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# amnesty international

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

In November 1999 the United Nations Committee against Torture examined in Geneva the Second Periodic Report of Austria describing the measures it has taken to implement its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In its consideration of the report submitted by Austria the Committee against Torture expressed a number of concerns which reflected some of Amnesty International's own concerns about allegations of ill-treatment in the country. Among its concerns the Committee against Torture noted the fact that in Austria "... allegations of ill-treatment by the police are still reported".<sup>1</sup> In the light of continued allegations of police ill-treatment the Committee against Torture recommended that: "clear instructions be given to the police by the competent authorities to avoid any incident of ill-treatment by police agents. Such instructions should emphasize that ill-treatment by law enforcement officials shall not be tolerated and shall be promptly investigated and punished in cases of violation according to law".<sup>2</sup>

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<sup>1</sup> UN Doc. CAT/C/XXIII/Concl.2 - paragraph 4b.

<sup>2</sup> UN Doc. CAT/C/XXIII/Concl.2 - paragraph 5b.

As well as ratifying the Convention against Torture, Austria has ratified the other international treaties prohibiting torture and cruel, inhuman or degrading treatment or punishment, including the International Covenant on Civil and Political Rights (ICCPR) in 1978 and the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) in 1989. Since ratifying the ICCPR Austria has submitted periodic reports to the Human Rights Committee. The Austrian government has also permitted publication of the reports of the European Committee for the Prevention of Torture (CPT) of its visits to places of detention and prisons in Austria in 1990 and 1994, together with the government's responses to the questions and recommendations put forward by the CPT. As a result of its 1990 visit to the various places of detention the CPT stated in the summary of its main findings: "Taking into account also the weaknesses in some of the basic safeguards against ill-treatment noted in the course of the visit, the CPT has reached the conclusion that there is a serious risk of detainees being ill-treated while in police custody".<sup>3</sup> In 1994 the CPT returned to Austria and in its report to the Austrian government published in October 1996 the CPT reported receiving, during its visit to Austria, "a considerable number of allegations of ill-treatment of persons by the police", some of which "amounted to torture".<sup>4</sup> The CPT repeated the main conclusion of its previous report, published in 1991, that people detained by the police were at serious risk of being ill-treated, and made recommendations to remedy the violations.<sup>5</sup>

In September 1999 the CPT carried out a 12-day visit as part of its third periodic visit to Austria, the findings of which have not been made public. However, during the deliberations of the Committee against Torture in Geneva on 11 November 1999, General Director of the Ministry of Interior Szymanski stated, in response to a question from a member of the Committee, who asked whether the third report of the CPT would still contain the sentence that "there is a serious risk of detainees being ill-treated while in police custody"<sup>6</sup>: "I have the impression, that it was the impression of all those who had any contact with the committee that the report on the third visit would no longer contain that 'famous sentence'".<sup>7</sup> Amnesty International awaits the publication of the CPT's report of its 1999 visit to Austria with great interest.

Amnesty International continues to receive reports of alleged ill-treatment of detainees by police officers in Austria, in many instances while being arrested. A large majority of allegations come from non-Caucasian Austrian and foreign nationals. Most report that they have been subjected to repeated kicks, punches, kneeling, beatings with truncheons and spraying with pepper after being restrained. In many cases the allegations of ill-treatment have been supported by medical reports and in some cases the detainees have been taken by the arresting police officers to receive medical attention during their initial period in custody. Police officers are also alleged to have used racist language in some instances. Amnesty International is concerned that, when formal complaints have been lodged and investigations opened in cases of alleged police ill-treatment, in Amnesty International's experience they have been slow, lacking in thoroughness and often inconclusive. This

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<sup>3</sup> CPT/Inf (91) 10 - Summary of the CPT's main findings.

<sup>4</sup> Amnesty International Report 1997 p.79.

<sup>5</sup> CPT/Inf (91) 10 - Summary of the CPT's main findings.

<sup>6</sup> CPT/Inf (91) 10 - Summary of the CPT's main findings.

<sup>7</sup> Interpretation of Mr Szymanski's statement made during 398<sup>th</sup> Meeting of the Committee against Torture on 11 November 1999.

document highlights both the issues surrounding ill-treatment in Austria and a number of cases of alleged ill-treatment and presents Amnesty International's recommendations

### **Shortcomings in investigations into cases of alleged ill-treatment**

Articles 12, 13 and 16 of the UN Convention against Torture require that each state shall ensure that there is a prompt and impartial investigation, whenever there is reasonable grounds to believe an act of torture or other, cruel, inhuman or degrading treatment has been committed. In recent years Amnesty International has repeatedly expressed concern that, when formal complaints have been lodged and judicial investigations opened in cases of alleged police ill-treatment, they have been slow, frequently lacking in thoroughness and often inconclusive. The impartiality of a number of criminal investigations into allegations of ill-treatment has also been questioned, with claims that prosecuting authorities frequently view the evidence presented in favour of the suspected police officer as more credible than that supporting the victim. Amnesty International knows of very few judicial investigations into allegations of ill-treatment which have resulted in the prosecution of police officers. In replying to a parliamentary question in July 1999 the former Minister of the Interior, Karl Schlögl, reportedly admitted that in 1997 there was not a single prosecution from the 343 registered complaints of ill-treatment by police and gendarmes, whereas in 1998 there was only one prosecution from 356 registered complaints, although a very small number of cases were still pending a decision. Furthermore, in a number of instances known to the organization, where officers were found guilty of ill-treating detainees, the sentences imposed on the guilty police officers were nominal.

### **The alleged police ill-treatment of Mohammed Ali Visila**

Amnesty International expressed concern about reports of an assault by police officers on a French citizen of African origin, Mohammed Ali Visila. The alleged ill-treatment of Mohammed Ali Visila by police officers was widely reported in the Austrian media. The incident occurred just before midnight on 3 March 1999 at the underground station of *Schottenring* in Vienna. According to the eyewitness statements and the coverage of the incident in the Austrian press, Mohammed Ali Visila was pushed into the control room of the station and assaulted by two police officers. The eyewitnesses claimed to have seen the two policemen punch, kick and beat the man with rubber truncheons while he lay on the floor of the control room. In addition he was sprayed with pepper but only after he had been forced to the ground and beaten. Eventually more policemen arrived and the injured man was carried away on a stretcher to the *Lorenz Boehler* hospital where he was treated for his injuries.

Amnesty International found disturbing the allegations of the use of racist language by the two policemen. Witnesses reported that the police officers verbally abused the victim as "you dirty negro son-of-a-bitch" (*Du dreckige Negersau*) and "negro son-of-a-bitch" (*Negersau*). Moreover, the policemen were reported to have continued using racist language when dealing with the crowd of people who witnessed the attack. One of the policemen is alleged to have asked one female witness why she was so concerned about a "negro"? (*Wie ist das so mit einem Neger?*).

Mohammed Ali Visila was brought to trial in April 1999 charged with resisting arrest and physically injuring the police officers. Amnesty International is not aware of the nature of the injuries they were alleged to have sustained. Mohammed Ali Visila was sentenced to a nine-month prison sentence, of which eight months were suspended. During the trial Mohammed Ali Visila claimed he could not remember the details of the incident. It was reported that the judge asked him if he had hit the police officers with a wooden sign. He answered "Maybe, I don't know". When the judge asked him if the police officers beat him so he was in need of hospital treatment he answered "Maybe". Since his arrest on 3 March 1999 the detainee had already spent nearly one month in detention in

Austria. Shortly after the trial he was allowed to return to Hannover in Germany where he lives and works.

Amnesty International wrote to the Ministry of the Interior in April 1999 asking to be informed whether an investigation into the allegations of ill-treatment of Mohammed Ali Visila had taken place and whether any disciplinary measures had been taken against the police officers concerned. Amnesty International also expressed concern about the alleged use of racist language by the police officers and asked what steps the authorities were taking to deal with racism in the Austrian police force. In December 1999 Amnesty International received a reply from the Austrian authorities stating that after reviewing the available evidence the state prosecutor considered that a verdict of guilt on the part of the two police officers accused of ill-treating Mohammed Ali Visila was not to be expected and no further action would be taken against the two police officers.

During the investigation into this case of alleged ill-treatment Amnesty International became concerned about the comments reportedly made by senior officials in the police about the reliability of the five eyewitnesses. Although the alleged ill-treatment of Mohammed Ali Visila occurred on 3 March, the five eyewitnesses were not questioned by the authorities until 23 March, during which time Mohammed Ali Visila was being held in detention. On 19 March the most senior police officer in the Viennese police force, Chief Inspector Franz Schnabl, is reported to have questioned the reliability of the eyewitness statements in the media before the official eyewitness interviews had taken place. Amnesty International is concerned that this statement may have been designed to discredit the five eyewitnesses. The comments made by the leader of the police trade union (*Freiheitliche Polizeigewerkschaft*), District Inspector Josef Kleindienst, at around the same time may have also constituted a violation of Article 13 of Convention against Torture that eyewitnesses should be protected against ill-treatment or intimidation. He reportedly stated to an Austrian news agency: "I am preparing to bring legal proceedings against these eyewitnesses for various, punishable offences. It cannot be, that police officers suffer professional and private disadvantage through untrue allegations" (*Ich bereite gegen diese Zeugen eine Anzeige wegen diverser strafbarer Handlungen vor. Es kann nicht sein, daß Polizisten durch unwahre Behauptungen dienstliche und private Nachteile erleiden*). He is also reported as having said that: "They [eyewitnesses] only want to protect drug-dealing black Africans from the police and not the other way round, parents and children from those types of criminals" (*Diese wollen ja nur die drogendealenden Schwarzafrikaner vor der Polizei schützen und nicht, umgekehrt, Eltern und Kinder vor derartigen Kriminellen*).

### **The alleged police ill-treatment of Dr C**

In April 1999 Amnesty International wrote to the former Minister of the Interior, Karl Schlögl, expressing concern about the apparently racist treatment of a detainee by the Austrian police. In November 1998 a black Austrian citizen was allegedly ill-treated by police officers. The victim has been widely referred to in the Austrian media as Dr C. On the evening of 1 November 1998 Dr C and his family were leaving a friend's house in Vienna's 22<sup>nd</sup> district. After reversing his car into a one-way street Dr C was approached by a police patrol car. One of the officers in the car allegedly rolled down his window and shouted: "Why are you driving the wrong way, Nigger? Get out of your car now! This is a raid! If you don't produce your passport by the time I count to three, you're in the canal" (*Warum fährst du gegen die Einbahn, du Niggerant? Stieg sofort aus! Das ist eine Razzia! Ich zähle bis drei, wenn du dann nicht den Paß hervorgeholt hast, landest du im Kanal!*). One of the police officers is alleged to have again verbally abused Dr C after he was unable to produce his passport: "It's a shame that you are a nigger! Niggers are drug dealers!" (*Ein Pech, daß du ein Nigger bist! Nigger sind Drogendealer!*). During this incident, witnesses claimed, the police officers pushed Dr C into a bush of thorns and beat him unconscious. While Dr C lay unconscious on the ground the

police handcuffed him, but continued to beat him after he regained consciousness. Dr C's wife claims that during the assault one of the police officers shouted to his colleague, "Make him lame until he can no longer walk!" (*Machts ihn lahm, bis er nicht mehr gehen kann!*) and "Work on his joints so he can no longer walk!" (*Bearbeitet seine Gelenke, daß er nicht mehr gehen kann!*).

A third police officer arrived on the scene and the police officers arrested Dr C and took him to the police station. Upon arrival at the police station the victim was unable to get out of the police car due to his injuries. The police officers are alleged to have thrown Dr C out of the police car and taken him into the police station. At the police station the police officers initially refused Dr C medical treatment. However, his injuries were so serious that eventually they informed a paramedic from a local hospital who ordered that Dr C be taken immediately to hospital. Dr C was taken to the SMZ Ost Hospital where he was treated. The head doctor at the hospital stated that there were "clear traces of ill-treatment" of the victim. As a result of the attack on his joints Dr C spent 11 days in hospital suffering from injuries to his knees and elbows. His arms and legs were put in plaster and he was given blood thinning drugs to prevent thrombosis. After the incident Dr C had to use crutches for two weeks. In addition to injuries to his knees and elbows Dr C suffered from severe concussion and bruising of the genitals, where he was kicked by one of the policemen.

Amnesty International wrote to the Ministry of the Interior asking to be informed what steps had been taken to investigate these allegations of ill-treatment and whether any disciplinary measures had been taken against the police officers concerned. Amnesty International also inquired whether any steps were being taken by the Ministry of the Interior to address racist behaviour by police officers.

Amnesty International learned that Dr C was charged with resisting arrest and physically injuring the police officers. Amnesty International was not aware of the nature of the injuries the police officers are alleged to have sustained. Dr C's complaint of being physically abused by the two police officers and their counter-complaint that he resisted arrest and physically assaulted them was heard in court (*Straflandesgericht*) in August. The judge presiding over the hearing rejected the counter-claim of the two police officers that Dr C had physically assaulted them but upheld the charge that he had resisted arrest, sentencing him to a conditional four-month prison sentence. The judge found the two police officers guilty of intentionally injuring Dr C and sentenced them to conditional six-month prison sentences. However, these judgments are not final and are open to appeal. Amnesty International has also learned that disciplinary procedures have been initiated against the two police officers. In October 1999 an Independent Administrative Tribunal (*Unabhängiger Verwaltungssenat*) found the police officers guilty of using excessive force against the detainee and reprimanded them for their use of racist language.

## Counter-complaints

Amnesty International has expressed concern that people who lodge complaints of ill-treatment against the police run the risk of counter-charges, such as defamation, resisting arrest or physical assault. The Committee against Torture also expressed concern that "potential complaints of abuse committed by the police authorities may be discouraged by the provisions enabling the police to accuse of defamation the person who lodges a complaint against them".<sup>8</sup> The 1991 CPT report also expressed the concern that the counter-claim of defamation by police officers could deter people from lodging a genuine complaint of ill-treatment, stating: "The recourse had by police officers to the defamation proceedings against persons who accuse them of ill-treatment should be reviewed with a view to ensuring that there is a proper balance between the competing interests of play".<sup>9</sup>

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<sup>8</sup> UN Doc. CAT/C/XXIII/Concl.2 - paragraph 4C.

<sup>9</sup> CPT/Inf (91) 10 - Summary of the CPT's main findings.

Although recognizing that some complaints about ill-treatment by police officers might be exaggerated or untrue and acknowledging that, like everyone else, such officers are entitled to protection of their reputations and to be presumed innocent until proven guilty, Amnesty International has expressed concern that the institution of legal proceedings against a high proportion of complainants might effectively dissuade victims of ill-treatment from complaining. In a large majority of cases of alleged police ill-treatment which came to the attention of Amnesty International in the period 1998 to 1999 complainants faced counter-charges after alleging they were ill-treated by police officers. For a number of years the organization has been calling on the Austrian authorities to review the present complaints procedures with a view to ensuring that would-be complainants have recourse to at least one effective, impartial channel of complaint which does not expose the complainant to the risk of counter-complaints.<sup>10</sup> Furthermore, the organization believes that prompt, thorough and impartial investigations, with the methods and findings made public, serve to protect the reputations of law enforcement officers who may be the subject of unfounded accusations of ill-treatment, as well as to safeguard the interests of genuine victims of ill-treatment.

### **The alleged police ill-treatment of Raymond Ayodeji**

In August 1999 Amnesty International learned of a case of alleged ill-treatment of a Nigerian national by police officers in St. Pölten. Raymond Ayodeji was reportedly sprayed with pepper after he had been pushed to the ground and repeatedly punched and kicked by police officers.

In the early afternoon of 3 July 1999 41-year-old Raymond Ayodeji and his Austrian wife, Daniela Ayodeji, took their three children around the town centre of St. Pölten. Daniela Ayodeji has stated that she took her three children for a ride on the town's sight-seeing train as a treat while her husband waited with the children's prams near the family car. After the ride she returned to find her husband lying on the ground surrounded by three police officers. She alleges that the police officers beat her husband in her presence as he lay on the ground. She says she begged the police officers to stop beating her husband but maintains they ignored her. She has also stated that after the police officers had handcuffed her husband one police officer sprayed pepper into her husband's eyes three or four times. Daniela Ayodeji has also stated that she and her seven-year-old child were also affected by the pepper spray. In the meantime more police officers arrived at the scene of the arrest and placed Raymond Ayodeji in a police vehicle and took him to the main police station in St. Pölten. After the incident Daniela Ayodeji was left alone with the three children and the prams.

Amnesty International has received an eyewitness report supporting the allegations of ill-treatment. The eyewitness stated that she and a friend were strolling around St. Pölten in the afternoon of 3 July. She saw Raymond Ayodeji sitting on a bench near the Promenade shopping centre speaking with a police officer. The eyewitness and her friend entered a department store. After leaving the department store, the eyewitness saw Raymond Ayodeji and the police officer involved in an intense discussion. She says she could overhear parts of the discussion. Raymond Ayodeji was explaining to the police officers in English that his identification was in his car and he was waiting for his wife to return with the children. She has also indicated that the two prams stood next to Raymond Ayodeji.

The eyewitness has stated that the situation escalated after Raymond Ayodeji asked the police officer for his service number. The police officer reportedly called for reinforcements and shortly afterwards three additional police officers arrived and immediately attacked and seized Raymond Ayodeji. The police officers allegedly forced him to the ground and punched and kicked him across

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<sup>10</sup> Amnesty International Report: *Austria - Torture and Ill-treatment (January 1990)*.

his entire body. The eyewitness has stated that Daniela Ayodeji arrived with the children and she pleaded with the police officers to be allowed to calm the situation. The police officers allegedly took no notice of her and continued to direct kicks to Raymond Ayodeji's body and head while he lay on the ground. When Raymond Ayodeji attempted to defend himself from the blows a police officer allegedly sprayed the detainee with pepper several times. The eyewitness has confirmed that the seven-year-old child, who stood crying next to his father, also received a dose of the spray. Raymond Ayodeji was then taken away by police officers in handcuffs. The eyewitness maintains that she saw blood from the detainee on the road markings on the ground. As a result of the incident he suffered a number of injuries including a fractured finger and various torn ligaments. He has also alleged that he was subjected to racist abuse during the incident, being called a 'negro swine' (*Negerschwein*) by one of the police officers and that it was suggested he was a drug dealer.

Amnesty International learned that Raymond Ayodeji remained in detention until 29 July 1999. Daniela Ayodeji has stated that her husband bit one of the police officers who allegedly attempted to close his nose and spray pepper into his mouth. As a result Raymond Ayodeji was charged with resisting arrest, committing physical bodily harm and damaging property. Amnesty International received a reply from the Ministry of the Interior in October 1999 rejecting Raymond Ayodeji's version of events and alleging that Raymond Ayodeji had acted aggressively towards police officers after being asked for identification and insulted and attacked police officers resulting in his arrest. The Ministry of the Interior informed Amnesty International that Raymond Ayodeji had initiated a complaint at an Independent Administrative Tribunal, the result of which is not yet known. Amnesty International learned that Raymond Ayodeji was given a conditional eight-month prison sentence in November 1999.

### **The alleged police ill-treatment of He Xiuqin, He Xiuzhen and Ni Tongjun**

In July 1998 Amnesty International was informed of the ill-treatment of two women of Chinese origin and a male Chinese national during their arrest in the Chinese restaurant where they worked. The Austrian national He Xiuzhen and her sister He Xiuqin worked as waitresses at the "Schöne Perle", a Chinese restaurant in Vienna. Ni Tongjun worked there as the cook of the restaurant.

According to these statements three police officers entered the restaurant shortly after 9pm on 2 July 1998 and ordered He Xiuqin and her sister, He Xiuzhen, to show their identity papers. When the two women had produced their papers, one of the police officers 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, 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. One police officer allegedly said: "We have no time to go on walks together" (*Wir haben keine Zeit für gemeinsame Spaziergänge*). Ni Tongjun was subsequently 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, one of the police officers allegedly 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 allegedly 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 Ni Tongjun and eventually he was released from the headlock. 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. They have stated that their requests to be allowed to go to the toilet went unheeded. They were then interrogated until 5am the following morning, without, they maintain, the statutory breaks required during interrogation under these circumstances, after which they were released.

Amnesty International urged the Austrian authorities to investigate the allegations of ill-treatment thoroughly, promptly and impartially and to bring to justice anyone guilty of ill-treating detainees. The organization asked to be informed about the outcome of any investigation. The authorities were also asked for information regarding the training which Vienna police officers receive in the use of force when arresting or restraining detainees and to ensure that the service instructions and training programs of Vienna officers are consistent with the obligations laid down in international instruments, including the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

In August 1998 He Xiuqin lodged a complaint, which was rejected by the state prosecutor in September 1998. The police officers lodged complaints of physical assault and resisting arrest. It is not known whether these charges were lodged on the night of their arrest or after He Xiuqin had lodged her complaint. One of the officers alleged that she kicked him in the lower abdomen with high-heeled shoes and consequently he suffered from abdominal pains. In December 1998 the court sentenced He Xiuzhen to a suspended sentence of seven months' imprisonment for resisting an officer in the execution of his duties and physical assault. Her sister and the cook were sentenced to a suspended sentence of three months' imprisonment for resisting arrest. In addition, He Xiuzhen was ordered to pay compensation to the police officers.

He Xiuqin, He Xiuzhen and Ni Tongjun have instituted an appeal against the decision at an Independent Administrative Tribunal claiming that they were ill-treated by the police officers. Amnesty International has not yet been informed of the outcome of any decision reached by this body.

### **The alleged police ill-treatment of Johannes G. and his denial of access to a lawyer**

The Austrian media reported a case in Vienna of alleged ill-treatment by police officers of an Austrian citizen referred to as Johannes G. He alleges he was deliberately punched in the eye region of the face by several police officers while in detention on the evening of 6 November 1999. As a result of the alleged ill-treatment Johannes G. spent 12 days in hospital suffering from various injuries to his eyes. While in custody he alleges he was refused access to a lawyer.

In the experience of Amnesty International detainees are of the greatest risk of physical ill-treatment and intimidation in the period immediately following deprivation of liberty. Access by people who have been deprived of their liberty to a lawyer during this period may serve as an important safeguard against ill-treatment and the presence of a lawyer would have a dissuasive effect on those officials who might be inclined to ill-treat detainees. The presence of a lawyer is particularly important in the context of interrogation, during which a detainee may be subjected to excessive verbal and physical pressure by police officers. Amnesty International also believes that immediate access to



a lawyer allows the detainee access to the practical help they need immediately after detention, including assessing whether their rights have been infringed and seeking remedial action.

Johannes G. has reportedly stated that two police officers found him lying at the front door of his house on the evening of 6 November 1999. He has maintained that he had been forced to the ground by an unknown person and had asked the police officers for help. When the police officers refused to help him an argument ensued resulting in his arrest. It is reported that the two police officers maintain that Johannes G. was intoxicated, verbally abused them and then attacked them. The two officers handcuffed Johannes G. and took him to a police station on *Boltzmannngasse* in Vienna. According to Johannes G. after he was placed in a cell in the police station, several police officers repeatedly punched him in the face. Johannes G. has stated that as a result he lost consciousness and had to be taken to hospital for medical treatment. The police officers stated in their report to the hospital that the respective injuries to Johannes G.'s left and right eyes occurred as a result of him hitting his face against a house intercom during his arrest and falling from a chair at the police station. After receiving superficial medical treatment at the hospital he was brought back to the police station and detained overnight.

Johannes G. has complained that the police officers refused to allow him to make a telephone call after they returned to the police station from the hospital. Under a number of international human rights treaties, to which Austria is a state party, detainees should be given prompt access to a lawyer of their own choice and be allowed to inform family members of their arrest. Amnesty International requested to be informed why Johannes G. was allegedly not given prompt access to a lawyer or permitted to contact members of his family.

Johannes G. was reportedly released the next morning. Upon his release Johannes G. was referred by a police doctor to the *Krankenanstalt Rudolfstiftung* hospital in Vienna after he recognized the seriousness of the detainee's eye injuries. Doctors at the *Krankenanstalt Rudolfstiftung* hospital, where he was treated for 12 days, have reportedly lodged a complaint against the police officers on the basis of the injuries sustained by their patient. Johannes G. was diagnosed as suffering from cerebral haemorrhaging, a detached right optic nerve and cuts to the eye region of his face. The injuries to Johannes G.'s right eye have reportedly resulted in blindness of the eye and it is not known whether the blindness is permanent or temporary.

Amnesty International has called on the Austrian authorities to initiate an immediate, thorough and impartial investigation into Johannes G.'s alleged ill-treatment and has requested to be informed of its findings. Amnesty International has also expressed the concern that, since Johannes G.'s arrest and subsequent hospitalization, the arresting police officers have brought charges of physical assault and violent conduct against him.

**Amnesty International's recommendations:**

In Amnesty International's experience one of the most important factors contributing to the practice of torture and ill-treatment is impunity. Perpetrators of human rights violations are likely to become all the more confident when they are not held to account before the law. Amnesty International is most concerned that, although Austria has created a structure to investigate allegations of torture and ill-treatment, this has not been effective in preventing the ill-treatment of detainees. The organization is also concerned that, irrespective of the existing safeguards which have been put in place against ill-treatment, often on the recommendation of the Committee against Torture and the CPT, it has continued to receive a significant number of allegations of ill-treatment of detainees by police officers, some of which have been very serious. Amnesty International believes that it is clearly within the power of the Austrian authorities to take immediate steps to ensure that the ill-treatment of detainees

by police officers is prevented and the rights of both Austrian and foreign nationals are given greater protection. Amnesty International recommends that the authorities as a matter of priority:

- inform all people deprived of their liberty of their rights, including the right to complain to the authorities against ill-treatment;
- ensure that all people under arrest are informed promptly of the charge or charges against them in a language they understand, and that they are allowed access to a lawyer of their choice from the outset of their detention and during interrogation;
- ensure that all detainees are allowed access to a medical practitioner of their choice;
- initiate prompt, impartial and thorough investigations of all complaints of torture and ill-treatment of detainees, as well as when there are reasonable grounds to believe that torture or ill-treatment has occurred, even if no complaint has been made;
- introduce legislative and procedural measures to ensure that investigations are prompt, impartial and thorough;
- review the present complaints procedures with a view to ensuring complainants have recourse to at least one effective, impartial channel of complaint which does not expose the complainant to the risk of counter-complaints;
- bring those suspected of being responsible for torture or ill-treatment of detainees to justice in the course of fair proceedings;
- senior police officers should deliver the clear message to their subordinates that torture or ill-treatment of detainees is unacceptable in all instances and will be the subject of severe sanctions and that the use of force should be limited to what is proportionate and strictly necessary;
- police training policies and programs should be reviewed in order to ensure that education in the international norms and standards of human rights, particularly standards on the prohibition of torture and ill-treatment in all circumstances, is included;
- take measures to address discriminatory attitudes and behaviour among police officers.