

# CONCERNS IN EUROPE

July - December 1998

## FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between July and December 1998. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

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

Reflecting the priority Amnesty International is giving to investigating and campaigning against human rights violations against women and children, the bulletin contains special sections on *Women in Europe* (p.66) and *Children in Europe* (p.70).

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

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

AI Index: EUR 01/02/98	Concerns in Europe: January - June 1998
AI Index: EUR 01/01/98	Concerns in Europe: July - December 1997
AI Index: EUR 01/06/97	Concerns in Europe: January - June 1997
AI Index: EUR 01/01/97	Concerns in Europe: July - December 1996
AI Index: EUR 01/02/96	Concerns in Europe: January - June 1996

## **ALBANIA**

### ***Arrest and detention of former ministers and officials***

On 22 August police arrested six men in Tirana. Two of the men were ministers in the Democratic Party (DP) government which ruled Albania until the DP's defeat in elections in June 1997 which followed the outbreak of unrest earlier that year. The other four men were DP members of parliament, police or military officers who held office during the time of the DP government. The arrest warrants for the men reportedly cited charges of violating the country's "Genocide" law by "ordering the use of chemical weapons", arming civilians and taking and giving orders which violated the constitution. These related to the authorities' response to the unrest in 1997. The men were reportedly denied access to defence counsel during the initial stages of the investigations against them. At the end of December they were being held in house arrest.

### ***The death penalty; cruel, inhuman or degrading treatment of prisoners***

In July a delegation of the Albanian Helsinki Committee visited Adem Bendaj, a prisoner who was sentenced to death in April 1998. Adem Bendaj was found wearing an iron helmet on his head and with his hands in chains. He reported that his feet had been bound until shortly before the delegation's visit and that he had been kept chained for the previous five months. The practice of chaining prisoners had been applied under the old communist regime, reportedly as a method of preventing suicides, but was otherwise believed to have been discontinued following the introduction of a multi-party system in 1991. Other prisoners awaiting execution were reported to be kept in similar conditions. Amnesty International considered that the treatment of these prisoners amounts to cruel, inhuman or degrading treatment.

Albania undertook to abolish the death penalty when it became a member of the Council of Europe in 1995. Its commitments were to implement an immediate moratorium on executions and to ratify within three years Protocol No. 6 to the European Convention on Human Rights and Fundamental Freedoms (ECHR) which abolishes the death penalty. To Amnesty International's knowledge no executions have been carried out since 1995. However, death sentences have regularly been passed and more than 24 men were reported to be under sentence of death by late 1998. Moreover, Albania failed to sign or ratify Protocol No. 6 by the end of 1998 and missed the deadline which it had committed itself to.

## **ARMENIA**

### ***UN Human Rights Committee reviews Armenia's initial report***

On 26 October the UN Human Rights Committee reviewed Armenia's initial report on the steps it had taken to implement the International Covenant on Civil and Political Rights, to which Armenia acceded in 1993. Amnesty International had submitted its own report to the members of the Committee detailing its concerns about Armenia's failure to implement fully its obligations under the covenant. The concerns included, among other things, the imprisonment of conscientious objectors who have not been offered any civilian alternative to compulsory military service; the alleged arbitrary detention of family members to force young men to report for conscription; continuing allegations of torture and ill-treatment in detention and in the army; and the criminalization of consensual homosexual relations between adult males. For further details see *Armenia: Comments on the Initial Report submitted to the United Nations Human Rights Committee* (AI Index: EUR 54/05/98).

The Human Rights Committee commended Armenia for its current progress in bringing its legislation in line with its international obligations, and welcomed a proposal to establish the Office of Ombudsperson as well as Armenia's expressed intention to abolish the death penalty by 1 January 1999 (see below). Among other things, however, the Committee expressed concern about allegations of torture and ill-treatment by law enforcement officials; about the poor conditions in prisons; and about discrimination against women in public and private employment and their under-representation in the conduct of public affairs.

The Committee also expressed its regret at the lack of legal provision for an alternative service to compulsory military conscription for conscientious objectors, deploring the fact that they have been conscripted by force and that there have been instances of reprisal against their family members. The Committee noted also that the independence of the judiciary was not fully guaranteed, and that several provisions of the Armenian Constitution were not compatible with the International Covenant on Civil and Political Rights.

Recommendations by the Human Rights Committee include the establishment of a special independent body to investigate complaints of torture and ill-treatment by law-enforcement personnel; the implementation of the Standard Minimum Rules for the Treatment of Prisoners; the commutation of the death sentences of all persons currently on death row; and the adoption of specific preventive and punitive measures with respect to all forms of violence against women, including rape. The Committee also recommended human rights training for the legal profession and the judiciary, and urged Armenia to disseminate widely its initial report and the Committee's concluding observations.

While welcoming Armenia's willingness to acknowledge problems during this transitional phase in the country's history, Amnesty International strongly urged the government to implement fully and promptly the Committee's recommendations thereby improving its human rights record.

### **Prisoners of conscience** (update to information given in AI Index: EUR 01/02/98)

At the end of the period under review at least six young men remained imprisoned because their conscience led them into conflict with the law which makes military service compulsory for young males, and offers them no civilian alternative (see AI Index: 54/05/98). Moscow District Court in the city of Gyumri sentenced Karen Voskanian to three years' imprisonment at the beginning of September, for evading military service under Article 257a of the military section of the Criminal Code. A Jehovah's Witness, Karen Voskanian was taken to Mashtots District Military and Registration Enlistment Office (DMREO) at the beginning of March, and reportedly beaten there after he stated his inability to perform compulsory military service on religious grounds. He was then forcibly conscripted into a military unit in Gyumri, and charged when he refused to take the oath of military allegiance.

Fellow Jehovah's Witness Andranik Kosian was sentenced to two years' imprisonment on 29 October by Arabkir District Court in Yerevan, also under Article 257a. He too had been forcibly conscripted into a military unit, in Zod, and was said to have been subjected to severe beatings there when he refused to perform military service. Andranik Kosian, who reportedly suffers from heart problems, was first imprisoned for refusing his call up papers in March 1997, but was released from his 12-month sentence under an amnesty.

A third Jehovah's Witness tried during the period under review benefited from another amnesty, and was released from serving his sentence. Vardan Virabian had been given a two-year term by Khorhrdain District Court in Yerevan on 29 September, convicted under Article 75 of the Criminal Code for refusing his call up papers. This amnesty also benefitted co-religionist Tigran Petrosyan, who had been sentenced to 18 months' imprisonment in 1997 (see AI Index: EUR 54/01/98). He was released early on 26 October, but is said to have then gone into hiding to avoid continued harassment by conscription

commission officials (who among other things were said to have searched his mother's house without a warrant three days after his release).

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

### ***Legislation on homosexuality***

In accordance with legislation inherited from the Soviet era, sex between consenting adult males was punishable by up to five years' imprisonment, under the first part of Article 116 in the current criminal code (which criminalizes "sodomy", defined as "sexual relations of a man with another man"). Although a new draft criminal code under parliamentary consideration during the period under review was said to abolish this criminalization of homosexual acts between consenting adult males, prosecutions for these offences have continued in recent years. According to data provided to Amnesty International by the office of the Procurator General in May this year, for example, there have been 21 criminal prosecutions under Article 116, part one, since 1993 (including four such prosecutions in 1997, and seven in 1996).<sup>1</sup>

Amnesty International called for the repeal of the first part of Article 116, considering that the use of a "sodomy" law to imprison men for same-sex, consensual relations in private is a violation of human rights, including the rights to privacy, to freedom from discrimination, and to freedom of expression and association, protected in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Amnesty International also urged the immediate and unconditional release of anyone imprisoned for consensual homosexual relations between adult males; for the authorities to refrain from further such criminal prosecutions; and for the age of consent for heterosexual and homosexual relations to be equalized.

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

Brutal hazing in the army was widely reported, often allegedly with the consent or active participation of officers. On 8 August, for example, the head of a local non-governmental organization reported that she had witnessed officers beating two soldiers in the guard room of the Yerevan garrison. Larisa Alaverdian, Executive Director of the Fund against Legal Arbitrariness, said that she had been called to the vicinity by concerned workers of the nearby Garun garment factory, and on arrival observed three officers in uniform beating two soldiers. The soldiers were being made to kneel on the ground and stretch their hands out, and the uniform of one of them had been torn. Larisa Alaverdian reports that one of those carrying out the beating simply shrugged when she made signs to him to stop, and that the violence only ceased after she had telephoned presidential staff and the Ministry of Defence. It was later reported that the two soldiers had been accused of an attempted theft and that the officers, instead of reporting the incident, decided on their own form of punishment. According to Larisa Alaverdian, the Ministry of Defence subsequently

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<sup>1</sup> For years further back the statistics given were five criminal cases in 1995, two in 1994 and three in 1993.

reprimanded the three officers, and warned them that they would be discharged if such incidents occurred again.

In September two soldiers and five officers were sentenced to up to 10 years' imprisonment by a Yerevan court in the case of Private Mkrtych Ohanian, who in February shot dead six fellow soldiers and then killed himself. The prosecution described how Private Ohanian had opened fire as a result of systematic abuse and violence at the hands of the men he killed, and that commanding officers were aware of what was going on but took no action.

### ***The death penalty***

In July the Supreme Court was superseded by an Appeals Court, which will not act as a court of first instance. Amnesty International had expressed concern over the previous situation whereby the Supreme Court had acted as both court of first instance and court of appeal in some cases in which the death penalty had been passed, thereby violating international guarantees that everyone convicted of a crime has the right to have the conviction and sentence reviewed by a *higher* tribunal.

The new draft criminal code which would abolish the death penalty (see AI Index: EUR 01/02/98 and EUR 54/05/98) was under parliamentary consideration during the period under review. Armenia's representative told the UN Human Rights Committee in Geneva in October that abolition would come into force as of 1 January 1999.

## **AUSTRIA**

### ***Alleged ill-treatment***

Allegations of police ill-treatment continued. In the majority of the cases the victims were foreigners. In August Amnesty International received information about the alleged ill-treatment by police officers of three Chinese residents of Austria: He Xiuqin; her sister, He Xiuzhen; and Ni Tongjun, during their arrest at the "Schöne Perle", a Chinese restaurant in Vienna where they worked, and subsequently in detention. According to statements made by He Xiuqin and He Xiuzhen, both waitresses, and Ni Tongjun, the chef and manager of the restaurant, three police officers entered the restaurant shortly after 9pm on 2 July and ordered He Xiuqin and He Xiuzhen to show their identity papers. When the two women had produced their papers, one of the policemen informed He Xiuqin that she was under arrest, alleging that her Chinese passport was forged. Her sister tried unsuccessfully to persuade the police that the documents were in order, as they had been examined many times by the Austrian authorities when extending He Xiuqin's resident's permit.

Other staff of the restaurant were searched and it transpired that the cook and restaurant-manager, Ni Tongjun, did not have his identity papers on him. Suggestions by He Xiuzhen that she herself fetch the papers from his home, which was nearby, or that they all go to his home, were turned down by the police and Ni Tongjun was placed under arrest and ordered to go with the police. He Xiuzhen asked Ni Tongjun to first go into the kitchen and turn off the gas, explaining the reason for her request to the police. However, reportedly one of the police officers followed him into the kitchen, seized him by the throat, beat him with his fist in the face and forced him into a headlock. The staff and guests apparently heard him cry for help. The police officer dragged him out of the kitchen, still in this position, and continued to hit him.

The two sisters intervened with the police officer in order to protect Mr Ni and eventually he was released from the headlock position. However, the police officer then seized He Xiuzhen by the shoulder and knocked her down. He grabbed her breast, tearing her bra as she fell to the ground. He held her to the ground, with his foot on her knee and hit her again on the breast. In self-defence she tried to attack him

with her shoe, but he beat her repeatedly with her other shoe. The other policemen did not attempt to intervene. One of them is reported to have left the restaurant.

He Xiuqin tried to come to the help of her sister but was seized and handcuffed. Eventually, the other two were also handcuffed and the three of them were dragged out of the restaurant by the handcuff chains, which they said was very painful. They were taken to a police station in Vienna and locked, still handcuffed, in individual cells. Their requests to be allowed to go to the toilet went unheeded. They were then interrogated until the early hours of the following morning, without, they maintain, the statutory breaks required for interrogation under these circumstances. During these interrogations the police threatened to carry out an intense check of the restaurant once a week. The police refused, on request, to provide their service numbers (*Dienstnummern*) as required by Section 9 of the Guidelines governing intervention by the security forces (*Richtlinien-Verordnung*). The three Chinese were released the next day without any charges being brought. After their release they tried to lodge a complaint at the police station about their treatment, but this was rejected.

In August He Xiuqin lodged a complaint with the court and subsequently the police lodged counter complaints. One of the police officers alleged that she kicked him in the lower abdomen with high-heeled shoes and that he is still suffering from abdominal pains. The court sentenced He Xiuqin to seven months' suspended imprisonment for resisting an officer in the execution of his duties. Her sister and the cook were sentenced to three months suspended imprisonment. In addition, He Xiuqin had to pay 17.400 schilling and Ni Tongjun 10.000 schilling to the police officer as compensation.

Amnesty International has called upon the Austrian authorities to conduct prompt and impartial investigations into the allegations of ill-treatment and to pay special heed to the principles established in international human rights instruments regarding the use of force by law enforcement officials.

## **AZERBAIJAN**

### ***Alleged arbitrary detention of ethnic Armenians*** (update on information in AI Index: EUR 01/02/98)

At least three ethnic Armenian citizens were released in prisoner exchanges during the period under review. They had been detained in a special holding centre in Gobustan, where the Azerbaijani authorities have held ethnic Armenians found on their territory for confirmation of their identity. In these and other cases, however, it had been alleged that those held have continued to be detained although no evidence of criminal activity had been found and without any charges or charges brought against them - in effect as hostages.

Those reported released were Artur Papayan, a youth aged 17 when he was said to have been seized on the Armenian side of the border in 1997; Zhora Oganessian, who is said to have been seized in neighbouring Georgia, also in 1997, after he had left his home in Armenia during a period of mental illness; and a woman named Armine Kurdoyan (see *Women in Europe*, page 66).

### ***Political prisoners and possible prisoners of conscience***

During the period under review Amnesty International sought further information on a number of cases in which prosecutions had allegedly been brought for political, rather than purely criminal motives. These included the case of journalist and political scientist Rasim Agayev, who had been arrested in November 1996 on a charge of treason. Rasim Agayev was reportedly accused among other things of involvement in a political party with unconstitutional aims; taking part in an unsuccessful coup attempt in October 1994;

and, while on a visit to Moscow, meeting former President Suret Huseynov, who at that time was being sought by the Azerbaijani authorities for his part in the October 1994 coup attempt.

Rasim Agayev's supporters alleged that he had been arrested solely because of his political views and his former role as press secretary of ex-President Ayaz Mutalibov, routinely accused by the current Azerbaijani authorities of being behind various coup attempts. Rasim Agayev's legal team have alleged numerous procedural irregularities in the case, including that he was denied access to a defence lawyer for three days after his detention, and that he confessed to meeting Suret Huseynov only after officials threatened to prosecute his daughter for possessing substances thought to be drugs allegedly found during a search of the Agayev's apartment. Rasim Agayev later retracted this confession, claiming that he had not been in Moscow at the time and had never met Suret Huseynov (it is alleged that immediately after he confessed he was informed that the substances found in his daughter's coat were not narcotics). The trial, with a total of 20 defendants, opened in January in front of the Supreme Court. During proceedings the prosecution dropped the charge of treason against Rasim Agayev, and he was convicted in June on only one charge, that of concealing a crime against the state under Article 82-1 of the Criminal Code. He received a four-year sentence.

Amnesty International is concerned about allegations that the charges against Rasim Agayev were false, and fabricated in order to punish him for his non-violent political opinions. It is seeking further information, and urging the Azerbaijani authorities to conduct a comprehensive review of the case.

Other instances in which it was alleged that charges had been fabricated to punish real or imputed political views included prosecutions of those demonstrating, or attempting to, over the conduct of the October 1998 presidential election. Vahid Qurbanov, a member of the Azerbaijan Democratic Party, was detained on 12 September, together with some other party colleagues, while trying to join a demonstration. He alleges that he objected verbally to police attempts to deny what he saw was his right to peaceful assembly, and that in consequence he was severely beaten and struck around the head and legs by police officers while being forced into a vehicle. His shirt is said to have been stained with blood as a result of this incident, and a witness reported seeing him in custody with a swollen eye. He was taken to police station No. 22 of the Nasimi District Police Administration, and sentenced the next day to 10 days' administrative detention for offering resistance to a police officer and being under the influence of alcohol.

On 22 September, the day Vahid Qurbanov was due to be released after completing his term of administrative arrest, he was transferred back to police station No. 22 and charged with resisting a police officer under Article 189-1, part two, of the Criminal Code of Azerbaijan. The trial had not concluded at the end of the period under review. Amnesty International had expressed concern at allegations that Vahid Qurbanov had been detained for objecting verbally to police actions directed at preventing peaceful demonstrations, and that it was the police who assaulted him rather than vice versa.

Amnesty International also expressed concern at the application of Article 188-6 of the Criminal Code, which punishes insult or slander directed at the President of the Azerbaijani Republic. On 13 November 1998 the Ministry of Justice announced that it had instigated a criminal case under this article, charging former President Abulfaz Elchibey with defaming the honour and dignity of his successor, President Heidar Aliyev. In this statement the ministry is reported to have accused Abulfaz Elchibey, who leads the Popular Front of Azerbaijan opposition party, of insulting President Aliyev in articles published in opposition newspapers *Azadlyg* and *Yeni Musavat* on 7 and 9 November. In these articles Abulfaz Elchibey was quoted as accusing President Aliyev of involvement in the founding of the Kurdish Worker's Party (PKK) in Turkey during his time as a high ranking official in the former Soviet Union. The prosecutor's office completed the preliminary investigation at the end of December, and was expected to pass the case for trial in the new year.

Amnesty International recognizes that elected officials in Azerbaijan, including the President, may wish to seek legal redress for written or oral statements that they consider defamatory. We believe, however, that it is sufficient that they already enjoy this right under the legal provisions which protect all

residents of the Azerbaijani Republic from defamation. It is also widely recognized that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person.

Amnesty International also argues that using criminal proceedings in libel cases implies that the defendant is responsible for an injury to society at large. It believes that slander complaints should be addressed in civil proceedings in which a complainant can seek redress for personal injury to their reputation. The organization is urging the authorities in this case, and any similar ones that are pending, to ensure that laws are not abused in order to stifle criticism of public officials; to intimidate those who voice legitimate concerns about the actions or practices of public officials; or to punish the legitimate exercise of the right to freedom of expression.

### ***Alleged ill-treatment in detention***

Torture and ill-treatment by law enforcement officials continued to be widely alleged, including of journalists, demonstrators and suspects in criminal and political cases. In July, for example, Elshan Javanshir oglu Rahimov, a former member of the special police force (OPON) on trial at that time, described in a letter being tortured while in pre-trial detention. He is said to have alleged that the torture took place the previous April, at the Ministry of Interior's Department to Combat Organized Crime. Elshan Rahimov alleged that he had been beaten with truncheons, a parquet brick and a table leg. When he lost consciousness he was thrown under a cold shower until he revived, he reported, and then beaten again. Elshan Rahimov also alleged that he had been tied naked to a central heating radiator and tortured, and that one officer (whom he named) punched him, knocking out three teeth. In his letter Elshan Rahimov claims that he wrote several protest letters to the procuracy but the treatment got worse after this. He was said at the time of the letter to suffer still from frequent fainting, a broken humerus and to be deaf in one ear.

Numerous other allegations of ill-treatment were made in connection with events surrounding the presidential election in October. Fagani Magerramov, chairman of the Geranboy branch of the Party of National Independence of Azerbaijan (PNIA), was said to have been severely beaten on 30 July 1998 by the head of the Department to Combat Organized Crime at the Geranboy police administration. The beating is said to have happened after press reports alleging that the local authorities were interfering in the collection of signatures in support of presidential candidate Etibar Mamedov, Chairman of the PNIA. The Departmental head is said to have struck Fagani Magerramov repeatedly with a rubber truncheon in front of other police officers. The ill-treatment is said to have lasted several hours, before Fagani Magerramov was released following the intervention of the Ministry of Internal Affairs. A medical examination was subsequently carried out. Unofficial sources reported that the Republican Procuracy had opened a criminal case in connection with the alleged beating, and documents were said to have been forwarded to the procurator of Geranboy district.

Many people attempting to demonstrate in favour of opposition candidates or of parties boycotting the presidential election were reportedly subjected to unprovoked beatings by law enforcement officials attempting to break up their gatherings (see the case of Vahid Qurbanov, above), or after they had been taken into custody. Journalists attempting to cover such meetings also reported being beaten. Correspondents of the *525 Newspaper*, Mustafa Hajibeyli (Hajily) and Aydin Bagirov, were said to have been beaten, then detained, by police in front of the Baku City Executive building at around 4.30pm on 15 August, while covering a picket of that building by members of the Popular Front of Azerbaijan. Their beating was reportedly witnessed by Sahil Kerimli, a journalist with the newspaper *7 Gyun*, who was also detained and taken with them to police station No. 9 in Sabailsky District. The men were released after film of the picket was destroyed. The beating was also reportedly caught on film by a correspondent of ANS-TV, but the footage was not shown on that television channel. Two other journalists covering the rally were also said to have been beaten: television reporter Eldaniz Elgun from ANS-TV, who was beaten



in Binagadi, and Natig Kavadli (also referred to as Javadly) from *Olaylar* newspaper. He was reportedly detained in front of the Vakhdat party office by police officers from Baku's Sabailsky District. In spite of presenting his accreditation as a journalist, Natig Kavadli was said to have been pushed into a car and taken to the police station, where he was beaten and his camera was taken.

In December, while on a research mission to Azerbaijan, Amnesty International delegates handed over an extensive list of alleged instances of torture and ill-treatment to the Deputy Procurator General. The organization requested further information on steps taken by the authorities to investigate these allegations, and again urged that all reports of ill-treatment or torture in detention be subject to a comprehensive, timely and impartial investigation, with the results made public and anyone found responsible brought to justice.

### ***Lack of a civilian alternative to compulsory military service***

Military service is compulsory for young men between the ages of 18 and 27, and there is no civilian alternative provided for those who are unable to perform such service owing to their conscientiously-held beliefs. On 26 November it was reported that members of the Milli Mejlis (parliament) debated a draft bill "On Alternative Service", which would provide a civilian alternative to compulsory military service. It was also reported that members of parliament decided that such a bill would not be appropriate at the present time given the unresolved issue of the disputed Karabakh region, and that it would come into force only after the liberation of all occupied territory in Azerbaijan.

Amnesty International welcomed the fact that a debate had taken place on this draft bill and sought further information from the authorities on its provisions, in particular whether the alternative service proposed was fully civilian, and of a non-punitive length; whether it would be available to all those whose religious, ethical, moral, humanitarian, philosophical, political or other conscientiously held beliefs preclude them from performing military service; whether the bill envisaged the establishment of independent and impartial decision-making procedures for applying the civilian alternative to military service; and whether, after the introduction of a civilian alternative service, all relevant persons affected by military service, including those already serving in the army, would have information available to them about the right to conscientious objection and how to apply for an alternative service.

While recognizing that the issue of Karabakh and the occupied territory is one of great importance to Azerbaijan, Amnesty International also expressed its disappointment at the report that any bill on a civilian alternative to military service would be introduced only after this question had been resolved. The organization was concerned that in the meantime young men with a conscientious objection to compulsory military service would continue to face imprisonment for their beliefs, in violation of Azerbaijan's obligations under international law.

## ***BELARUS***

### ***Arbitrary arrests, alleged torture and ill-treatment of peaceful demonstrators. Prisoners of conscience***

Two prisoners of conscience, 19-year-old Aleksey Shidlovsky and 16-year-old Vadim Labkovich, both members of the youth branch of the opposition Belarussian National Front (BNF), stood trial in February 1998. (For more details, see *Children in Europe*, page 71.)

Other prisoners of conscience included businessmen Andrey Klimov, Vasilii Starovoitov and Vladimir Kudzinnov, former members of parliament from the 13 Supreme Soviet, dissolved by President Lukashenka, who were imprisoned on charges of bribery and other alleged irregularities in their

businesses. In September there were reports that Vladimir Kudzinov was ill-treated by the prison authorities in Minsk colony UZH 15/1. Amnesty International believed that the real reason for their imprisonment was that they had spoken out against the policies of President Lukashenka. Vasiliy Starovoitov, 75 years old, has been in pre-trial detention since November 1997. According to information from the Belarussian Helsinki Committee, his health has rapidly deteriorated in detention, his condition is allegedly posing a threat to his life and he is not given adequate medical care. A court hearing into his case began on 30 November and Vasiliy Starovoitov was transferred to another pre-trial detention centre in Bobruisk. According to reports the conditions of his detention continued to amount to cruel, inhuman or degrading treatment.

On 2 December the local administration in Bobruisk banned the organization of a demonstration to mark the 50th anniversary of the Universal Declaration of Human Rights, which was requested on 17 November by a group of local human rights activists. The authorities motivated their decision with the provisions of Article 35 of the Constitution, which prohibits meetings and demonstrations which endanger public order.

On 3 December the leader of the Belarussian Helsinki Committee branch in Gomel, Evgeny Murashko, was sentenced to 10 days' imprisonment under the Administrative Code of Belarus. He was detained and charged with participation in an unsanctioned demonstration, when he attempted to sell in the market copies of a poster which read: "A state in which human rights are violated is a criminal state". Evgeny Murashko later stood trial, although he had a licence to sell copies of the poster in the market.

Amnesty International called for the immediate and unconditional release of all prisoners of conscience, including Aleksey Shidlovsky, Andrey Klimov, Vasiliy Starovoitov and Vladimir Kudzinov, and any demonstrators detained solely for peacefully exercising their right to freedom of assembly, for prompt and impartial investigations into allegations of torture or ill-treatment, and for anyone responsible to be brought to justice.

### ***Persecution of human rights lawyers by the authorities***

On 3 May 1997 President Lukashenka issued Decree No. 12 "On Several Measures on Improving the Practice of Lawyers and Notaries in the Republic of Belarus". The decree introduced severe restrictions on the independence of lawyers from the executive power by appointing the Ministry of Justice in charge of licencing lawyers and by introducing mandatory membership of all lawyers in a centralized system of lawyers collegia (state association of lawyers), whose activities are controlled by the Ministry of Justice.

A number of human rights lawyers in Belarus have already lost their licences on charges such as "violation of the professional ethics", and about 50 other lawyers have not been granted membership in the collegia and are not allowed to practice law. This decree violates a number of constitutional articles. It posed further restrictions on the access to legal assistance for detainees and accused persons (Article 62 of the Constitution) because the authorities in a number of cases stripped defence lawyers of their licence in the course of criminal cases and deprived detainees of access to a lawyer of their own choice.

One such example is the case of the Russian journalist Pavel Sheremet, adopted by Amnesty International as a prisoner of conscience. Both his defence lawyers, Gary Pogonyailo and Mikhail Volchek, have been stripped of their licences and prevented from participating in Pavel Sheremet's legal defence. Another human rights lawyer, Nadezhda Dudareva, refused to enter the state-controlled collegia of lawyers and has not been allowed to practice law. In addition, a criminal case was opened against her in October 1997 on charges of "defamation of judges".

Similarly, during the period under review, Amnesty International was concerned that the Belarussian authorities were attempting to put pressure on Vera Stremkovskaya, a Belarussian human rights lawyer, and to initiate a process to disbar her. Vera Stremkovskaya herself believed that action was being taken towards her disbarment to punish her for her human rights activities. (For more information see *Women in Europe*).

On 8 June the Belarussian lawyer Alyaksey Filipchanka reportedly set himself on fire in front of the Novopolotsk City Court building to protest the violations of human rights and the judicial process in Belarus. He was hospitalized and died on 31 August as a result of the burns he received.

Amnesty International called on the authorities to stop the apparent practice of censoring and silencing human rights lawyers in Belarus by taking away their licences, including the attempts to disbar Vera Stremkovskaya. Amnesty International called on the authorities to reinstate all human rights lawyers, including Nadezhda Dudareva and Gary Pogonyailo, who have been disbarred solely because of their human rights activities.

***Alleged torture and ill-treatment in police custody*** (see also *Women in Europe*, page 66)

In December Amnesty International received information about the case of Aleksey Rodionov, a security guard at a sports complex in Minsk. On the night of 2 August a group of law enforcement officers reportedly broke into his office and proceeded to assault Aleksey Rodionov for, allegedly, sleeping during his night shift. After they left, Aleksey Rodionov reportedly called the local police department. Two officers, who did not identify themselves, arrived following his call. Aleksey Rodionov asked for a medical examination of the injuries he sustained as a result of the ill-treatment. He also asked the two officers to prepare an official report about the incident. They allegedly refused both requests and accused Aleksey Rodionov of fabricating the allegations of ill-treatment. Amnesty International is not aware of any official investigation into this case.

***The death penalty; alleged torture and ill-treatment in custody leading to the death penalty; alleged ill-treatment of prisoners under sentence of death***

The death penalty continued to be used extensively. However, information about the death penalty is classed as a state secret in Belarus and is therefore hard to obtain. President Lukashenka reportedly stated in January that some 30 people had been executed in Belarus in 1997. He reportedly added that since he came to power in 1994 he had pardoned only one person facing the death penalty. In April a program on national television reported that at least 55 prisoners were on death row.

In October Amnesty International received unofficial information that at least 84 people were on death row in Belarus. The deputy Procurator General of Belarus, Alyaksandr Ivanowsky, was reported in the press to have said that 33 people were executed between January and August 1998. Commenting on these figures, Alyaksandr Ivanowsky reportedly cited rising murder rates and said that the government had to resort to capital punishment "because of the circumstances and not because it wanted to be cruel".

Prisoners facing imminent execution included Igor Lyashkevich, who was sentenced to death in 1997 for involvement in the murder of a policeman. His family, people from his home village and Belarussian human rights groups have maintained his innocence and appealed for clemency.

In November Amnesty International received information about five prisoners under sentence of death held in the pre-trial detention centre (SIZO) No. 1 in Minsk who were facing imminent execution: Ivan Fomin, Sergey Protirayev, Igor Sklyarenko, Mikhail Glushenok and Sergey Zababurin. Two of the men, Ivan Fomin and Mikhail Glushenok, were reportedly tortured and forced to sign confessions and four were thought to have been given unfair trials. The fact that Mikhail Glushenok was a drug addict on a five-year probation at the time of his arrests was reportedly used against him by the case investigators. According to sources in Belarus, the court also refused to take Mikhail Glushenok's statement that he was tortured into account.

Lawyers from the City Collegium of Advocates of the city of Zhlobin and the Minsk Regional Collegium of Advocates were reportedly indignant at the crude manipulation of case materials and the blatant violations of the Criminal Procedural Code of Belarus during the investigation of Sergey Protirayev.

Igor Sklyarenko was reportedly denied the right to legal defence. Witnesses who testified that he was in another town when the murder took place were allegedly ignored by the court. Sergey Zababurin has maintained his innocence throughout the investigation. Although, according to reports, someone has else subsequently admitted to committing the crime, Zababurin's death sentence has not been overturned.

According to reports, prisoners under sentence of death in SIZO No. 1 in Minsk were regularly subjected to ill-treatment by the prison staff, including beatings with a wooden hammer.

### **Conditions of detention amount to cruel, inhuman or degrading treatment**

Reports continued that conditions in prisons and pre-trial detention centres in Belarus amount to cruel, inhuman or degrading treatment. In August Amnesty International received information from two detainees, V. Surokovika and I. Surokovika, who were held between 25 May and 29 May on charges under the Administrative Code of Belarus in the temporary isolation detention centre in the town of Pinsk. They claimed that the detainees were not allowed to have or to receive any tooth-brushes, paper or soap while in detention. They were allegedly allowed to go to the toilet only once in 24 hours and there were only two meals per day. At least 15 people were held in a cell meant for eight detainees. Only six or seven litres of water per day were allegedly distributed between 15 detainees. Amnesty International is not aware of any steps taken by the authorities to remedy this situation.

## **BELGIUM**

### **Dangerous restraint techniques and excessive force during forcible deportations**

There were a number of allegations that some foreigners being forcibly deported were physically assaulted and subjected to a dangerous restraint technique by gendarmes.

Semira Adamu, a Nigerian national, died on 22 September within hours of an attempt to deport her forcibly from Brussels-National airport. She had physically resisted five previous attempts to deport her following the rejection of her asylum application. It was alleged that gendarmes who escorted her onto a plane subjected her to verbal abuse and that one of them pressed a cushion against her face. Within days of her death the Ministry of the Interior stated that she was handcuffed and shackled during the deportation operation and that for a "certain", unspecified length of time a gendarme used the so-called 'cushion technique', a method of restraint authorized by the Belgian authorities, allowing gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee, to prevent biting and shouting. When Semira Adamu lost consciousness medical assistance was immediately sought and she was transferred to hospital where she died later that day. An initial autopsy indicated that she died of asphyxia.

The Brussels Public Prosecutor's office immediately ordered a judicial investigation into the circumstances and cause of Semira Adamu's collapse and death and two gendarmes were placed under formal investigation in connection with a possible crime of manslaughter (*coups et blessures volontaires ayant entraîné la mort sans intention de la donner*). In December the Public Prosecutor's office stated that a third officer had been placed under investigation on the same charge and that a second autopsy and various forensic tests had confirmed that Semira Adamu had died of asphyxia. A disciplinary investigation was opened in September but then suspended pending the outcome of the judicial investigation. The Minister of the Interior resigned following the revelation, within days of the death, that one of the escorting gendarmes had been sanctioned in January for ill-treating a detained asylum-seeker.

On 25 September Amnesty International wrote to the authorities expressing concern about the death of Semira Adamu and the use of the 'cushion technique' and seeking precise details on its application. The organization asked to be informed of the eventual outcome of the judicial inquiry and of any further criminal or disciplinary proceedings arising from it. It also urged the government to conduct a

full and impartial investigation into alleged ill-treatment by gendarmes during forcible deportations, together with a full review of restraint techniques to subdue recalcitrant deportees and of the training of officers required to deal with such deportees.

In October the government announced an "evaluation" of asylum procedures. The measures included a ban on the use of the cushion technique, pending the outcome of an in-depth analysis of regulations governing methods of restraint during forcible deportations, to be carried out by a newly-created independent commission presided over by a professor of moral philosophy. Additional training for gendarmes involved in forcible deportations was also announced.

In October the new Minister of the Interior assured Amnesty International of the government's "sincere intent to collaborate" with the organization regarding the case of Semira Adamu in particular and "Belgian forced repatriation policy in general".

In December the Minister supplied information in response to some of the requests made in the organization's September letter, explaining that this was an initial response. With regard to a query concerning medical examinations prior to forcible deportations, the Minister indicated that to date such examinations had not been carried out systematically prior to forcible deportations. In response to Amnesty International's request to receive information about any tests conducted by the multi-disciplinary team which the Ministry of the Interior had reportedly commissioned in previous years to study the use and potential risks of the 'cushion' technique, the Minister confirmed that a "multidisciplinary study group ... inquired into the use of the cushion. However, this evaluation did not happen on the basis of preliminary tests, except for the conclusion of the fact that the cushion had been repeatedly used without any problems since 1990." Amnesty International noted that in October 1998 the government's representatives informed the UN Human Rights Committee that two deaths - of a Moroccan national in 1982 and a Zaïrian in 1987 - had occurred following use of the 'cushion' technique by Belgian gendarmes during forcible deportations.

The Minister did not enclose a copy of the directives relating to the 'cushion' technique which were in force at the time of Semira Adamu's death, which Amnesty International had requested. However, a copy of the relevant directives<sup>2</sup> subsequently came into the organization's possession. Amnesty International sought the expert opinion of three prominent forensic pathologists based in Denmark and the United Kingdom, on the use of the 'cushion' technique. All have carried out numerous autopsies into various types of asphyxial deaths.

They commented that: "Although it is recommended in the November 1997 guidelines issued to gendarmes on the execution of repatriations ... that officers practise caution when applying a cushion, in our experience it is much too dangerous a procedure that may easily have a fatal outcome. Firstly, as a matter of practicality there are great difficulties in covering only the mouth but not the nasal passages" of a person resisting officers. "Secondly, the method is vulnerable to complications such as presence of vomitus or other mechanical blockage of the airways". They concluded that "under no such circumstances should a cushion or other object be used to obstruct the mouth and/or nose. It is an extremely dangerous procedure and can occasionally result in a fatality".

Amnesty International opposes the use of materials or methods which could block the airways of a deportee or any other detainee. It therefore shares their great concern over the 'cushion' technique and advocates a permanent ban on its use.

### ***Annual Report of the Permanent Police Monitoring Committee***

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<sup>2</sup>*Directives concernant l'exécution de repatriements, as issued in French translation by the Gendarmerie, Détachement de Sécurité, Aéroport National, Section Contrôle Frontalier, dated 17 November 1997*

In October the Permanent Monitoring Committee of Police Services, known as Committee P, a body examining the functioning of all Belgian law enforcement agencies, submitted its fourth annual report to parliament and the government. It reiterated a number of concerns raised in its previous reports. These included the committee's concern that it continued to receive numerous allegations of unprovoked physical assault and use of excessive force by law enforcement officers, that such behaviour was "very rarely" punished by either the administrative or judicial authorities, that officers commonly justified use of violence by accusing alleged victims of resisting arrest and that the internal hierarchy was seemingly satisfied with such explanations.

***Alleged human rights violations by members of the armed forces in Somalia*** (update to information given in AI Index: EUR 01/02/98)

In August, following the recommendation which the Minister of Defence had made in a letter of June 1998, Amnesty International wrote to the *Auditeur général* (Chief Military Prosecutor) requesting his cooperation in providing the organization with the information which the Minister had stated he was unable to supply. The organization requested copies of several court verdicts issued in 1998 and in earlier years in connection with alleged human rights violations committed by members of the armed forces in Somalia and also information regarding the progress and status of other judicial proceedings opened into such allegations. Amnesty International also asked to be informed whether those entrusted with carrying out the official investigations into the allegations of human rights violations made during 1997 had travelled to Somalia to collect witness testimony and to carry out on-site investigations.

In October the *Auditeur général* supplied copies of several court verdicts issued in 1995 and of a verdict issued in 1997 relating to the case of a Somali boy swung over an open fire by paratroopers (see AI Index: EUR 01/06/97 and 01/01/98). However, he did not supply the other information requested by Amnesty International, including news regarding proceedings relating to photographs showing a sergeant-major urinating on the inanimate body of a Somali man and the alleged death of a Somali child locked inside a metal container, without food or drink.

***UN Human Rights Committee examines Belgium's record***

In October Amnesty International submitted information about a number of its concerns in Belgium to the UN Human Rights Committee. The Committee, meeting in Geneva in October, examined Belgium's third periodic report on its implementation of the International Covenant on Civil and Political Rights. In its official Concluding Observations, issued in November, the Committee expressed "grave concern" about "reports of widespread police brutality" and regret at "the lack of transparency in the conduct of investigations on the part of police authorities and the difficulty in obtaining access to this information". It also expressed concern that criminal suspects had no right of access to a lawyer and a medical visit from the moment of arrest and said that they should also be informed promptly of their rights, in a language they understood.

The Committee stated that "Procedures used in the repatriation of some asylum-seekers and in particular the method of placing a cushion on the face of an individual in order to overcome resistance entails a risk to life". It said that the death of a Nigerian national in September, after the use of such techniques, illustrated "the need to re-examine the whole procedure of forcible deportations". The Committee asked for "written information on the results of the investigations as well as of any criminal or disciplinary proceedings" and recommended that "all security forces concerned in effecting deportations should receive special training".

It also expressed concern about the behaviour of Belgian soldiers in Somalia in 1993 and noted that, in response to its questioning, the government's representatives had stated that 270 files had been opened "for purposes of investigation". However, the Committee expressed regret that it had "not received

further information on the result of the investigations and adjudication of cases” and requested the government to submit it

It also noted that “the period of five months’ detention, which may be extended to eight months, to which asylum-seekers may be subjected, may amount to arbitrary detention in violation of article 9<sup>3</sup> of the Covenant, unless the detention is subject to judicial review which secures the release of the person if there is no lawful purpose being served by the detention”

### ***Ratification of international treaties on the death penalty***

Amnesty International welcomed the news that on 8 December Belgium ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, and on 10 December ratified Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty. Belgium abolished the death penalty for all offences in 1996.

## **BOSNIA-HERZEGOVINA**

In September general elections, organized and monitored by the Organization for Security and Co-operation in Europe (OSCE), resulted in victories for nationalist parties. Elections for the three-member presidency were won by Alija Izetbegović, the Bosniac member, Ante Jelavić, the Bosnian Croat member and Željko Radišić, the Bosnian Serb member, who replaced Alija Izetbegović as chairman of the presidency. Nikola Poplašen was elected President of the Bosnian Serb entity, the Republika Srpska (RS), replacing Biljana Plavšić and Ejup Ganić was re-elected President of the Federation for another year by the newly-elected federation parliament in December. However by the end of the year, no new governments had been formed in either entity.

### ***Federation abolishes the death penalty***

In November a new Criminal Code came into effect in the Federation, which effectively abolished the death penalty, replacing it with extended prison terms.

### ***Political violence continues to obstruct refugee return in both Bosnian entities***

Although there were substantial numbers of refugees repatriating from June until October, only half of the estimated 220,000 returns materialized. The United Nations High Commissioner for Refugees (UNHCR) estimated that of those who had repatriated up to 90 per cent relocated, causing the number of internally displaced persons to rise by 50,000. Many of these people continued to live in or resettled into houses belonging to others who were themselves refugees or internally displaced.

Return-related violent incidents were frequent, despite intervention by Stabilization Forces (SFOR) and international condemnation. The pattern of intimidation and harassment against returning members of the minority nationality was especially striking in the Stolac and Čapljina municipalities in the south of the country. On 1 October a large group of Bosnian Croats set up a roadblock near Čapljina in order to prevent the return of a group of 50 Bosniac displaced persons to Tasovčići village in that municipality. The barricade was removed by SFOR but the following day an even larger crowd, threatened

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<sup>3</sup> relating to the liberty and security of the person

to resume the barricade. In the evening of the same day, a Bosniac returnee, Adem Muminagi\_, was killed and two others wounded by a hand grenade thrown at their house from a passing car. On 3 October a local Bosniac politician and two Bosniac police officers were severely beaten by Croatian police in \_apljina. Several UN International Police Task Force (IPTF) monitors were physically attacked by \_apljina police officers when they tried to intervene. The Cantonal Interior Minister, Valentin \_ori\_, resigned in the wake of the violence. IPTF Commissioner Richard Monk urged the Cantonal authorities to immediately dismiss and decertify the \_apljina police chief and initiate criminal proceedings against him.

In December IPTF monitors, who had been deployed in the Stolac area to supervise the work of the local police in preventing and responding to return-related violence, were themselves attacked by a crowd of Bosnian Croats, after they had searched a local police station in Stolac and discovered unregistered weapons and ammunition on the premises. The Stolac police chief resigned following the incident. In the RS Bosniac returnees were similarly targeted in violent attacks against their lives and property. In Tesli\_ municipality, in the north of the country, during October and the beginning of November on a number of occasions hand grenades were thrown at Bosniac-owned houses and other property belonging to Bosniacs was set on fire. In Modri\_a, also in northern RS, where many pre-war Bosniac residents are trying to return despite considerable difficulties, a hand grenade was thrown at the offices of the Coalition for Return on 13 December. The Coalition for Return is an association of displaced persons from all nationalities, formed in 1996 which advocates the right to return to their pre-war homes of all people, regardless of their nationality.

### ***Germany continues deportations of Bosnian refugees***

Germany came under international criticism in the second half of the year, when it continued to deport large numbers of Bosnian refugees, most of whom originated from areas in Bosnia-Herzegovina, where their nationality is now in the minority and where it was not yet viable for them to return. A group of around 80 refugees was arrested in Berlin in the night of 8-9 July and deported in two groups. The deported refugees were mostly Bosniacs from Bijeljina and Zvornik, now situated in the RS, and the group reportedly included a severely traumatised female refugee who had been undergoing psychiatric treatment since 1994. A refugee family with five children had apparently only a day before the deportation received a court's decision that they should leave the country, although it had been agreed with the authorities that they should return voluntarily.

UNHCR officials have pointed out that most refugees who returned from Germany this year, overwhelmingly Bosniacs, relocated to areas where their nationality is now in the majority in the Federation, thereby blocking the return of others who were pre-war residents there. Acute absorption problems arose in the town of Grada\_ac in the Federation, with the return of large numbers of refugees from Germany, who originated from Modri\_a, a town just 20 kilometres further north, but now located in the RS. As it was not possible for them to go back to their pre-war homes in Modri\_a, now mostly occupied by internally displaced Serbs, the returnees from Germany resettled in accommodation in Grada\_ac, thereby effectively frustrating the bi-lateral return process which the two towns had agreed upon in May.

### ***Increasing numbers of cross-entity exhumations go some way to resolving the vast case-load of the "disappeared" and "missing"***

Cooperation between the two entities and between the three nationalities' officials improved remarkably, and this was reflected in an increased number of cross-entity exhumations under the supervision of the international community's Expert Group and the Office of the High Representative, in comparison to the two previous years. In October the Bosnian government commission exhumed 274 bodies from the biggest



mass grave found so far in Glumina village near Zvornik in the RS. The victims were believed to be mostly Bosniacs, killed in early 1992 by Bosnian Serb forces. However, by the end of the year, only 40 of the victims had been fully identified and autopsies had been carried out on 85 of the bodies.

### ***Unfair trials of political prisoners***

In October the United Nations Mission to Bosnia-Herzegovina started an extensive monitoring and assessment program of the court systems in both entities as part of an overall programme of legal reform. In the RS initial changes to the Criminal and Criminal Procedures Codes were being reviewed by judicial and executive bodies inside the entity, before being referred for revision to legal experts of the Council of Europe.

Despite these efforts, trials of political prisoners continued to be flawed by serious procedural violations. In October a Bosniac man, Ibrahim Djedovi\_, was convicted of war crimes against the civilian population and sentenced to 10 years' imprisonment by the Sarajevo Cantonal Court after an unfair trial. International observers stated that the defendant had not been able to confer with his lawyers in private and during the trial a number of defence witnesses were summarily rejected by the court. International organizations monitoring the trial also expressed concern that the evidence on which the conviction was based was insufficient to establish guilt beyond a reasonable doubt.

In December, the Bijeljina District Court (RS) handed down a verdict in the retrial of four Bosniac men who were accused of the murder of four Bosnian Serbs and one Bosniac in 1996 (see also AI Index: EUR 01/02/96, and AI Index: EUR 01/06/97). The retrial was criticized by international organizations as having repeated the gross procedural violations of the original trial. The convictions appeared to be based almost exclusively on statements which had been extracted from the defendants under torture. No satisfactory attempts had been made by the RS authorities to investigate the torture allegations and bring those responsible to account.

### ***Further arrests and convictions of suspects indicted by the International Criminal Tribunal for former Yugoslavia***

A further two suspects indicted by the Tribunal were arrested in September and December. Stevan Todorovi\_ had been indicted for crimes committed in Bosanski Šamac and had been allegedly transferred by unknown individuals from Serbia into the custody of SFOR forces in Tuzla in the Federation from where he was transported to the Hague. On 2 December SFOR arrested Radislav Krsti\_, a general in the Bosnian Serb army, who had been secretly indicted by the Tribunal for genocide, crimes against humanity and violations of the laws or customs of war, for his role in the execution of thousands of Bosniac men after the fall of the UN protected enclave of Srebrenica in July 1995.

In November the Tribunal convicted two Bosniacs, Hazim Deli\_ and Esad Land\_o, and a Bosnian Croat, Zdravko Mu\_i\_, of grave breaches of the Geneva Conventions and violations of the laws or customs of war and sentenced them to imprisonment of up to 20 years. A fourth Bosniac defendant in the same trial, Zejnil Delali\_, was acquitted as the trial chamber had found that he did not have command and control over the \_elebi\_i prison camp and its guards in central Bosnia where the abuses had taken place, and was therefore not criminally responsible. The Tribunal's Prosecutor is appealing the acquittal. The \_elebi\_i trial marked the first convictions for acts of sexual violence and rape against Bosnian Serb female inmates in the camp.

On 10 December Anto Furund\_ija, a Bosnian Croat, was convicted of violations of the laws or customs of war for aiding and abetting torture, including rape of a Bosniac woman committed by another Bosnian Croat paramilitary. He was sentenced to 10 years imprisonment.

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

International monitors of the IPTF uncovered many allegations of abuses by police, in particular in the RS, including severe ill-treatment and torture. On 9 and 10 August RS police in Pale illegally detained 14 men in connection with the murder of Bosnian Serb police commander Srdjan Kne\_evi\_. Seven of the men were transferred to Kula prison after four days, and the remaining men were released on 18 August when SFOR, which had initiated its own investigation into the murder, discovered that they were being held illegally. Several of the men were reportedly tortured until they signed statements admitting to their involvement in the murder. Only in December were six of the seven men who had been transferred to Kula prison formally charged.

## **BULGARIA**

### ***Abolition of the death penalty***

On 10 December the National Assembly of Bulgaria abolished the death penalty. From a total number of 240 deputies, 121 were present for the vote: 96 deputies voted for abolition, 22 voted against and three abstained. The deputies rejected the proposal of Stefan Gaitandziev that the death penalty should be retained for "treason, terrorism and aggression".

The adopted amendment to the Penal Code replaced the death penalty with life imprisonment without a possibility of commutation. Similarly to the death penalty which it replaces, this most severe penalty cannot be imposed on women who were pregnant at the time when the offence had been committed, or the time of execution of the sentence, people younger than 20 and soldiers younger than 18 (for military offences or offences committed in time of war). The Penal Code also provides for a life sentence with a possibility of commutation.

The deputies rejected a proposal that death penalties already in force should automatically be replaced. Although a moratorium on executions was introduced in July 1990, the courts continued to pass death sentences on those convicted of aggravated murder. Reports about the number of those who are currently under sentence of death differ (between 11<sup>4</sup> to 27<sup>5</sup>). Several newspaper articles published on 12 December quoted Vice-President Todor Kavaldjiev's statement that he would pardon all those under sentence of death. The last execution in Bulgaria took place on 4 November 1989, a year in which 14 people were subjected to this irrevocable sanction.

Amnesty International welcomed the abolition of the death penalty in Bulgaria as a signal of its commitment to the protection of fundamental human rights.

### ***Prisoner of conscience - conscientious objection to military service***

On 13 April Plovdiv District Court sentenced Krassimir Nikolov Savov, under Article 361, paragraph 1, of the Penal Code, to one year's imprisonment for failing to respond to call-up. As a Jehovah's Witness his religious convictions forbid him to carry arms and perform military service. His conviction was confirmed in July by the Plovdiv Appellate Court and in December by the Supreme Court of Cassation. On 10 December Krassimir Nikolov Savov was imprisoned in Plovdiv prison to serve his sentence.

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<sup>4</sup>This figure was mentioned in most articles published in the national daily newspapers on 11 December 1998.

<sup>5</sup>An interview with Ane Kovachev, Deputy Director of the Bulgarian Prison Administration, published on 11 December in a national daily newspaper.

Although the right to perform alternative service has been recognized for many years by the Bulgarian Constitution (Article 59, paragraph 2), a law which would enable conscientious objectors to duly address their request to perform alternative service to the competent authorities was adopted only on 29 October and came into force on 1 January 1999. Prosecution of conscientious objectors, like Krassimir Nikolov Savov, for evasion of military service represents a violation of their constitutional right to an alternative service. Amnesty International considers Krassimir Nikolov Savov to be a prisoner of conscience and has called on the Bulgarian authorities to release him.

Amnesty International has repeatedly urged the Bulgarian authorities to adopt legislation concerning alternative service which would comply with international standards on conscientious objection. Most recently, in February Amnesty International called on the Bulgarian National Assembly to fully ensure the right to conscientious objection to military service in the draft law which was under debate. The provisions which the organization found to be at variance with international principles remained unchanged and were promulgated into force. In December Amnesty International urged President Petar Stoyanov to initiate a judicial review of these provisions before the Constitutional Court of Bulgaria.

### ***New cases of torture and ill-treatment of Roma***

On 10 July 1998 at around 7pm approximately 80 police officers wearing helmets and shields raided 15 houses in a Romani neighbourhood in the village of Mechka, in the Pleven region. They reportedly beat over 30 men, women and children indiscriminately with truncheons and intentionally caused damage to doors, windows and furniture.

According to reports, the police did not present search warrants but entered the Romani houses by force and beat everyone inside, using racist language. At least 15 people were injured; the oldest victim is aged 67 and the youngest is aged 11.

Mehmed Yusufov, one of the victims of the alleged ill-treatment, claims that at approximately 6.30pm seven police officers came to his house and searched it. They then gave him written notice that the search had been completed and left. Half an hour later police officers reportedly surrounded the house, kicked down the door, broke the windows and beat Mehmed Yusufov and Gyula Alieva Yusufova, his 58-year-old wife, with truncheons. According to a forensic medical certificate issued on 14 July 1998, Mehmed Yusufov suffered bruises on the back, the left side of the abdomen and chest, the left arm and elbow, left thumb and the left calf. Gyula Alieva Yusufova suffered bruising on the back, the right side of the abdomen and on the right palm.

In its report published in August, *Bulgaria: New cases of ill-treatment of Roma* (AI Index: EUR 15/11/98), Amnesty International documented eight other recent incidents of ill-treatment of members of the Romani community, in which 24 people, three of whom are minors, suffered injuries as a result of the alleged ill-treatment. (See also *Children in Europe*, page 72.)

### ***New cases of police shootings***

Unlawful use of firearms is a long-standing human rights problem in Bulgaria and over the years Amnesty International has published several reports about incidents in which police shot people in circumstances which are prohibited by principles 4 and 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Since the publication of its report *Bulgaria: Growing incidence of unlawful use of firearms by law enforcement officials* (AI Index: EUR 15/12/97) in October 1997, Amnesty International has received dozens of new reports of shootings in disputed circumstances. Although no official statistics on such cases have been published, according to reports in the Bulgarian press or from local human rights organizations, in 1998 at least nine people were killed by law enforcement officials in disputed circumstances.

One incident took place on 24 August at around 3.30pm in Pleven prison. A guard shot Khristo Tanev, a 45-year-old detainee who was attempting an escape, killing him. Another detainee who managed to climb over the prison wall was apprehended by prison guards 200 metres from the prison. Both detainees were unarmed and did not threaten the lives of the guards or anyone else. The initial inquiry into the shooting reportedly established that the guard had acted in accordance with his instructions.

Most cases monitored by Amnesty International have not been investigated promptly and thoroughly by the authorities. A report received from the Bulgarian Ministry of Foreign Affairs in April 1998 presented information about investigations into shooting incidents raised by the organization in its report published in October 1997. In one case the military prosecutor decided not to charge the police officer responsible for the shooting having concluded that "the injuries suffered [a bullet injury in the left leg] were less significant than the damage caused [theft of a bicycle], and if the slight bodily injury was inflicted on an incidental bystander it was caused unintentionally." Similarly, no one has been charged with the killing of Kancho Angelov and Kiril Petkov, two unarmed soldiers, both of Romani origin, by the military police who attempted to apprehend them following their absence without permission from their unit in July 1996.

In December, Amnesty International published a report *Bulgaria: Recent reports of unlawful use of firearms by law enforcement officials* (AI Index: EUR 15/19/98) which documents seven incidents of shootings by law enforcement officials in which six people were killed and two injured. Amnesty International urged the Bulgarian authorities to ensure that impartial and thorough investigations are conducted immediately into all shootings by law enforcement officials resulting in death or injury, and to bring any law enforcement officers suspected of inappropriate use of firearms to justice. Amnesty International also called on the Bulgarian authorities to provide police and other law enforcement officials with clear regulations and effective training programs on the use of firearms; to bring the Law on National Police into line with international standards; and to publicize regular statistics on police shootings.

## **CROATIA**

### ***Committee against Torture concerned about allegations of torture and deaths in suspicious circumstances***

On 13 November the United Nations (UN) Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Committee) considered the second periodic report submitted by Croatia. The session was observed by an Amnesty International representative and members of the Committee had been briefed previously by Amnesty International.

While the Committee praised the fact that Croatia had enacted a new Criminal Code which incorporated the crime of torture, carrying a penalty of one to eight years' imprisonment, it noted that it was not clear whether and how this new provision had been applied and how it differed from previous legislation applicable to torture. In fact, no detailed information at all was provided by Croatia as to how allegations of torture or ill-treatment had been pursued, which the Committee had requested after its review of Croatia's initial report.

The Committee raised concerns relating to several cases about which it had been informed by Amnesty International, in particular the death following reported torture in custody of Šefik Mujki\_ in

1995 and the reported ill-treatment of Mario Bariši\_ in May 1998 (see AI Index: EUR 01/02/98). In addition, it requested Croatia to respond in full to allegations made by Amnesty International and other non-governmental organizations about impunity for human rights violations, including torture, which had been committed by Croatian security forces after operations Flash and Storm in 1995 (see below). Domestic criminal prosecutions for these violations were all the more important since the prosecutor for the International Criminal Tribunal for Former Yugoslavia (Tribunal), has stated that she did not have the resources to prosecute in every case and that she expected national authorities to prosecute as well.

### **Croatian authorities' reactions to Amnesty International report**

On 4 August Amnesty International published a report, *Croatia: impunity for killings after Storm* (AI Index: EUR 64/04/98) which was released from Zagreb. The report criticized the Croatian authorities for failing to adequately investigate hundreds of killings of Croatian Serbs after an offensive in August 1995 which brought part of the Krajina area under Croatian Government control. Immediately after the publication of the report the Croatian Minister of the Interior challenged the accuracy of the report, and stated that his Ministry had documented 47 cases of killings, of which approximately half were resolved. In return, Amnesty International asked for an explanation of discrepancies between these statistics and those released by the Croatian authorities in 1996 for persons charged with murder. Furthermore the Croatian authorities had themselves stated that more than 400 civilians had been killed during and after operation Storm. However it was unclear whether any investigations had been conducted into these deaths and Amnesty International had asked in its report whether autopsies had been carried out on those killed. Amnesty International further repeated its previous requests for clarification of statistics provided by the authorities in late 1997 to the UN Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia-Herzegovina, Croatia and the Federal Republic of Yugoslavia (Special Rapporteur). These statistics had been provided by the Croatian Ministry of Justice and included information on the number of criminal proceedings which had been initiated in relation to the Flash and Storm offensives in 1995. However, no breakdown was given for proceedings per county jurisdiction and when Amnesty International delegates spoke to Justice Ministry officials in May 1998, it was confirmed that the statistics given to the Special Rapporteur also reflected criminal offences committed between 1996 and 1998. On 19 August the Croatian Justice Ministry dismissed Amnesty International's report as "sweeping and unsubstantiated" and, once more, cited statistics of criminal cases which were as of May 1998 before some of the county courts in the Krajina region. There were significant differences between these statistics and the ones given to the Special Rapporteur in 1997. In September Amnesty International wrote to the Interior and Justice Ministries, asking for clarification of the various new statistics they had given in their responses to the organization in the media. Amnesty International's letters contained an appendix listing over 200 cases where dead bodies had been found and documented by international monitors and local human rights groups in the Krajina area after operation Storm. Amnesty International believed that in all these cases there was a need to establish the cause of death through forensic and criminal investigations, as required by Croatian law and international standards and posed a number of concrete questions on a case by case basis to the Croatian authorities. By the end of the year the Croatian authorities had not responded to Amnesty International.

### **Trials of political prisoners**

Amnesty International continued to be concerned that political prisoners were kept in pre-trial detention for longer than the legally determined period of two-and-a-half years (see AI Index: EUR 01/02/98). In the case of Radenko Radoj\_i\_, a Croatian citizen from a mixed Croat-Serb background, Amnesty International was concerned that he was unlawfully kept in detention awaiting second-instance proceedings on a charge

of which he had been acquitted in his original trial. In protest of his continued detention, Radenko Radoj\_i\_ had twice gone on hunger strike for several weeks. Radenko Radoj\_i\_ had been sentenced for four years' imprisonment for planning "terrorism" in 1994. By May 1998 he had served this sentence, but he was kept in detention as the Croatian Supreme Court had ruled in February 1997 that he should be prosecuted on the charge of "association for the purposes of hostile activity", namely membership of the "Labrador" group, which had allegedly been assigned various acts of terrorism by the Yugoslav National Army to destabilize Croatia in early 1991. Radenko Radoj\_i\_ had been acquitted of this particular charge in his first trial in 1994. Amnesty International wrote to the Croatian authorities in July 1998, stating its concern that Radenko Radoj\_i\_'s continued detention violated the right to be tried without undue delay and the right to have proceedings conducted with particular expedition according to the International Covenant on Civil and Political Rights (ICCPR). The period of time between the closure of first-instance proceedings and the appeal decision by the Supreme Court amounted to at least 15 months. In addition, more than a year passed between that appeal decision and the beginning of second-instance proceedings in mid-April 1998. Amnesty International was furthermore concerned that the second-instance proceedings might amount to Radenko Radoj\_i\_ being tried twice for the same crime, as no new evidence had been submitted that would substantiate the charge he had been acquitted of in his first trial. Amnesty International also stated that, given the circumstances of the case, there was reason to believe that Radenko Radoj\_i\_'s continued detention was motivated by his former political affiliation and nationality. In October 1998 Radenko Radoj\_i\_ was released from prison as the court had reconsidered its original objection to his release, fear of the prisoner absconding, which was now thought to be unlikely, also in view of Radenko Radoj\_i\_'s poor health condition. His second-instance trial continues.

### ***Potential prisoners of conscience***

In December the Zagreb Municipal Court found former Editor-in-Chief of the *Feral Tribune* weekly Viktor Ivan\_i\_ and journalist Marinko \_uli\_ not guilty of charges of insulting Croatian President Franjo Tudjman (see AI Index: EUR 01/02/98). However, the investigation continued against Viktor Ivan\_i\_ and another *Feral Tribune* journalist, Petar Dori\_ on further charges of insulting President Tudjman.

### ***Implementation of Return Program leaves much to be desired***

At the end of June the Croatian Parliament adopted a law providing for the unconditional return of the approximately 400,000 Croatian Serbs who had left the country, the majority of them after the 1995 military offensives. However, according to the Organization for Security and Co-Operation in Europe (OSCE), which deploys an extensive field mission in Croatia, implementation of the program was slow, mainly due to political obstruction at the local level and administrative obstacles. Reconstruction assistance plans were criticized as discriminating against non-Croats.

According to statistics, released by the Croatian Office for Displaced Persons and Refugees, between the adoption of the plan and the end of December some 13,500 Croatian Serbs in the Federal Republic of Yugoslavia and in the Bosnian Serb entity had submitted return applications, of which around 5,000 had been cleared in Croatia. However, only approximately 2,000 of these people were known to have actually returned to the country during the same period. In addition to these organized returns, thousands of Croatian Serbs reportedly returned unofficially, although it is not possible to confirm the exact number of these so-called "spontaneous" returns independently.

Many Bosnian Croats, who during the war in Bosnia-Herzegovina had received temporary protection in western Europe, continued to resettle in Croatia, by occupying Serb-owned houses.

Meanwhile, Croatian Serbs continued to leave the Eastern Slavonia region, which had been the last part of Croatian territory to come under government control in January 1998 (see AI Index: EUR

01/02/98). International and local organizations estimated that up to five families a day have been leaving the region, most of them for the Federal Republic of Yugoslavia.

International police monitors reported that Serb residents in the region were still exposed to incidents of ethnically motivated violence, especially in the Baranja region, where the departure of Serbs was most noticeable. In August explosive devices were thrown at houses owned or occupied by Serbs. At the end of July a mixed Serb-Hungarian couple was murdered in Topolje village near Beli Manastir by a local Croatian former soldier who had reportedly threatened the couple previously. Although the suspect was arrested immediately after the murders, no date for his trial has yet been set.

### ***Continued impunity for mass killings in Vukovar in 1991***

In September the Prosecutor for the International Criminal Tribunal for former Yugoslavia (Tribunal), wrote to the UN Security Council, demanding that immediate measures be taken to ensure that the Federal Republic of Yugoslavia transferred three suspects, publicly indicted by the Tribunal, to its custody. The three men, Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin, were indicted in November 1995 for their alleged involvement in the killing of hundreds of unarmed men forcibly removed from Vukovar hospital in November 1991. They are believed to be residing in Serbia.

In December, the Belgrade Military Court held a hearing investigating the events surrounding the fall of Vukovar and called the three suspects as witnesses. Several days later, the Tribunal issued a deferral order, requesting that Yugoslavia halt its investigations and hand over any information to the Tribunal. To date, with the exception of the trial of Slavko Dokmanović before the Tribunal, which ended after his death in June 1998 (see AI Index: 01/02/98), nobody has been brought to justice for the mass killings in Vukovar.

## **CYPRUS**

### ***Ill-treatment of asylum-seekers***

One hundred and thirteen people from Africa and the Middle East were rescued from a fishing trawler drifting off the coast of Cyprus in June and were remanded under police guard in an hotel in Limassol pending decision on their application for asylum. In August, 30 of them, mainly Africans, were transferred from the hotel to the cells of the Police Headquarters in Larnaca, pending deportation. At least four of them alleged they were beaten by police officers while a police inspector was watching. As a result of the beatings, the asylum-seekers sustained various injuries but were initially denied access to hospital. One of them alleged that as he opened the door of his hotel room, he was kicked in the genitals. Five police officers came into his room and beat and kicked him for up to 15 minutes. As a result he sustained injuries to his eye, which required stitches, and his jaw. He alleged that a week later he was brought before the police inspector who had accompanied the police officers responsible for his ill-treatment at the hotel, and was threatened with further beating if he refused to sign a statement denying that the ill-treatment had occurred.

In October 48 others of the initial group of 113 asylum-seekers were held in Larnaca detention centre pending deportation. In an effort to carry out the deportation order, officers from the MMAD (a rapid intervention police force) threw tear gas into the cells to force the asylum-seekers into the yard and then forced them to lie down on the ground. Television footage showed police officers kicking and stamping on the asylum-seekers and hitting them with truncheons. About 10 of the victims were reportedly transferred to hospital as a result of the beating and respiratory difficulties caused by tear gas. An inquiry was subsequently set up, but it had not concluded by the end of the year.

In July Amnesty International urged the Cypriot authorities to ensure that all asylum-seekers would be given access to a full and satisfactory asylum procedure and that they would not be returned to countries where they might face human rights violations. No answer had been received by the end of the year.

## FINLAND

### ***New law on alternative civilian service for conscientious objectors could lead to imprisonment of prisoners of conscience***

The new Military Service Act 19/1998, passed by Parliament in December 1997, came into force in July. The act altered the length of military service from 240, 285 and 330 days to 180, 270 and 362 days respectively, depending on rank, type of service and length of contract. The length of alternative civilian service for conscientious objectors to military service remained 395 days, more than double the length of the 180 days served by approximately 50 per cent of army conscripts under the new legislation. On 11 December Parliament accepted this length by 103 to 77 votes and in addition passed an addendum to the law whereby conscripts now have a waiting period of two weeks before leaving military service and commencing alternative civilian service.

Amnesty International urged the government to reduce the length of alternative civilian service in order to ensure that it was not punitive and in breach of international principles on conscientious objection. Amnesty International stated that it would consider anyone imprisoned for refusing to carry out civilian alternative service of a length considered punitive to be a prisoner of conscience and would call for their immediate release.

In December the government wrote to Amnesty International arguing that the longer period of alternative service was justified because "the leave and leisure time of conscripts serving the shortest period were reduced substantially" and that they would also have to perform between 40 and 100 days' reservist service.

## FRANCE

### ***Fair trial within a reasonable time ("Chalabi")***

The right to a fair trial was denied 138 people in a mass trial that opened in September at the remand prison of Fleury-Mérogis (Essonne). Detained during mass arrests in 1994 and 1995, the defendants were accused of belonging to three overlapping support networks for armed groups of the Algerian opposition in Algeria and charged with "criminal association with a terrorist enterprise". Twenty-four defendants were still in custody four years later at the opening of the trial before the 11th section of the *Tribunal correctionnel du tribunal de grande instance de Paris* on 1 September. The trial closed in October, but judgment was reserved until January 1999. A small minority of defendants were accused of trafficking in, or possession of weapons. Many were individually charged with relatively minor offences. Most denied any connection with "terrorist" groups. None was charged with an act of violence.

The trial opened in the specially converted gymnasium of the *Ecole nationale d'administration pénitentiaire* inside the prison, following the passing, in December 1997, of a special law allowing that in "exceptional cases [relating to terrorism] and for reasons of security" trial hearings could be held outside the place normally reserved for them - in this case the Palace of Justice in Paris. Shortly after it opened, a large number of defence lawyers began a boycott of the proceedings, arguing that they could not be fair and that a proper defence was impossible. A representative of the president (*bâtonnier*) of the Paris Bar



Council appeared before the court to plead for a retrial on behalf of the legal-aid lawyers who argued they did not have time to study the case file before the opening of the trial, but this was not granted.

In December Amnesty International wrote to the Justice Minister to point out that the proceedings breached a number of international norms regarding fair trial within a reasonable time. The organization argued that, apart from the fact that the trial hearing did not open until four years after the first arrests, a number of defendants had not been given an effective opportunity to be heard promptly by a judicial authority while being held in custody and had been held for excessive periods in provisional detention. The huge size and expense of the case file (50,000 pages at 3F per page, amounting to 150,000F) and the two-month period available for study of the entire file before the opening of the trial meant that defendants were not given adequate time and facilities for the preparation of their defence. Moreover, the failure to provide a case file free to all defendants led to an inequality in arms between defence and prosecution. The guarantee of presumption of innocence was also put in jeopardy by the passing of a special law to allow the court to be held within a prison and by the erection of bullet-proof glass cages in which to hold those defendants still in custody. Amnesty International also pointed out that mass trials were inherently unfair because they placed serious obstacles in the way of ensuring the principle of individual penal responsibility. Relatively little time appeared to have been devoted to a substantive examination of the case against many individual defendants.

### ***Ill-treatment by law enforcement officers***

There were continuing allegations, among others, of ill-treatment from asylum-seekers, undocumented foreign workers (*sans-papiers*) and people of non-European ethnic origin. In September three Sri Lankans claimed they had been ill-treated by French police while being forcibly expelled from France. Narendran Yogeswaran, Nadrajah Vijeyalalitha and Mylvaganan Arunan claimed they were kicked, punched, handcuffed and muzzled with tape. An internal inquiry was opened by the border police (*Direction centrale du contrôle de l'immigration et de la lutte contre l'emploi des clandestins* - DICCILEC).

In September three police officers were suspended from work and placed under judicial examination following allegations that an undocumented foreign national, Elbatol Badouh, a Moroccan woman, had been sexually assaulted at the holding centre (*centre de rétention*) within the prefecture of Nanterre (Hauts-de-Seine). Elbatol Badouh, who had been living in France for seven years, reportedly alleged that several officers entered her room, which did not have a key, while she was taking a shower. One officer entered the shower with her and he and his colleagues subjected her to sexual harassment.

Tarek Säid, an Egyptian restaurateur based in Bagneux, claimed he had been ill-treated by police officers in October after seeking help from them following an altercation with Paris transport officers. He alleged that, after being taken to the rue Marcadet police station, he was kicked, punched, bludgeoned between the legs and partially asphyxiated and that he began spitting blood and lost consciousness. He was taken to the Hôtel-Dieu hospital before being returned to a police cell. A medical certificate and subsequent examinations reportedly referred to a broken left thumb, injuries to the left eye and right arm, requiring surgery, and a perforated eardrum. An inquiry was opened.

### ***Prolonged isolation in remand prisons***

Some prisoners were reportedly being held in prolonged isolation. In November Ilich Ramírez Sánchez (often known as "Carlos the Jackal") went on hunger strike in protest at the total isolation from other prisoners in which he claimed he had been held since his arrest in 1994. Ilich Ramírez Sánchez, who was being held in provisional detention at the remand prison of Paris-La Santé, stated that he was not allowed to communicate with other detainees or attend any social or educational activity. He was sentenced to life imprisonment for murder in 1997 but remained under investigation in connection with other alleged

crimes. Two members of the armed group *Action directe*, Joëlle Aubron and Nathalie Ménigon, also reportedly remained in strict and prolonged isolation at Fleury-Mérogis prison, under a provisional detention regime designed for short-term stays, despite having been definitively convicted to life imprisonment in 1994 (see *Amnesty International Report 1989*). Further restrictions were reportedly placed on them, owing to their DPS category (*détenues particulièrement signalées*). Their cells were reportedly kept locked 24 hours a day and a request by Nathalie Ménigon to allow a kitten into her cell was refused. She was said to be suffering from severe depression and to have recently had a serious heart attack.

In November Amnesty International requested information from the Justice Minister about the alleged prolonged isolation of Ilich Ramírez Sánchez, as well as about that of Joëlle Aubron and Nathalie Ménigon, and expressed its belief that prolonged isolation can have a detrimental effect on the physical and mental health of prisoners, in some cases, amounting to cruel, inhuman or degrading treatment or punishment.

### ***Lethal use of force by law enforcement officers and death in custody***

Amnesty International continued to receive reports of use of lethal force by law enforcement officers against unarmed citizens. In August Eric Benfatima was shot dead by an officer of the *Brigade anticriminalité* (BAC) in Tarbes (Hautes-Pyrénées). According to reports, Eric Benfatima, an unemployed father of two children, who had been outside a tobacconist's, asking for cigarettes, accosted an off-duty police officer in plain clothes. The officer told him to move on and that begging was forbidden in Tarbes. An argument broke out and the men reportedly grabbed each other by the collar. The officer reportedly called for reinforcements and attempted to immobilize Eric Benfatima, who managed to break free and ran away. He was followed by the officer, who fired at least three times. Eric Benfatima died after being struck in the abdomen and lower limbs. Placed in provisional detention, the officer was under investigation on a charge of murder (*homicide volontaire*).

In December a fatal shooting, in disputed circumstances, of a 17-year-old suspected car thief took place in Toulouse and was followed by waves of rioting. (For details about the case of Habib Ould Mohamed, see section *Children in Europe*, page 70).

Sidney Manoka Nzeza, a young boxer of Zairean origin, died in custody in November at Tourcoing after being arrested in disputed circumstances. Four police officers were placed under examination in relation to possible charges of manslaughter (*homicide involontaire*) and failing to provide assistance (*non-assistance à personne en danger*). Three of these were suspended from work, pending the result of the judicial and administrative inquiries, on the order of acting Interior Minister Jean-Jack Queyranne. Two other officers were also under investigation on a charge of failing to provide assistance. An autopsy reportedly concluded that the death had been caused by "a process of asphyxia due to compression on the thorax" ("*un processus asphyxique par compression thoracique*"). The police complaints body, the IGPN, was expected to establish whether the rules on police apprehension and questioning of suspects had been respected at the time of arrest.

Sidney Manoka Nzeza was arrested after police received a report about a traffic incident in the town, involving the boxer and a car driver. Two BAC officers, reinforced by another four, were involved in his arrest. According to the police, Sidney Manoka Nzeza at first resisted but was then pinned to the ground and handcuffed. They denied hitting or beating him. He was taken to the Tourcoing (Nord) police station, where he collapsed 20 minutes later. However, the organization SOS-Racisme, which was seeking to become a civil party to the case, reported having collected eye-witness accounts according to which Sidney Manoka Nzeza collapsed on the pavement before arriving at the police station, and stated that medical help should have been sought immediately.

### ***Case updates into police shootings and deaths in custody***

In July the Grenoble Court of Appeal overturned the November 1997 decision of the Correctional Court of Valence to acquit the gendarme who shot dead Franck Moret in 1993 (AI Index: EUR 01/02/98 and previous reports). He was given an 18-month suspended prison sentence and ordered to pay a small sum in compensation and court costs. The court held that, although the gendarme was entitled under French law to stop the car, the fatal shot had been fired in a "particularly imprudent and clumsy way from the viewpoint of height and direction". The officer appealed to the Court of Cassation.

During the year the inquiry into the death of Abdelkader Bouziane, and into allegations by his passenger, Djamel Bouchareb, of attempted murder and ill-treatment (AI Index: EUR 01/02/98). Four months after the death, and as a result of the findings of a ballistics report which cast doubt on the view that police officers had fired in "legitimate defence", two officers were placed under investigation on a manslaughter charge and a third was subsequently under investigation for illegal acts of violence in connection with the alleged beating of Djamel Bouchareb. A reconstruction of events was held at the scene of the death in Fontainebleau, under police surveillance, in November. In a separate but related development, an off-duty police officer was placed under investigation in August for "committing an armed act of violence" ("*violence volontaire avec arme*") in connection with the alleged shooting and wounding of Mohamed Dries during the violent disturbances in Dammarie-les-Lys (Seine-et-Marne) that followed the death of Abdelkader Bouziane. The police officer's weapon was stolen during the same incident (and re-discovered in October). She was later transferred to service in the West Indies.

In November the *chambre d'accusation* of the Court of Appeal of Bordeaux decided, on the basis of new information, to reopen an investigation, which had been closed in 1996, into the death of Pascal Taïs at the police station of Arcachon (Gironde) in 1993. Amnesty International had raised this case, among others relating to shootings, killings and deaths in custody, with Charles Pasqua, then Interior Minister, in August 1993. The autopsy carried out at the time showed that Pascal Taïs, of Moroccan origin, had two broken ribs and a punctured lung, and that he had died from an internal haemorrhage caused by rupture of the spleen.

In December Amnesty International sent an observer to the hearing before the Court of Assizes of Alpes-Maritimes of a police officer on a manslaughter charge in connection with the death of Romani child Todor Bogdanovi\_ (AI Index EUR 01/01/98 and previous reports). Despite the decision of the *chambre d'accusation* of the Court of Appeal of Aix-en-Provence, in December 1997, to quash a previous conclusion that there were no grounds for prosecution (*non-lieu*) and that the evidence against the officer's plea of "legitimate defence" was sufficient to transfer the case to a court of assizes, and despite the April decision of the Court of Cassation to reject the officer's appeal against the judgment of the Aix-en-Provence court, the Court of Assizes acquitted the officer. The prosecutor concurred that the officer had fired at the car from behind and had therefore not acted in "legitimate defence", but asked the jury to consider only a nominal prison sentence, accompanied by suspension. Further details about this case, including the comments and criticisms made by Amnesty International's observer, can be found in *Children in Europe*.

## GEORGIA

(See also *Georgia: Summary of Amnesty International's Concerns*, AI Index: EUR 56/02/98)

### ***Allegations of ill-treatment in detention***

Allegations of ill-treatment continued, including one in which the head of a local council is said to have refused to let police intervene as an angry crowd beat and tortured a man to death. In that case, which occurred on or around 11 March 1998 in the western Georgian town of Tsalendjikha, Sergo Kvaratskhelia, a stone carver, had been accused of defiling a grave and stealing money and drugs that had been buried with the deceased. He was reportedly severely beaten by those who thought him responsible and spent three days in hospital, but was then abducted by an angry crowd. The local police are said to have called for help from the regional police station, which sent a contingent of some 40 armed officers. However, a crowd of some 20 to 25 people reportedly tortured Sergo Kvaratskhelia to death, and mutilated him, after the head of the district administration refused to let the police intervene, allegedly saying: "Don't interfere, these people know what they are doing". The heads of the district and regional police forces were also said to have been present at the time (the names of all three men are known to Amnesty International).

The head of the district police was said to have been removed from his post after a protest meeting in Tsalendjikha the following day, and the head of the regional police to have been dismissed in connection with another incident (he is now reportedly a customs officer). At the time of writing, the head of the district administration was still reported to be in post. The mother and brother of the man whose grave was defiled, and two other local men, have reportedly been arrested.

On 21 September three members of the Liberty Institute, a non-governmental organization engaged in human rights monitoring, were reportedly beaten in the capital, Tbilisi, by members of the Special Police Unit (SPU) of the Ministry of Internal Affairs. Events leading to the alleged beatings are said to have begun around 6pm on Kiev Street in Tbilisi when police from Chugureti District arrested a man named Zodik Parkosadze on a charge of murder. Zodik Parkosadze was said to have been beaten during the arrest, although offering no resistance, and neighbours gathering to protest his detention also alleged that force was used against them. Officers from the SPU arrived and are said to have verbally abused two members of the Liberty Institute, journalists Gogi Kavtaradze and Kote Vardzelashvili who were seeking further information on events, and ordered them to leave the scene. A member of the crowd is said to have pushed Kote Vardzelashvili, who stumbled into the head of the SPU. SPU officers then reportedly detained Kote Vardzelashvili and began to beat him while forcing him into an SPU van. Gogi Kavtaradze was also detained, and both men were driven away to Chugureti District Police Station.

Gogi Kavtaradze and Kote Vardzelashvili report that while on the way to the police station they were severely beaten by several officers, including by the head of the SPU unit. The latter, who was driving the van, was said to have stopped on several occasions to participate in the beating. At one point, for example, two officers reportedly restrained Kote Vardzelashvili while the others beat him around the face, head, neck and back. Gogi Kavtaradze is said to have been beaten on the face, back of the neck and the arms. It is also alleged that the police officers swore at both detainees and threatened them with rape.

Neither Gogi Kavtaradze nor Kote Vardzelashvili reported ill-treatment by the regular police after their arrival at Chugureti Police Station, although the head of the SPU is said to have entered a room where Kote Vardzelashvili was held and again assaulted him. SPU officers are also said to have been involved in a further incident regarding a third Liberty Institute member, Sandro Zhuruli, who had arrived at Chugureti Police Station to seek information on his detained colleagues. SPU officers are said to have struck Sandro Zhuruli twice while he was outside the station.

Gogi Kavtaradze and Kote Vardzelashvili were released from police custody the same evening. Two days later they reportedly underwent a medical examination which confirmed the presence of extensive bruising on Kote Vardzelashvili's face and neck, and bruising on Gogi Kavtaradze's arm and face.

In addition, member of parliament Elene Tevdoradze is said to have reported that the man originally detained on Kiev Street, Zodik Parkosadze, sustained a serious beating at the hands of law enforcement officials. She is said to have visited him in detention and arranged for a medical examination, but the results are not known to Amnesty International.

On 10 November the same head of the SPU was reportedly involved in the beating of another journalist, Aleko Tskitishvili, a reporter for the *Rezonansi* newspaper. This incident is said to have begun when Aleko Tskitishvili tried to enter the building of the Supreme Court, where the trial of Jaba Ioseliani and other 'Mkhedrioni' members was coming to a close (see AI Index: EUR 01/02/98). SPU officers denied him access, and when Aleko Tskitishvili protested that the trial was open, he was allegedly verbally abused by SPU officers, including the unit's head. The journalist is then said to have insulted the unit's head, whereupon the latter, together with SPU officers present, assaulted him in front of several bystanders.

Aleko Tskitishvili was then detained, placed in a police vehicle, and taken to Mtatsminda district police station. During the journey to the station Aleko Tskitishvili was reportedly beaten by the SPU head and other officers, and threatened with rape. The journalist was held at the police station for some three hours, during which he was reportedly again physically assaulted by the SPU head, in the presence of police officers on duty. Aleko Tskitishvili was then released and taken to hospital. The case received wide publicity, and several officials pledged a full and impartial investigation. The SPU head was said to have been questioned for four hours around a week later at the Mtatsminda district procurator's office.

Amnesty International urged that all allegations of ill-treatment be investigated promptly, impartially and comprehensively; that the results be made public; and that any perpetrators identified be brought to justice and victims adequately compensated.

### **Conviction of Gela Kavtelishvili** (update on information in AI Index: EUR 01/02/98)

The Public Defender of Georgia informed Amnesty International in November that former police officer Gela Kavtelishvili had recently been arrested. Gela Kavtelishvili had been sentenced to four years' imprisonment in May 1997 on charges which included using electric shocks on suspects in an effort to force them to confess, but had remained at liberty pending the outcome of various appeals. As pre-trial detention and detention pending appeal are widely used in Georgia even for minor offences, Amnesty International had expressed its concern that leaving a relatively high-level official at liberty after conviction on charges of ill-treatment was not sending a strong, positive message about the state's commitment to deal sufficiently rigorously with the continuing issue of ill-treatment in detention.

### **Failure to implement law on civilian alternative to military service**

In September 1997 the Georgian parliament passed a new law on alternative service, which granted the right to carry out civilian work to those unable to perform military service by virtue of their conscientiously-held beliefs. Amnesty International understands that the length of such an alternative service has been set at three years, one year longer than that for military service (apparently those serving alternative service are presumed to have greater free time and shorter working hours than military conscripts confined to barracks). Although set to come into force from 1 January 1998, by the end of the period under review the law had nevertheless not been implemented or accompanied by the necessary mechanisms which would enable objectors to take advantage of its provisions.

One young man said to have fallen foul of this lack of provision is Amiran Meskheli, who was reportedly forcibly and illegally conscripted around August after writing an article on the army for a local newspaper. After his article - an interview with an anonymous soldier on homosexuality in an army unit - appeared in the independent newspaper *Orioni* (from the Samtskhe-Javakheti region), Amiran Meskheli was allegedly called up for military service without being served the relevant conscription papers or undergoing the necessary medical examination, and was sent to the military unit described in his article. He applied to perform a civilian alternative service, and when this was refused he began a court action against the conscription office, the central conscription commission, and the Office of State. Amnesty

International urged the Georgian authorities to implement in practice the law on alternative service, and ensure that it provides a fully civilian alternative of non-punitive length to all those whose conscientiously-held beliefs preclude them from performing military service.

### **Concerns in the disputed region of Abkhazia**

#### **Alleged arbitrary detentions**

There were continuing reports that Georgian civilians had been detained arbitrarily, usually for short periods. In some cases it was alleged that those detained were held as hostages, and/or with a ransom demanded for their release. On 22 July, for example, eight Abkhazian soldiers are said to have seized four ethnic Georgians and one Russian from the village of Orsantia in the Zugdidi region, on the Georgian side of the Inguri river border, and to have taken them to the village of Otobaia in the Abkhazian controlled Gali district where they were being held to ransom (reportedly US\$500 each). The four Georgians were named as Guram Beselia, Eter Khuperia, Rezo Kvaraia and Oler (also given as Onri) Sakheishvili; the name of the Russian detained was not reported. Eter Khuperia was released the same day, and claimed that the Abkhazians had threatened to shoot the other men unless they received the money demanded by 11am the following day. One of the alleged hostages, Oler Sakheishvili, was said to have been killed during the episode, and his body sent back with the other men once money had been handed over.

Amnesty International urged the *de facto* Abkhazian authorities to ensure that no one was detained outside legitimate administrative and criminal procedures; that those placed under arrest were charged with a recognizably criminal offence or released; and that no one was held as a hostage.

The Abkhazian authorities also reported that some of their law enforcement officials had been kidnapped by ethnic Georgian insurgent forces, and were being held on Georgian controlled territory (one report at the end of December speaks of at least seven alleged hostages). Other officials were killed in ambushes or mine explosions. The Abkhazian side repeated allegations that the insurgents frequently acted with the tacit knowledge or consent of the Georgian authorities, who did not act with sufficient rigour to clamp down on their activities. (see AI Index: EUR 56/02/98).

#### **The death penalty**

At least one person under sentence of death was pardoned. Lt.-Col. Ruzgen Gogokhiya, an ethnic Georgian, had been detained in Abkhazia in 1994 on charges of sabotage and terrorism during the war which broke out in 1992 (see AI Index: EUR 56/04/96), and was sentenced to death by a military tribunal in December 1995. He was said to have been released on 18 July.

Five other men on death row reportedly escaped on 14 December. They had been held in an Interior Ministry prison in the capital, Sukhumi. Amnesty International has urged the *de facto* Abkhazian authorities to move beyond their moratorium on executions towards full abolition.

## **GERMANY**

### **The alleged ill-treatment of detainees**

#### **New allegations**

In August Amnesty International received a response from the German authorities concerning numerous allegations that foreigners, had been subjected to cruel, inhuman and degrading treatment by police officers.

According to written and oral statements made to Amnesty International, Collins Ojo, a Nigerian, was waiting on platform 5 of the railway station at Passau (a town on the German-Austrian border) on 21 September 1997, when a police officer came up to him and asked him where he was travelling to. He told the officer that he was waiting for his wife and child to arrive. The officer then asked him for his identification papers. Collins Ojo states that he was fully prepared to comply with the officer's request, but that first he asked the officer why he, out of all the people waiting on the platform, had been asked to identify himself. In response to this the officer allegedly told Collins Ojo: "*Das ist scheißegal!*" ("I don't give a shit!"). According to Collins Ojo, the officer then beckoned three Austrian colleagues over. Without warning, the four officers grabbed hold of him by the neck and arms and tried to handcuff him. Not understanding the reason for the officers' actions, Collins Ojo resisted their efforts to twist his arms behind his back and cried out for help. At this point one of the officers allegedly put his hand over Collins Ojo's nose and mouth so that he could hardly breathe. His feet were then pulled out from under him and he fell to the ground, hitting his head. Collins Ojo states that while he was on the ground the officers hit him on his back and hands with their batons and handcuffs. He was then handcuffed and pulled up. When he asked the officers (in English) whether all foreigners were treated like this in Germany, one of them allegedly replied by telling him he should go back where he had come from ("*Niemand braucht Dich in diesem Land, geh' zurück wo Du herkommst!*"). Collins Ojo also alleges that as he was being taken away, one of the officers put his baton through the handcuffs and lifted his arms up, forcing him to walk on the tips of his toes. Shortly afterwards his wife and child were brought into the office. Mirjam Junker-Ojo was shocked to find her husband bleeding from the head and crying. Collins Ojo was later treated in hospital for an abrasion of the forehead, headache, dizziness, nausea, superficial abrasions of the left wrist and a loss of feeling in two fingers. The officers brought charges against Collins Ojo for resisting enforcement officers ("*Widerstand gegen Vollstreckungsbeamte*"); Collins Ojo himself brought charges against the officers for his alleged ill-treatment.

Azerbaijani asylum-seeker Arif Mamedov alleges that on 10 October 1997 he was ill-treated by Munich police officers in the asylum-hostel where he lives in *Rosenheimerstraße*. According to a statement, made to Amnesty International, Arif Mamedov was woken up by noise at approximately 11pm on the evening in question. He left his room to investigate and saw a large crowd of police officers in the corridor. Arif Mamedov approached the officers to ask what they were doing there and was himself asked by one of them which room he lived in. The asylum-seeker alleges that he told the officer his room number and that the officer then, without warning, took hold of him by the scruff of the neck and struck him against the wall, telling him to stay where he was. According to Arif Mamedov: "I was shocked by this action and indicated that I'd done nothing wrong and shouldn't be treated in this way. I hadn't finished speaking when another police officer hit me with his two thumbs in my throat and pressed me with all his body weight to the wall ... I couldn't breath and tried pushing him away. At that moment, all the police officers who were standing near us began to hit me with their cudgels. They threw me on the floor with my face down, tied my feet and hands with handcuffs. While all that was happening, the knees of two policemen were on my neck, pressing my jaw to the floor so that I couldn't speak."

The officers' actions were reportedly witnessed by other inhabitants of the hostel. Arif Mamedov alleges that one officer then grabbed him by the hair, while another took hold of the handcuffs between his wrists; both officers then dragged him to a police car. The asylum-seeker further alleges that another officer punched him in the face with a gloved fist and told him to shut up. He was then thrown into the back of the police car and told: "If you don't like it, go back to Russia!". At the police station Arif Mamedov asked why he had been brought there. He was told that it was because he had resisted officers in the performance of their duty. Arif Mamedov was reportedly detained overnight. The following day Arif Mamedov was examined at München-Perlach Hospital and the following injuries were diagnosed: swelling and bruising of the right cheek and chin; abrasions of both wrists; bruising of both arms and of the right tibia; bruising and swelling of the third and fourth fingers of the right hand; a fracture to the fourth finger

of the right hand. Arif Mamedov made a formal complaint about his alleged ill-treatment to the Munich police.

According to statements made to Amnesty International, Congolese asylum-seeker Kilandani Mangani alleges that on 18 October 1997 he was stopped by a police officer at a bus stop in the centre of Würzburg and asked for his passport. The asylum-seeker states that he told the officer he did not have his passport on him. However, he gave the officer his bank card, travel card and an official piece of paper issued by the Würzburg authorities (which had on it his personal details and a passport photograph) and also offered to go to his flat nearby with the officer. The officer, however, appeared uninterested in what he had been given and put the two cards on the edge of a rubbish bin. He also reportedly crumpled up the piece of paper he had been handed and placed it on the roof of his vehicle without looking at it. Instead he asked Kilandani Mangani for his wallet. Angered by the lack of politeness shown by the officer and afraid, he refused to hand it over. At this point the officer, without warning according to Kilandani Mangani, took hold of his right arm, twisted it behind his back and threw him to the ground. With his knee pressing in the detainee's back the officer tried to handcuff him. The officer then called for reinforcements. Several other officers arrived in two vehicles and carried Kilandani Mangani over to one of them. There, according to the asylum-seeker, they struck his head on the bonnet of the car while they tried to place restraints on his hands and feet.

According to local newspaper reports<sup>6</sup>, several bystanders attempted to intervene on the asylum-seeker's behalf. When one of the crowd at the scene told the arresting officer to leave him alone because he was bleeding, the officer allegedly replied "I don't give a shit!" ("*Das ist scheißegal!*"), while another bystander was reportedly pushed into the crowd by the officer after asking to see his police badge. A third witness reported that the officer told one woman, who found the whole incident so upsetting that she started to cry: "Save your tears for people who are worth it" ("*Sparen Sie sich Ihre Tränen für die, die es wert sind*"). A medical examination which took place two days after the incident revealed that Kilandani Mangani had suffered a cut and swollen lip, a bruise on the right wrist, swelling of the back muscles, and bruising of the ribs.

The police authorities have reportedly stated that Kilandani Mangani refused to stop and identify himself when requested to do so by the officer, and that he struck out at the officer when the latter took hold of him. However, many neutral witnesses have stated to journalists, and to Amnesty International, that the force used by the officer involved was unnecessary, as the detainee had offered no resistance and was clearly injured as a result of the force used against him. Kilandani Mangani himself states that his lip was cut when an officer punched him in the face while he was on the ground. A number of witnesses went directly to a nearby police station to make a formal complaint about the treatment of Kilandani Mangani.

In their response, the German authorities stated that, according to their assessment, there were no indications whatsoever of inappropriate behaviour by the police officers (*..keinerlei Anhaltspunkte für ein Fehlverhalten der Beamten vorlagen*) in the three cases. All three complaints were rejected. Kilandani Mangani was fined 1200 DM for resisting enforcement officers.

### **Update to cases previously documented**

Amnesty International had called for prompt and impartial investigations into numerous allegations that asylum-seekers had been subjected to cruel, inhuman or degrading treatment by officers of the Federal Border Police during attempts to deport them from Düsseldorf airport (see AI Index: EUR 01/02/98). In August Amnesty International was informed by the Federal Ministry of Interior that according to available

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<sup>6</sup> See, for example, "*Kripo ermittelt gegen einen Polizeibeamten*", *Mainpost*, 21 October 1997.



results, there was no indication of any ill-treatment of the deportees by the Federal Border Police, but that the public prosecutor's office was continuing with investigations into the incidents.

In August 1997 Amnesty International had called upon the Lower Saxony authorities to conduct prompt and impartial criminal and disciplinary investigations into the alleged ill-treatment of Bahram Javadi Moghaddam (see AI Index: EUR 01/01/98). The Iranian student alleged that a police officer ill-treated him in the centre of Brunswick. In July Amnesty International was informed by the Braunschweig police headquarters that the officer was fined 500 DM on account of physical injury resulting from negligence to be paid to Amnesty International.

## **GREECE**

### ***Conscientious objection to military service***

In September Law 2641 on Universal Defence (*Pallaiki Amyna*) was voted by Parliament. All women and men aged between 18 and 60 not serving in the armed forces are required to complete service of up to four days a year in universal defence units. Pregnant women or those with children under the age of 12 are exempted. Members of units perform a range of functions, such as responding to natural disasters and providing first aid. However, according to Article 9 of the legislation, some universal defence units located in border areas may be provided with arms and ammunition "in cases of war, mobilization or tension or for the purpose of scheduled exercises in peace time...". Furthermore, Article 14 of the law states that failure to report for service is punishable by a period of imprisonment of one month, and a repeat offence carries a three months' prison sentence. There is no right to conscientious objection under Law 2641.

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

#### **The cases against the "Rainbow" Party**

In September Vasilis Romas, Costas Tasopoulos, Petros Vasiliadis and Pavlos Voskopoulos, all members of the ethnic Macedonian minority "Rainbow" Party were acquitted at their trial in Florina (see AI Index: EUR 01/01/98). Charges had been brought against them for "causing and inciting mutual hatred among citizens" after they displayed a sign bearing the words "Florina Committee" in both Greek and Macedonian outside the Florina office of the Rainbow Party in September 1995.

In November Traianos Pasaos, another member of the "Rainbow" party, was acquitted at his trial at Florina Police Court. He had been charged with "spreading false information and rumours which could provoke fear and anxiety among citizens" for reportedly having crossed the border into Greece from the Former Yugoslav Republic of Macedonia carrying "two wall calendars which he intended to circulate" (see AI Index: EUR 01/02/98).

#### **The case of Mehmet Emin Aga**

In December Mehmet Emin Aga was sentenced to a further seven months' imprisonment by the Single-Member Criminal Court of Larisa on charges of "usurping the title of Mufti" when sending out two written messages to the Muslim community on the occasion of two Islamic religious celebrations in April and July 1997 (see AI Index: EUR 01/02/98). Mehmet Emin Aga has appealed against the sentence.

### **Conditions amounting to cruel, inhuman or degrading treatment**

Detention conditions in both Drapetsona Detention Centre in Piraeus and at the Attica Police Headquarters in Athens were reported to be so poor that they constitute cruel, inhuman or degrading treatment. The Drapetsona Detention Centre reportedly houses 80 to 90 people in cells which are badly overcrowded. Amnesty International has been informed that in some instances prisoners are so densely packed into cells that they have difficulty in finding a place to lie down. The centre is reported to be used only for non-European Union foreigners. Poor conditions at this centre also include lack of adequate exercise; lack of natural daylight; insufficient toilet and bath facilities; restrictions on visits; severely limited access to a doctor or medical treatment; and no access to social services. These conditions have reportedly led to psychological disorders in some prisoners. Twelve detainees from outside the EU who had either completed their sentences or had never been charged with any offence complained publicly in August that they had been held in these conditions for long periods, pending deportation to their country of origin. Amnesty International wrote to the Greek authorities in August requesting them to take all necessary steps to ensure that conditions in Drapetsona Detention Centre were improved. The organization also requested detailed information concerning the legal grounds for the continued detention of the 12 non-EU nationals. No reply was received by the end of the year.

Thirty-five-year-old Syrian national Mohamed Doguz, who was recognized as a refugee by the United Nations High Commissioner for Refugees, had been detained in Drapetsona in these conditions for about 17 months after he finished serving a prison sentence. In December he was deported to his country of origin despite his allegations that he would face the death penalty if returned to Syria.

## **IRELAND**

### ***New emergency powers***

In September, in the wake of a bomb-blast in Omagh, Northern Ireland, which resulted in the deaths of 29 people, legislators passed hastily drafted additional emergency provisions. The Offences Against the State (Amendment) Act 1998, which the government itself called "draconian", permits courts in trials of certain offences, including membership of an unlawful organization, to draw adverse inferences from a suspect's exercise of the right to remain silent during police questioning. The new law also extends the period of detention without charge for certain offences and creates new offences including: collection or possession of information likely to be useful to members of illegal organizations; withholding information; and directing an illegal organization. Amnesty International urged legislators not to adopt the provisions of the proposed legislation, which it believed violated international standards and were inconsistent with the government's commitment in the Multi-Party Agreement for the early removal of emergency powers (see AI Index: EUR 29/03/98). The organization said that curtailing the right to silence impermissibly shifts the burden of proof onto the accused and violates the presumption of innocence and the right not to be compelled to testify against oneself. The provision extending the period of detention before charges are brought, compounded by the lack of access to counsel during questioning, violates the right to assistance of counsel during interrogation and the right to be informed of charges without delay.

### ***Asylum-seekers***

Amnesty International raised with the government its concern that asylum-seekers were deported under procedures which were not independent, and which did not provide for a full and fair hearing of all asylum applications. The organization continued to urge the government to fully implement the Refugee Act 1996

and to ensure that all asylum-seekers, including those who had transited through other European Union countries, received full and fair hearings of their applications.

## ITALY

### ***United Nations Human Rights Committee examines Italy's record***

In July the UN Human Rights Committee meeting in Geneva considered the government's fourth periodic report on its implementation of the International Covenant on Civil and Political Rights. In its official Concluding Observations, the Committee listed, amongst its principal subjects of concern, continued delay in introducing a criminal offence of torture, "as defined in international law". It also stated that it remained concerned at "the inadequacy of sanctions" against law enforcement and prison officers "who abuse their powers" and recommended that "due vigilance be maintained over the outcome of complaints" made against such officers. Although noting that the government had drawn attention to "steps taken to speed up both criminal and civil trials", it was concerned that "so far, no result has become apparent". It recommended that "further measures be taken to increase the efficiency and promptness of the entire system of justice".

The committee recommended that "the maximum period during which a person may be held in custody following arrest on a criminal charge be reduced, even in exceptional circumstances, to less than the present five days and that the arrested person be entitled to access to legal advice as soon as he or she is arrested". It stated that it had "paid close attention to the Italian system of holding offenders, before and after trial in 'preventive detention', until the final stages of any possible appeal have been exhausted and the sentence has been finalised: it notes that maximum period for such detention is set by reference to the penalty for the offence of which the person stands accused, and can last up to six years; this could constitute in Italian law an infringement of the presumption of innocence ... and the right to the principle of a fair trial within a reasonable time or to release ...". The Committee recommended "that (i) the linkage between the offence with which a person has been charged and the length of detention from the time of arrest up to final sentence should not be maintained; and (ii) that the grounds for preventive detention be restricted to those cases in which such detention is essential to protect legitimate interests, such as the appearance of the accused at the trial."

The Committee noted that changes to the Code of Criminal Procedure had resulted in some reduction in numbers of persons held in 'preventive detention' but expressed its concern, however, that prison overcrowding remained "a serious problem" and recommended urgent remedial action.

Amnesty International submitted information to the Committee about a number of its concerns in Italy and many were raised during the questioning of the government's representatives by individual Committee members and addressed in the Committee's Concluding Observations.

### ***The case of Abdullah Öcalan***

The judicial authorities, acting on an international arrest warrant issued by Germany, detained Abdullah Öcalan, leader of the Kurdish Workers' Party (PKK), upon his arrival in Rome on 12 November. Armed members of the PKK have committed hundreds of deliberate and arbitrary killings of civilians and prisoners in Turkey since the organization's foundation in 1978, and have reportedly attacked and killed its supposed enemies in various European countries, including Germany.

Abdullah Öcalan, who applied for political asylum on arrival, was first detained in hospital, then in private accommodation under a form of town arrest (*obbligo di dimora*). A Rome appeal court lifted the detention order on 16 December after Germany withdrew its arrest warrant and confirmed that, for reasons of internal security, it had decided against requesting the PKK leader's extradition to answer criminal charges.

Decisions on Abdullah Öcalan's asylum request and on a formal request for his extradition by Turkey had not been issued by the end of the year. However, in November the judicial and government authorities, in rejecting an international warrant for his arrest issued by Turkey, had already declared that he could not be returned to Turkey as he faced the death penalty there. Italian constitutional law precludes extradition of any person to a country where they risk the death penalty. The government also publicly opposed granting political asylum to Abdullah Öcalan and indicated that it was exploring the possibility of bringing him to trial before a national or international court.

At the end of December Abdullah Öcalan remained under police surveillance for security reasons but was free to leave the country.

Amnesty International made public its reservations about the possible extradition of Abdullah Öcalan on the grounds that he might face the death penalty or ill-treatment and torture, but stated that it was nevertheless essential that states uphold international humanitarian standards by energetically seeking the means to bring to justice those who have directly violated those standards or ordered others to do so through a chain of command. In December Amnesty International wrote to the Prime Minister, Massimo D'Alema, asking what steps were planned to ensure that Abdullah Öcalan would be tried for his part in the widespread human rights abuses committed by the PKK, under his leadership.

In January Abdullah Öcalan left Italy for an unknown destination, with the knowledge of the Italian government.

***Fair trial concerns: the cases of Adriano Sofri, Ovidio Bompreschi and Giorgio Pietrostefani*** (update to information given in AI Index: EUR 01/02/98 and 01/01/98).

Three leading members of the former extra-parliamentary left-wing group *Lotta Continua* (Continuous Struggle) - Adriano Sofri, Ovidio Bompreschi and Giorgio Pietrostefani, continued to serve the 22-year prison sentences they began in January 1997 for participation in the killing of Police Commissioner Luigi Calabresi in Milan in 1972. In August the temporary suspension of sentence on health grounds granted to Ovidio Bompreschi in April was converted into house arrest (*arresti domiciliari*).

In March the Fifth Section of Milan Appeal Court had pronounced on the men's application, lodged in December 1997, for a judicial review of a sentence issued by the Third Section of Milan Appeal Court in 1995 which had resulted in their imprisonment in January 1997 after nine years of judicial proceedings and seven trials. The prisoners argued that the application contained new witness testimony and new technical and ballistic evidence and that the proceedings qualified, therefore, for review. However, the court had concluded that the application was based on information which had either been already examined, or was irrelevant, and was, therefore, inadmissible.

The prisoners then lodged an appeal with the Supreme Court (*Corte Suprema di Cassazione*). In October, in a highly critical analysis of the appeal court's reasoning, the Supreme Court annulled the Appeal Court's decision and referred the application back to another section of the Milan Appeal court for re-examination and a decision on retrial. However, following the introduction in November of new legislation preventing an application for judicial review from being examined twice by the same appeal court, the application was transferred to Brescia Appeal Court. The court's decision was still awaited at the end of December.

Amnesty International continued to express concern about the excessive length and complexity of the proceedings and about several other aspects which raised serious doubts about their fairness.

***The alleged ill-treatment of Grace Patrick Akpan*** (update to information given in AI Index: EUR 01/06/97 and EUR 01/01/97)

The joint trial of two police officers charged with causing Grace Patrick Akpan, an Italian citizen of Nigerian origin, serious injuries, insulting her, threatening her and abusing their powers in February 1996 and of Grace Patrick Akpan on charges of refusing to identify herself to them, and of insulting, resisting and injuring a police officer, which had been postponed since February 1997, opened in December. However, after one day the hearing was postponed until March 1999, apparently to allow the court to question further witnesses.

Grace Patrick Akpan, a medical student at the time of the alleged incidents and now a practising doctor, claimed that two police officers who stopped her for an identity check in Catanzaro in February 1996 subjected her to verbal insults and physical ill-treatment on the street, in their car and in the police station. She also claimed that requests she made while at the police station - to be taken to casualty when she was feeling ill and to be given water - were both denied her until her identity had been checked. Within hours of her release she was admitted to hospital where she remained for two weeks receiving treatment for her injuries.

## **KAZAKSTAN**

### ***Harassment of opposition supporters***

#### **Short-term detentions**

There were fears for the safety of Mikhail Vasilyenko who was held incommunicado for three days after being detained by police on 18 September in the capital Astana. He had gone to Astana to distribute draft amendments to the constitution and the law on elections, commissioned by Akezhan Kazhegeldin, the former Prime Minister. Following a telephone call to his family to let them know what had happened to him no one was able to establish Mikhail Vasilyenko's whereabouts. All police stations and directorates of internal affairs (UVD) contacted denied that he had been detained or was being held in one of the city's or the region's investigation-isolation prisons. Mikhail Vasilyenko was released on 22 September; he had allegedly been charged with hooliganism and summarily sentenced by a court in Astana to three days' administrative detention. Mikhail Vasilyenko was advisor to the former Prime Minister of Kazakhstan and current President of the Union of Industrialists and Entrepreneurs, Akezhan Kazhegeldin. Akezhan Kazhegeldin claimed that the detention of Mikhail Vasilyenko was yet another attempt to isolate him politically and to prevent his ideas from being widely publicized. In August, his former press officer was allegedly severely beaten outside his house in Almaty and his recent book on the political situation in Kazakhstan was barred from being published in Kazak.

On 15 October, three-day administrative detention sentences were handed down on Petr Svoik, co-chairman of the opposition Azamat movement, and Mels Yeleusizov, leader of an environmental movement, for holding an unauthorized meeting on 2 October under the auspices of an organization called "For Fair Elections in Kazakhstan". Two others, including the leader of a pensioners' movement, and presidential candidate and former Prime Minister Akezhan Kazhegeldin, were fined for participating in the meeting. Amnesty International was concerned that the sentences might have been an attempt to punish them for their political opposition to the Kazak government and to dissuade them from campaigning in the forthcoming presidential elections.

A week earlier the Kazak parliament had adopted constitutional amendments prolonging the presidential term in office and removing restrictions both on the president's age and his/her eligibility to

run for office more than twice. On 8 October parliament approved bringing forward presidential elections from December 2000 to January 1999. Akezhan Kazhegeldin had subsequently announced his candidature for the presidency. In a press conference on 9 October Petr Svoik and other Azamat leaders were reported to have questioned the legitimacy of parliament's actions. The fine in fact rendered Akezhan Kazhegeldin ineligible to run for the presidency since amendments to the Kazak Law on Elections barred candidates convicted of an administrative or criminal offence from running for public office.

In December 1997, Petr Svoik was reportedly beaten by masked men while in Kyrgyzstan to speak about the political opposition movement in Kazakstan at an international conference. In April this year he defended in court Madel Ismailov, chairman of the opposition Workers' Movement of Kazakstan, who at the time of the presidential elections would still be serving a one-year sentence in a prison camp in Petropavlovsk for "insulting the honour and dignity of the President" and was considered by Amnesty International to be a prisoner of conscience.

### ***Fear of refoulement***

In October Amnesty International sought assurances from the Kazak authorities that three ethnic Uighurs from the Xinjiang Uighur Autonomous Region of China would not be returned from Kazakstan to China, where it was feared they could face gross human rights violations, including torture and possibly the death penalty, for their political views and activities. The three men, who included Khamit Memet, were reportedly arrested while attempting to cross the border between China and Kazakstan. They were believed to be held in the "investigation isolation prison" (SIZO) of the Committee of National Security (KNB) in Almaty, Kazakstan's former capital. Khamit Memet's name had appeared on a "Wanted" poster distributed earlier that year by the security organs in the Xinjiang Uighur Autonomous Region, People's Republic of China. The poster indicated that he was sought by the Chinese authorities on suspicion of involvement in "separatist" activities. The other two men were apparently being sought for similar reasons. The forcible repatriation of Khamit Memet and the two others by the Kazakstan authorities would be contrary to Kazakstan's obligations under international law, in particular the principle of *non-refoulement*. Earlier that year Kazakstan acceded to the United Nations Convention against Torture. Article 3 of the Convention forbids the return of a person to another state where there are substantial grounds for believing that they would be in danger of being subjected to torture. It also requires that the authorities take into account "all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights." Amnesty International believed that such a pattern of violations existed in the Xinjiang Uighur Autonomous Region. By the end of the year the three men had not been sent back to China.

### ***The death penalty***

According to official records, in the first eight months of 1998, 24 cases of people sentenced to death came before the presidential Clemency Commission, and three received clemency. The same statistics recorded that eight applications out of 56 in 1997 received clemency. No executions were reported.

## **KYRGYZSTAN**

### ***Harassment of human rights defenders***

#### **Human rights activists punished for organizing peaceful protest**

Four human rights activists were detained in connection with a planned demonstration against a nationwide referendum proposed by the President in relation to a package of constitutional changes, including privatization of land, changes to the structure of parliament, a reduction in parliamentary immunity and outlawing of censorship. Three activists from the regional branch of the Kyrgyz Committee for Human Rights (KCHR) were detained in the city of Jalal-Abad on 23 September. Albert Korgoldoev, the branch head, Tynybek Batyraliev and Abdunazar Mamatislamov were members of a committee which had sought permission to hold a peaceful demonstration against the proposed referendum in Jalal-Abad on 25 September. The committee was still awaiting a decision by the local authorities when the three were arrested. Albert Korgoldoev and Tynybek Batyraliev were reportedly charged with violating public order under Article 163 of the Kyrgyz Civil Code, for inviting the public to attend the demonstration; according to some reports, they were found in possession of leaflets and posters. They were sentenced on the morning of 24 September by Jalal-Abad City Court to 15 days' administrative detention. Apparently they had not been given access to a lawyer. They were released on 7 October. Criminal proceedings were reportedly opened against Abdunazar Mamatislamov. He was released on 1 December after the court sent his case back for further investigation. Edgar Parpiev, a member of the Jalal-Abad regional human rights organization "Justice", also received 15 days' administrative arrest in connection with preparation for the demonstration, which reportedly went ahead peacefully on 25 September.

Amnesty International had called for the immediate release of the human rights activists in Jalal-Abad, whom the organization believed to have been arrested solely for organizing a peaceful protest. In a reply received in December, the Kyrgyz government stated that the arrests of Albert Korgoldoev and Tynybek Batyraliev were in accordance with national legislation and that they had been released following the entry into force of a new civil code on 1 October which repealed the article under which they had been charged. The letter went on to explain that the criminal case opened against Abdunazar Mamatislamov was not in relation to the demonstration, but in relation to a criminal matter dating back to 1996. It was coincidental that he was detained on the same day as Albert Korgoldoev and Tynybek Batyraliev.

### **Deregistration of the Kyrgyz Committee for Human Rights**

At the end of September the Ministry of Justice revoked the registration of the KCHR. There were allegations that the timing of the deregistration, which came just before the Presidential referendum, was politically motivated and was intended to prevent the KCHR from monitoring the referendum. The KCHR's official registration as a public association, granted in June 1996, was revoked at the request of the procurator general's office, which protested the legality of the registration, based on the claim that several of the founding members of KCHR had in fact not been present at the founding meeting. There was concern that correct procedures had not been followed since under the Kyrgyz Law "On Public Associations", only a court, and not an administrative body, can revoke the registration of a public association.

### ***The death penalty***

On 5 December President Akayev signed a decree for a two-year moratorium on the carrying out of executions. It came into effect upon publication in the government gazette on 8 December and did not require confirmation by parliament. The decree stated that the moratorium was inspired by "the principles of humanism, esteem for and observance of the fundamental human rights and freedoms" and cited in particular the 50th anniversary of the adoption of the Universal Declaration of Human Rights.

According to unofficial statistics on the application of the death penalty, at least 40 death sentences had been passed in 1997. Thirty-one people were executed in the same year and three death sentences were commuted. In 1998 at least 34 death sentences had been passed and four executions had

taken place, prior to the moratorium on executions. Amnesty International welcomed the moratorium but continued to appeal for complete abolition of the death penalty.

### ***Fear of forcible repatriation***

In December Amnesty International wrote to the Kyrgyz authorities about the trial of three persons of Uighur origin in Chuy Regional Court. Turkish citizens Delawur Guler and Jalal Kasarji, and Kurban Yasin, a Chinese citizen from the Xinjiang Uighur Autonomous Region, were arrested in Bishkek in April 1998, accused of conducting "Wahhabi" propaganda, stirring up inter-ethnic and inter-religious hatred, conducting terrorist trainings, and of illegal possession of weapons and forgery. On 15 December Jalal Kasarji was sentenced to 14 years' imprisonment for forgery, illegal possession of weapons and armed resistance to the authorities. Kurban Yasin was sentenced to eight months in prison, but having already served that time in pre-trial detention, he was released in the court room. Delawur Guler was acquitted. Amnesty International was particularly concerned about the situation of Kurban Yasin. Although an extradition agreement between the Kyrgyz Republic and Chinese People's Republic ratified by China earlier that year remained unsigned by the Kyrgyz Republic, the organization had received reports that Kurban Yasin might face imminent return to China. The context in which the trial and the arrests which preceded it took place made it extremely likely that if returned to China Kurban Yasin would face gross human rights violations, including torture and arbitrary detention. Amnesty International sought reassurances from the Kyrgyz authorities that Kurban Yasin would not be returned to face this danger.

## **MACEDONIA, THE FORMER YUGOSLAV REPUBLIC OF (FYROM)**

### ***Detention and amnesty of prisoners of conscience and political prisoners***

Four ethnic Albanian political prisoners who were sentenced in 1997 were sent to serve their sentences. The sentences had been reduced on appeal earlier in 1998. Rofi Osmani, the Mayor of Gostivar and Refik Dauti, the President of the Gostivar Municipal Council, had their sentences reduced from 13 years' eight months to seven years' and from three to two years' imprisonment respectively. The Mayor, Alajdin Demiri, and President of the Tetovo municipal council, Bebi Bexheti, had their sentences reduced from three to two years' imprisonment. Refik Dauti and Bebi Bexheti were prisoners of conscience. All four were convicted in connection with events in Gostivar in July 1997 (see AI Index: EUR 01/01/98)

Another possible prisoner of conscience, I\_o Gavrilov, who was sentenced to three years' imprisonment for stamping on the national flag in 1997 had his sentenced reduced from three to two years' imprisonment upon appeal. He remained at liberty on health grounds.

In October parliamentary elections produced a majority for a coalition of the former main opposition party, the VMRO-DMPNE and the Democratic Alternative. A coalition government was formed together the Democratic Party of the Albanians, which had also been in opposition. At the end of December the new parliament passed an amnesty act which would pardon the four prisoners mentioned above together with many others accused of ordinary crimes. However, President Kiro Gligorov, who belongs to the former ruling party, the Social Democratic Union of Macedonia, refused to sign the bill so as to make it law. The President was eventually circumvented and the prisoners were released in February 1999.

### ***Reports of ill-treatment by police***



There were reports of ill-treatment by police in a variety of circumstances. Two examples are described here.

On the evening of 2 August there was a confrontation between an employee of the Interior Ministry outside a café in Štip where a group of Roma were celebrating a family event. A large force of police were called and police officers allegedly beat some of the Roma as they restored order. That night and the following day several Roma men who had been taken to or reported to the police station were reportedly beaten at the police station.

In the early hours of 2 September journalist Marjan Gjurovski was stopped by police in the centre of Skopje. He claims that two police officers in plain clothes who had been following him put him in handcuffs and that one of them banged his head several times against the bonnet of a car breaking a tooth in the process.

Marjan Gjurovski was taken to the Bit Pazar police station where his identity was checked. He was told that he had been suspected of being involved in a crime because he had been moving in a area known for drugs and prostitution. He claims that he was threatened that more teeth would be broken if he did not answer the questions being put to him. After a while he was released with the explanation that a mistake had been made. Marjan Gjurovski claims that he was discouraged from complaining when he later returned to the police station to do so.

### ***Ill-treatment during arms-related arrests***

In September 1998 police carried out a series operations which they stated were aimed at arresting men suspected of having planned or carried out the series of explosions which had occurred in public places between December 1997 and July 1998. Some 17 men were detained in custody as a result of these operations. One man died in unclear circumstances during one of the police operations in a village near Ki\_evo. Amnesty International was concerned at reports which indicated that some of those arrested were held incommunicado and were tortured or ill-treated and that the police tried to extract confessions from them under torture.

An example is the case of 60-year-old Shaban Arifi and his son Arif from the village of Slup\_ane, near Kumanovo. Police came to the village on 18 September and took the men away to the police station in Kumanovo. Two guns were reportedly found in their house in a room used by Arif Arifi.

According to statements taken by Amnesty International, the men were held briefly and beaten in Kumanovo police station, before they were taken to an unknown location, probably Skopje. Both men were blindfolded and Arif Arifi was pushed into the boot of a car. The two men were held for about 24 hours at the unknown location and were repeatedly interrogated. Arif Arifi was beaten with truncheons and one occasion with a piece of wood two metres long. At another point a pistol was pointed into his mouth and he was threatened with being killed or thrown out of the window. As a result of the ill-treatment he signed a statement against his will. Shaban Arifi also claimed that he signed a statement because he was beaten. He states that he could not understand what he was signing because his Macedonian is poor and he did not have interpreter to assist him. Both men were taken back to Kumanovo the next day from where Shaban Arifi was released and Arif Arifi remanded in custody. Shaban Arifi was seen by a doctor who confirmed bruising to his chest and other parts of his body. Arif Arifi was charged with illegal possession of weapons but was released on bail after one month.

## **MOLDOVA**

### ***Visit of the Committee for the Prevention of Torture; legislation allowing incommunicado detention***

The Council of Europe's Committee for the Prevention of Torture, which monitors compliance by member states with the provisions of the European Convention for the Prevention of Torture (ECPT), conducted its first monitoring visit to Moldova in October. In fulfilment of Moldova's commitments on joining the Council of Europe, the ECPT, ratified by Moldova in October 1997, came into force in February 1998.

There were reports of the continued use in the Dnestr Moldavian Republic (DMR) of Presidential decree No. 222 on the Introduction of a State of Emergency. Under the provisions of this decree law enforcement officials could detain suspects for up to 30 days without charge and allegedly without access to a defence lawyer, removing one of the most important safeguards against torture and ill-treatment of suspects in police custody. During the period under review, there were reports that the DMR authorities continued to use the provisions of the decree to detain political opponents.

### ***Conditions of detention amount to cruel, inhuman or degrading treatment***

Prison conditions remained inadequate, with serious overcrowding. Conditions were especially harsh in pre-trial detention centres. The incidence of disease, especially tuberculosis, and malnutrition was high in all facilities. The Ministry of Justice took over authority for the prisons in 1995, replacing the Ministry of Interior, but reform of the system was said to be progressing slowly. According to reports in April, the power to issue orders for arrest was finally transferred from the procurators to the courts, except in the DMR.

Reportedly, little progress was made in legal and judicial reform. The parliament failed to adopt new Criminal and Criminal Procedure Codes and the norms of the old Soviet-style penal legislation continued to be applied, in some cases in violation of international standards. For example, under the provisions of the existing Criminal Code minor non-violent economic offences were still punishable by imprisonment. According to the Moldovan Helsinki Committee, a local human rights group involved in monitoring conditions of detention, almost half of the detainees held in pre-trial detention centres had been charged with minor economic crimes, such as stealing up to \$20.

### ***Persecution of conscientious objectors to military service by the DMR authorities***

There were no provisions in the DMR for alternative civilian service and conscientious objectors to military service continued to face imprisonment. It was reported that during the year the DMR authorities repeatedly refused to register as a recognized religious confession the Jehovah's Witnesses, mainly on the grounds that their refusal to serve in the army, based on their religious beliefs, contradicted the law of the DMR for mandatory military service. Similar cases were reported by members of Baptist Churches in the DMR which also have been refused registration by the authorities. They were not allowed to distribute Baptist religious literature or organize public meetings.

Amnesty International called on the DMR authorities to respect the right to conscientious objection, to introduce an alternative civilian service and to release all imprisoned conscientious objectors.

### ***Refoulement of conscientious objectors and other asylum-seekers***

Moldova remained, reportedly, the only state in Eastern Europe that has not yet adopted national legislation providing for protection of asylum-seekers, refugees and displaced persons. The Moldovan authorities failed to provide adequate protection to asylum-seekers and there were a number of cases of people being returned to countries where they could face further human rights violations.

The lack of a proper legal procedure for determining refugee status in Moldova resulted in a number of cases where conscientious objectors to military service who fled the DMR to avoid imprisonment were returned by the Moldovan authorities. The official reason for the practice of

*refoulement* presented by the Moldovan authorities was that the conscientious objectors from the DMR did not have a resident permit (“propiska”) to reside on the territory of Moldova outside the DMR. The preservation in Moldova of the old Soviet-style residence permit system is a violation of the Moldovan Constitution and international standards relating to the right to freedom of movement.

There were also reports alleging that the Moldovan authorities, at the request of the DMR government, sent back members of the DMR opposition, who faced possible ill-treatment and imprisonment relating to their political opposition activities, and especially for their involvement in the 1992 armed conflict on the side of the Republic of Moldova against the DMR forces.

During the period under review, Amnesty International learned about the case of Anatol Ciubuc and Ekaterina Ciubuc, both of them asylum-seekers from the DMR. It was reported that on 22 April they were arrested by the Moldovan police in Chisinau, the capital, at the request of the DMR authorities, who claimed that the two had committed a crime. According to reports, members of the Moldovan Helsinki Committee appealed against the *refoulement* of the family to the Moldovan Procurator General and to the Chairman of the Chisinau Regional Court. As a result, they were released after 24 hours in detention. Anatol Ciubuc and Ekaterina Ciubuc claimed that while in police custody they were subjected to ill-treatment by Moldovan law enforcement officials and suffered physical injuries.

Amnesty International is not aware of any steps taken by the Moldovan government to remedy this situation and stop the practice of returning people to countries where they could face human rights violations, including to the DMR, which is officially still part of the Republic of Moldova, although the DMR authorities do not recognize the application of any Moldovan laws on its territory.

***The imprisonment of Ilie Ila\_cu and the case of the “Tiraspol Six”*** (update to information given in AI Index: EUR 01/02/98)

During the period under review, Amnesty International continued to receive reports about Ilie Ila\_cu, Alexandru Le\_co, Andrei Ivan\_oc and Tudor Petrov-Popa of the so-called “Tiraspol Six”, who had been convicted in December 1993 by a court in the DMR of the murder of two DMR officials (see *Amnesty International Reports*) and who are still in prison.

Alexandru Le\_co, Andrei Ivan\_oc and Ilie Ila\_cu were reported to be suffering from serious illnesses and not receiving adequate medical care. The DMR authorities repeatedly refused to allow independent medical examination of the prisoners by outside experts, including representatives of the International Committee of the Red Cross.

Amnesty International continued to call for a review of the case of Ilie Ila\_cu and his co-defendants, and for the four prisoners to receive appropriate medical care.

## **POLAND**

### ***Prisoner of conscience***

Amnesty International is concerned that 23-year-old Marcin Petke from Kartuzy has been convicted for refusing to perform military service under Article 230 of Law number 2 of 21 November 1967, and sentenced to six months’ imprisonment in violation of his right to freedom of thought, conscience and religion.

Marcin Petke applied for alternative service to military service on the grounds that his religious beliefs and strong personal convictions would not permit him to serve in the military. He cited the Bible’s fifth commandment: “Thou shall not kill”, as well as the fact that two of his friends had recently committed suicide while performing their military service. In April 1997 Kartuzy Military Commission rejected his

application for alternative service on the grounds that the Roman Catholic religion does not constitute sufficient grounds for conscientious objection to military service.

In June 1997 Marcin Petke refused to accept his call-up papers. He was subsequently tried for evasion of military service before the Garrison Court of Gdynia. In his defence he stated that military service was against his beliefs and philosophy. The judge then reportedly proposed that he should carry out an "alternative" service in the army where he would be assigned work in an army office. According to this proposal he would not be required to bear arms but would in all other respects be subject to the rules of army life. Having refused this proposal Martin Petke was sentenced in September 1997 to six months' imprisonment.

Marcin Petke appealed to the Military Regional Court in Poznan where his case was heard on 4 December 1997. The court rejected his lawyer's proposal for a second psychiatric assessment (the first one reportedly established that Marcin had a "socio-pathological" personality but was fit to serve in the army) and confirmed the decision of the Gdynia court. Subsequently his appeal to the Military Chamber of the Supreme Court was also rejected.

In July and September 1998 Marcin Petke was summoned to begin serving his prison sentence. However, his imprisonment had been deferred because of an illness. In October, Amnesty International appealed to the Polish authorities to quash Marcin Petke's conviction and to allow him to carry out alternative service.

On 29 January 1999, Marcin Petke was imprisoned to serve his sentence. Amnesty International considers Marcin Petke to be a prisoner of conscience and has called on the Polish authorities to release him.

## **PORTUGAL**

### ***Alleged ill-treatment by prison officers***

During the year Amnesty International received a number of allegations from prisoners throughout Portugal about ill-treatment by prison officers (AI Index: EUR 01/02/98). In September the organization wrote to the Justice Minister to express its concern about several specific cases. In its letter it also referred to the 1996 report on prisons (*Relatório sobre o Sistema Prisional*) by the Ombudsman for Justice, who had alluded to "constant references to arbitrary and oppressive situations inside the prisons" and recommended the establishment of an independent complaints body.

Amnesty International raised with the Justice Minister the case of 17-year-old Marcelino Avelino Ramos Soares, imprisoned in the south wing of Caxias prison, who had complained that on at least three separate occasions on a day in September 1997, after protesting about a refusal to allow his brother to visit him, he had been seriously beaten and racially abused by a number of prison guards, after which he was confined for three days to a punishment cell. Other cases included those of Augusto da Conceição Mata, imprisoned at Vale de Judeus, Alcoentre, who stated that he had been "brutally beaten by several guards" in January 1998 and Alberico A. Lopes Correia, also held at Vale de Judeus, who alleged he had been beaten unconscious by several guards in January, that his nose was fractured, that he was racially insulted and forcibly plunged in cold water. In two other cases it was alleged that a prisoner had been ill-treated prior to death. Francisco António Viceto Cordeiro was found dead in a disciplinary cell at Vale de Judeus in September 1997, one day before his release. The prisoner's family claimed they had received information from various sources that Francisco Cordeiro had been beaten to death. In July 1998 Dionisio Alberto Oriola was found hanging in a punishment cell at Coimbra prison, where he had been taken for psychiatric assessment. It was alleged he had been severely beaten by prison guards shortly before his death.

In December the Minister of Justice forwarded a reply from the Director General of Prison Services (*Director-Geral dos Serviços Prisionais* - DGSP). The director general stated that an internal inquiry into the allegations of Marcelino Soares was closed for lack of evidence, but that a criminal inquiry was continuing. Similarly, an internal inquiry into the allegations made by Augusto Mata was also closed, while a criminal inquiry continued. An inquiry found that the allegations made by Alberico Correia were unfounded, and that, on the contrary, the prisoner was facing criminal charges for acting violently against prison officers. The inquiry found that, although three prison guards had used violence against Alberico Correia, this had been "necessary and proportional" and x-ray examinations had not revealed any damage to his nose. The inquiry into the circumstances surrounding the death of Francisco Cordeiro was also closed without having discovered any breach of discipline either by custodial staff or by other prisoners. An inquiry into the death of Dionisio Oriola was still continuing.

The director general additionally informed Amnesty International that plans for an independent complaints body for prisons, as advocated by the Ombudsman, had been incorporated into the forthcoming legislative program. At the same time the DGSP was strengthening its structures of internal control and the increased activity of its monitoring and inspection service was reflected in the number of proceedings in which it was now involved - 504 in 1997, for instance, compared to 228 in 1995.

### ***Fernando Azevedo: fatal shooting by law enforcement officer***

In July Fernando Azevedo, reportedly known to the police as a petty criminal, was shot dead in Oporto in the course of a routine operation by the Transit Division of the Public Security Police (*Polícia de Segurança Pública* - PSP). Two officers found a parked car they suspected had been stolen. When Fernando Azevedo and his girlfriend returned to the car and climbed inside, they were accosted by the officers. Fernando Azevedo tried to escape by driving away, but one officer, still holding on to a car door, reportedly risked being hurt by the driver's attempt to shake him off by bumping into other cars. A second officer then reportedly fired first at the tyres, then through the window, hitting Fernando Azevedo in the back. It was not clear that, in the circumstances, the officer had fired in "legitimate defence". An inquiry into the shooting was continuing.

### ***Ourique: "Excessive force" at farmers' demonstration***

In September the Ombudsman for Justice and the General Inspectorate of Internal Administration (*Inspecção-Geral da Administração Interna* - IGAI) opened separate inquiries into a charge by officers of the National Republican Guard (*Guarda Nacional Republicana* - GNR) on a farmers' demonstration near Ourique (Alentejo), at a moment when demonstrators tried to block the road to the Algarve with a tractor. The Ombudsman reportedly expressed concern that an officer had used "unnecessary and disproportionate force" against demonstrators, even though they were not resisting arrest. The Ombudsman also recommended that handcuffs be used only as a last resort and not unnecessarily, or for prolonged periods, as he believed had been the case in Ourique. The IGAI inquiry concurred that, although the police operation was generally successful, and arrests had been made legally, there had been inappropriate and disproportionate use of a baton by one officer against two demonstrators, and it therefore recommended that the Minister of Internal Administration take disciplinary action against him. IGAI did not agree that the use of handcuffs had been abusive.

### ***Inquiries and trials relating to ill-treatment, torture and deaths in custody***

In July the Justice Minister informed Amnesty International that a prison guard had been charged with a breach of discipline, punishable with exclusion from the prison service, in connection with the use of disproportionate force against the prisoner Belmiro Francisco Schaht Duarte dos Reis Santana (AI Index: EUR 01/06/97).

In December Amnesty International wrote to the Inspector-General of Internal Administration requesting information about the progress of administrative and judicial inquiries into cases of alleged ill-treatment and deaths in custody from previous years. IGAI replied that, in some instances, although the inquiries had closed, their outcome would, for a time, remain confidential, as required by Portuguese law. In one case, that of Olívio Almada (AI Index: EUR 01/06/97), IGAI stated that a criminal inquiry had been unable to establish any connection between the death of Olívio Almada and his arrest and detention by PSP officers earlier the same night. However, the inquiry did conclude that the police officers had acted illegally when detaining Olívio Almada and would therefore be brought to trial. The General Command of the PSP had also ordered that disciplinary proceedings be taken against the officers. These were continuing.

The body of Olívio Almada, a young man of Cape Verdean origin, had been found in the Tagus river in Lisbon in October 1996. He was reportedly last seen alive by three PSP officers who stopped him to check his identity and who, having arrested him, drove him away in their patrol car. However, Olívio Almada was never taken to the police station and his arrest was not registered there. A press report at the time referred to visible signs of violence on the body, particularly the head and face.

IGAI also informed Amnesty International about the conclusions of three disciplinary inquiries into the circumstances in which a PSP officer at Sintra station had, in 1996, used a personal defence device to administer electric shocks to detainees. IGAI staff, who took over the inquiry from the PSP General Command, found that the shocks administered amounted to "real acts of torture" and that two other officers at the station, who had not taken part in these acts, had nonetheless acted illegally in not informing their superior officers about them. A disciplinary inquiry into the acts of the officer who committed the torture proposed that the Minister of Internal Administration should order his dismissal from the PSP. By the end of the year, the minister was awaiting the outcome of deliberations by the disciplinary council of the PSP (the *Conselho Superior de Justiça e Disciplina da PSP*) before taking a decision. The two other officers were suspended from duty. A separate, criminal inquiry by the Criminal Court of Sintra was continuing.

In November a PSP officer charged, in 1996, with the manslaughter of a suspected petty thief, Carlos Manuel Gonçalves Araújo, who died of an allegedly unnoticed gunshot wound after being taken into police custody (AI Index: EUR/01/06/97), was convicted by the Criminal Court of Évora and sentenced to a fine of 1500 escudos a day for 90 days, discounted by the 48 days he had previously spent in provisional detention. The prosecutor had requested a sentence of eight years' imprisonment, suspended for two years. The officer's detention had provoked anger among PSP officers, a number of whom refused to carry arms during the 1996 Christmas period, and led to the resignation of PSP commander general Gabriel Teixeira. During the trial the officer reportedly maintained that, in the course of pursuing and attempting to arrest Carlos Araújo, he had fired twice into the air. He was unable to explain how he had fatally shot Carlos Araújo from behind. The judge reportedly praised the officer's honesty and attributed the fatal shot to an unfortunate combination of circumstances, in which the officer had been taken by surprise, was under "stress" and had not been adequately trained in use of firearms. The officer's lack of training appeared to have been regarded by the court as an attenuating rather than aggravating factor in deciding the sentence.

Sixteen-year-old Sérgio Filipe Reis Nogueira and Luís António Gomes Alfama Correia, Carlos Araújo's two companions, were, on the other hand, sentenced to two years' imprisonment for theft by the *Tribunal de Circulo Judicial de Évora* in February, and were appealing against their sentence to the Supreme Court. Shortly after having been taken into custody they and Carlos Araújo had been beaten

around the head by another officer. IGAI informed Amnesty International that the beating was without justification of any kind, and had infringed the PSP's disciplinary code.

### ***International conference on human rights and police efficiency***

In November Amnesty International representatives attended a three-day international conference on "Human Rights and Police Efficiency", organised by IGAI and held in Lisbon. The conference was attended by a large number of PSP and GNR police officers and addressed by senior government officials, senior police officers, judges, lawyers and representatives of IGOs and NGOs. It received wide coverage in the Portuguese press and on television.

## **ROMANIA**

### ***Prisoner of conscience***

In April 1997 local journalists Cornel Sabou and Dan Pârc\_lab reported in the newspaper *Ziua Nord-Vest* (Days of the North West) that a group of people from the village of M\_nâu, in Baia Mare county, claimed that the mother of the President of the local court had dishonestly come into possession of their property. The President filed a libel suit against Cornel Sabou and Dan Pârc\_lab, in her own court, under Article 206 of the Romanian Penal Code. On 15 December 1997 N\_s\_ud municipal court sentenced Cornel Sabou to 10 months' imprisonment, fined Dan Pârc\_lab 500,000 lei (US\$57), and awarded the complainant damages of 30,000,000 lei. On 3 April 1998 the Bistri\_a-N\_s\_ud court rejected the journalists' appeal. In July they wrote to the Minister of Justice and the General Prosecutor of Romania urging them to file an extraordinary appeal to annul their conviction.

On 20 August Cornel Sabou was arrested and taken to Baia Mare penitentiary to serve his sentence. He was released on 12 October following a court decision that the execution of his sentence should be suspended for three months because of the birth of his third child. Subsequently, Cornel Sabou requested another suspension of his sentence on the grounds that he is suffering from tuberculosis. In January 1999, the court reportedly rejected this request because treatment for tuberculosis is available in the Jilava prison hospital and Cornel Sabou, who was in hospital, was threatened with imminent reimprisonment. Following appeals from Amnesty International and other human rights organizations, on 29 January it was reported that President Emil Constantinescu had pardoned Cornel Sabou.

Another case of journalists prosecuted for writing critical articles about the local authorities concerns Ovidiu Scutelnicu and Drago\_Stîngu, journalists from Ia\_i, who published in May 1997 an article in the daily newspaper *Monitorul*. They reported that a local judge tried a number of corruption cases which had been investigated by her husband, a senior police officer. The officer was under investigation by the Military Prosecutor and was later suspended from duty. In June 1997 Ovidiu Scutelnicu and Drago\_Stîngu were charged with libel under Article 206 of the Penal Code and, in spite of an appeal to the Supreme Court, tried in the court where one of the complainants was a judge. On 23 July 1998 they were each sentenced to one year's imprisonment and ordered to pay 1.5 billion lei (US\$160,000) in compensation. In January 1999 the Bucharest Court rejected the journalists' appeal and confirmed their sentence.

Amnesty International believes that imprisonment for criticism of public officials can lead to infringements of the right to freedom of expression protected by Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention on Human Rights and Fundamental Freedoms. In January Amnesty international urged Romanian authorities to review the case of Cornel Sabou and to ensure that he is not reimprisoned.

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

On 30 July 1998, between 5 and 6am<sup>7</sup>, the Teleorman county police conducted a raid on the village of Meri\_ani, reportedly in order to investigate complaints of theft of livestock. The police inspected 10 homes, although they had search warrants for only seven, and then took 10 men for questioning to the police station in Alexandria. The detained men were reportedly abused verbally, threatened with torture and denied water to drink and access to toilets for the whole of their detention, which lasted approximately 10 hours. Six of the men were reportedly beaten by police officers in order to extract confessions.

Ionel Petculescu was reportedly beaten by senior officers and their subordinates from the police station in B\_b\_i\_a<sup>8</sup> after refusing to confess to the theft of a bull. Officer N. also reportedly punched Nelu G\_leteanu while forcing him to write an incriminating statement about four of the other detained men. Nelu G\_leteanu was then reportedly beaten with rubber truncheons by another superior officer and his subordinate. George Ciob\_nete was reportedly beaten by another officer who accused him of stealing several sacks of grain, which had been found in his home during the search. Marian Ciob\_nete was reportedly assaulted with rubber truncheons, punched and threatened with beating on the palms of the hands. Police officers reportedly punched and kicked Ionel Nedelescu in the abdomen, and beat him about the head with truncheons. He reportedly vomited blood on several occasions subsequently as a result of the injuries he suffered.

None of the victims of the reported ill-treatment was reportedly able to seek forensic medical examination of injuries which they suffered as a result of the beatings. They did not have their identity cards, which are required for such examinations and had been retained by the Teleorman Police Inspectorate for 11 days.

Another case of reported police ill-treatment apparently resulted in the death of 42-year-old Toader Elinoiu. On 14 August, in the evening, Toader Elinoiu went to the centre of Nereju, in Vrancea county. Later he was seen vomiting in front of a shop. Police officer A., who had observed this, reportedly punched Toader Elinoiu and slapped him on the face. He then reportedly told the shopowner to take Toader Elinoiu behind the house and “deal with him”. The officer also threatened the person who witnessed the incident not to say anything about it. The following day Toader Elinoiu came to the home of Anica Asaftei, his sister, told her about the beating and complained about head-aches and severe pains in the back and the chest. During the night he asked his sister for some diluted spirit, a drink which is locally consumed to alleviate pain. That morning, between 5 and 6am, she found him dead and immediately informed the police.

In a press statement released on 17 August, although an autopsy took place on the following day, the Vrancea County Police Inspectorate claimed that Toader Elinoiu had died as a result of drinking surgical spirit and that “there were no signs of violence” on the body of the deceased. When the body of Toader Elinoiu was returned to the village for the funeral, journalists who reported the incident managed to photograph and film the injuries on the body of the deceased. Subsequently, it was unofficially reported that the autopsy had established that Toader Elinoiu had suffered three fractured ribs. In January 1999 Amnesty International published a report about the case and about the death in suspicious circumstances of Ion Pu\_oi and the ill-treatment of his brother and members of their families which also took place in Nereju (See *Romania: Deaths in suspicious circumstances of Toader Elinoiu and Ion Pu\_oi*, AI Index: EUR 39/01/99).

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<sup>7</sup>Article 103 of the Romanian Penal Procedure code prescribes that house searches should be conducted between 6am and 8pm, and allows searches outside these hours only in exceptional circumstances.

<sup>8</sup>The identity of all the officers mentioned in this report is known to Amnesty International.



On 4 September at around 12am in the village of P\_durau Deal, in Arge\_ county, three police officers came to the house of Nicolae Cazacu and arrested him on suspicion of the theft of a bicycle. In the car, on the way to the municipal police station, the officers reportedly ordered Nicolae Cazacu to take off his shoes and beat him with a crowbar on the soles of his feet and above the ankles. The beating reportedly continued at the station after Nicolae Cazacu denied that he had committed any theft. During the interrogation which lasted about four hours, officer G.N., the other two officers and Police Chief L., who was in plain clothes, reportedly punched, kicked and beat him with the crowbar. Nicolae Cazacu was reportedly forced to lie on the table with his face down and was beaten with a rubber truncheon on the back. When he lost consciousness an officer splashed him with water. He refused to sign a statement "confessing" to the theft and was allegedly beaten with a truncheon on the palms of both hands. The same afternoon, between 4 and 5pm, Nicolae Cazacu was released and taken by his brother and friends to the county hospital in Pite\_ti, where he received treatment for injuries suffered as a result of the beating. His injuries were then photographed by local journalists.

On 29 September in Pite\_ti a representative of Amnesty International who spoke to the commander of the County Police Inspectorate was told that from 1 October, the suspected officers would be assigned to duty in a different village. However, at the end of January 1999 these officers were reportedly still on duty in Poiana Lacului and on several occasions had harassed and intimidated Nicolae Cazacu for filing his complaint. (See also *Children in Europe*, page 72.)

Amnesty International called on the authorities to initiate full and impartial investigations into the reported cases of police torture and ill-treatment, to make public the results and to bring to justice those found responsible for human rights violations. The organization also urged the authorities to ensure that those who filed complaints about torture and ill-treatment were protected from police intimidation or harassment. No response from the authorities had been received at the end of January 1999.

### ***New cases of unlawful use of firearms***

According to a report of the European Roma Rights Center, on 29 June, at around 3.30am, in S\_rule\_ti, in C\_l\_ra\_i county, dozens of police officers broke into Romani homes and reportedly indiscriminately beat men, women and children. Gabriel Mihai was woken up by three officers who reportedly entered his home without presenting a search warrant. Two officers then reportedly beat him. When Gabriel Mihai ran outside an officer shot him in the back. In spite of his injury Gabriel Mihai got up, but the officer again shot at him, injuring him in the leg. Margareta Mihai, Gabriel Mihai's wife, was reportedly kicked in the back and then, while attempting to help her husband, hit with the butt of a gun in the face.

Another incident of unlawful use of firearms resulted in death. According to an article published in *România Liber\_*, a national daily newspaper, on 22 August at around 10am in Opri\_or municipality, a police officer arrived to arrest Constantin Stan with two arrest warrants for 108 days' imprisonment for minor offences. Constantin Stan reportedly attempted to flee and Sergeant Major E. L. fired once into the air after ordering him to stop. The officer then fired at Constantin Stan, hitting him in the region of the right kidney. He died through loss of blood on his way to hospital. Reportedly, an investigation into the shooting was initiated but its results had not been made public at the end of January 1999.

In October Amnesty International published a report *Romania: New reports of unlawful use of firearms by law enforcement officials* (AI Index: EUR 39/30/98), urging the Romanian authorities to promptly and thoroughly investigate reported incidents of police shootings and to bring the Law on the Ministry of the Interior, which regulates the use of firearms, into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

## **RUSSIAN FEDERATION**

(See also *Women in Europe*)

In May during an Amnesty International visit to the Russian Federation, the organization had been invited by the authorities to contribute to the formulation of the draft federal program for the protection of human rights and fundamental freedoms. Amnesty International responded by presenting a "Working Document" setting out its preliminary analysis of the human rights situation, and specific recommendations to the authorities. By October Amnesty International had received comments on the concerns outlined in its "Working Document" from the Office of the Procurator General and the Office of the Chief Military Procurator, the Ministry of Internal Affairs and the Federal Migration Service, in which they stated that the lack of financial resources, the transition to the market economy and the high level of crime in the country were the main obstacles to an adequate protection of human rights in the Russian Federation.

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

*The case of Aleksandr Nikitin* (update to information given in *Amnesty International Report 1998*)

Aleksandr Nikitin, a former prisoner of conscience, was tried in October on charges of treason and exposing state secrets. Judge Sergey Golets of the St Petersburg City Court referred the case back to the Office of the Procurator for additional investigation. The judge thought that in spite of three full years of investigation by the Federal Security Service (FSB) the indictment for treason and espionage against Aleksandr Nikitin was unclear and based on expert evidence which was unacceptable to the court. The judge's ruling instructed the FSB to specify exactly what information in the Bellona report was secret. However, the case remained open, and Aleksandr Nikitin was under orders not to leave the city. A human rights lawyer observed the trial proceedings in October on behalf of Amnesty International, to monitor whether the legal procedure was in line with international standards.

Both the defence and the prosecution filed requests for review of the St Petersburg Court's decision with the Russian Supreme Court. In February 1999 the Supreme Court ruling upheld the earlier decision of the St Petersburg Court.

### **The case of Grigory Pasko**

During the period under review Amnesty International examined the case of Grigory Pasko and adopted him as a prisoner of conscience at the beginning of 1999. Grigory Pasko, a military reporter for *Boyevaya Vakhta* (Battle Watch), the newspaper of the Russian Pacific Fleet, faced charges of espionage and revealing state secrets (Article 275 of the Criminal Code) in a closed military trial which began on 21 January 1999 in Vladivostok. If found guilty, he faces up to 20 years' imprisonment. The FSB has classified the case a state secret, making it difficult for his lawyers to mount a proper defence, and on 27 January, the judge of the military court trying Grigory Pasko disqualified Karen Nersesyan, Pasko's defence lawyer, from representing him, raising serious concerns about the fairness of the trial. Grigory Pasko had been held for over six months in solitary confinement, in a special punishment cell in a pre-trial detention centre in Vladivostok. His lawyer maintained that Grigory Pasko's health had deteriorated in detention, and that he had not received adequate medical treatment.

In 1993 Grigory Pasko filmed a Russian navy tanker dumping radioactive waste in the Sea of Japan. This film, *Extra-dangerous Zone*, was later shown by the Japanese TV station *Nippon Hoso*

*Kyokai*, and by a TV station in Primorsky Krai, in far eastern Russia. In this film and a series of articles printed in *Boyevaya Vakhta* and the Japanese daily newspaper *Asahi Shimbun*, Grigory Pasko showed the threat to the environment caused by accidents in Russia's decaying nuclear submarine fleet. According to the articles and the broadcast, because of a shortage of money and high level corruption in the Pacific Fleet, the Russian navy had illegally dumped liquid and solid nuclear waste off the coast of Vladivostok, endangering the health of the population in the coastal areas of the Russian Federation, Japan and other countries. Grigory Pasko was arrested in November 1997 by FSB agents in Vladivostok.

***Alleged torture and ill-treatment in detention, in some cases leading to the death penalty; use of electric shock against detainees***

It was reported that Mikhail Yurochko had been tortured and otherwise ill-treated by his interrogators, in order to extract a confession (see also *Torture in Russia: "This man-made Hell"*, AI Index: EUR 46/04/97). He had been arrested in 1993 in Arkhangelsk and charged with murder. Mikhail Yurochko was only allowed to see his lawyer three weeks after his arrest. He was reported to have been severely beaten and deprived of food, and to have been told by his interrogators that they would drive him to suicide. There are also allegations that he was raped by his cell mates with the complicity of the prison authorities. Two other co-defendants claimed they were similarly tortured. Subsequently, Mikhail Yurochko and Yevgeny Mednikov were sentenced to death. The third co-defendant, Dmitry Elsakov, was sentenced to 15 years' imprisonment.

In November 1995 the Supreme Court of the Russian Federation overturned the death sentences, and sent the case back to the court of first instance for additional investigation. Mikhail Yurochko and Dmitry Elsakov were released from detention in July 1998 when the legal terms of their pre-trial detention expired. Yevgeny Mednikov was released from pre-trial detention but remained imprisoned under the terms of a separate conviction. In December 1998 the investigation was concluded by the Arkhangelsk Regional Office of the Procurator. However, the case had not been sent to court by the end of the year due to intervention by the Office of the Procurator General which decided to review it and to consider transferring the investigation to another regional procurator.

In October Amnesty International learned about the case of Nikolay Tikhonov, who was reportedly subjected to torture on 13 February 1998, including electric shocks, while in the custody of law enforcement officials from the Lefortovsky Interdistrict Office of the Procurator in Moscow during a murder investigation. Subsequently, he was charged with murder. In a press report, he described what had happened to him: "Physical pressure was brought to bear on me...exposed wires carrying an electrical current were attached to my body. I was beaten about the head with the butt of a pistol and with a hole punch...threats rained down on me from police officers, amounting to threatening me with physical elimination...". According to reports, the same evening Nikolay Tikhonov was taken back to the Moscow pre-trial detention centre "Matrosskaya Tishina", but the prison officials twice refused to admit him due to his physical condition and the police officers were forced to take him to city hospital No. 33, where first aid was administered.

Nikolay Tikhonov reportedly submitted a statement containing the allegations of his torture to the Office of the Procurator for the South-East District of Moscow, which ordered the Lefortovsky Office of the Procurator to investigate the allegations; the same procuracy, whose law enforcement officials allegedly tortured Nikolay Tikhonov. Not surprisingly, the outcome of the investigation was that no basis was found for the allegations. A second report from the Office of the Moscow City Procurator reportedly did not refute the allegations of ill-treatment, but found superfluous the demand to bring those who were responsible to justice.

***Alleged torture, ill-treatment and death in the army***

According to reports in September, the Chief Military Procurator stated that 25 in-depth probes into compliance with legislation aimed at the social protection of servicemen had been conducted since August 1997. As a result, 780 criminal cases had been instituted, including 391 on nonstatutory relations or *dedovshchina* (the practice of bullying and humiliation of new recruits).

During the period under review, Amnesty International received information about the case of Dmitry Kaloshin, who reportedly died in suspicious circumstances while serving in the infantry unit 12670 (railway troops) in Volgograd. Dmitry Kaloshin was found dead on 16 November 1996. His family believed the circumstances of his death were suspicious. The official explanation was that his body was found at the bottom of a nine-floor building, two days after he was officially discharged from service on 14 November 1996.

However, according to reports, Dmitry Kaloshin wrote an anxious letter home two months before his death saying that "something terrible will happen." According to the family, he was beaten on more than one occasion during his time in the army, once for a previous attempt to desert, and on another occasion on the orders of the deputy political officer of the unit, who reportedly took a dislike to Dmitry Kaloshin for his refusal to carry out orders to steal building materials in order to build a fence for the commander's private country house. According to reports, the office of the Military Procurator of Volgograd Region refused to open a criminal investigation. However, the Procurator of the Dzerzhinskiy District in Volgograd recommended that the case be investigated by the civil Office of the Procurator. The results of any such investigation are not known to Amnesty International.

In October Amnesty International received reports about the death of two soldiers and the serious injury of a third in the Volgograd Region, when a punishment pit, nine feet deep, caved in, burying them alive. A commander had ordered them to be placed in the pit for the night, allegedly to punish them for going absent without leave. After the incident was reported in the media, the pit was allegedly filled in and the Office of the Military Procurator for the Volgograd Region refused to comment, citing military confidentiality. Amnesty International is not aware of any official investigation into the incident.

### ***Prison conditions***

Conditions in penitentiaries and pre-trial detention centres for a total of up to one million people continued to amount to cruel, inhuman or degrading treatment. Officials reported in October that there were 2,000 HIV-positive prisoners. The introduction of a new amnesty law for detainees in the Russian Federation was announced in October. It was expected that as many as 115,000 people would be released from pre-trial detention centres. According to reports, the new amnesty would not apply to those who had committed serious crimes, such as murder, rape, gangsterism, armed robbery and up to 30 other crimes. According to official information in September, under the December 1997 amnesty law only 14,290 people were released, while the law applied to at least 267,000 people. In September the Minister of Internal Affairs stated that the Ministry of Justice had now taken over the penitentiary system from the Ministry of the Interior.

### ***Persecution of conscientious objectors; freedom of conscience and religion***

Conscientious objectors continued to be imprisoned. In September Amnesty International received information about the case of Vadim Nazarov, sentenced to one year's imprisonment for his refusal to perform military service. Amnesty International considered him to be a prisoner of conscience. Vadim Nazarov, a 19-year-old Jehovah's Witness, had been in custody since his arrest in April. He was sentenced in July by the Central District Court in Sochi, Russian Federation, to one year in prison for his refusal to perform military service, under Article 328(1) of the Russian Criminal Code. This was the second time that Vadim Nazarov had been found guilty under the same charge for "evading military service". The first

occasion was on 3 September 1997 when the Krasnodar District Court, sentenced him to six months' probation, on condition that he comply with the law and undertake military service. During the call-up process that ensued, Vadim Nazarov was offered an 'alternative civilian service' of working in a military hospital. He refused. Moreover, a medical examination during this time found him unfit for service. Nevertheless criminal proceedings were opened against him in January 1998 and he was sentenced to one year's imprisonment in July by the Sochi Central District Court. The Regional Court of Krasnodarsky Krai ruled in September against the sentence and decided to drop all charges against him.

### **The death penalty**

In August the government announced it would abolish the death penalty by April 1999, although no official moratorium on executions was put in place, no move had been made to ratify Protocol No. 6 and high-ranking government officials, including the prime minister, threatened to reintroduce the death penalty. According to government information at the end of April 1998, at least 894 prisoners remained under sentence of death. However, in October the Minister of Justice reported that 839 people were under sentence of death, although reportedly no executions had been carried out since August 1996, with the exception of one reported in 1998, in the Chechen Republic.

In November Russian Prime Minister Yevgeny Primakov was reported to have called for the "physical elimination of those who raise their hands against society". His statement was made as he promised tougher measures to fight crime, following the murder of Galina Starovoitova (see *Women in Europe*). Similarly, in a statement earlier in November, the Russian Minister of Internal Affairs, Sergey Stepashin, declared on national television: "A thief should go to prison, but a gangster should be killed." In December, the Chairman of the State Duma, Gennady Seleznyov, was reported to have called for the reintroduction of "katorga" (the forced labour camps which existed in Russia under the tsars and were known for their torturous treatment and conditions) for prisoners sentenced to life imprisonment, if the death penalty is abolished: "Prisoners should die little by little from exhausting work, in quarries or cutting wood, and pray for death every day."

Amnesty International welcomed the Russian Constitutional Court's ruling on 2 February 1999 not to sentence any more people to death until their cases have been heard in a jury trial. The Constitutional Court ruling banned judges from sentencing people to death until the jury trial system is introduced everywhere in the Russian Federation. The ruling followed a December 1998 appeal by the lawyers of three people already sentenced to death in the absence of a jury, who argued that their constitutional rights had been violated.

Jury trial has been available in only nine of the Russian Federation's 89 regions. Following the ruling, even the nine regions where jury trials operate would be banned from issuing new death sentences, in order to preserve the principle of equality before the law. Amnesty International believed that the Constitutional Court's ruling was unprecedented as it was a *de facto* abolition of the death penalty until new laws and practices have been introduced. Nevertheless, the ruling of the Constitutional Court does not apply retroactively -- people convicted and sentenced to death cannot have their cases reviewed on the grounds that they have not been tried by a jury.

Analysis of jury trials in nine regions of the Russian Federation in recent years showed that juries were most often reluctant to impose the death penalty and much more inclined to vote for alternative punishments, such as life imprisonment. In the 80 regions where juries have not yet been introduced, criminal procedures were still weighted heavily in favour of the prosecution. Rates of conviction remained above 99 per cent, as opposed to the 16 per cent acquittal rate by juries.

### **Violations of human rights by the authorities in the Chechen Republic**

In June the scope of application of the death penalty in Chechnya was widened when the Chechen Supreme Shari'a Court ruled blood feud murders illegal and punishable by the death penalty. Assa Larsanova's death sentence had not been commuted by the end of the year and she remained under threat of execution, after giving birth in prison in the capital Grozny (see AI Index: EUR 01/02/98).

Abductions of civilians in the Chechen Republic continued and led to allegations of official Chechen acquiescence in these abuses. Among those taken hostage in the Republic were the Russian President's plenipotentiary representative in Chechnya, Valentin Vlasov, who was abducted in May and released in November. In October the dead body of Akmal Saidov, the chief of a department at the Russian Federation mission in Chechnya, was found near the border between Chechnya and Ingushetia, after he had been kidnapped earlier the same week. In October three British citizens and one New Zealander, who were setting up a cellular telephone network in Chechnya, were abducted in Grozny. In December their bodies were recovered. The Chechen government responded by introducing a state of emergency in the republic and initiated a massive operation to crack down on crime. Also in December, another hostage, the French aid worker Vincent Cochetel, who had been kidnapped in January, was released.

## **SLOVAKIA**

### ***Ill-treatment of Roma in Hermanovci***

According to information received from the European Roma Rights Center, a non-governmental human rights organization, the following incidents took place in Hermanovci, a village in eastern Slovakia, close to Prešov.

On 27 October at around 4.30am, police officers arrested 14-year-old A.B. and 21-year-old M.N., both of whom are of Romani origin. The officers reportedly beat them, handcuffed them and, when they were taken to the police station in Chminianska Nová Ves, forced them to ride in the boot of a car. The police reportedly did not present search warrants when they entered the Romani homes or arrest warrants when they took A.B. and M.N. into custody.

At the police station A.B. and M.N. were allegedly beaten with truncheons and kicked by police officers. They were interrogated and reportedly coerced into confessing to stealing various objects which were shown to them at the station. The minor was interrogated in the absence of his parents or a legal representative. Both detainees were released later the same day, apparently without being charged with any criminal offence. They were then examined by a physician who reportedly issued a certificate describing bruising which was consistent with their allegations of beating.

The following day, on 28 October at around 6am, around 20 police officers, some leading dogs, came to the village and, without presenting search warrants, reportedly broke down the doors of Romani houses and beat men, women and children, many of whom were still in bed. C. B., a Romani woman, was reportedly beaten by a police officer, who subjected her to racist and vulgar abuse. The police then took five Romani men and a Czech national to the office of the village mayor. One Rom was subsequently released, while the other five men were taken to the police station in Chminianska Nová Ves. They were released at around 12pm without being charged with any criminal offence.

In February 1999 Amnesty International urged the Slovak authorities to ensure that the investigation into the alleged ill-treatment of Roma in Hermanovci was conducted promptly and impartially. The organization also requested to receive information on: whether the parents of the 14-year-old Romani boy had been informed of the reasons for his detention and invited to be present during his interrogation at the police station; the grounds for denying the minor's right to be interrogated in the presence of a parent, a legal representative, or a representative of an institution that is concerned with child welfare; whether the police officers who questioned the boy had special skills and training for work

with minors; whether all those detained on 27 and 28 October and questioned at Chminianska Nová Ves police station were informed of their rights at the time of the arrest, including the right of access to a lawyer; the number of those who were interrogated in the police station who had asked for a legal counsel and the number questioned in the presence of a lawyer; whether, and if so when, the detained men were given the possibility to inform a relative or a third party of their detention; if their right to notification of custody was limited, the grounds for restricting this right.

## **SPAIN**

### ***First GAL trial***

In July the Supreme Court sentenced 12 people to prison sentences between 10 years and two years, four months and one day in connection with the kidnapping of a French businessman in 1983. Segundo Marey had been held hostage for 10 days in an isolated cabin in the Cantabrian mountains by the *Grupos Antiterroristas de Liberación* (GAL), who were engaged in a "dirty war" against the armed Basque group *Euskadi Ta Askatasuna* (ETA). Segundo Marey had been mistaken for an ETA member by the GAL kidnapers. Two senior government officials, former Interior Minister José Barrionuevo and former Secretary of State for Security Rafael Vera were both sentenced to 10 years' imprisonment for illegal detention and misappropriation of funds and remained for three and a half months in the prison of Guadalajara. In December, however, the Spanish government agreed, on the recommendation of the same Supreme Court, to concede a partial pardon, covering two thirds of their sentences, to 10 of the 12 convicted - including José Barrionuevo and Rafael Vera - and they were released pending consideration of their appeals to the Constitutional Court.

Judicial inquiries were continuing into the kidnapping, torture and murder by GAL in the 1980s of two ETA members, José Antonio Lasa and José Ignacio Zabala, and into the kidnapping of a presumed ETA member, Ramón Oñederra. With particular regard to its longstanding concerns about impunity in Spain - notably the effective impunity of many law enforcement officers given nominal sentences, or not diligently pursued in cases of torture or ill-treatment - Amnesty International is continuing to monitor the GAL trials closely.

### ***ETA cease-fire and question of "acercamiento"***

In September ETA declared an indefinite cease-fire. This followed the signing of the Declaration of Lizarra (Estella) by 23 Basque and other political parties, trades unions and organizations. The Declaration resolved to open unlimited dialogue to resolve the Basque conflict. The announcement of the cease-fire was made in communiques sent to the Basque newspapers *Euskadi Información* and *Deia* and in a video sent to the BBC. It came into force on 18 September. With the signing of the Lizarra agreement and ETA cease-fire came renewed calls for the "acercamiento" of Basque prisoners, involving the transfer of several hundred prisoners and detainees "dispersed" to prisons throughout the Spanish peninsula, the Canary and Balearic Islands and the Spanish enclaves in Morocco (Ceuta and Melilla) to prisons in or close to the Basque Country. By the end of December 21 prisoners held outside the peninsula were being transferred to the mainland. Demonstrations and plans for demonstrations by nationalist parties and groupings and by relatives and friends of Basque prisoners focused on the demand for *acercamiento* and from December a rise in urban violence by nationalist supporters in the Basque Country was at least partly related to this theme. During its mission to Spain in March (AI Index: EUR 01/02/98) Amnesty International explained that its views on the transfer of prisoners were in line with the UN Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment and the

European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Amnesty International believes that *any* individual prisoner should, if they request it, and where it is possible, be kept in detention or imprisonment near their usual place of residence. In its 1996 report on visits to Spain in April 1991, April 1994 and June 1994 the CPT stated: "Humanitarian considerations, as well as the objective of social rehabilitation, speak in favour of prisoners serving their sentences in the region where they have family and social ties".

### ***Allegations of torture including sexual abuse by Civil Guards and National Police***

Amnesty International continued, during the period under review, to receive numerous allegations of torture of suspected ETA members or sympathizers by the *Guardia Civil* and *Policía Nacional*. The allegations mainly referred to torture that had taken place during incommunicado detention earlier in 1998 and in 1997. The allegations made consistent references to the practice of partial asphyxiation with plastic bags ("*la bolsa*") and some alleged their heads had been pushed into a bath or tub of water ("*la bañera*"). Maite Pedrosa Barrenetxea, arrested in March, and Cristina Gete Gutierrez, arrested in May, both claimed they had been sexually abused by Civil Guards while being held for the maximum five days' incommunicado detention in Madrid. Maite Pedrosa claimed she had been raped and a pistol inserted in her anus and vagina. She was also beaten and hooded. Cristina Gete also maintained a stick had been inserted in her anus and vagina, and that she had been beaten around the head and hooded, as well as subjected to sexually threatening language and death threats. Among others, David Gramont and Jean-Joseph Esnal, alleged members of ETA's "*Comando Andalucía*", and José Ignacio Armendariz also alleged torture by Civil Guards. Iñaki Bengoa, a youth arrested by the Basque autonomous police, the *Ertzaintza* in San Sebastián on 3 October, and held in incommunicado detention by the *Policía Nacional*, was reportedly taken to a clinic for first aid treatment after police officers had forced him to bend repeatedly up and down. Iñaki Bengoa, who denied the charges against him, stating he had been forced to sign a false statement, later appeared before a National Court judge and complained of torture and ill-treatment. The judge released him on bail.

During its mission to Spain the Amnesty International delegation reiterated to a number of government and other political leaders, including the central government's Interior Minister, the organization's opposition to incommunicado detention under a regime whereby detainees can be held for up to five days without access to a lawyer of their choice. This, it believes, facilitates torture. The Spanish government replied that incommunicado detention was "indispensable" (see also AI Index: EUR 01/02/98). In August a US federal judge annulled an extradition order against ETA suspect Ramón Aldasoro Mungunacelaya, arrested in Miami in December 1997, because evidence involving Ramón Aldasoro in ETA killings and bombings appeared to be have been obtained under torture. In accordance with the existing extradition treaty between Spain and the US, the US government appealed against the decision, on behalf of Spain's interests, to the appeal court in Atlanta. The outcome of the appeal was pending at the end of the year.

### ***Allegations of torture and ill-treatment, including sexual abuse, of people of non-European ethnic origin by law enforcement officers***

Allegations were also received relating to ill-treatment, including sexual assault, of people of non-European ethnic origin. In August Moroccan national Driss Zraidi lodged a judicial complaint that he had been assaulted and ill-treated by two officers of the *Mossos de Esquadra*, the Catalonian autonomous police, in San Pedro Pescador during an identity check. He was allegedly beaten on the street and later, repeatedly beaten and trampled in the police station. His glasses and a gold chain were broken. Driss Zraidi, who said he was continually subjected to racial abuse during the beatings, was admitted to hospital in Figueres, where he remained for over a week. Medical reports confirmed that there were chest injuries



and four broken ribs. He was not charged with any offence. Eight officers were reportedly charged with involvement in the assault and suspended from duty pending an inquiry.

In November there were several reports referring to a recent increase in complaints against police officers for sexual assault on women - often women of North African or South American origin suspected of having entered Spanish territory illegally. In November an officer of the *Policía Local* in Melilla was imprisoned following a charge of sexual assault on a young Moroccan immigrant; a second officer was released on bail. The woman was allegedly stopped at night by two officers for an identity check. Although her papers were reportedly in order she was taken to the police station and then to a remote area of the city called Barrio del Real, where she was raped. Allegations by other women of rape and sexual abuse referred to incidents earlier in the year.

Two officers of the *Policía Local* of Ceuta were suspended after declaring, in November, that colleagues were, regularly and illegally, seizing hundreds of undocumented Moroccan children from the streets and expelling them across the frontier without pursuing the necessary legal formalities. The officers lodged complaints against the head of the *Policía Local* of Ceuta and others. They claimed that officers were forcing distressed children into crowded, airless vans and holding them inside these vans for several hours before taking them to the border, instead of giving them legal assistance, locating their families and placing them in reception centres. Ill-treatment of children was also alleged but not specified. Amnesty International is attempting to gather further information.

### **Updates on torture and ill-treatment trials**

In July a Málaga court closed an inquiry into the expulsion, in 1996, of 103 people from different African countries who were expelled in five military aircraft from Melilla and Málaga to countries not necessarily their own (AI Index: EUR 01/01/97). At the time the Spanish government was forced to admit that the expellees had been secretly sedated. There were also allegations that some had been beaten by Spanish police officers during the flight. In August 1996 the UN High Commissioner for Human Rights had declared the expulsion to be of great concern. Amnesty International publicly condemned the expulsions. While accepting the truth of the main accusations made by non-governmental organizations such as Amnesty International and admitting that the action was legally questionable and could have infringed administrative regulations, the court found there was no criminal charge to answer in existing Spanish law.

In October the Supreme Court reduced by three years the original sentence of four years' imprisonment imposed in February on three Civil Guards convicted of the torture and illegal detention of Kepa Urrea Guridi in 1992 (AI Index: EUR 01/02/98 and previous reports). The officers remained barred from public service for six years. They were thereby effectively expelled from the service. The Supreme Court considered the sentence of one year's imprisonment and six years' *inhabilitación* to be "adequate and proportional to the seriousness of the crime".

## **SWEDEN**

### **Further developments in investigations into the death in custody of Osmo Vallo**

Investigations into the death in custody of Osmo Vallo and the system for investigation of such incidents continued, by both the Chancellor of Justice and the Prosecutor-General (see AI Index: Eur 01/02/98). In view of disagreement about the findings of the third post-mortem examination, the Prosecutor-General requested the opinion of the National Board of Health and Welfare. He was reconsidering whether charges should be brought against police officers involved in the arrest and alleged ill-treatment of Osmo Vallo.

In November the government published the findings and recommendations of the Chancellor of Justice's inquiry into the procedures for handling cases of deaths in custody. The Chancellor stated that in the course of the inquiry he found examples of cases in which police conduct towards detainees was unacceptable. He recommended a wide range of measures to be taken by the police and government bodies including: improved training; continuing assessments of existing and proposed restraint techniques; better communication of the risks involved in the use of various restraint techniques; and procedures to guarantee that police vehicles are equipped with functioning life-saving equipment.

He also recommended changes in the process for police investigation of deaths and serious injuries in police custody in order to strengthen public confidence in such inquiries. These included the creation of special regional police investigation units; ensuring that prosecutors lead such inquiries; and promulgation of regulations requiring all relevant police reports to be handed over to forensic pathologists conducting post-mortem examinations.

### ***Fear of refoulement***

The UN Committee against Torture concluded that in cases brought by four asylum-seekers from Iran, Iraq and Turkey the decisions of the Swedish authorities violated the government's obligation under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment not to expel or return a person to another state where there are substantial grounds for believing that they would be in danger of being tortured. Subsequently the authorities allowed one of the four to remain in Sweden; decisions on the other three were still pending at the end of the year.

## **SWITZERLAND**

### ***Parliament approves text of new Federal Constitution***

The text of a new Federal Constitution was adopted by parliament in December. It updated the 1874 Constitution, introducing reforms in the justice system and enhancing civil rights. The text included, amongst other things, specific prohibitions on torture and all other cruel, inhuman or degrading treatment or punishment and on the return of any individual to a state where they would risk such treatment. The new draft constitution is due to be put to a national referendum in April 1999.

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

In October Clement Nwankwo, a prominent Nigerian lawyer and human rights defender, lodged a petition against Switzerland with the European Commission on Human Rights. The petition referred to his treatment inside a Geneva police station after his detention in April 1997 and the subsequent judicial proceedings which convicted him of resisting the police at the time of arrest (see AI Index: EUR 01/02/98). In his petition Clement Nwankwo claimed violation of Articles 3 and 6.2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which state, respectively, that "No one shall be subjected to torture or to inhuman or degrading treatment or punishment" and that "Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law".

At the end of October Clement Nwankwo learned via press reports that on a recent but unknown date a Special Appeals Commission, established under the Canton of Geneva's Law on the Police, had annulled sanctions previously pronounced against three Geneva police officers in connection with his treatment inside the Geneva police station.

In April 1997 the Geneva cantonal authorities had conducted an investigation into the conduct of the police officers responsible for Clement Nwankwo's arrest and detention. In a letter sent to Clement Nwankwo in May 1997, the Head of the Geneva Canton's Department for Justice, Police and Transport (DJPT) stated that the investigation had dismissed his allegations of physical assault as unfounded but had concluded that "the conditions" in which he had been held in a police interview room were "not in conformity with the rules of ethics of the Geneva police". The letter asked him to accept the apologies of the police for "this inadequate treatment" and stated that sanctions would be taken against the officers concerned. It did not specify the precise nature of the disciplinary offences for which the officers in question were to be sanctioned. Clement Nwankwo had alleged that inside the police interview room, after being forced to strip, he was handcuffed to a metal table leg fixed to the floor and was thereby forced to sit on the floor, suffering pain from excessively tight handcuffs, and left alone in the room for over an hour, still unaware of the reason why he had been detained.

However, it subsequently emerged that the administrative investigation had apparently found the officers culpable only with respect to the delay in returning Clement Nwankwo's clothes and not with respect to the other conditions of his detention in the interview room. In January 1998 the Geneva Prosecutor General issued a decision concluding that no criminal proceedings should be opened as a result of a criminal complaint which Clement Nwankwo had lodged against the police officers involved in his arrest and detention, and in which he accused them of physical assault on the street. With regard to his treatment *inside* the police station the Prosecutor stated that the administrative investigation had found that he had not been treated correctly insofar as, after being searched, he had been "prevented - for almost an hour - from getting dressed again". The Prosecutor said this treatment might be considered a criminal offence of abuse of authority but that it appeared from the administrative investigation that the delay in restoring his clothes was the result of "negligence rather than of a deliberate intention to do harm". He concluded that the disciplinary sanctions which had been applied to the officers appeared to be sufficient punishment.

Clement Nwankwo was not questioned in the course of the administrative investigation and received no formal notification that, following its completion, sanctions had been issued. It was via media reports that he learned that two official warnings (*avertissements*) and one reprimand (*blâme*) had been issued against three police officers by the Head of the Geneva Police. It was subsequently reported that the three officers concerned had appealed against the disciplinary sanctions. Again, Clement Nwankwo received no formal notification of this development. The officers' appeal was apparently then examined and dismissed by the Geneva Canton's DJPT, after which they submitted their final appeal to the Special Appeals Commission.

In December Amnesty International wrote to the Head of the Geneva Canton's DJPT, expressing dismay over the reports indicating that the sanctions against the officers had been annulled and the fact that Clement Nwankwo had only learned of this development via the press. The organization urged that all possible steps be taken to ensure that Clement Nwankwo received, as soon as possible, formal confirmation of the reports regarding the Special Appeal Commission's decision, together with a copy of the decision and the reasoning leading to it.

Amnesty International also asked to be informed of any steps taken or envisaged by the department as a result of a recommendation made by the UN Special Rapporteur on the independence of judges and lawyers in his annual report 1998 (see AI Index: EUR 01/02/98) that "in the light of the Government's apologies to Mr Nwankwo..." the government offer him "adequate compensation, thereby avoiding protracted civil litigation and the resultant costs and expense". In April 1998 the Federal authorities had informed the Rapporteur that the Geneva authorities were now in a position "to examine the question of compensation as soon as possible".

The Head of the Canton's DJPT acknowledged Amnesty International's letter, stating that he had requested the competent offices to examine it and promising a subsequent reply.

In response to Amnesty International inquiries about the outcome of judicial and police investigations into the allegations of physical ill-treatment and racist abuse made by Mamadou Sidibé, a national of Côte d'Ivoire, following his arrest in December 1997 (see AI Index: EUR 01/02/98), the Bern cantonal authorities stated that the judicial investigation into his formal complaint of ill-treatment had not found grounds to pursue any criminal or disciplinary action against the police.

In November, in the context of an ongoing exchange of correspondence between Amnesty International and the Ticino cantonal authorities concerning alleged ill-treatment by law enforcement officers and safeguards against such treatment, the cantonal authorities drew attention to a newly-created Code of Ethics for Ticino police which came into force in 1998. Amnesty International welcomed this initiative and noted that, among other things, the new code made explicit reference to the need to respect the principle of proportionality in the use of force and to respect the fundamental human rights of an individual, regardless of their racial, ethnic, religious, social or political background or affiliations. In the same correspondence the Public Prosecutor confirmed that A.S., an asylum-seeker from the Kosovo province of Yugoslavia, was not directly questioned about his allegations of ill-treatment by Lugano police or given an opportunity to identify his alleged aggressors during the investigation of the formal complaint he had lodged following his detention in December 1995 (see AI Index: EUR 01/01/98). A.S. had sought the prosecution of unidentified officers on charges of serious bodily harm, failure to provide medical assistance and abuse of authority. In July 1997 the Prosecutor had stated that, after investigation, there was no reason to doubt the veracity of the police version of events rejecting A.S.'s allegations. In November the Ticino Prosecutor General ruled that there were no grounds to pursue criminal proceedings as a result of A.S.'s complaint. He concluded that there was insufficient evidence of abuse of authority and, although recognizing that A.S. had sustained injuries and had received no medical assistance, found no proof of deliberate failure to provide assistance. He said that A.S.'s injuries, which police claimed had been incurred during an escape attempt, did not qualify as serious bodily harm under the penal code, but as mere bodily harm. Unlike the former offence, which could be pursued on the prosecutor's own authority, the latter required the alleged victim to seek prosecution. However, in March A.S. had withdrawn from the prosecution and this alleged offence could not now be considered for prosecution.

In November the Ticino judicial authorities also reported that they had informed the Federal Office of Police that a request in A.S.'s name, withdrawing his asylum application, had been made during his police interrogation when he had no access to an interpreter, lawyer or magistrate. A.S. claimed police coerced him into signing the document, whose contents he had not understood.

## **TAJIKISTAN**

### ***The death penalty***

#### **New death sentences**

In July the Supreme Court announced that eight people had been sentenced to death in the first half of 1998. At least 16 more death sentences were passed in the second half of the year. In August Bobo Boboyev, a 33-year-old lorry driver, was found guilty of attempting to smuggle more than 300 kilograms of raw opium from Tajikistan into Russia. He was reported to be the first person in Tajikistan to receive the death penalty for drug smuggling.

On 9 October the Supreme Court sentenced two men, Bahrom Sadirov and Kiroatsho Nosyrov, to death for their part in several kidnappings in Tajikistan from December 1996 to November 1997. Bahrom Sadirov was the leader of an armed group involved in kidnapping members of the United Nations Observer Mission to Tajikistan (UNMOT) in December 1996 and again in February 1997. In both cases, he was reportedly seeking to force the Tajik authorities to have his brother, Rezvon Sadirov, returned from

Afghanistan to Tajikistan. Bahrom Sadirov eventually succeeded in that goal but soon after was wounded in a shootout with government forces and handed over to Tajik authorities. Rezvon Sadirov then continued taking hostages to gain Bahrom Sadirov's release. In November 1997, one hostage, a French aid worker, was killed during a rescue attempt. Kiroatsho Nosyrov and Bahrom Sadirov's petitions for clemency were still pending at the end of the year.

On 21 December 12 men, all members of the United Tajik Opposition (UTO), were sentenced to death by the Supreme Court. According to reports the UTO insisted that the defendants carried out UTO instructions to commit political crimes during the civil war, and were therefore eligible for amnesty under the peace accord. According to Amnesty International's information, however, the 1997 peace agreement provided that persons found guilty of violent crimes or crimes against society connected with the civil war would not be released automatically, but could petition for a review of their case if they believed the charges and the conviction had been a pretext to punish them for political actions. It was not clear whether the defendants were sentenced to death for crimes committed during the civil war or more recently. The 12 defendants were believed to have submitted petitions for clemency to the President's office.

**Political prisoners** (update to information given in AI Index: EUR 01/06/97, EUR 01/01/98 and EUR 01/02/98)

Amnesty International learned that at the end of December President Rakhmonov reportedly rejected the petitions for clemency submitted to him in March by Abdulkhafiz Abdullayev and his five co-defendants. Political prisoners Abdulkhafiz Abdullayev, the younger brother of the head of the opposition National Revival Bloc, Firdavs Dustboboyev, Ilkhom Dodojonov, Buriboi Akbarov, Jumaboy Juraev and Rustam Shaykhitdinov were sentenced to death for treason, banditry and terrorism by the Supreme Court on 12 March 1998 after being found guilty of having planned and carried out an assassination attempt on President Rakhmonov in Khujand in April 1997. Supporters of Abdulkhafiz Abdullayev claimed that the motive for his inclusion in this criminal case was to intimidate the Khujand-based opposition which has been excluded from the peace process in Tajikistan. News of the President's rejection of clemency followed reports that the procurator general had opened preliminary criminal proceedings on charges of high treason, military coup d'etat, terrorism, and banditry against 42 persons - among them the brother of Abdulkhafiz Abdullayev, the exiled leader of the opposition National Revival Bloc Abdumalik Abdullojonov - in connection with an armed insurrection in the northern Leninabad province at the beginning of November. Abdumalik Abdullojonov was accused of having masterminded and led the November uprising together with former Popular Front commander and warlord Makhmud Khudoyberdiyev. At the end of January 1999 Amnesty International was trying to clarify the status of Abdulkhafiz Abdullayev and his five co-defendants in the light of reports from unofficial sources that a *de facto* moratorium on executions was in place in Tajikistan. The organization appealed for the men not to be executed.

**Law on the protection of the President of Tajikistan's honour and dignity** (update to information given in AI Index: EUR 01/02/98)

In July President Rakhmonov rejected the new law on the protection of the honour and dignity of the President of Tajikistan, adopted by parliament in May, which provided for punishments of up to six years for making public statements critical of the President. The provisions of the law were, however, incorporated into the new criminal code which came into force on 1 September. Article 137 of the Tajik Criminal Code - Public insult of the President of Tajikistan or slander of his person - provides for punishments, including terms of imprisonment of up to five years, for publicly insulting the President.

Amnesty International reiterated its concern that such a legal provision was in violation of the right to freedom of expression as set out in Article 19 of the International Covenant on Civil and Political Rights.

## **TURKEY**

### ***Human rights defenders targeted again***

Less than a year after barely surviving an assassination attempt, Ak\_n Birdal, President of the Turkish Human Rights Association (HRA) and one of Turkey's foremost human rights defenders, faces imminent imprisonment for "thought crime".

On 27 October the General Council of Ankara's Appeal Court upheld a sentence of one year's imprisonment passed on Ak\_n Birdal, who had been found guilty by Ankara State Security Court in July of "inciting people to hatred and enmity on the basis of class, race or regional differences" under Article 312(2) of the Turkish Penal Code. As a consequence of being found guilty under Article 312 he will be required to step down as President of the HRA, a post to which he has only recently been re-elected. He will not be permitted to be a founder or executive of any association for the rest of his life, although this ban is open to appeal after five years.

With the Appeal Court's confirmation of sentence, Ak\_n Birdal's legal remedies are now exhausted. According to the formula set out in the law on the execution of sentences, Ak\_n Birdal will serve five months and 18 days in prison. It is expected that the sentence will shortly be enforced, in spite of concern about Ak\_n Birdal's state of health following the gun attack against him in May 1998.

The human rights movement throughout Turkey remained under intense pressure. In September board members of the Diyarbak\_r branch of the HRA were put on trial on spurious charges of membership of an armed organization, and the branch threatened with permanent closure - it has been closed on orders of the Diyarbak\_r local governor since March 1997. The Mardin branch of the HRA was closed for three months on orders of a local court on the grounds that it was holding illegal publications. In fact, the publications in question are published openly and legally. The \_anl\_urfa branch of the HRA has been closed since June 1997. In December the \_anl\_urfa branch of Mazlum-Der, a human rights organization with a Muslim perspective, was closed down for publishing a one-page calendar containing photographs which had already appeared in the press. The Saturday Mothers, who hold a vigil every Saturday in the heart of Istanbul calling for investigation into the fate of the "disappeared", have been continuously harassed by the police. In September security forces not only forcibly dispersed the group, but detained 31 people. News footage showed officers spraying pepper gas into the police bus before closing the doors. When those inside, fighting for air, desperately tried to open windows they were beaten. Some fainted and all had to be taken to hospital to receive treatment. The detainees were held for two days and then charged with "resisting the police", "destroying public property" and "acting in breach of the Law on Assembly and Demonstrations".

### ***Osman Murat Ülke - the futile cycle continues***

Conscientious objector Osman Murat Ülke has been in custody almost continuously since October 1996 on a succession of charges related to his public refusal to carry out military service. In November 1998 he was released from Eski\_ehir Military Prison having served all sentences against him, but was immediately handed over to the recruitment bureau in Eski\_ehir. He was remanded in custody at Eski\_ehir Gendarmerie Headquarters under very harsh conditions for over a week before being sent to his posting in Bilecik where

he again refused to wear a uniform or take up arms. He was returned to Eski\_ehir Military Prison and a new prosecution opened against him under Article 87/1 of the Military Penal Code for "persistent insubordination".

If the Turkish government persists in ignoring the recommendations of the United Nations and of the Council of Europe concerning the need for the introduction of a civilian alternative service, Osman Murat Ülke may be held indefinitely while the cycle of refusal to serve and prosecution for refusal takes its futile course.

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

The 10 months' imprisonment imposed by Diyarbak\_r State Security Court on Recep Tayyip Erdo\_an, Mayor of Istanbul, was confirmed in September. Recep Tayyip Erdo\_an had been convicted under Article 312/2 of the Turkish Penal Code for 'inciting hatred based on religious differences' by quoting from a poem in a speech he made in Siirt in December 1997. He is still free but may at any time be summoned to serve the sentence. He will then be a prisoner of conscience. His conviction means that he is banned for life from holding any political office, but has the right to appeal against this ban after five years. His exclusion from political office is widely perceived to be the main motivation behind this prosecution.

Ilknur Birol, a computer teacher and member of the teachers' trade union E\_itim Sen, was sentenced in June 1997 to one year's imprisonment for "insulting the organs of state" under Article 159 of the Turkish Penal Code. She was subsequently dismissed from her post and, upon losing her appeal, imprisoned in November to serve the sentence. She is held in a prison in Istanbul.

At a public meeting in April 1996, Ilknur Birol had criticised the appointment of Mehmet A\_ar, the former chief of police, first as Interior Minister and later as Justice Minister. He has since been forced to resign, had his parliamentary immunity lifted and is standing trial for alleged involvement with a gang implicated in political murder. The court ruled that it would not be correct to consider that her words only related to "the particular Justice Minister of the day", but were directed at insulting and undermining the "spiritual personality of the government".

### ***Attack on HADEP results in deaths in custody***

When Abdullah Öcalan, the General Secretary of the Kurdish Workers' Party (PKK) was taken into custody on his arrival in Italy in November, the Turkish government announced that they would move for his extradition. The People's Labour Party (HADEP) announced its opposition to this extradition, and in response there were widespread police operations against HADEP premises throughout the country, with hundreds of arrests. Video footage and the testimony of detainees show that the police operations were conducted with considerable brutality. In several cities, members of extreme right-wing parties entered HADEP premises, apparently under the protection of the police, to cause damage and attack individuals.

Two people died in custody during the course of these operations. Eighteen-year-old Hamit Çakar was detained from HADEP's Diyarbak\_r headquarters. His family were told some hours later that he had died, and were forced by police to bury him in the early dawn of the following day. The family stated that they saw signs of beating on Hamit Çakar's head, but a medical report was issued by the Forensic Medicine Institute recording no injuries and recording heart attack as the cause of death. The family have appealed for a second autopsy to be carried out.

Metin Yurtsever died in hospital in Kocaeli (near Istanbul) after being taken into custody from the local HADEP office where he was reportedly severely beaten by members of the Anti-Terror Branch. Several of Metin Yurtsever's ribs were broken, causing him breathing difficulties. He was taken to hospital where an operation failed to save his life. Reportedly, police officers destroyed a medical report stating

that Metin Yurtsever had died because of trauma due to torture and blows, and a second report was prepared stating that Metin Yurtsever had died as a consequence of arterial occlusion.

HADEP Assistant Secretary General Selim Özalp, one of the many detainees, told Amnesty International that he was taken into custody in Diyarbakır by more than 20 police officers - including plainclothes officers from the Anti-Terror Branch. He was held for nine days before being released. He reported:

*“As soon as we arrived and were blindfolded, the police officers began to swear at us and to beat us. I cannot say what they used to hit me because I could not see, but I think they used their fists. On one occasion they handcuffed me by one arm to the door of the cell for 14 hours. I could not sit down and in the end I fell unconscious. For the first two days they brought no food. The following days they brought a piece of bread, olives and cheese, and we drank water when we were taken to the toilet.*

*“On the fifth and sixth days, I was taken to see lawyers who had come to visit us. I could speak to them for five minutes during which time the police took off the blindfold.*

*“At the end of the period of detention, when I was brought before a doctor, he asked me if there were any visible signs of ill-treatment. There were not, and I said so. I was then brought to the prosecutor. When I complained that we had been tortured, he made no answer, but wrote down what we said. We also complained to the judge and he released us.*

*“I still cannot believe the way the police were treating their prisoners. I could not and cannot convince myself that it was really happening. My lawyers have made a formal complaint.”*

Cihan Sincar, wife of Kurdish member of parliament Mehmet Sincar, who was killed on 4 September 1993 in circumstances strongly suggesting security forces involvement, told Amnesty International:

*“I was taken into custody in Batman where I had gone on HADEP business and taken straight back to Diyarbakır Police Headquarters - the Anti-Terror Branch. As soon as we arrived at Diyarbakır Police Headquarters they started swearing and beating. They pulled my hair very fiercely with both hands, banged my head against the wall, and slapped me around the face extremely hard. At the same time I was blindfolded and this made it worse. There were other things that, as woman I found very difficult to accept, and that I would prefer not to discuss. It has been five or six days since I was released, and I am still not free of the experience. I can feel it in my body and have still not escaped the feelings. I cannot properly explain what it was like - only those who have experienced it can know. It just did not seem to stop. They beat you, for example, all the way to the toilet and back, and you could hear when they were doing the same things to other people.*

*“Something else I should mention is that I was subjected to death threats. My situation, the fact that my husband was murdered, is well known. They asked me if I visited his grave. When I said yes, they said that soon I would not have to go to the trouble of visiting him, since they would make sure that I was with him permanently.”*

Amnesty International made public its reservations about the possible extradition of Abdullah Öcalan on the grounds that he might face the death penalty or ill-treatment and torture, but stated that it was nevertheless essential that states uphold international humanitarian standards by energetically seeking the means to bring to justice those who have directly violated those standards or ordered others to do so through a chain of command. (See Italy entry for further details.)

## **TURKMENISTAN**

### ***Prisoners of conscience and political prisoners***



**New conviction of Mukhametkuli Aymuradov and Khoshali Garayev** (update to information given in AI Index: EUR 01/02/98)

On 10 December possible prisoners of conscience Mukhametkuli Aymuradov and Khoshali Garayev, already serving 15 and 12-year sentences respectively in a maximum security prison in Turkmenistan, were sentenced to an additional 18 years' imprisonment, five years to be spent in a maximum security prison. The charges included "Disrupting the normal working of a penal institution" under Article 213 of the Turkmen Criminal Code, part 2 of which carries a maximum 20-year sentence. The new sentences related to an alleged prison escape attempt in October. There have been credible and persistent allegations that the escape attempt was orchestrated by the authorities to avoid the possibility of Mukhametkuli Aymuradov and Khoshali Garayev being transferred, under their previous sentence, from a maximum security regime to a less restrictive one. Close family members were not informed until the end of November that Mukhametkuli Aymuradov and Khoshali Garayev were facing new charges. During the investigation a lawyer assigned to Mukhametkuli Aymuradov had limited access to him and it is believed that Khoshali Garayev also had the services of a lawyer. It was originally reported that the new trial would be held on 30 November 1998 in a closed court in the maximum security prison at Turkmenbashi (formerly Krasnovodsk) where the two were serving their sentences, and that only the prisoners' lawyers would be allowed access. However, after concern was expressed by foreign diplomats and international human rights organizations, the trial was twice postponed. It eventually opened on 7 December before the Supreme Court, which sat in Turkmenbashi. The 2nd Secretary of the United States Embassy in Ashgabat was allowed to attend the trial, as was the wife of Mukhametkuli Aymuradov. Charges of a political nature had been dropped from the charge sheet which was handed to the defendants' lawyers, reportedly only 10 minutes before the trial was due to start.

Mukhametkuli Aymuradov and Khoshali Garayev were convicted in 1995 for anti-state crimes including "attempted terrorism". There was compelling circumstantial evidence to support allegations that the case against them was fabricated in to punish them solely for their association with exiled opponents of the Government of Turkmenistan. Now, some three years on, Amnesty International considers that there are grounds to believe that with these new sentences Mukhametkuli Aymuradov and Khoshali Garayev are again being punished for their perceived opposition to President Niyazov. The organization is, therefore, now calling for the new convictions also to be re-examined. (For a detailed account of the background to this case, see *Turkmenistan: Mukhametkuli Aymuradov and Khoshali Garayev - possible Prisoners of Conscience*, AI Index: EUR 61/02/99, January 1999)

**Beating of Durdymurad Khodzha-Mukhammed**

Durdymurad Khodzha-Mukhammed, a prisoner of conscience who had been confined against his will in a psychiatric hospital for political reasons from February 1996 until his release in April 1998, was walking home from a meeting at the British embassy in Ashgabat on 4 September when he was assaulted by three unidentified men in civilian clothes. He was forcefully thrown into a car, his hands were bound and his head covered, and he was driven to a lake on the outskirts of Ashgabat. There the men beat and kicked him until he lost consciousness and then left him. According to some reports they also took his glasses and 10,000 manats. When Durdymurad Khodzha-Mukhammed regained consciousness he reportedly made his way to the nearest dwelling where he was given first-aid. Durdymurad Khodzha-Mukhammed was said to have suffered serious injuries as a result of the beatings and the ill-treatment; two weeks after the attack he was still unable to walk by himself.

Amnesty International was concerned at allegations that the unprovoked attack on Durdymurad Khodzha-Mukhammed was politically motivated. Following his release from a psychiatric hospital, Durdymurad Khodzha-Mukhammed had given interviews to Radio Liberty which were reportedly critical of the regime in Turkmenistan. It is alleged that he was warned by the Committee for National Security

(KNB) to stop any further cooperation with Radio Liberty, but that he refused to sign a statement to this effect. There were reports that his telephone was subsequently cut off and that visitors to his home in Ashgabat were harassed. The attack on Durdymurad Khodzha-Mukhammed could be seen as a further attempt to punish him for his peaceful political opposition to the current regime and to prevent him from exercising his fundamental right to freedom of expression, as guaranteed by Article 19 of the International Covenant on Civil and Political Rights to which Turkmenistan is a party.

### **Detention of Durdymukhammed Gurbanov**

Durdymukhammed Gurbanov, a former presidential press officer, was reportedly detained at his home in Ashgabat by officers of the National Security Committee (KNB) on 1 September, taken to the KNB investigation-isolation prison and charged with embezzlement. He was accused of having misused state property and mismanaged state funds during his time as President Niyazov's press secretary from 1992 to 1994. His supporters, however, claimed that the charge was fabricated and was brought to punish him for an interview he gave to Radio Liberty in April, criticizing the policies of President Niyazov and accusing the Turkmen government of mismanagement. Durdymukhammed Gurbanov was detained for several days before being released without charge.

### **Imprisonment of conscientious objectors**

Oleg Konstantinovich Voronin, born in 1977, is a Jehovah's Witness from the city of Chardzhev near the Uzbek border. On 13 May 1998 he was taken by force to military prison 04246 in the closed city of Gushgi near the border with Afghanistan after he declared his refusal to perform military service on grounds of conscience to the enlistment commission at the Chardzhev Military Commissariat. Eyewitness reports said that he was severely beaten. On 9 June the Gushgi military prosecutor allegedly refused to allow Oleg Voronin's legal representative access to the prison and to act on Oleg's behalf. At the end of September unofficial sources reported that Oleg Voronin had been sentenced by a military court in Gushgi to five and a half years' imprisonment for the military crime of desertion under Article 343 of the Turkmen Criminal Code.

On 16 December Roman Khalmuradovich Karimov, a Jehovah's Witness born in 1977, received a prison sentence for his conscientious objection to serving in the armed forces. He was sentenced by Azatlyksky District Court of Ashgabat to 18 months in prison for "evading regular call-up to active military service" under Article 219 of the Turkmen Criminal Code. His appeal against his sentence was set to be heard at Ashgabat City Court in January 1999. He was taken into custody from the court room. Roman Karimov had previously received a prison sentence in July 1995 for refusing his call-up papers on grounds of conscience. He had been granted an amnesty in January 1996. Amnesty International regarded the two young men as a prisoners of conscience, and called for their immediate and unconditional release.

### ***The death penalty***

#### **New death sentences**

In November unofficial sources reported that appeals sent on behalf of three Georgian nationals, Shaliko Maisuradze, Zaza Gelashvili and David Khitarishvili, sentenced to death in September on drug-related charges may have saved them from execution. They were said to be still alive on death row in Ashgabat. The National Security Council of Georgia's Deputy Secretary on human rights issues had appealed for clemency to the President of Turkmenistan on behalf of the three Georgian citizens. Georgia abolished the death penalty in November 1997. (For death sentences of women see *Women in Europe*, page 69)

### **Moratorium on the death penalty**

At a meeting of the Council of Foreign Ministers of the Organization for Security and Co-operation in Europe (OSCE) in Norway on 3 December, Foreign Minister Boris Shikhmuradov said he was authorised by the President and government of Turkmenistan to inform them officially that Turkmenistan was declaring a moratorium on the death penalty. No more death sentences would be imposed by courts in Turkmenistan from 1 January 1999, the date when the moratorium was due to enter into force. The moratorium would also extend to people sentenced to death before 1999 who were awaiting execution. Boris Shikhmuradov added that the number of articles providing for the death penalty in national law would be radically reduced.

### **UKRAINE**

#### ***The death penalty***

The Ukrainian government failed to abolish the death penalty by the Council of Europe's November 1998 deadline. Ukraine made a commitment to impose a moratorium on executions, and to abolish the death penalty in law and practice within three years, when it entered the Council of Europe in November 1995.

In January 1998 the Parliamentary Assembly of the Council of Europe adopted its third successive resolution strongly condemning Ukraine for continuing to carry out executions. The Parliamentary Assembly stated that unless it received formal notification that all executions had been halted, it would consider revoking the credentials of the Ukrainian delegation.

Amnesty International received reports in October 1998 that 91 people were sentenced to death during the first six months of the year. Ten of them were later granted clemency. Among those who remained under sentence of death were two women. In January 1999 the Chairman of the Ukrainian Supreme Court, Vitaliy Boyko, revealed that 146 people were sentenced to death in Ukraine in 1998.

In September a draft new Criminal Code was passed on first reading by the Ukrainian parliament, which contains no articles providing for the death penalty and introduces life imprisonment as an alternative punishment. However, also in September the chairman of the Ukrainian parliament Oleksandr Tkachenko reportedly told a delegation from the Parliamentary Assembly of the Council of Europe that it was too early to speak about full abolition of the death penalty in Ukraine.

Furthermore, on 23 November President Leonid Kuchma made a public statement on the death penalty which put at risk the existence of the moratorium on executions in Ukraine. He reportedly said, while commenting on the trial of Anatoly Onuprienko, accused of murdering 52 people: "As a human being I cannot see any punishment for him other than death."

Amnesty International was concerned that the President's statement in the course of trial proceedings was a violation of the Constitutional principle of independence of the judiciary and the right of the accused to be presumed innocent before the court issues its verdict. Such a statement was especially dangerous in the context of Ukraine, where the judiciary is far from being independent from executive orders and influence.

Amnesty International opposes the death penalty in all cases and circumstances, regardless of the crimes for which it has been applied. The organization believes that the use of the death penalty allows for the execution of innocent people as a consequence of possible judicial mistakes. Amnesty International has been concerned for years about the practice of torture and ill-treatment of criminal suspects in police custody in Ukraine to obtain a confession of guilt, often leading to the death penalty.

According to reports, Yury Mozola was arrested in March 1996 in Lviv, on suspicion of multiple murders which were later attributed to Anatoly Onuprienko. Amnesty International approached the

Ukrainian authorities regarding this case in 1996 (see AI Index: EUR 01/01/97). He was allegedly tortured to death while being interrogated about these crimes: he died in custody four days after his arrest. Another man who was arrested in Lviv and sentenced to death in connection with other murders now attributed to Anatoly Onuprienko was reportedly released following Anatoly Onuprienko's arrest.

The organization believes that this innocent man, who was wrongly accused and sentenced to death, is still alive only because of the existence of the moratorium on executions in Ukraine.

The trial of Anatoly Onuprienko and his co-defendant, Sergey Rogozin, began in November in the city of Zhytomyr, more than two years after Anatoly Onuprienko's arrest in April 1996. A former forestry student, sailor and soldier, he is accused of murdering 52 people between 1989 and 1996; Sergey Rogozin is accused of helping in nine of the murders. Anatoly Onuprienko reportedly said in court that he had been previously treated in a psychiatric hospital. He also reportedly said that his mother had died when he was four years old and his father and older brother had taken him to an orphanage at the age of seven. During the investigation he allegedly said that he heard voices telling him to carry out the killings.

Amnesty International called on the authorities in Ukraine to initiate without delay an independent psychiatric examination of Anatoly Onuprienko.

Also in November, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, adopted a draft resolution to be considered at the January 1999 session of the Parliamentary Assembly, stating that the Ukrainian delegation's credentials would be annulled at the following session of the Assembly in June 1999 if the country's commitments to abolish the death penalty had not been honoured.

Amnesty International continued to urge the President to grant clemency to all death row prisoners and to observe the de facto moratorium on executions. It also continued to call on the parliament to ratify Protocol No. 6 to the European Convention on Human Rights.

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

In October Amnesty International learned that law enforcement officials in the city of Uzhgorod reportedly tortured Yaroslav Mysyak by electric shocks, after his arrest in May on charges of premeditated murder of three people. He was then transferred to a psychiatric hospital in the city of Lviv sometime in June or July 1998, where he spent one month, before being moved back to Uzhgorod. It was reported that Yaroslav Mysyak's father visited him in the Lviv hospital at night by bribing a hospital worker. During this visit, the father took photographs of the burn marks on his son's hand where the electric shock had been applied. The father also taped his son's testimony revealing the torture methods used against him in police custody. His family have also visited him at least once since he was moved back to Uzhgorod. At this visit, the family noted he looked very weak, and that he had lost a lot of weight.

There were further allegations of corruption among law enforcement officials in Uzhgorod and reports which alleged that some local police officers might have themselves been involved in the murders, which were later attributed to Yaroslav Mysyak.

According to the information available to Amnesty International, no official investigation of these allegations of torture had been carried out by the authorities and Yaroslav Mysyak remained in detention at the end of the year.

In August Amnesty International received reports regarding the alleged torture and ill-treatment in previous years of two men who were still in detention. Both of them were held in the Simferopol pre-trial detention centre in Crimea, Ukraine.

From 14 November until 16 November 1996, Andrey Rumyantsev was reportedly beaten, humiliated and deprived of food by officials of the Ministry of Internal Affairs in the Crimean city of Sevastopol. A complaint regarding the ill-treatment of Andrey Rumyantsev by the officials was lodged at the Sevastopol City Court on 26 August 1997 but had not been allocated by the end of the year. Appeals

by Andrey Rummyantsev and his wife, submitted on 6 August 1997 to the General Procurator of Ukraine and the President of Ukraine, had reportedly not been answered by the end of the year.

The certificate from a medical examination on 22 November 1996 of Andrey Rummyantsev noted bruising around his right eye and on his head, on the right side of his neck, around his right shoulder blade, on both thighs, heavy bruising on his back, and cuts on his left shin and right knee. The certificate stated that the injuries were caused by solid blunt objects, and that they were compatible with the timing and circumstances of the alleged incident.

Aleksandr Patrashko was reportedly subjected to beatings on two occasions: first on 4 December 1996, when Sevastopol police officers beat him on the hands and the feet with a piece of cabling, so that he lost consciousness more than once. The second occasion was reportedly on 27 December 1996, when he was taken out of the cell in which he was being held, to a local department of the Ministry of Internal Affairs, where he was allegedly beaten by three police officers. As a result of this second beating, Aleksandr Patrashko was reportedly hospitalised on 27 December due to the internal brain injuries, chest injuries and concussion he had sustained. A medical statement written prior to the hospitalisation stated that after being beaten, Aleksandr Patrashko was spitting blood, was unable to stand unaided and was suffering from nausea, headaches and attacks of shaking. A complaint lodged on 22 November 1996 with the Sevastopol Procurator had not been answered by the end of the year.

Amnesty International continued to urge the authorities to stop torture and ill-treatment in detention. It called for full and comprehensive inquiries into allegations of torture or ill-treatment, with the findings made public, and anyone responsible for such acts brought to justice in accordance with the norms of international law.

## **UNITED KINGDOM**

### ***Human Rights Act***

In November Parliament enacted the Human Rights Act, incorporating the majority of provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms into UK law. The Act, which will come into force in 1999, prohibits torture and other cruel, inhuman or degrading treatment or punishment, adds further protection for asylum-seekers, and abolishes the death penalty except for acts committed in time of war or imminent threat of war. Amnesty International welcomed the Act, but expressed concern that it does not provide for the establishment of national or regional human rights commissions.

### ***UN Committee against Torture examines UK Government's report***

In November, the UN Committee against Torture (CAT) examined the UK Government's third periodic report on its implementation of the Convention against Torture. The CAT expressed concern at the number of deaths in custody, the UK's apparent failure to provide an effective mechanism to investigate complaints of abuse, and the dramatic rise in the number of prisoners held in England and Wales.

With regard to Northern Ireland, the CAT urged reforms including the closure of interrogation centres and the abolition of plastic bullets in riot control. It also urged the reconstruction and re-training of the Royal Ulster Constabulary.

The CAT also called on the government to consider prosecuting Chilean former head of state, Augusto Pinochet, in the UK should his extradition to Spain fail. The CAT recommended reforms of UK law which, by granting immunity to heads of state and allowing a defence of "lawful authority" in certain prosecutions for torture, conflicts with the Convention.

In November, Amnesty International published a *Briefing for the Committee Against Torture* (AI Index: EUR 45/23/98), highlighting cases of death in police and prison custody, conditions in prisons amounting to cruel inhuman or degrading treatment or punishment, ill-treatment by police and in prison and refugee detention centres, and discriminatory policing. The organization expressed concern that the government was not fully carrying out its obligations under the Convention.

### ***Alleged ill-treatment by prison officers***

In December Amnesty International urged the authorities to launch an inquiry into allegations that Angie Zelter had been subjected to ill-treatment in Cornton Vale Prison in Scotland, to which she and four other women had been remanded pending trial for their part in a campaign against nuclear weapons. While at the prison the women informed the prison authorities that they intended to stage a peaceful one-day protest against the launch of a nuclear submarine. Their protest involved remaining in their cells for 24 hours, without speaking and refusing food.

On 19 September, the day of the protest, prison officers reportedly entered Angie Zelter's cell and ordered her to a disciplinary hearing. When she refused by shaking her head, Angie Zelter alleges that her hands were cuffed behind her back and that she was forced to her knees and dragged out of the cell by the handcuffs, causing excruciating pain. She states that her thumbs and wrists were twisted back until she screamed, and that she was then stripped and left face down, naked, in a punishment cell.

### ***Inquiries into police handling of racist killings***

Inquiries examined allegations that policing in England was not carried out in an even-handed manner. A judicial inquiry continued into the Metropolitan Police investigation of the racist killing of Stephen Lawrence in south London in 1993 (see AI Index: EUR 01/02/98). The second part of the inquiry, receiving submissions from authorities and groups in various cities about lessons to be learned, began in September and was continuing at year's end.

The Police Complaints Authority (PCA) began an inquiry into serious mistakes made by the Metropolitan Police's investigation of the death of black musician Michael Menson, after an inquest concluded in September that he had been unlawfully killed after having been set alight by white youths. In November, the Race and Violent Crime Unit of the Metropolitan Police began to re-investigate his death.

The Race and Violent Crime Unit, which was set up as a consequence of the Stephen Lawrence inquiry, had also begun in October a new investigation into the death of Ricky Reel, an Asian student. Ricky Reel was found drowned a year before. The initial investigation had concluded that his death was an accident; friends and family claimed his death was caused by a racist gang.

### ***Asylum-seekers***

Amnesty International continued to express concern at the detention of many asylum-seekers, including minors, pending assessment of their claims. Amnesty International made submissions to a government review of the UK's asylum process and welcomed the announcement, in the government's July policy paper, of a program to clear the backlog of asylum applications. However the organization expressed concern at other proposals, including the detention of all rejected applicants for asylum, the introduction of additional pre-entry controls, the withdrawal of welfare benefits for asylum-seekers and restrictions on access to free legal aid.

In July Amnesty International called on the government to launch an inquiry into the circumstances which led to disturbances at Campsfield House, a privately-run detention centre for refugees, in 1997 and the subsequent prosecution of several detainees in connection with the disturbances. The prosecution collapsed after video-tapes of the incident showed that evidence provided by staff at the centre was false. The organization urged that an inquiry should address the concerns raised by the case, including reports that a detainee was restrained in an unauthorized neck-hold while being moved from Campsfield House after he had made complaints about the conditions.

### ***The case of General Pinochet***

In October former Chilean General Augusto Pinochet was arrested in England following a request for his extradition from Spain, where charges against him for crimes against humanity, torture and hostage-taking were pending. Claiming immunity, he challenged the legality of his arrest and detention pending extradition. In November, the House of Lords rejected his claim of immunity as a former head of state. Amnesty International appeared as a third party intervenor in the proceedings, submitting that no person was immune from prosecution for alleged crimes against humanity and torture. In December, however, after a successful challenge to the composition of the judicial panel, the House of Lords set aside its earlier decision. A new panel of the House of Lords was scheduled to re-consider the claim of immunity in 1999.

### ***Concerns in Northern Ireland***

#### **New human rights institutions**

Initiatives envisaged by the Multi-Party Agreement (see AI Index: EUR 01/02/98) to enhance the promotion and protection of human rights were put in place.

The Northern Ireland Act 1998, passed in November, established the setting up of a Human Rights Commission. The Commission will review the effectiveness of law and practice relating to the protection of human rights, advise on proposed legislation, and carry out research and educational activities to promote human rights awareness. The Commission is also empowered to conduct investigations into reported human rights abuses, but this function does not include the power to compel oral or documentary evidence. In October Amnesty International published *Recommendations to strengthen the proposed Northern Ireland Human Rights Commission* (AI Index: EUR 45/18/98).

The Independent Commission on Policing for Northern Ireland, established in June to recommend reforms which would ensure fair, impartial and accountable policing, accepted written submissions and held public meetings throughout Northern Ireland. In November Amnesty International published its *Submission to the Independent Commission on Policing for Northern Ireland* (AI Index: EUR 45/24/98). In December an Amnesty International delegate discussed concerns about policing in Northern Ireland with the Commission.

A criminal justice review was also initiated. In addition, about 230 people, associated with armed groups which had maintained a cease-fire, were released from prison.

#### **Emergency legislation**

In September the government introduced additional emergency powers -- the Criminal Justice (Terrorism and Conspiracy) Act 1998 -- in the wake of the Omagh bombing (see below), despite the fact that the Multi-Party Agreement envisaged the early removal of emergency powers. The Act contained measures

which the government itself described as "draconian", and included a provision that people may be charged with membership of a banned organization based on the opinion of a senior police officer. The Act also created a new offence of conspiracy to commit offences outside the United Kingdom. In August Amnesty International and other human rights organizations published a briefing on the proposed legislation (AI Index EUR 45/16/98), expressing concern that these and other provisions may result in violations of fundamental human rights.

### **Alleged harassment of lawyers**

In July a senior officer from the Metropolitan Police began an inquiry into a series of complaints made by Lurgan solicitor Rosemary Nelson. Her complaints included being harassed and threatened by the RUC.

### **Policing of demonstrations**

Concerns continued about the use by security forces in Northern Ireland of plastic bullets during demonstrations. In July violence flared following the decision by the Parades Commission to re-route a Protestant march to Drumcree Church in Portadown away from a predominantly Catholic neighbourhood. The number of people who suffered head and upper body injuries after being shot with plastic bullets by security forces during the parade season indicated that guidelines requiring that shots be aimed below the waist had not been consistently followed. In July, in the light of concerns about policing, Amnesty International sent a delegate to observe a number of parades.

### **Abuses by armed groups**

Members of paramilitary groups in Northern Ireland carried out "punishment" beatings, shootings of members of their communities and other abuses throughout the second half of 1998. In July three brothers, aged eight, nine and 10, were killed when their home in Ballymoney was firebombed. Loyalists were suspected of the killings, although no group claimed responsibility. In November a Loyalist armed group, the Red Hand Defenders, shot and killed Brian Service, a Catholic.

In August the "Real IRA", a Republican armed group which opposed the Multi-Party Agreement, claimed responsibility for a car bomb in Omagh which killed 29 people and injured hundreds. Following widespread condemnation, the Real IRA announced a cessation of its military activity.

Andrew Kearney was abducted in July from his home, allegedly by Irish Republican Army (IRA) gunmen, and dragged to a lift where he was shot in both legs. He bled to death. In December the IRA admitted responsibility for having killed Jean McConville, a Belfast widow and mother of 10, in 1972 and secretly buried her body.

### **Updates to previous cases**

In September, the family of Fergal Caraher, who was killed by Royal Marine Commandos in Northern Ireland in 1990, was awarded compensation for his death.

In November it was announced that two soldiers, who in September had been released on licence from their life sentences for killing Peter McBride in Northern Ireland in 1992, would not be dismissed from the Army.

## **UZBEKISTAN**

### ***Prisoner of conscience***



Shadi Mardiyev, a 62-year-old radio journalist from Samarkand region, was found guilty of defamation, illicit handling of foreign currency and extortion under Articles 139, 165 and 177 of the Uzbek Criminal Code by Syrdarya regional court on 11 June. He was sentenced to 11 years' strict-regime imprisonment. This conviction was later, on 3 August, upheld by the Supreme Court. Shadi Mardiyev was understood to have been held in solitary confinement until the Supreme Court hearing, and to have suffered a heart attack while detained. The charge of defamation reportedly related to a June 1997 radio broadcast in which Shadi Mardiyev had satirized an alleged abuse of power by the deputy regional procurator of Samarkand. Amnesty International believed that the charge of defamation was brought by the deputy regional procurator with the aim of preventing Shadi Mardiyev from exercising his fundamental human right to freedom of expression. The organization recognizes that all persons who believe themselves to have been the victims of defamation -- including elected officials -- have a right to seek redress through the courts. However, it is widely accepted that public officials should expect to be subjected to a greater degree of public criticism than other individuals, and that the degree of restriction permitted to protect an individual's reputation should be more limited in the case of a public official than a private person. Amnesty International also argues that using criminal proceedings in such cases implies that the defendant is responsible for an injury to society at large. The organization disputes the fact that the alleged defamation in this case constitutes any such injury to society. It believes that complaints of defamation such as this should be addressed in civil proceedings in which a complainant can seek redress for personal injury to their reputation. Criminal legislation should not be used in such a way as to stifle criticism of public officials, nor to intimidate those who voice legitimate concerns about the actions or practices of public officials. The organization was also concerned that the case against Shadi Mardiyev in respect of the charges of extortion and illicit handling of foreign currency may have been fabricated as part of the attempt to silence him. Amnesty International called for Shadi Mardiyev's conviction on the charge of defamation to be quashed and for an impartial review of his conviction on the other charges.

### **Possible prisoners of conscience**

#### **Fear of forcible deportation**

Aliboy Yuliakhshiyev, former head of the faculty of mathematics at Samarkand University in Uzbekistan and a prominent member of the Uzbek opposition movement *Birlik*, was reportedly arrested by the Russian police on 3 November in Moscow, where he had lived since September. He was allegedly detained at the request of the Uzbek authorities, who, according to reliable sources, issued a search warrant for him in 1995 accusing him under Article 159 of the Uzbek Criminal Code of attempting to overthrow the constitutional order of Uzbekistan. The charge allegedly related to Aliboy Yuliakhshiyev's part in distributing the banned opposition newspaper *Erk*. Under Article 159 he faced up to 10 years' imprisonment if found guilty. Amnesty International was concerned that if returned to Uzbekistan, Aliboy Yuliakhshiyev could be at risk of grave human rights violations, such as imprisonment, torture or ill-treatment, simply for the non-violent expression of his political beliefs. Aliboy Yuliakhshiyev is one of *Birlik*'s most prominent and senior members. He was chairman of the movement's Samarkand regional branch and a member of its Central Committee. Following a clamp-down on the political opposition in Uzbekistan he was forced to leave the country in 1994 to escape arrest. He continued his opposition political activities in exile and helped organize the clandestine distribution in Uzbekistan of *Erk*, which is printed abroad. After being held for eight days in the "temporary detention isolator" (IVS) at the central Moscow police station Petrovka 38, he was taken to Moscow's Matrosskaya Tishina pre-trial detention prison and kept there in a vastly overcrowded cell for 26 days. Aliboy Yuliakhshiyev was released on 7 December after the Russian authorities took the decision not to forcibly repatriate him to Uzbekistan.

**Release of Islamic activist** (update to information given in AI Index: EUR 01/06/97)

In August possible prisoner of conscience Rakhmat Otakulov, a religious teacher, was released from prison after his term of imprisonment was commuted to a non-custodial sentence. He had been sentenced to three and a half years' imprisonment on allegedly fabricated charges of illegal possession of weapons and narcotics on 13 June 1997.

**Additional sentence for Islamic leader** (update to information given in AI Index: EUR 01/06/97)

Amnesty International learned that possible prisoner of conscience Abdurauf Gafurov, the elected *kazi* (Muslim judge) of the Fergana valley, was given an additional two-year sentence in April for "disobeying the prison administration". This was the third time additional criminal charges had been brought against Abdurauf Gafurov - he previously received additional two-year terms of imprisonment in 1995 and 1996 - and there were allegations that this latest charge had also been fabricated in order to prevent him from qualifying for release at the expiry of his sentence in the first half of 1998. According to unofficial sources this latest charge related to an incident in which Abdurauf Gafurov, suffering from a severe bout of radiculitis, was unable to get up for inspection. The prison administration reportedly interpreted this as insubordination. Amnesty International reiterated its contention that the bringing of repeated and probably fabricated criminal charges to prevent Abdurauf Gafurov's release pointed to official hostility towards him which made allegations that he was regarded as a political opponent of the regime highly believable.

**Conviction of Islamic student** (update to information given in AI Index: EUR 01/01/98)

In the period under review Amnesty International learned that Bakhodir Turgunovich Nishonov, a student of the Tashkent Islamic Institute, was sentenced to three years' imprisonment. Bakhodir Nishonov was reportedly arrested in Tashkent on 18 December 1997 by officers of the Ministry of Internal Affairs and charged with distributing tapes of lectures and speeches on religious themes by independent Islamic leader Obidkhon Nazarov. During a non-sanctioned search of Bakhodir Nishonov's apartment the officers confiscated video and audio tapes containing recordings of educational lectures on Islam by Obidkhon Nazarov for the Uzbek Service of Radio Liberty in Prague. Amnesty International sought further information on the charges against Bakhodir Nishonov in order to determine whether he was a prisoner of conscience, convicted solely for the non-violent expression of his religious beliefs.

**Political prisoners** (update to information given in AI Index: EUR 01/02/98)

Some 29 men were sentenced to long terms of imprisonment in at least four separate trials in connection with the 1997 murders in Namangan and the Fergana Valley in the first half of 1998. In October a further 15 men, all said to have been followers of independent Islamic leader Abduvali Mirzoyev who "disappeared" in 1995 (for more background on this "disappearance" see *Amnesty International Reports* 1996 to 1998), went on trial before the Supreme Court for their alleged participation in the 1997 Namangan murders. On 29 December they were sentenced to terms of imprisonment ranging from five to 16 years for premeditated murder, terrorism, creation of and participation in a criminal group, attempt to overthrow the constitutional order and incitement of religious hatred. As in previous trials, there were serious concerns that the defendants had been beaten or otherwise ill-treated in detention and had allegedly been forced under duress to confess to the charges. At least one defendant reportedly denied all accusations in court. Human rights monitors expressed concern that the defendants had not been judged for concrete criminal actions but for being followers of independent Islamic leader Abduvali Mirzoyev and for allegedly adhering to the "Wahhabi" ideology.

On 28 December the judge presiding over the trial of five men accused of being "Wahhabi extremists" postponed sentencing until January 1999 after some 200 supporters gathered outside Tashkent

City Court in protest at the proceedings. There was serious concern that the charges against Odilkhon Ziyokhonov, Olimzhon Yusupov, Khusan Abdusamatov, Mavlonbek Bekhodzhaev and Mamurzhon Igamberdiyev were fabricated and that the outcome of the trial might have been influenced by television reports at the outset of the trial in October, which described the men as "Wahhabi extremists" intent on destroying the established social and political order, spreading extremist ideas and establishing an Islamic state. Odilkhon Ziyokhonov, accused of being the leader of the criminal gang, denied all accusations and claimed that he had been forced under duress to confess to charges of illegal possession of narcotics and firearms and of forming a criminal group. The five co-defendants reportedly denied being acquainted before their arrest. Odilkhon Ziyokhonov also alleged that the authorities arbitrarily linked the criminal case against the five men to the criminal case opened in March against independent Islamic leaders Obidkhon Nazarov and Yuldosh Ergashev, charged with conspiracy to overthrow the constitutional order.

Amnesty International received allegations that at least three defendants in the 7 July Supreme Court trial which sentenced Talib Mamadzhanov to death for the Namangan murders had been tortured and forced under duress to give false evidence. Nosir Yusupov was said to have had a plastic bag placed over his head to cut off his air supply and to have been tortured by electric shocks. His 16-year-old son, Dzhamaliddin, also alleged torture during the court hearing. Co-defendant Isroil Parpiboyev stated in court that he was tortured with electric shocks, and that he was taken naked to the prison yard after having cold water poured over him. It was winter. He also alleged that a bottle was inserted into his anus and that vodka was poured onto his wounds. International observers at the trial noted that Talib Mamadzhanov appeared to be ill and lost consciousness during one hearing.

### ***The death penalty***

During its August session, the *Oliy Majlis* (parliament) removed the death penalty for "unnatural sex" with a person under 14 years of age accompanied by the use of force; "contravening the rules and customs of war"; attempt on the life of the President; espionage; and smuggling weapons of mass destruction or narcotics. The death penalty remained in force for aggravated murder and seven other crimes. The authorities described the decision as part of a policy of abolishing the death penalty by stages, citing "the international obligations which the Republic of Uzbekistan has taken upon itself in the human rights sphere" and in particular Article 3 [right to life] of the Universal Declaration of Human Rights. Amnesty International welcomed the reduction in scope of the application of the death penalty under the amended Criminal Code, but continued to call for a moratorium on the death penalty.

## **YUGOSLAVIA, FEDERAL REPUBLIC OF (FRY)**

### ***Kosovo***

The armed conflict in which the Serbian police and Yugoslav Army are fighting armed ethnic Albanians of the Kosovo Liberation Army (KLA, or in Albanian Ushtria Çlirimtare e Kosovës - UÇK) deepened. Gross human rights violations were perpetrated by the government forces. KLA forces or armed ethnic Albanians were also responsible for human rights abuses, on a smaller scale.

At the beginning of July the KLA effectively controlled the countryside in the Drenica region of western Kosovo, but the police still maintained positions in the towns in Drenica. In mid-July the KLA attempted to take control of the town of Orahovac in southwestern Drenica. The offensive failed and in the following days and weeks the police and army launched an offensive against the KLA which by September had broken the KLA's hold on most of Drenica. In the course of this offensive the police and army deliberately displaced hundreds of thousands of ethnic Albanian civilians and perpetrated other gross

human rights violations. International pressure grew on the Yugoslav authorities and KLA as a result of the increasing humanitarian, human rights and political crisis.

In October, following a United Nations Security Council Resolution condemning the violence and the threat of air strikes by the North Atlantic Treaty Organization (NATO), the Yugoslav President, Slobodan Milošević, agreed to the withdrawal of the substantial part of the police and military forces in Kosovo and the deployment of an unarmed Kosovo Verification Mission assembled by the Organization for Security and Co-operation in Europe (OSCE). At the same time the KLA announced that it was implementing a cease-fire, without which it may also have drawn NATO air strikes. Fighting largely ceased from mid-October onwards but there were nevertheless many violent incidents before the end of the year, when the clashes became more serious.

### **Displaced persons and refugees**

By October estimates of the number of internally displaced persons and refugees had passed 250,000 people. Most of them were ethnic Albanians although ethnic Albanian sources claimed that the total number was significantly higher. Tens of thousands of displaced persons within Kosovo lived in the open without proper shelter for many weeks. After the October cease-fire and the withdrawal of the police and army, the KLA moved in to take effective control of many areas which it had dominated earlier in the year. Many ethnic Albanian refugees felt confident enough to return to their homes or were able to find shelter indoors in the new situation. Displaced Serbs, conversely, did not feel secure enough to return to their villages because of the KLA presence and lack of police. They remained largely in the towns.

Apart from such human rights violations extrajudicial executions and the deliberate targeting of civilians, which caused people to flee, Amnesty International was particularly concerned about the systematic destruction of homes by the Serbian police. The police also destroyed the population's means of survival in the form of livestock and crops. Many returnees were unable to return to their homes because they were completely destroyed and others had to improvise repairs including adapting animal sheds for human occupation. A survey by the office of the United Nations High Commissioner for Refugees in November estimated that nearly 30 per cent of homes in the 200 or so villages which had been most affected by the conflict had been destroyed and another 25 per cent badly damaged.

As increasing numbers of displaced persons sought protection in the neighbouring Yugoslav Republic of Montenegro the authorities there complained increasingly that the republic was unable to receive them because of their swelling numbers and the relatively large numbers of refugees which it already hosted from other parts of the former Yugoslavia. On 13 September around 3,200 ethnic Albanians from Kosovo were deported to Albania by the Montenegrin police. Although the group included some armed men of the KLA, it also included unarmed men and women and children who thus became refugees. Some of the deportees were allegedly beaten by the Montenegrin police.

### **Extrajudicial executions**

As the conflict intensified and the numbers of casualties increased, precise information about the manner of the deaths and injuries became increasingly difficult to gather. However, there was sufficient information to reaffirm Amnesty International's continuing concerns about the behaviour of the police. Numerous people died in extrajudicial executions or were killed or injured as a result of deliberate targeting of civilians. While there were numerous incidents of apparent unlawful killings in which people were killed in ones and twos, the most detailed evidence related to several large incidents. In several of these incidents familiar patterns were repeated in which the killing of Serb police officers or abuses against Serb civilians, became the apparent justification for the unlawful killing and torture of ethnic Albanian civilians or disarmed fighters.

### Orahovac

During the police operation in Orahovac large numbers of ethnic Albanians were allegedly unlawfully killed. Although many of these claims were impossible to confirm, there were reports that police summarily executed ethnic Albanians at a number of locations in or around the town. Two men and two women from the Popaj family, three of them elderly, were reportedly killed in Bela Crkva village on 18 July. As ethnic Albanians tried to flee on 20 July more were killed. That morning a group of several hundred people, reportedly predominantly women and children, left the Muslim seminary in the town on police orders, but was fired upon as it came to the Kadiris mosque in the town. Around 10 people were alleged to have been killed, although the bodies were not seen by independent witnesses. The victims reportedly included 76-year-old Sheh Muhedin Shehu, the leader of a *dervish* sect in the town. Six male members of the Sylka family were allegedly killed by police after they were ordered out of a cellar and four men were allegedly killed in another similar incident. Another 11 people were reportedly killed in Blato on the outskirts of Orahovac. Allegations that mass graves exist around the town containing up to 500 dead ethnic Albanians of the fighting which emerged in the immediate aftermath of the conflict were not confirmed. However, some 47 Serbs and 25 ethnic Albanians remain unaccounted for from Orahovac and some suspected burial sites have yet to be investigated.

### Gornje Obrinje and Golubovac

The government forces staged an intensive operation against the remaining KLA fighters in the area of Likovac in the centre of Drenica in late September. Seven police officers were killed by a mine or shooting on 25 September. In what looked like revenge for the officers' killing, between 26 and 27 September at least 18 members of the Delijaj family in Gornje Obrinje village were killed. They had been hiding in the woods near the village after it came under mortar fire by the police and army. The victims had reportedly been shot at close range and the bodies were mutilated, although the circumstances in which the mutilation took place are unclear. Sixteen of the victims were women, children or elderly people.

In November a team of Finnish forensic pathologists which had been invited to the FRY by the government attempted to visit the graves in Gornje Obrinje to carry out on-site investigations, but were ultimately prevented from doing so by the authorities.

About five kilometres away in Golubovac 13 men were also reportedly extrajudicially executed on 26 September. The men who came from Plo\_ica, Golubovac and neighbouring villages had been detained by the police who had separated them from women and children and were accusing them of being KLA members. According to a 14th man, the sole survivor, who played dead after being shot and was interviewed by the New York-based organization Human Rights Watch, they were laid face down and beaten on their backs before being shot in turn by a single police officer.

### **“Disappeared” and “missing” persons and abuses perpetrated by the KLA**

Hundreds of people, including children, women and elderly people, are unaccounted for, the majority of them since July 1998. Many of the cases were due to family members being separated from one another when they fled. Some of these have been resolved as messages have been exchanged or the families reunited. Many ethnic Albanians were later found to have been detained and placed under investigation by the authorities. In other cases the victims may have been killed in the fighting, but their bodies remain undiscovered or have not been identified. Nevertheless, there is substantial concern that many people have been subject to enforced “disappearances” by government forces or have been abducted by members of the KLA or other armed ethnic Albanians.

The largest single group of “missing” comes from Orahovac. Around 45 Serbs who went missing between 17 and 18 July are still unaccounted for. They went missing from several parts of the town and

some of the surrounding villages. It is feared that all or some were abducted by armed ethnic Albanians of the KLA. Around 25 ethnic Albanians are also missing from the Orahovac area amid fears that the Serbian police were responsible for their "disappearance".

In August the Serbian authorities reported the discovery of the remains of around 20 people, Serbs and ethnic Albanians "loyal" to the authorities which were found in the village of Kle\_ka. The manner of their death was, however, difficult to determine as the authorities created considerable propaganda out of the incident. The investigating magistrate responsible for the judicial investigations allowed television cameras to record her interviewing two men whom the authorities claimed to be captured KLA fighters. They described how the victims had been detained in the Orahovac area and then taken towards Kle\_ka and killed as the KLA retreated. Amnesty International believes that only independent and impartial investigation will reveal the truth about the Kle\_ka victims.

In September the Serbian authorities reported the discovery of 12 more bodies in the village of Glodjane near Djakovica. The police claimed that they had been mutilated and killed by the KLA between May and August.

Neither the Serbian authorities or KLA have been forthcoming in providing information about missing persons. For example, no information has been provided by the authorities in response to appeals in connection with the cases of Dr Hafir Shala who "disappeared" in April or at least eight ethnic Albanian men who "disappeared" from Novi Poklek in May.

The KLA has rarely acknowledged that it was holding prisoners or that it is responsible for people who are "missing". For example, two Serbian journalists, Djuro Slavuj and Ranko Pereni\_, went missing Near Orahovac in an area controlled by the KLA. The KLA has not acknowledged responsibility for their fate or provided information which it undoubtedly possesses.

Two other Serbian journalists who were detained by the KLA in October were accused of "spying" and "sentenced" to 60 days' imprisonment. They were, however, released in November after being held for 40 days. A particularly disturbing feature of the detentions by the KLA have been demands for the release of prisoners in exchanges, making the victims into hostages.

### **Ill-treatment and torture of detainees; deaths in custody; unfair trials**

As the police pushed back KLA forces and gained control of more and more villages, so increasing numbers of ethnic Albanian men were detained under suspicion of having fought with the KLA. Many men were beaten or otherwise ill-treated during their interrogation. The worst treatment was suffered by those who were then formally placed under investigation and remanded in custody. By the end of December at least 1,200 men and a small number of women were in detention. Investigations and trials of them on charges of "association for the purpose of hostile activity" and "terrorism" were initiated. Amnesty International is concerned that these proceedings, like many similar trials which have been held in Kosovo, have been characterized by abuses of due process making them unfair. Defendants were routinely denied access to defence lawyers during initial interrogation by the police and signed self-incriminating statements under duress as a result of ill-treatment and torture. Defence lawyers were given access to their clients during later stages of the investigation when the interrogations were under the control of investigating magistrates. However, the lawyers claimed that they were still denied private communication with their clients, who frequently repeated to the magistrates the content of the forced statements to the police out of fear of further ill-treatment. Police frequently had access to the defendants after they had been placed in investigatory prisons and there were reports of serious ill-treatment during transfers of prisoners.

The evidence presented in some of the cases appeared to be dubious, for example, in one case a forensic report alleging contact with firearms listed 41 people without an individual analysis of the findings relating to each individual who had been tested. The validity of the test as a proof has also been questioned by forensic scientists inside and outside the former Yugoslavia.

## **Concerns in other parts of the FRY**

### **Media**

The Serbian government put intense pressure on the independent media in the second half of 1998. Amnesty International was concerned that the pressure particularly affected outlets which had been reporting human rights violations in the FRY. The independent electronic media had long complained of restrictions in the issuing of licences which resulted in the closure of radio stations, such as *Radio Kontakt*, which attempted to initiate independent multilingual broadcasting in Kosovo, and *Radio Index* in Belgrade. These stations were closed down. In October, when the authorities sought to justify their policies relating to the threat of NATO military intervention, a government decree was introduced which banned the rebroadcast of programs originating from foreign broadcasters by Serbian radio stations and stopped the publication of several newspapers. The decree was followed by a new Law on Information which allowed for the imposition of draconian fines, with limited opportunities for appeal. Several Belgrade- and Priština-based newspapers were temporarily stopped from publishing and two effectively remain closed because prosecutions under the law or the threat of them.

### **The law on universities**

There were also human right concerns in relation to disputes over the independence of the universities. In May a new law allowed the government to control the universities, for example by controlling the appointment of Deans of faculties. In response students and university staff demonstrated. Students formed a movement called *Otpor* ("Resistance") to oppose the changes. The movement linked into wider opposition causes. On 4 November four *Otpor* activists were imprisoned for 10 days as prisoners of conscience for spraying anti-government slogans in Belgrade. Srdja Popović, an activist in both *Otpor* and the opposition Democratic Party was arrested on 15 December and was beaten in a Belgrade police station. Three colleagues who came to inquire about him at the police headquarters were also detained and two claimed that they were also ill-treated. All four were released the same day. Police alleged that Srdja Popović had been arrested because drugs had been found in his car, a claim he contested, Amnesty International believes that his political activities were a more likely explanation for his arrest.

## **RATIFICATIONS**

### ***Towards abolition of the death penalty***

In the period under review Belgium ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the Abolition of the Death Penalty, and Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty (see the Belgium entry, above, for details). Liechtenstein (on 10 December) and Slovakia (22 September) both acceded to the Second Optional Protocol to the ICCPR.

### ***International Criminal Court***

In the period under review 33 European states became signatories to the Statute of the International Criminal Court (ICC). The Statute, which was approved in Rome on 17 July 1998, will lead to the establishment of a permanent international criminal court once sixty countries have ratified it.

Between July and December 1998 the following states signed the Statute: Albania, Andorra, Austria, Belgium, Croatia, Cyprus, Denmark, Finland, France, Germany, Georgia, Greece, Hungary, Iceland, Ireland, Italy, Kyrgyzstan, Liechtenstein, Lithuania, Luxembourg, Former Yugoslav Republic of Macedonia, Malta, Monaco, Netherlands, Norway, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tajikistan and the United Kingdom.



## WOMEN IN EUROPE

### *A selection of Amnesty International's concerns*

Human rights violations against women occur regularly in Europe but are only infrequently given the attention they deserve. The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of the organization's concerns, but are a reflection of the range of violations suffered by women in Europe.

In addition to the cases below, please see the country entries, above, on Belgium and on Italy.

#### **Arbitrary detention**

##### **AZERBAIJAN**

Armine Kurdoyan was said to have been among at least three ethnic Armenian civilians released from a special holding centre in Gobustan during the period under review (see Azerbaijan entry). She is said to have been detained in February 1998 at Baku airport, on a flight which she believed would make only a transit stop in Azerbaijan. It was alleged that no criminal charges had been brought against her, and that she had been held in effect as a hostage, on grounds of her ethnic origin.

##### **GEORGIA**

Women and a young child were said to have been among a number of ethnic Georgian civilians reportedly detained arbitrarily, usually for short periods, in the disputed region of Abkhazia (see AI Index: EUR 56/02/98). In some cases it was alleged that those detained were held as hostages, and/or with a ransom demanded for their release. On 26 October it was reported that Abkhazian forces had taken hostage 30 villagers from Gagida in Gali District. Those detained were said to have included women, the elderly and a three-year-old child. Some sources suggested that the incident occurred after the Abkhazians came under fire from nearby woodland, leaving one man dead. All those detained were released by the beginning of November, reportedly following mediation by Ruslan Kishmaria, the head of administration in Abkhazia's Gali District.

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

##### **BELARUS**

###### *The politically motivated persecution of Vera Stremkovskaya*

Vera Stremkovskaya is a prominent human rights lawyer and President of the Human Rights Centre in Minsk. In 1996, Vera Stremkovskaya served as Legal Counsel at the Belarussian Presidential Office, where she drafted legislative acts and regulations for President Alyaksandr Lukashenka. She resigned in protest against the President's policies. As a member of Amnesty International, she has spoken out against the death penalty.

In September 1998 Vera Stremkovskaya and Mikhail Pastukhov, former judge on the Constitutional Court, were invited to New York by the International League for Human Rights (ILHR), a US-based human rights group, to speak about human rights violations in Belarus with US government officials,

NGOs, lawyers and journalists. On 23 September both of them spoke at a breakfast meeting hosted by the ILHR, which was also attended by representatives of Belarus' permanent mission to the United Nations.

Following her return to Minsk, on 9 October, Vera Stremkovskaya was summoned to the office of the Chair of the Minsk City Collegium of Advocates (bar association), Valery Mitrofanov, who reportedly informed her that her political and human rights activities were incompatible with her status as a lawyer, reprimanded her for travelling to the United States and warned her of negative repercussions.

According to reports, on 12 October Deputy Minister of Justice Viktor Golovanov summoned Vera Stremkovskaya to his office, informed her that she had "violated lawyers' ethics" for comments made during the trip to the US, for which she would be disbarred and stripped of her licence to practise law. Viktor Golovanov reportedly further asked Vera Stremkovskaya to write a letter dissociating herself from her colleague Mikhail Pastukhov, a request that she refused.

According to Vera Stremkovskaya, on 18 November she was summoned by N.P. Shalimo, Chairman of the Collegium of Advocates of the Republic of Belarus, to discuss her present standing in the Collegium and her trip to the United States. N.P. Shalimo reportedly showed Vera Stremkovskaya a letter to the Collegium received directly from the Office of President Alyaksandr Lukashenka, which contained demands to "produce a fundamental evaluation [of Stremkovskaya's actions] and take action to terminate the unethical behaviour of Stremkovskaya, who continues to spread false information about the activities of government bodies and the advocates' institutions of self-government." The letter shown to Vera Stremkovskaya was allegedly signed by A. Plaskovitsky, head of the Legislative Department of the Presidential Administration.

Vera Stremkovskaya insisted that under current law this is "nonsense". If the bar association is truly independent, the Presidential Administration, and moreover A. Plaskovitsky, have no right to give instructions or make demands on the Collegium of Advocates. However, it seemed that the Collegium, fearing further repercussions, attached great importance to this letter and reportedly asked Vera Stremkovskaya to stop harming the Collegium. "The harm I have brought them", reportedly wrote Vera Stremkovskaya in a letter to the ILHR, "is that my pronouncements on human rights issues have caught the attention of Plaskovitsky, who prepares Presidential orders and decrees and may write a decree directed at punishing the Collegium."

In the course of the meeting, Vera Stremkovskaya was reportedly told that she should not present herself as an attorney if speaking on human rights issues and to abandon her activities as a lawyer if she wishes to pursue human rights work. Otherwise, the Collegium would be forced to revoke her license to practise law.

N.P. Shalimo allegedly advised Vera Stremkovskaya that if she had not spoken out while in the United States, then things would be much better. "You shouldn't talk about our problems abroad; you should drink wine over there and say we're striving for democracy," he said, according to reports. He also reportedly suggested that Vera Stremkovskaya was not in her right mind if she thought that she could take on the government system alone.

According to Vera Stremkovskaya, on 26 November, while visiting the Minsk City Department of Justice, she met Judge Valentin Sukalo, Chairman of the Supreme Court of Belarus. Judge Valentin Sukalo reportedly asked her to accompany him to the office of N. P. Podlessky, the director of the City Department of Justice, and then proceeded to reprimand Vera Stremkovskaya, saying that he had "read everything she said in America." The source of these alleged transcripts was not indicated. According to reports, Vera Stremkovskaya denied that any transcripts exist and debated with Judge Sukalo about the independence of the courts in Belarus and the human rights situation.

It was reported that at this meeting she was informed that on 14 December, a "qualification commission" would take place at the Ministry of Justice concerning her case. She herself could not be in attendance because she had to be in court in the town of Kirovsk and she notified them of this. Judge Sukalo reportedly asked where she was staying in Kirovsk, and warned her that she had better not be late to the court sessions because the judges do not look kindly on such conduct.

Further, it was reported that Judge Sukalo warned Vera Stremkovskaya that she should choose between human rights or practising law, but that combining both were out of the question if she wanted to keep her licence. Reportedly, in his view, these are two completely different lines of work.

According to Vera Stremkovskaya, on 12 December A. M. Smolentsev, the head of a group of investigators working on the Vasiliy Starovoitov case, appealed to A. M. Kabernik, the Procurator of the Kirovsk District to bring criminal charges against Vera Stremkovskaya allegedly for the publication in a newspaper of information relating to Vasiliy Starovoitov's case. Vera Stremkovskaya claimed that the newspaper article provoked such a sharp reaction because the authorities wanted to keep the case of Vasiliy Starovoitov as quiet as possible.

According to reports, on 14 December the "qualification commission" did not review her case as it was planned earlier.

Amnesty International believed that the persecution and harassment of Vera Stremkovskaya were politically motivated to prevent her from peacefully exercising her right to freedom of expression. The organization called on the authorities to stop the persecution of Vera Stremkovskaya and other human rights lawyers in Belarus.

## **RUSSIAN FEDERATION**

### ***Alleged politically motivated murder of member of parliament Galina Starovoitova***

Amnesty International was appalled by the murder in St Petersburg on 20 November of prominent Russian member of parliament and human rights advocate, Galina Starovoitova. The organization believed that the reason for her murder was her outspoken criticism of corruption among the political elite, and to prevent her from continuing her work as an advocate and defender of human rights.

According to the police, a man and a woman intercepted Galina Starovoitova and one of her aides, Ruslan Linkov, in the stairwell of her apartment in the centre of St Petersburg on the night of 20 November and shot them with an automatic weapon and a pistol. The Russian police reported that Galina Starovoitova was shot directly in the head and killed instantly, while her aide was hospitalized with serious head wounds.

A co-chair of the Democratic Russia party and former Presidential advisor on ethnic and nationalities affairs, she was an outspoken opponent of the Communists and nationalists, who dominate the lower house of the Russian parliament. According to reports, several days before her murder, she had publicly attacked in a statement one of the leaders of the nationalists, General Albert Makhashov.

Again according to reports, on 4 November she said in an interview that she knew the funding sources for the Communist faction of Duma speaker Gennady Seleznyov. In the same interview, she reportedly stated that she knew about corruption surrounding the local elections in St Petersburg and the names of politicians involved in receiving bribes from mafia groups. She further stated that she was aware that a seat in the St Petersburg local elections had been sold for \$100, 000 to a criminal group from the city of Tambov.

Just two days before her murder eight serving officers of the Russian Federal Security Service (FSB), alleged at a press conference in Moscow that the organization had been involved in extortion, terrorism, hostage-taking and contract killing. It was reported that one of the officers, Lieutenant Colonel Aleksandr Litvinenko, stated that he had been threatened after refusing to carry out an order to murder businessman Boris Berezovsky. He also allegedly stated that certain senior officials had used the FSB for their own private political and material purposes, to settle accounts with undesirable persons, and to carry out private political and criminal orders for a fee.

Director General of the FSB, Vladimir Putin, was reported on 21 November as saying, "I do not have any elements from which I can conclude that this was a political murder". An investigation into the murder has been reportedly opened and the FSB has been ordered to lead the investigation.

Galina Starovoitova had been a good friend and supporter of Amnesty International for years. The organization considered her one of the leading human rights defenders and advocates, and the most prominent woman politician in Russia today.

Amnesty International called on the authorities for the findings of the criminal investigation into the murder of Galina Starovoitova to be made public and anyone responsible to be brought to justice in accordance with international law. The organization believed that in view of the reports about the FSB, the investigation of this murder should be transferred from the FSB to another independent body within the Office of the Procurator General or the Ministry of Internal Affairs. Amnesty International also urged the government of the Russian Federation to take urgent steps to ensure the safety of human rights advocates and outspoken critics by sending a clear public message that abuses against them would not be tolerated and would be punished in accordance with national law and international standards.

***Alleged torture and ill-treatment in police custody; forcible incarceration in psychiatric hospital.***

**BELARUS**

In December Amnesty International learned about the case of Tatyana Karelina and her 19-year-old son, who were reportedly detained and ill-treated on 27 June by police officers in Minsk, who later confined them against their will in a psychiatric hospital, although there appears to be no reason to suppose that they were a danger to themselves or other people.

According to reports, the mother and son were detained at their home by officers of the Frunze Regional Department of Internal Affairs (ROVD) in Minsk, who allegedly beat the two detainees. The officers allegedly refused to allow Tatyana Karelina to switch off the gas stove when leaving the apartment and as a result their home was later set on fire. The officers reportedly took Tatyana Karelina and her son to the psychiatric hospital "Novinky", where they spent the night and were tied down to the beds by hospital staff. They were also reportedly injected with an unknown substance.

Tatyana Karelina's husband, an officer with the Belarussian Committee on State Security (KGB), succeeded in obtaining their release from the hospital on the next day. Tatyana Karelina submitted a complaint to the General Department of Internal Affairs in Minsk, in which she protested about her and her son's illegal detention, ill-treatment and hospitalization. In reply to this complaint, the law enforcement authorities claimed that the pair were detained because they "obstructed the work of law enforcement officials in the course of their duties" and also "violated public order". The authorities also claimed that the physical force used against the detainees was lawful and that they were forcibly hospitalized because of their emotional state at the time.

Tatyana Karelina alleged that the local police officers had been bribed by her neighbours, who allegedly hoped to take over their apartment. Amnesty International is not aware into any official investigation by the authorities into the allegations of ill-treatment in this case.

**RUSSIAN FEDERATION**

Amnesty International learned of the alleged torture and ill-treatment of a group of friends and colleagues, Evgeny Trofimchuk, Nina Samokhvalova, Natalya Popkova and Larisa Trofimchuk, by officers of the St Petersburg Department on Fighting Organized Crime (RUOP).

It was reported that during the 1980s, two young medical doctor-psychiatrists, Oleg Ahmylin and Evgeny Trofimchuk, began their research and activities in psychotherapy in the Siberian city of Novosibirsk. According to reports, they formed a small group of like-minded and interested scientists and individuals and in 1988 opened the first psychotherapy hotline service in this part of the Russian Federation called "Telephone of Trust", where people who need therapy could call anonymously and obtain professional advice.

These activities apparently brought upon them the negative reaction of the local Novosibirsk administration and law enforcement officials, who allegedly on several occasions initiated an investigation of the activities of the group. In September 1996 the group moved permanently to St Petersburg, to avoid further persecution by the authorities in Novosibirsk. In early 1997 several Russian newspapers published articles alleging that the group was a "part of a religious sect" and that their activities involved taking drugs, "brainwashing people" and "immoral life-style". Based on these articles, members of the city parliament in St Petersburg requested that RUOP investigate the group. According to reports, members of the group, including Evgeny Trofimchuk, Nina Samokhvalova, Natalya Popkova and Larisa Trofimchuk, were arrested in St Petersburg on 10 April 1997. No official charges were brought against them at arrest. Some of them were then taken to the RUOP headquarters in St Petersburg.

Nina Samokhvalova reportedly was four months pregnant at the time of her arrest. She was sent to a hospital and subsequently gave birth to a stillborn child. After a major operation she was reportedly left physically disabled.

Evgeny Trofimchuk was taken to the police station in the village of Sertolovo, outside St Petersburg. He was allegedly severely beaten for three hours, and was humiliated by being forced to wash his own blood off the walls, before being beaten again and kicked.

Natalya Popkova was reportedly forcibly incarcerated in psychiatric hospital No. 4 in St Petersburg, where she was kept for one and a half months without any legal basis for her detention. After this period she was diagnosed as schizophrenic. All the group, with the exception of Natalya Popkova, were released almost immediately due to a lack of evidence of criminal activity.

The group soon after filed a complaint alleging that they had been tortured and ill-treated with the Office of the St Petersburg City Procurator. However, the outcome of the complaint was not known to Amnesty International.

On 1 July 1998 Larisa Trofimchuk was taken to a police station in the village of Sertolovo, where, she claimed, she was threatened and was psychologically coerced into making a confession that she and her husband Evgeny Trofimchuk had not been fulfilling their parenting duties towards their eldest son, Nikolay. As a result of the confession she was officially cautioned and a regime of checks on the parents' relationship with their youngest son, Andrey, began. It was reported by her family that as a result of the psychological pressure, during a police search at their home on 3 July 1998, Larisa Trofimchuk left home and possibly went into hiding. Her whereabouts were not known to Amnesty International at the end of the year.

The organization called on the authorities to initiate an investigation into the allegations of torture in police custody and the forcible incarceration of one of the women, and for anyone responsible to be brought to justice.

## **Death Penalty**

### **TURKMENISTAN**

Unofficial sources reported that appeals from abroad - such as Amnesty International's Urgent Action appeals - saved the lives of two women who had been sentenced to death in September. Gulshirin Shykhlyeva and Tylla Garadzhayeva were said to be sisters from the Garrygalinsky district of Balkans

province in Turkmenistan. They were sentenced to death on 18 September by a court in Turkmenistan for drug-trafficking, under Article 297 of the Turkmen Criminal Code.

## CHILDREN IN EUROPE

### *A selection of Amnesty International's concerns*

It is a sad fact that in Europe, as in all parts of the world, being a child is not of itself protection against gross violations of human rights. Children in Europe regularly face violations including torture and ill-treatment, unlawful detention, and arbitrary killing. Often children and juveniles are especially vulnerable to human rights violations, and at the same time they are heavily dependent on adults to protect them and to enable them to find redress for human rights violations.

The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of Amnesty International's concerns, but are a reflection of the range of violations suffered by children and juveniles in Europe.

#### **Prisoners of conscience**

##### **BELARUS**

During the period under review Amnesty International continued to campaign for the release and for all charges to be dropped against two prisoners of conscience in Belarus, one of them a minor. On 24 February the Minsk Regional Court sentenced 16-year-old Vadim Labkovich to a one-and-a-half year suspended prison term and 19-year-old Aleksey Shidlovsky to one and a half years' imprisonment in a strict regime colony, on charges of "malicious hooliganism" under Article 201(2) of the Belarussian Criminal Code and "abuse of state symbols" under Article 186. Vadim Labkovich's sentence was suspended due to the fact that he was under age at the time of his arrest.

On 25 August 1997 police in the Belarussian town of Stolptsy detained Aleksey Shidlovsky, and Vadim Labkovich two days later on 27 August, for allegedly participating in writing anti-presidential and anti-government graffiti on the walls of various public buildings, and for allegedly replacing the national red and green flag of Belarus on top of the town administration building with the banned red and white national flag, a symbol of the opposition and of the Belarussian Popular Front (BNF). It was reported that during a search of Vadim Labkovich's home on 28 August 1997, police found and confiscated two red and white flags. The two youths were held in detention for almost six months until they stood trial in February 1998. In September 1997 they went on a hunger strike to protest their imprisonment. There were reports that while in detention in the pre-trial detention centre in the town of Zhodino Aleksey Shidlovsky was severely beaten by the prison guards and as a result he spent a month in the prison medical ward.

Amnesty International called for the immediate and unconditional release of Aleksey Shidlovsky as a prisoner of conscience, for prompt and impartial investigations into the allegations of his ill-treatment, and for anyone responsible to be brought to justice. While Amnesty International does not take the position that people are entitled to deface public buildings, such an offence will not normally result in a prison sentence. The organization believes that the length of sentence imposed in this case implies a political motivation on the part of the Belarussian authorities. Amnesty International continued to call for all the charges against Vadim Labkovich to be dropped.

## **Shootings of children and juveniles in disputed circumstances**

### **FRANCE**

#### ***Habib Ould Mohamed***

During the night of 12-13 December 17-year-old Habib Ould Mohamed was shot and killed in Toulouse (Haute-Garonne) when he and a friend were suspected by a police patrol of trying to break into a BMW car. His body was found by a passer-by hours later, lying partly under a vehicle on the boulevard Déodat-de-Séverac.

According to reports, Habib Mohamed and his 16-year-old friend "Amine", who had stolen a 205 GTI car, were surprised at the time of the shooting by a four-man police patrol as they tried to break into the BMW. Seeing the police, they then reportedly tried to escape in the 205 GTI. One officer fired in the air. "Amine" ran away towards the Garonne, but the sergeant in charge of the patrol shot Habib Mohamed "accidentally" when trying to pull him from the car with one hand while holding his service revolver in the other. The bullet entered the youth's left shoulder on a downward trajectory that pierced the right lung. It was not clear whether Habib Mohamed was then left to stumble away along the road, or had managed, although fatally shot, to elude his pursuers. "Amine" reportedly claimed that he had heard four or five more shots. At one point, on turning, he had seen his friend behind him, staggering "as though in slow motion". He ran on and hid behind some shrubbery, where he remained for several hours, unaware of the death of his friend until the following afternoon.

After their return to the police station the two officers failed to report having fired their guns, as required by law, stating only that they had witnessed a car theft. However, after the discovery of the body, the sergeant reportedly admitted that he had "perhaps fired, yes" but had not realized at the time that he had shot Habib Mohamed. The sergeant was placed under investigation for manslaughter (*homicide involontaire*) and was subsequently released from police custody under judicial control. The family of Habib Mohamed lodged a judicial complaint, as a civil party, for murder and failing to assist (*homicide volontaire et omission de porter secours*).

The prosecutor was reported as saying: "It is certainly hard to understand, and cannot be explained why those involved did not immediately report to their commanding officer that they had used their weapons on two occasions, a warning shot (with the weapon of the auxiliary officer) and a second shot [which hit] the victim ... The originator of the shot has indicated that, at the time, he was not aware he had fired his weapon, which may seem surprising".<sup>9</sup> The acting Minister of the Interior stated that "fundamental rules were not respected". The death of Habib Mohamed and the police sergeant's subsequent release from custody under judicial control provoked a wave of riots in Toulouse.

In its April 1998 report *France: Excessive Force: A summary of Amnesty International's concerns about shootings and ill-treatment* (AI Index: EUR 21/05/98) the organization concluded that its longstanding concerns about the reckless use of force by police officers, whereby excessive force was used against people who were largely young and often of non-European ethnic origin, remained as relevant as at the time of publication of Amnesty International's 1994 report on the subject.

#### ***"Chronicle of an acquittal foretold"***

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<sup>9</sup>*Il est certain qu'on comprend mal et qu'on ne s'explique pas pourquoi les intéressés n'ont pas indiqué tout de suite à l'officier de commandement qu'ils avaient fait usage des armes à deux reprises, un tir de sommation (avec l'arme du policier auxiliaire) en l'air, et un deuxième tir sur la personne qui a été victime [...] L'auteur du coup du feu indique que, sur le moment, il n'a pas eu conscience, ce qui peut paraître surprenant, de déclencher son arme". (Quoted in Libération, 16 December 1998).*



In December Amnesty International sent an observer to the trial, before the Court of Assizes of Alpes-Maritimes, of a police officer who had shot dead eight-year-old Romani child Todor Bogdanovi\_ at a frontier road block in 1995. The police officer was charged with manslaughter (*coups et blessures ayant entraîné la mort sans intention de la donner par dépositaire de l'autorité publique*). On 18 December he was acquitted. The case had been referred to the Court of Assizes following a decision of the *chambre d'accusation* of the Court of Appeal of Aix-en-Provence, in December 1997, to overturn a previous decision by an investigating judge to drop the case because the officer had fired in "legitimate defence". The court had concluded that, on the contrary, there was sufficient doubt about the circumstances of the shooting to justify committal for trial, since the legal criteria for "legitimate defence" (actual or imminent danger, simultaneity of reaction and proportionality of means) did not appear to have been met (AI Index: EUR 01/01/98).

Amnesty International has followed this case closely, owing to its concern about the reckless use of force by police officers, combined with inadequate firearms training and prosecutorial inertia in bringing cases of alleged excessive force by law enforcement officers to court. In 1997 experts on the UN Human Rights Committee specifically expressed concern about the death of Todor Bogdanovi\_.

Amnesty International's observer was critical of the conduct of the trial before the Court of Assizes. He remarked that, although members of the public waiting to enter the court did not have to undergo security checks, they were questioned by officials on their reasons for wishing to attend and that he himself had difficulty in gaining entry to the court. He also had a "clear impression that, during this trial, the habitual role of the parties was reversed: the prosecutor assumed the role of the defence and the civil party that of the prosecution. This considerably facilitated the work of the defence and rendered extremely difficult the work of the civil parties [to the prosecution], in particular that of the lawyer of the victim's family."

In his closing speech the prosecutor accepted that "legitimate defence" was not proved, owing to the fact that the officer had been in no danger, and requested a nominal sentence. However, he "clearly made it known that, in his view [the officer] should be acquitted". He argued that the jury should take a "psychological" approach and accept that the officer had, in shooting at the car occupied by Todor Bogdanovi\_, performed a single movement as the result of a single decision. To argue otherwise would be to "dematerialize" his action in an artificial manner. (This was contrary to the argument of the Court of Appeal of Aix-en-Provence, according to which the officer, in firing three times, once with rubber bullets, and subsequently with metal bullets, had sufficient time to realize that the car had already passed him and did not constitute any danger).

The observer also commented that the president of the court did not show strict impartiality, displaying coldness and aggression to the civil party, without apparent respect for the sufferings of the child's father, and allowing frequent interruptions and long digressions by the defence. He concluded that the trial resembled "the chronicle of an acquittal foretold".

Under French law there is no appeal on fact from a court of assizes to a higher French court.

### ***Alleged ill-treatment***

#### **BULGARIA**

The following ill-treatment incidents reportedly occurred during the police raid in Mechka, in Pleven region (see main entry on Bulgaria: New cases of ill-treatment of Roma).

Eleven-year-old Shukri Aliev was helping his uncle to bring home their flock of sheep. As they entered the yard, where they were leading the sheep, more than 10 police officers came to their house and reportedly started to beat Shukri's uncle. One officer hit Shukri Aliev on the right hand with a truncheon

and then pushed him, making him fall on the concrete pavement. The boy does not remember what happened afterwards. He was later treated for a broken finger on his right hand and lesions on the right side of the forehead, nose and right temple which he suffered as a result of the beating and the fall.

Another minor who was reportedly ill-treated by the police was 15-year-old Asan Aliev Sherifov, who was beaten on the arms with truncheons and kicked on the legs. He was examined the same day and the forensic medical certificate describes lacerations on the shins of both legs and bruising on the left armpit and elbow.

## **ROMANIA**

### ***Florin Bîr\_***

Seventeen-year-old Florin Bîr\_ was among those detained on 30 July, following the police raid on Meri\_ani (see main entry on Romania: New cases of police torture and ill-treatment). During the search of his family's home six piglets were found - at which time he reportedly admitted to their theft. At the Alexandria police station Florin Bîr\_ was reportedly beaten about the head, on the palms of his hands and the soles of his feet. When he felt sick as a result of the ill-treatment, he was reportedly dragged along the corridor by his hair in order to be taken outside to the fresh air. Another detainee in the same room witnessed how the police repeatedly beat the minor. A number of detainees alleged that they heard Florin Bîr\_ crying during the interrogation and described cuts and bruises on his body following his release.

Florin Bîr\_ was released along with the other detained men on the same day at around 6pm. On 3 August he was again arrested and taken by the police to Alexandria where he was questioned about the theft of the piglets and reportedly beaten. The following day the prosecutor prolonged his detention for five more days.

### ***Sebastian Fitzek and C\_t\_lin***

On 21 August, in Bucharest 16-year-old Sebastian Fitzek accompanied C\_t\_lin, a fellow student from the provinces, to the house of C\_t\_lin's aunt. She was not at home, so they inquired of a neighbour if she still lived at that address. When the neighbour confirmed that she did, they said that they would return later. They were subsequently arrested by four police officers and taken to Police Section 21, where they were separated from each other. While waiting in the corridor, Sebastian Fitzek was approached by a police officer who asked him what he was doing there. He had hardly replied "I don't know, I'm innocent" when the officer reportedly struck him across the side of the head so hard that he fell down. Later, after establishing their identity, the police realized that their suspicion that they intended to break into the apartment of C\_t\_lin's aunt was false. Nevertheless, the minors were fingerprinted and photographed and asked to make statements about the incident. When the officer who questioned the two minors learned that they were students in a Catholic school he reportedly forced them to sing psalms and insulted the Catholic Church.

Medical reports from Dr Victor Gomoiu Children's Hospital show that Sebastian Fitzek suffered a trauma to the left ear and perforation of the left eardrum as a result of the blow he reportedly received while in the police station. Sebastian Fitzek's father requested an inquiry into this incident and spoke to a senior police officer who maintained that it was not worth making an inquiry and refused to give him his name.

### ***M.C. and A.R.***

On 4 September, before they arrested Nicolae Cazacu (see main entry on Romania: New reports of police torture and ill-treatment), the police took four boys, between the ages of 12 and 15, to the municipal station in Poiana Lacului, Arge\_ county, and questioned them about the theft of a bicycle without informing their parents or providing them with legal representation. Twelve-year-old M. C. told Amnesty International: "One officer shouted at me: 'where is the bicycle' and then slapped me on the back of the head. He also slapped me a couple of times when we were in the car on the way to the station." The police officer who questioned him wrote a statement which M.C. signed without reading.

The parents of 13-year-old A.R. were not at home when he was taken to the police station where he was held from 10am to 5pm. The officers reportedly hit him with a baton on the palms and the soles of the feet and forced him to sign a statement. Following his release he was not taken to a doctor for an examination, although his palms and soles were bruised and swollen. Reportedly unaware of their rights and feeling intimidated by the police, although A.R. denied taking the bicycle, his parents bought a replacement for the victim of the theft. The second time A.R. was summoned to the police station and interrogated by an officer investigating Nicolae Cazacu's complaint, the officer responsible for the ill-treatment of A.R. was in the adjoining room. In spite of his parents being present during this interview, A.R. felt intimidated.

In December representatives of Amnesty International met Dr Cristian T\_b\_caru, State Secretary of the Romanian Government's Department for Child Protection, and urged him to ensure that investigations into the reported incidents are carried out promptly and impartially. Amnesty International also urged the Romanian authorities to ensure that all law-enforcement officers detaining and interrogating minors should respect the United Nations Standard Minimum Rules for the Administration of Juvenile Justice<sup>10</sup> and United Nations Rules for the Protection of Juveniles Deprived of Their Liberty<sup>11</sup>.

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<sup>10</sup>Resolution 40/33 adopted by the General Assembly on 29 November 1985 at its 96th plenary session. These are also known as Beijing Rules.

<sup>11</sup>Resolution 45/113 adopted by the General Assembly on 14 December 1990 at its 68th plenary session.