

@AMNESTY INTERNATIONAL CONCERNS IN EUROPE November 1990 - April 1991

Since 1984 Amnesty International has been issuing regular bulletins of information about its concerns in Western Europe. The initial aim was to make available information about Amnesty International's concerns in countries which were not the subjects of individual country reports, but that has since been broadened to include updates to information published in separate reports.

In the light of the changes which have taken place in Eastern and Central Europe during the past few years, we now feel that the division of Europe is no longer appropriate. We have, therefore, decided to enlarge the bulletin to include the whole of Europe. This does not necessarily mean that we will report on every European country where Amnesty International has concerns in each bulletin. In some cases a report on an individual country will have been published in the period covered by the bulletin, so unless an update is required we will simply list the report in an appendix of all documents issued during the period, which will include Urgent Actions and Death Penalty Actions. Sometimes a summary of the report will be given in the bulletin. The aim will be to ensure that in one form or another up-to-date information on Amnesty International's concerns in Europe is available. The bulletin covers a six-month period, but there is some flexibility because of the need to report developments which extend over a long period of time.

French and Spanish translations of this bulletin will be available in due course.

ALBANIA

Update to the paper Albania: Legislative change since May 1990 and Amnesty International's concerns (AI Index: EUR 11/01/91)

Since June 1990, about 1,000 political prisoners, many of them prisoners of conscience, have been released in Albania. After the last releases, on the eve of multi-party elections on 31 March, the authorities stated that there were no more political prisoners. However, a local human rights organization said in May that it believed there were about 40 remaining political prisoners convicted of offences such as "espionage" and "treason". Among those not included in releases at the end of March was the prisoner of conscience Edmond Pojani who was arrested in July 1990 and sentenced to two years' imprisonment, under Article 118 of the Criminal Code, ("slandering the supreme organs of the State and Party") after he had expressed criticism of Enver Hoxha, Albania's former ruler who died in 1985. To Amnesty International's knowledge he was still in Bardhor prison camp near Kavajë in May.

After opposition allegations of a cover-up in the investigation of the deaths of four people on 2 April during anti-communist demonstrations in Shkodër, a cross-parliamentary commission was set up on 17 April to carry out a fresh investigation. The commission subsequently blamed security forces for the deaths; seven people were arrested, including Shkodër's chief of police. Parliament vetoed the commission's recommendation to dismiss the Interior Minister, but approved the dismissal of the head of the Investigator's Office and the Procurator General.

In May President Alia issued a decree establishing a commission to deal with the rehabilitation (including housing and employment) of wrongly sentenced political prisoners or people administratively interned (punished with internal exile). The decree also established the right of the Supreme Court, the Procurator General or the Minister of Justice to issue "certificates of innocence" to those who have been unjustly sentenced who can present evidence in support of their innocence. Many former political prisoners have alleged that they were convicted (sometimes repeatedly) on false charges and on the basis of false evidence obtained from the accused and witnesses under duress.

AUSTRIA

Alleged ill-treatment in police custody

The following are updates to the information given in AI Index: EUR 03/02/90.

Case of D.D.

This was the first case known to Amnesty International in recent years in which an Austrian court declined to admit evidence which may have been coerced through torture. D.D., a Yugoslav citizen, had alleged that he had been beaten in order to force him to sign a confession at Himberg Police Station in January 1990. Injuries reported following a subsequent medical examination were consistent with his allegations. At his trial D.D. was convicted only of the offences to which he had admitted in open court. Although the police officers involved had denied ill-treating him, the court refused to accept the validity of his signed confession, recognizing that he may have been tortured.

On 8 June 1990 the Public Procurator decided to drop any further investigations into the complaint that D.D. had committed the offence of defamation by making the allegations.

Preliminary inquiries were made into D.D.'s allegations, a total of four police officers being suspected of ill-treating D.D. and giving false testimonies in court on 30 May 1990. Criminal proceedings against two other police officers also included in the allegations were dropped at the end of June 1990 owing to lack of evidence. As a result of these preliminary inquiries the Vienna Public Procurator brought charges on 16 January 1991 against three of the four police officers for the crimes of coercion and aggravated coercion (*Nötigung und schwere Nötigung*, under Articles 105 and 106 of the Penal Code), torture or neglect of a detainee (*Quälen oder Vernachlässigen eines Gefangenen*, under Article 312) and making false statements in court (*falsche Beweisaussage vor Gericht*, under Article 288). The fourth police officer has been charged with making false statements.

Karoline O.

In May 1990 Karoline O. had been allegedly subjected to a serious sexual assault by two police officers at Karlsplatz police station, Vienna. A third officer, although aware of the incident, had not attempted to intervene. Following Karoline O.'s official complaint on 26 June 1990, the two police officers involved had been suspended from duty and charged by the Vienna Public Procurator. Disciplinary proceedings were also instigated against all three officers.

Criminal proceedings against the two police officers on suspicion of abuse of authority (*Mißbrauch eines Autoritätsverhältnisses*, under Article 212 of the Penal Code), rape (*Vergewaltigung*, Article 201) and sexual coercion (*geschlechtliche Nötigung*, Article 202) have not yet been concluded. The third officer is being investigated on suspicion of

"participating in criminal acts by failing to make due intervention" (*Beteiligung an Tathandlungen durch Unterlassung des gebotenen Einschreitens*).

Helmut Lang

Helmut Lang had alleged that in January 1990 he was beaten by police officers in Kohfidisch police station in order to coerce a confession to theft. He had subsequently made complaints about four police officers to the Eisenstadt Public Procurator, the Constitutional Court and the Interior Ministry.

According to internal police inquiries and judicial preliminary inquiries, Helmut Lang's complaints were not substantiated. According to the investigations, Helmut Lang's father had stated that his son had not shown any signs of ill-treatment after being questioned at Kohfidisch police station. As the complaint had not been made until 17 days after questioning, it was no longer possible for allegations of slight injuries to be investigated by medical examination.

Helmut Lang's complaint to the Constitutional Court is still pending.

Conscientious objection to military service

Correspondence with the government

In correspondence with Amnesty International the Austrian Government made the following points:

1) Amnesty International's interpretation of Article 9 of the European Convention for the Protection of Human Rights (ECHR) and Article 18 of the International Covenant on Civil and Political Rights (ICCPR) implies that applicants for alternative service should be granted conscientious objector status without examination of their reasons. Amnesty International pointed out that this was a misapprehension. Amnesty International's policy guidelines make clear that "a person should not be considered a prisoner of conscience, if he or she is not willing to state to the decision-making authorities the reason for his or her conscientious objection, where this is required by the law of the country, unless this reason can be inferred from all the circumstances of the case." Amnesty International does not therefore object to commissions set up to hear the reasons given by the applicant for conscientious objection. Amnesty International's interpretation of Article 18 of the ICCPR and Article 9 of the ECHR is that the right to refuse military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion laid down in them.

2) Under Austrian law the Alternative Service Commissions decide whether an applicant for conscientious objector status has given "serious and credible reasons of conscience" and the decisions of the Commissions, as independent tribunals, must be accepted. Amnesty International pointed out to the Austrian Government that the reason why the organization

sometimes adopts as prisoners of conscience applicants who have been rejected by Alternative Service Commissions is not that Amnesty International questions the impartial and independent nature of the Commissions, but that Amnesty International's guidelines on this issue recognize wider grounds for conscientious objection to military service than the Commissions often do. Although Amnesty International does not take the position that applicants for conscientious objector status should not have to explain their reasons, it recognizes the difficulty involved in doing so by asking only that an objector give "reasons of conscience or profound conviction" whereas the Alternative Service Commissions require the objector to convince them that he would experience "a severe conflict of conscience". Amnesty International believes that it is extremely difficult and perhaps impossible to test a person's conscience to this extent. Therefore, if it is convinced that someone has been imprisoned as a result of the non-violent exercise of his right to freedom of conscience, the organization will adopt him as a prisoner of conscience.

Proposed reform of alternative service

It has been reported¹ that the Austrian Government proposes to abolish the Alternative Service Commissions and to extend the length of most forms of alternative service from the present eight months to 10. Excepted from this would be particularly "strenuous or burdensome" forms of alternative service, such as caring for the old, the sick and those in psychiatric institutions, which would remain at eight months. Military service is currently eight months long. The reform is to be brought before Parliament (Nationalrat) in the second half of 1991 and, if approved, will last for a two-year trial period.

Martin Dengscherz (update to information given in AI Index: EUR 03/02/90)

Amnesty International had adopted Martin Dengscherz as a prisoner of conscience after he was taken into investigative detention in October 1990 for refusing to perform military service on conscientious grounds. He had applied to do alternative civilian service but both his initial application and his subsequent appeal had been rejected by the Vienna Alternative Service Commission. On 18 October 1990 he was given a suspended sentence of two weeks' imprisonment for refusing to obey military orders, then immediately taken back to the barracks where he once again refused all military duties. On 12 November 1990 he was given a one-month unconditional sentence for "disobedience" (*Ungehorsam*, under Article 12 of the Military Penal Code). The previous sentence of two weeks was added to this.

Immediately after the trial Martin Dengscherz was released from the army and his lawyer made an application for him to be conditionally released from prison, as he had already served more than two-thirds of his sentence while in investigative detention. This was granted. Martin Dengscherz has renewed his application to do alternative service.

¹ *Salzburger Nachrichten*, 28 March 1991.

Wolfgang Ulrich

In January Amnesty International adopted as a prisoner of conscience Wolfgang Ulrich, a 30-year-old forestry graduate, after he was imprisoned for refusing to perform military service.

In September 1985 he had applied to the Vienna Alternative Service Commission to do alternative civilian service. In his written submission he had stated that his grounds for his pacifist beliefs were based partly on his Christian faith. He also expressed the conviction that conflicts should be solved by other means than by military action and stated that he would be incapable of pointing a weapon at another human being. The Vienna Alternative Service Commission turned down his application, stating that Wolfgang Ulrich's references to his Christian faith, his rejection of the use of violence and "superficial and generalized" statements did not convince them that he would experience a severe conflict of conscience. Wolfgang Ulrich's appeal against this decision was rejected by the Vienna Higher Alternative Service Commission for the same reasons.

In November 1986 he was granted a temporary suspension from performing military service in order to attend university. At the end of 1989 he moved to Canada. On his return to Austria in October 1990 he was ordered to report to the Khevenhüller Barracks in Klagenfurt on 2 January 1991. He complied with the call-up order but refused to take up arms and was subsequently taken into investigative detention.

On 15 February Wolfgang Ulrich was given a three-week unconditional prison sentence for refusing to perform military service. As he had already spent six weeks in investigative detention, the court ruled that he had in fact served the sentence. He was released following the court hearing.

BULGARIA

Releases of political prisoners

On 20 December 1990 the Grand National Assembly passed an amnesty for all "crimes against the republic". The amnesty covered all offences contained in chapter one of the penal code including acts of "treason" and "espionage". Following this amnesty all prisoners of concern to Amnesty International were released. Despite a number of amnesties announced during 1990, the organization had continued to make inquiries about a number of ethnic Turks who remained imprisoned, mostly on charges of "espionage", in connection with the forced assimilation campaign of 1984-9 pursued by the former government of Todor Zhivkov (see AI Index: EUR 15/03/86; EUR/15/01/87; EUR 15/01/89; EUR 15/03/90).

CYPRUS

Conscientious objection to military service

Amnesty International remained concerned that Jehovah's Witnesses continue to be imprisoned for refusing to perform military service or take part in reservist exercises. Jehovah's Witnesses are forbidden by their religion to enlist in the armed forces in any capacity, but in Cyprus they are not given the opportunity to perform alternative civilian service. In imprisoning conscientious objectors, the Cypriot Government has failed to observe United Nations Commission on Human Rights Resolution 1989/59 which recommends that states refrain from imprisoning conscientious objectors and introduce alternative service of a civilian character. Amnesty International considers all imprisoned conscientious objectors in Cyprus to be prisoners of conscience.

Draft legislation first announced in 1988 and which, if passed, would recognize for the first time in Cyprus the right to conscientious objection had not been passed by the end of April, despite assurances from the government that it was likely to be enacted before the end of 1990. In its original form this draft legislation fell short of international standards in that the alternative service it proposed was punitive in length; it did not take into account conscientious objectors on grounds other than religious; it appeared not to take into account reservists and it was unclear whether the alternative service it proposed was truly civilian in character and under civilian control.

At the end of December all of the 30 conscientious objectors who had been imprisoned during 1990 were released. Between January and April, 11 conscientious objectors were sentenced to terms of imprisonment ranging between one month and six months. Panayiotis Antoniou Kousoulou, a 28-year-old father of three, was sentenced to two months' imprisonment on 26 April, his third term of imprisonment for his refusal to take part in reservist exercises. On the same day Fotou Kosta Mousoulou, who is married and has a child, was sentenced to five months' imprisonment for refusing to perform military service. At the end of April a number of conscientious objectors were pending trial, including a 49-year-old father of three, Theoharis Theocli Theoharidi, who had refused to perform reservist exercises.

Amnesty International continued to call for the immediate and unconditional release of all imprisoned conscientious objectors. It expressed its regret to the government that the draft legislation had still not been debated by the House of Representatives. It repeatedly urged the government to introduce alternative civilian service of non-punitive length which would take into account conscientious objectors on religious, moral, political, pacifist, philosophical and other grounds as well as those who declare their conscientious objection after they have been conscripted into the armed forces. On 2 April Amnesty International wrote to the President asking when it was envisaged that the draft legislation would be enacted. No substantive reply had been received by the end of April.

DENMARK

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

In November 1990, in a reply to Amnesty International's letter of October 1990, the Ministry of Justice informed the organization that it would initiate a judicial inquiry into the allegations of ill-treatment in police custody made by Hamad Hassan Juma. Hamad Hassan Juma, a Tanzanian national, was allegedly beaten by guards at the prison of Copenhagen Central Police Station during his detention there in September 1990 (see AI Index EUR 03/02/90).

Amnesty International wrote to the Danish Government in December 1990 expressing concern about the case of Babading Fatty, a 29-year-old Gambian tourist who arrived in Denmark in October 1990. The organization had received information about allegations of ill-treatment in custody made by Babading Fatty, including a report by a doctor who had examined him. The report contained details of injuries allegedly sustained during the period of Babading Fatty's detention at Copenhagen Central Police Station. Amnesty International asked the government to provide the organization with fuller information about the case, and the measures which had been taken to investigate the allegations.

In February 1991 the Ministry of Justice wrote to Amnesty International informing the organization that the current judicial investigation into the treatment of refugees in Copenhagen prisons would be expanded to include the cases of Babading Fatty and Hamad Hassan Juma.

FINLAND

Conscientious objection to military service

Hannu Puttonen, a 29-year old conscientious objector, began serving a 12-month prison sentence in November 1990. Amnesty International first expressed concern about Hannu Puttonen's case in January 1990 after he had been charged with evading civilian service and sentenced in 1989. His appeal against this sentence was also rejected in 1989. Hannu Puttonen has been imprisoned for refusing to perform alternative service because of its length. He has now been adopted as a prisoner of conscience.

Amnesty International considers that the length of alternative service for conscientious objectors to military service in Finland (currently twice the length of ordinary military service), under the 1987 temporary law on alternative service, could be deemed a punishment for the non-violent expression of conscientious objectors' beliefs. The organization therefore considers those Finnish conscientious objectors who are refusing to perform the 16-month alternative service to be prisoners of conscience. The new legislation on conscientious objection expected to come before parliament in 1991 will most likely reduce the length of alternative service from the current 16 months to 12 or 13 months (see AI Index EUR 03/02/90).

FRANCE

The alleged ill-treatment of Lucien Djossouvi (update to information given in Amnesty International Report 1990)

On 12 September 1989 Lucien Djossouvi, a Benin national resident in France, lodged a formal complaint with the Public Prosecutor's office attached to the Fourth section of the Paris Law Courts alleging that he had been ill-treated by three plainclothes police officers on 5 September 1989. The Prosecutor's Office ordered the *Inspection générale des services de la police* (IGS), the General Inspectorate of Police Services (an internal police body responsible for investigating allegations of police misconduct) to carry out an investigation into the complaint. This was concluded during 1990 and the case against three members of the judicial police (*police judiciaire*) was referred to a judge of instruction attached to Versailles Law Courts for further investigation. In view of the length of time elapsed since Lucien Djossouvi lodged his complaint, Amnesty International is seeking information from the relevant authorities as to the progress of the judicial investigation and has asked to be informed of any disciplinary or judicial proceedings arising from the allegations of ill-treatment. Lucien Djossouvi gave a detailed account of his alleged ill-treatment during a press conference held in Paris on 11 September 1989 by the French anti-racist organization *SOS-Racisme*. The details given below are taken from that account.

Lucien Djossouvi stated that at 8.00pm on 5 September 1989 he was knocked off his motor-bike by a car cutting across his path while he was travelling through the 18th district of Paris. The car-driver, dressed in civilian clothes, subjected him to racial insults and demanded to see his identity papers but refused to show proof that he was a police officer and thus entitled to make such a request. When he grasped Lucien Djossouvi by the shoulder, Djossouvi knocked his hand away and remounted his bike. The driver followed him in his car for five to 10 minutes and then forced him to stop. Another car carrying two more men dressed in civilian clothes immediately arrived on the scene. Lucien Djossouvi was then handcuffed and, when he protested and inquired as to the reason for his arrest, was told to "Stop there, dirty nigger, you're going to pay for all the others" ("*Ferme là, sale nègre, tu vas payer pour tous les autres*"). The three men then beat him with truncheons and threw his identity papers and money into a rubbish bin. Passers-by who attempted to intervene were told not to be concerned about the detainee as he was a drug-trafficker.

The men then pushed Lucien Djossouvi into the entrance of a near-by building where they choked him with his tie, tore his clothes, subjected him to further racial insults and beat him severely all over his body. When they finished he was bleeding from his nose and from a cut on his eye. They then took him back to the second car and removed his handcuffs.

When Lucien Djossouvi declared that he intended to lodge a formal complaint about his treatment, they handcuffed him again, hit him again and threatened him with expulsion from France within 10 days, if he made a complaint. They then left him on the pavement

and drove away. However, Lucien Djossouvi made a note of the car's registration number. On subsequent checking this apparently proved to belong to an official police vehicle.

He was admitted to the Bichat Hospital in Paris for urgent treatment later that evening. A medical certificate issued on the evening of 5 September 1989 recorded a heavy blow to his head, causing loss of consciousness, and widespread facial bruising ("*traumatisme crânio-facial avec perte de connaissance...avec hématomes sous cutanés orbitaires, frontaux et occipitaux*"). He remained at the hospital for five days and was recommended not to return to work for a further 10 days.

European Commission of Human Rights report on the case of Félice Tomasi (update to information given in AI Index: EUR 03/01/90 and Amnesty International Report 1989)

In December 1990 the European Commission of Human Rights voted to adopt its report on Félice Tomasi's application that France had violated Article 3 of the European Convention on Human Rights, which prohibits the use of torture and inhuman or degrading treatment; he also argued that Article 6.1 had been violated because of lack of diligence by the judicial authorities responsible for handling his complaint of ill-treatment and because the complaint had not been heard within a reasonable time. He also invoked Article 5.3, which guarantees the detained person the right to trial within a reasonable time.

Félice Tomasi, a Corsican nationalist, had been tried and acquitted in October 1988 on charges of murder and attempted murder of two Foreign Legionnaires in 1983. Amnesty International observers at the trial in the Court of Assize of the Gironde in Bordeaux reported his allegations that he had been slapped, kicked and punched during an interrogation following his arrest in Bastia in March 1983. These allegations were supported by medical evidence and the judge who remanded him in custody noted signs of injuries. He made a formal complaint on 29 March 1983 alleging ill-treatment, but after a judicial inquiry the court decided there was no case to answer (*non-lieu*). The observers also considered that there were serious procedural delays in bringing him to trial. Félice Tomasi spent five years and seven months in detention before the trial hearing in Bordeaux.

The European Commission's report stated that France had violated the Convention on all three articles cited in Félice Tomasi's application. The report has now been passed to the European Court of Human Rights.

Conscientious objection to the national service laws

The right to conscientious objection to compulsory military service is currently governed by Law 83-605 of July 1983. Under its provisions conscripts who declare themselves opposed to "the personal use of arms" for "reasons of conscience" are accepted for alternative civilian service in a state administration or in local organizations of a social or humanitarian nature "in the general interest".

Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service. However, Amnesty International believes that an essential component of the right to conscientious objection to armed service is that alternative service should not be imposed as a **punishment** for such objection. As the length of civilian service in France is, at 24 months, twice that of ordinary military service, Amnesty International considers that it does not provide an acceptable alternative to military service and that those imprisoned for rejecting both services are prisoners of conscience.

The vast majority of conscripts who are imprisoned as a result of their refusal to conform to the national service laws are members of the Jehovah's Witness faith. They base their objection to both military and alternative civilian service on religious grounds. According to unofficial estimates, between 500 and 600 Jehovah's Witnesses are imprisoned each year as a result of their refusal to perform military service. They are normally sentenced to 15 months' imprisonment and are released after completing 12 months' of the sentence. In February 1991 Amnesty International received information indicating that at that time 75 Jehovah's Witnesses were held in Fresnes prison, 50 in the *Maison d'arrêt* of Bordeaux-Gradignan, approximately 10 in Poitiers prison, five in a detention centre in Neuvic sur l'Isle (Dordogne) and an unspecified number imprisoned in Les Baumettes prison (Marseilles) and in Pau, Rochefort, Uzerche and Nîmes.

Amongst the Jehovah's Witnesses imprisoned during the period under review were **Eric Pawlak**, **Christophe Komorski** and **Frédéric Laboulais**. All three appeared before a court in Bordeaux (*Tribunal de Grande Instance*) on 11 January 1991 and each was sentenced to 15 months' imprisonment for refusing to perform military service. Eric Pawlak and Christophe Laboulais were initially held at the *Maison d'arrêt* of Bordeaux-Gradignan but were subsequently transferred to the *Maison d'arrêt* in Périgueux; Frédéric Laboulais is currently held in the *Maison d'arrêt* in Mont de Marsan. Amnesty International considered all three to be prisoners of conscience. **Thierry Daligault**, arrested on 20 July 1990 and adopted as a prisoner of conscience by Amnesty International in September 1990 (see AI Index: EUR 03/02/90), was tried by a court in Rennes (*Tribunal de Grande Instance*) on 27 November 1990. Thierry Daligault based his objection to both military and alternative service on his pacifist and Christian beliefs; he also considered the length of alternative civilian service to be punitive. The court found him guilty of *insoumission* (refusal to report for national service) and *refus d'obéissance* (insubordination) and sentenced him to 12 months' imprisonment. On 28 November he was declared unfit

for military service and therefore released from further military obligations. He was released from prison on 20 April 1991, after completing three-quarters of his sentence.

Under Law 83-605, the right to conscientious objection may only be exercised within strictly defined time limits. Amnesty International adopts as prisoners of conscience those conscientious objectors to military service whose applications for conscientious objector status and civilian service are rejected on the grounds that they have been received outside the stipulated time limits and who are subsequently imprisoned for refusing military service. Amnesty International believes that conscientious objectors are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time, both up to and after the issuing of call-up orders to military service. Amnesty International is also concerned that conscripts for national service in France do not appear to receive sufficiently detailed information on the procedures to be followed in order to obtain conscientious objector status.

Ludovic Bouteron was arrested at a French airforce base near Strasbourg at the beginning of August 1990 after declaring his conscientious objection to military service and refusing to put on military uniform. He was adopted as a prisoner of conscience by Amnesty International in October 1990 (see AI Index: EUR 03/02/90). He claimed that, on registering for national service, he had informed the authorities of his wish to obtain conscientious objector status and perform an alternative civilian service compatible with his pacifist beliefs but had received no indication that there were further procedures to be followed. As a result, his application for conscientious objector status was rejected on the grounds that it had been made outside the time limits laid down by law.

He was tried under a summary procedure (*procédure de comparution immédiate*) by a Strasbourg court (*Tribunal de grande instance*) on 17 August 1990 and sentenced to 15 months' imprisonment. On 6 November 1990 Colmar Appeal Court reduced his sentence to 12 months' imprisonment, eight of which were suspended. He was released on 17 December 1990 and on 21 December received a letter informing him that the Minister of Defence had granted him an early discharge from military service. He was not, however, granted conscientious objector status. He has appealed to the Supreme Court (*Cour de cassation*) against the prison sentences passed by the lower courts.

Tristan Defosse was adopted as a prisoner of conscience by Amnesty International in March 1991. He sent a standard application for conscientious objector status to the Ministry of Defence on 23 January 1991, declaring his opposition, on conscientious grounds, to "the personal use of arms". However, a few days later he received an order to report to the French airforce base near Strasbourg on 5 February 1991 to commence military service.

When he contacted the Central Office for National Service in Paris for advice, he was apparently advised that his application for conscientious objector status had been sent to the Minister of Defence outside the legal time limits but that if he reported to the base, as ordered, his situation would be resolved. However, under the provisions of the law, an application for conscientious objector status (even if made outside the legal time limits) should suspend the execution of a call-up order to military service, pending a formal decision on its admissibility by the Ministry of Defence.

Tristan Defosse followed the advice he had been given, informing the military authorities on arrival at the base of his opposition, on grounds of conscience, to the use of arms and his refusal of all military service. He was put under arrest, charged with *refus d'obéissance* (insubordination), and on 21 February 1991 sentenced to four months' imprisonment by a Strasbourg court. He immediately entered an appeal against the sentence.

He was released in early April 1991. In a letter of 24 April 1991 the Ministry of Defence informed Amnesty International that, as an exceptional measure, it had been decided to allow Tristan Defosse to obtain conscientious objector status. He had therefore been released from the army (*désincorpore*) and given a new call-up date of 30 November 1991. Tristan Defosse had submitted a new application for conscientious objector status and this had been granted to him on 16 April 1991.

At the end of April Amnesty International was also investigating the case of **Stéphane Thébault**, a conscript sentenced to 15 months' imprisonment on 6 February 1991 as a result of his refusal, reportedly on grounds of conscience, to perform military service. The reports received by Amnesty International allege that the authorities supplied him with incorrect or insufficient information on the procedures to be followed in order to obtain conscientious objector status and that, as a result, he did not submit a formal application for conscientious objector status.

GREECE

Conscientious objection to military service (update to information given in AI Index: EUR 03/02/90)

Amnesty International remains concerned that conscientious objectors continue to be imprisoned for refusing to perform military service. At the end of April some 400 Jehovah's Witness conscientious objectors were in prison, most of them were serving four-year sentences. More than 40 men who are liable for military service and who are not Jehovah's Witnesses have declared themselves to be conscientious objectors, but Amnesty International knows of only one who has been imprisoned. Nikos Maziotis, a total objector, was arrested on 15 May for refusing to perform military service and was imprisoned in Diavata Prison, Thessaloniki. Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service, but in the absence of any provision for such alternative service Amnesty International considers all imprisoned conscientious objectors to be prisoners of conscience.

In December a delegation of Greek Members of the European Parliament, a Belgian Senator, representatives of the Jehovah's Witnesses and the Greek Committee for Conscientious Objectors visited Avlona Military Prison, where some 280 conscientious objectors are imprisoned. The visit was widely publicized by the Greek media. The delegation met and talked to the conscientious objectors but its request to visit the conscientious objectors' cells was refused by the prison authorities.

During the visit the conscientious objectors voiced their concern about poor living conditions, the discrimination against them by the Avlona prison authorities and the fact that the total time they spend in prison has increased significantly over the past eighteen months. Amnesty International has also received many such reports from imprisoned conscientious objectors over the past months.

A major concern of the conscientious objectors is overcrowding. In Avlona some 280 men are said to be accommodated in an area built for 150 prisoners. Conscientious objectors report that it is usual for 11 men to share a cell measuring 20 square metres in which there is an open toilet. Most conscientious objectors are accommodated in cells designed for half or two-thirds of the number actually placed in them.

One of the reasons for the overcrowding is the fact that transfers from Avlona Military Prison to Kassandra Agricultural Prison have been severely limited since 1989. Formerly conscientious objectors would be transferred to Kassandra Agricultural Prison after serving about one third of their sentence in Avlona. At Kassandra the conscientious objectors can work to reduce their sentence, therefore the sooner they are transferred the sooner they are released from prison. Currently conscientious objectors are spending more than two years in Avlona which means that the average time spent by conscientious objectors in prison is 36 months and often more. The conscientious objectors also drew attention to the fact that while the time they spend in prison has increased over recent years many conscripts in

Greece are now benefiting from the reduction of military service in some branches of the armed forces which came into force on 1 January.

The conscientious objectors also drew attention to the fact that they are discriminated against by the prison authorities: prisoners in Avlona belonging to the Greek Orthodox faith are permitted visits from religious leaders, while Jehovah's Witnesses are not. This is in direct contravention of rule 41 of the United Nations Standard Minimum Rules for the Treatment of Prisoners which states that "Access to a qualified representative of any religion shall not be refused to any prisoner". In addition prisoners who are not conscientious objectors are permitted certain privileges such as being allowed cassette players and televisions in their cells while the conscientious objectors are not. The conscientious objectors also reported that they had not been given access to the outdoor recreation area for several days and had had visiting hours curtailed as a punishment after an article describing the prison conditions in Avlona was published in a Greek newspaper.

The conscientious objectors also complained about the poor level of hygiene of kitchen staff at the prison and stated that the food they are given is inadequate both in quality and quantity. They said that the food often contains foreign bodies such as nail clippings, hairs, insects, blood-stained gauzes, sand and stones and that as a result they regularly suffer from stomach upsets.

In December a Greek Member of the European Parliament tabled a motion for a resolution in which he condemned the living conditions of the conscientious objectors, called on the Greek Government to release them immediately and to legislate for alternative civilian service for conscientious objectors. In the event the motion was not put on the agenda of the January plenary session of the European Parliament.

Amnesty International appealed repeatedly for the immediate and unconditional release of the conscientious objectors and for the government to introduce civilian alternative service for conscientious objectors of non-punitive length, in line with international recommendations. It also expressed concern about the conditions under which the conscientious objectors are being held.

Imprisonment of Jehovah's Witnesses religious ministers for their conscientious objection to military service (update to information given in AI Index: EUR 03/02/90)

Amnesty International continued to be concerned about the cases of Jehovah's Witness ministers Daniel Kokkalis, Dimitris Tsirlis and Timothy Kouloubas. These three men are all legally recognized ministers who perform marriages, baptisms and funerals according to the rites of the Jehovah's Witness faith. Their work as ministers is recognized by the Ministry of the Interior which has overall responsibility for the registration of births, marriages and deaths. Their applications for exemption from military service on the basis of Law 1763/88, which exempts among others religious ministers of a recognized religion from having to perform military service, were refused on the grounds that the Jehovah's Witness faith was not a recognized religion. The decisions of the military authorities were in direct

contradiction to numerous court decisions, some dating back to before the Second World War, that the Jehovah's Witness faith is a recognized religion in Greece.

Daniel Kokkalis' case had been examined by the Council of State which ruled in October that he was a minister of a recognized religion and as such should have been exempted from military service. Following this ruling, Amnesty International and other concerned individuals and organizations appealed to the Prime Minister, the Minister of Justice and the Minister of Defence to release Daniel Kokkalis, drawing their attention to the decision of the Council of State. In the event Daniel Kokkalis was not released from prison early. He finally left prison on 26 January after he had served 34 months of his 48-month sentence which he had reduced in the usual way by working in Kassandra Agricultural Prison.

Dimitris Tsirlis and Timothy Kouloubas continue to be held in Avlona Military Prison. On 16 April, after one postponement, Dimitris Tsirlis' and Timothy Kouloubas' cases were examined by the Council of State. On 29 April the Council of State ruled that both men were religious ministers of a recognized religion and in accordance with Greek legislation should be exempted from having to perform military service. Both men remain in Avlona Military Prison. Their appeal hearings have already been postponed a number of times. A new date has not been set but they are now expected to take place some time in May.

Amnesty International called repeatedly for the military authorities to honour the terms of Law 1763/88 in the cases of Daniel Kokkalis, Dimitris Tsirlis and Timothy Kouloubas and to release them. In November an Amnesty International delegate travelled to Greece to observe the appeal hearings of Dimitris Tsirlis and Timothy Kouloubas, which in the event were postponed.

Allegations of torture and ill-treatment

Amnesty International has received further reports of police brutality and torture. In January one man died reportedly after being beaten by police in Athens.

An Irish citizen, Liam de Clair, stated he had been tortured by police at Ios Police Station on 17 and 18 July after being taken into police detention in connection with an offence involving the cashing of forged travellers' cheques. Liam de Clair stated he was kept in police detention for between 36 and 48 hours during which a group of policemen beat him with fists and batons, kicked him, hit him about the face, head and body and threatened him with sexual assault. His head was also allegedly banged on desks, chairs and filing cabinets in an attempt to make him sign a confession. He has stated that during this period he was locked in a shed outside the police station with no lavatory and denied food and water. At intervals he was reportedly taken into the station for further interrogation. When he asked to see a lawyer he was beaten again and the police reportedly threatened to break his head "like a melon".

Liam de Clair has stated that as a result of the torture to which he was subjected, he signed a statement in Greek which he did not fully understand. His lawyer lodged a

complaint against the police at Ios on 27 July. Liam de Clair was examined at Naxos and Chios Hospitals and was reportedly given a medical report certifying bruising.

Emmanouil Kasapakis lodged a complaint against police from the Z Security Police Station in Athens on 25 September stating that they had verbally abused him, had beaten his head with a club and had broken his left arm at his home in Athens, after asking him to turn down the music at a party he was holding there in the early hours of the morning of 23 September.

Emmanouil Kasapakis was subsequently taken to the Athens District General Hospital. A medical report issued by the hospital, reference number 7054/30, dated 24 September 1990, certified injuries to the head requiring stitching, resulting in concussion and amnesia, and injuries to the left hand. Emmanouil Kasapakis sued the officers concerned citing grievous bodily harm, dangerous bodily harm, threats and damage to property.

In December Amnesty International wrote to the Minister of Public Order raising the cases of Emmanouil Kasapakis and Liam de Clair. Amnesty International expressed concern that during detention Liam de Clair was denied access to a lawyer and allegedly was forced by police to sign a statement and pointed out that if this allegation was true, this constituted a violation of both Greek and international law. It called for a prompt, thorough and impartial investigation in both cases and requested to be informed of the progress of Emmanouil Kasapakis' and Liam de Clair's complaints and to learn what steps had been taken to investigate their allegations. No reply had been received by the end of April.

Süleyman Akyar, a 25-year-old Turkish citizen and political refugee, died on 29 January, reportedly after he had been tortured in custody by members of the Drugs Squad. He was detained on 21 January together with another man, Halit Palsin, on suspicion of drugs trafficking after 100g of heroin and a large amount of money were reportedly found in their home. Süleyman Akyar was taken unconscious to the Red Cross Hospital and from there, to the KAT Hospital in Kifissia, Athens, where he subsequently died.

The coroners' report, dated 1 February, from the Forensic Medical Service of Athens which comes under the jurisdiction of the Ministry of Justice, described multiple injuries all over the body and internal damage caused by beating with a blunt instrument. Cause of death was attributed to pneumonia contracted following injuries all over the body.

A doctor who examined the coroner's report and photographs of Süleyman Akyar's body, observed that ecchymoses around the wrists indicated that he had been hung up by his wrists and beaten with an iron bar on the head and body; continuous marks around his body indicated that Süleyman Akyar had been unable to protect his sides and chest with his arms. The same doctor also observed that the force of the blows had resulted in abdominal damage.

A complaint has been lodged against members of the Drugs Squad by members of a Greek lawyers' association, the Democratic Responsibility of Lawyers. Their complaint is said to be in the hands of the public prosecutor. Nothing further is known about the progress of the investigations.

Elevtherotypia of 2 March reported that on 1 March in the Greek Parliament Ioannis Vassiliadis, the Minister of Public Order, had stated in reply to a question by Fotis Kouvelis,

leader of the Greek Left Party, that according to findings based on 38 statements taken under oath, the police had acted out of self-defence when Süleyman Akyar attacked them with a screw-driver.

In February Amnesty International expressed its grave concern about Süleyman Akyar's death to the Minister of Public Order, urging him to ensure that a thorough and impartial investigation was instigated into it. Amnesty International also requested to be informed of steps taken in this connection as well as the progress and outcome of the investigation. No reply had been received by the end of April.

Between June and September 1990 Amnesty International had raised eight cases of alleged ill-treatment and police with the Greek authorities. By the end of 1990 it had received replies concerning four cases from the Directorate of State Security, Security and Order Branch, Greek Police.

Fourteen squatters alleged they had been beaten by police after they were evicted from a building in Athens on 27 March 1990. In court they alleged they had been severely beaten by the police. Their request to be examined by a doctor was reportedly refused. A reply concerning this case sent to Amnesty International on 13 November by Thomas Kapnoyiannis, Sub-Director of Police, stated that none of the squatters had complained of ill-treatment during arrest or detention nor did they ask for a medical examination. It further stated that no official complaint had been lodged.

Kostas Andreadis who was taken into detention on 23 March 1990, on suspicion of being a member of the "Vigilant Anarchists", an organization which had allegedly blown up two cars belonging to the security police, stated he had been tortured by *falanga* (beating on the sole of the feet), electric shocks and being threatened with defenestration (see AI Index: EUR 03/02/90). A medical report from the Thessaloniki Forensic Medical Department dated 28 March, certified bruising to the balls of both feet and recommended he stay off work for four to five days. He did not lodge an official complaint. A reply from Konstantinos Maniopoulos, Police Section A Department, dated 19 December, stated among other things that his allegations were unfounded and that on 24 March 1990 Kostas Andreadis had appeared before television and press journalists in the office of the Senior Police Service and had not made any mention of torture.

Kostas Stamateas, a student, alleged that he had been beaten with wooden clubs and verbally abused in February 1990 by police who were conducting inquiries into a recent occupation of the Polytechnic building by students. He was subsequently released without charges. A picture in *Elevtherotypia*, 9 February, showed Kostas Stamateas' shin with signs of bruising or broken skin. A reply of 22 October from Thomas Kapnoyiannis, Police Sub-Director, stated that on 5 February Kostas Stamateas was taken in by police for questioning in connection with the bombing of the Ministry of Commerce and was referred to the Public Prosecutor in connection with charges of breaking the law on arms and explosives. The letter further stated that during his detention and the subsequent judicial development of the case he was not ill-treated in any way and that no complaint had been lodged against police officers.

Dimitris Vavatsikos alleged that he and a friend, whose name is not known, had been beaten with wooden clubs and verbally abused by police from the E Police Station after being picked up at the junction of Halkonkili and Patisseion Street on 5 February 1990. They were kept for some 10 hours at the Police Station and then released without any explanation or charges. *Eleftherotypia*, 6 February, published a photograph of Dimitris Vavatsikos' back showing marks on the top of his back and the back of his right arm. A reply of 31 October from Thomas Kapnoyiannis, Police Sub-Director, stated among other things "no ill-treatment whatsoever against [Dimitris Vavatsikos] by police officers occurred" and that he had not lodged any complaint.

Amnesty International has written to the Security and Order Branch pointing out that in accordance with Article 9 of the United Nations Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, "Wherever there is reasonable ground to believe that an act of torture as defined in Article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint". It has also called for a thorough and impartial investigation to be carried out into all these allegations and has pointed out that in the case of Kostas Andreadis a medical report indicated that Kostas Andreadis' allegations of torture were not groundless.

By the end of April no replies had been received concerning the cases of Sotirios Kalogrias; Horst Bosniatzki; Vangelis and Christos Arabatzis, Vasilis Papadopoulos and Kostas Kiriazis; the students in Thessaloniki who alleged they were tortured in 1986 during their trial in 1990. For further information on all these cases see AI Index: EUR 03/02/90.

HUNGARY

Abolition of the death penalty

In November Amnesty International obtained further information about the Constitutional Court's ruling in late October that the death penalty was unconstitutional. The Constitution is under constant revision and the amending of two crucial clauses allowed the court to rule against the death penalty. These were:

Article 54 (1): All persons shall have the right to life and to human dignity in the Hungarian Republic. No person shall arbitrarily deprive anyone of these rights.

Article 54 (2): No person shall be subjected to torture, or to cruel, inhuman, or degrading treatment or punishment. In particular no one shall be subjected without his free consent to medical or scientific experimentation.

These two clauses replace the old Article 54 (1) which just stated: The Hungarian People's Republic shall respect human rights. The new wordings allowed the Hungarian abolitionist group, *The League for the Abolition of the Death Penalty*, to bring the case to the Constitutional Court who ruled by an eight to one majority against the death penalty. The court amended the penal code accordingly, thus abolishing the death penalty.

The last death sentence in Hungary was passed in April 1990 but was subsequently commuted. No executions have taken place since July 1988.

IRELAND, REPUBLIC OF

Case of Osgur Breatnach versus the State

Amnesty International has been concerned about the case of Osgur Breatnach since 1977. Osgur Breatnach was one of six Irish Republican Socialist Party (IRSP) members arrested in 1976 for their alleged involvement in the Sallins mail train robbery in March of that year. He was convicted in 1978 solely on the basis of a confession allegedly obtained under duress in incommunicado detention. After serving 17 months of his sentence, the Court of Criminal Appeal ruled that his confession had been made involuntarily and quashed his sentence in May 1980. Osgur Breatnach has subsequently brought a civil action against the state claiming damages. While he has been permitted by the High Court to claim for damages on grounds of malicious prosecution, false imprisonment, and breach of constitutional rights, the High Court has also ruled that the original court's 1978 decision that Osgur Breatnach's confession had not been made as the result of ill-treatment while in police custody was the "final determination" on the matter. Amnesty International is concerned that Osgur Breatnach has been prevented from pursuing his claims for damages for alleged police ill-treatment through the civil courts (see AI Index EUR 03/01/90).

In December 1990 Osgur Breatnach's lawyers made an application to the court for the Director of Public Prosecutions to make available documents relating to communications between eight named policemen and any other police officers "...concerning the arrest, detention and interrogation of the Plaintiff (Osgur Breatnach) at the Bridewell Garda (police) station in the months of March and April of 1976, which are or have been in the possession or power of the Director of Public Prosecutions". In February 1991 the High Court ordered the Director of Public Prosecutions to provide Osgur Breatnach's lawyers with these records within six weeks. After the deadline for handing over the records passed in April 1991, the Director of Public Prosecutions was required to appear in the High Court to explain this failure to comply with the order. The Director of Public Prosecutions' office then claimed that none of the requested documentation was in their possession. When pressed further by Osgur Breatnach's lawyers to locate specific documents, the Director of Public Prosecutions' office stated that they had misconstrued the original request and believed it to be referring to material which did not exist. The Director of Public Prosecutions' office subsequently made available a list of those documents in their possession which they believed would be relevant to Osgur Breatnach's lawyers. However, the Director of Public Prosecutions has also claimed that it is in the public interest that these documents remain confidential.

ITALY

Alleged ill-treatment in Fuorni Prison, Salerno

Amnesty International received reports alleging that inmates of Fuorni Prison were ill-treated by prison guards during a search of the prison carried out in the early hours of Saturday, 15 December 1990. The prison director stated to the press that she had ordered the search in the belief that fire-arms were hidden inside the prison and that inmates were planning to use them to carry out an armed revolt and/or a mass break-out. She had not wished the regular Fuorni prison guards to be involved in the search and the guards who carried out the operation were supplied by the prison guards' regional command in Naples. The director herself was absent from the prison when the search was carried out and the chief of the Fuorni prison guards had been transferred the previous day. No fire-arms were in fact found during the search and an official report, which the officers in charge of the search made to their regional command immediately after the operation ended, apparently stated that the prisoners did not react violently during the operation.

The first allegations of ill-treatment were made public by prisoners' relatives who arrived at Fuorni prison for their weekend visits the same day as the search. Their visits were delayed for several hours, apparently because a large number of prisoners required medical examinations and medication in the prison infirmary. When the visits eventually took place, relatives noted injuries on many prisoners who alleged they had been ill-treated by prison guards earlier in the day. The relatives immediately organized a protest demonstration outside the prison.

Further allegations of ill-treatment were made public on 8 January 1991 when *Radio Radicale*, an Italian radio station, broadcast a letter signed by an inmate of Fuorni prison who described his own treatment and that of other prisoners during the search.

More details regarding the alleged ill-treatment were reported by the Italian daily newspaper, *Il Manifesto*, following a visit made to Fuorni prison on 9 January 1991 by a delegation of deputies from the parliamentary Radical Party who were concerned by reports of the incidents of 15 December 1990. Journalists from *Il Manifesto* accompanied the delegation.

These various reports included the following allegations:

- The search operation was carried out between 4am and 9.30am by between 100 and 150 masked prison guards carrying truncheons and batons. In some instances the guards smashed stools against the walls of the cells and used the legs as truncheons.
- The guards entered the cells, forced prisoners to strip and perform press-ups and then beat them with their fists and with truncheons.

- The prisoners were then kicked and punched out of their cells and forced to pass - one by one - between two long lines of guards who beat them with truncheons and batons until they reached the prisoners' common room.
- A large number of guards were stationed inside the room. The prisoners were again beaten and made to kneel, facing the wall, with their arms in the air and were beaten if they turned.
- Some prisoners were subjected to verbal abuse and sexual assault as well as beatings. One report alleges that some prisoners were sodomized with broom handles. It is also alleged that younger prisoners were forced to spit at and slap elderly prisoners.
- The prisoners were afterwards escorted back to their cells, again being beaten by the line-up of guards; some were allegedly beaten again inside their cells.
- Prisoners found that all their personal possessions and objects of any value had been removed from their cells. Photographs of their children had been thrown into the lavatory and had been urinated or defecated on. Photographs of wives and mothers had been scattered on their beds and covered in spit, urine and semen.

In the days immediately following the search operation Fuorni prison infirmary apparently issued over 100 medical certificates recording injuries which the medical staff estimated would require three, four or five days to heal. Four or five prisoners were reportedly transferred to hospital. The author of the letter to *Radio Radicale* alleged that several prisoners had been severely injured as a result of ill-treatment inflicted by prison guards on 15 December: one had lost an eye, one had sustained a burst ear-drum and another had had the bones of one hand smashed.

The letter-writer also stated that, when he was examined by doctors in the prison infirmary at 2pm on 15 December, they told him that it was possible that he had suffered some fractures. However, he did not appear to have been X-rayed. When the Radical Party delegation visited Fuorni prison on 9 January 1991, almost a month after the alleged incidents, some detainees complained that they were still experiencing severe pain in their ribs and backs but their requests for X-rays had apparently been ignored.

It was reported that both an administrative and a judicial inquiry were opened into the alleged incidents of 15 December.

Amnesty International wrote to the Minister of Justice and the Director General of Prison Administration (*Direttore Generale per gli Istituti di Prevenzione e Pena*), expressing concern at the allegations of ill-treatment and seeking assurances that prisoners injured in the course of the search operation were receiving adequate medical treatment. Amnesty International also sought confirmation of the opening of administrative and judicial inquiries and asked that their progress and eventual findings be communicated to the organization. No reply had been received by the end of April.

The alleged ill-treatment of 30 or more immigrants in the custody of law enforcement agents in Rome

Prior to January 1991 over 2,000 homeless immigrants from outside the European Community were regularly squatting in the *Pantanello*, an abandoned factory located in central Rome. The majority of the immigrants were from Pakistan, the others came mainly from Bangladesh, India, Morocco, Algeria, and Tunisia. According to press reports, shortly after 6am on 23 January between 100 and 200 police and *carabinieri* officers, armed with batons and accompanied by dogs, entered the *Pantanello*. They searched the premises and ordered all the inhabitants into the courtyard where they were searched and asked to produce passports and residence permits. The preliminary checks lasted until approximately mid-day. Those whose papers were in order were ordered to evacuate the *Pantanello* but approximately 1,000 others were put into police vans and taken to the Castro Pretorio *carabinieri* station (*caserma*) for further screening. The processing took some 48 hours to complete and it appears that for much of this time the immigrants were held in an outside courtyard, without food.

At the conclusion of the operation it was announced that some 900 immigrants possessed invalid passports or lacked residence permits and had been ordered to leave the country within 15 days; all the immigrants, with the exception of one person arrested for drug-trafficking, were released from police custody. Many appealed against the expulsion orders to administrative tribunals. Following the *Pantanello* raid, the Italian Section of Amnesty International wrote to the Ministry of the Interior and Central Police Headquarters in Rome, expressing concern at the possibility that, amongst the large number of foreigners issued with expulsion orders, there might be genuine asylum seekers awaiting recognition. Amnesty International asked the authorities to guarantee that the rights of any asylum seekers would be respected, as laid down in international standards and the Italian Constitution.

A delegation of members of parliament, town councillors (*consiglieri comunali*) and representatives of immigrant support organizations visited the Castro Pretorio *carabinieri* station on 24 January. On leaving the station they informed the press that they had witnessed the police striking some young male immigrants who had asked for cigarettes. They also stated that a number of immigrants had required medical treatment on release from custody and that many had bruised faces and cuts on their arms. However, they added that it was not clear whether the injuries had been incurred before the immigrants were taken to the *carabinieri* barracks or during their detention there. On 25 January, approximately 30 immigrants from the *Pantanello*, who had been taken into the Castro Pretorio *carabinieri* station on 23 January but subsequently released, held a sit-in in the piazza del Campidoglio, central Rome, to protest about their treatment by the police. The press reported that some of them had bruised eyes, bandaged arms and burn marks on their hands which the immigrants alleged were cigarette burns inflicted by the police. They informed the press that they intended to make individual judicial complaints alleging

ill-treatment by the police and *carabinieri*. Amnesty International is currently seeking confirmation from the Italian authorities that such judicial complaints were subsequently submitted and information about official steps taken to investigate these and other allegations of ill-treatment made in connection with the events of 23 January.

The alleged ill-treatment of Salvatore Vianelli (update to information given in AI Index: EUR 03/02/90)

Further information was received on the alleged ill-treatment of Salvatore Vianelli, a 64-year-old Italian citizen born in Ethiopia.

On 10 October 1988 Salvatore Vianelli lodged a formal complaint of ill-treatment alleging that on 7 August 1988 police in Frascati, near Rome, had subjected him to arbitrary arrest, punches, kicks and racial insults. He alleged further that on admission to Rebibbia prison (Rome) later that day he was attacked by seven prison guards who kicked and punched him, subjected him to 'karate blows' and, after knocking him to the ground, stripped him and continued to beat him. He was afterwards put in an isolation cell and not examined by a doctor until two days later. He was released from prison on 12 August 1988 but claimed that, before his release, a prison guard forced him to sign a document stating that he had been ill-treated by the police but **not** by Rebibbia prison guards. Salvatore Vianelli added the words "with reservation" near his signature. Two days after his release he collapsed with respiratory difficulties and was admitted to hospital where he remained until 8 September 1988.

A forensic report drawn up at the request of the Rome Public Prosecutor's office established that Salvatore Vianelli's injuries had been incurred during the first 24 to 48 hours of his imprisonment in Rebibbia. The report concluded that perforations to both ear-drums had been caused by direct blows to the head but that six fractured ribs on his left-side could have been caused by pressure exerted by guards restraining the prisoner in an excessively "energetic" manner.

Four prison guards were subsequently committed for trial on charges of causing aggravated personal injury (*lesioni personali aggravate*), together with other unidentified prison guards, and a fifth guard was accused of coercion (*violenza privata*). Salvatore Vianelli was also committed for trial on charges of insulting a police officer during an identity check and violently resisting arrest, causing minor injuries to a police officer. In October 1990 Amnesty International learned that on 5 June 1990 the 11th Section of Rome Tribunal had refused a further forensic examination requested by Salvatore Vianelli's defence lawyers and announced that the charges against the prison guards and Salvatore Vianelli fell within the provisions of an amnesty law of April 1990 (see AI Index: EUR 03/01/90) and that all judicial proceedings relating to the case should therefore be terminated.

The court's ruling was confirmed by information supplied in a letter sent by the Minister of Justice on 19 January 1991, in reply to an Amnesty International query of June 1990 which had sought information regarding the outcome of Salvatore Vianelli's judicial complaint.

Amnesty International is currently seeking information regarding the conduct and outcome of an administrative inquiry into Salvatore Vianelli's allegations of ill-treatment. On 13 March 1989, in response to a parliamentary question addressed to the Minister of Justice on 12 October 1988, the Central Office for Prison Administration (*Direzione Generale degli Istituti di Prevenzione e Pena*) stated that an investigation had been ordered at Rebibbia prison in connection with Salvatore Vianelli's allegations of ill-treatment. However, Amnesty International has received reports that the investigation was limited to interviewing the five prison guards cited in the judicial proceedings and that it had come to a close by February 1990, without any disciplinary proceedings having been initiated.

The fatal shooting of two Gypsies of Slav origin

Amnesty International was concerned by reports it received about the circumstances surrounding the fatal shooting by police officers of cousins Spaho and Sefik Halilovic, Gypsies of Slav origin, in November 1990.

At approximately 1am on 9 November 1990, a motorway attendant working in a toll-booth on the Turin to Aosta motorway informed the highway police that a Ford Transit van had been acting in a suspicious manner, passing back and forth on to the motorway for several hours. A highway police patrol, consisting of two police officers, caught up with the van while it was heading in the direction of Turin.

According to press reports, when the police indicated that the van should stop, the driver first attempted to reverse and then entered an exit ramp; the van was eventually forced to stop on a flyover bridge. The five occupants got out and ran away from the police along the motorway, towards a nearby field.

According to police statements, when one of the officers fired a warning shot in the air, one of the five men fired a gun at the police. The police stated that further shots were then exchanged. Three of the men escaped but the remaining two men, Spaho and Sefik Halilovic, were shot dead. The police stated that, during the chase, the police officers involved had believed that it was one of these men who was firing at them. However, no fire-arms were found next to the bodies of Spaho and Sefik Halilovic or in their vicinity.

The police put forward the theory that the officers involved in the incident could have been mistaken and that the shots aimed at them must have been fired by one of the three men who escaped, rather than by Spaho or Sefik Halilovic. However, according to the initial press reports of November 1990, no spent cartridges were found in the vicinity of the shootings except those used in the standard police-issue Beretta firearms carried by the police officers.

The initial examination of the bodies of Spaho and Sefik Halilovic reportedly found that one of the men had a bullet wound in his back and that the other had been shot in the head three times, at close range.

In its 10 November 1990 edition the Italian daily newspaper *La Repubblica* claimed to have interviewed one of the three men who escaped and reported his allegation that he

had seen the police shoot Spaho Halilovic while he was lying on the ground, begging the police not to fire.

After examining the contents of the Ford Transit van, police concluded that the men had been stealing copper cables from a warehouse. A judicial inquiry was immediately opened into the shootings by the Public Prosecutor's office in Turin. The Deputy Procurator in charge of the investigation ordered that autopsies should be carried out on both the dead men on 12 November 1990. An internal police inquiry was reportedly also opened into the circumstances of the shootings and the two police officers involved were temporarily suspended from duty. The wives of the two dead men have also reportedly submitted judicial complaints against the police.

Amnesty International wrote to the Italian authorities, expressing concern about the reports it had received regarding the circumstances of the shootings and asking to be informed as to the progress and outcome of the judicial and administrative inquiries.

NORWAY

Allegations of ill-treatment - the case of Hassan Salem

Amnesty International is concerned about the case of Hassan Salem, a 34-year-old Palestinian student at the University of Oslo, who took part in a public demonstration against the Gulf War. This legal demonstration took place in Oslo on 26 January 1991. Amnesty International was informed that after the demonstration had ended, Hassan Salem and two other Palestinians (one accompanied by a child) were walking down a nearby street when his two companions were "accosted" by police officers. Hassan Salem gave the following account of what happened to him after that. When he attempted to walk away from the incident, four or five officers jumped on him and threw him to the ground. His hands were handcuffed behind his back, while another officer kicked his leg with force sufficient to cause him to black out for a moment. Hassan Salem was then asked to lean against a police van while he was searched, although his injured leg made it impossible for him to stand. He was then "thrown" to the floor of the police van, where three or four officers "trampled" on him as they left the van - ignoring his repeated requests for help (as he was by now in great pain).

Hassan Salem said that when he arrived at the Oslo Police Station at Gronlandsleiret, he was "flung on the floor" - still handcuffed. One officer provided him with a pillow at this point. After being searched, he was placed in a room where he said he was "derided, kicked, and beaten". When he was unable to stand up, a police officer kicked him in the chest. Hassan Salem said he was also "dragged along the floor ... crying with pain," and called "little Saddam" during his detention.

Hassan Salem was then taken to a casualty clinic, where he was placed in a wheelchair and one handcuff was removed. His requests for something to relieve the pain were repeatedly ignored. The officers accompanying him told him that he was a prisoner in Norway - but that he was probably receiving better treatment than he would get in Palestine. He was also "...admonished to demonstrate against Iraq, not against the USA". After doctors had x-rayed Hassan Salem's leg and recommended surgery, his other handcuff was removed.

His papers were then returned, and he was told that he was "a free man". An ambulance took Hassan Salem to Ullevål Hospital, where he underwent surgery for a broken shin and leg bone.

The lawyer representing Hassan Salem in legal proceedings against the Oslo Police Department has expressed concern that after her client's complaint was delivered to the police, it "mysteriously disappeared for 24 hours".

Amnesty International has asked the Norwegian Government whether Hassan Salem's allegations are being investigated by the Special Committee for Investigation of police conduct (*Sarskilte Detsærstelteorganet*), and whether the results of the inquiry will be made public.

Conscientious objection to military service

In March 1991 Amnesty International adopted as a prisoner of conscience a conscientious objector who had refused to perform military service. Petter Thaulow began serving a 120-day prison sentence in January 1991. He had refused to perform military service for political reasons. Petter Thaulow objects to Norway's present defence policy and membership in NATO. He is not an absolute pacifist, and has no objection to military service in a genuinely defensive capacity. Because he would find it acceptable under certain circumstances to defend his country, Petter Thaulow's "selective" objection was judged not to fulfill the requirements of the 1965 Norwegian Law on Military Exemption. Article 1.1 of that law requires that in order for a conscript to be entitled to an exemption, he must have a sound and seriously-held conviction. This conviction must result in his not being able to undertake military service "of any kind" (see AI Index EUR 03/01/90).

Similarly, in April 1991 Amnesty International wrote to the Minister of Justice about the case of another imprisoned conscientious objector, Torbjorn Brandeggen. He began serving his 90-day sentence for failing to report to the army on 11 March 1991. The organization considers Torbjorn Brandeggen to be a prisoner of conscience. While he has stated that he himself could never take part in any violent action, he has also said that in certain cases he could understand how people might resort to violence in order to free themselves from repression. It would appear that Torbjorn Brandeggen's application for recognition as a conscientious objector was rejected on the grounds that his allowance for an exception to an absolute pacifist position in a situation of political repression constituted a "selective" objection which did not fulfill the requirements of the 1965 Norwegian Law on Military Exemption, as discussed above.

Amnesty International believed that Petter Thaulow and Torbjorn Brandeggen acted in accordance with their conscientiously-held beliefs, and urged their immediate release.

Convictions of people alleging ill-treatment

Amnesty International has been concerned about some aspects of the criminal investigation and prosecution of people who had made complaints about ill-treatment by the police in Bergen.

The following is a brief account of the history of these cases as it has been reported to Amnesty International, including in the course of interviews we held with a number of the complainants. The people concerned are among those who alleged that they had been subjected to ill-treatment by members of the Bergen police force, mostly during the early 1980s. Although many of them had not made formal complaints at the time of the incidents, they recounted their allegations to a group of social researchers, who subsequently passed the results of their research on to the Ministry of Justice, the Ombudsman for Civil Affairs and the Attorney General in 1986. The Attorney General appointed the Oslo District Attorney to carry out an investigation into the allegations. The complainants were then questioned in 1987 by Oslo police officers.

The police inquiry looked into 368 alleged cases of police abuse, of which 203 were classified as cases of violence; the allegations were made by approximately 140 people

(victims and witnesses). In 264 cases the inquiry deemed that there was lack of evidence of a criminal offence; in 45 cases that there was insufficient evidence; in 46 cases that the statutory time limit for criminal liability had passed. Two cases were closed because the complainants had died and ten were discontinued without specific reason. In one case the inquiry proposed that an officer be fined.

On the basis of the negative findings of the Oslo police, the District Attorney in Bergen initiated an investigation into 50 of the approximately 140 people who had recounted their allegations to the researchers and who had subsequently repeated them to the Oslo police investigation. Fifteen people were subsequently charged with making false statements against the police (known as the "boomerang" cases). Most of them were charged under Article 168 of the Penal Code which states:

"Anyone who by false accusation, denunciation or explanation to the court, the director of public prosecutions or any other public authority, or who by changing or doing away with proof, or fabricating false testimony, or who against better knowledge in any other way seeks to accuse another person or have that other person convicted of a criminal act, or anyone who assists in that, is liable to penalty, if in a criminal case, with prison from six months to eight years, and if it concerns a minor offence, with prison to four years."

Amnesty International understands that this article had not been used since 1983, when a defendant had been convicted after reporting an incident of alleged unlawful violence by members of the Bergen police. Amnesty International sent an observer to two of the trials, in which the defendants were convicted. Of the 15 people charged one died before the court hearing took place, two cases were dropped by the prosecution, one was acquitted and 11 were convicted. One of the 11 was fined. The other 10 received prison sentences averaging six to seven months. Of those charged, five had made allegations against the same police officer. A prominent law professor concluded, on the basis of a detailed examination of the evidence, that five out of eight convictions examined had been based on police officers' testimony. A similar conclusion was drawn by Amnesty International's delegate in one of the two cases observed. He claimed that this contravened the Attorney General's instructions only to bring prosecutions "where there is decisive objective evidence in addition to the testimony of police officers".

Amnesty International recognizes that some complaints made about police ill-treatment may be exaggerated or untrue. It also acknowledges that police officers are entitled to protection of their reputation.

However, the organization is concerned that these criminal investigations and prosecutions may deter people from making justified complaints about police ill-treatment. Article 13 of the United Nations Convention against Torture states that:

- any individual who alleges he has been subjected to torture or ill-treatment has the right to complain to, and have his case promptly and impartially examined by, the competent authorities;

- complainants and witnesses should be protected from ill-treatment or intimidation as a consequence of making complaints or of giving evidence about torture or ill-treatment.

Amnesty International therefore urged the Norwegian Government in December 1990 to take any necessary steps to ensure that those who have genuine complaints to make concerning police ill-treatment will not be deterred from expressing them.

POLAND

The death penalty

On 14 February Amnesty International wrote to President Lech Walesa urging the abolition of the death penalty. On 18 March Secretary of State Janusz Ziolkowski replied stating that the information enclosed by the organization "bolsters the President's thinking on the necessity of such a move in Poland". The death penalty is reportedly abolished in the draft penal code which remains under discussion by the parliament.

There is an unofficial moratorium on executions and there have been no executions in Poland since April 1988.

PORTUGAL

The alleged ill-treatment of Isidro Albuquerque Rodrigues in police custody

Amnesty International is currently seeking information about the progress of a complaint of ill-treatment made in October 1990 by Isidro Albuquerque Rodrigues, a young metalworker living in Amadora, near Lisbon. At approximately 5.00pm on 26 June 1990 he was with his mother in a supermarket called *Pão de Açúcar* in Alcântara. He was arrested there by members of the Fourth Brigade of the Judiciary Police (PJ) who took him to their offices in Setúbal, a town south of Lisbon.

The PJ is a police body which is responsible for the judicial investigation of, among other things, serious crimes of violence. It is accountable to the Minister of Justice. Isidro Albuquerque Rodrigues alleges that during the journey to Setúbal the officers began to hit him. After arriving, a group of 10 to 12 officers from the Fourth Brigade interrogated him continuously between 6.00pm and approximately 3.00am the next day. He alleges that they not only kicked and punched him but also whipped him with a length of flexible metal hose pipe which is normally used as a shower attachment (*bicha de chuveiro*). He was beaten on the upper part of his body, arms and legs but he claims that he was hit especially on the jaw and ears. Some of his teeth were broken and the results of these beatings were reportedly clearly visible in a subsequent medical examination. He further claims that he was beaten again on the next night - 27 June 1990.

It has been reported to Amnesty International that the police were investigating his possible involvement in assaults and robbery and the death of a corporal in the *Guarda Nacional Republicana* (GNR).

Isidro Albuquerque Rodrigues was committed to prison, initially in Setúbal but was subsequently transferred to the *Estabelecimento Prisional de Lisboa*. He was examined and received medical treatment in the prison hospital in Caxias, *Hospital-Prisão de S. João de Deus*, which had better facilities than Lisbon prison. Since his detention he has petitioned the authorities for treatment to relieve pains in his kidneys, lungs, ribs, teeth and ears.

In October 1990 he made an official complaint to the procurator (*Delegado do Procurador da República*) in Setúbal requesting the identification of the officers of the Fourth Brigade of the PJ in Setúbal who had allegedly ill-treated him and the opening of criminal proceedings against them.

The alleged ill-treatment of Marcelino Baessa in police custody

Marcelino Baessa, a young Cape Verdian, alleged that, at approximately 11.30pm on 10 August 1990, he was with a group of friends listening to music in the house of a friend called Carlos Alberto Bumba, also from Cape Verde. A group of *Guarda Nacional Republicana* (GNR) officers, all in uniform except for one in civilian clothes, entered the house and demanded proof of identity from the occupants. Marcelino Baessa claimed that he recognized the man in plain clothes as an officer of the GNR called Manuel Cruz.

Marcelino Baessa alleged that, even though he duly identified himself, he was insulted by one of the officers and slapped on the face. He was then taken to the GNR post in the Forte de Almada. He stated that when he arrived there he was punched and kicked by a group of officers and then given a "bath" by having a high pressure hose turned on him. He was held until the next day when, after appearing in court (*Tribunal Instrução Criminal - TIC*) in Almada, he was released without any charge according to the information received by Amnesty International. On 12 August 1990 he went to the District Hospital of Almada where he was medically examined and given treatment for cuts and bruises.

On 22 August 1990 Marcelino Baessa filed a formal complaint with the procurator (*Delegado do Procurador da República na Comarca de Almada*) requesting him to investigate the incident by first identifying the officers responsible and then to institute, where appropriate, the prosecution of the officers for the alleged assault and ill-treatment. In his complaint he cited two witnesses to the incident in Carlos Alberto Bumba's house, and additionally gave the name of the plainclothes GNR officer. He also requested him to obtain the requisite statement of his medical examination from the District Hospital in Almada.

Amnesty International sought information as to what action the procurator had taken to investigate these allegations. There was no information of judicial action even though eight months had elapsed since the original complaint.

Alleged assault of Paulo Jorge Gomes Almeida by police officers

Amnesty International wrote to the authorities seeking information as to the progress of the judicial investigation into the allegation of assault by an officer of the Public Security Police (*Polícia de Segurança Pública - PSP*) on a young man in Oporto.

At approximately 3.30 in the morning of 1 October 1990, Paulo Jorge Gomes Almeida and José Luís Barros were part of a group of young men and women walking home down the Avenida de Fernão de Magalhães in Oporto.

According to press reports, there was an incident in the street during which José Luís Barros was approached by a total stranger in civilian clothing who first punched him in the face and then on his body. Paulo Jorge Gomes Almeida went to help his friend. He too was punched a couple of times in the face before the stranger pulled out a firearm and threatened the young men with it.

At this point José Luís Barros claims that he and Paulo Jorge Gomes Almeida said they were going to the police station to complain. They went immediately to the Sixth station of the PSP (*6a Esquadra da Polícia de Segurança Pública*). They were joined there by other members of their group.

According to their statements, reported in the press, the policemen on the station-door punched José Luís Barros and Paulo Jorge Gomes Almeida while they were showing the police their identity documents. Suddenly, the stranger who had hit them in the street and threatened them with a gun reappeared, now dressed in the uniform of an officer of the PSP. When Paulo Jorge Gomes Almeida protested about him having pulled a gun

on them, the man reportedly seized him by the neck and threw him with great force through a plate-glass door. He was taken to the *Hospital de S. João* and received 59 stitches to his right arm. José Luís Barros was held in the station until morning.

Paulo Jorge Gomes Almeida alleged that, while he was in hospital, the officer who had thrown him through the door, warned him that it would be useless to complain to a court. Officers of the PSP stationed inside the hospital apparently refused to register his complaint of aggravated assault. He therefore complained to the court in Oporto.

The entire proceedings are protected by the law on judicial secrecy but it is known that the proceedings have been registered as Proc. 20/91 and are currently in the possession of a judge attached to the *Tribunal Instrução Criminal* in Oporto.

Letter to the Minister of Justice on torture and ill-treatment

On 29 April 1991 Amnesty International wrote to the Minister of Justice, Dr Álvaro Laborinho Lúcio. The letter expressed concern over persistent reports which have been received by Amnesty International of torture and ill-treatment of detainees and prisoners in Portugal and asked the Minister to comment on the individual cases described.

Amnesty International recalled that in June 1986 it had written a letter to the Minister of Internal Administration, which was copied to the Minister of Justice, expressing concern about press reports of torture and ill-treatment and requesting a copy of the detailed findings of the Commission of Inquiry set up to examine 166 individual complaints of misconduct against the police (PSP). The Commission had concluded that there had been a systematic use of violence by the police; that on three occasions police conduct had resulted in death (*culpable homicide*) and that illegal acts had been committed by the police in all the cases studied. The Commission also recommended, among other things, improvements in the handling of complaints and disciplinary proceedings against the police (see AI Index: EUR 03/02/86).

Amnesty International pointed out to the Minister of Justice that in the intervening five-year period since the report of the Commission, it had continued to receive allegations of torture and ill-treatment of prisoners and detainees. The incidents mentioned in the letter took place in both police stations and prisons, involved officers of the Judiciary Police (PJ), the Public Security Police (PSP), the National Republican Guard (GNR) and the General Directorate of Prison Services (DGSP). It also noted that in every case given as an example in the letter, a complaint in due form had been lodged with the responsible judicial authority without any apparent indication of serious and prompt inquiries by the authorities into the complaints. This applied even to complaints in which there was *prima facie* evidence of torture or ill-treatment and where subsequent medical examinations and treatment had provided substantive supporting evidence.

It cited the cases of Isidro Albuquerque Rodrigues, Marcelino Baessa and Paulo Jorge Gomes Almeida which occurred in June, August and October last year (see above). However, it also cited two cases from the previous five years where, despite the long period of time available for investigation, there had been no discernable action.

The first of these was that of Daniel Rodríguez Perez who was arrested in April 1988 and made a detailed statement to the Court in Matosinhos in November of the same year (see AI Index: EUR 03/02/90). In September 1990 an Amnesty International delegate referred this case and the evidence of ill-treatment to the *Provedor de Justiça* (Ombudsman), Dr Mário Raposo, in Lisbon. Amnesty International has no information that any action has been taken to review the decision made in July 1989 to archive the complaint for lack of evidence.

The second case was that of a Portuguese emigrant to Canada, Domingos da Couto, who died on 9 August 1984 in the Provincial Hospital of Chaves at the age of 42. He had attended a festival in Montalegre on 5 August 1984 where he became involved in a physical altercation with a GNR officer, António Fernandes Gil. He punched the officer in the face and was arrested and taken to the GNR post. He was released at 10.30pm. His family observed that he was covered in bruises and he was taken to hospital. On 6 August 1984 a formal complaint was addressed to the procurator in Montalegre alleging that he had been kicked, punched and beaten with a truncheon (*casse-tête*). He died two days later. A facsimile of the death certificate, printed in the press, declared that the cause of death was undetermined. The autopsy showed that he had four fractured ribs, weals in the region of the heart and extensive bruising of the chest, apparently caused by blows from a truncheon. Reports of the autopsy said that the state of his body was consistent with him having been assaulted. No judicial action has apparently been taken to determine who was responsible for inflicting these serious injuries on a detainee.

Amnesty International also cited complaints it had received from prisoners in penal institutions alleging acts of violence by members of the DGSP. Reference was made to the numerous incidents and inquiries relating to Linhó prison. In particular, the death of Mário Manuel da Luz in June 1985; the internal inquiry which concluded that "serious breaches of discipline and probably criminal offences had occurred" and the allegations that officers had beaten 19 prisoners in March 1990 (see AI Index: EUR 03/02/90 and Amnesty International Report 1990).

Amnesty International has at present no further information regarding the judicial outcome of these allegations and reports. In the letter to the Minister, Amnesty International noted that in its experience, one of the most important factors contributing to the practice of torture is that of impunity. Reports to the United Nations Commission on Human Rights have emphasized that "perpetrators of human rights violations, whether civilian or military, will become all the more brazen when they are not held to account before a court of law".

ROMANIA

Memorandum to the government

In November Amnesty International submitted a 13-page memorandum to the authorities detailing its concerns. These included: the imprisonment of prisoners of conscience; the alleged complicity of local officials in violent attacks on civilians, in some instances apparently on the basis of the victims' ethnic origin, and the failure of the security forces to prevent such attacks; the alleged ill-treatment of detainees; the lack of access to family and legal counsel after arrest; and the lack of legal safeguards in some trials.

The most serious of these concerns related to the incidents of 18 February 1990 in Bucharest, of 19 to 20 March 1990 in Tirgu Mures, and of 13 to 15 June 1990 in Bucharest (see AI Index: EUR 39/09/90).

On 14 January the Procurator General, Mihai Ulpiu Popa Cherecheanu, replied to the memorandum and Amnesty International received copies of the parliamentary reports on the events in Tirgu Mures in March and Bucharest in June 1990. The Procurator General informed the organization that investigations were continuing into the alleged ill-treatment by security officials of Sebastian Taralunga and Titi-Gica Romascu -two anti-government protesters arrested in connection with the events of 18 February in Bucharest. Similarly he stated that complaints registered by Gheorghe Cascu, Dumitru Feraru and Ilie Stelica in connection with their ill-treatment during the events in Bucharest in June were the subject of a penal dossier at the Military Procurator's office in Bucharest.

However, in reference to the allegations of official complicity in the violent abuses which occurred in Tirgu Mures on 19 March 1990 when a crowd of armed Romanians attacked the headquarters of the Democratic Alliance of Hungarians in Romania, and in Bucharest on 13 to 14 June 1990, the Procurator General stated that the procuracy "still is not satisfied" that there is enough evidence to support the allegations and therefore warrant a thorough investigation into them.

On 17 April Amnesty International replied by referring back to the memorandum which detailed many signed statements and eye-witness accounts clearly pointing to wide-spread complicity of police and military units in the numerous cases of ill-treatment of perceived government opponents in Bucharest in June. Many of the allegations referred to events which reportedly took place at the Magurele military base on the outskirts of Bucharest. The organization also pointed to annexes attached to the parliamentary reports on the events in Tirgu Mures in March 1990, which appear to confirm the concern that the initial attack by the armed mob of Romanians, many of whom had been transported into the city apparently for this very task from the neighbouring villages of Hodac, Reghin and Ibanesti, was carefully orchestrated with the complicity of at least some local officials. Amnesty International also once more raised its concern at the apparent discriminatory application of the law in the aftermath of the violent events in Tirgu Mures. The annexes confirmed that those arrested in connection with the inter-ethnic violence in Tirgu Mures were overwhelmingly members of the Gypsy and Hungarian ethnic minorities - 12 Gypsies,

six ethnic Hungarians and one Romanian - while those actually prosecuted were exclusively so - 12 Gypsies and two ethnic Hungarians.

The "disappearance" of Viorel Horia

Amnesty International has called on the Romanian authorities to investigate the "disappearance" of Viorel Horia, a school pupil, born 23 February 1975, whose whereabouts have remained unknown following his reported arrest on 13 June 1990 in Bucharest. The organization received information that he was seen in the Magurele military base where large numbers of those perceived to be anti-government activists were taken - often after being arrested and beaten by groups of miners. According to these reports he was seen at the Magurele camp until at least 16 June and subject to severe beatings by security officials due to the accusation that he had thrown stones at soldiers in the disturbances of 13 June. A fellow detainee reported that he talked with Viorel Horia in the Magurele camp and a nurse reportedly stated that she ministered to him on 14 June for a face wound. Since then there has been no information at all about his whereabouts. His mother and human rights groups in Bucharest have contacted the Magurele base, the police, the prosecutor's office, the hospitals, the morgue, the Ministry of Justice, the Prime Minister and the President, but all apparently deny any knowledge of him. Amnesty International is concerned that he may have died due to ill-treatment in detention and that his body may have been disposed of secretly.

Alleged ill-treatment of Ioan Gug and others in detention in Oradea

Amnesty International has called on the authorities to investigate the allegation of ill-treatment of Ioan Gug and others in detention in Oradea. The organization is in possession of a signed statement by Ioan Gug, resident of Oradea, which states that he was arrested at the tram station in Pia_a Republicii in Oradea on 19 December 1990 at approximately 7.30pm after participating in a peaceful meeting organized by an anti-government organization - *the Democratic Alliance of Bihor*. Immediately after his arrest he claims that the arresting officers began to beat him in the abdomen. On arrival at the police station he was thrown to the floor and repeatedly hit by police officers until he lost consciousness. He regained consciousness and was taken to Room 13 of the police station where he was beaten again by a number of police officers. At the same time he saw police officers beat other people similarly detained including Zoltan Pall and Ildiko Farkas. After being beaten he was made to give a statement and then released. Two days later he obtained a medical certificate, number 4905/Ia/3035 1990, from the medical institution Jude_ul Bihor Localitatea Oradea Unitatea (LML) which confirmed that he had been beaten on 19 December so that he needed "two or three days medical treatment".

Ill-treatment of journalists

On 22 February Amnesty International wrote to the authorities expressing concern about allegations of police brutality in January against journalists who were attempting to report on anti-government demonstrations in Bucharest. On 3 April 1991 Amnesty International received a reply from the Minister of the Interior, Doru Viorel Ursu, stating that excessive violence had been used and that five officials had been removed from the police force. He also stated that measures had been taken to ensure that such incidents would not be allowed to happen again.

SPAIN

Conscientious objection to military service and to participation in the Gulf conflict

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

In November 1990 Amnesty International opened investigations into the cases of **Luís Pablo (Koldo) Auge** and **José Martín Igual**, following receipt of information that they had been imprisoned as a result of their refusal, reportedly on grounds of conscience, to complete their 12 months' compulsory military service in the army.

The reports received by Amnesty International indicated that **Koldo Auge**, from the Guipúzcoa province of the Basque region, left his military barracks in September 1990, a few months before his military service was due to end. Legal proceedings on a suspected offence of desertion were subsequently opened against him and a warrant issued for his arrest. In a press conference held hours before his arrest on 8 November 1990 he stated that he was a conscientious objector to military service and had decided to present himself to the military authorities in order to clarify his legal situation. After the conference he went to the San Sebastian headquarters of the Military Governor of Guipúzcoa where he was immediately arrested. He was held in military barracks for two days and then remanded in preventive detention to the military prison of Alcalá de Henares near Madrid.

On 15 December 1990 he commenced a hunger-strike and on 27 December was transferred to the Gómez Ulla military hospital in Madrid. He was released into provisional liberty on 3 January 1991 but was apparently instructed to report back to the army and complete his military service. This made him liable to rearrest if he failed to obey the order. Legal proceedings on the original charge of desertion continue.

José Martín Igual, a waiter from Fuenlabrada (Madrid) commenced his military service in Zaragoza on 25 January 1988 but left his barracks on 12 February 1988. He has stated that he was not aware of the possibility of applying for conscientious objector status before he joined the army.

He was arrested on 12 April 1989 and imprisoned in Alcalá de Henares Military Prison under investigation for a suspected offence of desertion. He was released into conditional liberty on 13 June 1989 but ordered to present himself at military barracks the following day. When he did not comply with the order a warrant was issued for his arrest and he was ordered to present himself at Alcalá de Henares Military Prison. He did not

obey the order and was arrested on 10 November 1990 and reimprisoned in Alcalá de Henares Military Prison where he reportedly commenced a hunger-strike on 27 November which ended with his release into provisional liberty on 30 November 1990.

On 24 January 1991 a military tribunal in Zaragoza declared that, following statements which he had made to the military investigating authorities, José Martín Igual was now under investigation in connection with a possible charge of refusal to perform military service (*negativa a la prestación de servicio militar*), which is punishable by between one year and six years' imprisonment, rather than desertion, punishable by between three months and a day and two years' imprisonment.

During the period under review there were further developments in the cases of two conscientious objectors to military service adopted as prisoners of conscience by Amnesty International during previous periods of imprisonment.

Carmelo Sanz Ramiro (see AI Index: EUR 03/01/90 and EUR 03/02/90) was first adopted as a prisoner of conscience during his imprisonment between February and May 1990 under investigation for a possible offence of desertion. He had left his barracks after completing several months' service in the army, having concluded that further military service was incompatible with his pacifist beliefs. He was rearrested on 24 October 1990 after failing to comply with an order, issued on his release on 25 May 1990, to report back to barracks and continue his military service. However, in November 1990 he was released from prison and exempted from all further military service, after medical tests revealed sequelae of tuberculosis.

On 31 January 1991 **José Manuel Fierro** appeared before a military district tribunal in La Coruña to answer a charge of desertion from military service. According to Amnesty International's information, this was the first trial of a conscript declaring himself a conscientious objector after incorporation into the armed forces to have taken place since the introduction of Law 48/1984.

José Manuel Fierro was adopted as a prisoner of conscience by Amnesty International in 1988 (see AI Index: EUR 03/01/89 and *Amnesty International Report 1989*). He commenced his military service in January 1988 but left his barracks on 5 April 1988, after concluding that he could no longer reconcile military service with his ethical and pacifist beliefs. His application for conscientious objector status was rejected on the grounds that it was made after his incorporation into the armed forces and therefore outside the stipulated time limits. He was arrested on 15 July 1988, under investigation on a possible offence of desertion. During his imprisonment he repeatedly refused to put on military prison uniform. He was released on 21 December 1988 but was apparently ordered to return to barracks to complete his military service. He did not obey the order and a warrant was subsequently issued for his arrest. He was arrested in Madrid on 28 September 1990 and imprisoned for approximately 10 days. The January 1991 trial resulted from his failure to return to barracks in April 1988. However, reports received by Amnesty International also indicate that, as he refused to wear military prison uniform during his imprisonment and failed to report back to the military authorities after his release in December 1988, he faces further prosecution on charges of desertion and refusal to wear military prison uniform.

During the court hearing on 31 January José Manuel Fierro stated that he had not exercised his right to apply for conscientious objector status before his incorporation into the armed forces because he did not have sufficient information about the correct procedures to be followed.

The court sentenced him to four months' imprisonment and ordered him to pay 7,657 pesetas to cover the value of his unreturned military uniform. As José Manuel Fierro had already spent over five months in preventive detention in 1988, he was not taken into custody following the trial and is currently in provisional liberty. He has entered an appeal against the sentence to the Supreme Military Tribunal.

Amnesty International does not take a position on the merits or otherwise of war or particular wars. However, basing its position on international standards, Amnesty International recognizes the right of all persons to refuse to bear arms on grounds of conscience and considers that this right extends to those objecting to participation in a **particular** war or armed conflict as well as to those opposing **all** wars.

Following the outbreak of the Gulf conflict Amnesty International investigated the cases of several conscripts arrested and imprisoned under investigation for possible offences of desertion or failing to report for duty. The reports received by Amnesty International alleged that the conscripts concerned had decided to leave the armed forces because they objected specifically to direct or indirect participation in the Gulf conflict. Some appeared to have also developed conscientious objection to all military service, at any time.

Asier Sánchez Garmendía, from Santurtzi in the Vizcaya province of the Basque region, left the naval frigate '*Asturias*' on 15 January 1991, after completing approximately two months' military service with the navy based at El Ferrol in Spain. The frigate sailed for Turkey from the port of Rota a few days after his departure.

In the course of press conferences which took place in January and February 1991, Asier Sánchez stated that, after observing the type of equipment which was being loaded on board ship, he had not believed that the '*Asturias*' was being sent on NATO manoeuvres in the Mediterranean, as the crew had been informed, but that it would be joining in the Gulf conflict. He also apparently indicated that he had then left the frigate because he considered wars, and in particular the Gulf war, to be unjust.

On 20 February he presented himself voluntarily at the offices of the Vizcaya Military Governor in Bilbao. An arrest warrant on a charge of desertion had already been issued against him and he was therefore immediately put under arrest. He was first taken to the La Salve Civil Guard offices in Bilbao before being transferred to military barracks. On 24 February he was transferred to Alcalá de Henares military prison. Once there he reportedly refused to put on military prison uniform and as a result was confined to his cell 23 hours a day. On 29 April he commenced a hunger-strike and was transferred to a military hospital on 2 May.

During January 1991 **Santiago Quiroga**, from Pamplona (Province of Navarre), was granted leave from his army unit based in the Spanish territory of Melilla on the North African coast and returned home to Northern Spain. He announced in the course of a press conference on 18 January that he did not intend to report back to his army barracks in

Melilla on 19 January, as scheduled, to carry out the approximately five remaining months of his military service. During the press conference and subsequent interviews Santiago Quiroga indicated that he was opposed to the Gulf conflict, to the involvement of the Spanish armed forces in the Gulf conflict and to military service which, in his view, made it possible for the army to exist and for wars to take place.

An arrest warrant on a charge of desertion was subsequently issued in his name by a military judge in Melilla. On 20 February he presented himself voluntarily before a military judge in Pamplona who instructed him to report to the military authorities in Melilla by 8 February. Santiago Quiroga reportedly handed the judge a written statement explaining his objection to military service.

Santiago Quiroga did not report to the military authorities in Melilla and on 12 March was arrested by police in Pamplona. After several hours in the central police station, he was transferred to military barracks and subsequently to the military prison of Alcalá de Henares, near Madrid. He was released into provisional liberty on 11 April.

José Antonio Escalada and **Manuel Blázquez Solís** commenced their military service in the Spanish navy in September 1990. The length of military service ranges between 12 and 15 months, according to the branch of the armed forces for which the conscript applies; conscripts must serve 12 months in the army but 15 months in the navy. According to press reports, José Antonio Escalada subsequently applied unsuccessfully to be released from further service on health grounds: he was apparently suffering from a chronic allergy of an unspecified nature. During January 1991 both he and Manuel Blázquez Solís were based in the port of Cartagena, serving on the naval corvettes '*Infanta Elena*' and '*Vencedora*' respectively. These ships were scheduled to relieve the three Spanish vessels already in the Gulf zone. On 15 January, the date of the United Nations deadline for Iraq to withdraw from Kuwait, José Antonio Escalada left the naval base. The '*Infanta Elena*' sailed for the Gulf zone on 22 January. On 21 January Manuel Blázquez Solís failed to report to his post on board the '*Vencedora*'. This ship also sailed for the Gulf zone on the morning of 22 January.

After leaving Cartagena José Antonio Escalada and Manuel Blázquez Solís went into hiding. Legal proceedings on a suspected offence of desertion were opened against José Antonio Escalada and, in the case of Manuel Blázquez Solís, on a suspected offence of failing to report for duty. Arrest warrants were issued in their names.

On 19 January 1991 José Antonio Escalada appeared at a press conference in Barcelona, organized by various anti-militarist groups. He stated that, as the '*Infanta Elena*' was one of the ships selected to go to the Gulf area, he had concluded that it was highly likely that he would have to go to the area of the conflict and, in view of this, he felt himself "compelled to desert". He added that he "... did not want to go to a war which is not mine..." and called on all Spanish sailors to act as he had.

On 2 April he and Manuel Blázquez Solís held a press conference in the Barcelona church which had hidden and sheltered them. On this occasion they both reportedly declared: "The only thing we have done in deserting is to exercise the right to freedom of conscience" ("*Lo unico que hemos hecho al desertar es ejercer el derecho a la libertad de*

conciencia"). Both José Antonio Escalada and Manuel Blázquez Solís stated their intention of voluntarily presenting themselves to the military authorities on 4 April to resolve their legal position and demonstrate openly that they were not ashamed of their actions.

On 4 April they held another brief press conference in the Barcelona church and explained that they had left their vessels and military service because they did not want to take part in widespread killing ["*una matanza*"]. The press reports also suggested that both objected to performing any further military service, at any time. After the press conference they went to the offices of the military governor in Barcelona and were arrested there shortly after midday on 4 April. Both were immediately transferred to the Military Prison of Cartagena.

Nine Civil Guards sentenced in the Tomás Linaza torture trial

On 16 November 1990 the Provincial Court in Bilbao sentenced nine officers of the Civil Guard to terms of imprisonment, fines and disqualification from holding public employment on charges relating to the torture of Tomás Linaza in May 1981 (see *Amnesty International Report 1982*). This was a significant verdict arrived at after a lengthy inquiry and a major confrontation between the government and the court.

Tomás Linaza Euba, a 57-year-old man from Vizcaya in the Basque country, was arrested on 14 May 1981. Spain had just requested the extradition of his son from France because of his suspected connections with the armed Basque group, *Euskadi Ta Askatasuna* (ETA). Tomás Linaza was taken to the Civil Guard headquarters of La Salve in Bilbao where he was held for two days before being transferred to Madrid. He claimed that he was tortured during the eight days he was held incommunicado in Bilbao and Madrid under the anti-terrorist law. On 22 May 1981 he appeared before the National Court in Madrid and was released without charge. In the statement he made to the Court he alleged that Civil Guard officers in Bilbao and Madrid had punched, kicked and beaten him with a rubber truncheon and that, in Madrid, he had been suspended upside down with a bar between his knees (*la barra*). A judicial inquiry was formally opened in a military court but, in May 1984, it was transferred for procedural reasons to a civilian judge in Bilbao who took charge of the investigation.

The sentence of the Provincial Court mentioned the "innumerable difficulties" the judicial investigation had faced and described it as difficult, lengthy and wide-ranging ("*compleja, prolija, larga y difícil*"). The court emphasized the systematic refusal by the authorities to give information to the investigating magistrate and further said that the accused and some of the witnesses had made obstructive statements in which they had attempted to portray the headquarters of La Salve during the period of Tomás Linaza's detention as a chaotic place where, although someone was in command and issued orders, no one knew who they were or to whom the orders were directed or who indeed were their superior officers.

This type of obstructive behaviour was severely criticized in the report of the Ombudsman (*Defensor del Pueblo*) to the parliament in April 1990 (see AI Index: EUR

03/01/90). In the case of Tomás Linaza the refusal to cooperate with the court or comply with judicial orders began even before a judicial inquiry had been opened.

Tomás Linaza alleged in his statement that he was severely beaten during the two days he spent in detention in the Civil Guard headquarters of La Salve in Bilbao. On the second day of his detention, 15 May 1981, the judge of the Court of Instruction No. 3 in Bilbao ordered a doctor to go to La Salve and examine Tomás Linaza. The doctor was prevented from doing so because, when he arrived there at approximately 8.15pm, the senior Civil Guard officer, José Martín Llevot, stated that he had already been transferred to Madrid. This was quite untrue and the court established that in fact he was not transferred until the next day - 16 May 1981. He spent the next six days incommunicado in Madrid. During this period he alleged that he was given further beatings and subjected to *la barra*. On 22 May 1981, eight days after his arrest, he appeared before the National Court in Madrid. The judge, after recording his statement that he had been ill-treated and ordering a medical examination, immediately released him without charge. The medical statement issued by the court doctor was fully consistent with Tomás Linaza's allegations of ill-treatment.

In the pursuit of the investigation by the judge of instruction into these allegations, there was a clear need for identity parades to enable Tomás Linaza to identify the officers whom he believed were responsible. However, the investigating judge met with continuous obstruction from the security forces and in September 1986 they refused to obey a judicial order requesting 90 officers of the Civil Guard to take part in an identity parade. The Minister of the Interior, who is responsible for the Civil Guards, confirmed to a parliamentary commission that he had ordered them not to obey the court order after consulting the Minister of Justice and that his order had the full support of the President of the Government, Sr Felipe Gonzalez. After a period of confrontation between the court and the government the parades were finally held.

The court, in its sentence, pointed out that some of the officers responsible for beating Tomás Linaza had never been identified. However, Sergeant Alfredo Serrano Paster and Lúcio de Sosa Robledo were positively identified and convicted of two crimes of torture and sentenced to five months' imprisonment, fines and six years' disqualification from public functions on the first count and two months' imprisonment and one years' suspension. One of the officers, Lúcio de Sosa, had previously been convicted in July 1987 of torturing another prisoner, Josu Torre Altonaga, and sentenced to five months' imprisonment. Seven other officers, including the two most senior officers on duty at the time in La Salve, José Martín Llevot and Rafael Masa Gonzalez, the officer who had ordered Tomás Linaza's arrest, were sentenced to six years' disqualification for deliberately failing to perform their duty. José Martín Llevot was also sentenced for crimes of disobedience and failure to assist justice and falsification of official documents. The defence and the prosecution have appealed to the Supreme Court.

Both of the officers convicted of torture left the service when they reached retiring age and Lieutenant Colonel Masa is now serving in the Spanish Embassy in La Paz (Bolivia).

In March 1991, the Director General of the Civil Guards, Luís Roldan, told parliament that he did not intend to take any disciplinary measures against the officers convicted since the sentence was at first instance only and an appeal was pending.

Police officer charged with the homicide of Mikel Castillo (update to information given in AI Index: EUR 03/02/90)

Mikel Castillo, a 23-year-old member of the armed Basque group *Euskadi Ta Askatasuna* (ETA), was shot in Pamplona on 18 September 1990 by an officer of the *Cuerpo Superior de Policía* while running away. There were conflicting press reports as to the circumstances of the shooting, in particular as to whether Mikel Castillo was armed and whether he was warned to stop by the police before they fired. On 18 October 1990 Amnesty International wrote to the Attorney General requesting that the fullest possible judicial inquiry be conducted to establish the facts.

The Attorney General replied on 19 November 1990 stating that, according to the police and a number of eyewitness statements, Mikel Castillo was carrying a firearm and the officer had given repeated warnings to him to stop before he fired. The Attorney General, however, emphasized that it was the responsibility of the court to decide eventually on the legality of the acts under investigation and to attribute the civil and penal responsibilities for them.

Press reports at the end of October 1990 alleged that the forensic tests carried out by the National Institute of Toxicology showed that there was no trace of materials on the deceased's hands to indicate that he had handled a firearm either at the time of death or immediately before. The private prosecution brought by the family of Mikel Castillo also pressed the court to charge the policeman, Rafael Navarro, with the more serious crime of murder. This carries a sentence on conviction of between 20 and 30 years.

On 4 March 1991 the Provincial Court ordered that Rafael Navarro be charged with homicide. However, it was not until mid-April 1991 that the judicial order was issued and meanwhile the lawyers for the private prosecution were requesting that Rafael Navarro be committed to prison to await trial.

SWITZERLAND

Conscientious objection to military service

Large numbers of conscientious objectors to military service continued to be imprisoned and there was still no provision for an alternative civilian service.

Prior to January 1991, all male citizens were required to perform regular periods of military service, amounting to a total of approximately 12 months' basic service, between the ages of 20 and 50. Since January 1991, following a decision of the Federal Council, male citizens over the age of 42 are no longer liable to regular military service but remain liable for recall in emergencies. Unarmed military service is available to conscripts whom the military authorities consider unable to reconcile armed service with their conscience because of "fundamental ethical values". Article 81 of the Military Penal Code allows military tribunals to sentence people refusing all forms of military service to up to three years' imprisonment although, in practice, sentences rarely exceed one year. All sentences are served in civilian prisons. If a tribunal recognizes an individual's refusal of military service is the result of a "severe conflict of conscience" on religious or moral/ethical grounds, a more lenient sentence of up to six months' imprisonment may be passed. This is normally served in the form of *arrêts répressifs*, a system of imprisonment allowing prescribed work to be performed outside the place of detention during the daytime. Sentences of up to six months' imprisonment may also be served in the form of 'semi-detention', allowing the objector to continue his normal or approved employment during the day. In the majority of cases, the objector is granted remission of sentence for good behaviour and released into conditional liberty after serving two-thirds of his sentence. Most are also excluded from future military service at the time of sentencing.

Amongst those adopted as prisoners of conscience during the period under review was **Paul-Simon Dorsaz**, a 33-year-old agricultural worker from Fully, who entered Sion prison on 6 November 1990.

After leaving high-school and completing a two-year agricultural course Paul-Simon Dorsaz lived abroad for approximately 12 years. During this period he was employed as an agricultural worker, first in a community of Christian brothers in France, then in a community of the Little Brothers of Jesus in Tanzania where he remained for 10 years before returning to their community in Fribourg. He currently works on his parents' land in Fully. He was called to perform military service for the first time in 1989 when he was ordered to commence a training course on 28 August of that year. However, on 1 August 1989 he wrote to the military authorities informing them of his decision to refuse all military service on grounds of conscience.

Paul-Simon Dorsaz explained to the Military Divisional Tribunal which heard his case at Villeneuve on 17 May 1990 that he had a Christian vision of life, based on respect for life and on non-violence. He believed that self-defence was not a Christian concept and could not accept the idea of defending his own life by taking that of another. He also stated that, if forced to perform military service, he would be denying his faith and that it would be

contrary to what he perceived to be the purpose of his life on earth. He was prepared to obey human laws, provided that they did not conflict with his concept of divine law.

The tribunal recognized that his objection to military service was motivated by deep religious convictions and that he would face a 'severe conflict of conscience' and suffer 'moral distress', if obliged to perform military service. He therefore qualified for the more lenient sentence of *arrêts répressifs*. The tribunal sentenced him to three months' *arrêts répressifs*, plus costs of 600 Swiss francs, and excluded him from further military service. He was released from prison on 6 February 1991.

In March 1991 Amnesty International was informed that **Alain Ellenberger** and **Jean-Paul Fasel**, both members of the Jehovah's Witness faith, were imprisoned in La Chaux-de-Fonds prison as a result of their refusal to perform military service. Both were considered to be prisoners of conscience by Amnesty International. The military divisional tribunals which had heard their cases found that both were motivated by sincere religious convictions and were suffering "a severe conflict of conscience". Alain Ellenberger was sentenced to five months' *arrêts répressifs*, while Jean-Paul Fasel was sentenced to three months' *arrêts répressifs*.

Gérald Némitz, a 36-year-old typesetter and a married man, with children, was also held in La Chaux-de-Fonds prison during the period under review because he refused to perform military service. When first called up to perform military service Gérald Némitz had refused to comply with the order on grounds of conscience and, as a result, in 1973 he was sentenced to five months' imprisonment, suspended for three years. He was not exempted from further military service and in 1975, following his continued refusal to perform military service, he received a further sentence of three months' *arrêts répressifs*, suspended for two years. Again, he was not exempted from further military service, however, following this sentence he agreed to perform **unarmed** military service in a medical unit and carried out his military recruit school training and three refresher courses, as ordered. Between 1979 and 1987 he spent a number of years abroad and was not called to perform further military service until his return to Switzerland. He then refused to attend both a refresher course of unarmed military service in 1989 and uniform and kit inspections held in 1988 and 1989.

He explained to the Military Divisional Tribunal which heard his case at Yverdon-les-Bains on 15 May 1990 that his decision to refuse **all** forms of military service had been developing over the years since 1973 and that the length of time he had taken to reach this decision was due to the fact that he found the idea of committing an offence very distressing. However, he stated that his decision was based on a mature belief in non-violence and that he saw his refusal of military service as an act of commitment towards "greater justice amongst men".

The tribunal found that his decision was based on moral convictions which had "finally triumphed over his civic duties after an internal conflict which had lasted many years" and concluded that he was suffering a "severe conflict of conscience". He was sentenced to two months' *arrêts répressifs*, plus costs of 600 Swiss Francs and excluded from further military

service. He was adopted as a prisoner of conscience when he entered prison on 4 January 1991. He was released on 4 March 1991.

Official statistics on refusal of military service

On 18 February 1991 the Federal Military Department published its annual statistics on refusal to perform military service. During the year ending 31 December 1990 the military tribunals found a total of 581 people guilty of refusal to perform military service (1989: 534, 1988: 548).

According to the classification system used by the Federal Military Department

- in 180 cases the refusal was based on religious grounds; in 155 of these cases the refusal was said to be accompanied by "a severe conflict of conscience", 101 of these cases concerned Jehovah's Witnesses;
- in 79 cases the refusal was based on ethical/moral grounds. In 44 of these cases the refusal was said to be accompanied by "a severe conflict of conscience";
- in 58 cases the refusal was based on political grounds;
- in a total of 264 cases the refusal was said to be the result of "aversion to discipline" (71), "fear of exertion or danger" (14) or other (unspecified) reasons (179).

As in previous years, conscientious objector organizations within Switzerland claimed that the total number of people who had refused military service on conscientious grounds was far higher than that reflected in the Federal Military Department's restricted categories.

Developments relating to penalties for conscientious objection to military service and the introduction of an alternative civilian service

Under Article 18 of the Federal Constitution there is a binding obligation on male citizens to perform military service; a genuine alternative civilian service could only be introduced by amending the Constitution through a national referendum of the Swiss electorate and cantons. In national referenda held in 1977 and 1984 a large majority voted against introducing a civilian alternative to military service. (See AI Index: EUR 43/01/85)

In October 1990 a government bill amending the Military Penal Code and altering the penalties available for certain categories of conscientious objection (see AI Index: EUR 03/02/90) was published in the official Index of Laws (*Bundesblatt/Recueil des lois fédérales*). Under its provisions, refusal to perform military service remains a criminal offence. If a conscript is able to show to the satisfaction of a military tribunal that he cannot reconcile military service with his conscience because of "fundamental ethical values" ("*des valeurs éthiques fondamentales/ethische Grundwerte*") then he will be sentenced to a period

of work in the public interest ("*un travail d'intérêt général/Arbeitsleistung, die im öffentlichen Interesse liegt*"). This period may range from one and a half times the total length of military service up to a maximum of two years. If completed, no criminal sentence will be registered on the individual's record. Refusal to carry out the work sentence is punishable by up to three years' imprisonment. Those objecting to military service on grounds of conscience which are not recognized under the law, such as political grounds, will continue to receive prison sentences and a criminal record.

The proposed law has not yet come into force as it is liable to a referendum. Campaigns organized by opponents of the amendment had until mid-January 1991 to collect the 50,000 signatures required to request the referendum. Approximately 70,000 signatures were collected and the referendum will take place on 2 June 1991.

Amnesty International, which actively supported the collection of signatures, has repeatedly expressed concern that the proposed law will not introduce a genuine alternative civilian service and that, under its provisions, people refusing military service for reasons of conscience will continue to be punished. In letters to Amnesty International the Federal authorities have stated that they are "aware that the question of conscientious objection in Switzerland has to be solved" They also acknowledged that the amendment to the military penal code would not introduce "a real civilian service"; this would require an amendment to the Federal Constitution, rejected by national referenda in 1977 and 1984.

However, new efforts have recently been made towards introducing an alternative civilian service. In September 1990 the Christian Democrat Party launched a popular initiative to collect, by 28 February 1992 at the latest, the 100,000 signatures necessary to submit a request to parliament for an amendment to the Constitution establishing "a civilian service for the community" ("*service civil en faveur de la communauté*"/"*Zivildienst für die Gemeinschaft*"). The initiative envisaged a civilian service up to one-and-a-half times longer than military service for conscripts unable to reconcile military service with their personal convictions. By March 1991 over 70,000 signatures had reportedly been collected. Amnesty International supported in principle both this initiative and a parliamentary initiative which was submitted to parliament by Helmut Hubacher, a Socialist Party member of the National Council (one of the two chambers of parliament), in November 1989.

The 'Hubacher' initiative proposed an amendment to the Constitution, based on the principles of freedom of conscience and belief, introducing a civilian service in the public interest. On 1 February 1991, a National Council Committee, examining the 'Hubacher' initiative and the general question of introducing a civilian alternative to compulsory military service, agreed by a majority vote that an additional clause should be added to Article 18.1 of the Swiss Constitution stating that "The law provides for an alternative civilian service". The proposal was passed on to the plenary of the National Council for further discussion and elaboration. National Councillor Hubacher withdrew his initiative in favour of the Committee's proposed amendment.

Throughout the period under review, Amnesty International distributed literature to the Swiss public setting out its position on conscientious objection and the international

standards on which this is based and explaining its opposition to the proposed amendment of the Military Penal Code.

UNITED KINGDOM

United Kingdom: human rights concerns -- Summary

In June 1991 Amnesty International published a 64-page document entitled *United Kingdom: Human Rights Concerns* (AI Index: EUR 45/04/91). Anyone wanting a copy of the full document should contact the International Secretariat. The following is a summary of the paper.

Amnesty International is concerned about a number of human rights issues in the United Kingdom, some of which have been the subject of lengthy correspondence between the organization and the government for many years. The issues include the ill-treatment of detainees, unfair trials, killings by security forces in disputed circumstances in Northern Ireland, and the detention of non-British nationals on national security grounds. The organization has examined its concerns in the light of international treaties ratified by the United Kingdom which require that governments effectively protect the right not to be ill-treated, the right to a fair trial, the right to life, and the right not to be arbitrarily detained, but which the organization believes are not being fully respected.

During the 1970s Amnesty International documented many cases of torture in Northern Ireland. In the 1980s the organization received many allegations from detainees in Northern Ireland that they had been ill-treated while in police custody. The record shows that existing procedures and safeguards are inadequate to prevent the ill-treatment of detainees. Many people who had made formal complaints expressed their disappointment to Amnesty International that they had not been informed why their complaint had not resulted in any action. There have been trials in which confessions have been excluded on the basis of allegations of ill-treatment; and civil proceedings in which former detainees have been awarded compensation for their treatment. Very few criminal or disciplinary proceedings have been initiated as a result of such cases against the officers involved. The organization also frequently received complaints about harassment and ill-treatment by police officers and soldiers of people who are stopped for questioning in the street.

Amnesty International has had long-standing concerns about fair trial issues in Great Britain and Northern Ireland. The organization's assessment of the fairness of criminal proceedings also covers aspects of pre-trial proceedings, to the extent that they may have prejudiced the fairness of the proceedings at trial. The absence of safeguards for the upholding of a detainee's rights in the pre-trial phase may lead to unfairness in the trial phase of criminal proceedings. The principal pre-trial safeguards should include detainees' rights to consult a lawyer of their choice and to have legal representation at hearings, safeguards against involuntary, unreliable and uncorroborated confessions being used as the basis for prosecution, effective safeguards against ill-treatment and punishments in law for breaches of such safeguards. The organization has been concerned about many cases in which detainees were denied legal advice and uncorroborated contested confessions were the basis for convictions. Another issue of concern was the deliberate withholding of crucial evidence from defence lawyers by the prosecution or police.

For many years the organization has been calling for an independent judicial inquiry to investigate disputed killings by security forces in Northern Ireland because the organization believes that such an inquiry is vital to help prevent future unlawful killings and to ensure that all disputed killings by security forces are promptly investigated and publicly clarified. The inquiry should look into the legislation and regulations governing the use of lethal force, as well as into the procedures used to investigate disputed incidents.

During 1990 and 1991 many Arab nationals were detained on the grounds of national security. Such detainees were not given specific reasons for their arrest and detention, were denied a judicial hearing to test the reasons for their arrest and detention, and were not allowed legal representation at a hearing before a non-judicial advisory panel. The organization was concerned that many of them were arrested and detained because of their non-violent political views or activities and/or their nationality, and not because of being genuine security risks.

The report also outlines Amnesty International's concerns in relation to allegations of collusion between members of the security forces in Northern Ireland and armed opposition groups; the United Kingdom's derogation from international treaties; and the government's treatment of asylum seekers.

Underlying factors, common to the issues addressed, have concerned the organization. Serious allegations about police and army behaviour have not been promptly and impartially investigated; nor has the government provided a full clarification of the facts in the longer term – instead there have been internal inquiries and secret reports. Public confidence in government probity is tested by reliance on procedures that fail to elicit essential information regarding alleged abuse and to make it known to the public. A consequence is the frequent allegation that information is suppressed and that the unlawful actions of agents of the state have been deliberately concealed. The issues of concern are of such gravity as to seriously undermine confidence in human rights safeguards in the United Kingdom.

USSR

Conscientious objection to military service

The USSR Constitution describes military service as "the honourable duty" of every Soviet male citizen, and conscription is obligatory for every able-bodied male between the ages of 18 and 27 years under Article 3 of the Law on Military Service. Refusal to perform military service is punishable by up to five years' imprisonment for "evading regular call-up to active military service" or by up to seven years (or death in wartime) for "evading military service by self-mutilation or other means". At the end of April 1991 Amnesty International was working on behalf of some 11 young men imprisoned as conscientious objectors, most of them Jehovah's Witnesses.

Some republics have introduced their own provisions for an alternative to military service, but these are not recognized by the central USSR authorities. On 14 February 1991, however, a spokesperson for the Ministry of Defence announced that the USSR parliament would soon consider a draft bill introducing a civilian alternative service for those unable to perform military service owing to their "religious or other convictions". Such service would have no connection to any of the various armed forces in the USSR, and would last for three years. At present the length of military service for those without a higher education is two years in the army, and three in the navy.

Amnesty International welcomes the moves towards providing conscientious objectors with a civilian alternative to military service, and continues to urge that it be non-punitive and that there is a fair procedure in law for applying it. Throughout the period under review Amnesty International repeatedly called on the authorities in the USSR to release all those imprisoned or performing compulsory labour for refusing their call-up papers on conscientious grounds. One of these cases is described below.

Nikolay Isaaskovich Shust

Nikolay Shust, a Jehovah's Witness from the Belorussian Soviet Socialist Republic (SSR), was sentenced to two years' imprisonment on 24 October 1990 by a court in Mozyr. He was convicted of "evading regular call-up to active military service" under Article 77 of the Belorussian Criminal Code.

Nikolay Shust has previously served a 20-month sentence for refusing his call-up papers. Each time his refusal has been because his religious beliefs forbid him to bear arms or swear an oath of military allegiance. As Soviet law offers no civilian alternative to military service, Amnesty International has adopted him as a prisoner of conscience.

Nikolay Shust's sentence was initially deferred for a medical report, but he is now reported to be serving his term in a corrective labour colony in Mogilyov, Belorussia. His brother Vasily completed a three-year sentence for refusing his call-up papers, his second term, in August 1990.

Alleged political abuse of psychiatry

Two people were reported to have been forcibly confined in psychiatric hospitals on political grounds during the period under review, despite appeal provisions introduced in 1988 ostensibly to reduce the risk of such wrongful confinement. Both were confined under administrative procedures and released shortly afterwards. One, *Olga Yanchenko*, is an activist in the Ukrainian Republican Party. She was hospitalized on 17 December 1990 in Sumy in the Ukrainian SSR after attending a political meeting. Information on the other, *Kurbanberda Karabalakov*, came in an article in the Soviet weekly *Moscow News* dated 18 November 1990. This alleged that he had been forcibly confined in Ashkhabad, the capital of the Turkmenian SSR after trying to organize a local party in support of Democratic Platform, a grouping of reformist members of the Communist Party of the Soviet Union.

Amnesty International also sought further information on a number of people believed still to be confined after lengthy periods, allegedly for political rather than medical reasons. Amnesty International sought to corroborate unofficial reports that the confinements were solely to punish the peaceful exercise of human rights, and approached the Soviet authorities in order to clarify the background to the committals. It also tried to establish if there was any evidence to suggest that these people were physically dangerous at the time of their confinement, or if they had previously shown signs of being physically violent or mentally disturbed. Under Soviet law individuals may be placed in psychiatric hospitals against their will only if they are shown to be **both** mentally ill **and** an evident danger to themselves or to others. Two of the cases Amnesty International is investigating are described below.

Balazhon Boyev

The sparse information on the case of Balazhon Boyev comes from an anonymous source who believes he is confined against his will for an indefinite period in a psychiatric hospital solely because of his peaceful religious activity.

Balazhon Boyev is a Moslem and was born in 1935 in the Tadzhik SSR. The circumstances and date of his confinement are not known, although it took place no later than 1989 and probably several years earlier than that. He is currently held in department four of institution UYA-64, a maximum-security psychiatric hospital in Tashkent, the capital of Uzbekistan. On 8 December 1989 a medical commission reviewed his case and decided not to recommend that the confinement order be lifted.

Amnesty International knows of a number of cases in which religious believers have been forcibly confined to psychiatric hospitals, and their beliefs officially interpreted as a symptom of mental illness. Baptist Anna Chertkova, for example, was arrested in 1973 and spent 13 years in the same Tashkent hospital as Balazhon Boyev after allegedly criticizing the

Soviet government. She was reportedly refused discharge by medical commissions meeting to review her case because she would not renounce her religious beliefs.

If it is clear that Balazhon Boyev is confined solely for the peaceful exercise of his right to freedom of religion, Amnesty International will adopt him as a prisoner of conscience.

Sergey Vorotnikov

Sergey Vorotnikov was arrested in September 1987 for attempting illegally to leave the USSR by crossing the border with Romania. After his arrest he was diagnosed as schizophrenic and ruled non-accountable. He was confined initially to a maximum-security psychiatric hospital in Dnepropetrovsk, but has now been moved to an ordinary psychiatric hospital in Rostov Region, Ukrainian SSR.

Amnesty International knows of numerous cases in which Soviet would-be emigrants have been forcibly confined to psychiatric hospitals, often after other punishments have failed to deter them. In several documented cases, the individuals' very desire to emigrate has been officially interpreted as a symptom of mental illness. Commonly, when Soviet citizens have attempted to flee the border in groups, all or several of them have been collectively ruled non-accountable.

If it is clear that Sergey Vorotnikov tried to leave the USSR on grounds of conscience, and if he is confined solely for his attempts to do so, Amnesty International will adopt him as a prisoner of conscience.

Other suspected prisoners of conscience

In the period under review Amnesty International groups also sought further information on a number of other people the organization believed may have been imprisoned in connection with their conscientiously-held beliefs. Two such cases are outlined below.

Vladimir Kaptel

The authorities have relaxed their policy on leaving and entering the USSR since 1987, and arrests of would-be emigrants have decreased greatly. A draft law, said to guarantee Soviet citizens the right to leave and enter their own country as set down in Article 12 of the International Covenant on Civil and Political Rights, is scheduled to come before the Soviet parliament soon. Long-term prisoner of conscience Bohdan Klymchak, arrested in 1978 after crossing the Soviet-Iranian border, was released early from a 20-year sentence of imprisonment and exile in November 1990. However Amnesty International was concerned that at least one person may have been imprisoned in the period under review in connection with his desire to emigrate.

He is Vladimir Mikhaylovich Kaptel, who was arrested in September 1990 while trying to cross the Soviet-Hungarian border and sentenced to one year's imprisonment by a court in Beregovo, Ukrainian SSR on 30 January 1991. He was charged with "illegal exit abroad".

Vladimir Kaptel had reportedly been trying for a long time to emigrate to the United States of America, and had received permission to enter that country, but the Soviet authorities are said to have hindered his emigration.

Stepan Khmara

Stepan Khmara, a member of the Ukrainian parliament, was arrested on 17 November 1990 and charged with "exceeding of authority or official powers" after an incident involving an altercation with a police officer in Kiev, the Ukrainian capital, earlier that month. In a letter addressed to Amnesty International from prison, Stepan Khmara claims that he was the victim of a deliberate provocation.

His arrest came at a time when the opposition block in parliament, which occupies about a third of the seats and to which Stepan Khmara belongs, was coming into increasing conflict with the controlling Communist Party majority over the issue of independence. In the month before his arrest Stepan Khmara had supported student protests which forced the resignation of the prime minister. In November the official newspaper *Izvestiya* reported that the Ukrainian procurator was seeking to bring charges against 21 parliamentarians for allegedly slandering him.

Amnesty International is concerned that the charge against Stepan Khmara, a former prisoner of conscience and outspoken critic of the Communist Party, may have been brought as a result of his peaceful exercise of the right to freedom of expression. The organization is therefore seeking further information from the Soviet authorities and an observer was delegated to attend the trial, which was first set for 29 April. The trial was subsequently postponed, however, until the middle of May.

Administrative detention

On 25 March 1991 Radio Moscow reported that in 1990 in the Russian Republic (RSFSR) 350 organizers or active participants in unsanctioned meetings and demonstrations had proceedings instituted against them under the administrative procedure, and in the period under review the authorities continued to make wide use of administrative measures against those who took part in such gatherings. Scores of people in various parts of the USSR were put into "preventive detention" or under "administrative arrest", sometimes repeatedly. "Preventive detention" can be imposed by the militia or riot troops, without the sanction of a court or procurator, for up to three hours. In areas where a curfew is in force it can last for up to 30 days. "Administrative arrest" of up to 15 days can be imposed by a single judge without right of appeal.

In many instances organizers had decided to go ahead with the planned demonstrations, although they had been denied official permission, because they believed the authorities' refusal to sanction the gathering had been politically motivated. Amnesty International is concerned that those detained may have been imprisoned in connection with

the non-violent exercise of their rights to freedom of expression and association, rather than as a result of public order considerations.

a. On 18 December 1990 in Alma-Ata, capital of the Kazakh SSR, members of the Party of National Independence, "Alash", held an unsanctioned meeting in Republic Square. The gathering was to commemorate the events of December 1986, when there were widespread disorders after the head of the Kazakh Communist Party was replaced by an ethnic Russian. In the evening of that day party leaders Saltanat Yermekov, Rashid Nutushev and Bulatbek Akhmetaliyev were detained at the "Alash" headquarters. Later another 30 party members were detained, and all detainees were placed under administrative arrest. On 21 December 1990 "Alash" party members held a demonstration to demand the release of those arrested, and around 30 participants in this meeting were also detained.

b. On 25 December 1990 seven people were detained outside a court in Tver, Russian Republic, where they had been standing with placards in defence of Tamara Tselikova who was standing trial under Article 1 part 1 of the Law on the Defence of the Honour and Dignity of the President of the USSR, for posting up leaflets saying "Gorbachov, whose hands are stained with the blood of Baku and Tbilisi, is as much a fascist criminal as Lenin, Stalin and Khrushchev". On 27 December 20 demonstrators were detained outside the court by members of a special purpose police unit (OMON), and some allege they were beaten. Four people - A. Biryukov, I. Linsky, I. Skurlatov and I. Strukov - were placed under administrative arrest for seven days and the remainder were fined. On 15 January 1991 Igor Mangaziyeu was detained outside the courtroom by OMON members and sentenced to 15 days administrative arrest. S. Kotov, a member of Ms Tselikova's defence team who had tried to intervene, was also detained and alleges that he was beaten. He was put under administrative arrest for 10 days in the evening of 15 January but released eight hours later as a result of a protest by the Procurator of the Russian Republic.

c. On 16 February 1991 Yevhen Chernyshov, deputy-chairman of the Ukrainian National-Democratic Party, was detained in Kiev, capital of the Ukrainian SSR. On 18 February 1991 he appeared before Lenin district court in Kiev, accused of organizing an unsanctioned rally on 9 February. Some 4,000 people are said to have gathered on that day to protest at recent arrests in the Ukraine which they believed to be politically motivated. Yevhen Chernyshov was sentenced to nine days' administrative arrest, and declared a hunger-strike in protest. Another participant in the rally, Viktor Furmanov, had earlier been sentenced to eight days' imprisonment.

Allegations of ill-treatment in detention

In the period under review Amnesty International continued to receive reports that political prisoners had been beaten while in short-term or pre-trial detention. Three of these are

given below. Amnesty International has urged the Soviet authorities to conduct full and impartial investigations into allegations of ill-treatment, and to make the findings public.

a. On 4 November 1990 two ethnic Armenians, Hzmavon Safaryan and Gamlet Bagiryan, are said to have been ill-treated by Soviet Interior Ministry soldiers in Stepanakert, the capital of the disputed region of Nagorno-Karabakh. They were allegedly forced into military vehicles where they were beaten: both suffered concussion and Gamlet Bagiryan was later taken to hospital unconscious. His eyes are reported to have been damaged to the extent that his sight is at risk.

b. Six Lithuanians were allegedly ill-treated after being detained by Soviet troops in the Lithuanian capital of Vilnius on the night of 24 to 25 January 1991, after an incident involving a government car and an army convoy. Three foreign journalists who arrived to report on the detentions were also held, and taken to the city's military garrison. The journalists report that they saw soldiers punching, kicking and slapping the Lithuanian detainees, and that they continued to hear sounds of shouting and heavy blows from the next room after they were separated from the Lithuanians after half an hour. According to Lithuanian sources the six detainees - named as Sauli Skiudulas, Rimantas Aukstuolis, Saulius Steponavicius, Robertas Vaitkevicius, Gintaras Macinas and Zigmus Slusny, were released on 27 January and five were hospitalized. One of these is said to have suffered a fractured skull.

c. Five Latvian volunteer guards, named as Aigars Teteris, Agris Kreismanis, Gatis Jurkans, Kaspars Grinbergs and Haralds Steinbergs, were reportedly ill-treated after being detained in Riga, Latvia, by an OMON unit on 20 February 1991. Speaking with a lawyer the following day, the men alleged that they had been beaten while being detained, and again while in OMON custody in an attempt to force them to confess to acts of terrorism. Bruises were said to be visible on their bodies.

Deaths of unarmed demonstrators

Thirteen dead in Lithuania

Amnesty International was concerned at reports that 13 peaceful, unarmed demonstrators were killed by Soviet troops in the Lithuanian capital of Vilnius in January.

Lithuanian sources estimated that several thousand people had gathered outside the city's television centre in the evening of 13 January 1991 to prevent Soviet troops taking over the building. Eye-witnesses say the demonstrators offered only passive resistance when tanks and soldiers used tear gas and live ammunition to disperse them. The Lithuanian authorities list 14 people dead, including one Soviet soldier, and over 160 injured as a result of the operation. Of the dead, one is said to have died from injuries inflicted by explosives and three others were crushed by armoured vehicles. The remaining demonstrators and the soldier died of gunshot wounds. According to the USSR Minister of Interior Affairs, members of the crowd fired on the soldiers first.

On 22 January 1991 Soviet President Mikhail Gorbachov announced that there would be an investigation into these and other recent deaths in the Baltic republics: six people died of gunshot wounds in Latvia after incidents involving troops on 16 and 20 January.

Amnesty International wrote to President Gorbachov expressing the organization's grave concern over the deaths outside the television tower in Vilnius, and urging a comprehensive and impartial investigation with the findings made public. It requested a copy of these findings, and also of any findings resulting from investigations into the other deaths. It also urged the Soviet authorities to ensure that law enforcement officials are aware of, and conform to, international standards regarding the use of force.

The death penalty

On 16 January 1991 the Soviet authorities announced death penalty statistics for the first time since 1934. Figures on its use from 1985 to 1989 were announced by the Minister of Justice at a news conference on 16 January 1991. These show a progressive drop from 770 death sentences in 1985, of which 20 were commuted, to 271 death sentences in 1988 with 72 commutations. The 1989 figures indicate a reversal of this trend with 276 death sentences passed and a sharp reduction in commutations to 23. The 1990 figures, provided more recently by the Ministry of Justice, report a dramatic increase to 447 death sentences, mostly for murder under aggravated circumstances. Another official source reports that 190 executions took place last year.

At the press conference the USSR Minister of Justice also announced that the final draft of the Fundamentals of Criminal Legislation of the USSR retains the death penalty for four categories of crime: treason, terrorism, sabotage and premeditated murder under aggravating circumstances. At present 18 peacetime offences are punishable by death, including some that do not involve violence. Some republics have already made changes to their criminal codes while the death penalty is still under discussion by the central authorities.

On 3 January 1991 the Soviet newspaper *Izvestiya*, for example, reported that the Uzbek SSR had introduced legal changes under which rape committed during mass disorders may now be punishable by the death penalty. In a different trend, on 21 March 1991 the official Soviet news agency TASS reported that the Georgian Republic had abolished the death penalty for certain economic offences, and commuted all pending death sentences for these crimes.

Amnesty International is opposed to the death penalty in all cases without reservation on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights. In each individual case of which it learns the organization appeals for the death sentence to be commuted. Twenty six such appeals were issued between November 1990 and April 1991 on death sentences that came to light from official and unofficial sources.

Among the commutations learned of was that granted to 24-year-old Andrey Zapevalov on 30 April 1991. He had been sentenced to death without right of appeal by a court in the Russian Republic (RSFSR) on 20 November 1989 after what Amnesty International believes was an unfair trial. Before he was convicted Soviet press and television published at least 16 reports on his case, treating him as guilty as charged and quoting numerous members of the public who wanted him executed. Most witnesses at the trial reportedly admitted that they had followed the case in the media. The death sentence was passed by the judge after the prosecution had recommended a sentence of 15 years' imprisonment. In violation of Article 314 of the Russian Code of Criminal Procedure, the official verdict did not explain why the death penalty was imposed, nor enumerate the mitigating factors in the case.

During the period under review Amnesty International also wrote to the heads of all the union republics in the USSR, pointing out the continuing worldwide trend towards abolition and urging a moratorium on death sentences and executions pending a review of the use of the death penalty.

YUGOSLAVIA

Releases

A paper summarizing Amnesty International's current concerns in Yugoslavia was issued in early March (AI Index: EUR 48/01/91).

Information obtained by Amnesty International after the document was published included the names of prisoners granted a pardon last 29 November, on the occasion of Republic Day. Of the remaining 30 political prisoners who had been adopted as prisoners of conscience by Amnesty International, or whose cases were being investigated, eleven were released. Among them was Bujar Bajraktari, a student aged 24 who, on the basis of earlier information, was believed to be still in prison in late December. Seven others, it appears from recent information, had probably already been set free before 29 November.

RATIFICATIONS

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

Czechoslovakia

On 21 February Czechoslovakia became a member of the Council of Europe and signed the European Convention on Human Rights. On 12 March Czechoslovakia acceded to the First Optional Protocol of the International Covenant on Civil and Political Rights.

Finland

On 4 April 1991 Finland ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the General Assembly of the United Nations on 15 December 1989.

Hungary

On 6 November 1990 Hungary became a member of the Council of Europe and signed the European Convention on Human Rights.

Iceland

On 2 April 1991 Iceland ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Netherlands

On 26 March 1991 the Netherlands ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Romania

On 18 December 1990 Romania acceded to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On 27 February Romania ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Spain

On 11 April 1991 Spain ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights. A reservation was entered retaining the death penalty under the Military Penal Code.