Local Community Council of Tearce. He was well known in the local community for his stance on reconciliation and peace between ethnic Albanians and Macedonians. The attack happened in front of his home in Tearce, a village near Tetovo. He was taken to hospital with head wounds and received over 20 Following reports of earlier police shootings, AI was investigating reports that a young construction worker had been shot dead by a police officer in Setúbal on 20 June. Manuel António Tavares Pereira died in a police shooting incident in the Bela Vista area of Setúbal - an area of the city inhabited by many people of foreign origin. Several people sustained injuries. According to newspaper reports, the victim - who had been a member of the African Cultural Centre in Setúbal for seven years and had two children - had tried to intervene in a quarrel between a black and a white youth. A police patrol car was present at the scene, as were many other people. One of the officers made an "insulting" gesture and one of the youths responded. A Public Security Police (PSP) officer got of the car and threatened to use his firearm. One of the youths threatened him back - a version of events that has been questioned. The second officer, who was described as carrying a rifle, got out of the car and allegedly fired two shots, hitting one of the youths in the arm, and the other in the testicles. António Pereira - who, according to eye-witnesses, had been attempting to calm the situation, and had interposed his body in front of the two youths - was then shot in "in cold blood". A first shot struck his shoulder; a second shot entered his chest as he fell. A crowd gathered round the police station and began to throw stones at it. Police reinforcements were called, including the officers of a specialist riot

stitches. Pavle Todorovski and witnesses to the incidents asserted that the attackers spoke Macedonian and denounced him as a "Macedonian traitor". No serious police investigation into the attack appeared to have been undertaken. This and the fact that the men were armed with automatic weapons and wore similar clothes akin to a form of uniform, gave rise to suspicions that the perpetrators may have been nationalistic members of the security forces who attacked him because of his conciliatory stance towards ethnic Albanians.

## PORTUGAL

### ***General***

A general election took place in March. It followed the resignation, in December 2001, of the Prime Minister, in the wake of heavy losses in local council elections by the Socialist Party, and Parliament was dissolved. In March a Social Democrat leader was elected and a centre-right coalition government was formed.

### ***Fatal shooting of António Pereira***

unit, the *Corpo de Intervenção* (CI), who dispersed the crowd, allegedly using live rounds, and a cordon sanitaire was placed around the police station.

During a ceremony to celebrate the 135<sup>th</sup> anniversary of the PSP, the Interior Minister reportedly confirmed that the death of António Pereira was under investigation. Inquiries would determine whether the police procedure had been justified and the means used adequate. He added that, if it was found that excessive force had been used the "necessary measures will be taken". A judicial inquiry was also opened.

### ***Police accused of excessive force against Brazilian nationals***

The Interior Minister also confirmed that inquiries, including one by the Inspectorate General of Internal Administration (IGAI), had been opened into disputed public order incidents in the Costa de Caparica on 30 June, in which up to six Brazilian nationals, or persons of Brazilian origin, and one or more police officers, sustained injuries.

According to reports, about 500 Brazilians were celebrating the fifth World Cup victory of the Brazil team in or around the *O Elétrico* bar in a commercial centre when two PSP officers arrived.

These called for reinforcements, which arrived in two stages. At about 17.20 a large number of riot (CI)

police arrived. According to some reported eye-witness statements the officers made indiscriminate use of their truncheons, with claims that those beaten included a pregnant woman and children. As the situation escalated in violence, a group of about 15 Brazilians, near a small railway line between Costa de Caparica and Fonte da Telha, reportedly began to throw stones at police officers, who responded with rubber bullets. One, or possibly two, officers were reportedly injured by the stones, with one requiring hospital treatment. One youth was reported to have been shot twice in the head with rubber bullets, and the Accident and Emergency Unit of the Hospital Garcia de Orta reportedly referred to the case of a Brazilian woman who had been shot in the leg with a rubber bullet. Police dogs were also used. A Brazilian called Rodrigo Santos, from Minas Gerais, in Brazil, told the daily newspaper *Público* that he had been bitten by a “pitbull” terrier used by the police and had also been beaten with a truncheon, simply because he had been in the way.<sup>9</sup>

The circumstances in which the police action occurred were disputed. A number of residents and local traders supported the police action, but the Brazilian Embassy requested clarification from the Minister of Foreign Affairs and a Brazilian organization protested against “gratuitous police violence”. The Interior Minister declared that an IGAI inquiry would be carried out, while reportedly saying that police reinforcements had been called to the scene because the Brazilians and others celebrating with them had become increasingly hostile and violent, with damage being done to stationary vehicles and to traffic. The Minister did not, however, refer to the use of rubber bullets.

## ROMANIA

### ***New reports of deaths in custody***

Constantin Ro\_ca, who had been held in preventive detention in Timi County Police Inspectorate, died in the Jilava Penitentiary Hospital on 13 March. He was part of a group of nine people who were reportedly apprehended on 6 February by the police while attempting to steal residual petrol from a station in Lovrin. He was held in preventive detention although he was suffering from tuberculosis. His state of health reportedly suddenly deteriorated on 8 March 2002 and he was taken to Bucharest to the Jilava Penitentiary Hospital, around 560km away from Timi\_oara where Constantin Ro\_ca had been held. He

### ***in suspicious circumstances***

In the period under review AI received three reports of deaths in custody in suspicious circumstances. One man died reportedly as a result of injuries suffered from police beatings. Another was allegedly beaten by other men who were held in pre-trial detention with the apparent knowledge of some of the guards on duty. In one case the detained man died apparently as a result of lack of adequate medical treatment in detention.

Nelu B\_1\_oiu, who was 18 years old, 17-year-old D.D. and 15-year-old M.C. were arrested in Tîrgu C\_rbune\_ti on 5 April. The names of the minors are known to AI. The three youths, who are of Romani ethnic background, were reportedly apprehended with a stolen car tyre and beaten by officers in the police lock-up on numerous occasions when they were questioned there before they were transferred on 14 May to Tîrgu Jiu penitentiary. It is unclear whether Nelu B\_1\_oiu's medical file, which is compulsory for all persons held in police detention, had also been transferred and whether he had been medically examined upon arrival at the penitentiary. Other men who were detained in the same penitentiary cell as Nelu B\_1\_oiu stated to APADOR-CH (the Romanian Helsinki Committee) representatives that he had swellings on his legs and head and vomited and passed blood. Apparently Nelu B\_1\_oiu was seen by a penitentiary medic on 28 and 29 May but was only referred for a hospital examination on 3 June. The Tîrgu Jiu hospital reportedly established that Nelu B\_1\_oiu was suffering from “pleurisy” and referred him for treatment to the Jilava Penitentiary Hospital where he arrived in the afternoon of 4 June. However, Nelu B\_1\_oiu died the following morning. An investigation into his death and into allegations of torture of D.D. and M.C. is reportedly underway.

reportedly died within 45 minutes of arrival. It is not clear whether an investigation into his death has been initiated and who is conducting it. Deputy Chief of Timi County Police Inspectorate, Colonel Ioan Roibu, reportedly stated: “If the family of the deceased wishes to take legal action it is their prerogative. However we do not feel responsible. If the death is indeed suspicious then the investigation should be carried out by the police inspectorate where it occurred.”

In May AI published a report, *Romania: Deaths in custody in suspicious circumstances* (AI Index 39/002/2002) describing six cases which occurred in

<sup>9</sup>“Tomei porque não fugi, só por isso”. (*Público*, 1

July 1002)

the period of 18 months prior to the report's publication. The organization called on the Romanian authorities to initiate thorough and impartial investigations into these cases, to publish the results and bring to justice those suspected of having committed human rights violations.

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

AI received numerous reports of police beatings. Some of the victims were minors. On 5 February in Galați, 14-year-old Calin Sterica, who is of Romani ethnic background, was leaving the yard of School number 15 when two gendarmes punched him and beat him with their clubs all over the body. As the gendarmes were about to take him away in their car, Calin Sterica's mother, alerted by the neighbours, came to the school and started to shout for help. She was fined on the spot 4,000,000 lei (about US\$ 130, a vast sum considering the family's very modest means) because the gendarmes considered her conduct to be in breach of the peace and public order. The boy who was then released was admitted to the hospital where he was treated for several days. Prior to this incident, the school principal had reported to the gendarmerie a disturbance involving several youths. However, the principal left the school before the gendarmes arrived. She subsequently acknowledged that Calin Sterica had not been involved in the disturbance. It appears that the mother's fine was revoked following an intervention by a local government official on the understanding that no complaint concerning the beating would be filed. Nevertheless, it is unclear whether an investigation is underway. Because reports about the incident were published in the press the local prosecutor should have *ex officio* initiated an investigation.

Severius Tanase, a 34-year-old resident of Sacele, Brașov county, has had problems in the past with the local police. He was reportedly unjustly fined on several occasions for disturbing the peace and public

The police force continued to be organized like the military, excessively centralized and subordinated to the Minister of the Interior. With the introduction of the "territorial public order authority", a body ostensibly allowing citizens to influence this public service, limited representation of the local government authority has been granted consultative status to advise the police at the local level. It has no authority over the "operational matters" of the police. Furthermore, the new law continues to authorize police detention of a suspect up to 48 hours, which is in violation with the Romanian Constitution, which limits this period to 24 hours.

Provisions authorizing police officers to resort to firearms remain in contradiction with internationally

order. In October 1999 he complained to the military prosecutor about the police causing extensive damage to his property when his apartment was searched in his absence. On 12 March 2002 at around 12.30pm in the Cernaut area, close to the Sacele police station, Severius Tanase was reportedly insulted by two police officers who were driving in a car. The police officers later claimed that it was Tanase who insulted them. They reportedly stopped the car and hit Severius Tanase in the head, then took him to the police station where they punched and kicked him all over the body. During a break in the beating Tanase reportedly went to the police commander's office asking for protection but the commander reportedly told his officers to take Severius Tanase into the basement and "give him a good one". He was then taken into another office where he was again beaten and issued with a fine for 800.000 lei (about US\$ 26). Before he was released the officers reportedly told Tanase to wash his bloodied face and threatened him with further beating should he complain about their conduct.

The same afternoon Tanase was admitted to the Brașov County Hospital where in the course of three days he received treatment for injuries suffered as a result of the beating, including contusions to the chest and abdomen and swelling of the left eye. Severius Tanase complained about the two officers who beat him to the Brașov military prosecutor.

### ***Revision of the Law concerning the organization and functioning of the Romanian Police***

New regulations concerning the organization and authority of the Romanian Police came into force in May. AI is concerned that some provisions of the new law remain in breach of international human rights standards. Other provisions are at variance with the requirement for Romania's membership in the European Union.

recognized principles regarding the use of force and firearms. "Police officers may resort to arms or firearms in conditions provided for in law, only if necessary and when other means to apprehend or restrain are not possible." This formulation fails explicitly to restrict the use of firearms only to situations in which the lives of the police officers or others are in imminent danger or to prevent the perpetration of a particularly serious crime involving grave threat to life. In the period under review AI continued to receive reports of incidents in which police officers used firearms to apprehend suspects of crimes who were not threatening anyone's life.

# RUSSIAN FEDERATION

## ***The Chechen conflict: crimes against civilians continue unchecked***

The conflict in Chechnya has been characterized by serious violations of international human rights and humanitarian law. Independent verification of violations has frequently been gravely hampered by the security situation in the region, and obstacles to access imposed by the Russian authorities on international human rights monitors, as well as domestic and foreign journalists, seeking to operate in Chechnya. However, AI has actively researched numerous, consistent and credible reports that Russian forces have been responsible for widespread human rights violation such as “disappearances”, extrajudicial executions and torture, including rape. These violations would be serious breaches of the Geneva Conventions, and constitute war crimes.

Chechen forces are also reported to have violated international humanitarian law, although independent investigation can likewise be very problematic. Chechen fighters who have been operating in and around populated areas have reportedly failed to take measures to protect civilians. According to reports, they have targeted civilian members of the pro-Moscow administration in attacks that have resulted in dozens of fatalities and serious injuries, and kidnapped civilians and held them hostage. Chechen forces also claim to have executed captured members of the Russian armed forces. Such abuses can also constitute war crimes.

During the period under review AI continued to raise its concerns about abuses in Chechnya both with the Russian authorities and in other forums, such as the Parliamentary Assembly of the Council of Europe and

Russian forces were said to have left the village on 1 April. However, according to reports dated 4 April, Russian military helicopters had again been seen flying over the village, raising fears that a further raid was imminent. Villagers attempting to flee the area alleged that they had to pay bribes to Russian forces in order to be able to leave, or were forced to return home. The fate and whereabouts of a number of people detained by Russian security forces during a previous raid on Tsotsin-Yurt in December 2001-January 2002 remained unknown.

### *“Disappearances” during raid on village of Novye Atagi*

at the United Nations (UN) Commission on Human Rights (see later section).

### ***Alleged violations against Chechen civilians during military raids (“zachistki” of towns and villages***

During military raids, ostensibly to root out Chechen fighters, Russian security forces continued to subject the civilian population to serious violations of international human rights and humanitarian law.

### *Torture, ill-treatment and “disappearances” of civilians during raid on Tsotsin-Yurt (Update to AI Index: EUR 01/002/2002)*

Russian military raids on the village of Tsotsin-Yurt, in which the civilian population were reportedly subjected to torture and ill-treatment and “disappearances”, continued. On 24 March, two members of the Russian security forces were reportedly killed by Chechen fighters in Tsotsin-Yurt, which is about 40km east of the capital, Grozny. The following day, Russian forces surrounded and raided the village, preventing anyone from entering or leaving. During the blockade, which lasted until 1 April, Russian forces detained approximately 300 men and subjected them to torture and ill-treatment. Most of the men were later released, with some reportedly paying bribes to secure their freedom. However, at least 15 men were reportedly taken away by Russian forces and have since “disappeared”. They have been named as Shamsuli Khozhaev, aged 20, Elbek Khariev, Dzhabrail Tashukhadziev, Elbek Madaev, brothers Borz-Ali, Borz-Featikh and Islambek Khadzhimuradov, brothers Usman, Said and Said-Amin Akhmadov, Said-Akhmed Khasmikov, and brothers Umar, Lom-Ali and Ali-Khadzhi Musaev. Reportedly, the Musaev brothers were being held by Russian forces who were demanding \$1,000 per person to secure their release, following their detention on 29 March.

AI received reports that five men - Said-Magomed Imakaev aged 45, Ruslan Utsaev, Movsar Taisumov, Idris Abdulazimov and Aslambek (his second name is not known) - were taken from their homes in the Chechen village of Novye Atagi by members of the Russian security forces on 2 June, and subsequently “disappeared”. Said-Magomed Imakaev’s son, Said-Khusein Imakaev, had been previously detained by Russian federal troops on 14 December 2000, and has since also “disappeared”. According to reports, at 6:20 a.m. on 2 June approximately 20 members of the Russian security forces, traveling in an armoured personnel carrier, arrived at the home of Said-

Magomed Imakaev on Ordzhonikidze street, in Novye Atagi. The soldiers, who did not identify themselves or state the reason for their presence, searched the house and detained Said-Magomed Imakaev. They then proceeded to a neighbouring street and detained the other four men named above.

On 3 June, the military commander in Shali, a town 20 kilometres south-west of Grozny, indicated to Said-Magomed Imakaev's wife, Marzet Imakaeva, that her husband was being held in that town. However, on 4 June, an official from the Federal Security Service of the Russian Federation (FSB) in Shali said that her husband was not being held in the town, but might have been taken to the village of Mesker-Yurt in the Shali district.

### ***Reported rape of pregnant women by Russian forces***

In November 2001, AI representatives gathered witness testimony regarding a number of reported rapes in detention of pregnant Chechen women by Russian forces. These women were reportedly detained following military raids on their homes. During the period under review, AI highlighted individual cases of such reported rapes in its campaigning and lobbying actions, and continues to seek answers from the Russian authorities as to steps taken to prevent and punish violence against women, including sexual violence, in the context of the Chechen conflict.

#### ***The case of "Zainap"***

A number of civilians reported to AI the case of 30-year-old "Zainap" from the village of Kurcheloy (her real name is concealed for her protection). According to witnesses, on 18 October 2001 Russian Federal

AI is alarmed at this move to force internally displaced Chechens to return to Chechnya, where their lives would be in danger, and moreover where international humanitarian and human rights organizations have only limited access. Actions by Russian authorities forcibly to return displaced Chechens from Ingushetia back to Chechnya would appear to contravene the Guiding Principles on Internally Displaced Persons, which reflect prohibitions against torture in international humanitarian law and state that the authorities "have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return *voluntarily* [emphasis added], safety and with dignity" to their place of usual residence or "to resettle voluntarily in another part of the country". Indeed, earlier in May, Human Rights Ombudsman Oleg Mironov is reported

forces came to the home of "Zainap" intending to detain her husband. When they did not find him in the house, the soldiers allegedly detained "Zainap", who was eight-months pregnant. She was taken to the Temporary Department of Internal Affairs (VOVD) located along with the military command post in the village of Kurcheloy.

Two women witnesses, who were detained along with "Zainap", stated that she was later repeatedly gang-raped and ill-treated by Russian soldiers and, as a result, suffered a miscarriage. "Zainap" was released in mid-November in exchange for 10 machine-guns, requested by the Russian forces from her relatives. Upon her release from detention, "Zainap" reportedly underwent surgery in relation to injuries she suffered as a result of the rape. Her husband reportedly refused to take her back because she had been raped.

### ***Internally displaced people***

On 29 May the newly elected president of Ingushetia, retired FSB General Murat Zyazikov, and the pro-Moscow head of the Chechen administration, Akhmad Kadyrov, signed an agreement affirming that "all Chechen refugees should be brought back home from Ingushetia before the end of September [2002]." According to reports, at that time there were some 150,000 displaced people in Ingushetia alone, living in camps in conditions described by the Joint Working Group on Chechnya of the Council of Europe in September 2001 as "dire and very precarious." The refusal of IDPs in Ingushetia to return to Chechnya, despite the poor conditions in the camps and lack of state aid, is indicative of the security situation in Chechnya that places civilians at risk of torture and ill-treatment at the hands of Russian security forces.

to have stated that it was impossible to think about the return of internally displaced Chechens until it would be safe for them in Chechnya and there would be sufficient housing and work.

### ***Russian investigations into allegations of human rights violations***

The Kremlin's chief spokesperson, Sergey Yastrzhembsky, was quoted by news agency AFP as stating in May that more than 30 military personnel, including four officers, had been tried by the courts for crimes committed in Chechnya. However, he gave no further details on the nature of the charges or the outcomes of the trials. According to statistics collated by the international human rights organization, Human Rights Watch, the majority of investigations launched into allegations of torture and ill-treatment during the

armed conflict in Chechnya have either been suspended, passed on to another investigative body or dropped altogether.

*The case of Colonel Yury Budanov*

A notable exception is the bringing to trial of Colonel Yury Budanov, a commander of a Russian tank regiment arrested on charges of murdering 18-year-old Kheda Kungaeva in the village of Tangi-Chu, Chechnya in March 2000. However, since the trial began in February 2001, it has been postponed many times, and had not been concluded during the period under review.

On the night of 26 March 2000, Kheda (Elza) Visaevna Kungaeva had been kidnapped from her family home by Colonel Budanov, the commander of a Russian tank regiment, and his soldiers. Colonel Budanov took Kheda Kungaeva to his tent, reportedly to interrogate her, but instead he strangled her. An official post-mortem, examined by AI, carried out by a Ministry of Defence pathologist, concluded that Kheda Russia's failure adequately to address allegations of torture and other violations of human rights and international humanitarian law resulted in a strongly worded resolution by the Parliamentary Assembly of the Council of Europe (PACE) in January 2002. The Assembly stated that "little tangible improvement of the human rights situation could be observed during the past year [and] the Assembly deplores the ongoing serious human rights violations in the Chechen Republic, as well as the lack of progress in investigating past and present crimes and in prosecuting and punishing the perpetrators, which has caused a climate of impunity".<sup>10</sup> Further, in the resolution the Parliamentary Assembly "unreservedly condemns the lack of progress in the investigations into the most serious crimes, especially [...] the allegations of torture and ill-treatment in detention, as confirmed, inter alia, by the CPT".<sup>11</sup> Members of PACE had voted the previous January to restore the voting rights of the Russian parliamentary delegation to the Assembly, citing what they regarded as progress made by the Russian government in improving the human rights situation in Chechnya, in spite of continuing allegations of violations. An AI representative attended the January and April sessions of the Assembly to brief members about the organization's concerns regarding the Chechen conflict, including through a public briefing entitled *Russian Federation: Failure to*

Kungaeva had been raped before her death. However, this finding has been ignored by the prosecution which charged Colonel Budanov with murder and abuse of power, but has failed to charge anyone with rape. The Office of the Procurator General initiated an investigation into this case and on 30 March 2000 Colonel Budanov was arrested and charged with homicide and abuse of power. It was widely reported that in the course of the investigation Colonel Budanov had admitted killing Kheda Kungaeva, but had stated that he strangled her during interrogation in a state of "temporary insanity". According to reports, Colonel Budanov underwent several psychiatric examinations, at least one of which supported his claim of temporary insanity. This finding means that, if convicted, he could receive a greatly reduced sentence

***Russia's progress on human rights in Chechnya reviewed at the Parliamentary Assembly of the Council of Europe and at the UN Commission on Human Rights***

*protect or punish - human rights violations and impunity in Chechnya* (AI Index: EUR 46/004/2002).

The situation in Chechnya as well as that of human rights defenders across Russia was also a key issue for AI's lobbying activities at the 58<sup>th</sup> session of the UN Commission on Human Rights. For the past two years, AI has been calling on the Commission to establish an international commission of inquiry into allegations of grave abuses of human rights and humanitarian law in Chechnya as the most effective means of ending impunity and ensuring justice for the victims. Two national bodies have already been established by the Russian authorities, but to date these have not proved fully effective in investigating allegations of human rights abuses and in bringing those responsible to justice. Regrettably, on 19 April the Commission narrowly voted against a resolution expressing concern at serious violations of human rights in Chechnya. AI released a statement saying that it viewed the Commission's vote against a resolution as amounting to turning a blind eye to the egregious human rights violations being committed with impunity by Russian forces against a largely defenceless civilian population (see AI Index: EUR 46/021/2002). In failing to pass the resolution, the Commission effectively endorsed Russian military conduct in Chechnya, meaning that the Russian government is now under no obligation to report back to the Commission's next session or the

<sup>10</sup> Parliamentary Assembly of the Council of Europe Resolution 1270 (2002), Conflict in the Chechen Republic, para. 16.

<sup>11</sup> Ibid., para. 17.



General Assembly on the human rights situation in Chechnya.

***Ethnically motivated  
discrimination and violence***

*Discrimination on grounds of race,  
nationality or ethnic origin*

In March the governor of Krasnodar Territory in the south of Russia announced his intention to initiate a campaign of mass expulsion of 'illegal migrants'. These include several thousand former citizens of the Soviet Union who have been prevented by local discriminatory policies from asserting their right to Russian citizenship and local residency. Discriminatory practices in relation to the issuing of passports and residence registration stamps expose people throughout the Russian Federation, and in particular those easily identifiable as non-Slavs, to the threat of arbitrary detention, extortion and bribery, and deprive them of a whole range of civil and political rights.

*Ethnically motivated violence*

Reports of ethnically motivated violence by non-state actors in Russia's cities continued. Victims of racist attacks have expressed the view that the authorities did little to address the climate of impunity enjoyed by the perpetrators of these attacks. Moreover, victims frequently complain that law enforcement officials are reluctant to register attacks as racist or fail to understand the serious implications of racially-

On 27 June the State Duma (parliament) approved a law 'On combatting Extremist Activity' (which in July was approved by the upper house and signed by President Putin.) Many non-governmental human rights organizations (NGOs) believe that the law is dangerously broad and could be used to restrict legitimate activities of human rights and other public organisations. Krasnodar NGO *Shkola Mira* (School of Peace) claimed that local officials threatened them on 25 June with prosecution under this law for their 'one sided' activities in promoting the rights of the Meskhetian minority in the region. These had included publicising a hunger strike, and a postcard campaign for International Children's Day under the slogan 'Give the children a passport'.

*The case of Massa Mayoni*  
(update to AI Index: EUR 01/002/2002)

motivated violence. Rather, police often advise the victims to report the attack as 'hooliganism' (defined in Russian law as a "serious breach of the peace". For example, in the Siberian city of Tiumen, a series of seven attacks on a synagogue last year were termed 'young people's hooliganism'. Authorities have done little in response to racist statements by public figures in Russia's regions and anti-Semitic publications are openly on sale even in the capital, Moscow.

In April police patrols were stepped up in areas inhabited or frequented by foreigners, amidst fears of the racist attacks which traditionally accompany Adolf Hitler's birthday, and after foreign embassies in Moscow received e-mail death threats from self-styled neo-Nazis. In a press release issued in advance of the anniversary, AI called for a vigorous response from the Russian authorities to racism, in order to stem the growing tide of attacks against ethnic minorities. The organization also called for the authorities to examine and address the equally troubling reports of illegal and discriminatory practices surrounding passport checks and the failure of police to respond to racist attacks appropriately. (see AI index: EUR 46/020/2002)

In May, representatives of the diplomatic community in Moscow met Foreign Minister Igor Ivanov to protest at an increasing number of attacks on 'visibly different' diplomats and other foreign nationals. Also in May an anti-Semitic booby trap (a roadside sign which read 'Death to Yids') injured Russian woman Tatyana Sapunova. This evoked the statement by Prosecutor General Vladimir Ustinov, 'All incidents of extremism or racial intolerance will be handled with the maximum strictness allowed by law' and high profile denunciations by President Vladimir Putin of racist attacks.

In the case of Massa Mayoni, a 35-year-old Angolan national who died in hospital following an alleged August 2001 attack by skinheads on a group of asylum-seekers, charges against the alleged perpetrators were changed from 'serious, intentional wounding, leading to accidental death' to the lesser charge of 'hooliganism', and a young man who had been remanded in custody on 20 November was released on bail. The reduction in charges was made on the basis of a second expert opinion into the cause of death, according to which it was Massa Mayoni's fall which killed him rather than the beating which he reportedly received. The case was adjourned for further expert medical reports.

*The 30 October events in Tsaritsyno, Moscow*  
(update to AI Index: EUR 01/002/2002)

Five young men were due to stand trial in July charged with public order violations and conspiracy to murder

in relation to two allegedly ethnically motivated incidents in southern Moscow. The trial concerned two attacks on 30 October 2001 which reportedly involved 150 to 300 young men armed with iron bars and shouting racist slogans, and resulted in the death of an ethnic Armenian, an Indian and an ethnic Tajik.

### ***Prisoners of Conscience***

*Grigory Pasko*

(update to AI Index: EUR 01/002/2002)

On 25 June, the Military Collegium of the Supreme Court of the Russian Federation upheld the decision of a Vladivostok military court that had sentenced Grigory Pasko to four years in a labour camp last December. Since all domestic remedies in this case have now been exhausted, the next step in seeking justice for Grigory Pasko is an appeal to the European Court of Human Rights. AI adopted Grigory Pasko as a prisoner of conscience in January 2002 and calls for his immediate and unconditional release.

In 1993 Grigory Pasko filmed a Russian navy tanker dumping radioactive waste and ammunition in the Sea of Japan. Also in this film and a series of articles, he showed the threat to the environment caused by ships from Russia's decaying Pacific fleet, including nuclear submarines. The prosecution alleged that he gathered information with the intention of handing it over to Japanese media. The prosecution against Grigory Pasko appears motivated by political reprisal for exposing the practice of dumping nuclear waste into the Sea of Japan, as well as alleged corruption within the higher military command of the Russian Pacific fleet.

### ***Possible draft amendment on re-criminalizing homosexuality***

***Death Penalty***

(update to AI Index: EUR 01/002/2002)

The new Criminal Procedural Code was set to come into force on 1 July. Among other changes, it sanctions the introduction of jury trials from January 2003 in all regional courts for crimes classified as "very grave", such as murder and rape. A 1999 ruling by the Constitutional Court had banned the imposition of death sentences by judges until the jury trial system had been introduced throughout the Russian Federation; jury trials at the time were available in only nine of the Federation's 89 regions. The introduction of jury trials in regional courts has raised questions as to the continuing implementation of the moratorium on executions and ban on the imposition of death sentences, in spite of President Vladimir Putin's

In April, several members of the Russian Duma (parliament) were reportedly considering seeking an amendment to the Criminal Code which would re-criminalize homosexuality. While many other members of the Duma have expressed strong opposition to such a move, AI is nevertheless monitoring the situation closely. AI opposes all laws allowing for the imprisonment of people solely for their sexual identity. People detained or imprisoned under such laws are considered prisoners of conscience, and should be released immediately and unconditionally.

### ***Draft law on alternative military service***

On 17 April the draft law on an alternative military service to compulsory military service had its first reading. While the draft addresses some concerns raised by Russian and international human rights organizations, including AI, it does not fully satisfy international standards. Among its shortcomings is the apparently punitive and discriminatory length of the alternative military service, set by the draft law at four years. Moreover, the alternative service is not guaranteed to be completely civilian in nature, as conscientious objectors might be posted in military units to carry out their alternative service. AI is urging that all efforts to be made so that an alternative service, which is fully civilian in nature and is of a non-punitive length, is available to all those with a conscientious objection to military service. AI also urges that the decision-making procedures for applying an alternative service are independent and impartial, and that all relevant persons affected by military service, including those already serving in the army, have information available to them on the right to conscientious objection and how to apply for an alternative service.

outspoken opposition to the death penalty. During the period under review he was joined in his opposition by Sergey Mironov, speaker of the Federation Council, who on 31 May spoke out against abolishing the moratorium on the death penalty. At a meeting in Ryazan with members of the local legislature, Sergey Mironov was reported to have noted that mistakes are frequent in the Russian judicial system, and that some of them have led to the execution of innocent people. "Several years ago I was a supporter of the death penalty, but have revised my stance since then. I think that a life sentence in conditions of Russian prisons without the right to be pardoned is a much greater punishment than physical death," he is reported to have said.

### ***Conclusions and Recommendations of the***

### ***UN Committee on the Elimination of Discrimination against Women***

In January the UN Committee on the Elimination of Discrimination against Women considered Russia's fifth periodic report. An AI representative had provided Committee members with written and oral briefings on the organization's concerns and recommendations relating to abuses of the rights of women and girls throughout the Russian Federation, including in the context of the armed conflict in the Chechen Republic.

The Committee welcomed some developments in the Russian Federation, including initiatives taken to combat violence against women and child prostitution, but had a number of concerns and recommendations for the government. The Committee was concerned, for example, that the government had not taken sufficiently urgent measures to combat the high level of domestic violence against women, and urged the immediate enactment of specific domestic violence legislation to facilitate the prosecution of offenders, and the provision of training for all levels of law enforcement officers and judges, as well as for health-care professionals and social workers. It also called for the provision of measures for the physical protection of women victims, and a vigorous awareness-raising campaign emphasizing that domestic violence is a criminal offence and not a "private matter".

The committee was also concerned at reports of ill-treatment of women in pre-trial detention centres and in prisons, and the failure of the government, as a rule, to investigate, discipline and prosecute offenders. It was also disturbed that despite strong evidence that

While noting some positive developments, the Committee listed numerous subjects of concern. It singled out three issues over which it was "deeply concerned": the numerous and consistent allegations of widespread torture and other cruel, inhuman or degrading treatment or punishment of detainees committed by law enforcement personnel, commonly with a view to obtaining confessions; continuing reports of widespread "hazing" (*dedovshchina*) in the military, as well as torture and other cruel, inhuman or degrading treatment or punishment in the armed forces, despite the efforts of the state party; and a persistent pattern of impunity for torture and other ill-treatment benefiting both civil and military officials. The Committee was also "particularly concerned" over ongoing reports of severe violations of human rights and the Convention in connection with the events in Chechnya. These included arbitrary detention, torture and ill-treatment, including forced confessions, extrajudicial killings and forced disappearances, particularly during "special operations" or "sweeps",

members of the Russian forces have committed acts of rape or other sexual violence against women in the context of the armed conflict in Chechnya, the government had failed, in the vast majority of cases, to conduct the necessary investigations or hold anyone accountable. The Committee urged the Government to take measures to ensure that state officials responsible for women in custody desist from all acts of violence and, in particular, acts of sexual violence against women and girls and that any such acts be dealt with as serious breaches of the human rights of women and be severely punished.

The Committee additionally cited the low number of convictions for offences related to trafficking of women (only seven convictions between 1994 and 1997) and recommended the formulation of a comprehensive strategy to combat trafficking. This should include the prosecution and punishment of offenders, increased international regional and bilateral cooperation, witness protection and the rehabilitation of women and girls who have been victims of trafficking.

### ***Conclusions and Recommendations of the UN Committee Against Torture***

The UN Committee Against Torture considered Russia's third periodic report in May. AI had submitted a briefing to the Committee and AI representatives briefed Committee members in person on the organization's concerns relating to allegations of torture, including rape and ill-treatment by state and non-state actors in the Russian Federation, and reports of such abuses against women and children. and the creation of illegal temporary detention centres, including "filtration camps".

The Committee recommended a number of legislative and practical measures aimed at the protection of the rights of detainees, and at combatting impunity of perpetrators of human rights violations. These included ensuring in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture, improving conditions in prisons and pre-trial detention centres, and establishing a programme of unannounced inspections of pre-trial detention centres and other places of confinement, by credible impartial investigators, whose findings should be made public. Regarding Chechnya, the Committee recommended, among other things, that the Government clarify the jurisdiction over the events in Chechnya, in order to provide individuals with an effective means of seeking redress for any violations committed. In addition, the Committee called for a credible impartial and independent committee to investigate allegations of breaches of the Convention

by both sides in the conflict and to bring perpetrators to justice; and the effective implementation in practice of safeguards to protect civilians from abuse in the context of the Chechen conflict.

## SLOVENIA

### ***Allegations of ill-treatment by police and non-state actors***

In May AI wrote to the Slovenian Interior Minister, expressing concern about the lack of prompt, impartial and thorough investigations into allegations of ill-treatment that had been reported to the organization. The organization described four cases, where police investigations into reports of ill-treatment had either not been undertaken at all or in a flawed or inadequate way. Most of these cases had received considerable attention in the press: one concerned the case of Goran Razgoršek, a minor who had been reportedly beaten by police in 2000, and had been featured in the *Amnesty International Report 2001*. Another case, concerning the alleged serious ill-treatment of a young man in Piran, had been taken up by the Slovenian Ombudsperson for Human Rights, who publicly criticized the failure of the responsible authorities to investigate this case. AI's letter also raised concern that the physical attack on an independent journalist by unknown assailants in 2001, apparently motivated by his reporting on illegal business transactions, had not been thoroughly investigated and could have been compromised by improper interference of local police officials.

AI underlined that, by failing to carry out impartial and thorough investigations into such allegations,

The organization furthermore requested to be informed of the total number of complaints filed against law enforcement officials and the outcome of any investigations initiated in such cases. In addition AI asked whether any measures had been taken to criminalize acts of torture as discreet criminal offences, as was recommended by the United Nations Committee against Torture, after examining Slovenia's initial report in May 2000. However, no reply to the organization's letter had been received from the Interior Minister by the end of June.

### ***Temporary protection measures for long-term refugees***

AI was concerned that, in the period under review, Slovenia had not yet reviewed its policy on temporary protection to refugees, although the government reportedly forwarded some amendments to the Law on

Slovenia might be in violation of its solemn treaty obligations, being a state party to the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment and the European Convention for the Protection of Human Rights and Fundamental Freedoms. These treaties not only prohibit torture and ill-treatment, but place a positive obligation on the state to investigate allegations and ensure that persons whose human rights have been violated have access to fair and adequate compensation.

In general, AI was concerned that few cases of ill-treatment reported to the organization resulted in the alleged perpetrators of such human rights violations being brought to justice. The organization criticized the lack of independence of the current complaint commissions (*senati*) dealing with cases of alleged police misconduct. The *senati* consist of three persons, of whom at least one is a serving police officer and the final decision whether to proceed with a formal investigation rest with the head of the local police administration. AI urged that the current system is amended in order to create a truly independent body to deal with police complaints which is authorized to launch independent investigations into police misconduct, whether or not complaints have been lodged.

In the few cases where allegations of police ill-treatment resulted in criminal prosecutions of the police officers thought responsible, the length of proceedings appeared to be excessive. In one case brought to the attention of AI, two police officers were finally tried for the offence of violating human dignity and abuse of office six years after they had ill-treated a German citizen.

Temporary Protection to Parliament in June. In its October 2001 examination of Slovenia's four periodic reports regarding implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee on the Elimination of Racial Discrimination recommended that Slovenia undertake such a review in order to provide non-discriminatory access to all Convention rights to refugees still affected by such measures. These refugees comprise a group of some 2,300 refugees from Bosnia-Herzegovina who originate from areas now in the Republika Srpska entity and who have few prospects of a durable return in safety and with dignity to their pre-war homes. Many, if not most of these people have been refugees in Slovenia for over 10 years now. The Committee expressed concern that these refugees were apparently unable to access their basic rights and recommended that the government make efforts to integrate them in Slovenian society.

## SPAIN

### **AI calls for national strategy on racism**

In April AI published a 100-page report entitled: "*Spain: Crisis of identity: Race-related torture and ill-treatment by state agents*" (AI Index: EUR 41/001/2002). The term "crisis of identity" was used to refer both to Spain's general identity as a society having to come to terms with tolerance of diversity, and to the fact that many cases of ill-treatment of persons of foreign origin arose out of identity checks based on "racial profiling". The report documented deaths in custody in disputed circumstances; cases of rape and sexual assault by police and Civil Guards;<sup>12</sup> ill-treatment of persons of foreign origin in general; ill-treatment of Roma; arbitrary detentions; illegal expulsions and ill-treatment of children, particularly in Ceuta and Melilla; ill-treatment of adults during expulsion procedures and in detention or reception centres; use of sedatives or restraints during forcible deportations; mass forcible expulsions; the failure of police to protect against racist violence (by reference to the case of El Ejido in February 2000), and the problem of impunity.

The report concluded that allegations of ill-treatment were frequent and widespread. Despite the existence of laws and codes which attempt to guard against discriminatory or arbitrary conduct by state agents, "racial profiling" was common and the discriminatory use of identity checks - sanctioned by a

On 19 April the Spanish Vice President of the Government and Minister of the Interior sent AI a letter, in which he effectively denied the conclusions of the report. He emphasised that the security forces acted with "enormous dedication and sacrifice in the defence of human rights", especially in the field of immigration. He stated that the Spanish government was also irrevocably committed to the defence of human rights and the judicial system was absolutely committed to combatting racism. The Minister stated that children were not expelled from Ceuta and Melilla, as stated in the report, but were repatriated according to due process of law and judges and magistrates had sufficient means to deal with each individual case independently and impartially. More specifically, the Minister commented on several individual cases mentioned in the report.

On 30 April AI responded point by point to the letter from the Spanish government. In a press

recent Constitutional Court ruling - had led to a situation in which many persons of foreign origin in Spain had been abused, and physically ill-treated, by public officials. There were numerous allegations that those who were intercepted or arrested had not been given explanations for their interception or arrest, and that challenges had been interpreted as resistance to police authority, and often penalized. Undocumented foreign women were particularly vulnerable to torture in the form of rape or sexual assault while in custody, and several cases illustrated the need for a proper code of procedure for the registration, supervision or transfer of detainees being held in custody, as well as for doctors and lawyers to be allowed to examine their patients, or interview their clients in privacy. Immigrants subject to expulsion procedures had not been treated with dignity or transparency, while impunity - or effective impunity - was an issue that affected ethnic minorities or foreign nationals in a specific way.

The report, which was accompanied by a campaign, contained over 20 recommendations on preventing impunity; on safeguards against ill-treatment during detention and in the context of immigration controls; on training and on the ratification and implementation of international standards. It called on the authorities, in general, to adopt a national strategy and plan of action to combat all forms of racism, including specific measures to prevent torture and ill-treatment and related manifestations of racism in the administration of justice. The report was launched in Madrid on 16 April and received wide publicity in Spain and abroad.

statement, issued on 13 May, the organization deeply regretted the government's continuing refusal to recognize the race-related background of many cases of human rights violations in Spain, and pointed out that the Spanish government had not expressed as yet any opinion about the report's recommendations. AI also asked the Minister for further information about a number of cases. The press statement reiterated the organization's serious concern about the situation of unaccompanied children in Ceuta and Melilla, and notably the recent announcement by the Melilla authorities that they would not provide shelter and protection to further children who entered the city. The exchange of correspondence between AI and the Spanish government, as well as the press release, were

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<sup>12</sup>AI points out in the report that there is a series of decisions or declarations that support the argument that rape of

women detainees by officials always constitutes torture.

included in the Spanish language version of the report, which was published in May.<sup>13</sup>

In June the Interior Minister appeared before the parliamentary committee on Justice and the Interior (*Comisión Justicia e Interior*) of the Congress of Deputies to make a statement and answer extensive questions about the AI report from committee members belonging to the Socialist, Mixed and United Left Parliamentary Groups. The Minister admitted that there were some cases of ill-treatment, but said that they were “isolated” and that the report was unfair. The Minister did not make any reference to the general or case-specific points raised by AI in its response of 30 April to his letter. A number of committee members expressed surprise at the minister’s “defensive” position in relation to the report, referred to its credibility and thoroughness, regretted the “zones of impunity” or lack of initiative of the authorities with regard to the kind of cases described, and urged the Minister to respond to AI’s recommendation to establish a national plan to combat racism, as well as many of its more specific recommendations. No further reply from the Government has been received to date.

#### ***UN expresses “deep alarm” about conditions of foreign children***

AI’s concerns about the expulsions and ill-treatment of children in the above-mentioned autonomous cities were reinforced by subsequent reports by NGOs such as Human Rights Watch, institutions such as the AI continued to receive reports alleging police ill-treatment of persons of non-European ethnic origin. On 10 March, a national of Santo Domingo, Claudia Peña Ureña, was allegedly subjected to police brutality at Torrejón de Ardoz (Comunidad de Madrid). Claudia Peña, a member of a local association working for single mothers in the area (*Asociación de Madres Solteras de Torrejón de Ardoz - AMASOL*), was attending a children’s birthday party in the commercial centre, with her sister and friends. According to these reports, a friend of hers, whose two-year-old child was on a two-seater carousel, saw a man telling the child to get out so that he could place a baby in the carousel, and pushed the child when he refused to do so. When the man was reproached by the child’s mother, he allegedly insulted and struck her on the mouth, drawing blood. Claudia Peña and her sister, Paloma, asked for the police to be called. According to the allegations

<sup>13</sup>This was published, in book form, under the title: “*España: Crisis de identidad: Tortura y malos tratos de índole racista a manos de agentes del Aesthete*”.

<sup>14</sup>Concluding observations of the Committee on the

Spanish Ombudsman (*Defensor del Pueblo*) and UN treaty bodies such as the Committee on the Rights of the Child.<sup>14</sup> In its Concluding observations, published on 7 June, the Committee regretted that the Spanish authorities had insufficiently addressed a number of issues previously raised by the Committee, including the situation of child asylum seekers and unaccompanied children. It stated that it was “deeply alarmed about the conditions of unaccompanied foreign children, mostly Moroccans, in the autonomous cities of Ceuta and Melilla”. In particular, the Committee, was concerned about five main areas: reports of ill-treatment of children by police during forced expulsion to the country of origin “where, in some cases, they were deported without access to legal assistance and interpretation”; failure to provide the children with the temporary legal residency status to which they were entitled; overcrowding and bad conditions of residential centres and cases of ill-treatment by residential centres staff and other children; denial of access to health care and education, and summary expulsions of children “without controlling that they are effectively returned to family or social welfare agencies in their countries of origin”. The Committee recommended that the Spanish authorities take nine urgent measures to improve the conditions of the children.

#### ***Alleged police ill-treatment of Dominican woman***

made to AI, a National Police officer listened to the man’s version of the incident, but not to that of Claudia Peña and her sister, whom he told to be quiet. When the women objected he asked for their identity papers. The officer then allegedly grasped Claudia Peña by the neck and shook her vigorously while pulling her hair. He was said to have repeatedly called her a whore and to have racially abused her, shouting such words as “I am the Law. This is not your country, black scum!”<sup>15</sup> Two more officers arrived, one of whom was a woman. Claudia Peña and her sister were then reportedly beaten with truncheons in front of a group of people, including children, one of whom was Claudia Peña’s small daughter. Claudia Peña stated that she momentarily lost consciousness. She and her sister were allegedly handcuffed, with their hands behind their backs, and taken to a police station, where they were later allowed to see a doctor. They were allegedly strip-searched and

Rights of the Child: Spain, 07/06/2002, CRC/C/15/Add.185.

<sup>15</sup>“*Yo soy la Ley. Esto no es tu país, negra de mierda*”.

held at the station from 19.00 to 09.00 the following day, while apparently subjected to further verbal abuse. They were reportedly not given any refreshment during the hours of their detention, and were not allowed to lodge a complaint while at the police station, having to go later to a local courthouse to do so. Claudia Peña was charged by police officers with “disobedience to authority”, but was acquitted. Her own complaint was still pending. AI was informed that she was not granted a legal aid lawyer. She reportedly needed to wear a surgical collar for several days, and her body was covered with bruises. Her small daughter, who witnessed the incident in the shopping centre, was reported to have been distressed and to be suffering from nightmares. AMASOL claimed that immigrants in the area were being subjected to regular abuse of authority by state agents. AI, whose concerns about the ill-treatment of immigrants were described at length in the above-mentioned “*Crisis of identity*” report, was investigating the case further.

### ***Barcelona and Seville: EU summit appeals***

On the eve of the EU summit in Barcelona AI called on the Spanish authorities to ensure that policing of demonstrations respected the right to peaceful protest. AI stated that, for some while, it had been concerned about the alleged use of excessive and indiscriminate force by law enforcement officers during On 24 June AI wrote to the director general of the Catalan prison services about a number of press reports, and other allegations, describing situations of growing tension in the prisons. AI emphasized that the reports, which described serious overcrowding, and incidents of inter-prisoner violence, as well as physical ill-treatment by prison staff, referred to many different parts of Spain, including Cataluña. AI referred to the prison of Quatre Camins which, at the end of May, was the scene of serious disturbances, apparently involving up to 130 prisoners, as a consequence of which six inmates and five prison officers were injured. AI asked for information about the specific case of a convicted prisoner called Miguel Vázquez, who was being held at Quatre Camins at the time of an incident in which he was allegedly beaten “brutally” while handcuffed. AI asked for information about the results of two inquiries into the incident. The organization also raised the case of a prison officer who, in 1993, was involved in an incident in which a prisoner at Can Brians prison was ill-treated. The prison officer, Ismael Chicote Pablo, subsequently testified against the head officer, who was convicted, in 1999, of using “disproportionate and unnecessary” force. Ismael Chicote claimed that, as a result of giving testimony against the head officer, he had been subjected to systematic acts of harassment or

demonstrations. AI was additionally concerned that the authorities had decided to suspend Article 2 of the Schengen Convention between 9-17 March, when the summit took place, and pointed out that the European Parliament had specifically recommended that member states “avoid blocking borders or denying individuals or groups of people who seek to participate peacefully in legitimate demonstrations the right to cross borders”.

In June, on the eve of the EU summit in Seville, AI again called on the authorities to ensure that policing of demonstrations respected the right to peaceful protest, as reports emerged of clashes between strikers and police. There were subsequent reports that Civil Guard officers had used excessive force in preventing a large group of Portuguese nationals, including two parliamentarians, from crossing the border at Rosal de la Frontera to attend an anti-globalization demonstration in Seville. The two parliamentarians, Miguel Portas and Francisco Louca, reportedly alleged that they were jostled and struck by Civil Guard officers at the frontier area. The Spanish Foreign Minister expressed regret about the incident but reportedly attributed the blocking of the frontier to needs of national security.

### ***Catalan prison issues***

persecution. He stated that these continued after he was transferred to another prison, and that a group of officers had requested his dismissal from the service. AI asked for information about the allegations made by Ismael Chicote, particularly given the importance of the need to encourage and support prison officers in their duty to report cases of ill-treatment of prisoners. The organization also asked what measures were generally being taken to improve conditions of overcrowding and other related issues.

### ***Updates***

On 10 April the Court of Madrid (*Audiencia Provincial de Madrid*) convicted a police officer of attempted sexual assault on Miriam Rosa Verástegui Templo, a Peruvian national, and sentenced him to a four-year custodial sentence and to a ban on employment in public service. The court rejected an appeal from the private prosecution to convict the officer for torture; as AI noted in the report, Spanish legislation is more restrictive in this respect than the Convention against Torture, as it does not include “discrimination” as a motive. It should also be noted that the conviction was still not definitive, pending further appeals. Miriam

Verástegui's lawyer took part in the launch of AI's report in Madrid.

Since publication of the report, AI has been continuing to gather further information about other cases, described in, or related to, the report. In the case of the Colombian woman ("J") who was sexually assaulted by an officer in a bus station at Valladolid (page 34 of English version of report), a National Police officer was sentenced, on 25 March, to 12 years' imprisonment and a ban on employment in public service for sexual assault - a forced act of fellatio - with the aggravating factor of abuse of authority. An appeal was lodged against the conviction and sentence; the conviction was not, therefore, definitive. The Court of Valladolid argued, among other things, that an abuse of authority had occurred, particularly in view of the vulnerable situation of the victim, as a woman without documents who feared possible expulsion. The same officer had previously been the subject of a separate complaint for sexual assault by another Colombian woman, but was acquitted, reportedly on the evidence of a police colleague. "J"'s lawyer took part in the launch of the report in Madrid.

AI also learned that the complaint lodged by the three police officers in Ceuta in relation to the expulsion of unaccompanied children from Ceuta (page 91 of English version of report) was closed by the investigating judge. An appeal against the decision was being considered. AI does not yet know the reason for the judge's decision.

With regard to a separate case, that of Chilean journalist Emilio Romero Arancibia, who was ill-treated by two National police officers while queuing at an aliens' office in Barcelona in March 2000 (EUR 01/03/00), the officers were convicted by the Court of

It was announced that four police officers would stand trial later in the year on charges of misconduct in connection with their actions in the context of the EU summit. Police officers had allegedly used excessive force during the anti-globalization demonstrations, including firing live ammunition and beating non-violent demonstrators (see AI Index: EUR 01/002/2002 and AI Index: EUR 01/003/2001). The four police officers due to stand trial had been in charge of the police operation at the Schillerska school, where people had been allegedly arbitrarily detained and ill-treated by police officers, including by being kicked or being beaten with batons and, in some instances, by being restrained with their hands tied behind their back, lying down on the ground (see AI Index: EUR 01/002/2002). These prosecutions would be the first against police officers in connection with allegations of human rights violations during the Gothenburg summit. However, concern was raised publicly about the fact that criminal charges had not been brought

Barcelona (*Audiencia de Barcelona*) for unfair harassment or humiliation and were sentenced to pay a fine of 80 euros. The officers accepted the conviction. The court accepted that Emilio Romero had been unfairly harassed and had been beaten with truncheons, and subsequently slapped and racially abused. However, he was sentenced to pay a fine of 320 euros for hitting an officer. AI had urged a thorough and impartial investigation of the case.

## S W E D E N

### ***Police shootings and allegations of ill-treatment during the June 2001 EU summit in Gothenburg***

By the first anniversary of the June 2001 European Union (EU) summit in Gothenburg, various investigations into the actions of the demonstrators had led to the institution of criminal proceedings against 69 people. As a result, 52 individuals were convicted of criminal offences arising from their actions during the EU summit. Concern was expressed in relation to some of the sentences imposed as they appeared to be disproportionately harsher than the average sentences for violent rioting handed down by the courts in previous years. In addition, concern was raised about the prolonged solitary confinement during pre-trial detention of several of those charged in connection with the disturbances in the context of the summit, as well as the reported denial of prompt access to legal counsel upon arrest and detention. A number of trials had not yet begun.

against the commanding officer. The parliamentary Ombudsman decided to review the actions of the police in relation to their conduct at the Hvitfeldska school.

The report of the so-called Gothenburg Committee into the disturbances surrounding the summit chaired by the former Swedish Prime Minister Ingvar Carlsson is due in December 2002.

Concern was raised in relation to the fact that the investigation into the police shooting of Hannes Westberg was closed. Hannes Westberg, one of the demonstrators who had been seriously injured by shots fired by the police, was himself being prosecuted for throwing stones at the police. The prosecuting authorities found that there was not enough evidence supporting the claim that the police officer who had fired the shots at Hannes Westberg had committed a criminal offence. At the trial against Hannes Westberg, it reportedly emerged that some of the evidence used against him had been fabricated. The video originally used by the prosecution against him showed him



throwing stones at the police and singing an anti-police slogan (i.e. "Ein zwei drei, Nazipolizei"). However, the sound recording had reportedly been doctored and in the original version of the video no such slogan was audible.

### **Osmo Vallo**

The Osmo Vallo Commission, the commission of inquiry set up by the authorities in December 2000 and charged with "conducting a comprehensive and overall review of the procedure of the crime investigation in connection with the death of Osmo Vallo" reported on its findings in late April (see AI Index: EUR 01/003/2001). Osmo Vallo died shortly after his arrest in Karlstad on 30 May 1995 - he was ill-treated by police officers and bitten by a police dog, and he was stamped on his back by a police officer as he lay face down on the ground. No attempts were made to assist or resuscitate him. Instead, the police officers transported him still handcuffed to the hospital. The police investigation into the death of Osmo Vallo was not carried out thoroughly and impartially. The first post-mortem examination was not carried out properly: it failed to take account of eyewitness statements and thus examine the body thoroughly. The regional prosecutor failed to question the discrepancies between the eyewitness statements and the post-mortem. AI continued to express concern about the case of two Egyptian asylum-seekers, Muhammad Muhammad Suleiman Ibrahim El-Zari and Ahmed Hussein Mustafa Kamil Agiza, who had been forcibly returned to Egypt in December 2001 (see AI Index: EUR 01/002/2002). In February, the Swedish section of AI wrote to the Minister of Immigration, Jan O Karlsson, expressing concern about the safety of the two Egyptian men and requesting information about them from the Swedish authorities. The organization also called on the Swedish government to urge the Egyptian authorities to grant Muhammad Muhammad Suleiman Ibrahim El-Zari and Ahmed Hussein Mustafa Kamil Agiza access to legal counsel of choice, as well as to their families and a doctor. By 30 June, AI Sweden had not received a reply from Swedish authorities to its letter.

In June, the Swedish section of AI also expressed concern about the purported double standard adopted by the government in relation to their stance vis-a-vis discrimination on the grounds of real or perceived sexual orientation. In a 1998 decision the government had stated that homosexuals could be returned to Iran where proven instances of sodomy and sexual acts between consenting adult women may lead to criminal sanctions, resulting, at times, in the imposition of the death penalty in the case of men or in corporal

examination; and failed to bring prosecutions based on the many eyewitness statements concerning the police officers' treatment of Osmo Vallo, which were consistent with the 39 wounds and bruises found on his body. The National Board of Forensic Medicine (Rättsmedicinalverket) failed to review properly the post-mortem examination. Pathologists carrying out subsequent post-mortem examinations disagreed on whether the police violence and/or positional asphyxia contributed to his death. In its report, the Commission reiterated and confirmed the many serious concerns that AI and others had previously identified in connection with Osmo Vallo's death and with the subsequent severely flawed investigation by the Swedish authorities into all the facts surrounding his death. AI welcomed the main thrust of the factual findings of the Osmo Vallo Commission. The organization was, however, in the process of examining whether the Commission's proposals were adequate in light of recent judgments of the European Court of Human Rights in relation to Article 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, enshrining the right to life.

### **Refugees**

punishments amounting to torture or other ill-treatment in the case of both men and women. The Swedish authorities had also stated that people would not risk being persecuted providing that their sexual orientation was not manifested overtly.

### **International human rights monitoring**

Sweden's fifth periodic report under the International Covenant on Civil and Political Rights was considered by the Human Rights Committee on 20 March 2002. Among the subjects of concern, the Committee noted the several cases of serious injury or even death as a result of excessive use of force by the police, "for example of persons in custody or during the Goteborg summit". In this connection, the Committee recommended that investigations be conducted "into such use of force" in conditions of total transparency and independence from "law enforcement authorities", that Sweden should "guarantee better human rights training of police officers" and that "equipment that can endanger human life" is not used "during demonstrations". The Committee also expressed concern about the expulsions of asylum-seekers suspected of terrorism and recommended that any measure taken by the Swedish authorities in connection with "the international campaign against terrorism"

should comply with the Covenant. In this connection, the Committee requested to be provided within one year with relevant information concerning the implementation of its recommendations, including with respect to “the monitoring of the cases of persons expelled”. In addition, the Committee noted with concern “reports of persistent manifestations of racism and xenophobia” and “the existence and considerable activism of neo-Nazi organizations”.

Sweden’s fourth periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was considered by the Committee against Torture on 30 April and 1 May 2002. Among the positive aspects with respect to Sweden’s implementation of the Convention provisions, the Committee remarked on the establishment of the “Osma Vallo Commission” and the publication of its findings and recommendations in April (see above), as well as the setting up of an official committee charged with investigating police actions during the June 2001 EU summit in Gothenburg. In the light of reports indicating that Swedish nationals were being detained at Camp X-ray, at the US naval base in Guantánamo Bay, Cuba, in January AI wrote to the Minister of Foreign Affairs, Anna Lindh, to express the organization’s concerns about a variety of aspects of the detention of suspected Al-Qaeda and Taliban detainees, including some Swedish nationals. In particular, AI expressed concern about the failure of the US authorities to hold the detainees in a manner consistent with the principles of international humanitarian and human rights law and standards, including the fact that detainees had not been informed of their rights, that they were not being treated as prisoners of war, and that they were being subjected to cruel, inhuman or degrading treatment. The organization also asked to be informed whether there were any Swedish nationals among those held in Afghanistan and Pakistan, and if so, whether they had been treated as prisoners of war. In addition, in view of the then reportedly forthcoming visit by the Swedish authorities to Guantánamo Bay, AI urged the government to make public the composition, purpose and activities of the participants of the delegation, including conditions concerning access to detainees, in the interest of transparency and credibility. The organization also urged the government to publish the full findings of the delegation regarding respect for the rights of the detainees and conditions of detention; and to ensure that any questioning of the detainee in connection with any suspected criminal activities should take place in the presence of a lawyer.

In February, the government replied to AI confirming that one Swedish national was being held at Camp X-ray and expressing its concern about the

Among the subjects of concern, the Committee noted a) allegations that some foreigners had been expelled or sent back to a country “on the basis, inter alia, of linguistic criteria which are sometimes unsystematic, unreliable, and could lead to a breach of article 3 of the Convention” (which enshrines the principle of non-*refoulement*); b) the fact that under the “Special Control of Foreigners Act, known as the anti-terrorism law” non-Swedish nationals suspected of terrorism cannot appeal a decision to expel them and that, therefore, the act “might not be in keeping with the Convention”; c) several cases of deaths in police or prison custody where fatality had occurred as a result of the use of excessive force by either police or prison personnel; and d) the “many complaints of ill-treatment” arising from the June 2001 EU summit.

### ***Swedish nationals held in Camp X-ray, Guantánamo Bay, Cuba***

status and treatment of the detainees and the eventuality that they may be tried in proceedings governed by the US Military Order of November 13 2001.

## SWITZERLAND

### ***Alleged ill-treatment of detainees***

#### *Findings of the UN Committee on the Elimination of Racial Discrimination (CERD)*

In May the Committee on the Elimination of Racial Discrimination considered Switzerland’s second and third periodic reports on its implementation of the International Convention on the Elimination of all Forms of Racial Discrimination. Among the concerns indicated in its Concluding Observations were “Allegations of police abuse and excessive use of force against persons of foreign origin during arrest or in the course of deportations.” The Committee noted that many cantons lacked “independent mechanisms for investigation of complaints regarding violence and abuse by the police” and that sanctions against responsible officers had been “rare”. It recommended that Switzerland ensure that independent bodies with authority to investigate complaints against police officers be established in all cantons, and that efforts also be made to recruit members of minority groups into the police and to provide sensitization and training of police officers on issues of racial discrimination.

AI drew the Committee’s attention in advance to its concerns about alleged ill-treatment and racist abuse

of foreigners - the majority of non-European ethnic origin - by cantonal police officers on the streets and in police stations, as well as about alleged physical assault and cruel, degrading and dangerous restraint methods during forcible deportation operations under police escort.

*Findings of the UN Committee on the Rights of the Child*

In May the Committee on the Rights of the Child considered Switzerland's initial report on its implementation of the Convention on the Rights of the Child. Switzerland's report stated that "although there have been reports of isolated cases where the police have infringed the law in their treatment of individuals, including some foreigners, during arrest and detention, there have never been any such reports concerning children or young people".

AI drew the Committee's attention in advance to reports of ill-treatment and racist abuse of minors by Geneva police officers which indicated that police officers were unaware of the provisions of the Convention and had violated provisions falling under Convention articles 2 (relating to the prohibition of discrimination) and 37 (relating to deprivation of liberty), as well as Geneva's cantonal legislation with regard to the treatment of children in police custody. (For further information see *Switzerland - Alleged ill-treatment of Visar and Didier*, AI Index: EUR 43/001/2002).

On 15 February the Attorney General dismissed a complaint which two Geneva police officers involved in the incidents had lodged against Visar's father, accusing him of calumny and attacking their honour via statements made in the complaint he had lodged against them, specifically accusing them of making racist remarks and of having deliberately injured Visar's neck, stomach and feet. The Attorney General stated that the criminal investigation into the father's complaint had not produced evidence supporting the allegations but nor had it shown that the father was aware that the allegations were false, so that pursuing criminal proceedings on charges of calumny was not justified. On 18 February the Attorney General, with regard to the attack on Visar by a police dog, concluded that the intervention appeared disproportionate and found the officer who had ordered the dog's intervention (and who had by then left the police force), guilty of bodily harm (*lésions corporelles simples*). He fined him 400 Swiss francs and ordered him to contribute to the legal costs of the case. The officer entered a challenge against the decision and a first hearing took place before the Police Tribunal in June. A further hearing was scheduled for September

In its Concluding Observations the Committee stated that it was "deeply concerned about allegations of instances of ill-treatment by law-enforcement officers against foreign children and at the prevalence of abuse." It endorsed the recommendation previously made to Switzerland by the Committee against Torture that independent mechanisms be set up in all cantons to receive complaints against members of the police regarding ill-treatment. It also recommended that Switzerland set up child-sensitive mechanisms in all cantons to receive complaints against law enforcement officers regarding ill-treatment, and systematically train the police force on the human rights of children.

**Case update**

(see AI Index: EUR 01/03/00)

In January an investigating magistrate concluded the criminal investigation into a complaint lodged against Geneva police officers by the father of Visar, a 14-year-old Kosovan refugee who was detained for several hours in October 1999, following a street disturbance. The boy said that he was an innocent bystander but that the police ordered a police dog to attack him and that it bit his right thigh, and that police subjected him to ill-treatment and verbal abuse. The magistrate returned the dossier to the Geneva Attorney General's office. For further details see above, AI Index: EUR 43/001/2002, issued January 2002.

2002. The Geneva Canton still has no specific regulations governing the circumstances in which police dogs may be used by officers.

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

The report of the European Committee for the Prevention of Torture (CPT) on its visit to various places of detention in Switzerland in February 2001, submitted to the government in August 2001, was published in March, together with the government's response.

The CPT said it had gathered some allegations of racist abuse, threats and ill-treatment involving police at Zurich-Kloten airport, usually aimed at persuading a foreigner not to lodge an asylum application or to accept voluntary repatriation. It severely criticised the way in which forcible deportation operations of foreign nationals by air were carried out, indicating that they presented a manifest risk of inhuman and degrading treatment.

The CPT asked the Swiss authorities to issue a moratorium on forcible deportations under heavy

restraint, pending the results of an official working group on forcible deportations (see below - *Report of working group and new guidelines on forcible deportations under police escort*), and in this context to take into account certain guiding principles for deportation operations. These included:

- the banning of methods of restraint involving total or partial obstruction of the airways, of the wearing of masks by officers involved in deportation operations and of the use of irritant or incapacitating gas during deportation operations;
- the need for advance preparation, including psychological preparation of the deportee; for guidelines to minimize the risk of positional asphyxia; for all deportees facing special restraint methods to have the possibility of a medical examination before departure; for medication to be administered only on the basis of a medical decision and in line with medical ethics; for all deportees returned to a place of detention following an aborted deportation operation to be given a medical examination; for appropriate training to be given to personnel involved in deportation operations.

The government rejected the CPT's request for a moratorium, stating that its recommendations had already been implemented to a large extent and that relevant instructions were being prepared at a national level (see below).

The CPT reported that the great majority of people it had met who were detained by law enforcement officers at the time of, or shortly before its visit to law

***Report of official working group and new guidelines on forcible deportations under police escort***

(Update to AI Index: EUR 01/002/2002)

A working group on deportations (Project Passenger 2) was formed in late 2000, involving cantonal and federal authorities. It aimed, among other things, to draw up agreed common guidelines across cantons on methods of restraint used during forcible deportations by air and a specific training program for officers involved in such operations. Its final report, submitted in February, contained detailed recommendations in these areas.

The recommendations were endorsed by the Conference of the Directors of the Cantonal Justice and Police Departments in April. The guidelines contained many of the key recommendations regarding methods of restraint during forcible deportations and relevant training for escorting officers made over the past year by AI (see *Switzerland: Urgent need for reform following deaths during forcible deportation*, AI Index: EUR 43/006/2001, issued June 2001) and by

enforcement establishments (in Bern, Fribourg, Saint Gall and Zurich), had indicated that they had been treated correctly. Where allegations of ill-treatment had been collected, they principally concerned a disproportionate use of force at the time of arrest: allegations of ill-treatment during questioning were exceptional.

The CPT welcomed a project under way aiming at the eventual unification of the 26 cantonal codes and three federal laws of penal procedure, considering the draft text to meet some of its key recommendations concerning safeguards against ill-treatment in police custody. However, it asked that Switzerland take into account other specific recommendations, including the introduction of a right of access to a lawyer from the beginning of deprivation of liberty by the police, and the establishment of an independent monitoring body for places of detention operated by law enforcement agencies.

It reported allegations that staff members of a correctional centre for juveniles in Prêles had subjected inmates to ill-treatment and verbal abuse, and also found that the detention regime in St Gall District Prison resembled a cellular isolation regime, sometimes lasting for months. It expressed concern that cellular isolation, which in certain circumstances can amount to inhuman and degrading treatment, could have a harmful effect on the prisoners.

Council of Europe bodies: see the CPT's August 2001 recommendations to the Swiss authorities (see above), the September 2001 Recommendation of the Commissioner for Human Rights "concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders" [CommDH/Rec (2001)1], and Recommendation 1547 (2002) [1], adopted in January 2002 by the Parliamentary Assembly of the Council of Europe, on "Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity".

AI welcomed the new guidelines as a positive step forward in the safeguarding of human rights during forcible deportation operations, the conduct of which has been a source of major concern for the organization in recent years. However, AI was concerned that, contrary to the recommendations made by AI and the above-mentioned Council of Europe bodies, the guidelines contained no explicit ban on the wearing of masks or hoods by officers involved at any stage of a deportation operation, and that the risk of unauthorized use of irritant or incapacitating sprays was not

addressed, either by listing them among those forms of restraint to be banned outright during deportation operations, or by indicating any restrictions on their use. AI also queried whether the guidelines' provisions with regard to the circumstances in which sedative drugs may be administered during a forcible deportation operation were in line with the UN Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Guidelines on Medical Ethics of the Swiss Academy of Medical Sciences.

Through endorsement by the April Conference, the guidelines gained the status of recommendations and service instructions to police in the individual Swiss cantons but the Conference also agreed that relevant legislation should be developed at the federal level. AI expressed the hope that the guidelines were being urgently implemented in practice at the cantonal level and that they would become legally binding as soon as the legislative process allowed.

*Case Updates - Deaths during forcible deportation*  
(Update to AI Index: EUR 01/003/2001)

**Khaled Abuzarifa.** On 29 May Zurich Appeal Court confirmed the verdict pronounced by Bülach District Court in June 2001 which had found a doctor employed **Samson Chukwu**, a Nigerian asylum-seeker, died in a detention centre in the Canton of Valais in May 2001, at the start of a forcible deportation operation. An autopsy concluded that the death could be attributed to positional asphyxia, resulting from dangerous restraint methods used by two police officers. The officers had lain him face-down on the floor, with his hands bound behind his back, with one of them lying on top of him. In March the Cantonal Court dismissed an appeal lodged by his family against the relevant Valais investigating magistrate's decision of September 2001 that no criminal investigation should be opened against the officers, based on police statements indicating that the officers had not violated standard procedures and had not been trained in, and were unaware of the dangers of the restraint methods they had used. Further appeals were lodged with the Federal Court in April.

*Alleged ill-treatment by Zurich Municipal Police*

At the end of May, following public revelations about a series of cases of alleged misconduct and ill-treatment by members of the Zurich Municipal Police (*Stadtpolizei*), and a resulting loss of public confidence in the police, Zurich City Council announced various measures to address the issues arising. It pledged

by the Canton of Bern guilty of the manslaughter of Khaled Abuzarifa, a Palestinian who died in March 1999, during a forcible deportation operation via Zurich-Kloten airport. The appeal court reduced the sentence from five to three months's suspended imprisonment.

Khaled Abuzarifa was given a sedative tablet, had his mouth sealed with adhesive tape, was bound hand and foot and strapped into a wheelchair in preparation for deportation. He was only able to breathe through one nostril due to a deviated septum. A post-mortem report indicated that he died of asphyxia as a result of the restraining measures. The doctor was found to have failed to check whether Khaled Abuzarifa had undergone a medical check before the deportation operation began, to examine properly his breathing difficulties, to give the escorting police officers relevant instructions on the transportation of a gagged prisoner, and to alert the officers to possible problems by stating that the patient was only pretending to be experiencing breathing difficulties. In June 2001 the District Court had acquitted two escorting police officers of manslaughter but had referred the case of a third, in charge of the deportation, back to the prosecutor's office for further investigation. The case was apparently still with the prosecutor at the end of June 2002.

additional resources for the Zurich judicial authorities, in order to expedite criminal investigations into existing allegations against individual officers, and announced the appointment of a prominent local lawyer to head an independent complaints mechanism to deal with complaints of police misconduct and excessive force, as well as complaints from police officers. It indicated that the lawyer's initial brief, which he assumed in June, would last until the end of 2002 when it would be re-evaluated. The lawyer would be given access to police files, have authority to conduct interviews, and to initiate mediation between relevant parties, would keep the head of the police department informed of important developments and make relevant recommendations to the police force.

AI welcomed these positive steps by the Zurich authorities. The introduction of independent complaints mechanisms for all Swiss cantons has been recommended by, among others, the UN Human Rights Committee, the Committee against Torture, the Committee for the Elimination of Racial Discrimination and the Council of Europe's Committee for the Prevention of Torture and Commission against Racism. At a public round-table on police ill-treatment which AI organized in Zurich in December 2001, the organisation underlined the need

for the creation of an independent and effective oversight body for police forces, preferably under the general umbrella of a national human rights institution, in line with the organization's recommendations for effective protection and promotion of human rights (See *National Human Rights Institutions: AI's recommendations for effective protection and promotion of human rights*, AI Index: EUR 40/007/2001).

Prominent among the cases of alleged police ill-treatment coming to public attention was that of Eldar S, a Bosnian, who within days of his detention by the police in April, apparently on suspicion, later found to be groundless, of involvement in drug-dealing, lodged a criminal complaint accusing four Municipal Police officers of causing him bodily harm. He claimed that physical injuries he incurred during his arrest on the street and detention in a police station (including a broken wrist, lacerations to his head requiring suturing, and multiple contusions to his body), which necessitated his transfer from police custody to hospital for emergency treatment within hours of his arrest, as well as severe psychological trauma requiring subsequent hospital treatment, were the result of an unprovoked police assault on the street and in police headquarters. The police vehemently rejected the accusations and lodged a complaint against Eldar S for violent and threatening behaviour against police officers, while resisting arrest. A criminal investigation was under way into both complaints.

Marino Keckeis was due to serve his sentence under the semi-detention regime, allowing the individual to perform approved work outside the prison during weekdays. However, after starting a hunger-strike in February, he remained inside the prison where his cell window was reportedly hermetically sealed, contact with other prisoners was refused, his post opened and held back and his right to receive visits restricted to a total of five hours per month, and visitors subject to approval by the prison administration.

He was granted early release on 21 April, on grounds of good conduct.

## TAJIKISTAN

### *The death penalty*

The death penalty was a continuing cause for concern during this period. Information came to light on 29 new death sentences imposed since January, although the true figure was likely to be higher. The Tajik authorities continued to treat the death penalty as a state secret and official information on the number of

### *Prisoner of Conscience*

Marino Keckeis began serving a five-month prison sentence on 15 January for his refusal to perform compulsory military service. Although he had applied for alternative civilian service, his application and subsequent appeals were refused on the grounds that he had failed to demonstrate to the satisfaction of a civilian commission that he held conscientious beliefs causing a conflict of conscience with military service, and had thus failed to meet the requirements of legislation which came into force in Switzerland in 1996 introducing a civilian alternative to compulsory military service.

AI believed Marino Keckeis' refusal of military service was the result of his conscientiously-held, ethical and religious convictions, and called for his immediate release as a prisoner of conscience. The organisation believed that the rejection of his application for civilian service was due to a very limited interpretation of conscientious objection by the relevant authorities and urged them to comply fully with international standards on conscientious objection to military service. A review of legislation on civilian service was under parliamentary examination during his imprisonment. (See AI Index: EUR 43/002/2002 for further information).

sentences passed and the number of executions carried out was not available in any publicly accessible form.

### *Executions*

In April the Government set up an official Human Rights Commission to study Tajikistan's obligations under United Nations human rights treaties it has ratified. At its first meeting in June its obligations under the International Covenant on Civil and Political Rights (ICCPR) were the priority for discussion. The establishment of the commission was encouraged by intergovernmental organizations, alarmed by Tajikistan's execution of a prisoner from Khujand in 2000 – Saidov Gaybullodjon - while the (UN) Human Rights Committee was still considering a complaint against his death sentence.

Nevertheless, AI is concerned about information received that indicates that two more people may have been executed in June while their cases were pending before the (UN) Human Rights Committee. Dovud and Sherali Nazriyev were brothers convicted in May 2001 of attempting to murder the Mayor of Dushanbe with a car bomb. When their appeals failed, Dovud Nazriyev's wife submitted a complaint to the (UN)

Human Rights Committee, which requested the Tajik authorities on 10 January 2002 to freeze the death sentences for six months - i.e. until 10 July 2002 - while the committee examined their cases.

In June Dovud Nazriyev's wife discovered that he and his brother had been moved from prison in Dushanbe five days before her visit, to a destination in Kurgan-Tyube, the place where most known executions have taken place. AI has since learned through other channels that an official instruction to execute Dovud Nazriyev was signed on 26 June. It is trying to confirm whether or not the Nazriyev brothers are now dead.

### *Capital trials*

The new information on capital trials that AI received reinforced its *concern* that opponents of the Government during the civil war are now being arrested and sentenced to death following proceedings that fail to meet international standards. AI is disturbed by regular and consistent reports that people detained for investigation in relation to crimes carrying the death penalty as a possible punishment in Dushanbe Investigation Prison have been tortured by identifiable representatives of the Sixth Directorate of the Interior. Following the constitutional amendment in October 2001 (see AI Index: EUR 44/007/2002), on 6 February 2002 the Turkish parliament adopted Law No. 4744, which reduced the maximum length of police and gendarmerie detention before detainees are brought before a judge to four days. This period may be extended to seven days in the Region under State of Emergency. Law No. 4744 also reduced the length of incommunicado detention for detainees suspected of crimes under the jurisdiction of State Security Courts from four days to 48 hours. AI welcomes this amendment, but considers that it failed to end the widespread and systematic use of torture and ill-treatment. Since in the majority of reported cases torture apparently occurs within the first 24 hours of police or gendarmerie detention, the amendments are clearly an insufficient step to effectively combat torture. AI has also repeatedly documented that, in practice, incommunicado detention is often longer than legally permitted, and that detainees suspected of ordinary offences are often denied their legal right to immediate contact with the outside world.

During visits to 13 provinces in different regions of Turkey, AI found that all the factors that contribute to the persistence of systematic torture and impunity for perpetrators (see AI Index: EUR 44/026/2002) are unfortunately still in place. Throughout the country there is an increasing use of more sophisticated torture methods that do not leave visible marks. People, who

are believed to have little access to legal and medical aid, continue to be exposed to torture methods such as electric shocks, hanging by the arms and *falaka* (beating of the soles of the feet). Detainees are routinely blindfolded during interrogation. Other methods of torture and ill-treatment regularly reported include severe beating, spraying with cold pressurized water, being stripped naked, sexual abuse, death and rape threats, other psychological torture, and restriction of sleep, food, drink and use of the toilet.

The torture victims included people who filed petitions for Kurdish education or were suspected of pro-Kurdish, Islamist or leftist activities. Others were detained for suspected criminal offences or solely because they did not obey the orders of security officers. For example, gendarmes in Izmir reportedly beat a young Kurd on his head on 9 May, merely because he refused to say "My commander" to a sergeant. People suspected of theft and burglary - among them many children - are still regularly beaten in detention.

During the period under review an official Working Group was said to be drafting a new Code of Criminal Procedure, which might introduce judicial control over the arrest of suspects. No draft had been published by the end of the period under review. The Presidential Administration also reported that it was discussing the possibility of reducing the number of capital crimes from 15 to five.

## TURKEY

### ***Systematic and widespread use of torture and ill-treatment continues after legal change***

(update to AI Index: EUR 01/002/2002)

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Tekin Demir was arrested on 3 April at 5am together with his son from their home on suspicion of aiding and abetting an illegal organization. They were held at the Anti-Terror Branch of Police Headquarters in Ankara for two days. In custody he was reportedly blindfolded, stripped naked, beaten including on his shoulder blade, insulted, threatened, had his hair and moustache torn out and his fingers burned with hot

water, was given electric shocks and hosed with cold water. Police officers also crushed his hands with their feet while he was lying on the floor. When he was medically examined at the end of his custody, the doctor did not record any torture injuries. Yet after he filed a formal complaint from the prison, in which he had been remanded, he had a forensic examination on 13 May, during which numerous lesions in various areas and other medical complaints were recorded.

In the Region under State of Emergency further prolongation of police and gendarmerie detention is still legally possible under Legal Decree No. 430. Under this decree a person already in remand or imprisoned can be returned to police or gendarmerie custody for up to 10 days at a time. The decree had been applied to people suspected of membership of the Islamist armed organization Hizbullah, but after the constitutional amendment, it has also been applied to members of HADEP and people suspected of support for the PKK. AI has documented several cases of torture in prolonged detention (AI Index: EUR 44/010/2002). Attempts to bring the perpetrators to justice were met with the usual obstacles. For example, Emrullah Karagöz had been exposed to severe torture

Since November 2001 hundreds of students, parents and teachers have been arrested in relation to petitions for Kurdish classes or Kurdish education. Dozens of them complained of torture or ill-treatment. On 23 January five students were detained on suspicion of having distributed leaflets on Kurdish education at their school in Diyarbakır. They were first questioned by their school administration, then interrogated at Diyarbakır Police Headquarters. Seventeen-year-old L.N. said she was strip-searched by a female police officer, then blindfolded and brought to a room with loud music where she was told to "confess". After a brief period in a cell she was again blindfolded and brought to a room with five or six police officers who threatened to rape her. During a third interrogation session she was stripped to her underwear, hosed with pressurized water and given electric shocks to her toes, knees and belly for some 15 minutes. She was not given food for two days and rarely allowed to use the toilet. Police reportedly forced her to sign many documents, the contents of which she did not know. After three days she was medically examined in the presence of police and subsequently released by a prosecutor. After she filed a formal complaint, police repeatedly came to her home and two weeks later detained her again. In addition to this pressure L.N. has been dismissed from school.

Women and girls taken into custody are regularly sexually abused and threatened with rape. Statistics for women raped in custody are impossible to obtain because few women speak out. Hamdiye Aslan, a 37-

during a total of 44 days of gendarmerie detention from 28 October 2001 until he was finally brought to prison on 11 December. In spite of numerous requests by his lawyer Emrullah Karagöz had still not received a comprehensive medical examination when on 1 May 2002 the governor of Diyarbakır refused to give permission for criminal investigations of the alleged torturers.

AI continued to receive reports about excessive use of force during mass arrests. Major incidents occurred across the country during celebrations of the Kurdish New Year *Newroz* on 21 March. Dozens were wounded when police used truncheons, tear gas, water cannons and plastic bullets. Saadet Erdem, who was an observer for the Ankara branch of the Human Rights Association (IHD), was beaten on her head with a truncheon and had to be treated in hospital. In the Mediterranean town of Mersin, where police clashed with demonstrators, two protesters died: Ömer Aydın was reportedly crushed by a police tank, Mehmet Üen apparently died when parts of a wall crushed by a tank fell on him.

year-old Kurdish woman, wife of a political prisoner and mother of five, was arrested in Kızıltepe on 5 March and held at the Anti-Terror Branch of Mardin Police Headquarters until 7 March. During detention she was reportedly blindfolded and threatened. Police officers poured cold water over her while an air conditioner was blowing on her. She was stripped naked and reportedly anally raped with a truncheon apparently by a female police officer. The Medical Chamber have opened a case against two doctors who wrote reports stating that she had not experienced torture. Another doctor who stated that she had injuries consistent with ill-treatment was subsequently transferred to Diyarbakır. Hamdiye Aslan was remanded in Mardin Closed Prison until she was released by a court on 23 May. Following her formal complaint she had further medical reports which corroborate her allegations of torture. The Mardin prosecutor has opened an investigation into five police officers alleged to have tortured her.

People who try to bring alleged torturers to justice are often exposed to further pressure. The harassment of the Kurdish woman S.Ö., who complained of rape in custody in Diyarbakır in November 1997, continued, while the eight police officers charged with having tortured her were acquitted on 26 March. Similarly, M.A., her husband Abbas and their female relative K.B. have been threatened and harassed after the women complained about torture and ill-treatment. K.B. and M.A. had gone to Police Headquarters in the Bozyaka district of Izmir with five-year-old E.A. on 30



May at 7pm, to hand over the identity cards of two relatives who had been detained on suspicion of theft. A group of police officers reportedly punched and kicked them and beat them with truncheons. They reportedly beat E.A. on her legs until she fell to the ground. The Chief of the Department of Theft and Fraud reportedly dragged K.B. and M.A. across the ground, made them kiss his shoes, pulled their hair and hit their heads against the wall. He reportedly warned them, "...if you complain to the prosecutor, I'll do the same things again". The two women and the young girl were held at the police station for 12 hours without being formally detained. They were not allowed to go to the toilet, and were given nothing to eat or drink. After they filed a complaint police repeatedly threatened them with the result that Abbas A. gave up his work as a street vendor and the women were afraid to stay at home.

When trials of suspected torturers are opened they often drag on for years. In the prominent "Manisa case", in which 10 police officers are charged with having tortured 16 juveniles in December 1995, the third re-trial is still continuing. In 1999 the Appeal Court had passed a binding ruling that the police officers should be sentenced for torture. However, the case will be closed according to the statute of limitations unless all related proceedings are concluded before mid-2003. This is what happened in the case of Gülderen Baran, who had been tortured at the age of 22

The family of Co\_kun Do\_an has tried to establish his whereabouts for months. They reportedly saw him on television among a group of detainees on 24 February. Subsequently, lawyers and human rights defenders were given conflicting information by the authorities. While some authorities acknowledged his detention, others denied it. In May, the family learned that the local gendarmerie in a place in Kangal, a district of Sivas from where the family comes, was informed on 1 March about his arrest. Villagers in Kangal had reportedly seen Co\_kun Do\_an in April in the midst of a group of soldiers, but were later afraid to testify. Co\_kun Do\_an remains "disappeared".

### **Isolation in "F-Type" prisons remains a concern**

(update to AI Index: EUR 01/002/2002)

On 18 January the Justice Minister issued a decree that introduced the right of up to 10 prisoners in high-security "F-Type" prisons to meet for communication in designated communal areas for not more than a total of five hours a week. The prisoners will only benefit from this opportunity, however, on the condition that they participate in a rehabilitation program consisting of exercise, education, vocational training, work in

at the Police Headquarters in Istanbul in August 1995. Repeated hanging by the arms left her with a loss of movement in both arms. Medical reports detailed linear marks under both arms, minimal movement in her fingers and only partial ability for flexion of the left wrist. As she was not taken from prison to the majority of appointments, the recommended intensive physiotherapy could not be utilized. While Gülderen Baran was sentenced to life imprisonment a trial was opened against five policemen for having tortured her. Despite admissions of using force and beatings from a chief commissioner and a police officer during the course of their trial, the case was discontinued on 12 March 2002 as it fell outside the statute of limitations due to excessive and untimely delays in the preparation of the case by the defence lawyers of the police officers.

### **"Disappearances"**

Since the amendment of the Constitution in October 2001 and the Criminal Procedure Code through Law No. 4744 in February 2002 all restrictions on informing the families of detainees were lifted. Yet the guidelines for registration and prompt information are often ignored. This is extremely distressing for the families of the detainees and can facilitate torture and "disappearance".

workshops and other social and cultural activities. AI is concerned that the new provision is not enough to end the *de facto* isolation of some 2000 political prisoners in the "F-Type" prisons, because the restriction of association to ten prisoners amounts to "small group isolation" and the length of five hours a week does not meet European standards. AI is also concerned that the right of prisoners to association, which is a right in and of itself, is conditional on prisoners' participation in the rehabilitation program (see AI Index: EUR 44/024/2002).

Most of the political prisoners in the "F-Type" prisons have (voluntarily or involuntarily) refrained from applying for the use of the communal areas, apparently because they believe that the rehabilitation would amount to an attempt to politically "re-educate" them. Commenting on the amendment of the Anti-Terror Law (Article 16), the CPT stressed on 24 April 2001 that "concepts such as education, improvement and training must not be exploited for ideological reasons".

In late May several leftist organizations declared that they would end the hunger strike of political prisoners and their supporters against the "F-Type" prisons. However, two other organizations (DHKP-C

and TKEP/L) continued. By May 2002 a total of 52 people had died as a result.

### **Pressure on Human Rights Defenders**

(update to AI Index: EUR 001/002/2002)

In March 2002 AI was given permission to open a branch in Turkey under Article 12 of the Law on Associations. After the application had been turned down in November 2001, AI's Secretary General sent an open letter to the Turkish Council of Ministers urging them to reconsider the application and AI members in Turkey appealed to a court.

Local human rights defenders continued to face harassment, intimidation and prosecutions. Osman Baydemir, head of the IHD Diyarbakır branch, and Eren Keskin, head of the Istanbul branch, have been charged, in dozens of trials opened, in relation to their human rights activities. The governor's decision to suspend Rıdvan Kızılgün from chairmanship of IHD Bingöl in November 2001 was revised in early January 2002, but he will have to stand trial. Rıdvan Kızılgün was arrested again after a commemoration for two "disappeared" politicians on 25 January 2002 and remanded in prison. He was released, pending trial, on 18 March.

In a trial following the raid of the Diyarbakır office of the Human Rights Foundation of Turkey (TIHV), the office representative, lawyer Sezgin Tanrıkuş, was acquitted of the charges of opening a health centre without permission on 19 April. Yet

Since Article 8 came under criticism from the EU and other members of the international community, it has been less often applied in recent years. However, people who have expressed dissident views on the Kurds or Islam have increasingly faced trials and convictions under Article 312/2 of the Turkish Penal Code, which carries prison terms of between one and three years for incitement to enmity and hatred based on religious, ethnic, social or regional difference. The new law has narrowed the use of this article by introducing the condition "that the incitement was performed in a form that could endanger public order" (previously this condition was a reason for an increase of the sentence). AI welcomes this amendment, but remains concerned that the wording is still too broad, allowing courts to continue to interpret the article in a way which contradicts Turkey's human rights obligations. Also, the law introduced "insulting a segment of the population or people's honour" as a new offence, the implementation of which AI will be monitoring.

AI also welcomes the narrowing of Article 7 of the Anti-Terror Law, which carries sentences of an additional one to five years' imprisonment for helping

another trial is expected to be opened on charges of possessing publications that are banned in the Region under State of Emergency.

### **Freedom of expression still restricted**

(update to AI Index: EUR 001/002/2002)

Four articles in Turkish law, related to freedom of expression, were amended by Law No. 4744 (see AI Index: EUR 44/012/2002). Three of these articles have been notorious in the past because they have been used to charge or imprison dissidents. For example, Article 8 of the Anti-Terror Law carries prison terms of between one and three years for so-called "separatist" propaganda without advocating violence. Instead of using this opportunity to abolish this article, the Turkish parliament has broadened its scope and increased penalties. In addition to "written and oral propaganda with the aim of violating the indivisible integrity of the state with its territory and nation", visual propaganda will now also be punishable by one to three years' imprisonment if "the act does not require a heavier penalty" (the last quote is a new addition under Law No. 4744). A further addition to the legislation is: "If this act is committed in a form that encourages the use of terrorist methods the sentence will be increased by a third." The academic Fikret Bağcı, sentenced under Article 8 for writing an article on the Kurdish issue, was only released on 27 June after having served his sentence.

organizations or making propaganda for illegal organizations "even if these activities constitute another crime". This article has been narrowed by the introduction of the condition "in a form that encourages the use of terrorist methods". However, the definition of terror in the same law is very broad and has not been amended. This article has recently been invoked to remand members of the Ahmadiyya Muslim Community, considered heretical by orthodox Muslims. Dr Muhammed Jalal Shams - who is a German citizen of Pakistani origin - and the Turkish citizens Osman Öker and Kubilay Çil were arrested in Istanbul on the night of 13 April together with 10 other members of the Ahmadiyya Muslim Community in Turkey. On 17 April, Dr Muhammed Jalal Shams, Osman Öker and Kubilay Çil were remanded in prison while the others were released pending trial. In contrast to the charges, the prosecutor who drafted the indictment acknowledges that the founder of the Ahmadiyya Muslim Community denounced the concept of Jihad as meaning armed struggle for Islam. AI adopted them as prisoners of conscience detained for their peaceful religious beliefs.

Another article that has frequently been used to prosecute human rights defenders is Article 159 of the Turkish Penal Code. Since 21 March 2001, women and men - who denounced rape in custody at a conference held in June 2000 - have been on trial charged with having insulted the security forces. AI is disappointed that the scope of the article was not altered. The only change was the reduction of the maximum sentence from six to three years' imprisonment. Since the maximum sentence has rarely been applied, this change seems to be insignificant in practice.

After the law amendments journalists, writers, publishers, academics, environmentalists, trade unionists, local and national politicians, religious leaders, human rights defenders, lawyers and artists continued to be imprisoned or tried for exercising their right to freedom of expression, particularly on issues related to the Kurdish question, the "F-Type" prisons or the role of Islam in politics. Numerous people who might be prisoners of conscience have been charged with aiding illegal armed organizations. Dozens are on trial solely for having filed petitions for Kurdish education. Sixteen defendants in the trial of the Union of Employees in Judiciary and Enforcement After the constitutional amendment, which abolished the death penalty for criminal offences only, the government coalition could not yet agree on legal amendments for the abolition of death penalty or at least the reduction of crimes punishable by death. Courts continued to pass death sentences. In the first six months of 2002, at least 36 people were sentenced to death, 33 of which for so-called "terrorist" crimes. Of these death sentences 11 were commuted to prison sentences. The Appeal Court upheld at least three of the new death sentences and two previously passed sentences. According to newspaper reports the fully confirmed death sentences of some 120 people were before the Judicial Commission of Parliament. While some 40 cases were returned to the Office of the Prime Minister in May, the remaining 80 people could be executed if parliament proceeds with their death sentences.

## TURKMENISTAN

### ***Persecution of religious believers***

#### ***Release of Possible Prisoner of conscience Shagildy Atakov***

(update to AI Index: EUR 01/03/00, EUR 01/001/2001  
and EUR 01/003/2001)

Baptist Shagildy Atakov was released from prison in the Caspian port of Turkmenbashi on 8 January. He

Institutions *Tüm Yargı-Sen* for criticizing the "F-Type" prisons were acquitted in the retrial on 6 June. At the same time three leading members of the legal Socialist Workers' Party of Turkey (TSIP) were sentenced to three years' and nine months' imprisonment on charges of "supporting illegal organizations" in relation with protests against the "F-Type" prisons. Turgut Koçak and Necmi Özyurda were imprisoned 1 March, Hasan Yava\_ on 21 May. There is no evidence that the three TSIP executives advocated violence. AI adopted them as prisoners of conscience who were imprisoned merely for their non-violent political activities.

AI repeats its urgent call to the Turkish authorities for a thorough review of Turkish law and the country's constitution in order to lift all restrictions on the right to express opinions peacefully and in order to prevent the law being interpreted in such a way as to extend such restrictions. All prisoners of conscience should be released immediately and their rights reinstated.

### ***Death Sentences continue to be passed***

was arrested in December 1998 on what his supporters called fabricated charges to punish him for his religious beliefs.

In May 2001, Shagildy Atakov and his wife Artygul had reportedly refused to accept an offer to emigrate to the United States, amid warnings by officers of the National Security Committee that Shagildy Atakov would have to serve his sentence in full, if he did not leave the country.

He was released before the end of his four year prison sentence and was reunited with his wife and their five children at their home in the village of Kaakha, close to Turkmenistan's southern border with Iran.

#### ***Prisoner of conscience Kurban Zakirov*** (update to AI Index: EUR 01/02/99)

Twenty-year-old conscientious objector and Jehovah's witness Kurban Zakirov was serving a prison sentence of eight years, reportedly to punish him for continuing to refuse to swear an oath of allegiance to President Saparmurad Niyazov. He had been sentenced to one year's imprisonment in May 1999 for refusing to serve in the army on religious grounds. AI considered him a prisoner of conscience and called for his immediate and unconditional release. He was allegedly twice denied release for his refusal on conscientious grounds to swear an oath of allegiance to the President, first when a December 1999 pardon was made conditional on swearing the oath, and again upon completion of his

sentence around April 2000. Following his second refusal, a new criminal case was reportedly brought against him and he was sentenced to an additional eight years' imprisonment.

There is reason to believe that this latest case was



fabricated to punish Kurban Zakirov for his religious beliefs. According to Jehovah's Witnesses inside

***Persecution of the political opposition***

*Political prisoner Mukhametkuli Aymuradov*  
(update to AI Index: EUR 01/02/98, EUR 01/01/99,  
EUR 01/01/00 and EUR 01/001/2001)

Mukhametkuli Aymuradov was convicted in 1995 of anti-state crimes, including "attempted terrorism", and sentenced to 12 years' imprisonment after a reportedly unfair trial. There was compelling evidence that the case against Mukhametkuli Aymuradov and his co-defendant Khoshali Garayev was fabricated solely to punish them for their association with exiled opponents of the government. In December 1998 both men were sentenced to an additional 18 years' imprisonment in connection with an alleged prison escape attempt. Khoshali Garayev died in September 1999 in Turkmenbashi maximum security prison under suspicious circumstances. His death heightened AI's concern for Mukhametkuli Aymuradov's safety.

AI is calling for the release of long-standing political prisoner Mukhametkuli Aymuradov on the grounds that repeated calls for a fair retrial of his case

Turkmenistan, a prison official ripped a shoulder strap from his own uniform in the presence of other officials, and accused Kurban Zakirov of having attacked him. The exact charge or charges for which he was convicted are currently not known to AI. Kurban Zakirov is serving his sentence in a strict regime labour colony in the city of Turkmenbashi, in particularly harsh conditions. Twenty two men are reportedly kept in a cell designed for ten, sleeping on a board that is between 20 to 30 centimetres wide and not quite as long as the average person's height. Reportedly, the prison administration is constantly pressurizing Kurban Zakirov and other prisoners of minority religions to renounce their faith.

AI is concerned about reports that Kurban Zakirov was twice denied release following his refusal on conscientious grounds to swear an oath of allegiance to the President. The organization was also concerned about allegations that a criminal case was fabricated while Kurban Zakirov was serving his prison sentence to punish him for his religious beliefs and to ensure that he would not be released. AI continues to consider Kurban Zakirov a prisoner of conscience, and is calling for his prompt and unconditional release until and unless the government can prove that he was convicted according to international fair trial standards for the additional charge or charges brought against him while he was in prison.

have gone unheeded and there does not appear to be a prospect of his being given a fair trial. In addition, the organization is concerned about reports that

Mukhametkuli Aymuradov's state of health continues to be very poor and that he is denied appropriate medical treatment.

His wife reported that he looked very ill and was extremely thin when she visited him in April. Reportedly, he has not been receiving appropriate medical attention for health problems which have included a gastric ulcer, cholecystitis, a heart attack and recurring inflammations of the kidneys and the bladder. Unofficial sources have also said that Mukhametkuli Aymuradov's eyesight has badly deteriorated.

In a positive development Mukhametkuli Aymuradov was transferred in January from a cell with 14 prisoners to a cell with five to six prisoners. A new regulation also reportedly in force since January permits his wife to visit Mukhametkuli Aymuradov once every three months for twenty minutes, instead of once every six months.

## UKRAINE

### ***Allegations of torture***

AI wrote to the Minister of the Interior, Yury Smirnov, in April welcoming the decision of the Ukrainian government to publish the reports of the three visits made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to Ukraine. Ukraine announced its decision to publish the reports in November 2001 during the United Nations Committee against Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment's (Committee against Torture) consideration of Ukraine's fourth periodic report. The Committee against Torture noted with appreciation in its Conclusions and Recommendations of the meeting "[t]he assurances given by the Head of delegation that the reports of the three visits of the European Committee for the Prevention of Torture, which took place in 1998, 1999 and 2000 respectively will be published". In the light of this welcome decision AI requested to be informed when the reports would be made available to the public. To date the organization has not received a response.

### ***Attack on Roma family***

AI learned of an ongoing investigation into the alleged involvement of a senior police officer in the deaths of five Roma family members in the Poltava Province of Ukraine in late October 2001. According to various reports in the Ukrainian news media and information supplied to AI by non-governmental organizations, five people died and two were injured, all of whom

In late June AI initiated urgent membership action on behalf of 19-year-old Timur Flores Lopez, a prisoner at Prison No. 1 in Vinnytsya, south-west of the capital, Kyiv, who it believed was at serious risk of torture and ill-treatment (see AI Index: EUR 50/001/2002). A group of masked police officers, who had reportedly been allowed into Prison No.1 by prison officials, was said to have entered a prison cell and beat 19-year-old Timur Flores Lopez in front of about 30 other prisoners on 14 June. They then put him in a small isolation cell or "cooler". AI believed that their motive was to punish him and deter him from pursuing allegations of torture and ill-treatment he made against the local police relating to his arrest on suspicion of theft in September 2000. Police officers had allegedly tortured the then 17-year-old while in police custody in order to elicit a "confession" from him, which was used to secure his conviction in November 2001, resulting in a five-year prison sentence. AI had originally written to the authorities in March 2002 calling for a prompt, thorough and impartial investigation into these serious allegations.

were members of the same family, after their home in the village of Malaya Kakhovka in the Poltava Province of Ukraine was set alight in an arson attack at around 7.30am on 28 October 2001. Three men reportedly forced their way into the house and then allegedly emptied a flammable substance around the house and over various members of the Fedorchenko family, who were sleeping at the time. The three men were then alleged to have lit the flammable substance and left the house, barring the premises' main door to prevent the inhabitants from escaping. The ignition of the flammable substance reportedly caused a powerful explosion. One of the surviving members of the family, 50-year-old Yury Fedorchenko, reportedly stated that he recognized one of the men as a police major, who had visited the family home on a number of occasions, allegedly for the purpose of extorting bribes from a family member on account of her past alleged involvement in drug trafficking. AI wrote to the then Acting Prosecutor General, Nikolai Garnik, in early June calling on him to ensure that the investigation into the incident is both thorough and impartial.

### ***Freedom of expression***

In early May AI wrote to the Ukrainian authorities calling for a prompt and impartial investigation into the arrest of Oleg Lyashko, editor of the newspaper, *Svaboda*, fearing that his arrest and subsequent imprisonment may have been designed to harass and intimidate him on account of his journalist activities

(see also AI Index: EUR 50/01/2001). Oleg Lyashko was taken into custody on 15 April after Sosnovsky District Court in Cherkassy sentenced him to 10 days' imprisonment for allegedly obstructing police officers in the course of their duties. He was released from prison on 23 April after signing a written pledge not to flee. The charge of obstruction related to an incident on 24 March, during which police officers attempted to enter the privately-owned publishing house, *Republic*, in Cherkassy in order to confiscate the entire print-run of an edition of *Svaboda*. This edition of the newspaper is reported to have contained allegations made by three Deputies of the Ukrainian parliament, *Verkhovna Rada*, that former Prosecutor General, Mykhaylo Potebenko, had accepted a bribe from a *Verkhovna Rada* Deputy, whom his office was investigating for alleged corruption at the time.

According to news reports, police officers had already successfully confiscated 107,000 copies of the same edition of *Svaboda* the previous day, which was being transported in a vehicle. Police officers allegedly stopped the vehicle late in the evening of 23 March

No progress had been made in determining who was responsible for the possible "disappearance" of the independent journalist, 31-year-old Georgiy Gongadze, whose whereabouts became unknown late in the evening of 16 September 2000 (see AI Index: EUR 01/003/2001). President Leonid Kuchma has been implicated in his possible "disappearance" after secretly recorded audiotapes of the president allegedly discussing with other leading state officials about how to silence the journalist were published. In mid-April the US Embassy in Kyiv stated that experts from its Federal Bureau of Investigation, who had been invited to help investigate the death of Georgiy Gongadze, left Ukraine after they were denied access to important evidence.

### **Refugees**

On 10 June Ukraine officially acceded to the 1951 UN Convention relating to the Status of Refugees, a central instrument of international refugee protection. In April Ukraine also acceded to the Protocol relating to the Status of Refugees, joining more than 140 states who are parties to either the Convention or its Protocol.

## UNITED KINGDOM

### **The UK's response to 11 September 2001**

AI expressed concern about serious human rights violations that have taken place as a consequence of the

near the village of Pischanoe in Zolotonoshsky *rayon* and took the publishing house's driver into custody. The police officers then allegedly dumped the confiscated newspapers into the river Supoy. As a result of the destruction of the print-run of *Svaboda*, Oleg Lyashko is said to have taken the decision to reprint the edition of the newspaper on 24 March.

In April AI wrote to the then Prosecutor General, Mykhaylo Potebenko, repeating a request from August 2000 to be informed of the investigation of the circumstances surrounding the arrest and subsequent imprisonment of the television journalist Ruslan Antonik in Kyiv in May 2000 on suspicion of murder (see AI Index: EUR 50/001/2001). AI had originally expressed concern about allegations that the arrest of Ruslan Antonik may have been related to his activities as an investigative television journalist working for the company *People's Television of Ukraine*. AI has not yet received a response.

### **"Disappearance" of journalist Georgiy Gongadze**

UK authorities' response to the 11 September 2001 attacks in the United States of America (USA). In particular, the organization was concerned about:

- detention of non-UK nationals for unspecified and potentially unlimited duration, without charge or trial, under the Anti-terrorism, Crime and Security Act 2001 (ATCSA);
- conditions of detention amounting to cruel, inhuman or degrading treatment in high security prisons in the UK of those detained under the ATCSA or under the Terrorism Act 2000 or on the basis of warrants for extradition to the USA;
- denial of the opportunity to challenge, in a fair procedure, any decision taken under the ATCSA which negatively affects people's status or rights as recognized refugees or asylum-seekers in the UK; and
- the UK authorities' neglect of their obligation under domestic and international law to make representations to the US authorities to ensure that the human rights of their nationals detained without charge or trial or judicial review, for an unspecified period of time, potentially of unlimited duration, at a US naval base in Guantánamo Bay, Cuba, be respected.

In February and June, AI's representatives visited a number of individuals detained at Belmarsh Prison in the wake of measures taken by the UK authorities in response to the events of 11 September. In addition, representatives of the organization monitored judicial proceedings in connection with the extradition of

people - including Lotfi Raissi - sought by the USA in relation to their alleged involvement in the 11 September attacks or otherwise because of their purported links with "international terrorism". AI's representatives also attended judicial proceedings brought by ATCSA detainees. In addition, AI had extensive contact with some of the legal representatives of people who have been detained in the UK and at Guantánamo Bay in the wake of the events of 11 September and with some of the detainees' families. AI was also particularly concerned about Mahmoud Abu Rideh, one of the ATCSA detainees. The organization issued an Urgent Action Appeal on his behalf on 28 June (see AI Index: EUR 45/010/2002).

## NORTHERN IRELAND

### ***Impunity: legacy of the past***

(update to AI Index: EUR 01/002/2002)

In May the UK and Irish governments announced the appointment of Justice Peter Cory, a former Canadian Supreme Court judge, to investigate six controversial

In May after pleading guilty to conspiracy to pervert the course of justice, James and Andrea Mckee were convicted and sentenced to six months' imprisonment, and a similar sentence, respectively. However, Andrea Mckee's sentence was suspended for two years. They had lied to protect a Royal Ulster Constabulary (RUC) Reserve Constable who had telephoned one of the people allegedly responsible for attacking Robert Hamill advising him to destroy forensic evidence that might link him to the attack. The McKees' conviction and the evidence that had emerged at the trial lent further credibility to the serious allegations of RUC collusion with those allegedly responsible for the attack on Robert Hamill.

### ***Peter McBride***

(update to AI Index: EUR 01/001/2001)

In April the family of Peter McBride lost their challenge in the High Court in Belfast to overturn the British Army Board's decision allowing Mark Wright and James Fisher, the two Scots Guards convicted of Peter McBride's 1992 murder, to continue to serve. In May Peter McBride's mother appealed the decision after having appealed in the same week to the Queen as colonel in chief of the regiment where the two Scots Guards serve.

### ***European Court of Human Rights' judgment in the case of McShane v. UK***

cases of killings and allegations of state collusion in each of them. The six cases are: Patrick Finucane; Rosemary Nelson; Robert Hamill; Harry Breen and Bob Buchanan (two RUC officers); Lord Justice Maurice and Lady Cecily Gibson; and Billy Wright. Justice Cory took office and began work in June.

### ***The killing of Patrick Finucane***

(update to AI Index: EUR 01/002/2002)

In June in light of the BBC Panorama program "A Licence to Murder" focusing on the extent to which "British intelligence services colluded with - and even tried to direct - loyalist death squads in Northern Ireland", and in connection with leaks in the media allegedly revealing some of the findings of Sir John Stevens's investigation into the murder of Patrick Finucane and other related matters of collusion (known as "Stevens 3" investigation), AI reiterated its call to the authorities for the forthcoming Stevens 3 report to be made public in its entirety.

### ***Robert Hamill***

(update to AI Index: EUR 01/001/2001)

On 28 May 2002, the European Court of Human Rights (the Court) unanimously concluded, in the case of *McShane v UK*, that the UK had violated Dermot McShane's right to life as a result of its failure to ensure an effective investigation into his death (see AI Index: EUR 45/005/2002). Dermot McShane died on 12 July 1996 in Londonderry, Northern Ireland, when a piece of hoarding behind which he had been sheltering had fallen on top of him as an army vehicle had driven over it. The Court found, *inter alia*, that the investigation into his death had not been independent, nor expeditious; and that there were shortcomings in the inquest. In addition, the Court unanimously concluded that UK authorities had hindered Mrs. McShane's application to the Court, when the RUC complained to the Law Society of Northern Ireland about her solicitor - this complaint was dismissed. The Court found that this complaint had had a chilling effect on Mrs. McShane's right to petition the Court in violation of Article 34 of the European Convention on Human Rights (ECHR).

### ***House of Lords' ruling on the Northern Ireland Human Rights Commission***

On 20 June the House of Lords ruled that the Northern Ireland Human Rights Commission (NIHRC) could intervene in cases before the courts in Northern Ireland

by submitting advice on human rights issues (see AI Index: EUR 45/009/2002). AI and two other NGOs, British Irish Rights Watch and the Committee on the Administration of Justice, had successfully applied to intervene before the House of Lords to challenge rulings by a lower court stating that the NIHRC was not empowered to intervene in cases in Northern Ireland. The joint legal submission pointed to international standards and practice which supported the right of all national human rights institutions to intervene before domestic courts in order to promote the implementation of human rights law and standards in domestic courts.

### ***Escalating sectarian violence and allegations of biased policing***

Early in the year, in light of escalating levels of sectarian violence in Northern Ireland, AI urged the government, police, political and community leaders to take action to address the increasing violence which has led to grave human rights abuses. The continued violence in Northern Ireland comes after an alarming increase in all forms of violence, including sectarian

#### ***Human rights abuses by non-state actors***

Violence continued unabated both in sectarian attacks, including shootings and petrol bomb attacks on many people's homes, and in shootings and killings by members of armed groups of people from their own communities. Many so-called "punishment" beatings were also reported. In January the Loyalist Red Hand Defenders, a cover name for the Ulster Defence Association (UDA) and the Loyalist Volunteer Force (LVF), threw a pipe bomb through the window of a prison officer's home, injuring his wife and four-year-old daughter; and the UDA killed Daniel McColgan, a 20-year-old Catholic postal worker. In February Matthew Burns, aged 26, was shot dead and his brother Patrick was injured. Press reports implicated the IRA in the shooting. In April Brian McDonald, a 51-year-old Catholic taxi driver, was shot dead. In May Mary Johnston, a 52-year-old grandmother from West Belfast, was attacked and sustained a head injury as she tried to intervene to protect her 22-year-old son Paul, already a victim of a suspected IRA "punishment" shooting, who was being assaulted by masked men wielding a hammer and a baton in a paramilitary-style "punishment" beating. According to press reports, a number of children were targeted for "punishment" shootings and beatings. A 14-year-old boy was shot in the right thigh in an attack carried out reportedly by loyalists in north Belfast in March; while in May a 12-year-old boy had his head doused in petrol and then set alight and another teenager was handcuffed to a

lamppost after having tar poured over his body and being covered in sawdust. In June two 15-year-old boys were shot in the legs, and another one was attacked and beaten by masked men armed with sticks.

violence, in 2001. A recent research study, by Dr. Peter Shirlow, found that sectarian hatred had reached unprecedented levels in north Belfast. Other areas targeted include Coleraine in Co. Derry and Larne in Co. Antrim.

In June the Police Ombudsman raised concern about the lack of scrutiny of the firing of plastic rounds (i.e. rubber bullets) by the British Army. Any baton round fired by the Police Service for Northern Ireland (PSNI) is immediately and automatically referred to the Police Ombudsman for investigation, while the rounds fired by the British Army are investigated internally by the Army itself. In recent months, in the context of the ongoing riots in North and East Belfast involving Protestants and Catholics living in housing estates abutting one another, there have been many allegations of uneven-handedness and sectarianism in the PSNI's and the British Army's firing of baton rounds. Several people, including Theresa Quinn, were injured during the reporting period in the context of the above-mentioned disturbances as they were struck by plastic bullets fired by the PSNI and the British Army.

lamppost after having tar poured over his body and being covered in sawdust. In June two 15-year-old boys were shot in the legs, and another one was attacked and beaten by masked men armed with sticks.

## **ENGLAND**

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

#### ***European Court of Human Rights's Judgment on the case of Christopher Edwards***

In March the European Court of Human Rights (the Court) delivered a landmark judgment in the case of *Edwards v UK*. Christopher Edwards, a 30-year-old man with a history of mental illness, had been kicked to death by his cell mate, who was himself acutely mentally ill at the time, in Chelmsford Prison, England, in November 1994. The Court found that the UK authorities' failure to protect Christopher Edwards's life had violated Article 2 of the ECHR, enshrining the right to life, both substantially – having failed to take measures to protect his right to life – and procedurally – having failed to effectively investigate the circumstances of his death. The Court also found that the UK had breached Article 13 of the ECHR, guaranteeing the right to an effective remedy.

***Zahid Mubarek***

(update to AI Index: EUR 01/002/2002; and EUR 45/004/2002)



In March the Court of Appeal ruled in favour of the UK Home Office in its appeal against the October 2001 High Court ruling ordering it to hold a public inquiry into the systemic failures that had led to Zahid Mubarek's killing by his cell mate in Feltham Young Offenders Institution, London, in March 2000. The Court of Appeal ruled that a public inquiry was not necessary because a) it had already been established that the Prison Service was at fault; b) a Prison Service inquiry had been held; c) the cause of death had been established; and d) there was no basis for prosecuting any member of the Prison Service. Furthermore, the Court of Appeal stated that there were no "factual unknowns" impeding the family of the deceased from bringing a claim for damages in the civil courts. AI observed the Court of Appeal proceedings.

*Glenn Howard*

In October 2001 the Police Complaints Authority (PCA), which had supervised the police investigation of the case, concluded that "the method and period of restraint was contributory to, if not the sole cause of, the oxygen deprivation suffered" and directed that four of the police officers who had restrained Glenn Howard should face disciplinary charges of neglect of duty of care. The PCA also ordered that two arresting officers should receive 'advice' from a senior officer in connection with their conduct given that, notwithstanding their being aware that Glenn Howard was a psychiatric patient, they had failed to notify other officers subsequently involved in restraining him of this.

In April, following disciplinary proceedings, one officer was found guilty of neglect of duty for failing to monitor Glenn Howard's condition. Charges against the other three police officers were dismissed.

*Christopher Alder*

(update to AI Index: EUR 01/003/2001)

The trial of five police officers allegedly involved in the 1998 death of Christopher Alder at Hull police station began in April. The police officers were charged with manslaughter and misconduct in public office. They had been filmed by the police station security camera standing by, chatting and joking while Christopher Alder lay on the floor unable to breathe properly. In June the trial collapsed when the judge threw out all charges after telling the jury that there was conflicting medical evidence about why Christopher Alder had become unconscious and about the cause of death, and that it was therefore impossible to prove beyond reasonable doubt that the police officers' actions and omissions had contributed more than

(see AI Index: EUR 45/42/00)

Glenn Howard fell into a coma on 10 December 1997 after being restrained by police officers who had been called to bring him back to the hospital where he was being treated. He never regained consciousness and died on 1 January 1999. He had a long history of schizophrenia and was in need of treatment at the time. At the May 2000 inquest into his death, the jury returned a verdict of "accidental death", after the coroner had prevented it from considering verdicts of "unlawful killing" or "accident aggravated by neglect". Despite being instructed not to comment on the circumstances of the death, the jury unanimously found that Glenn Howard had been subjected to excessive restraint followed by immediate and subsequent neglect of medical care and attention which had contributed to his brain injury and eventually to his death.

minimally to his death. Charges of misconduct in public office were also thrown out because in the judge's opinion there was no evidence of "recklessness" required for a conviction. The five officers had been suspended on full pay for four years. After the trial's collapse, the officers were reinstated. In August 2000, an inquest jury had returned a verdict of unlawful killing.

***Fatal police shootings***

(update to AI Index: EUR 01/003/2001)

*James Ashley*

In December 2001 the PCA announced that three police officers involved in the planning of the 1998 armed raid during which James Ashley had been shot dead while unarmed by Sussex police officers in Hastings, England, would be subject to disciplinary action. The three had been expected to face a total of 15 charges of neglect of duty and falsehood. However, disciplinary proceedings against one of the three police officers were discontinued following his retirement on medical grounds. The other two officers launched judicial review proceedings challenging the fairness of the disciplinary proceedings. In April the police confirmed that no disciplinary measures would be taken against the officer in charge at the scene of the armed raid.

*Harry Stanley*

In June an inquest into Harry Stanley's death was held. Harry Stanley, a Scottish man was shot dead in controversial circumstances while unarmed in September 1999 in East London by a Metropolitan

police armed response unit. The jury returned an open verdict after the coroner had prevented them from considering an unlawful killing verdict. Forensic evidence presented at the inquest challenged the account of the police officers involved in the shooting. They maintained that as they discharged the fatal shots Harry Stanley had been facing them and pointing the wrapped tabled leg he was carrying at one of them resembling someone about to discharge a shotgun. However, according to forensic evidence presented at the inquest, the direction of the fatal bullet suggests that Harry Stanley had been facing away from the officers at the time of the shooting.

### **Children**

#### ***Child Soldiers***

In March 17-year-old James Collinson, from Perth, Scotland, was found dead, reportedly with a single shot

In June it emerged that two further deaths had occurred in June 1995 at the Royal Logistics Corps headquarters, that of Cheryl James, 18 years old, from Llangollen, north Wales, who had been found lying in woodland outside the base with a single bullet hole in her head and her rifle lying beside her, and for whom an inquest had recorded an open verdict; and that of 20-year-old Sean Benton, from Hastings, Sussex, who had been found dead with five gunshot wounds, four from long range and one from short range, and for whom an inquest had recorded a verdict of suicide. The army had reportedly classified both these deaths as "intentional and self inflicted". The families of the four soldiers who died in such similar circumstances have called on the government to hold a public inquiry into what has been happening at the Royal Logistics Corps headquarters.

#### ***Children in detention***

A report outlining AI's concerns regarding young offenders institutions was published in June (*United Kingdom - Failing children and young people in detention*, AI Index: EUR 45/004/2002). AI is concerned that the UK is failing to protect the fundamental human rights, including the right to life of children and young people in some young offenders institutions in England and Wales.

## UZBEKISTAN

### ***Conclusions and recommendations of the United Nations (UN) Committee against Torture***

to the head, at the Royal Logistics Corps headquarters in Deepcut, Surrey, England. Privately, Army officials had reportedly suggested to his parents that it had been a suicide. Another 17-year-old, Geoff Gray, from Hackney, London, had also been found dead with two shots in the head while on patrol at the same barracks in September 2001. An inquest into the circumstances of Geoff Gray's death, held in March, returned an open verdict. However, the coroner reportedly stated that he did not believe that the boy had taken his own life. In addition, medical evidence heard at the inquest reportedly showed that Geoff Gray could not have killed himself; that soldiers looking for Geoff Gray had reported hearing more than two shots; and that someone had been seen running from the area where his body had been found. In April Surrey police announced the opening of an investigation into both deaths.

The UN Committee against Torture issued its conclusions on 6 June, after examining Uzbekistan's second periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee noted some positive developments since it had considered the country's initial report in 1999. These included efforts to draw up a new definition of torture in line with the Convention, the introduction of a draft law in parliament to allow citizen's complaints with regard to torture, and the bringing to justice of four police officers in January 2002 who were punished for the torture of detainees (see the section "Torture and ill-treatment").

However, the Committee also expressed serious concerns. For example, it raised concerns at the "particularly numerous, ongoing and consistent allegations of particularly brutal acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel" and criticized the heavy reliance on confessions and the criterion of 'solved crimes' as the basis for promotion for law enforcement personnel, considering that this encouraged the use of torture and ill-treatment to force detainees to 'confess'. The Committee also regarded prison conditions to be unacceptable, and considered detainees' access to a lawyer, a doctor of their own choice and to family members as inadequate; it regarded the judiciary as insufficiently independent and certain powers of the procuracy, and the way this institution functions, as giving rise to serious doubts about its objectivity and about the existence of an independent mechanism to hear complaints; and it urged Uzbekistan to make declarations recognizing the competence of the Committee under Articles 21 and 22

of the Convention. This would enable the Committee to receive and consider communications from another state party, and from individuals who claim they have been tortured or ill-treated by state agents. AI has for a long time raised similar concerns with the Uzbek authorities and urged them to take appropriate steps to end torture and ill-treatment in the country.

### ***Human rights defenders***

#### ***Registration of the Independent Human Rights Organization of Uzbekistan (NOPCHU)*** (update to AI Index: EUR 01/01/98)

NOPCHU was officially registered on 5 March, giving the organization the right to function legally. The

Members of NOPCHU faced harassment and imprisonment in previous years. On 25 June 1999, for example, the organization's chairman, Mikhail Ardzinov, was seriously injured during a search of his apartment by officers from the Tashkent City Department of Internal Affairs (GUVVD). He was taken for questioning to the Department, and when he was driven back at night, he was beaten again, in the lift and corridors of his apartment block (see: EUR 01/02/99). Mikhail Ardzinov's computer, other equipment, and documents, including his passport and NOPCHU's archive had been confiscated during the search of his apartment, and were only returned to him in February 2002.

Two board members of NOPCHU, Makhbuba Kasymova and Ismail Adylov had been imprisoned to punish them for their human rights work and AI regarded them as prisoners of conscience (see: EUR 62/02/00 and EUR 62/04/00). Makhbuba Kasymova had been sentenced to five years' imprisonment in July 1999 for concealing a crime and misappropriation of funds after a grossly unfair trial described by human rights monitors as a "farce". Ismail Adylov had been sentenced to six years' imprisonment on charges of attempting to overthrow the constitutional order, sabotage and possessing material constituting a threat to public security and order after an unfair trial in September 1999. Makhbuba Kasymova and Ismail Adylov were released early in December 2000 and July 2001 respectively. Ismail Adylov had been suffering from a chronic kidney disease, aggravated by harsh prison conditions, which made him extremely susceptible to infection. After his release, he said that he had been regularly and systematically beaten and ill-treated throughout his detention.

authorities had previously denied the organization registration on several occasions. Other human rights groups in Uzbekistan that have applied for registration remained unregistered. Following the consideration of Uzbekistan's first periodic report, the UN Human Rights Committee stated in its concluding observations in April 2001 that the "legal requirement for registration, subject to the fulfilment of certain conditions, provided for in article 26 of the Constitution and the Public Associations in the Republic of Uzbekistan Act of 1991 operates as a restriction on the activities of non-governmental organizations" and that Uzbekistan should "take the necessary steps to enable the national non-governmental human rights organizations to function effectively"<sup>16</sup> (see: EUR 01/003/2001).

#### ***Detention of human rights defender Yuldash Rasulov***

Yuldash Rasulov of the unregistered Human Rights Society of Uzbekistan (OPCHU), was arrested early on 24 May in his home town of Karshi in Kashkadarya region. His house was searched the same day, but according to unofficial sources no incriminating material was found. On 25 May Yuldash Rasulov was transferred from the police station in Karshi to a solitary confinement cell in the basement of the Ministry of Internal Affairs (MVD) in Tashkent. Yuldash Rasulov's sister Khakima Rasulova told AI: "When I saw my brother at the end of June, he said that the investigator had himself typed the confession and forced him to sign it." OPCHU chairman Tolib Yakubov reported that Yuldash Rasulov was extremely scared following police threats of physical pressure against him, and thus agreed to sign the 'confession'. The formal charges against him had not been announced by the end of the period under review, but there were reports that he was accused of religious extremism and membership in the banned Islamic party *Hizb-ut-Tahrir*. AI is concerned at allegations that Yuldash Rasulov was in fact arrested to punish him for his human rights work. He has worked with OPCHU since 2000 gathering information on arrests and imprisonment of independent Muslims in Karshi.

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

#### ***Release of journalist and prisoner of conscience Shadi Mardiyev*** (update to AI Index: EUR 01/01/99)

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<sup>16</sup> See UN Doc. CCPR/CO/71/UZB, C 22.

The radio reporter Shadi Mardiyev from Samarkand region was released under a presidential amnesty at the beginning of January. There were reports that 65-year old Shadi Mardiyev was in poor health as a result of harsh prison conditions and a lack of adequate medical treatment. Shortly after his arrest in November 1997 he reportedly suffered two brain haemorrhages and was twice hospitalised in 1999 for a heart condition. The journalist had been found guilty of defamation, illicit handling of foreign currency and extortion by Syrdarya Regional Court on 11 June 1998 and sentenced to 11 years' strict-regime imprisonment, a sentence that was upheld by the Supreme Court in August. The charge of defamation reportedly related to a June 1997 radio broadcast in which Shadi Mardiyev had satirized an alleged abuse of power by the deputy regional procurator of Samarkand. AI believed that the charge of defamation was brought by the procuracy with the aim of preventing Shadi Mardiyev from exercising his fundamental human right to freedom of expression.

***Harassment, detention and imprisonment of women as part of the clampdown on Detention of Musharaf Usmanova***

On 14 April 39-year old Musharaf Usmanova, the widow of Farkhad Usmanov - whose death in custody in June 1999 reportedly resulted from torture - was arrested and kept incommunicado for seven days until her lawyer learnt of her whereabouts on 22 April. According to the lawyer, no incriminating material was found during a search of her house on the day of her arrest. Musharaf Usmanova was accused of being a senior figure in the banned Islamic party *Hizb-ut-Tahrir*.

***Violations of international fair trial standards***

Ayazimkhon Yakbalkhojayeva, Tursunoy Rashidova, Arofat Khakimova, and Lazokat Avazova stood trial on charges including "attempting to overthrow the constitutional order of Uzbekistan" and the "production or distribution of material constituting a threat to public security and public order" in the period under review. On 17 May Tashkent City Court handed down suspended sentences of two to three years. There were allegations that international fair trial standards were violated. According to the international non-governmental organization Human Rights Watch, the four women were not given appropriate advance notification of when the trial against them would commence. Instead some of them were summoned at the beginning of April just one hour before the start of the trial. The women were reportedly informed of the charges in the course of the court hearing and received a copy of the indictment only several days later.

***Independent Islam and suspected members and supporters of Hizb-ut-Tahrir***

***Harassment of female demonstrators***

In the period under review female relatives of prisoners convicted for their affiliation or suspected affiliation with independent Islam or the banned Islamic party *Hizb-ut-Tahrir*, picketed in several cities and towns in Uzbekistan to protest the imprisonment and ill-treatment of their male relatives in places of detention and prison colonies. On 23 April, for example, between nine and eighteen women and children, who had gathered at around noon near Chorsu bazaar in Tashkent for a demonstration, were reported to have been temporarily detained by police. Among them were said to have been five of Musharaf Usmanova's four-year to 16-year old children (see below). Several wives of political prisoners told AI that they were regularly visited by police who urged them to sign undertakings that they will not participate in similar demonstrations in the future.

In another case, on 24 April, Tashkent Regional Court sentenced Nasiba Uzbekova, Nargiza Usmanova, Mukhtabar Omonturdieva, and Fatima Khamroboeva to prison terms ranging from two years of probation to four years' imprisonment. The women were accused of membership in the banned Islamic party *Hizb-ut-Tahrir* (under Articles 159 and 244 of the Criminal Code of Uzbekistan). One of the women alleged that physical and psychological pressure was exerted to force them to confess. There were allegations that several local and international trial monitors were denied access to the courtroom.

***Torture and ill-treatment***

In two separate cases that were heard in Tashkent City Court and in the Military Court of the Republic of Uzbekistan in Tashkent in January and June respectively, seven law enforcement officers were convicted to prison terms ranging from five to 20 years, for torturing to death two detainees and beating a third one so severely that he had to be hospitalized.

The police officers Nuriddin Boboyev, Shavkat Rakhmonberdiyev, Mukhiddin Nagimov and Yashin Gafurov, who tortured to death 32-year old Ravshan Haitov at Sabir-Rakhimovsky District Police in Tashkent on 17 October 2001 and who beat his 27-year old brother Rasul the same day to such an extent that he had to be hospitalised in an intensive care unit and artificially fed, were sentenced to 20 years' imprisonment each by Tashkent City Court on 30 January. The policemen were formally charged with

“premeditated infliction of bodily harm that caused death” (Art. 104 of the Criminal Code) and are now serving their prison terms in the prison colony in the town of Bekabad.

On 16 October 2001 Ravshan and Rasul Haitov had been arrested by police officers of Sabir-Rakhimovsky district on accusations including membership in the banned Islamic party *Hizb-ut-Tahrir* (Art. 244 of the Criminal Code). The men’s relatives were not informed where the brothers were taken and searched them in different police stations in Tashkent all night. In April 2002 the criminal case against Rasul Haitov charging him with “religious extremism” was formally closed due to “lack of evidence”.

In January Rasul Haitov testified in court that he was beaten and kicked by policemen of Sabir-

According to Durдона Haitova, her husband Rasul Haitov was never granted any medical help by the authorities after he had been discharged from hospital in the middle of November 2001. The two men’s mother, Nazira Haitova, told AI: “Rasul is recovering very slowly, physically and psychologically. He cannot concentrate very well; he has constant headaches. He remembers a lot the torture he went through and the moment when the policemen showed him his dead brother. He is unable sit up for long because of internal injuries he sustained from the torture. Rasul never leaves our house on his own. Relatives of the convicted policemen threatened us revenge the day when the verdict was announced.” The Haitov family reported that Rasul Haitov has been receiving from the authorities a pension of 9,000 soms (approx. \$9) per month for the period of one year. Ravshan Haitov’s wife does not get any compensation.

During the period under review AI continued to receive reports of torture and ill-treatment in pre-trial detention and places of imprisonment as well as allegations that many such reports were not subjected to prompt and impartial investigations.

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

#### *Commutations*

In the period under review AI learned that the death sentences of Vazgen Arutyunyants, Armen Garushyants, Andrey Annenkov, Valery Agabekov, Nikolay Ganiyev, and Aleksander Kornetov - which had been handed down on non-political charges in four separate court cases - were commuted to long prison terms. However, to AI’s knowledge, no thorough and impartial investigations were carried out into allegations that at least five of the men were tortured

Rakhimovsky District Police; that policemen stuck needles under his fingernails, and that he was lifted up by his arms and legs and was thrown flat on the floor; and that his head was covered with a plastic bag until he fainted. He added that while he was being tortured, policemen dragged his brother into the room. He described how his brother was naked and covered in blood and could not hold his head up. “They threatened they would stick a truncheon into my brother’s anus and rape me with a truncheon.” Ismail Adylov of the human rights organization NOPCHU, who attended the trial, told AI: “Rasul was extremely weak at the trial. His voice was very faint; he was hardly able to walk or sit and was therefore nearly lying on the bench in the court room.”

while in pre-trial detention (see: EUR 01/003/2001 and EUR 01/002/2002).

#### *Executions*

There were reports that Refat Tulyaganov and Maksim Strakhov were executed on 18 January and 20 May respectively despite interventions by the UN Human Rights Committee urging the Uzbek authorities to put the executions on hold.

The UN Human Rights Committee urged the Uzbek authorities on 24 December 2001 to put on hold the execution of 21-year-old Refat Tulyaganov. There were allegations that he had been severely beaten in detention in order to force him to sign a confession. Refat Tulyaganov was executed in secret. His family was not informed about the date of the execution, and when his mother wanted to see him on 24 January, prison personnel reportedly sent her back and told her she should return the next day. On 12 February the family received an official certificate informing them of the execution date.

Refat Tulyaganov had been sentenced to death by Tashkent City Court on 5 July 2001 for premeditated, aggravated murder (Article 97, part 2 of the Criminal Code). The death sentence was upheld by the Appeals Committee of Tashkent City Court and the Supreme Court on 21 August and 4 October 2001 respectively.

YUGOSLAVIA,  
FEDERAL REPUBLIC  
(FRY)

SERBIA AND MONTENEGRO

The FRY continued to aspire to membership of the Council of Europe which in June drafted a list of commitments to be fulfilled by the FRY after accession. However, the issue of the constitutional nature of the FRY needed to be finalized before any accession. On 14 March, under pressure from the European Union, the Belgrade agreement was signed which envisaged the two republics remaining in a loose union with republican parliaments, alternative representatives at the United Nations and the Council of Europe, and with an option for either party to secede after three years. The federal authorities would be responsible for human rights and the protection for minorities. Despite the agreement, at the time of writing little progress had been made on finalizing a new federal constitution to replace the 1992 one.

### ***Death penalty abolished***

The Serbian parliament in February and the Montenegrin parliament in June both abolished the trial of former President Slobodan Milošević, accused of responsibility for war crimes committed in Croatia, Bosnia-Herzegovina and Kosovo, continued before the International Criminal Tribunal for the former Yugoslavia (Tribunal). On 11 April the Federal parliament passed a law on cooperation with the Tribunal which was widely criticized. The main objection was the provision in Article 39 that made it only applicable to those already indicted when the law came into force. The law also saw extradition of suspects to the Hague rather than simple transfer as required as a UN member under the UN Security Council Resolution which set up the Tribunal. Immediately after the law was passed former Serbian Interior Minister Vljeko Stojiljković, who faced transfer to the Tribunal, shot himself in the head outside the Federal parliament in protest at the law's passing, and died two days later from his wounds. Following the adoption of the law, the authorities issued arrest warrants for 17 other people indicted.

In line with the law, a National Council on Cooperation with the Tribunal was created. However, actual cooperation with the Tribunal by the authorities remained very problematic. Only one person, Ranko Česić, accused of war crimes in Bosnia, was arrested and transferred to the Hague in the period under review. Five others surrendered voluntarily: former Chief of General Staff of the Yugoslav Army (VJ) Dragoljub Ojdanić, and former Yugoslav Deputy Prime Minister Nikola Šainović, both accused of war crimes in Kosovo; Croatian Serb Milan Martić and former VJ commander Mile Mrkić, both accused of crimes in Croatia; and Momčilo Gruban, commander

death penalty for all crimes (the Federal parliament had previously abolished it in 1992), facilitating entry into the Council of Europe which had set abolition as one of the commitments to be fulfilled.

### ***New Criminal Procedure Act***

In March a new criminal procedure code was adopted. This in Article 13 allowed all detainees immediate access to defence counsel. While torture as a crime remained outside of specific domestic legislation, Article 12 of the new code forbade and made punishable the use of any kind of violence on a detainee. However, as detailed below, numerous allegations of ill-treatment by police continued with little apparent redress.

### ***War crimes***

(Update to AI Index: EUR 01/002/2002)

of the notorious Omarska detention camp in Bosnia. However, these surrenders appear to have been made within the context of economic pressure from outside actors, principally the US, rather than from any genuine will by the authorities to really cooperate with the Tribunal. Tribunal officials, for example, pointed to: problems posed by the authorities with severe restriction on access to documents; problems with access to witnesses who are not offered adequate protection, and who are officially warned of their obligations not to divulge official secrets and told to apply for exemption if they think this may be case - resulting in many exemptions; and finally the apparent complete lack of official will in arresting those indicted in the country.

In February it was reported that Aleksandar (Aco) Tomić, appointed head of VJ security by President Koštunica, met with Ratko Mladić, former leader of the Bosnian Serb army and one of the Tribunal's main outstanding those indicted, and told him that the VJ would continue to protect him and other indicted Serbs.

There was some limited progress on domestic trials for war crimes. The trial continued of Nebojša Ranisavljević, accused of participating in the hijacking of the Belgrade-Bar train at Štrpci in Bosnia-Herzegovina on 27 February 1993 and participating in the abduction of 20 Muslim civilian passengers, who were subsequently murdered (see AI Index: EUR 01/002/2002). During the trial documents from the state railway company were produced which showed high-level complicity in planning such abductions which were ostensibly to be used in negotiations for prisoner exchanges or exchanges of bodies in the war

in Bosnia-Herzegovina. However, Nebojša Ranisavljević, who was not accused of actually murdering the victims, remained the only person on trial for this crime. On 4 June a Bosnian Serb, Dragutin Dragičević, was arrested and accused of participating in a similar crime in October 1992 in Sjeverin, also in Bosnia-Herzegovina near the border with the Sandžak in the FRY, when 17 Muslim passengers were abducted from a bus. He too was the only one arrested for the crime giving rise to fears of a lack of political will to bring all those responsible to justice.

In June Dragoljub Dragičević was arrested, so initial reports asserted, in connection with the massacre of Muslims in Srebrenica in Bosnia-Herzegovina in 1995. However, the Belgrade district public prosecutor reported that he was arrested for 'war crimes against civilians, and not for Srebrenica', without giving further details.

The lack of proceedings bringing to justice those responsible for crimes from the Milošević era was highlighted by a private, as opposed to an official, prosecution brought in January by Jovo Ćuruvija against former security chief Radomir Marković, former Belgrade police chief Milan Radonjić, Mira Marković (Milošević's wife) and persons unknown for the murder on 11 April 1999 of his brother Slavko Ćuruvija, a prominent journalist.

### **Exhumations**

(Update to AI Index: EUR 01/002/2002)

Exhumations continued of the bodies of ethnic Albanians transported from Kosovo to Serbia during the NATO Operation Allied Force. In January the police reported possessing reliable data that there were at least three more mass graves at the Batajnica training camp near Belgrade, where over 400 bodies of ethnic Albanians had already been exhumed from two mass graves, as well as at least one mass grave in the region of Vranje in southern Serbia. In February three protocols were signed establishing collaboration between the United Nations Interim Mission in Kosovo (UNMIK) and the Coordination Centre for Kosovo-Metohija (under the leadership of Serbian Deputy Prime Minister Nebojša Čović), on cross-boundary repatriation of identified remains, exchange of forensic expertise and joint verification teams on hidden prisons. The exhumations were monitored and aided by the International Commission on Missing Persons (ICMP). Other exhumations of bodies of Croats from the Croatian war of 1991 began in March after years of negotiations between FRY and Croatia, and some 60 bodies from Novi Sad, over 100 from Sremska Mitrovica and some 60 from a cemetery in Belgrade

In Prokuplje in June the first domestic war crime trial outside of Kosovo of a Serb accused in connection with the 1998-9 Kosovo war began with Ivan Nikolić, a former VJ soldier, accused of killing two ethnic Albanian civilians in Podujevo in Kosovo on 24 May 1999. Ivan Nikolić had originally been charged with murder, but the charges were changed to those of war crimes in April. In April the Prokuplje prosecutor also brought an indictment for war crimes against two former VJ reservists, Saša Cvijetan and Dejan Demirović, accused of killing 19 ethnic Albanians in March 1999 in Podujevo. The depth of public opposition to such trials was shown by large demonstrations outside the court, reportedly organized by the Association of War Veterans. An official from the Organization for Security and Cooperation in Europe (OSCE) also told AI that the presiding judge, Dragan Tašić, had received threats on a daily basis and had to be armed for his own protection.

were exhumed. These exhumations are expected to finish by the end of the year. There was welcome progress in identifying the victims with the setting up of a DNA laboratory at the Institute of Forensic Medicine in Belgrade, which was incorporated into the ICMP centralized system of recognition using facilities in Bosnia-Herzegovina for analyzing blood and bone samples. However, this progress was contrasted by the apparent lack of will in finding the perpetrators of these crimes and bringing them to justice.

### **Minorities**

In February the federal parliament passed the Law on the Protection of Rights and Freedoms of National Minorities, which gave extensive guarantees of minority protection as well as foreseeing the setting up of minority National Councils - envisaged as participating in decisions at all levels of government on education, language use and culture. However, the lack of corresponding legislation on the republican level, especially in view of the continuing constitutional question, gave rise to doubts of actual effectiveness of the new law in practice.

Discrimination against Roma in Serbia and Montenegro, including those displaced from Kosovo, continued (update to AI Index: EUR 01/002/2002). Some 30,000 - 40,000 Roma in Belgrade alone lived in substandard unhygienic settlements without adequate, or in many cases, any services. The majority of Roma who fled Kosovo after July 1999 continued to face severe problems exacerbated by problems regarding registration and acquiring legal identity cards. Roma without adequate documentation or evidence of citizenship were routinely denied access to health and social welfare, and children were discriminated against

in the provision of education in both Serbia and Montenegro. For example, records for Priština had been transferred to Kraljevo, while those from Gnjilane were in Niš, requiring displaced people to go to the relevant place to acquire identity cards: a bureaucratic procedure problematic for many Roma living in extreme poverty on the margins of society. In other cases, the bureaucracy reportedly actively discriminated against Roma by refusing to issue identity cards to those who had the necessary documentation. For example, all personnel records for displaced people from Uroševac and Pe\_ were transferred to Leskovac but Roma (and Albanians) from those areas reportedly found the authorities in Leskovac unwilling to help them. Kosovo Roma were ill-treatment by law-enforcement officers continued to be a major concern. Ill-treatment by law-enforcement officers continued to be a major concern. In the very few reported cases in which police officials were tried for torture and found guilty, the sentences imposed were below six months, with the exception of the apparently unique case where the Serbian Supreme Court on 25 January raised to 18 months a policeman's previous sentence of 10 months' imprisonment for torturing Radivoje Jankovi\_ on 7 April 1997. For example, on 13 June two officers were sentenced to two months' imprisonment suspended for one year for torturing Georg Tani on 23 November 2000, while on 8 July two other officers received three month sentences for torturing a Rom in May 1998 - the maximum sentence under current legislation is three years' imprisonment while sentences of six months or above would necessitate dismissal from the police force. These nominal sentences imposed only in rare instances helped prolong a climate of impunity. The police force in Serbia remained almost totally unreconstructed from the Milošević\_ era and in many parts of the country continued to use ill-treatment as a routine part of police work. The Belgrade based Humanitarian Law Center (HLC) reported a number of cases of alleged police-ill-treatment from around Serbia. For example, on 16 March six policemen broke up a student birthday party in Belgrade after complaints had been made about loud music. When the students refused to leave the apartment quoting from a brochure 'The Police and Human Rights' published by the Federal Ministry of Internal Affairs, the police allegedly severely beat Kosta Stankovi\_ and Nemanja Jovi\_, who suffered a burst eardrum. When Milan Milovanovi\_ took down the officers' numbers and said he would sue, he was reportedly bundled into a police car, repeatedly beaten and taken to the Zvezdara woods where he was kned in the head several times.

The Leskovac-based Committee for Human Rights reported that from January to June there were over 100

also vulnerable to evictions from their makeshift homes: six families were so evicted in April in the Belgrade Autokomanda neighbourhood. Frequent attacks on Roma by non-state actors with little apparent protection afforded by the authorities against such attacks resulted in many Roma feeling too scared to leave their settlements after the end of the working day: a form of self-imposed ethnic curfew. Roma continued to suffer disproportionately from unemployment. Roma were also regularly reported as victims of ill-treatment by the Serbian police.

### ***Police ill-treatment and impunity***

allegations of police ill-treatment in the Leskovac area alone. For example, in June 18-year-old Nenad Miljkovi\_ was reportedly tortured by *falaka* (beatings on the soles of his feet) by three policemen at Vu\_je police station near Leskovac to try and make him confess to theft which he denied. On 30 May Nenad \_ivkovi\_ was stopped in his car in Leskovac by two policemen (whose names are known to AI) who allegedly punched him repeatedly. The policemen then took him to his home where they allegedly physically assaulted his mother, 65-year-old Stojanka \_ivkovi\_, by pulling her ears. Nenad \_ivkovi\_ was subsequently hospitalised for bruises to his head and body. The Committee also reported that police routinely harass and steal from those selling goods on the black market - the harsh economic conditions force many to do this to survive - beating those who object, as well as forcing young women vendors to have sex with them.

The Committee has taken up a number of cases of ill-treatment but, with the sole exception of the sentencing of a police officer to one and a half years' imprisonment on 25 January (see above), there have been no successful prosecutions and the Ministry of the Interior did not reply to their letters. Similarly the Sand\_ak Committee for Protection of Human Rights and Freedoms reported cases of alleged police brutality where the offending officers had been involved in similar incidents in the past without any redress. Those cases taken up by Belgrade organizations such as the HLC appeared to have a greater chance success, albeit limited, than those taken up by local organizations. The most successful cases were those involving members of the *Otpor* (Resistance) alleging ill-treatment and harassment by the police in the Milošević\_ era. *Otpor* played a leading part in the protests which saw the overthrow of Milošević\_ and the installing of the new authorities. Compensation, mostly of around 50,000 dinars (approximately US\$ 750), was awarded in a number of cases brought by the HLC on behalf of members of the *Otpor*.



### **Southern Serbia**

Sporadic armed incidents continued in the Preševo valley, scene of previous clashes between Serb security forces and an armed ethnic Albanian group, although the situation there continued to stabilize with the gradual implementation of the *\_ovi\_* plan (see AI Index: EUR 01/003/2001). This included the recruitment of 370 Serbs, Albanian and Roma in a new multi-ethnic police force operating alongside the existing predominantly Serbian force. However, representatives of the Albanian community continued to point to the lack of adequate representation in civil and state structures. Most of those who had fled due to the fighting in early 2001 had returned to their homes except for inhabitants of five mountain villages, due to

On 9 June Agim Agushi, resident of Miratovac village, was shot dead by a soldier near the border with Macedonia. He, along with a neighbour, was apparently suspected of cross-border smuggling by a lone soldier on border duty and killed apparently after failing to obey an order to stop. AI is seeking clarification of the circumstances surrounding his death. The Border Service Regulation of April 1976 which is still in force in Articles 143 and 148 authorizes border guards to use lethal force regardless of the threat posed in contravention of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The soldier was reportedly suspended and an investigative commission set up which included officials from the European Union and OSCE missions.

### **KOSOVO (KOSOVA)**

The United Nations Interim Administration in Kosovo (UNMIK) continued to administer Kosovo under UN Security Council Resolution 1244/99. Michael Steiner took up the post of Special Representative of the UN Secretary General (SRSG) on 14 February replacing Hans Haekkerup. The Kosovo Assembly or Provisional institution of Self Government (PISG) met for the first time on 4 March, when they appointed Ibrahim Rugova of the Democratic League of Kosova (LDK) as President and Bajram Rexhepi of the Democratic Party of Kosovo (PDK) as Prime Minister. Nine of the ten government ministers were also appointed - four from LDK, two representing the PDK, two from the Alliance for the Future of Kosovo (AAK), and one representing non-Serb minorities. The Serbian coalition party *Povratak* (Return) eventually took up the posts of agriculture minister and inter-ministerial coordinator for returns and minorities, and on 10 June another Serb, Nenad Radosavljevi\_, was appointed

police control and damage to the villages' infrastructure. Elections were scheduled for July.

Although the situation had improved, reports of ill-treatment of ethnic Albanians by police continued. In most cases those who complained about such ill-treatment received a standard letter from the Ministry of Internal Affairs stating that the case had been investigated, that it had been confirmed that police officers (always unnamed) had acted illegally and that unspecified 'disciplinary measures' had been taken against them. On 25 May two prison warders allegedly beat five inmates of Vranje prison because they were suspected of having a mobile phone; two of the inmates, Shpetin Shabani and Murat Ze\_irja, were reportedly beaten so badly that they lost consciousness and sustained severe contusions.

Senior Adviser in the UNMIK Office of Returns and Communities.

The relationship between the PISG and UNMIK was tested, following the adoption on 23 May of a motion by the Assembly which declared unacceptable the border demarcation agreement made between FRY and Macedonia on 21 January 2002. The SRSG subsequently ruled the motion null and void on the grounds that under the Framework Agreement which established the PISG, international relations were reserved to the SRSG. By the end of June, the Assembly had not yet passed any legislation.

### ***War Crimes and impunity for war crimes***

The retrials of Serbs previously convicted by panels composed of a majority of ethnic Albanian judges for war crimes or genocide continued. In several cases which AI had previously identified as not having satisfied international standards for fair trial, lesser charges were preferred, or sentences were reduced. On 27 March, for example, in the case of Sava Mati\_, who was originally convicted of war crimes, the court found that there was insufficient evidence against him for the original charge of participating in the execution of 42 persons in the village of Krušë e Madhe (Velika Kruše) on 26 March 1999. He was, however, found guilty of light bodily injury against two persons on 23 March. In other cases, the convictions were found to be safe.

Relations between the Albanian community and UNMIK were tested on 28 January with the arrest of the three former members of the Kosovo Liberation Army (KLA), Naim Kadriu, Latif Gashi and Nazif Mehmeti, for alleged abductions and murder of ethnic Albanian civilians between 1998 and 1999. Demonstrations took place throughout Kosovo, prompting the introduction of new orders for public demonstrations, and posters of the three men were

pasted up throughout Priština (Prishtinë). On 18 June, four former KLA members were arrested and on 19 June, two further suspects including the brother of Ramush Haradinaj, leader of the AAK, apparently handed themselves in to the police; all six men were taken before an international judge and charged with unlawful detention and causing serious bodily harm to five other ex-KLA members in June 1999. Further demonstrations against these arrests took place throughout Kosovo.

On 19 April, Carla Del Ponte, Chief Prosecutor for the International Criminal Tribunal for the Former Yugoslavia confirmed that investigations had been opened into three KLA suspects, and that at least one indictment would be published by the end of the year.

AI addressed the new president in March, articulating the organization's concerns about continuing violations and abuses of the right of minorities in Kosovo, and in particular, impunity for human rights abuses (including abductions and extra-judicial executions of members of minority groups), continuing lack of freedom of movement (unless provided by the Kosovo Force (KFOR) and CIVPOL), and the consequent inability of minorities to gain access to justice and to basic services. AI was also concerned that where minorities were able to gain access to basic services, they faced discrimination in, for example, access to employment, medical care, education and other social and economic rights<sup>17</sup>. The numbers of minority internally displaced people (IDPs) and refugees returning to Kosovo during this period remained low, with less than 900 returnees from all ethnic groups arriving in Kosovo by the end of May (43 per cent of whom were Kosovo Serbs).

Tensions in northern Kosovoska Mitrovica (Mitrovicë) escalated again on 21 February when UN Civilian Police (CIVPOL) vehicles were stoned - and a UN police officer slightly injured - and barricades were erected following the arrest of two Serbs suspected of involvement in a grenade attack on 3 February 2000, in which an Albanian man was killed. In March, further demonstrations and confrontations between local Serbs and CIVPOL and KFOR took place following the arrest on 8 April of Slavoljub Jovi\_ - one of the "bridge-watchers", a self appointed group set up to guard the boundary between the northern and southern sides of the town. He was arrested on suspicion of involvement in the organization of riots which took place in Mitrovica in February 2000. Following the arrest - during which it is alleged that the detainee

### **Minorities**

Despite a decline in the reported number and frequency of ethnically motivated attacks on life and property, those suspected of past and continuing human rights abuses against members of minority communities in Kosovo continued to enjoy virtual impunity. However, on 10 May, a German citizen - a former mercenary with the KLA - was convicted of murder, attempted murder and terrorism and sentenced to 23 years' imprisonment for a bomb attack in April 2001 in which one Serb was killed and four other Serb civilians injured; on 14 May, in Prizren, an Albanian man was found guilty of the murder of 70-year-old Serbian woman in March 2001, and was sentenced to 15 years' imprisonment

pulled a knife and that CIVPOL used unreasonable force - police tried to break up the crowd which had assembled. According to UNMIK, grenades were thrown at the police, who also came under fire. CIVPOL then responded with live ammunition, teargas and rubber bullets. KFOR personnel in the area failed to come to the assistance of CIVPOL. Reportedly 26 police officers were injured, six of them seriously, along with a number of Serb civilians. Following the incident, regular demonstrations were organized by the "bridge-watchers" demanding the release of Slavoljub Jovi\_, who has since been detained - initially at the KFOR French battalion's hospital - on the orders of an international investigating judge at Mitrovica District Court. The Serb community subsequently suspended cooperation with UNMIK, and it was reported that local Serbs working for UNMIK and the municipality were threatened. Although CIVPOL maintained a presence at Mitrovica police station, they were unable to resume patrols until 1 May; UNMIK civilian staff returned on 24 May. Slavoljub Jovi\_ remained in detention at the end of the period under review.

### **Ethnic Albanian Prisoners in Serbian Jails**

(Update to AI Index: EUR 01/002/2002)

At the beginning of March over 160 ethnic Albanians remained in Serbian jails, the majority of whom had been transported to Serbia in July 1999, and subsequently convicted and sentenced in trials which AI considered had failed to meet international standards. Despite commitments for their release expressed in the November 2001 UNMIK-FRY Common Document<sup>18</sup>, no progress was made until March, as a deadline set by the US government for the

<sup>17</sup> AI's concerns will be articulated more fully in a forthcoming report on the situation of minorities in Kosovo.

<sup>18</sup> See AI Index: EUR 01/002/2002.

releasing of financial assistance to the FRY approached. This assistance was made conditional on, *inter alia*, the release of these prisoners. Agreement to transfer the prisoners to Kosovo was reached by UNMIK with the FRY government on 21 March and with the Serbian government on 23 March.

On 26 March 2002, 146 of the remaining prisoners were transferred to Dubrava prison in Kosovo, and following the review of their case files by international judges and prosecutors within the UNMIK Administrative Department of Justice, on 27 March the first 80 prisoners were released on the grounds of "legally deficient convictions or because of the context in which the crimes for which they were charged were committed".

A further 26 prisoners were released on 22 May following review of their case files. The remainder of the transferred prisoners continue to serve out their

At the beginning of the year, AI was concerned at the slow progress made by the CIVPOL Missing Person's Unit in the identification of the "disappeared" and abducted, and in particular at their failure to open investigations into the estimated 4,000 outstanding cases of "disappearance" and abduction. The organization was particularly concerned at the failure of CIVPOL to address cases of an estimated 1,200 Serbs, Roma and members of other minority groups believed to have been either abducted by the KLA or by other ethnic Albanians, particularly in the period following the entry of KFOR into Kosovo in July 1999.

However, the organization welcomed measures taken by the SRSG to restructure UNMIK's work on the missing, including the appointment of Jose Pablo Barbayar as the new head of the Office of Missing Persons, and an increase in the number of staff dedicated to work on the "disappeared" and abducted. In the period under review, more identifications were reportedly made than in 2001, progress was made in the exhumation of burial sites and, following the reopening of the forensic institute in Orahovac (Rahovec), previously used by the Tribunal, by mid-July autopsies had been conducted on 95 further bodies.

### **Trafficking in women and girls**

The trafficking of women and girls into Kosovo for the purposes of prostitution continued, despite more rigorous measures having been taken to implement the applicable law, including the establishment of Trafficking and Prostitution Investigative Units, in October 2001, though the appointment of a Victim and Witnesses Protection Coordinator did not take place until March 2002.

sentences in Dubrava prison on the basis that their convictions for recognized crimes were judged to be valid. On 29 March a final 11 further prisoners, reportedly in ill-health or with mental health conditions - were transferred to Kosovo; a small number who had elected not to return to Kosovo, remained to serve out their sentences in Serbian jails.

On 26 May, in a separate agreement, six Serb prisoners - one convicted of intermediation in the exercise of prostitution, four for murder and one for war crimes - then serving sentences in Kosovo were transferred to prisons in Serbia in an agreement signed between the FRY and UNMIK on 3 April under the European Convention on the Transfer of Sentenced Prisoners.

### **"Disappearances" and abductions**

In the period between February 2000 and April 2002, 303 trafficked women - including eight Kosovar women - received assistance from the International Office of Migration (IOM). From interviews with these women, IOM was able to establish that the majority (60 per cent) of trafficked women originated from Moldova, with smaller numbers from Romania, Ukraine and Bulgaria. Prior to being trafficked, almost a third of women told IOM that they had suffered physical or sexual abuse within their families, other repeated abuses against them during trafficking included abduction, deception, sexual abuse during the journey, and the seizure or theft of their passport or other travel documents. Women also reported being locked in their accommodation during the day, and complained of constant physical and psychological pressure - over 76 per cent of women reported being beaten and over 50 per cent of being sexually abused by their "owners" or their "friends".

Allegations continued to be reported that members of CIVPOL were complicit in the trafficking of women and girls, and welcomed measures taken at the end of the period to place almost 150 bars and nightclubs, where trafficked women were believed to work as prostitutes, off-limits to UNMIK staff.

### **KFOR Detentions**

Following the arrest, unlawful detention and alleged ill-treatment of three Islamic humanitarian aid workers, arrested by Italian KFOR in Djakovica (Djakovë) and detained by KFOR at the Bondsteel Detention Facility between 14 December 2001 and 21 January 2002, AI wrote to the Commander of KFOR (COMKFOR), calling for a full investigation into the allegations of ill-treatment, and requesting clarification of the legal basis

under which KFOR conducts arrests and detentions.<sup>19</sup> AI believes that the arrest and detention of the three men violated international law - including the right not to be arbitrarily detained and the right of detainees to be treated with respect for their human dignity - and was concerned at the allegations of torture and ill-treatment. AI had yet to receive a reply from COMKFOR by the end of June.

### ***Impunity for the International Community***

According to reports, the police officer, who had been arrested on 26 February and subsequently placed in investigative detention, was driven by Austrian officers across the border into Macedonia, from where he was flown to Austria. Following an investigation by CIVPOL into both the alleged ill-treatment of the detainees and the Austrian police officer's exit from Kosovo, the case file was passed to an international investigative judge who formally indicted the suspect.

AI continued to be concerned at the apparent impunity enjoyed by some members of CIVPOL and KFOR suspected of violations of human rights and criminal offences against the civilian population in Kosovo, and welcomed measures taken by UNMIK to waive the immunity from prosecution - enjoyed by all UNMIK personnel under UNMIK Regulation 2000/47<sup>20</sup> - of an Austrian CIVPOL officer suspected, along with three members of the Kosovo Police Service (KPS), of the torture and ill-treatment of an ethnic Albanian detainee.

In June AI wrote to the Austrian government who, despite an international arrest warrant, continued to refuse to extradite the officer to face the charges or bring him to justice, and challenged the Austrian government's commitment to universal justice. According to a report in the Viennese daily *Die Presse*, the officer was still working in the Austrian police force as of 6 June .

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<sup>19</sup> See AI Index: EUR 01/002/2002

<sup>20</sup> Section 6.1 of UNMIK Regulation 2000/47 provides that the UN Secretary-General may waive the

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