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**FRANCE: FATAL SHOOTING OF ABDELKADER BOUZIANE AND ALLEGED  
ILL-TREATMENT OF DJAMEL BOUCHAREB BY LAW ENFORCEMENT OFFICERS**

Amnesty International is concerned at the fatal shooting of Abdelkader Bouziane by police officers at a roadblock in Fontainebleau on the night of 17 December 1997. Amnesty International is further concerned at the alleged ill-treatment by police officers of Abdelkader Bouziane's companion, Djamel Bouchareb. Judicial and administrative inquiries into both the shooting and the alleged ill-treatment are under way. All the facts of the killing and of the alleged ill-treatment will not be known until the closure of the investigation by the judicial authorities and at the time of writing the investigation was protected by rules designed to guarantee the secrecy of instruction. However, Amnesty International believes that the fatal shooting may violate the law on "legitimate defence" (see below).

Amnesty International is calling for a full, prompt and impartial investigation into the shooting of Abdelkader Bouziane and into the allegations by Djamel Bouchareb, and is seeking information from the French authorities about the progress and eventual outcome of the investigations, and any further judicial or administrative proceedings arising from them.

The following information is based on newspaper reports and on a judicial complaint submitted by Djamel Bouchareb.

On 17 December 1997 16-year-old Abdelkader Bouziane was driving a Volkswagen Golf without a driving licence in his home town of Dammarie-les-Lys (Seine-et-Marne). His 19-year-old friend, Djamel Bouchareb, was a passenger. At approximately 11pm the two youths were spotted by officers of the *Brigade anticriminalité* (Anti-Crime Brigade, BAC), who pursued the Golf in their patrol car from Dammarie-les-Lys in the direction of Chailly and Fontainebleau, and were joined en route by a second police car. The police pursued them reportedly because the driver was breaking the highway code.

At the Libération crossroads on the outskirts of Fontainebleau a police roadblock had been set up by BAC officers from Fontainebleau. Abdelkader Bouziane is said to have tried to get through the roadblock by first attempting to join a slip road and then by attempting to mount a grassy bank. Allegedly, fearing that the car would run them down, two police officers both fired their weapons twice, subsequently claiming that they were acting in "legitimate defence".

One of the bullets shattered the driver's window before hitting Abdelkader Bouziane through the nape of the neck. The Golf collided into a lamp post, spun around and came to a halt. Abdelkader Bouziane died a few minutes later at the wheel of the car.

A ballistics report ordered by the investigating judge, the findings of which were reported in the French press, appears to suggest that two of the four bullets shot at the car at close range by the two police officers were fired at head and shoulder level while the car was passing or had already passed the officers. This report raises doubts about police claims that they were acting in

"legitimate defence"<sup>1</sup>. The police training manual (*Gestes et techniques professionnels d'intervention - Direction du personnel et de la formation de la police*) states: "If there is the slightest possibility of the police officer avoiding, without serious consequences for himself or others...an illegal attack...he must opt for that solution rather than use his weapon. For example, if a vehicle is driven intentionally at the officer and he has the time and is physically able to move aside...he should do so rather than use his weapon. Once the vehicle has passed, the criteria for legitimate defence no longer existing, the use of the weapon by the officer is forbidden".<sup>2</sup> As a result of the findings of the ballistics report the police officers were placed under investigation.

On 6 January 1998, Djamel Bouchareb, the passenger, deposited a judicial complaint against the police for attempted murder and illegal acts of violence. Djamel Bouchareb, who was pulled from the stationary car, claimed that he was violently manhandled, in particular by one of the officers from Dammarie-les-Lys. His allegations of ill-treatment were corroborated by an independent eye-witness account which was reported in the French daily newspaper, *Libération*, of 17 March 1998. The eye-witness, a resident of Fontainebleau, had presented himself to the police several days after the incident. He claimed that he saw Djamel Bouchareb being punched in the back and stomach and kicked in the head twice.

On 18 December 1997 Djamel Bouchareb was taken to Fontainebleau hospital (*Centre Hospitalier de Fontainebleau*) for treatment and was discharged four days later. Medical certificates, which were attached to his formal complaint, were issued by the hospital and by a general practitioner, noting haematoma to his forehead and right cheekbone and pain in the region of the spine, requiring further treatment.

In the aftermath of the killing there were violent scenes at Dammarie-les-Lys between police and youths, many of immigrant origin. Members of Abdelkader Bouziane's family appealed for calm.

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<sup>1</sup>Under Article 122-5 of the French Penal Code it is legitimate to act to defend oneself or others against an unjustified attack if the action is both necessary for legitimate defence and simultaneous with the attack, and as long as there is no disproportion between the means of defence used and the gravity of the attack (Art. 122-5 - "*N'est pas pénalement responsable la personne qui, devant une atteinte injustifiée envers elle-même ou autrui, accomplit, dans le même temps, un acte commandé par la nécessité de la légitime défense d'elle-même ou d'autrui, sauf s'il y a disproportion entre les moyens de défense employés et la gravité d l'atteinte.*"). Art. 122-7 further refers to the state of necessity and establishes three criteria which, if met, mean there is no penal responsibility: the existence of an actual or imminent danger threatening a person or property; the need to break the law in order to safeguard the person or property; the existence of proportion between the means used and the seriousness of the threat.

<sup>2</sup>"*S'il existe pour le policier la moindre possibilité d'éviter, sans conséquence grave pour lui-même ou pour autrui... l'attaque injuste... il doit opter pour cette solution plutôt que d'utiliser son arme. Par exemple, si un véhicule se dirige délibérément sur le policier et que celui-ci a la possibilité matérielle et le temps de s'écarter... il doit privilégier cette solution plutôt que d'utiliser son arme. Une fois le véhicule passé, les conditions de la légitime défense n'étant plus réunies, l'usage de l'arme par le policier est à proscrire.*"

