TABLE OF CONTENTS

Concerns in Europe and Central Asia

January to June 2003

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 2003. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin, or where AI took specific action.

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 01/01/98	Concerns in Europe: July - December 1997
AI Index EUR 01/02/98	Concerns in Europe: January - June 1998
AI Index EUR 01/01/99	Concerns in Europe: July - December 1998
AI Index EUR 01/02/99	Concerns in Europe: January - June 1999
AI Index EUR 01/01/00	Concerns in Europe: July - December 1999
AI Index EUR 01/03/00	Concerns in Europe: January - June 2000
AI Index EUR 01/001/2001	Concerns in Europe: July - December 2000
AI Index EUR 01/003/2001	Concerns in Europe: January-June 2001
AI Index EUR 01/002/2002	Concerns in Europe: July - December 2001
AI Index EUR 01/007/2002	Concerns in Europe: January – June 2002
AI Index EUR 01/002/2003	Concerns in Europe: July – December 2002

INTRODUCTION

The European Union must address its human rights deficit

In its research, reporting and campaigning, Amnesty International consistently seeks to back its work on individual cases and countries by making use of international standards and mechanisms. At the regional level, the main resource for AI's human rights work in Europe has always been the human rights framework of the European Convention on Human Rights and the European Court developed since the 1950s by the Council of Europe. That framework remains a key tool, but the regional picture is changing. Over the past decade, the European Union (EU) has emerged as a prominent actor in its own right in the field of human rights, creating a highly dynamic political and legal context for human rights advocacy not just in external relations but also internally. Consequently AI's work at the EU is becoming increasingly important.

As it evolved from an economic into a political entity, the EU has developed its own distinct human rights profile. This showed mainly in the context of the EU's relations with third countries, but the adoption of the European Charter of Fundamental Rights in 2000 and the European Parliament's annual reports on human rights in the EU reflected the basic notion that human rights should begin at home. Now, with the European Union about to expand its membership to 25, and with a new constitutional treaty being negotiated which may incorporate the Charter of Fundamental Rights, the landscape of human rights in Europe is set to change further, and significantly. However, the EU is as yet slow in coming to grips with that.

The EU aspires to a leadership role in the field of human rights, but at a time of great international turbulence and profound internal debate it is confronted with increasing challenges. The Iraq crisis has left it divided and vulnerable on the world stage, impairing its confidence and its effectiveness in matters of values and principles. At the start of the current Italian Presidency, Amnesty International warned

that the EU had lost its grip on the human rights agenda. In external relations, it has been unable if not unwilling to confront the challenges of insecurity and formulate a coherent response to those violating human rights on the pretext of "fighting terrorism". In the domestic sphere, the pursuit of the "area of freedom, security and justice" has also been dominated by concern for security, by emphasis on control rather than on protection.

As regards human rights standards within Europe, the EU's human rights policy will remain fundamentally flawed as long as it turns a blind eye to human rights violations within its own borders. Amnesty International's regular reports on human rights abuses in Europe such as this biannual Concerns in Europe Bulletin have consistently included the majority of EU member states as well as candidate countries, showing a common and disturbing pattern of abuse by law enforcement officials. At a public hearing in the European Parliament in April on the subject of respect for fundamental rights within the EU, it became clear that the EU could no longer afford to hide behind national responsibility or lack of competence. Addressing this human rights deficit must be a matter of priority. The first report presented by the network of independent experts on human rights in the EU was an important step towards systematic monitoring and reporting. However, the ultimate goal must be to establish adequate accountability at EU level for human rights observance in EU member states, present and future.

The overriding preoccupation with security has accelerated EU processes towards harmonization of legislation in the field of criminal law, and towards increased police and judicial cooperation. The consultative process launched by the European Commission's Green Paper will be decisive in the codification of minimum procedural safeguards for suspects and defendants in criminal proceedings throughout the EU.
Meanwhile the EU's focus on asylum and immigration remained dominated by the drive for control. Negotiations on the Common European Asylum System continued under great political pressure which may lead member states to adopt common standards that fall short of the Geneva Convention and other relevant principles of international refugee and human rights law. The lengths to which the EU was prepared to go to accommodate political pressures manifested itself in a disturbing manner in the EU Afghanistan Return Plan that is to facilitate and even enforce the return of refugees and asylum seekers to a country that is by no means safe. Similarly, Amnesty International is concerned about protection obligations being diluted in the EU's increasing efforts to engage with countries of origin and transit to stem illegal immigration.

The past years have seen a significant effort on the part of the EU to make its human rights policies in relation to third countries more effective. Progress in the past decade and especially in the last few years has been quite remarkable. New sets of guidelines on torture and on human rights dialogues were drawn up, and the Community's co-operation program has been reorganized and is now based on a framework of priorities. However the greatest challenge, still, is to put human rights into practice, and to be more effective. [Contribution by AI's EU office]

Leadership is required now more than ever to restore and reshape a proper human rights agenda in the EU. Amnesty International believes that there is a need to revitalize a clear perspective on the essential values that should be at the heart of all the Union's policies to ensure that the EU strikes the right balance between security and human rights; between control and protection; between the standards it demands of others and those it is prepared to apply to itself.

ALBANIA

Police torture and ill-treatment

The report of the Council of Europe's European Committee for the Prevention of Torture or Degrading Treatment or Punishment (CPT) on a visit by a CPT delegation to Albania in October 2001 was published, with the government's permission, in January, together with the government's response. The CPT report contained detailed allegations of torture of detainees by police supported by medical evidence. In its response the Ministry of Public Order did not deny the CPT's findings, but described various remedial measures that had since been taken.

In April the Albanian People's Advocate (Ombudsperson) reported that in 2002 his Office had received more complaints against police officers than in the previous year and that 70 of these were complaints about police ill-treatment; following investigation the Office found that 15 of these were justified, 20 remained to be investigated, and the others were either invalid or did not fall within the Office's remit. On the basis of the Ombudsperson's recommendations, disciplinary measures were taken against 12 police officers and prosecutors opened investigations against 24 police officers. The People's Advocate commented, however, that investigations were sometimes delayed or perfunctory, or were terminated for reasons that did not accord with Albanian law. The report concluded: "There is a lack of will and there are delays by the Prosecution in carrying out swift and objective investigations when the accused are police officers."

There continued to be reports of police ill-treatment. On 3 January Gazmend Tahirllari died due to police ill-treatment (see below). On 14 May police officers arrested Ndoc Vuksani, aged 37, and took him to Shkodër police station where they allegedly beat him brutally, while questioning him in connection with a crime, before releasing him six hours later for lack of evidence. A certificate issued by a medical forensic expert the following day found that his left arm was fractured and he had bruises on his left shoulder. This certificate and photographs of the injuries were reportedly sent to the Shkodër military procurator, together with a formal complaint, but AI was not aware whether an investigation was opened.

On 26 May there were demonstrations in Tirana by former political prisoners and other victims of political persecution under communist rule in support of their demands for compensation. Police intervened and allegedly beat and injured a number of protesters. Among them were: Sali Bujari aged 68, from Korça district; Tefta Kolaci, a woman in her fifties, also from Korça; and Uran Metko, a member of parliament. During a similar demonstration on 15 May police are also alleged to have ill-treated a number of demonstrators, including Agim Musta, aged 71. The police authorities, however, denied that police ill-treated demonstrators, although it appeared that there was photographic evidence in support of at least some of these allegations.

An investigation of a "disappearance" is re-opened.

On 21 May three former employees of ShIK, the National Information Service (secret police), were arrested in Tirana on charges of "abduction" and "torture with serious consequences" in connection with the "disappearance" in 1995 of two men - Remzi Hoxha, an Albanian who had earlier moved from Macedonia to Albania, and Armand Loshaj, an Albanian from Kosovo - and the torture of Ziso Kristopulli. Their arrest followed a request by the Ombudsperson to reactivate this case. In May it was reported that the Prosecutor General's Office had appointed a group of experts to trace the supposed place of burial of Remzi Hoxha and, possibly, of Armand Loshaj, in the area of Lezha. Arrest warrants were also issued for six to nine other ShIK officers, most of whom had allegedly left the country and settled in the UK.

Trial proceedings against police officers

On 17 March Korça district court sentenced *in absentia* police officer Lorenc Balliu to 16 years' imprisonment for the murder of Gazmend Tahirllari; five co-defendants, also police officers, were sentenced to between three years and four months' imprisonment. Gazmend Tahirllari was arrested on 3 January and died in Korça hospital the following day. Although initial medical findings concluded that his death was caused by excessive alchohol, his family, supported by the Ombudsperson, insisted on the exhumation of his body and a forensic examination by experts from Tirana, who found that his death had been caused by kicks or punches to his head.

On 13 June Elbasan district court sentenced police officer Ardian Bello to six months and 15 days' imprisonment, for causing "light injury" to Xhevdet Cangu who was reportedly hospitalized due to the ill-treatment.

On 14 May the trial started of two police officers, Edmond Koseni and Xhafer Elezi, charged with "torture" and "arbitrary acts" in connection with the severe ill-treatment of Naim Pulaku in Elbasan in December 2001 when Edmond Koseni was chief of police of Elbasan district (see AI Index: EUR 01/002/2002). The defendants reportedly denied the charges against them. The trial had not finished by the end of June.
Investigations in several other cases resulted in police officers being charged with having ill-treated detainees. In April, chief of Elbasan district police, Niko Brahimaj, was suspended from office, and placed under investigation after Afrim Saliu complained that he had beaten and injured him.

Conditions of detention

Despite repeated protests by detainees and by human rights organizations, the conditions of detainees in prisons and police stations were often very poor. The conditions of over 1000 people held in police stations were particularly harsh and sometimes amounted to cruel and inhuman treatment. Overcrowding in prisons meant that police stations accommodated some 400 convicted prisoners, who should by law have been transferred to prisons, as well about 900 detainees held on remand. Children (aged 14 to 17) were often held in police cells together with adults, also illegally. A new prison with capacity for 800 prisoners was built with Italian funding in

Peqin, but since it was designed primarily to accommodate repatriated Albanians convicted in Italy, said to number well over 800, it seemed unlikely to solve the problem of prison overcrowding in Albania.

In April AI delegates visited Shkodër police station, with a maximum capacity of 50 detainees, and found there were 98 detainees including convicted persons, and children sharing cells with adults, some of whom had been held there since 2000. In some cells the overcrowding was so acute that the inmates had to sleep in turns. In June some 40 detainees reportedly went on hunger-strike in protest against conditions and alleged ill-treatment. The AI delegation found similar overcrowding and poor conditions in Lezha and Laç police stations. Earlier warnings that overcrowding and extremely unhygienic conditions would lead to epidemics proved true – in April there was an outbreak of scabies amongst detainees in Vlora police station, with a maximum capacity for 40 detainees, which in February reportedly held 110 detainees. Although police sources claimed to have improved hygiene, by June about 80 per cent of detainees were infected, according to a press report. Acute overcrowding was also reported in other police stations around the country.

Trafficking of women and children

The trafficking of women and children continued. In March the press reported that nine people had been arrested and an investigation had been opened in Korça into a child-trafficking network. According to the press it was suspected that some 10 children, including babies, had been

trafficked from Korça region to Greece and Turkey, and that some of these had possibly been trafficked for their organs. In April Artan Shkurti, a police officer, was sentenced to eight years' imprisonment for trafficking a 19-year-old woman for prostitution. In June three men and a woman were arrested in Korça on a charge of trafficking two children to Greece for exploitation as beggars or cheap labour, while four men were arrested in Durrës on a charge of selling a child to Italy. In

February Durrës District Court sentenced five men to between five and 15 years' imprisonment for trafficking women for prostitution.

In June a US State Department Report on Trafficking in Persons stated that the Government of Albania did not meet the minimum standards for the elimination of trafficking, but was making "significant efforts to do so". However, figures for prosecutions showed that the conviction rate in cases involving charges of trafficking was very low. According to the report: "In 2002, 144 trafficking cases were sent to trial by the General Prosecutor's office and 17 people were convicted. The Ministry of Public Order investigated 31 cases of police involvement in trafficking during 2002, with at least one officer convicted but given a minimal sentence."

The low conviction rate was partly due to the reluctance of witnesses to testify in such cases for fear of reprisal. However, in June an OSCE-facilitated agreement on witness protection was signed by the Albanian authorities and a number of international agencies, pending the adoption of witness protection legislation. It was hoped that this would enable courts/prosecutors to secure convictions.

Abolition of the death penalty even in time of war

In May Albania signed Protocol No. 13 to the European Convention on Human Rights, which provides for the total abolition of the death penalty in all circumstances. It had ratified Protocol No.6, abolishing the death penalty for ordinary crimes, in September 2000, after which the death penalty was replaced by life imprisonment. The last death sentence was carried out in 1992.

Albania also signed, in May, Protocol No.12 on the General Prohibition of Discrimination.

Ratification of impunity agreement with the United States of America

On 19 June Albania ratified a bilateral agreement with the USA committing it not to surrender US nationals accused of genocide, crimes against humanity and war crimes to the new International Criminal Court (ICC). Earlier, AI had urged the Albanian parliament not to ratify the agreement (see AI Index: EUR 05/002/2003).

AUSTRIA

Unequal age of consent

On 9 January the European Court of Human Rights ruled in favour of three gay men who had filed complaints against Austria after being convicted under Article 209 of the Austrian Criminal Code in the period 1996-1997. The latter article, which was repealed in July 2002, set the age of consent for gay men at 18 years of age as opposed to 14 for heterosexuals and lesbians. Gay men convicted of violating Article 209 faced up to five years' imprisonment. In the cases of L. and V. v. Austria and S.L. v. Austria the European Court of Human Rights ruled that in convicting all three men under Article 209 Austria had violated Articles 14 and 8 of the European Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights), namely the prohibition of discrimination and the right to respect for private life. The Court awarded the three men compensation for non-pecuniary damage and costs and expenses. Austria chose not to contest the ruling of the Court.

Human Rights Advisory Board

In a statement issued on 4 March the Human Rights Advisory Board (HRAB) announced the reinstatement of the Turkish born human rights activist Bülent Öztoplu (see AI Index: EUR 01/002/2003). He had been suspended from one of the HRAB's six fact-finding commissions shortly after his arrest on 12 September 2001 on an outstanding international arrest warrant relating to an incident alleged to have occurred in Mannheim, Germany in 1984. Bülent Öztoplu's exclusion from the HRAB's fact-finding commission was a source of considerable controversy, since not only did it appear to infringe his presumption of innocence, but senior figures within the HRAB and the Ministry of the Interior were alleged to have agreed to block his reinstatement, even if he were found innocent.

Bülent Öztoplu was eventually exonerated of all charges by a court in Mannheim in December 2002. Several months previously, in October 2002, Vienna's Independent Administrative Tribunal also found that police had insulted, degraded and excessively treated the human rights activist while arresting him in September 2001 and in doing so had violated Article 3 of the European Convention on Human Rights.

Allegations of police ill-treatment

In the period under review Amnesty International was informed that 42-year-old Oleksandr Galiakhmetov had allegedly been ill-treated by a police officer during questioning in December 2001. Oleksandr Galiakhmetov, a Ukrainian national, was arrested on suspicion of blackmail by the Vienna Criminal Investigation Department on the afternoon of 5 December 2001. He was then taken to the Federal Police Department in Vienna for questioning. Oleksandr Galiakhmetov alleged that his request for a lawyer was refused and he was subsequently questioned from 5.15pm to 12.30am.

The alleged ill-treatment reportedly occurred at the end of his questioning when he refused to sign a statement. His refusal was made on the basis that there had been language problems with an interpreter who was present during the questioning and that he was uncertain about the accuracy of the statement. A police officer allegedly suddenly hit him on the back of his head so hard that Oleksandr Galiakhmetov's head hit a table-top and continued hitting him on the back of his head and on the left side of the rib-cage until he fell to the ground and lost consciousness. After the alleged incident, Oleksandr Galiakhmetov was transferred to Josefstadt prison in Vienna on 6 December 2001.

After his arrival at Josefstadt prison, Oleksandr Galiakhmetov complained to the prison doctor about severe pain in the left side of his rib-cage. He stated that on 7 December 2001 he showed the doctor the place where he had pain but that the doctor told him to dress after seeing a large haematoma on his chest. No treatment was reportedly given. It was not until 20 February 2002, following Oleksandr Galiakhmetov's repeated complaints that an X-ray was taken and it was found that his sixth and seventh ribs were broken. A medical report stated that the fracture could have been caused by a blow to Oleksandr Galiakhmetov's body.

In mid-February Amnesty International wrote to Minister of the Interior, Ernst Strasser, urging an impartial and thorough investigation into the incident and requesting to be informed of its findings. The Austrian authorities informed the organization in a letter in mid-June that an investigation had been initiated into the incident after Oleksandr Galiakhmetov's lawyer had lodged a complaint about his client's alleged ill-treatment. The police officers who questioned Oleksandr Galiakhmetov denied that he was ill-treated and the interpreter rejected the veracity of the accusation. Oleksandr Galiakhmetov was also unable to identify the accused police officer in a police identity parade, resulting in the criminal investigation into the incident being discontinued. The

Austrian authorities did, however, confirm that Oleksandr Galiakhmetov's request for a lawyer during his questioning had been refused as was "the usual practice at that time". Austria's Administrative Court later ruled that this practice should be discontinued and detainees be allowed access to a lawyer during questioning (see below).

On 24 April Vienna's Independent Administrative Tribunal found that police officers had ill-treated a man during a demonstration in Vienna on 13 April 2002. The man had taken part in a counter-demonstration to a far right-wing meeting held on Vienna's *Heldenplatz* in the afternoon of 13 April. During the counter-demonstration demonstrators clashed with police after they attempted to force their way through police lines in order to disrupt the far right-wing meeting. Several of the protestors threw stones and other objects at the police. The police responded to the stone-throwing by deploying a water-cannon against the demonstrators. At approximately 4pm the police using force began to clear the area outside *Heldenplatz* occupied by the counter-demonstrators, during which the man was ill-treated by two police officers.

At the time of the incident the man was standing outside a metal fence surrounding *Heldenplatz*. After reportedly being soaked by water-cannon the man had repeatedly verbally protested against the police's use of water-cannon and had banged a flagpole against the nearby metal fencing. Two police officers approached the man from behind and knocked the flagpole out of his hand. The Tribunal found that "without apparent necessity" the police officers knocked the man to the ground by using their batons and kicking his legs away from under him. In doing so, the man received blows to his head and upper-body. The police officers then kicked and hit the man as he lay on the ground. The man was then taken into police custody and later transferred to *Rossauer Länder* police detention centre, from where he was released shortly before 1am the next day. A medical examination of the man, undertaken on 14 April 2002, revealed that he sustained large bruising to his left upper arm, left thigh and pelvis and various abrasions and swelling on other parts of his body.

The police officers attempted to justify the arrest, stating that they believed that the man had been a "ringleader" among those demonstrators who had thrown stones and other objects at the police. However, the Tribunal found that the available evidence, including the man's injuries, indicated that the police officers' use of force had been disproportionate and therefore unlawful. Video evidence shown during the hearings had also depicted police officers shoving, hitting and kicking another detainee as he was led through police lines into custody.

Rights in police detention

In mid-January Austria's Administrative Court of Justice ruled that detainees must be informed of their right to a lawyer during any police action lasting longer than one hour, including detainees who voluntarily allow themselves to be questioned by the police. The ruling, however, still fell short of recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) during its past visits to Austria. The CPT recommended that persons suspected of a crime should have the right of access to legal counsel from the very start of their arrest.

BELARUS

The United Nations (UN) Commission on Human Rights

The UN Commission on Human Rights expressed concern about the human rights situation in Belarus at its 54th session in Geneva. Resolution 2003/14, adopted by the UN Commission on Human Rights on 17 April, expressed deep concern about a number of issues, including "credible sources … implicating senior government officials of the Government of Belarus in the

forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist" and reports of arbitrary arrest and detention. It also expressed deep concern about persistent reports of harassment of non-governmental organizations (NGOs), opposition political parties and individuals engaged in opposition activities and the independent media. The UN Commission urged Belarus to address these concerns by investigating fully and impartially all cases of forced "disappearance", summary execution and torture (see below) and by bringing the actions of the police into conformity with Belarus' international human rights obligations. It also urged Belarus to establish the independence of the judiciary and end impunity, release journalists and other individuals imprisoned for politically motivated reasons, and cease the harassment of NGOs and political parties.

"Disappearances"

In the face of widespread international criticism that Belarus has failed to investigate the "disappearances" of three opposition figures and a journalist the Belarusian authorities took the unprecedented step of discontinuing criminal investigations into all four cases (See AI Index: EUR 49/013/2002). On 22 January the relatives of Yury Zakharenko, Viktor Gonchar and Anatoly Krasovsky were informed of the decision by officials heading the investigation into the "disappearances". No reason was reportedly given for the decision. A delegation of the Organization for Security and Cooperation in Europe's (OSCE) Parliamentary Assembly Working Group, which visited Minsk from 5 to 7 February, stated that it was "unhappy to learn that the investigations into the cases of disappeared politicians have been suspended". Similarly, on 27 February Svetlana Zavadskaya, the wife of the missing journalist, Dmitry Zavadsky, learned that the investigation into her husband's "disappearance" had been terminated, reportedly on the basis that the authorities "had been unable to locate him". The families of the men immediately appealed against the decisions, albeit unsuccessfully by the end of June.

Press freedom

During its January part-session the Parliamentary Assembly of the Council of Europe adopted Recommendation 1589 (2003) *Freedom of expression in the media in Europe*. Belarus featured repeatedly in Recommendation 1589 as an example of a country where press freedom is frequently violated. The Parliamentary Assembly of the Council of Europe has repeatedly expressed concern about this and other human rights related issues in the country (see AI Index: EUR 01/002/2003).

The Parliamentary Assembly of the Council of Europe expressed concern about various forms of legal harassment, such as defamation suits or disproportionately high fines which "bring media outlets to the brink of extinction". Belarus was among several countries cited by the Parliamentary Assembly as examples where such practices exist. It urged member states to stop immediately all forms of legal and economic harassment of dissenting media, a problem which assumed disturbing proportions in Belarus in the first half of 2003 and resulted in the closure of several independent newspapers.

One of Belarus' largest regional independent weekly newspapers, *Novaya Gazeta Smorgoni*, located in the western Belarusian town of Smorgon, was forced to close on 3 February after Grodno Regional Economic Court suspended for three months the business license of its owner, Romuald Ulan. The latter had reportedly been summoned to court in late December 2002 after local government officials had filed complaints against him for violating various tax, fire and employment regulations. The newspaper, which had been critical of local government, had in the past reportedly experienced other forms of harassment from local officialdom. By the end of June Romuald Ulan's right to engage in economic activities had not been reinstated.

The system of official warnings, administered by the Ministry of Information and issued for the most spurious of reasons, was also regularly employed in the period under review to keep in check Belarus' independent press. It was reported that the satirical weekly newspaper *Navinki* received two official warnings from the Ministry of Information on 21 and 22 May and was thereafter suspended for a three-month period. One of the warnings was reportedly issued after the newspaper had printed a caricature of President Alyaksandr Lukashenka earlier in the year. The editor of *Navinki*, Pavel Kanavalchyk, was fined the equivalent of US$700 by Moskovsky District Court in Minsk on 20 May for publishing the offending caricature.

One of the highest profile newspapers forced to close by the authorities was the Minsk-based *Belaruskaya Delovaya Gazeta.* On 29 May *Belaruskaya Delovaya Gazeta* and its monthly supplement, *Dlya Sluzebnogo Polzovania*, were forced to close for three months after receiving three warnings from the authorities for alleged violations of the press law. The newspapers were alleged to have slandered President Alyaksandr Lukashenka and have reportedly commented on the ongoing trials of several businessmen in a series of articles. The OSCE's Representative on Freedom of the Media requested urgent clarification for the closure of the newspapers on 30 May, stating "… no special protection should be afforded to public officials, including the president … Conversely, public officials should learn to exercise a greater level of tolerance to criticism, including from the media, than ordinary citizens."

In early June *Belaruskaya Delovaya Gazeta* successfully appeared under the mastheads of the newspapers *Ekho* and *Salidarnasts*, albeit only for two issues until the authorities stopped the newspapers going to print. As a result *Ekho* was suspended by the authorities for three months, while the director of the *Chyrvonaya Zorka* publishing house, which had printed the newspapers, was dismissed from his post. Disturbingly, a fifth independent newspaper, *Predprinimatelskaya Gazeta*, received a second official warning from the Ministry of Information in late June and was suspended for three months after reportedly printing an article about the dismissal of the director of the *Chyrvonaya Zorka* publishing house, Vladimir Tselesh.

Prisoners of conscience

On 4 March a court in Asipovichy ruled that convicted *Pagonia* editor Nikolai Markevich could return to his home town of Grodno, located on Belarus' western border with Poland. He had approximately one year remaining of an 18-month sentence of "restricted freedom". The ruling was made on the condition that Nikolai Markevich pays 15 per cent of his income to the state. Similarly, on 21 March a court in Zhlobin ruled that *Pagonia* staff writer Pavel Mozheiko also be allowed to return to Grodno. He had served approximately six months of a 12-month sentence of "restricted freedom". Both men had been convicted by a court in Grodno of slandering President Alyaksandr Lukashenka in June 2002 (see AI Index: EUR 01/002/2003).

At the end of June a third journalist, editor of the newspaper *Rabochy* Viktor Ivashkevich, remained in detention in Baranavichy, 140km south-west of the capital Minsk. He was sentenced in September 2002 by a court in Minsk to a two-year term of "restricted freedom" after being convicted of slandering the President in a newspaper article in the pre-election period in 2001. Earlier in June 2003, however, his two-year sentence of "restricted freedom" was reduced by one year, bringing forward the date of his release to 16 December 2003.

Recommendation 1589 (2003) of the Parliamentary Assembly of the Council of Europe urged the release of all three men (see above). It stated that it was "unacceptable in a democracy that journalists be sent to prison for their work" and urged Belarus to "free all journalists imprisoned for their legitimate professional work and to abolish legislation that makes

journalistic freedom of expression subject to criminal prosecution". Belarus' human rights community has repeatedly called for the removal of the relevant articles from the Belarusian Criminal Code which criminalize libel and insult.

Detention of protestors

The Belarusian authorities continued to resort to repressive measures to stifle peaceful protest and numerous people were deprived of their liberty solely for exercising their rights to freedom of expression and assembly. In January and February detentions occurred sporadically in Minsk and Belarus' regions resulting in peaceful protestors serving prison sentences of between two and 10 days for participating in unsanctioned meetings and demonstrations.

The month of March, however, saw a concerted large-scale clamp-down by the Belarusian authorities on peaceful protest. The year's first large-scale protest action, *"People's March: For Better Life*", took place in Minsk on 12 March and resulted in a wave of arrests. The organizers of the demonstration - former Deputy Foreign Minister Andrei Sannikov, *Charter-97* human rights activists Ludmila Gryaznova and Dmitry Bondarenko, and small business leader Leonid Malakhov - were subsequently sentenced to 15 days' imprisonment later the same day. A fifth person, Valery Levanevsky, was convicted and sentenced to 15 days' imprisonment for his participation in the protest action on 2 April. Vice-Chairman of the Belarusian Popular Front, Yury Khadyka, also served a 15-day prison sentence in mid-June for his role in the demonstration. Amnesty International considered all six protestors to be prisoners of conscience.

At least 50 peaceful protestors were detained in Minsk city centre on 23 March during an unsanctioned demonstration staged to protest against President Alyaksandr Lukashenka's government and to coincide with the 85th anniversary of the creation of the first Republic of Belarus. Although a sizeable number of the detainees were released later the same day, 14 demonstrators were reportedly detained overnight at the notoriously bleak Okrestina detention facility in Minsk. On 24 March Leninsky District Court in Minsk sentenced 11 demonstrators to periods of imprisonment between three and 15 days. Another participant received a seven-day sentence on 27 March for his part in the protest action.

On 25 March more peaceful protestors were detained during an unofficial demonstration in Minsk. Sovetsky District Court sentenced eight of the participants to periods of imprisonment of between five and 15 days on 26 March. A significant number of the detainees belonged to the *ZUBR* youth human rights and pro-democracy movement. The Belarusian human rights organization, *Spring-96*, calculated that as a result of the demonstrations on 12, 23 and 25 March at least 24 demonstrators had been imprisoned, while six were fined and eight warned.

Death penalty

On 13 May the UN Human Rights Committee announced two rulings on individual complaints of violations under the International Covenant on Civil and Political Rights (ICCPR). In the cases *Bondarenko v. Belarus* and *Lyashkevich v. Belarus* the mothers of two men, who had been executed after being convicted of murder, alleged that their sons had been executed in secret and no information was provided to them on either the time of the executions or on the location of the burial site of their sons. One of the men, Anton Bondarenko, who was executed on 24 July 1999, had been the subject of Amnesty International urgent membership action (see AI Index: POL 10/01/00). The Human Rights Committee ruled that the secrecy surrounding the date of execution and the place of burial, and the refusal to hand over the bodies for burial "had the effect of intimidating or punishing families intentionally leaving them in a state of uncertainty and mental distress" and amounted to inhuman treatment of the

families, in violation of Article 7 of the ICCPR.

On 17 April the Chairman of the Belarusian Constitutional Court, Gigory Vasilevich, reportedly stated that Belarus' population was not yet ready to accept the abolition of the death penalty, even though he personally regarded abolition as inevitable. He was quoted by the Institute for War and Peace Reporting as stating: "Abolition of capital punishment is inevitable. This is underpinned by the country's desire to join the Council of Europe." The latter body has repeatedly informed Belarus that a moratorium on the death penalty is one of several preconditions for the reinstatement of Belarus' guest status at the Parliamentary Assembly of the Council of Europe.

BELGIUM

Alleged police ill-treatment

In May the United Nations (UN) Committee against Torture examined Belgium's initial report on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In April, prior to that examination, AI submitted a briefing to the Committee which focused on the organization's concerns relating to ill-treatment by law enforcement officers in Belgium, illustrated by individual case histories.

A 60-page public document issued by AI in May (*Belgium before the UN Committee against Torture: alleged police ill-treatment*, AI Index: EUR 14/001/2003) contained a summary of the Committee's conclusions and recommendations, together with the full text of AI's briefing to the Committee. It also included a set of key recommendations which AI called on the incoming Belgian government to address as a matter of priority, aimed at remedying inadequacies in safeguards against police ill-treatment and preventing ill-treatment by police officers, and reflecting the Committee's recommendations in this area.

AI expressed concern about the numerous allegations received in recent years that law enforcement officers have subjected people -- a high proportion of them foreign and non-Caucasian Belgian nationals -- to physical and psychological ill-treatment, including racist abuse, and have used excessive force.

The briefing pointed out that the cases of police ill-treatment reported to AI fell into two broad categories:
- those occurring on the streets and in police stations and concerning individuals intercepted or arrested on suspicion of having committed, or being about to commit an offence;
- those concerning unauthorized immigrants and rejected asylum seekers at various stages of the deportation process.

AI focused its attention on:
- the absence of a number of fundamental safeguards against ill-treatment in police custody, namely that people deprived of their liberty have no right of access to a lawyer upon arrest and during questioning, no right to have relatives or a third party notified of the fact and place of their detention and no explicit rights of access to a doctor, including one of their own choice, nor to be informed of their rights;
- improper or abusive use of force in the context of public demonstrations;
- cruel and dangerous methods of restraint during forcible deportation operations by air and the absence of an independent monitoring body to oversee the treatment of foreigners held in airport transit zones and during deportation;
- the detention of unaccompanied minors in centres for unauthorized immigrants and asylum- seekers, and inadequate arrangements for their safety and protection on return to their country of origin;
- difficulties faced by people wishing to lodge complaints about police ill-treatment;
- obstacles to prompt and impartial investigations into complaints of police ill-treatment and to the bringing to justice of

those responsible for such human rights violations.

In its consideration of the report submitted by Belgium, the Committee expressed a number of concerns which reflected some of AI's own concerns in Belgium.

The findings of the (UN) Committee against Torture

The Committee welcomed, amongst other things, Belgium's recognition of the Committee's competence to receive individual complaints under Articles 21 and 22 of the Convention against Torture and the adoption, in June 2002, of a law introducing the specific crimes of torture and inhuman and degrading treatment into the Belgian Penal Code. However, the Committee raised a number of reasons for concern and issued a series of relevant recommendations.

It recommended that Belgium expressly guarantee in national legislation the right of all people, whether subject to judicial or administrative arrest, to have access to a lawyer, to a doctor of their own choice, to be informed of their rights in a language they understand and to inform their relatives promptly of their detention.

AI welcomed as a positive development the Belgian delegation's indication, during the Committee's questioning, that the government had established an inter-departmental working group, to examine aspects of police arrest, with the aim of remedying problem areas, including those linked to the rights of detainees in police custody.

The Committee expressed concern about cases of excessive use of force during demonstrations and during the deportation of foreigners and recommended that Belgium ensure that guidelines on the use of force in such circumstances conform in full with the requirements of the Convention against Torture. It also recommended that Belgium proceed immediately with investigations in cases of alleged use of excessive force by public officials.

The Committee called on Belgium to ensure that all officials committing acts of degrading treatment be liable to criminal charges, even if it were to be established that they were acting on the orders of a superior, and to specify clearly in its legislation that evidence obtained under torture is automatically inadmissible in Belgian courts.

The Committee was also concerned, among other things, about:
- the possibility of prolonging the detention of foreigners "for as long as they refuse to collaborate with their repatriation" and recommended in this context that a maximum limit be placed on the length of time foreigners subject to deportation orders might be held;
- the possibility that unaccompanied foreign minors might be placed in detention, "sometimes for lengthy periods", and recommended that specific legislation be drawn up concerning unaccompanied minors, taking the best interests of the child into account;
- reports of asylum-seekers being formally released but transferred to the transit zone of the national airport and then left, unable to leave it and without assistance, and recommended that Belgium ensure the follow-up treatment of asylum-seekers when released.

In addition the Committee indicated its concern that foreigners, even those long resident in Belgium, who were deemed to have significantly disturbed public order or national security, might be deported from Belgium, even though the majority of their personal ties lay in Belgium. It recommended that so-called 'extreme urgency' appeals for asylum and also appeals for annulment of deportation orders, filed by any foreigner subject to an expulsion decision and claiming that he/she risked being subjected to torture in the destination country, should have a "suspensive character."

The Committee also expressed concern about a legislative reform in April 2003 affecting the exercise of universal

jurisdiction by the Belgian courts over grave violations of international humanitarian law, insofar as the reform allowed the Belgian government, in certain cases (where the victim was not Belgian and where the accused's own country was deemed to offer a fair and effective avenue to justice), to decide that a Belgian judge did not have jurisdiction over complaints relating to such violations and to refer the complaint to that country for decision on any further action. The Committee urged that Belgium ensure respect for the independence of the Belgian courts from the executive power in the context of the exercise of universal jurisdiction over grave violations of international humanitarian law.

The Committee raised a number of concerns relating to the prison system and issued a series of recommendations, highlighting the urgent need to modernize Belgium's penitentiary legislation and the need, amongst other things, for increased efforts to combat inter-prisoner violence; for isolation of detained juvenile offenders to be imposed exceptionally and for a strictly limited period of time and for more efficient and effective external supervision of prison establishments, allowing the possibility of regular visits by non-governmental organizations.

BOSNIA

General and political developments

New and multi-ethnic state and Republika Srpska governments were appointed in mid-January, headed respectively by Adnan Terzić, and Dragan Mikerević. In February a new Federation government was sworn in, led by Ahmet Hadžipašić. In April Mirko Šarović, the Bosnian Serb member of the state Presidency resigned after a judicial investigation discovered evidence of his involvement in an illegal arms trade arrangement between a Bosnian Serb arms company and the government of Iraq. He was replaced by Borislav Paravac.

Under supervision of the international community, the comprehensive overhaul of the country's intelligence services continued, with the purpose of abolishing the entities' secret services and establishing a state intelligence and security agency. This agency would be tasked with combating organized crime and corruption, and eventually take responsibility for initiating criminal investigations into war crimes committed during the 1992-1995 armed conflict.

The integrity and professionalism of those in charge of the entity security and intelligence services had been challenged by repeated reports that they were operating outside the law and civilian control mechanisms. In the Federation, police opened a criminal investigation in April against Ivan Vukšić the acting director of the Federal intelligence and security service, for his alleged involvement in attacks against international personnel during their audits of the Hercegovačka banka in April 2001 (see AI Index: EUR 01/003/2001). He subsequently resigned. Meanwhile, another state body which had been set up under the auspices of OHR in late 2002, the State Agency for Protection and Information, was reportedly understaffed and marginalized by the entities' intelligence services.

In January, several judges and prosecutors were appointed to the State Court of Bosnia and Herzegovina, which had jurisdiction over organized crime and corruption as well as "international terrorism" and other crimes under international law. The Court was officially opened on 27 January and is envisaged to expand further through the establishment of several specialized chambers and divisions, including a special Chamber for war crimes (see below).

In May the Bosnian State Government signed a bilateral agreement with the United States (US) which provided impunity for US nationals accused by the International Criminal Court (ICC) of genocide, crimes against humanity and war crimes. AI called upon the members of the State Parliament in June not to ratify this

agreement, which violated Bosnia-Herzegovina's obligations under international law, including as a state party to the ICC. Both houses of the State Parliament ratified the agreement in mid-June.

In mid-June the Peace Implementation Council (PIC), an intergovernmental body consisting of over 55 countries and agencies, monitoring the implementation of the Dayton Peace Agreement, endorsed a proposal by the High Representative to abolish the Human Rights Chamber by the end of 2003. The proposal envisaged that the Chamber would stop receiving new applications by the end of July and would cease its work at the end of the year, when its caseload would be transferred to the Constitutional Court. AI expressed grave concern about these developments, fearing that the abolition of the Human Rights Chamber was premature and would leave citizens without protection from, and redress for, human rights violations. In particular, AI stressed the large outstanding caseload of the Chamber (some 10,000 in early June, with on average 200 new cases coming in each month), and the lack of an accessible and adequate legal mechanism to take over this work, given the Chamber's unique mandate which allowed it to address both war-time and recent human rights violations. The Constitutional Court (which at the time had not functioned for over a year due to problems in the appointment of judges) does not have jurisdiction to take over the Chamber's entire caseload. Furthermore the entity court systems – currently undergoing far-reaching reforms and restructuring – may not prove capable or willing to provide redress in the near future; in fact, many cases of alleged human rights violations now pending before the Chamber originated at this very level of the judicial system.

Impunity for war-time human rights violations

International prosecutions

The International Criminal Tribunal for the former Yugoslavia (Tribunal) continued to try alleged perpetrators of serious violations of international humanitarian law, including the trial of former Federal Yugoslav President Slobodan Milošević. In late March two Bosnian Croats, Vinko Martinović and Mladen Naletilić were found guilty of crimes against humanity and war crimes and sentenced to 18 and 20 years' imprisonment respectively, for their command and individual responsibility for crimes against the non-Croat population in the Mostar region in 1993.

In May, the trial commenced of four former commanders in the Bosnian Serb Army, Vidoje Blagojević, Dragan Jokić, Dragan Obrenović and Momir Nikolić, for their criminal involvement in the executions of thousands of Bosniak men and boys after the fall of Srebrenica in July 1995. This trial is one of six separate proceedings initiated so far, which focus solely on the massive violations which were committed in the former "protected area" of Srebrenica. Two of the defendants, Dragan Obrenović and Momir Nikolić, pleaded guilty to one of the counts against them, after which the remaining charges were withdrawn and proceedings against them separated from that of the other defendants.

Cooperation between the Republika Srpska (RS) authorities and the Tribunal remained unsatisfactory, particular regarding the failure of RS police to arrest those indicted by the Tribunal – to date no such arrests have been made. A total of 17 publicly indicted suspects remained at large, the majority of them Bosnian Serbs thought to be residing in the RS or in neighbouring Serbia and Montenegro. In April, the NATO-led Stabilization Force (SFOR) arrested Naser Orić, a war-time commander in the Bosnian Government Army who had been secretly indicted for war crimes against Serb civilians in villages near Srebrenica. Also in April, Ivica Rajić, a Bosnian Croat former military commander, accused of war crimes in central Bosnia, was arrested by police in Croatia; he was extradited in June. In May, an indictment was issued against two Serbs, Jovica Stanišić and Franko Simatović, both high-ranking commanders in the Serb security forces which had been

involved in war crimes and crimes against humanity committed in Croatia and northern and eastern Bosnia. Both men had already been arrested for their alleged involvement in the murder of Serbian Prime Minister Zoran Djindjić in March and were transferred to the Tribunal in May and June.

Domestic prosecutions

In June the PIC endorsed a proposal by a joint OHR/Tribunal working group to establish a special chamber for war crimes in the new State Court, to be operational from 2004. This was the latest development in a protracted process which aimed to set up a judicial mechanism which would be capable of taking over cases from the Tribunal and other sensitive and complex cases from the Cantonal and District Courts. It was envisaged that the War Crimes Chamber would include international judges and prosecutors for a period of three to five years after which it would be entirely staffed by local officials. However, AI remained concerned that the proposed solution would prove inadequate to address the vast legacy of outstanding cases of war crimes and other crimes under international humanitarian law. Given the problematic and flawed trials for war crimes conducted so far before the entity courts, the organization had serious concerns that a short-term solution which would only deal with a fraction of the outstanding caseload would not provide justice to the tens of thousands of victims of these crimes, nor would it benefit the longer-term process of truth-seeking and reconciliation between various communities. The proposal also did not take into account the regional nature of the war and the fact that many perpetrators as well as material evidence relating to these crimes remained in neighbouring states, beyond the reach of the Bosnian criminal justice system. Another issue of crucial importance, the protection of vulnerable witnesses from attacks and intimidation, was not adequately addressed: although a new state-level law was imposed by the High Representative in January, in practice there was no effective protection inside the country and AI was informed that no international protection scheme, along the lines of the one used by the Tribunal, was foreseen.

Several trials for war crimes opened or continued before local courts, mainly in the Federation. In February the Mostar Cantonal Court started the retrial of four Bosnian Croat former military police officers accused of war crimes against the Bosniak civilian population and prisoners of war. The Federation Supreme Court had quashed the earlier acquittal of all defendants in mid-2002 and ordered a retrial before the same court. The defendants were inter alia allegedly responsible for the detention and subsequent "disappearance" of 13 ABiH soldiers, who remain unaccounted for (see also: EUR 01/003/2001 and below under "disappearances"). The Zenica Cantonal Court continued the trial of Bosnian Croat military commander Dominik Ilijašević for war crimes committed against Bosniak civilians in Stupni Do in central Bosnia, amid concerns that prosecution witnesses were not sufficiently protected from intimidating and offensive treatment by the accused and their families in court. Furthermore, evidence relevant to the case, which had been collected and presented in two separate concurrent criminal proceedings against members of the same armed forces' unit, in connection with the same crimes, respectively before a court in Croatia and the Tribunal, was apparently not being transferred or accepted by the Zenica Cantonal Court.

The Banja Luka District Court continued criminal proceedings for war crimes against 11 former police officers from Prijedor in connection with the 1995 abduction and murders of Father Tomislav Matanović and his parents (see EUR 01/002/2003). In late January, the public prosecutor charged the suspects with war crimes against the civilian population for their involvement in the illegal detention of the victims. Trial proceedings opened in late June but were adjourned immediately as defence lawyers asked for the exemption of the entire judicial panel and for the case to be transferred to another jurisdiction. The request was subsequently turned down by

the Supreme Court. A criminal investigation into the murders is continuing with the aim of identifying the perpetrators of these crimes.

AI had serious concerns over the intransigence of the domestic criminal justice system, which, despite being presented with clear evidence pointing to individuals' potential responsibility for war crimes, has time and again failed to take steps to actively prosecute alleged perpetrators. A major factor in fostering this continuing impunity is the virtual non-cooperation between entity judiciary and police forces, in particular with regard to the enforcement of arrest warrants. A case in point was the failure of Višegrad police in the RS in early April to arrest two serving Bosnian Serb police officers charged with war crimes by the Goražde Cantonal Court (in the Federation). The case had been reviewed and approved by the Tribunal Prosecutor's Office in line with the so-called Rules of the Road procedures in mid-2002, although both officers continue to serve in the Višegrad police force, having been certified by the (since departed – see also below) United Nations Mission in Bosnia-Herzegovina/International Police Task Force (UNMIBH/IPTF) in December 2002. On 2 April the Goražde Cantonal Court reportedly sent an arrest warrant to the Višegrad chief of police after he had failed to serve its earlier summons upon the two officers to appear before the Goražde Cantonal Court. The Višegrad chief of police, however, denied having received this warrant, despite the fact that it was reportedly handed over in the presence of EUPM police monitors. The two suspects remained at large.

Unresolved "Disappearances"

On 5 March, Amnesty International issued a 60-page report, Bosnia-Herzegovina: Honouring the ghosts: confronting impunity for "disappearances" (EUR 63/004/2003), which argued that immediate measures should be taken to resolve this serious and continuing human rights violation, given the thousands of outstanding cases and the pervading impunity for perpetrators. AI recommended that all acts of "disappearances" be made a criminal offence in domestic legislation, that the relevant political and military authorities start meaningful cooperation to investigate unresolved cases, including by disclosing locations of mass grave sites and other information and that provisions are made to safeguard the right to reparation for the relatives of the "disappeared". Furthermore the organization called upon the international community overseeing the peace process, including the OHR, the NATO-led Stabilization Force (SFOR) and the newly deployed European Union Police Mission (EUPM) to actively support investigations and prosecutions in cases of "disappearances", given the small number of cases which have led so far to criminal proceedings. AI also made a number of recommendations with regard to social and economic rights of the relatives of the "disappeared", many of whom remain displaced including single female heads of households with no guaranteed access to basic benefits or adequate housing. AI suggested that legislation on benefits awarded to relatives and dependants of missing persons be amended so that those entitled to these benefits can claim them in both entities and that similar issues which affect relatives of the "disappeared" be included in the state law on missing persons which is currently being drafted.

The Srebrenica case

Two days after the publication of AI's report, the Human Rights Chamber of Bosnia-Herzegovina issued a decision in the case of 49 relatives of the "disappeared" from Srebrenica who had brought an application against the RS authorities. The Chamber expressly recognized the continuing pain of the relatives of the "disappeared" and concluded that the RS had done almost nothing to relieve their agony by clarifying the fate and whereabouts of those still missing, demonstrating a total indifference to the suffering of the Bosniak community. The Chamber held that this inaction by the RS authorities amounted to a violation of

the relatives' right to be free from inhuman and degrading treatment and the right to private and family life (respectively Articles 3 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms – ECHR). The Chamber ordered the RS to immediately disclose all information relevant to establishing the fate and whereabouts of the "disappeared" and on the location of mass graves where the victims had been buried. To this end, the RS had to conduct a full, meaningful, thorough and detailed investigation into the human rights violations at Srebrenica, also with the aim of bringing those responsible to justice. Furthermore the RS had to pay a total of 4 million Konvertible Marks (2 million Euros) compensation to the Srebrenica-Potočari Memorial – where thousands of victims who have been so far exhumed and identified will be finally buried - for the collective benefit of all applicants and families of Srebrenica victims. The RS had to publish the findings of its investigation and pay the first half of the compensation money by 7 September 2003 and forward an interim status report on steps taken to comply with the Chamber's orders by 7 June 2003. Subsequently the Chamber struck out over 1,800 further applications filed by other Srebrenica relatives, as it was decided that the 7 March decision would apply to all victims collectively.

In early June, the RS liaison to the Chamber submitted a brief report, which failed to adequately address the various parts of the decision which the government was obliged to implement. The government report stated that no criminal investigations had been initiated into the events at Srebrenica, due to some "limiting factors", which included investigations and proceedings conducted by the Tribunal into the same case, which the authorities claimed had impeded their own investigation. They also alleged that SFOR had seized documentation about relevant units of the Bosnian Serb Army and had prohibited the authorities from conducting any investigations. Furthermore, the RS government implied that the number of victims killed at Srebrenica was smaller than the estimated 8,000 and contended that some had died of natural causes or had committed suicide. By late June, the first part of the compensation had not yet been paid, although the RS government had reportedly decided to allocate funds to do so in its budget.

Updates on individual cases

AI members campaigning on several individual cases of "disappearances" received replies from the relevant government authorities in Bosnia-Herzegovina. The RS Ministry of the Interior (MUP) wrote to AI members in April on the case of Himzo Demir, the head of Višegrad secondary school who had been abducted and subsequently "disappeared" in May 1992. Although an investigation into the case had been ongoing since April 2002, so far the Višegrad police appeared to have limited its activities to interviewing Mrs Demir and locating and questioning some Bosniak returnees.

In the case of Col Avdo Palić the RS MUP replied to AI in February – however the reply only reiterated steps taken in the investigation already know to AI which had so far not produced any results, and lamented the lack of cooperation given by the RS military authorities who hold key information as to what happened to Col Palić after he was last sighted in Vanekov mlin prison in Bijeljina. In its March report, AI stressed the legal responsibility of the armed forces under both national and international humanitarian law to provide information on prisoners of war and the location of grave sites and called on SFOR to use its authority and influence to ensure that such cooperation was offered effectively and unconditionally. The Palić case also demonstrated the problem of non-implementation of many important Chamber decisions and the lack of adequate and sustained scrutiny of this process by the international community in Bosnia-Herzegovina.

Responses from the Bosnian Federation authorities in the case of Fahir Penava and 12 other ABiH soldiers (see above) pointed

to another obstacle in resolving "disappearances" where responsibility allegedly lay with the war-time Bosnian Croat armed forces, the HVO (Hrvatsko vijeće obrane) , which have since been incorporated into the Federation Army. Meanwhile the war-time records documenting the operations and staffing of the HVO were transferred to the Croatian State Archives during the war and have remained there since. In its March report AI called upon the Federation and Croatian authorities to ensure that the HVO archive be returned to the custody of the Federation Defence Ministry, given the importance of this documentation in investigations into war-time human rights violations and criminal prosecutions of alleged perpetrators.

Policing

European Union Police Mission takeover

AI continued its dialogue with policy officials and field staff of the EUPM, following its establishment in early January when it took over supervision, mentoring and training of the local police forces from the IPTF. In late March AI received a reply from the Secretary General of the Council of the European Union, Javier Solana, in response to the publication of its report on "disappearances". The Secretary General welcomed the AI report, but reiterated that the priorities of the EUPM were the fight against organized crime and the security of returnees. AI had urged the EUPM previously to give higher priority and visibility to outstanding and current human rights violations and sustained scrutiny of police investigations into these. AI continues to have concerns about the lack of effective supervision and scrutiny by the EUPM and other international organizations of investigations by local police and judiciary into war-time human rights violations, the apparent problems that hamper communication and cooperation between them and the insufficient resources devoted to these issues. Furthermore, despite repeated assurances on the smooth transfer of the entire collection of documentation on individual investigations from UNMIBH to the EUPM, many dossiers appear not to have been handed over, forcing EUPM staff to start work on important cases from the beginning.

Screening mechanism

Comprehensive background checks carried out by UNMIBH/IPTF personnel, Tribunal investigators and many other organizations revealed that hundreds of police officers could be held criminally liable for direct responsibility or complicity in war crimes and other criminal offences, but that they continued to enjoy impunity for such acts. During its deployment, particularly from 2001 onwards UNMIBH operated a non-prosecutorial mechanism whereby the IPTF Commissioner had the power to remove (de-authorize) from service those police officers suspected of serious violations of human rights and violations of international humanitarian law. By the end of its mandate (December 2002) over 60 police officers had been de-authorized for suspected liability in war crimes. With the establishment of the EUPM in January 2003 the de-authorization process was in effect halted, though it was clear that continuing investigations into war crimes by both the domestic criminal justice system and the Tribunal would reveal many new cases of serving police officers who had been involved in war-time violations (see the Višegrad case described above). The presence of potential perpetrators of war crimes in the police force – apart from enhancing the climate of continuing impunity for grave human rights violations – seriously undermined the prospects of thorough and impartial police investigations into war crimes. According to AI's information, the issue of the continuation of de-authorizations was apparently being reconsidered by EUPM in mid-2003. However, AI remained concerned that by and large the earlier de-authorizations by UNMIBH had not led to criminal prosecutions of the suspected former police officers by the relevant police and judicial authorities, as they were obliged to do under national and international law.

Right to return in safety and with dignity

According to the United Nations High Commissioner for Refugees (UNHCR) field mission in Bosnia-Herzegovina, in the first six months of 2003 some 28,000 returns were registered throughout the country, including over 25,000 minority returns, bringing the total number of returnees since the war close to one million (almost half of the estimated 2.2 million persons forcibly displaced during the war). In late May, the implementation rate for the repossession of private and socially-owned housing reached 82 per cent country wide. However, at the same time, UNHCR expressed concerns about the estimated 350,000 persons who remained internally displaced, and who had little or no prospects for a durable solution through either return to their pre-war homes or effective resettlement. In particular the agency stressed the need for donor funding for the reconstruction of housing, infrastructure, schools and health facilities to continue and to be more targeted to the needs of vulnerable displaced individuals. UNHCR furthermore recommended that the international protection needs of Bosnian refugees abroad continue to be assessed on an individual basis, singling out witnesses to war crimes proceedings and severely traumatized individuals as categories of persons requiring special attention.

Insufficient conditions for returnees in the place of their return continued to mar the sustainability of their return. In particular, the lack of access to employment was a major factor in people's decision not to remain in their pre-war community. Employment opportunities were scarce in general, reflecting the weak economic situation and the forced transition to a market-led economy through mass privatization, however those in ethnic minorities in addition faced discrimination when trying to find employment or get rehired in their pre-war jobs, and had virtually no access to legal remedies or any other form of redress.

Return related violence

According to UNHCR, in the period from January to May there were over 100 violent incidents against returnees and displaced persons and their property, memorials or religious objects. In at least two cases these resulted in the death of minority returnees, for example in the case of Rabija Ćaušević, an 80-year-old Bosniak woman who had returned to Bosanska Dubica in the northern part of the RS, and who was killed inside her home on 1 January 2003. In March, a Bosniak man, Smail Hrnjičić, who was renovating another Bosniak returnee's flat in west Mostar, was killed by an explosive device planted in the flat. Although police investigations were immediately launched into both incidents, the perpetrators of both attacks remained at large.

Human rights violations in the context of "anti-terrorism" measures (update)

On 22 January AI issued an urgent action in the case of Sabahudin Fijuljanin, a Bosniak man who had been arbitrarily detained without adequate access to a lawyer by SFOR since late October 2002. Although the Chamber issued an interim ruling on 11 January that he should be immediately transferred to the jurisdiction of the Federation authorities, SFOR reportedly refused to accept several requests to this effect by the Federation. Following mass appeals by AI membership to the NATO Headquarters, Sabahudin Fijuljanin was transferred to the Federation police on 30 January. To AI's knowledge he never received any compensation for the violation of his human rights by SFOR.

In May, AI launched an action urging the implementation of another Chamber decision in a similar case, regarding the unlawful transfer of six Bosnian nationals of Algerian origin to US custody in January 2001. The Chamber had ruled in the case of four of them, (Saber Lahmar, Hadz Boudella, Lakhdar Boumediene and Mohamed Nechle) in October 2002 that the Bosnian State and Federation authorities had violated the men's right to liberty and security of person and the right not to be

arbitrarily expelled. The authorities had been ordered to use diplomatic means to protect the right of the applications while in US custody, in particular protecting them from the death penalty and unfair trial, and to pay the men compensation. (See also EUR 01/002/2003). In April the Chamber issued similar decisions in the cases of the remaining two men, Bensayah Belkacem and Mustafa ait Idir. To date the authorities have implemented the Chamber's decision only to the extent that they requested and obtained permission in June to visit the men, who remain in detention in US armed forces Camp Delta in Guantámo Bay in Cuba. However, a scheduled consular visit was reportedly cancelled. AI was further concerned that the Bosnian family members of some of the detained men were unable to communicate with them as messages sent through the International Committee of the Red Cross allegedly went missing or arrived only after extensive delays.

Trafficking in women and girls

Some positive developments were noted in the prosecution of perpetrators of serious human rights abuses against women and girls in the context of trafficking and forced prostitution. For example, in March the Tuzla Cantonal Court found the owner of a local nightclub guilty of enslavement and sentenced him to three and a half years' imprisonment. The case marked the first judgment in the Federation for enslavement as those tried in trafficking cases had previously always been charged with the lesser offence of procurement. In May, five Bosnian Serb men were handed over to the custody of the State Court, which started an investigation into their alleged involvement in trafficking of women and girls who had been forced to engage in prostitution in a chain of nightclubs in Prijedor.

Meanwhile, local human rights and women's organizations criticized the lack of implementation of the National Action Plan against trafficking, which had been adopted in December 2001. These concerns were reinforced by a report issued by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Bosnia-Herzegovina in June, which found that the State Commission and a special law enforcement body, the so-called Strike Force, charged with implementation of the National Action Plan were not given adequate support by the state government, and that the Bosnian law enforcement agencies had been marginalized by the international community and were not given sufficient resources and training in order to carry out their extensive duties under the plan. There were also severe shortcomings in the provision of shelter to vulnerable victims as there was lack of coordination and clarity on the responsibilities of the various levels of domestic government, the international community and non-governmental organizations.

Furthermore, gaps and ambiguities in the domestic legal framework hampered effective prosecutions. For example, the definition of trafficking in the newly adopted State Criminal Code differed fundamentally from that of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, as it does not recognize that consent given by victims of trafficking cannot be used in defence by perpetrators. The delayed adoption of the new Law on Asylum and amendments the Law on the Movement and Stay of Foreigners further restricted the prevention of trafficking and protection for victims who continued to be treated largely as illegal migrants.

BULGARIA

Discrimination of people with mental disabilities

In January Lydia Shuleva, the Deputy Prime Minister and Minister for Labour and Social Policy, wrote to AI in connection with the organization's report *Bulgaria: Far from the eyes of society; Systematic discrimination of people with mental disabilities* (AI Index: EUR 15/005/2002)

published in October 2002. She acknowledged that the institutions for children and adults with mental disabilities, for which the ministry is responsible, were a serious problem and that the government had made its resolution a priority. Furthermore, she described the government's efforts to improve the existing legislation in the field of social care and assistance, to introduce new regulations regarding the provision of services and care and to invest considerable resources in improving material conditions in social care homes. AI urged the Deputy Prime Minister to demonstrate more publicly the government's political will to deal with the discrimination of people with mental disabilities in Bulgaria. The organization also expressed concern that some of the measures already implemented did not appear to have been sufficiently well conceived and directed at the declared objectives of providing adequate living conditions and care, as well as greater integration into the community for people with disabilities currently cared for in institutions.

As an example of a measure which failed to address even the basic needs of people in institutions Amnesty International described the transfer of 70 men from Dragash Voyvoda who had been moved to other institutions in the system in September 2002, following a decision to close down this social care home. The remaining 70 residents were to be cared for by the same number of staff in Dragash Voyvoda before eventually being transferred to a refurbished facility in a similarly remote and inappropriate location. Amnesty International urged the Deputy Prime Minister to reconsider further transfers of residents from one institution to another, particularly as other closures of social care homes had been planned for 2003. The organization appealed to the authorities to take every opportunity to implement in practice their declared objective of deinstitutionalization; reintegrate people with disabilities into the community in such a way that they would be adequately cared for and supported by community-based services.

In April representatives of Amnesty International and the Bulgarian Helsinki Committee visited four of the five institutions to which the men of Dragash Voyvoda had been transferred. [1] They established that the living conditions for former Dragash Voyvoda residents in the new institutions could be described as only marginally better. All of the men remained without rehabilitation or any therapy other than drugs. Such conditions and treatment are in violation of Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which prohibit torture or inhuman or degrading treatment or punishment. It was also established that at least 18 of the 70 men had mental health disorders and yet had been sent to institutions established to care for people with intellectual disabilities. A letter from the Ministry of Labour and Social Policy of 11 February specified that all 70 men had been diagnosed as "mentally retarded [2] who could not be adequately cared for in Dragash Voyvoda"[3].

Placing people with different needs in the same institution, coupled with neglecting to ensure people's physical safety and mental well-being and adequate care and services, had tragic consequences for one former Dragash Voyvoda resident. Vasil Malinov, a 32-year-old man with severe learning disabilities, paraplegic and mute, was

©AI

Trainers and staff at Dragash Voyvoda social care home – April 2003

3 Officially Dragash Voyvoda had been set up to care for people with mental health disorders.

moved to Batoshevo. He was placed in a room with four other men, some of whom reportedly suffered serious mental illness. Mixing people with hugely different needs in social care homes is not uncommon in Bulgaria and Batoshevo was no exception in this respect. Around 100 residents of Batoshevo were housed in two buildings which were locked during the night when a nurse and an orderly were reportedly the only staff on duty. On the morning of 18 March the staff found Malinov, looking bruised and battered. He was sent to a near-by town where the doctor reportedly prescribed cold compresses for contusions to the chest. Vasil Malinov was then returned to the same room where three days later he was found dead. In June AI published a report, *Bulgaria: Where are the men of Dragash Voyvoda?* (AI Index: EUR 15/005/2003) urging the government to address the appalling situation in institutions such as Dragash Voyvoda and the homes to which some of its residents have been transferred. The organization reiterated to the Bulgarian authorities its recommendation that only those measures which lead to the full reintegration of people with mental disabilities into society as appropriate, would be in line with international human rights standards and best professional practice.

There were other incidents in social care homes which appeared to have resulted from lack of adequate legal and professional procedures and practices to safeguard residents from abuse. On 16 April the Ministry of the Interior reported that two weeks earlier a 41-year-old man from the social care home in Podgumer, near Sofia, had died in a hospital. An autopsy reportedly established that the death occurred as a result of aspirated blood which caused bronchopneumonia. A police investigation established that the man had been strangled by another resident. On 24 June surgeons in Sofia amputated the hand of a 3-year-old boy from the social care home "St. Ivan Rilski". The operation was carried out in order to remove dead tissue in the right hand, apparently caused by tying with a rope. The boy who reportedly suffers from cerebral palsy had been placed in the institution at birth and was described by the doctors as undernourished. The social care home staff initially denied tying the boy to the bed. Later, however, it was reported that a nurse had tied the boy's hand with a piece of rope to the bed in order to prevent him from putting it in his mouth. Four nurses and orderlies were reportedly suspended from duty and five other staff members.

Staff training in Rusokastro and Fakia

Recognizing that staff training is critical to improvement of care and services for people with mental disabilities, AI, with support from the Bulgarian Helsinki Committee, organized a training program in two institutions in the Burgas region - the Social Care Home for Men with Mental Disabilities in Rusokastro and the Social Care Home for Children with Mental Disabilities in Fakia. The training took place from 7 to 11 April in Rusokastro and Fakia, near Burgas, and participants included a psychiatrist, two specialists in providing services to people with challenging behaviour, a social worker as well as staff of the AI's International Secretariat and the Bulgarian Helsinki Committee. This was also an opportunity for AI to assess further training needs in the two institutions

A meeting organized and facilitated by AI in Burgas with the mayors of two municipalities responsible for the two institutions and the director of the regional authority for social support, convened at the end of the training, demonstrated the commitment of all local stakeholders to a program of mental health care reform which would be in line with international human rights standards and best professional practices.

A representative of a UK-based charity who visited Fakia in late April wrote to AI: "I

visited Fakia shortly after we spoke and was very impressed at the work undertaken by your organisation. I have been visiting this home for several years, yet this time it was more of a pleasure to go around."

Ill-treatment of Roma

There were several reports that Roma had been ill-treated by police officers. In a number of incidents the officers also allegedly resorted to their firearms in circumstances which are not permitted by internationally recognized principles.

On 15 March at around 4pm in the mountains close to Lukovit, two Romani men, A.A. and K.M., who had gathered firewood in the forest and were carrying it in two carts, were stopped by two police officers and seven or eight forest guards. A third man who had been with A.A. and K.M. managed to avoid being apprehended. A police officer reportedly hit K.M. with his rifle butt making him fall to the ground and lose consciousness. Later K.M. was handcuffed and allegedly beaten all over his body. An officer reportedly poured water over him and prodded him with an electric baton. In the meantime A.A. was ordered to unload the wood and to dig a pit which he was told would serve as "a grave for the two of you". After he finished a police officer reportedly beat A.A. The carts were then set on fire and the officers started pushing K.M. towards the flames but stopped when they heard a car approaching. Two other Romani men, S.M. and V.R. from Lukovit, who had been alerted about the situation by the man who managed to escape, had driven to the site. As they stopped the car they were reportedly assaulted by the officers and guards who broke the windshield with rifle butts and batons. They reportedly pulled S.M. out of the car while V.R. drove off. S.M. was allegedly hit on the head and shot in the shoulder with a rubber bullet. Shortly afterwards another car arrived containing S.N., L.T. and V.V. Even before the car came to a halt they were shot at, injuring S.N. in the arm. After the car stopped, S.N. and L.T. were reportedly pulled outside, beaten and then deliberately shot at in the back with rubber bullets. Forensic medical certificates issued to V.R., S.N., L.T. and K.M. described injuries consistent with the allegations of ill-treatment and shooting. A complaint about the incident has been filed with the Pleven Military Prosecutor.

CROATIA

General and political developments

In February Croatia formally applied for full membership to the European Union (EU), pending complete implementation of its outstanding commitments under the Stabilization and Association Agreement, with a view to joining the EU in 2008. In March the EU Commission issued its 2003 report on Croatia which welcomed positive developments in the strengthening of the country's democracy and improved regional relations, but criticized inter alia the lack of cooperation with the International Criminal Tribunal for the former Yugoslavia (Tribunal), continuing problems with the return and reintegration of Croatian Serb refugees and the slow pace of judicial reform.

Despite sustained pressure by the United States of America (USA), Croatia refused to sign an impunity agreement undertaking not to surrender US nationals accused of genocide, crimes against humanity and war crimes to the new International Criminal Court (ICC). In May AI had written wrote to the Minister for Foreign Affairs, reminding the government of Croatia's obligations under international law and as a state party to the Rome Statute establishing the ICC (which Croatia ratified in May 2001). In June the Parliamentary Speaker of the Council of Europe denounced the economic and political pressure exerted by the USA on Croatia and other countries in the region to sign such agreements. In June AI also wrote to the Justice Minister, on the subject of Croatia's draft implementing legislation of the Rome Statute, urging her to provide adequate time for consultation with civil society, including the AI membership in Croatia which had lobbied its government to

promote the prompt enactment of effective legislation. As a result the authorities delayed the schedule for adopting the legislation to allow members of civil society and international experts to provide comments.

Impunity for war-time human rights violations

International prosecutions

There were some major developments in proceedings against the so-called "Vukovar Three" with the transfer to the Tribunal's custody of two suspects who had for years remained at large in Serbia. They had been indicted for crimes against humanity and war crimes by the Tribunal in connection with the mass executions of some 200 people of mainly Croat nationality, taken from Vukovar hospital in November 1991 after the town fell to the former Yugoslav People's Army (JNA) and Serb paramilitaries. In late April, one of the suspects, Miroslav Radić, who had been an officer in the JNA, gave himself up to the Serbian authorities who transferred him to the Tribunal's custody in May. On 13 June, another suspect, Veselin Šljivančanin, also a former officer in the JNA and in the subsequent Yugoslav Army, was arrested by Serb police and transferred to the Tribunal in early July. The third member of the group, Mile Mrkšić, had already been transferred in 2002.

In April, Croatian police arrested Ivica Rajić, who had been publicly indicted by the Tribunal for war crimes against the non-Croat population in central Bosnia in 1993; after extradition proceedings before the local courts, he was transferred to the Tribunal in late June. Reports subsequently emerged that he had been in hiding in the Split area for years, having been shielded from arrest by contacts in the military who had provided him with false identity papers. An investigation into these criminal activities was reportedly launched by the Ministry of the Interior.

The Tribunal Prosecutor repeatedly criticized Croatia's failure to arrest and transfer retired Croatian Army General Ante Gotovina, charged with command responsibility for crimes against humanity and war crimes against the Krajina Serb population during and after Operation Storm in 1995. Ante Gotovina went into hiding immediately prior to the publication of his indictment in July 2001 and the Croatian authorities have claimed that he left the country since, although Tribunal spokespersons have dismissed these allegations. In early June, the NATO troops conducted a raid in Prozor in central Bosnia in an unsuccessful attempt to apprehend the suspect. Also in June, Croatian President Stipe Mesić reportedly proposed to transfer Ante Gotovina to the Tribunal in exchange for a revision of his indictment and after the suspect had been given the opportunity of making a statement to Tribunal investigators, an arrangement which the Tribunal refused.

Domestic prosecutions

Scores of trials for war crimes continued or started before local courts, the majority of these involving Serb defendants, although there was a growing number of arrests and trials against Croat perpetrators. According to the Organization for Security and Co-Operation in Europe (OSCE), the only remaining international organization maintaining a large field monitoring presence in Croatia, out of the 27 arrests which took place in the first six months of the year, 21 were of Serbs. In the same period, local courts convicted 13 Serbs and four Croats of war crimes.

AI continued to have concerns that some proceedings did not meet internationally recognized standards of fairness, in particular in proceedings conducted in absentia. In April Mirko Graorac, a Bosnian Serb who had been serving a 15-year prison sentence in Croatia for war crimes allegedly committed in Bosnia-Herzegovina, was transferred to the Republika Srpska entity in that country. AI had monitored proceedings against him before the Split County Court which had shown serious violations of fair trial standards. Mirko Graorac was detained in a prison in Banja Luka to serve the remainder of his sentence;

he has requested to be retried by a Bosnian court.

In late March, the Rijeka County Court convicted three Croatian Army officers, including retired General Mirko Norac, after a trial for war crimes against Serb civilians in the Gospić area in 1991. They were sentenced to prison terms of up to 15 years. Two other defendants in the case were acquitted. The case marked one of the first convictions for war crimes among the few trials of relatively high-level Croat perpetrators. One of the acquitted defendants was remanded in custody again in May as criminal proceedings against him were opened for violent attacks against Serb returnees to Gospić from 1996 to 1998, as a result of which five people reportedly were killed.

In March two former Croatian Army soldiers were indicted for war crimes against Serb civilians in Paulin dvor near Osijek in December 1991 after an investigation had been conducted against them. The bodies of 18 of the victims had reportedly in 1997 been illegally transferred and buried in a mass grave near Gospić, where they were exhumed by Tribunal investigators in May 2002; they were reportedly positively identified in June (see also AI Index: EUR 01/002/2003). Trial proceedings against the two officers started in June, after the Tribunal Prosecutor had forwarded extensive documentation on the case to the Osijek Court in late May. During the course of the period under review, local human rights groups collected further evidence on war-time human rights violations, including scores of killings and "disappearances" of Croats and Serbs in Osijek in 1991 and early 1992, and presented this information to the state public prosecutor. In subsequent media interviews, it became clear that these crimes had been known to high-ranking local military and political officials, who had failed to take any action to prevent them or initiate investigations against those responsible.

In June, a court in Serbia opened an investigation against six former commanders and members of Serb paramilitary forces for the mass executions of non-Serb prisoners after the fall of Vukovar (see above). Four of the suspects had been arrested by Serb police in a major crackdown on former members of the security services with connections to organized crime networks, following the murder of Serb Prime Minister Zoran Djindjić in March.

Witness protection

Victims and witnesses testifying in war crimes proceedings remained without adequate state protection from harassment, intimidation and threats in the absence of a comprehensive government witness protection program. AI continued to receive reports of intimidation and harassment, in particular of former members of the police and military who were acting as prosecution witnesses in criminal proceedings for war crimes in the Šibenik and Split areas. In no cases were those responsible for intimidation or attacks against witnesses identified and brought to justice. The murder in August 2000 of former Croatian Army officer Mile Levar, who had previously provided information on war crimes against Serbs in Gospić to Tribunal investigators, remained unresolved and his family filed a civil case for damages caused by the inaction of the state authorities in late May.

Unresolved "disappearance"

The Head of the Croatian Government Commission on Missing Persons stated in February that his office was still searching for over 1,200 missing persons. Many of these individuals were victims of "disappearances", for which perpetrators continued to enjoy impunity. Meanwhile, cooperation between the Croatian Government and neighbouring Serbia and Montenegro continued on exhuming the bodies of victims which had been buried in Serbia and returning them to Croatia for identification and final burial. According to the Government Commission at the end of June a total of 200 bodies of Croat victims, who had been recorded as missing persons, had been exhumed. Most victims had been killed in late 1991 during the armed conflict

in eastern Slavonia, after which their bodies had been thrown in the river Danube; they had been subsequently recovered and buried in Serbia.

In March a mass grave was exhumed in Cetingrad near the border with Bosnia-Herzegovina, which contained Bosniak victims who were killed in the Bihać region, during the conflict between the Bosnian Government Army and armed forces loyal to the self-proclaimed local political leader, Fikret Abdić. The Bosnian Commission for Missing Persons was reportedly still searching for dozens of persons, including 28 members of the Bosnian Government Army, who had "disappeared" in late 1994.

Right to return and reintegration

According to the United Nations High Commissioner for Refugees (UNHCR) some 3,000 Croatian Serbs returned in the first five months of the year, which was about half the number registered in the same period in previous years. However, many such returns were in practice not sustainable: field research conducted by UNHCR in the key return area around Knin in southern Croatia revealed that only about 60 per cent of returnees remained in the place of return. Those returning continued to face major difficulties in repossessing private property, as a result of flawed legislation - which disproportionately protected the current occupants - and its slow and inconsistent implementation by the responsible authorities.

Tens of thousands of potential returnees, who before the war had lived in rented socially-owned apartments in urban centres, remained without a solution for the loss of their tenancy rights during the war, mostly as a result of unfair legal proceedings conducted in absentia. In response to persistent pressure by local and international organizations, notably the OSCE, the government committed itself to provide some form of social housing to this category of returnees, but refused to recognize the legal rights of the former tenancy holders. This solution failed to offer redress for the human rights violations committed against former tenancy rights holders, and reinforced the discriminatory treatment of Serb returnees to Croatia.

Rights of asylum-seekers and undocumented migrants

In June, the Croatian Parliament adopted a new Asylum Law, but decided to delay its implementation until July 2004, pending the construction of a reception centre for asylum- seekers. AI remained concerned about the ad hoc determination system which had been operated before by the Croatian Ministry of the Interior, which in most cases reportedly did not constitute a full and fair asylum procedure (see also AI Index: EUR 01/002/2003). The organization also had concerns about the detention of asylum-seekers and undocumented migrants, which in many cases amounted to arbitrary deprivation of liberty without access to a judicial body to challenge the administrative decision authorizing the detention.

CZECH REPUBLIC

Police ill-treatment of Roma

On 12 May in Popovice u Jičin, in north-eastern Bohemia, after attending a party in a pub, five officers from the special riot police unit allegedly broke into the home of the Daniš family, who are Roma, shouting racist insults. They allegedly beat Lubica Danišova, her 17-year-old son Marcel and her daughter who was pregnant. The Czech Television reported that the officers attacked the family because they suspected them of stealing from a restaurant, jointly owned by one of the officers and his mother. On 20 May the Inspectorate of the Ministry of the Interior opened an investigation into the incident. The Inspectorate's spokesperson Mikulaš Tomin explained to the Czech Television that their investigation "concerns the violation of freedom of home" and that once all witnesses had been questioned the file of the case would be forwarded to the public prosecutor who would take over the investigation.

Amnesty International was concerned that the police inquiry from its very outset was not focused on investigating this incident as a racially motivated assault, an offence provided for by the Czech Penal Code. The organization has repeatedly expressed concern in the past that the system of investigating police officers who are suspected of an offence is not independent and impartial as required by international human rights standards. Similar concern had been expressed by the Committee for the Prevention of Torture and the Human Rights Committee.

On 27 June the court in Cheb, west Bohemia, sentenced three police officers to a suspended prison term and acquitted two officers for severely beating Karel Billy, a Romani man. The incident took place on 13 May 2001 in Karlovy Vary. The officers involved, apparently without any motive, stopped Karel Billy and asked him for his I.D. They then took him to a nearby forest, where they reportedly severely beat him, urinated upon him and racially abused him. It was only at the intervention of the doctors who subsequently treated Karel Billy for injuries suffered in the assault that the Inspectorate initiated an investigate into the case. Initially the officers were charged with "abusing the authority of a public official". Following the decision of the court in Cheb Jan Jařab, Commissioner of the Government of the Czech Republic for Human Rights, reportedly stated that the court's verdict was "truly sad", particularly as the offence had been committed by police officers. Similar sentiments were voiced by representatives of Romani organizations, although some of them said that they had expected the court to be lenient.

The Committee on the Rights of the Child

In January at its 32nd session the Committee on the Rights of the Child (the Committee) concluded its review of the Czech Republic's report on its efforts to comply with the Convention on the Rights of the Child. The Committee welcomed amendments to existing legislation and enactment of new legislation, among other things to strengthen protection against trafficking and commercial sexual exploitation of children. The Committee noted the country's very good maternal benefits, including satisfactory maternity leave, and excellent health indicators. The Committee also welcomed steps taken by the Ministry of Education, Youth and Sports against expressions of racism, xenophobia and intolerance, and it noted numerous initiatives to counter discrimination in education, in particular against children belonging to the Roma minority. However, it was concerned that the provisions of Article 2 of the Convention, prohibiting discrimination on any grounds, were not yet integrated into all relevant legislation and thus not sufficiently implemented. It recommended that the Government continue and strengthen its legislative efforts to fully integrate the right to non-discrimination into all relevant legislation concerning children. The Committee was also concerned that there was no legislation explicitly prohibiting corporal punishment, and that such punishment was practised in the family, in schools and in other public institutions, including alternative-care facilities. It recommended action to address ill-treatment and abuse of children.

ESTONIA

Background

In the first six months of 2003 the UN Committee on the Rights of the Child and the UN Human Rights Committee considered whether Estonia was fulfilling its international obligations under the UN Convention on the Rights of the Child and the International Covenant on Civil and Political Rights (ICCPR).

UN Committee on the Rights of the Child

In January the UN Committee on the Rights of the Child considered Estonia's initial

report on the steps it had taken to implement the UN Convention on the Rights of the Child. Among its concerns was the issue of ill-treatment and neglect of children. The Committee remained concerned about "the insufficient information on and awareness of ill-treatment and abuse of children within the family, in schools and in institutions, as well as of domestic violence and its impact on children". To this end the Committee made various recommendations, including the explicit prohibition of corporal punishment, the implementation of measures to prevent all forms of physical and mental violence, and the establishment of effective mechanisms and procedures for receiving, monitoring and investigating complaints thereof.

The Committee stated there was also insufficient information and awareness of the extent of commercial sexual exploitation and trafficking of children. In particular, the Committee expressed concern that there was no specific law prohibiting trafficking in people. Various recommendations were made by the body of experts to address these concerns.

UN Human Rights Committee

In March Estonia's second periodic report on the measures the authorities had taken to implement the ICCPR was examined by the UN Human Rights Committee. In its Concluding observations, published in mid-April, the Committee outlined several subjects of concern including police ill-treatment and the use of lethal force. There was concern that acts of ill-treatment were prosecuted as minor offences in Estonia. The UN Human Rights Committee recommended that police officers be effectively prosecuted for such acts and that charges correspond to the seriousness of the acts committed. There was also concern that Estonia's legislation on the use of firearms allowed the use of lethal force in circumstances not presenting a risk to the life of others. In view of these shortcomings the Committee recommended that Estonia revise the legislation and ensure that the use of firearms be restricted by the principles of necessity and proportionality.

Several of the Committee's other concerns related to Estonia's armed forces and the conscription of recruits. It noted in particular that the alternative civilian service to military service was punitive in length and, as a result, conscientious objectors were serving up to twice as long as military conscripts. The Committee called on Estonia to ensure that the alternative civilian service not be punitive in length.

There was further concern about reports that alleged deserters from the armed forces had been kept in solitary confinement for up to three months. Estonia was urged to remedy the situation and ensure that the detention of alleged deserters was in conformity with the relevant articles of the ICCPR.

FINLAND

Prisoners of conscience: imprisonment of conscientious objectors to military service (update to AI Index: EUR 01/002/2003)

In the period under review, Amnesty International adopted as prisoners of conscience nine conscientious objectors to military service, bringing to 43 the number of objectors adopted by the organization since new legislation came into force in 1998. This legislation considerably reduced the length of military service. The length of alternative civilian service, however, remained more than double the length of military service performed by over 50 per cent of army conscripts.

Charged with a civilian service offence, Ilkka Ensio Lispsanen, Mikko Pentti Johannes Saarinen, Otto Kullervo Miettinen, Markus Tapani Mattsson, Henrik Arno Murdoch, Timo Markus Turunen, Pekka Sakari Johannes Kauhanen and Jussi Kalevi Ollikainen received prison sentences of between 176 and 197 days. The ninth, Ari Tapani Koski, received a prison sentence of 67 days. All had refused to perform alternative civilian service.

Amnesty International called for their immediate and unconditional release because the organization considered the current length of alternative service as punitive and discriminatory, and continued to urge the government to bring the length of alternative civilian service in line with internationally recognized standards and recommendations on conscientious objection to compulsory military service.

FRANCE

Deaths during forcible deportation

On 16 January, shortly after the death during forcible deportation of the Argentinian national Ricardo Barrientos (see AI Index: EUR 01/002/2003), an Ethiopian national, Miriame Getu Hagos, died after being taken ill on board an aircraft awaiting departure to Johannesburg from Roissy-Charles de Gaulle airport.[4] Mariame Getu Hagos had reportedly arrived in France from South Africa five days before and was placed in the waiting area at Roissy. After his application for asylum was rejected there were two attempts to deport him and he had apparently become ill during these attempts. He was nevertheless considered well enough to leave and, two days before his death, was accompanied onto the aircraft by three border police officers (PAF - *Police aux frontières*), placed at the rear and handcuffed. Before take-off he reportedly struggled with the officers and, according to the Ministry of the Interior, was restrained by the "customary techniques" (*"techniques habituelles"*). It was not, however, clear what such techniques involved. According to the PAF Mariame Getu Hagos had simulated the first attacks of illness. However, a doctor attached to the emergency medical services (SAMU) reportedly stated that the Ethiopian's condition should have been taken seriously.

4 Mariame Getu Hagos was initially thought to have been Somalian and early reports refer to his being of Somalian nationality.

On 21 January AI publicly called for a full and impartial investigation of the deaths of Ricardo Barrientos and Miriame Getu Hagos. AI stated: "These deaths, which happened within two weeks of one another, are the first to have occurred on an aircraft during forcible deportation from French territory since 1991, and for that reason alone require urgent in-depth examination". The number of deaths in other European countries made this yet more imperative. Both deaths appeared to have occurred after the deportees were placed at the rear of the aircraft and their hands cuffed behind their backs. It was specifically stated that Ricardo Barrientos had been held in a "doubled over" position, with pressure applied to his shoulder blades. AI added that: "Existing expert advice on postural asphyxia has proved that handcuffing a person behind their back can restrict their ability to breathe, while any weight applied to the back in this position – such as pressure applied by a police officer – can increase breathing difficulty further".

Following the death of Mariame Getu Hagos, three police officers were suspended following further inquiries.

In June, in a letter responding to a communication sent by AI to the Minister on the death of Ricardo Barrientos in December 2002, a Ministry official denied that any restraint techniques had been used involving the risk of asphyxiation or suffocation such as "tape, gag, helmet, cushion" or incapacitating or irritant sprays or injections". He stated that Ricardo Barrientos had been accompanied by a National Police unit, the UNESI (*Unité nationale d'escorte, de soutien et d'intervention*), which specialized in escorting persons from French territory by land, air or sea, and that in 2002 this unit had carried out 1480 such missions, deporting 1831 persons. The unit members received adequate training. The Ministry official did not, however, explain exactly what restraint measures had been used and did not respond to the issue raised by AI in its letter, according to which handcuffing a person behind their back while applying

weight to the back may also restrict the ability to breathe.

AI is pursuing its inquiries into the two deaths.

In March Doctors without Borders (*Médecins sans Frontières*) and Anafé (*Association nationale d'assistance aux frontières pour les étrangers*), a coalition of human rights groups, magistrates' associations and unions which assists refugees and asylum-seekers at frontier areas, both published reports which describe police ill-treatment (blows, beatings with batons, tight handcuffing, racial insults) at the holding area at Roissy-Charles de Gaulle airport. Such ill-treatment is a longstanding concern of AI's. Both reports were based on material collected during visits to the holding area. Shortly afterwards, a group of 54 Senegalese and Ivory Coast nationals, complained that they had been submitted to inhuman and degrading treatment during a charter flight from France to Dakar and Abidjan. They claimed they had been held under restraint throughout the flight with hard white rubber cable wound round wrists and ankles and that some had also had faces and legs taped and had been beaten. These allegations were rejected by the Ministry of the Interior and the frontier police (PAF - *Police aux frontières*), which denied that any act of violence had taken place.

Measures relating to police custody

A law on internal security was definitively adopted by Parliament in February and became applicable from 19 March. (See AI Index: EUR 01/002/2003). The powers of prosecutors and police were strengthened by this law, and will be further reinforced if a new draft law against "organized crime" is approved. AI fears that the draft law, which had its first reading before the National Assembly in May, would also extend existing provisions of the 96-hour special custody regime to a wider range of offences, including "organized crime", and so increase the numbers of people likely to be denied access to a lawyer for the first 96 hours of police custody.

In March new instructions governing police custody (*garde à vue)* were issued by the Ministry of the Interior, in an attempt to "preserve the dignity" of those in custody. In a circular the Minister stated that he wished body searches (*"fouilles de sécurité"*) to be only exceptionally used, particularly the "humiliating" use of strip-searching. He also called for a number of other improvements in treatment of detainees, such as improved use of telephone communication and confidentiality of interviews with lawyers.

Police oversight agency criticises police practice

In April the *Commission nationale de Déontologie de la Securité* (CNDS), a police oversight body,[5] published its report for 2002. The report by the CNDS, which has no power to directly punish acts of illegal violence, studied a number of individual cases involving police practice (including cases under investigation by AI), and expressed concern about methods of identity control and police conduct in relation to detention of minors. In the case of "Yacine", which was still before the court by the end of the period under review, the CNDS noted that he was taken to the police station of Asnières for an identity check, where he resisted attempts to handcuff him on the basis that the measure was disproportionate. Up to 10 officers then immobilized him by forcing him onto the ground on his front and placing handcuffs on him. They also allegedly hit and insulted him and kicked him in the back. Two officers then reportedly took him into a corridor. His head was struck violently against a pillar. A third officer followed and all three continued to beat him, although he was handcuffed. He was subsequently transferred to hospital, observed to have multiple injuries, including a fractured testicle, and had to undergo surgery the same night.

5 This was created by Law 2000-494 of 6 June 2000 following a number of fatal police shootings.

Apart from noting that a legal action was underway with regard to the excessive or illegal use of violence by police officers, the CNDS stressed the need for better initial and continual training for police officers with regard to identity controls and for officers, whatever the circumstances, to respect the rules of deontology and the provisions of the Code of Criminal Procedure. The CNDS "regretted" that senior staff, who had partially witnessed or been involved in the sequence of events, had not reminded officers, as they should have done, of their legal obligations. (For "Yacine" case see also AI Index: EUR 01/002/2002).

Court ruling restricts gendarmes' right to shoot

An important decision restricting the use of weapons by the *gendarmerie nationale* was made in February, when France's highest court, the Court of Cassation, ruled that gendarmes should use their weapons only when it was "absolutely necessary". One of AI's greatest and most longstanding concerns, the continuing existence of a decree originating from 1903, has hitherto permitted gendarmes to fire weapons to immobilize suspects in circumstances which would not be permitted in law to other law enforcement officers and which fail to conform to international standards. According to the 1903 decree, gendarmes could fire to stop a person fleeing from them as long as they were in uniform and had given a warning. Police officers, on the other hand, have to prove that they have fired in "legitimate defence".

Romuald Laffroy, an uninsured car driver, was shot dead by a gendarme in 1996, after trying to escape a road block. The gendarme was acquitted of a charge of involuntary homicide (*homicide involontaire*) in October 2001 by the Court of Appeal of Caen (Calvados) on the grounds that the 1903 decree had allowed him to fire the fatal shot. The family was not, therefore, entitled to compensation. On 18 February the Court of Cassation quashed the judgment of the Court on the grounds that the court had failed to establish whether use of the weapon had been absolutely necessary and proportional to the circumstances. The Court of Cassation thus allowed the family to sue for compensation, even though the decision of the lower court to acquit the officer was not itself annulled.

G8 summit policing operation

In May, in the lead up to the June G8 summit, and in connection with various demonstrations and protests planned in Switzerland and France, AI sent a letter to the French Interior Minister, setting out a wide range of international standards on freedom of expression, assembly, use of force and firearms, arbitrary arrest or detention. The letter recalled the attention of the Minister to past reckless use of firearms by some French law enforcement officers and reiterated AI's reservations about the use, at close range, of the double-barrelled "non lethal" or "less lethal" Flashball gun. AI urged that all police involved in the operation on the French side of the border prominently displayed identification and did everything possible to prevent human rights violations.

Algerian war torture case

In April the Appeal Court of Paris upheld the conviction of a retired general, Paul Aussaresses, for apology of torture (defending the use of torture by French forces during the Algerian war of independence between 1954-62). The appeals court, which sentenced the general to a fine of 7.500 euros, found that throughout a book he had published in 2001, General Aussaresses had repeatedly justified torture and summary executions.[6] However, under the terms of a post-war amnesty he could not be tried for war crimes. Two of his publishers were also fined. The general stated that he would lodge an appeal against the verdict in the Court of Cassation.

In 2001, at the time of the publication of the book, AI had called on France to face

6 "Services spéciaux, Algérie 1955-1957", Perrin

up to its judicial obligations, not only under the Geneva Conventions but under the French Penal Code itself, where crimes against humanity are defined, among other things, as the massive and systematic practice of summary execution and torture for political, philosophical, racial or social purposes and are recognized as imprescriptible. AI believes that if France has been able to bring war criminals from the Vichy period to trial it should also be possible for France to live up to its legal obligations with regard to the Algerian war, and that the amnesty laws should therefore be set aside. (see AI Index: EUR 21/002/2001).

In June the Paris Correctional Court acquitted the daily newspaper *Le Monde* of a charge of defamation brought by the president of the National Front (FN), Jean-Marie Le Pen, in connection with a series of articles which appeared in 2002 and which claimed that Jean-Marie Le Pen had been involved in acts of torture during the Algerian war. Such acts were not themselves on trial because covered by the above-mentioned amnesty; thus, the argument in court centred around whether the newspaper had sufficient evidence to believe that the torture had occurred, and had acted in good faith in reporting it. The court concluded that there was indeed such evidence. Jean-Marie Le Pen appealed against the court's decision.

Police justified detention with a fictional charge (Update to AI Index: EUR 01/002/2003)

Omar Baha: A French citizen of Algerian origin, Omar Baha was allegedly ill-treated by police officers in December 2002, after protesting about a beating during a police identity check which he had witnessed. His nose was broken and by February he was still awaiting surgery. The period he spent in police custody was extended on the grounds that he was facing a charge of "incitation to riot" ("*incitation à l'émeute"*), during which he received no appropriate medical care. He also faced charges of insulting conduct ("*outrages"*) and resisting arrest ("*rébellion"*). [7] On 7 February all complaints brought by the police against Omar Baha were thrown out by the Correctional Court of Paris. No appeal was brought against the decision.

At the hearing Omar Baha's lawyer argued that the extension of police custody had been illegal since no charge of "incitation to riot" existed in French law and had been invented for the purpose. The prosecutor admitted that such a charge did not exist in law, but suggested that the police officers may simply have been guilty of an "abuse of language". The court concluded (to public applause) that all charges should be annulled.

A complaint of illegal acts of violence had been brought by Omar Baha against the police officers. At the end of May the prosecutor informed AI that the investigation into the complaint was still underway.

GERMANY

Germany's torture debate

In the early morning of 1 October 2002 Wolfgang Daschner, the Vice-President of Frankfurt am Main police, allegedly ordered a subordinate police officer to use force against a criminal suspect believed to have been involved in the abduction and ransoming of an 11-year-old boy. The aim was to elicit information regarding the whereabouts of the boy, the son of a prominent German banker, whom the police believed to be still alive. When the episode came to light in February 2003, it unleashed a disturbing public debate questioning the absolute prohibition of torture in Germany.

7 See also AI Index: EUR 01/002/2003

On 30 September 2002 police officers had arrested a 27-year-old law student and family friend of the missing boy in connection with the abduction. Despite the repeated questioning of the man, officers at Frankfurt am Main police headquarters made no progress in determining the fate of the child. Wolfgang Daschner reportedly wrote an internal memorandum, the contents of which emerged in the German press in mid-February, stating that the suspect, after "being warned, should be questioned again, under medical supervision, with the infliction of pain (no injuries)". Senior police officers reportedly discussed and rejected the moral objections relating to the use of force against the detainee. The suspect stated through his lawyer that, during his questioning on 1 October 2002, a police officer facing him at a distance of approximately 10cm told him a specialist was on his way who could inflict great pain on him, which he never before would have experienced, and which would leave no traces. Shortly afterwards the detainee told the police where the dead boy was, thus dispensing with the need to torture or ill-treat him.

Wolfgang Daschner, who remained in office pending the outcome of an ongoing investigation into the incident, expressed no regret about his actions. In an interview with the German newspaper, the *Frankfurter Rundschau*, on 22 February he stated that the act of applying force would not have constituted torture but "a police measure". He stated: "It is possible by means of simple physical pressure, for example, by straining the wrist, to inflict pain. There are certain places on the ear - every martial arts enthusiast knows this - where pressure can be applied and it's very painful without causing injury. Beatings, the infliction of injuries, the use of any appliance were expressly excluded by me." When asked what measures had been envisaged had the suspect remained silent under duress, Wolfgang Daschner replied: "At some point he would no longer have remained silent. Within a very short time". In another newspaper interview this high-ranking police officer called for the use of force to be legally permitted during police interrogations as a "last resort" in order to save human life.

Despite the clear-cut, absolute and non-derogable prohibition of torture and ill-treatment in the German Constitution, as well as in domestic and international law, there ensued an intense public debate about whether there were any circumstances in which torture could be permissible in Germany. While many leading political and civil society figures and groups were quick to rebuff the very notion, others were not so inclined. In particular, a number of regional political leaders expressed sympathy with Wolfgang Daschner and stated publicly that they could envisage exceptions to Germany's ban on torture.

Shortly after the incident came to light Amnesty International wrote to the German authorities requesting, among other things, to be informed of the findings of the investigation which had been initiated into the affair. The organization received a reply from the Minister of the Interior of Hesse, Volker Bouffier, in a letter dated 8 April, which stated: "I can absolutely assure you that in Hesse neither the threat nor the use of torture can be legally justified; even discussion of the matter is itself absurd." The Minister stated that possible disciplinary proceedings against Wolfgang Daschner were pending the outcome of the criminal investigation by the prosecutor's office.

Allegations of police ill-treatment

In the period under review several new allegations of police ill-treatment came to the attention of Amnesty International. The organization subsequently wrote to the German authorities requesting to be informed of the outcome of the investigations initiated into the alleged incidents. In addition, new information was received about several ongoing complaints of alleged ill-treatment.

Serious allegations of ill-treatment emerged in the German news media in late March

concerning a 30-year-old partially disabled man, Andre Heech, in Frankfurt am Main. The police were reportedly called by the owner of a bar around 9am on 14 February, owing to Andre Heech and a friend's alleged drunken behaviour. The two men were arrested separately by the police later the same morning and were taken to the Fourth District Police Station near Frankfurt am Main's main railway station, where Andre Heech was allegedly ill-treated in a police cell. According to various reports, Andre Heech stated that as he sat on the bench in his cell, three police officers entered. One police officer then allegedly hit the right thigh of his amputated leg three times with a long metal object, said to have resembled a water pipe. The alleged act caused the detainee considerable pain. The detainee was released without charge approximately one hour after the incident after which he sought medical treatment for an injury, which necessitated an operation. It transpired that Andre Heech had sustained a fractured right thighbone. An investigation into the incident was ongoing at the end of June.

A press release issued by Cologne Police on 5 March stated that a criminal investigation had been initiated into the alleged ill-treatment of an unnamed 19-year-old man at Cologne's Police Headquarters on 28 February. The press release confirmed that an official at the Police Headquarters, tasked with supervising the detention area, was alleged to have hit the detainee in the face at around 4am on 28 February after the man had repeatedly activated the alarm in his cell. The police official later admitted to having struck the detainee. As a result of the alleged incident, the detainee sustained a broken nose and damage to one of his teeth. Amnesty International wrote to Cologne Public Prosecutor's Office in mid-April, expressing concern about the incident and requesting to be informed of the findings of its investigation. At the end of June no more information was known about the ongoing investigation.

The death of Stephan Neisius (update to AI Index: EUR 01/007/2002 and 01/002/2003)

The trial of the six police officers accused of beating to death Stephan Neisius began at Cologne District Court on 26 June. Stephan Neisius, aged 31, died in a Cologne hospital shortly after 11am on 24 May 2002 after spending 13 days on a life-support ventilation system. He had been admitted to hospital on 11 May 2002 after allegedly being ill-treated by several police officers at Cologne's First Police Inspectorate earlier the same evening. The outcome of the trial was not known at the end of June.

The alleged ill-treatment of Walter Herrmann (update to AI Index: EUR 01/007/2002 and 01/002/2002)

On 29 April Cologne Public Prosecutor's Office informed Amnesty International in a letter of their decision to file charges against three police officers alleged to have ill-treated Walter Herrmann. The 62-year-old community activist had allegedly been ill-treated in police custody at Cologne Police Headquarters on 18 September 2001. As a result of the alleged incident Walter Herrmann sustained first degree concussion, bruising to the cranium, an open fracture of the bridge of the nose, bruising to the chest, and a non-displaced fracture to a rib. It was envisaged that the trial of the police officers would begin in late September 2003.

The alleged ill-treatment of Svetlana Lauer (update to AI Index: POL 10/003/2003)

Bamberg Public Prosecutor=s Office informed Svetlana Lauer's lawyer of its decision, taken on 31 January, to discontinue criminal proceedings of bodily harm against four police officers alleged to have ill-treated her at her home in Bamberg on 20 February 2002. Svetlana Lauer sustained multiple bruising and grazing to the head, both shoulders, right thorax, back, bottom, arms and legs as a result of the incident. An initial attempt by Svetlana Lauer's lawyer to appeal against this decision was rejected in April. Svetlana

Lauer's lawyer appealed in May for a judicial review of the second decision of the prosecuting authorities to terminate criminal proceedings against the police officers, the outcome of which was not known at the end of June.

Fatal shootings by Nordhausen Police

In April Mühlhausen Public Prosecutor's Office filed the charge of negligent homicide against a police officer accused of fatally shooting 30-year-old René Bastubbe in the town of Nordhausen, Thuringia in July 2002. Amnesty International wrote to the Ministry of the Interior of Thuringia in June, requesting to be informed of the outcome of any criminal and disciplinary proceedings taken against the police officer as a result of a trial.

René Bastubbe was fatally shot by the police officer shortly after 4.30am on 28 July 2002 in the town centre of Nordhausen. Police were called after René Bastubbe and a 23-year-old friend began banging a cigarette vending machine, which had reportedly failed to vend cigarettes, with a cobble stone. Reports indicated that the fatal shooting took place after René Bastubbe and his friend were found by two police officers hiding behind a kiosk near the vending machine. A female police officer successfully detained René Bastubbe's friend and handcuffed him to a metal fence. The second male police officer was then said to have attempted to detain René Bastubbe. According to various news reports, René Bastubbe forcibly resisted the efforts to detain him and allegedly threw a cobble stone at the male police officer. As René Bastubbe bent down to pick up another cobble stone, the police officer allegedly shot him in the back from a distance of several metres. The bullet entered René Bastubbe's lower back, passed through several organs and severed a major artery before becoming lodged in his collar-bone. He reportedly died as a result of massive blood loss.

Amnesty International was concerned that the fatal shooting of René Bastubbe did not appear to be necessary or proportionate. In the absence of any immediate threat to life, the police officer did not appear to resort to less extreme measures in order to detain him, such as attempts to de-escalate or better manage the situation by calling for police reinforcements.

Disturbingly, this was not the first instance that police officers from Nordhausen had been involved in fatal shootings of unarmed individuals. Amnesty International had written to the German authorities on 10 December 1999 expressing concern about the fatal shooting of 62-year-old Friedhelm Beate in the village of Heldrungen, Thuringia on 27 June 1999 (see AI Index: EUR 01/01/00). Friedhelm Beate, who at the time was on holiday, was shot through the door of his hotel room by two plain clothed police officers from Nordhausen, who believed that he was the escaped convicted murderer, Dieter Zurwehme. Controversially, the police officers neither possessed a photograph of the wanted murderer nor knew what he looked like. Nevertheless, charges of negligent homicide against the police officers were discontinued in December 1999. However, in mid-February 2003 the lawyer representing the Beate family attempted to have the criminal investigation re-opened. At the end of June Amnesty International had no information regarding the outcome of the appeal.

HUNGARY

Reports of police ill-treatment of Roma

On 19 February, in Hajdúhadház, a police officer shot S.B., a 19-year-old Romani man, in the abdomen. According to the Hajdú-Bihar County Police Department two officers attempted to arrest S.B. who was suspected of a theft. Upon entering his home, S.B. allegedly attacked the officers with an axe and the officers then shot him in self-defence. S.B. then escaped apprehension but was caught soon afterwards. The Roma Press Centre (RSK), however, reported a different version of the incident. It stated that Attila Lakatos, who

lives in the neighbourhood, had observed at the time of the incident that S.B. was handcuffed and without any visible injuries when he ran outside. Attila Lakatos also stated that he saw the officers run out of the house and viciously beat S.B. in the street, and then shoot him in the abdomen. An officer also reportedly aimed his gun at the Roma who had come to the scene of the incident. According to RSK, S.B. was subsequently charged with assaulting an officer and attempted homicide against a state official. An investigation into the shooting conducted by Hajdú-Bihar County Police Department reportedly found that the use of firearms had been justified. It was unclear, however, whether an investigation had been initiated into the ill-treatment allegations.

Another incident reported by RSK took place on 13 June 2003 in Valkó (Pest County). Cs.V., a Romani man who was driving a van, was stopped by a police vehicle which had followed him. He subsequently stated that, as he was slowing down his van, he had heard what sounded like a gun shot. Cs.V. approached the police car and a police officer reportedly pushed him face down onto the hood and handcuffed him. I.K., a Romani man who had witnessed this, asked the officer: "Why are you doing this to him in front of my children?" The police officer reportedly replied: "Get out, you dirty gipsy!" I.K. and his 12-year-old daughter then fled into the courtyard of their house. The police officer who pursued them without having authorization to enter the property reportedly fired a warning shot and stated: "All gypsies should be killed". He then allegedly pointed his gun at I.K.'s daughter who, as a result, fainted. Afterwards the police left the scene of the incident saying that if no complaint was filed against them they would not press any charges against Cs.V.

The Pest County Police reportedly issued a statement claiming that the engine of the police vehicle, which stopped Cs.V., backfired, producing a sound similar to a gunshot; that two police officers involved in the incident were in the process of arresting Cs.V. when they were threatened by a group of angry Roma, armed with pitchforks and scythes; and that the officers managed to leave the scene of the incident although one of them had been assaulted and a tyre of their car had been punctured.

The Pest County Prosecutor's Office has reportedly initiated an investigation into the case. Amnesty International wrote to Dr Péter Polt, General Prosecutor, urging him to ensure that the investigation into this incident be conducted independently, thoroughly and impartially as required by international law.

ITALY

Ill-treatment and excessive force by law enforcement officers

At the moment of arrest and in law enforcement establishments

Findings issued by two inter-governmental bodies during the period under review reflected AI's own concerns.

Following its consideration of Italy's second periodic report on its implementation of the UN Convention on the Rights of the Child in January, the UN Committee on the Rights of the Child expressed concern at, amongst other things, the alleged ill-treatment of children by law enforcement officers and, in particular, its prevalence with regard to foreign and Roma children.

A report which the Council of Europe's Committee for the Prevention of Torture (CPT) had submitted to the Italian government in September 2000, containing the findings of its third periodic visit to Italy in February 2000, was issued in January after the Italian government agreed to its publication, together with its own interim response. The CPT indicated that, as in previous visits of 1992 and 1995, its delegation had collected allegations of ill-treatment by state police and by carabinieri, some of them supported by medical examinations carried out by medical

specialists within the CPT delegation. The CPT reiterated a number of the recommendations relating to fundamental guarantees against ill-treatment in the custody of law enforcement officers which it had made following its previous visits but which were still not in place. In particular the CPT underlined that:

- measures should be taken to ensure that detainees have the right in practice, and not only in law, to be able to consult a lawyer without delay and in private;
- a specific legal right of access to a doctor should be introduced, replacing the current practice of access at the discretion of law enforcement officers;
- a document describing detainees' rights should be distributed to all detainees at the outset of the detention period and should be available in a variety of languages;
- a specific code of conduct for interrogations should be drawn up;
- there should be improved training for officers in human rights and interpersonal communication;
- superiors should convey the message that ill-treatment will not be tolerated and will be sanctioned.

In the context of public demonstrations

AI was concerned by further reports of human rights violations in the context of public demonstrations. For example, there were allegations that:

- in February some 40 people carrying out a peaceful protest in Verona in the context of the war against Iraq, and specifically against the related transport of military arms and equipment to the US/NATO base of Camp Darby (Pisa), were subjected to unwarranted and excessive use of force by carabinieri. Officers were said to have assaulted the protestors using batons to strike their bodies, particularly their heads, while they were sitting or lying at the entrance to a railway freight yard and offering only passive resistance. Officers were also said to have followed and assaulted protestors who were leaving the scene.
- during a mass anti-war demonstration in Turin in March, police and carabinieri using batons and tear gas subjected some demonstrators, including and in particular peaceful demonstrators from the city's Islamic community, amongst them a group of some 50 women and children, to unwarranted and excessive use of force.

Updates to information given in AI Index: EUR 01/002/2003

Policing operation surrounding the March 2001 demonstration against the Third Global Forum on e-government in Naples.

In June the Naples Public Prosecutor's office submitted a request to the relevant judge of preliminary investigation for 31 police officers who worked in the Caserma Raniero, used as a detention facility on the day of the demonstration, to be committed for trial on various charges. The charges ranged from abduction (brought against 14 officers) to bodily harm and coercion; some officers were additionally accused of abusing their position and of falsifying written records of statements and searches. The judge's decision was not expected for several months.

Policing operation surrounding the July 2001 G8 summit and related demonstrations in Genoa

Numerous criminal inquiries were under way in connection with the above. They included an inquiry which examined extensive forensic (including ballistic and video) evidence relating to the fatal shooting of a 20-year-old demonstrator, Carlo Giuliani, by a 21-year-old law enforcement official who was then performing his military service in the carabiniere force and apparently fired two shots from a carabinieri vehicle under attack by demonstrators. In May, the relevant Genoa judge of preliminary investigation endorsed the Public Prosecutor's December 2002 request for the investigation against the officer, in connection with a possible crime of homicide, to be closed without any charges being brought. This request had been

challenged by lawyers representing Carlo Giuliani's family. The judge also agreed that no charges should be pursued against the officer driving the vehicle who, in trying to flee the scene, had run over and then reversed over Carlo Giuliani's body after he was shot. The judge stated that the officer driven over the body unwittingly and that forensic evidence indicated that the injuries caused by the vehicle were superficial and played no role in the death. The judge ruled that the first officer, after waving his pistol in warning, had fired the fatal shot from his pistol but had aimed upwards, into the air; that the trajectory of the shot was deflected by a chunk of plaster thrown by a demonstrator, and that otherwise it would not have hit Carlo Giuliani; that the pistol was the only means which the officer had at his disposal to confront the violent attack by the demonstrators. She concluded that the officer had acted in self-defence, making legitimate use of his firearm. Carlo Giuliani's family subsequently announced their intention of filing an application against Italy with the European Court of Human Rights.

Following the fatal shooting, AI called for the criminal inquiry to include a determination as to whether the use of force was consistent with the principles established in specific human rights instruments regarding the use of force and firearms by law enforcement officials. The organization also made a series of other recommendations relating to the use of force and firearms in the context of crowd control and public disturbances (see AI Index: EUR 30/008/2001 and EUR 30/012/2001).

Another criminal investigation was under way into the conduct of law enforcement officers during a raid on a building legally occupied by the Genoa Social Forum. Dozens of police officers remained under investigation in connection with possible charges of abusing their authority, assault and battery, verbal abuse and/or failing to prevent such crimes committed by officers under their command. Strong evidence continued to emerge suggesting that officers had committed perjury and falsified evidence against the 93 people detained during the raid, apparently in order to justify the raid, the arrest of the 93 and the degree of force used by officers (over 60 of the detainees required medical treatment). The 93 people were accused of violently resisting state officers, theft, carrying offensive weapons and belonging to a criminal association intent on looting and destroying property. A criminal investigation into the first three accusations ended in May when the relevant Genoa judge of preliminary investigation ruled, amongst other things, that there was no evidence of resistance by the 93. The fourth accusation against the 93 formed part of a separate criminal investigation still under way at the end of June.

A criminal investigation continued into the conduct of law enforcement and prison personnel inside the temporary detention facility of Bolzaneto through which over 200 detainees passed. At the end of June dozens of people, including prison officers, doctors, carabinieri and police officers remained under investigation for abusing their authority, assault and battery, verbal abuse and/or for failing to stop such crimes.

Torture and ill-treatment in prison (Update to AI Index: EUR 01/002/2003)

A number of criminal proceedings were under way into allegations of torture and ill-treatment and several prisoner deaths in disputed circumstances.
Concerns and questions about eventswhich took place at the Sassari district prison of San Sebastiano (Sardinia) in April 2000 were raised both by the CPT in its report, issued in January, on its third periodic visit to Italy in 2000 (see above) and by the UN Special rapporteur on torture in his annual report, published in February.

Criminal proceedings were under way into allegations that, in the context of a transfer operation, over 40 inmates of San Sebastiano prison were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by dozens of prison officers employed in various

Sardinian penal institutions and in the presence of the director of San Sebastiano prison, the chief prison guard and the regional director of Sardinian prisons.

Criminal proceedings against nine prison officers who had chosen to be tried under the ordinary criminal process continued. In February, a judge of preliminary hearing considering the cases of those defendants who had chosen to be tried via a fast-track trial procedure, allowing any eventual sentence to be reduced by a third, concluded that inmates had been subjected to unpremeditated ill-treatment inside the prison. The magistrate also ordered that 28 prisoners who had constituted themselves civil parties to the proceedings should be awarded financial compensation for physical and moral damages. Prison sentences ranging from 12 to 18 months' imprisonment were handed down to the former regional director of prisons, the former director of San Sebastiano prison and the former chief prison guard. Nine prison officers found guilty of ill-treating inmates received sentences ranging from fines to 12 months' suspended imprisonment. A prison doctor was sentenced to four months' suspended imprisonment. The sentences were not to be entered on the defendants' criminal records.

The magistrate concluded that there were no grounds to prosecute a further 20 prison officers who had all admitted taking part in a search of the prison cells during which ill-treatment occurred. He stated that there was no clear information regarding "which cells the defendants might have searched" nor "which prisoners might have been beaten or insulted by them." The public prosecutor subsequently filed an appeal against the magistrate's decision in these cases. A further 48 officers were acquitted.

.

High security regime 41-bis

In its report on its third periodic visit to Italy in 2000, issued in January (see above), the CPT described the findings of a visit to Spoleto prison, following up on its 1995 visit there, where it examined an example of the country's so-called 41-bis high security prison regime. This regime, operating in sections of some dozen prisons, and applicable to prisoners held in connection with organized crime and, since December 2002, to prisoners held in connection with trafficking in people and crimes committed "for the purposes of terrorism or subversion of the state," allows a high degree of isolation from the outside world. The CPT found that the regime, which it had already heavily criticized following its 1995 visit, had led to an increase in anxiety problems, as well as in sleep and personality disorders suffered by prisoners. It called for a re-examination of the presence in 41-bis sections of a special prison intervention force (GOM) which it found to have completely replaced ordinary prison personnel and rendered the regime even tougher than before. It recommended urgent measures to restore an appropriate level of human contact between the prisoners and prison personnel.

Asylum and immigration

AI and other international and domestic non-governmental organizations (NGOs) campaigning for refugees' human rights made renewed representations to the government and parliament for the introduction of a specific and comprehensive law on asylum, in order to guarantee the fundamental human right to asylum, recognized in principle in the Italian Constitution and through Italy's ratification of the UN Convention relating to the Status of Refugees.

The NGOs continued to express concern that certain provisions concerning asylum contained in Law 189/2002 (the so-called 'Bossi-Fini' law), which entered into force in September 2002 and relating mainly to immigration, would impede the effective exercise of the right to asylum and increase the risk of refoulement (forcible repatriation) of people at risk of serious human rights violations (see AI Index: EUR 01/002/2003). AI and other NGOs called on the government, in the preparation of enabling regulations for the practical application of

Law 189/2002, to address in particular concerns about provisions in the law allowing:

- many asylum-seekers to be detained or restricted in their liberty in circumstances beyond those allowed under international standards and to have their asylum applications handled via an accelerated procedure failing to provide a guarantee of access to a fair and thorough asylum procedure;
- examination of, and decisions on asylum claims to be made in the first instance by bodies failing to meet minimum requirements for a fair and satisfactory asylum procedure;
- asylum-seekers to be expelled during the appeal procedure relating to a rejected asylum claim.

Temporary holding centres for aliens (Centri di permanenza temporanea)

In its January report on its February 2000 visit to Italy (see above), the CPT described its findings at three temporary holding centres for aliens. On visiting one of these -- Francavilla Fontana holding centre -- the CPT had found a combination of so many negative factors that it called on the spot for the centre's closure and the transfer of the inmates within three months. The centre was subsequently closed.

The CPT emphasized that the inmates of such centres have fundamental rights, underlining that, like any other people deprived of their liberty, they should be able to have a third party of their choice informed of their situation, have access to a lawyer and a doctor from the start of their detention and be informed of their rights, without delay, in a language they understand. They should also be informed about the procedure being applied to them. They should also have the possibility of appealing to an independent body against any decision which could lead to their deportation and have the appeal examined *before* any deportation takes place.

AI was concerned by a number of reports describing alleged physical assaults by administrators and law enforcement personnel operating in some holding centres, as well as conditions of detention violating relevant international standards on the treatment of prisoners. For example:

- a criminal investigation was under way into allegations that 17 young North African men, who carried out an unsuccessful escape attempt from Regina Pacis holding centre (Lecce) in November 2002, were subjected to physical assault, and verbal abuse directed at their religious beliefs, by the centre's director, together with several members of the centre's administrative staff and 11 carabinieri providing the centre's security service. Two doctors attached to the centre were under investigation for falsifying relevant medical reports.
- a criminal investigation was opened into allegations that, following an escape attempt by two North African inmates of the via Mattei holding centre (Bologna) in March, they and a number of other male and female inmates were subjected to physical assault involving, either actively or passively (through their failure to intervene), some 10 police officers, one carabiniere and a nurse.
- in May inmates of the Serraino Vulpita holding centre (Trapani) alleged that six men, who carried out an unsuccessful escape attempt during the night of 24-25 May, were subjected to physical assault by police and carabinieri officers using batons.

The situation of unaccompanied minors

It emerged from the report on its third periodic visit to Italy, issued in January, that in September 2000 the CPT had called on the Italian authorities to intensify efforts to address the situation of unaccompanied minors whom, it said, were detained for prolonged periods in holding centres for aliens: one minor met by the delegation had been detained for up to eight months.

Following its consideration of Italy's second periodic report on its implementation of the UN Convention on the Rights of the Child in

January, the UN Committee on the Rights of the Child also expressed concern, amongst other things, "at the lack of adequate structures to receive unaccompanied minors"; at legislation permitting the detention of undocumented immigrants, including unaccompanied minors, and "an increase in repatriations without adequate follow-up." It recommended, amongst other things, that Italy should "strengthen efforts to establish enough special reception centres for unaccompanied minors"; ensure that their stay in such centres is "for the shortest time possible" and that "access to education and health is guaranteed" during and after the stay; adopt, "as soon as possible, a harmonized procedure in the best interests of the child to deal with unaccompanied minors"; and ensure that "assisted repatriation is envisaged when it is in the best interests of the child and that a follow-up is guaranteed for those children."

LUXEMBOURG

Allegations of excessive force by police

There were allegations that police used unwarranted and excessive force in the context of several operations.

On 20 March thousands of secondary school students held a demonstration in front of the US embassy, in protest against the war in Iraq. Violent confrontations took place between some protestors and the police but AI was concerned by allegations that in a number of instances demonstrators, including young teenagers, were subjected to gratuitous and excessive force by police officers wielding batons.

Further allegations emerged from a sit-down anti-war protest by some two hundred secondary school students which blocked a main traffic thoroughfare the following day. Police were again accused of a disproportionate response to the level of violence displayed by a small minority of protestors, reportedly dispersing the demonstrators through indiscriminate use of batons and pepper-spray and subjecting some to racist abuse.

AI recognizes the difficulties faced in policing large demonstrations, especially if certain factions are set on causing violence, and also recognizes that the authorities have a duty to ensure the safety and security of peaceful demonstrators, local inhabitants and property. AI does not oppose the lawful use of reasonable force by law enforcement officers. However, policing must be carried out with full respect for international human rights standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles) which underline that force should be used only as a last resort, in proportion to the threat posed and, where its use is unavoidable, designed to minimize damage and injury.

Concern was also expressed as to the proportionality of the level of force used by police officers in the context of police raids carried out on some 20 private apartments and offices in various locations in Luxembourg on the morning of 31 March. The raids were carried out in the context of a criminal investigation into the activities of a number of people suspected of involvement in an international Islamist network constituting a criminal association.

Allegations of unwarranted and excessive use of force by police focused on the treatment of a family of asylum-seekers from Montenegro during a raid on their apartment block. An internal police investigation was opened into the incidents. Rasim Adrovic and his family said that, when he opened the door of their apartment to find out the reason for sudden loud disturbances in the house, a police officer sprang at him and hit him in the face: police officers then pinned him to the floor, immobilized and handcuffed him, while

hitting his body. His wife and some of the children were roughly handcuffed and all were detained for around three hours while police officers searched their apartment. The family said the police were masked and threatened them with drawn pistols, that on entering their apartment they asked them no questions and showed them no documents to explain their actions. None of the family was arrested or accused of committing any offence. The family said that, on releasing them and leaving the scene, the police officers apologized and said they had entered their apartment in error. There were claims that the intended target of the police operation was, in fact, an individual residing in an apartment on the floor above.

The family called the emergency services after the police left and Rasim Adrovic, who had undergone a surgical operation in 1999, in view of severe and ongoing back problems, was admitted to a local hospital for medical treatment. Journalists interviewed him there the following day and photographed a recent wound to his back. His wife was also treated at the hospital and displayed swelling and bruising to her arms and also to her neck, which had to be fitted with a surgical collar.

Only two individuals were apparently arrested in the course of the 31 March raids: Taoufik Salmi, described as a holder of Tunisian as well as Bosnian citizenship, and his wife. They were detained on the grounds that they were residing in Luxembourg illegally and were expelled to Tunisia in early April, reportedly without being given an opportunity to lodge an appeal against their refoulement (forcible repatriation). AI was concerned by subsequent allegations that Taoufik Salmi was imprisoned and tortured on his return to Tunisia.

Violence against women: the (UN) Committee for the Elimination of Discrimination against Women (CEDAW) examines Luxembourg's record

In January CEDAW examined Luxembourg's fourth periodic report on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women. In listing its principal areas of concern CEDAW included reference to issues relating to domestic violence.

CEDAW reported that, in introducing Luxembourg's report, the country's representative indicated that on 17 May 2001 a bill on domestic violence had been introduced to the Chamber of Deputies "by which women would no longer be forced to leave the family home and the perpetrators of violence would no longer be able to stay. Emphasis had been placed on public awareness-raising campaigns on domestic violence and a number of shelters for victims had been opened. Measures had also been taken to sensitize law enforcement officers. The bill on domestic violence specifically required that a module on domestic violence be integrated into the initial training of police personnel at the Police Academy. After entry into force of the bill, the police would also be required to collect statistics on domestic violence."
However, while welcoming the bill presented to the Chamber of Deputies, CEDAW expressed concern at the delay in its adoption and encouraged Luxembourg to take all necessary measures to "adopt the law on domestic violence in conformity with the Committee's General Recommendation 19 to prevent violence, punish and rehabilitate offenders and provide services for victims". The bill received final parliamentary approval in July and was scheduled to enter into force in November 2003.

CEDAW also observed with concern that Luxembourg had "not developed comprehensive policies to combat trafficking in women and girls". It urged the development of relevant policies and programs, "including measures to prevent trafficking in women and girls, the collection of data, the provision of services for trafficked women and girls and measures to penalize those who are involved in such trafficking". AI welcomed reports that several government-backed

initiatives and measures aimed at combating trafficking were in development or under way by the end of the period under review. For full details of CEDAW's findings – see www.un.org/womenwatch/daw/cedaw/ .

MACEDONIA

Background

The peace process following the conflict in 2001 in the north and west of the country between an ethnic Albanian armed opposition group and the Macedonian security forces continued to be supported by activities of the international community. At the end of March, EUFOR - a European Union (EU) armed force of some 300-400 soldiers from different countries - took over the military functions from NATO of protecting monitors from the EU and the Organization for Security and Cooperation in Europe (OSCE).

Despite some violent incidents and the appearance of the so-called Albanian National Army - an armed ethnic Albanian group purportedly fighting for a united 'Greater Albania' whereby the areas in Macedonia inhabited predominantly by ethnic Albanians would secede and join with neighbouring Kosovo and Albania - the security situation remained relatively stable. However, underlying tensions and distrust between the Macedonian and Albanian communities remained and at times became apparent. In June in Skopje police shot dead an ethnic Albanian, Nexhbedin Demiri reportedly after he pulled a gun when police officers attempted to arrest him for robbery, violence and armed assault on the police. His death prompted violent protests in his home town of Arachinovo - which is predominantly populated by ethnic Albanians and was the scene of confrontations in the 2001 fighting - with a crowd of civilians armed with automatic weapons taking over the police station and allegedly beating six policemen. Macedonian television crews covering the unrest were also attacked, and EUFOR involved in negotiations to restore the peace.

In January, it was announced that the notorious 'Lions' - a special mono-ethnic (Macedonian) paramilitary police force set up by the Interior Ministry following the insurgency in 2001- would be disbanded. The announcement prompted armed 'Lions' to block the main road from Skopje to Kosovo in protest. The protest ended with agreement that half of the 1,200 or so Lions would be incorporated into either police or army units There had been a number of incidents of alleged human rights violations involving members of the 'Lions'.

In June the government adopted an amnesty law for those since 1992 who had avoided compulsory military service which affected 12,369 people of whom 3,260 were ethnic Macedonians, 7, 730 ethnic Albanians and the rest from Macedonia's other ethnic groups.

At the end of June the government bowed to pressure from the USA and signed a bilateral impunity agreement committing it not to surrender US nationals accused of genocide, crimes against humanity and war crimes to the new International Criminal Court (ICC). AI had urged the government not to sign (see *Albania and Macedonia should reject impunity agreements on the ICC*, AI Index: EUR 05/002/2003).

In June there remained over 5,500 registered internally displaced persons due to the 2001 fighting. On 19 May over 600 Roma from Kosovo, including women and children, made an unsuccessful attempt to leave Macedonia - where they had been granted temporary asylum - and gain entry to Greece (and the EU) to seek asylum there. They had fled to Macedonia fearing attacks on them by Kosovo Albanians after the 1999 NATO operation over Kosovo, and remained camped on the border in protest.

Killings by border patrols

There were concerns that in some instances guards in the border area with Albanian - where cross border smuggling was rife -

used excessive force leading in some cases to loss of life. On 18 June Agron Sherif Skënderi, an Albanian citizen, was shot twice in the head by Macedonian border guards while similarly trying to cross the border and died immediately. The Macedonian authorities claimed that Agron Sherif Skënderi and another Albanian citizen accompanying him, Arben Qamil Kaja, who was shot in the arm and escaped across the border, were smuggling arms and that they had ignored orders to stop. However, Arben Qamil Kaja claimed that the border patrol opened fire without giving any warning, and to AI's knowledge, no evidence of arms smuggling was produced, and other reports stated that the two men were instead engaged in small scale illegal cross-border trading in everyday goods.

Police torture and ill-treatment

Police continued to ill-treat people during arrest and detention. AI welcomed the authorities' decision on 16 January to authorize the publication of reports drawn up by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), but was concerned at the lack of thorough and impartial investigations into the serious allegations of torture contained within the reports (see *Former Yugoslav Republic of Macedonia: Continuing failure by the Macedonian authorities to confront police ill-treatment and torture*, AI Index: EUR 65/008/2003).

The Macedonian Helsinki Committee for Human Rights (MHC) reported a number of cases of alleged police ill-treatment/torture. On 7 February two Roma, Skender Sadiković and Memet Dalipovski were allegedly beaten by police in Kumanovo. Skender Sadiković claimed that he was beaten at his home by police and then by six policemen in Kumanovo police station with an axe handle to try and force him to confess to a theft. Memet Dalipovski claimed that he was beaten by five policemen at the station. The Minister of the Interior, Hari Kostov, in a newspaper interview on 19 April, stated that an initial investigation had rejected the two men's claims but that he had ordered a further investigation which confirmed that the police had used ill-treatment. He promised that legal proceedings would be initiated but to AI's knowledge no such proceedings against the perpetrators had taken place at the end of the period under review.

On 8 February three other Roma, Senad Rustemovski, Ejvas Sherifovski and Jashar Ramadan were allegedly beaten and ill-treated by a number of police officers at Prilep police station after being taken into custody for not having personal identification papers on them. They claimed that on their release they were forced to sign a statement stating that they had no comments on how they were treated in custody.

Failure to address past abuses

On 2 March the MHC appealed to the Ministry of the Interior about the lack of investigation into the 'Rashtanski Lozja' case where the authorities were suspected of the extra-judicial execution of six Pakistani and one Indian citizen on 2 March 2002. The Ministry replied that there was a special commission created to investigate the case which would finish by mid-April. On 9 May the Ministry informed AI - who had also raised similar concerns - that the ministry was "intensively working on the determination of the circumstances regarding the case." However, no results were forthcoming.

Similarly, there appeared to be no progress on ascertaining the fate of 20 people who either "disappeared" or were abducted during the 2001 fighting, despite promises by the authorities that concrete information on the cases would be produced.

On 27 January Krenar Osmani was sentenced to six years' imprisonment for war crimes in connection with the events in 2001. However, there were concerns about the fairness of the trial and in April he and three other ethnic Albanians similarly accused of war crimes in connection with the 2001 insurgency were released from

custody after the war crimes charges were dropped.

Trafficking for forced sexual exploitation

A number of people were arrested for trafficking of women for sexual purposes. In February the authorities raided a number of places in Skopje, Tetovo, Gostivar, Struga and Bitola and rescued at least 40 women, mainly foreign citizens, who had been trafficked for forced sexual exploitation, and arrested a purported main trafficker. He was sentenced in March to the minimum sentence of six months' imprisonment for involvement in prostitution and escaped from custody in Struga on 19 June. Struga prison director and other officials were sacked in the wake of his escape and the court criticized for the leniency of the sentence. Foreign trafficked women continued to be immediately expelled to their country of origin without being offered appropriate medical or social support.

MALTA

The treatment of asylum-seekers and unauthorized immigrants

In February the government stated that 1,686 "illegal immigrants" had arrived in Malta in 2002, compared to 57 in 2001 and 24 in 2000. The authorities indicated that the sudden influx of people had placed considerable strain on Malta's resources during 2002, affecting the availability of appropriate accommodation in the country and its ability to process asylum applications promptly. Such problems persisted into 2003.

In his annual report covering 2002, an English translation of which was submitted to the House of Representatives in May 2003, the Maltese Ombudsman included the findings of an investigation he had carried out into "the detention of illegal immigrants". He concluded, amongst other things, that "Malta does not have enough facilities to handle relatively large inflows of foreigners that reach our shores unexpectedly in addition to the illegal immigrants who are already detained in Malta. The arrival of more than one hundred persons at any one time causes a crisis and must be treated as an emergency situation."

Local NGOs and AI were concerned by a policy of mandatory indefinite detention for all asylum-seekers, as well as unauthorized immigrants. AI has called on Malta to ensure that, in line with relevant international standards, asylum-seekers are detained *only* when a legitimate reason for doing so has been demonstrated in the individual case, only when other measures short of detention will not suffice, and only for a minimal period. Up to some 1,000 people were reportedly being held in five detention centres for unauthorized immigrants at the start of the year -- a number apparently reduced to below 500 by June. According to the reports received by AI, the majority were detained for at least six months while some were detained for as long as 18 months. It appeared that many were held on grounds beyond those allowed by international standards and in conditions of detention violating relevant international standards. There was also concern that some did not have access to a fair and satisfactory asylum determination procedure. AI noted an increasing number of reported protests by detainees against their treatment, apparently bearing out the validity of the warning contained in the Ombudsman's report that: "As time goes by, it is likely that tension amongst detainees will rise because of their confined space, their monotonous daily routine and especially the insecurity regarding their future."

Under amendments made to the Immigration Act in December 2002, unauthorized entry into Malta ceased to be a criminal offence. However the amended Immigration Act allows the authorities to detain people refused admission to Malta, as well as people who are the subject of a removal order, pending their deportation. Under the Refugees Act of 2000, those applying for refugee status cannot be deported while their applications are

pending determination and are subject to appeals. They are "allowed to enter or remain in Malta" until a final decision is taken on their application for asylum and must, "unless in custody, reside and remain in the places which may be indicated" by the relevant government minister.

In practice, asylum-seekers were held in detention centres for unauthorized immigrants until they were notified of the definitive decision on their applications for protection and there was concern at the frequently excessively lengthy delays in the processing of applications, apparently often attributable to understaffing in the office of Malta's Refugee Commissioner, the relevant decision-making body. It was reported that, five months after filling in the standard preliminary questionnaire indicating their intention of applying for protection in Malta, many asylum-seekers were still awaiting an interview with the Commissioner's office, upon which the outcome of their asylum application would largely depend. Some had apparently waited up to eight months in detention without an interview date being set. Some then faced further lengthy delays awaiting the outcome of the interview. It was claimed that, in a number of cases, the Commissioner had approved the relevant asylum applications but that the individuals, including families with children, were not promptly notified of the success of their applications and remained in detention because of a shortage of accommodation to which they could be transferred in the community. Other asylum-seekers apparently faced delays in awaiting the outcome of appeals to the Refugee Appeals Board.

In May the Refugee Commissioner said his office, composed of five people, was trying to speed up procedures and the Minister for Home Affairs said steps had been taken to enable people declared refugees, or given temporary humanitarian protection status to remain in Malta, to be set at liberty.

At the beginning of June an open centre was established to accommodate recognized refugees and people granted temporary protection. However, at the end of the month there were claims that over 100 people granted refugee status or temporary protection, including many Iraqis, remained in the closed detention centres. Some of the Iraqi asylum-seekers had by then apparently been detained for some seven months: several local NGOs and refugee lawyers stated that some of the Iraqis had been admitted to a psychiatric hospital, diagnosed with acute depression as a direct result of their indefinite prolonged detention.

Local NGOs continued to call for improved mechanisms to ensure that asylum-seekers are fully and regularly informed of asylum determination proceedings and their rights, in a language they understand; are in a position and have the practical means to exercise those rights effectively, including the right to legal assistance, to contact a representative of the UN High Commissioner for Refugees, and to file an appeal against an unsuccessful application for refugee status. They also called for greater transparency in the appeals process, including the provision to applicants of the reasons for the rejection of their appeals.

Both local NGOs and the Ombudsman's office also underlined the importance of providing appropriate training to officials in contact with immigrants and asylum-seekers on arrival and during detention and pointed out that members of the police and the armed forces, in charge of the daily running the detention centres, had not been provided with such training.

Detention conditions

There were numerous complaints regarding the physical conditions of detention, in facilities not originally designed as detention centres, with reports of people in some of the centres suffering conditions of severe overcrowding with a resulting lack of privacy and unsatisfactory sanitary arrangements. In some cases overcrowding resulted in people sleeping for months in tents during the winter season and suffering cold temperatures and flooding with rainwater. Some inmates, including children, had little or no regular

access to exercise in the open air, with most of the day spent inside the detention centre, with no recreational facilities or meaningful form of activity. Inmates' contact with the outside world was frequently very limited: in at least one centre they were not allowed to make phone calls and in another, although in theory they were allowed to make calls, in practice, they were not supplied with the cards necessary to make calls. During the period under review, efforts were made to allow detained school-age children access to education and, by the end of June, an increasing number were being allowed to leave the detention centres to attend local schools during the day.

Local NGO visitors to some of the centres, including health professionals, reported a sharp deterioration in the mental health of many of the inmates as the time they had spent detained in conditions such as those outlined above lengthened, without any apparent indication of progress in the processing of their claims for asylum. There were reports that many detainees, including a significant number of asylum-seekers suffering post traumatic stress disorder, were manifesting physical symptoms which were of psychosomatic origin and that an increasing number were being prescribed anti-depressant medication. It was also claimed that there was an increase in the number of detainees having to be admitted to a local psychiatric hospital for treatment, in particular those expressing suicidal wishes. AI noted that, in issuing the findings of his investigation into the detention of such individuals in Malta, the Ombudsman (see above) also warned that "long periods of detention can have a psychological effect, sometimes even causing mental damage."

The Ombudsman's report made a series of recommendations aimed at improving the situation of people held in the detention centres, including, as a matter of priority, steps to be taken to reduce overcrowding and organize basic schooling for children, for detainees to be given clear and correct information on their rights, their legal position and the process involved, and allowed to exercise in the open air for an hour at least twice a day. At the same time he recommended that an experienced and competent administrator should be appointed to coordinate the operation of the detention centres, including the work of the voluntary sector, and that arrangements should be made for such an administrator and relevant assistants to visit established centres for the detention of illegal immigrants in other countries, in order to gain information and share experiences.

MOLDOVA

Police ill-treatment of Roma

In the period under review a report came to light concerning a police action in a Romani settlement which took place on 3 September 2002. According to the European Roma Rights Centre (ERRC), a regional non-governmental organization monitoring the rights of the Roma, around 40 masked police officers came to the Romani community in Vulcăneşti, 60 kilometres northwest of Chişinău, searched the houses and reportedly indiscriminately beat men, women and children and damaged their property.

A Romani woman, A.C. stated that after leaving her sister's house she saw 10 to 15 masked officers whom she asked what was happening. An officer then reportedly hit her on the head, making her fall to the ground. Other officers reportedly pointed their guns at A.C. The police then forced 20 other women, including A.C.'s sister and mother, to lie on the ground until the police action was finished. I.M. stated that an officer hit her in the stomach with the butt of his gun and pulled her hard by her hair. She also stated that her sister and aunt had been similarly ill-treated.

Another Romani woman, A.S. reported that 15 masked officers came to search her house. After she opened the gate one of the officers held her by the neck while another punched her on the right ear, breaking an

earring. When A.S. asked for a search warrant the officers reportedly said they did not have one and deliberately caused damage to property in the courtyard, including two vehicles which belonged to A.S.'s guests. Officer V.V. reportedly broke the window of the shed, took an axe from inside and proceeded to break down the door of A.S.'s house. A.S. then opened the door to the house and about 10 officers entered and began to search the house, destroying property as they shouted racial insults. L.S. and her 11-year-old son came to A.S.'s home after they heard shouts coming from the yard. L.S. was stopped by an officer who hit her with his gun, making her fall on top of her son. The officer then threatened to shoot them if they went near the house.

Assisted by a lawyer and an ERRC representative 21 Roma filed complaints about the ill-treatment with the Nisporeni Prosecutor's Office. However, the complaints were subsequently withdrawn after an informal leader of the Roma met in private with the prosecutor in charge.

The Council of Europe - European Commission against Racism and Intolerance

In April the European Commission against Racism and Intolerance (ECRI) published its second report on Moldova. ECRI expressed its concern about reports that some public bodies continued to demand that people show proof of a residence permit before being granted benefit. ECRI was also concerned about police harassment, particularly of foreigners, who were unable to present proof that they had registered. It feared that this would lead to discrimination of particular minority groups, such as Roma or immigrants and urged the Moldovan authorities to ensure full implementation of a decision of the Constitutional Court, which abolished the system for registering residency. ECRI also raised concerns about reports that Roma suffer discrimination in fields such as employment, housing, education and social services. ECRI urged the Moldovan authorities to carry out an independent inquiry into allegations that members of the Roma community faced frequent ill-treatment by members of the police force. It stressed the need for the establishment of a body, independent of the police authorities, to be given the responsibility of investigating any future incidents and areas of conflict between police and minority groups.

UN Committee against Torture

In May the United Nations Committee against Torture (CAT) considered the initial report of Moldova on its implementation of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The CAT noted some positive aspects, including the indications given by the State party's delegation that the new Criminal Code would provide a legal framework for more humane treatment for detainees.

However, the CAT expressed its concern about the "numerous and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment of detainees in police custody; the reported lack of prompt and adequate access of persons in police custody to legal and medical assistance, and to family members". The CAT criticized the reported failure to ensure prompt, impartial and full investigations into the numerous allegations of torture and ill-treatment, contributing to a culture of impunity among law enforcement officials. It raised concerns about allegations of a dysfunctional criminal justice system, apparently caused in part by a lack of independence of the procuracy and the judiciary and allegations concerning the heavy emphasis put on confessions as a primary source of evidence in criminal proceedings.

The CAT recommended, inter alia, that the Moldovan authorities:

- incorporate in the new Criminal Code a definition of torture as a separate crime and in conformity with article 1 of the Convention;
- ensure that the fundamental safeguards against torture and ill-treatment of detainees, including

those held for administrative offences, be made available in practice by guaranteeing, inter alia, their right to medical assistance and legal counsel, and to contact with their family from the earliest stages of their detention;
- ensure prompt, impartial and full investigations into the many allegations of torture reported to the authorities; the prosecution and punishment, of the perpetrators as appropriate, and provision of just compensation for the victims;
- take measures to ensure that evidence obtained under torture is not invoked in court.

NORWAY

Alleged use of excessive force by police

Criminal and administrative investigations were opened into allegations that police used unwarranted and excessive force in the context of a mass street demonstration which took place in Oslo on 22 March, in protest against the war in Iraq.

The demonstration ended in violent confrontations between some protestors, throwing stones, eggs and paint, and the police. However there were allegations that police made unwarranted and excessive use of batons, tear gas and police dogs against peaceful protestors and protestors who had already been subdued and were posing no immediate threat.

Particular concern was expressed about interventions involving police dogs, with claims that the use of dogs to attack protestors was out of proportion to the threat posed and that some dogs were inadequately controlled by police officers and were not called off when they should have been. Video recordings of some incidents involving police dogs appeared to lend credibility to some of these claims.

AI welcomed, therefore, the announcement of the opening of official investigations into the policing operation surrounding the 22 March demonstration, including the announcement by the Oslo police of an internal evaluation which would include examination of the use of police dogs. AI recognizes the difficulties faced in policing large demonstrations, especially if certain factions are set on causing violence and also recognizes that the authorities have a duty to ensure the safety and security of peaceful demonstrators, local inhabitants and property. AI does not oppose the lawful use of reasonable force by law enforcement officers. However, policing must be carried out with full respect for international human rights standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles) which underline that force should be used only as a last resort, in proportion to the threat posed and, where its use is unavoidable, designed to minimize damage and injury.

Violence against Women: the (UN) Committee for the Elimination of Discrimination against Women (CEDAW) examines Norway's record

In January CEDAW examined Norway's fifth and sixth periodic reports on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women. In its concluding comments CEDAW listed violence against women amongst its principal areas of concern**.**

In introducing Norway's report, its representative stated that one of the government's highest priorities was to combat violence against women and that assistance to women victims of violence had greatly improved. However, Norway also reported that progress in preventing abuse and violence against women was difficult to determine and that underreporting of violence against women

was still common. In September 2003, Norway's Commission on Violence against Women was scheduled to submit a report that would provide an overview of measures taken and their results and which would be taken into account in the government's revision of its plan of action to combat domestic violence. Norway's representative also informed CEDAW that the government had provided financial support for a feasibility study concerning a possible worldwide hearing on best practices in combating violence against women.

However, CEDAW expressed concern about the persistence of violence, including domestic violence, against women and children in Norway and further concern that in Norway "this violence, the extent of which is unknown, is regarded as falling into the private sphere." CEDAW was also concerned that "a predominant and growing number of women who seek refuge in shelters for battered women are migrants. It is also concerned that an extremely low percentage of reported rapes results in trials and convictions and that the police and public prosecutors dismiss an increasing number of such cases." CEDAW urged Norway to intensify its efforts to address the issue of violence against women, including domestic violence, as an infringement of women's human rights. In particular, CEDAW urged Norway to undertake appropriate measures and introduce laws in conformity with its general recommendation on violence against women "to prevent violence, prosecute and rehabilitate offenders, and provide support services and protection for victims" and to also "initiate research and analysis of the causes of the very low percentage of trials and convictions in reported rape cases."

While noting that Norway had placed the issue of forced marriages and female genital mutilation on the political agenda for the past few years, and had developed action plans and taken other political measures, CEDAW expressed concern at the extent of these practices and requested Norway to continue its efforts to eradicate them.

CEDAW also urged Norway to enact legislation explicitly defining the trafficking in women and children for purposes of sexual exploitation as a criminal offence. It also noted with concern that, while Norway offered some measures of support to victims of trafficking, the gravity and extent of the problem remained unknown.

(For full details of the Committee's findings –see www.un.org/womenwatch/daw/cedaw).

POLAND

Council of Europe - Commissioner for Human Rights

In March the Commissioner for Human Rights published the report on his visit to Poland in November 2002. The Commissioner noted that the Polish authorities displayed a general and genuine willingness to combat many of the problems raised in his report. However, he expressed concern that cases of ill-treatment, even deaths of persons in police custody, had been reported and that it appeared that those most frequently suffering from indifference or ill-treatment by the police were prostitutes, Roma and victims of trafficking. He stated that there was some suggestion that police violence frequently went unreported as victims were said to fear that they themselves would be prosecuted. He was also concerned that incidents of police violence were not always impartially investigated and rarely reached the courts. In view of these concerns the Commissioner recommended the Polish authorities to intensify efforts to eradicate cases of police brutality through training,

effective investigation and prosecution of such cases.

The Commissioner reported that an estimated 18 per cent of married Polish women were victims of domestic violence, and 41 per cent of divorced women reported that they had been often beaten up by their spouse. Although domestic violence, both physical and psychological, is criminalized in Polish legislation, the Commissioner stated that: "It seems that police and prosecutors often still see domestic violence as a private matter and that cases of domestic violence are sometimes dismissed with the argument that the injuries inflicted upon the women were not serious enough. It must be stressed that stronger actions are needed by the Polish authorities to ensure that domestic violence is not treated as a private affair." The Commissioner recommended the introduction of compulsory training, with the participation of NGOs, as an effective way to raise the awareness of the police force, prosecutors and judges. He also urged the authorities to ensure greater protection and assistance to victims of domestic violence and victims of trafficking through legislative and other measures.

Racism and Discrimination

In March the UN Committee on the Elimination of Racial Discrimination (CERD) considered Poland's 15th and 16th periodic report. In its Concluding observations the CERD expressed concern about reports of racially motivated harassment and discrimination against Jews, Roma and persons of African and Asian origin, which had not been properly investigated by the law enforcement agencies. The Committee urged Poland to intensify its efforts to combat and punish all such cases, especially through the strict application of relevant legislation and regulations providing for sanctions. It further recommended that law enforcement bodies be given adequate training and instructions on how to address complaints of racially motivated crimes and that similar training be provided to the judiciary. AI has repeatedly raised this issue with the authorities and urged the Polish authorities to ensure equal treatment and protection to all people on its territory. (See also AI Index: EUR 01/002/2002). A similar concern was raised by the Council of Europe Commissioner for Human Rights (see above).

Both the Commissioner and the CERD also expressed concern about discrimination against Roma in many areas, especially with regard to education and employment. The Commissioner considered that the practice of so-called "Roma classes" tended to further isolate Romani children from others and education provided in these classes was reportedly often of lower quality. Both recommended that Romani children should be integrated into mainstream schools as far as possible, to urgently address the problems of the Roma population throughout the country and to allocate sufficient resources to achieve full participation of Roma and equal levels of development in areas such as education, employment, health, hygiene, and accommodation.

PORTUGAL

International scrutiny

In January 2003 the European Parliament discussed its 2001 report on the situation of human rights in European Union countries.[8] With regard to Portugal, concerns were raised about deaths of persons allegedly due to police misconduct. The report also highlighted concerns about inhuman treatment in prisons, inter-prisoner violence, including leading to death, and suicides allegedly contributed to by "lack of supervision or active intervention" by prison staff. Portugal was mentioned as being among those countries where a climate of impunity had arisen, in which misconduct

8 Report (A5-0451/2002) by Mrs Swibel on behalf of the Committee on Citizen's Freedoms and Rights, Justice and Home Affairs, on the human rights situation in the EU (2001) (2001/2014(INI)).

such as the use of excessive force by police and prison staff was not punished by adequate criminal penalties; and investigation and prosecution of police and prison officers' use of excessive force were often very slow, sometimes not initiated at all or terminated prematurely allegedly owing to lack of evidence.

In March 2003, AI made a submission detailing its concerns about the human rights situation in Portugal to the UN Human Rights Committee (HRC) in view of the HRC's consideration of Portugal's third periodic report under the International Covenant on Civil and Political Rights (ICCPR) scheduled to take place in July 2003.[9] AI's submission aimed at drawing the HRC's attention to issues of concern with respect to the protection and promotion of human rights in the country in recent years. The same month, AI wrote to the Portuguese Ministers of Justice and of the Interiors to seek their views regarding the organization's concerns raised with the HRC, but had not received a reply by the end of June.

Fatal police shootings and disputed deaths in custody

AI expressed concern about instances in which the Portuguese authorities may have failed to ensure the protection of the right to life of people within their jurisdiction, including possible cases of arbitrary deprivation of life.

The organization expressed concern that on several occasions law enforcement officials may have used firearms in breach of international standards and national laws and regulations, and that some people may have been unlawfully killed as a result. AI considers that this may have been the case for the fatal shootings by officers of the Public Security Police (PSP) of Ângelo Semedo, António Pereira, and Nuno Lucas. The three men were killed in separate incidents which occurred between December 2001 and August 2002.[10]

In addition to concern about the actions of individual police officers in the above-mentioned cases, AI expressed concern that these incidents may be symptomatic of inadequate training in the use of firearms, both as to the situations in which firearms can lawfully be used and as to the technical aspects of their use.

AI was also concerned that the police officers involved were neither suspended from active duty nor prevented from carrying arms as a precautionary measure after the shootings, pending the disciplinary and criminal investigations.

AI expressed concern also about the continuing failure to protect the right to life of people in police and prison custody, including from self-harm in the case of particularly vulnerable persons; and -- in prison establishments -- from inter-prisoner violence.
In light of reports regarding the circumstances of some recent cases of alleged suicide in police and prison custody, the organization noted that there may have been contributory factors such as an unsafe detention environment, and disregarded or inadequate procedures to identify and deal with particularly vulnerable persons. AI was concerned that prison and police staff may not be adequately trained to identify and ensure the safety of particularly vulnerable persons; and that procedures to ensure their safety and address their needs -- especially medical needs -- may be either disregarded or lacking.

9 Following the HRC public session, in August 2003 AI published a report, "Portugal before the Human Rights Committee: summary of Amnesty International's concerns" (AI Index: 38/001/2003), which includes AI's recommendations to the Portuguese government and the Concluding observations and recommendations of the HRC. The report is available on the world-wide web at http://web.amnesty.org/aidoc/aidoc_pdf.nsf/Index/EUR380012003ENGLISH/$File/EUR3800103.pdf

10 On these individual cases see the document at 2 (AI Index: 38/001/2003).

Allegations of torture or other cruel, inhuman or degrading treatment or punishment

AI also expressed concern about the continuing failure of the authorities to ensure that no one be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The organization continued to receive reports of ill-treatment and racial abuse by police. Alleged victims of police ill-treatment included children, women and people belonging to ethnic minorities. [11] For example, a Chinese shopkeeper, Lin Aizhong, was reportedly ill-treated by PSP officers in the Mouraria area of Lisbon in August 2002. Lin Aizhong was detained in connection with the alleged obstruction caused by some boxes of goods in a public shopping area. According to reports, police asked Lin Aizhong to sign a notification requiring the removal of the boxes. He insisted on reading the document first. Due to his lack of fluency in Portuguese, this proved difficult. In circumstances which remain unclear to date, police decided to detain him and took him to the local police station. There, according to some witnesses, including his wife, he was handcuffed to a table leg and beaten up by police officers who had removed their identity tags. The police reportedly claim that Lin Aizhong assaulted three police officers and that the officers had to receive medical treatment. Lin Aizhong was taken to hospital. Representatives of the Chinese community in Lisbon reportedly stated that in the past there had already been incidents of verbal racial abuse and harassment by some police officers of people of Chinese origin. Following the victim's complaint, both a criminal and an internal disciplinary investigation by General Inspectorate of Internal Administration (IGAI) were opened. A complaint was lodged also with the High Commissioner for Immigration and Ethnic Minorities.

11 A number of individual cases of police ill-treatment ad police racial abuse can be found in the document mentioned at 2 (AI Index: 38/001/2003).

Reports of ill-treatment and deeply inadequate conditions of detention in some prisons -- such as inadequate sanitary facilities, inadequate medical care, and overcrowding -- continued to be of concern to the organization.

Overcrowding in prisons continued to be a major problem and significantly contributed to rendering material conditions in some establishments inhuman and degrading. According to reports, some establishments continued to hold well over double the maximum number of people that they had been designed to accommodate. A major contributory factor to the problem of overcrowding is, according to many experts, including the Human Rights Commission of the Bar Association, the number of people in pre-trial detention, averaging about one third of the total prison population. Furthermore, AI was concerned about the failure by prison authorities to ensure the separation of convicted prisoners from persons in pre-trial detention in all establishments.

The organization noted that some aspects of the functioning of the judicial system -- in cases involving allegations of misconduct by police and prison officers -- may contribute to undermining the trust of people in law enforcement authorities and the judicial system in general. Such aspects include, in particular, the slow pace of legal proceedings -- which is endemic in the country and affects all kinds of proceedings (civil, criminal and administrative) -- resulting in their often being very expensive, and the often inadequate quality of legal aid.

Allegations of racial abuse by police

Finally, AI's submission to the HRC also expressed concern about reports that policing may have been discriminatory on some occasions, and about reports by representatives of ethnic minorities' groups that they perceive police as being biased against them. Reports of racial abuse by police officers against members of the Roma/Gypsy community continued.

Similar concerns had been expressed in November 2002 by the Council of Europe's European Commission against Racism and Intolerance (ECRI) in its second report on Portugal. 12 ECRI had acknowledged a number of positive steps taken by the authorities to combat racism, for example the adoption of Law 134/99 prohibiting racial discrimination; and the launch of activities aimed at promoting the integration of immigrants and of members of the Roma/Gypsy community in education and work. However, ECRI had also noted that there had been "several reports of law enforcement officials using excessive force against detainees or other persons with whom they have come into conflict, a large proportion of them immigrants or Roma/Gypsies" and that Roma/Gypsies were reportedly subjected to "frequent spot checks, humiliating treatment and even ill-treatment at the hands of the police". ECRI had expressed particular concern about allegations that police officers responsible for such acts have gone unpunished and urged the authorities to combat impunity by ensuring that investigations into acts of ill-treatment committed against immigrants and members of the Roma/Gypsy community are duly carried out and that those responsible are identified and punished.

ROMANIA

Reports of police ill-treatment

New incidents of police ill-treatment were reported in the period under review. On 20 February national newspapers reported that several police officers in Alba had beaten four soldiers in the course of questioning. The soldiers, who were carrying out their compulsory military service, were accused of having stolen some wine from a cellar which they had been guarding. The allegations of ill-treatment were reportedly being investigated by the Cluj Military Prosecutor. In another incident which took place on 23 February in Mureşenii Birgaului, in Bistriţa county, a 38-year-old man was allegedly severely beaten by police officer T.B. [13] after he refused to board an ambulance. The ambulance service subsequently explained that they call on the police to assist them when a patient appears to be agitated. The following day the victim was examined by a forensic medical expert who issued a certificate confirming that the injuries were consistent with the allegations of the beating and would require seven to eight days of treatment. The county police inspectorate was reportedly investigating the incident.

Some of the victims of police ill-treatment were children. On 5 February in Cluj, in front of the main post office, Augustin Diaconu, a Romanian national who lives in the United States of America, observed a man in plain clothes grab a small boy by his jacket and start to drag him towards the city centre. When the man in plain clothes reportedly assaulted the boy, Augustin Diaconu followed him and asked to see his identity card. The man reportedly replied that he was from the police and was not obliged to show him his ID. Augustin Diaconu then asked another man on the street to assist him. The man who claimed to be a police officer then showed his ID. In the meantime the boy managed to run away. The officer then took the two men to the police station where they were threatened with fines for "obstructing police activity". After four hours at the station they were allowed to leave. Addressing a journalist of a national newspaper, Cluj Chief Commissioner disclosed the identity of the boy stating that he had been wanted by the police for a long time for thefts from cars and for begging. "We have been after him since September and Mr Diaconu has foiled our investigation", he reportedly stated.[14] The Chief of Cluj Police reportedly initiated an investigation into the incident and publicly apologized to the men who had

12 CRI (2002) 33, Second Report on Portugal, www.coe.int/T/E/human_rights/Ecri/

13 The identities of the reported victim and officer are known to Amnesty International.

14 Evenimentul Zilei of 14 February 2003

intervened in the reported assault on the boy. The 12-year-old boy denied that he ever committed any theft and stated: "It is true however that I sometimes beg at bus stops, so that I can eat, as my mother is unemployed".

Several incidents of police ill-treatment of Roma were reported by *Romani Criss*, (*Centrul Romilor pentru Interventie Sociala si Studii,-* Romani Centre for Social Intervention and Studies) a non-governmental human rights organization. On 9 January, during a police raid on the Romani neighbourhood in Turulung, in Satu Mare county, a Romani man was beaten by police officers at his home and later at the police station, where he was taken for questioning. On 11 January, in Tarlungeni, in Braşov county, a man who was cutting wood in his backyard was assaulted by a police officer and a forest guard, who accused him of having stolen the wood. He was also threatened with a gun by the officer who fired a warning shot. In both instances the victims obtained forensic medical certificates for the injuries which they had suffered as a result of the beating and filed complaints with the General Police Inspectorate. In another reported incident of police ill-treatment the Roma were afraid to make witness statements because of fear of harassment by the police.

CPT Report

In April the government allowed the publication of the Council of Europe's Committee for the Prevention of Torture (CPT) report together with their response concerning the CPT's second visit to Romania, carried out in January/ February 1999. During the visit, the CPT examined developments concerning the treatment of persons detained by the police or held in prison, and reviewed the situation at Poiana Mare Psychiatric Hospital. It also examined in detail the situation of foreign nationals detained under immigration rules and the treatment of minors at the Găeşti Re-education Centre. The CPT has returned subsequently to Romania on three occasions (in October 2001, September 2002 and February 2003) and re-examined most of the above issues.

In the course of the 1999 visit the CPT felt that in certain places, particularly in police establishments, prisoners had been warned against expressing their complaints to the delegation. The CPT received many allegations of physical ill-treatment, some of them extremely serious, from men, including minors, and some women. The assaults took place during interrogation and were aimed at forcing confessions. Detainees were subjected to slaps, punching, kicking, blows from a truncheon, blows dealt to the soles of the feet whilst the victim was kneeling on a chair or suspended from a bar, and blows from a stick to their body whilst rolled in a carpet. The delegation only received a few medical reports which supported these allegations, but they felt this did not impugn the veracity of many of the statements. The CPT noted that the Romanian authorities recognized that the problem of ill-treatment existed in those establishments under police control.

In its report the CPT reiterated many of the recommendations issued at the time of its previous visit. It urged that safeguards be put in place to protect the basic rights of anyone held in detention from the moment of arrest. These safeguards include measures to ensure the right of all detained persons to inform without delay a relative or another person of their choice of their situation; to have access to a lawyer from the very outset of custody, ensuring that all interviews remained confidential; to have access to a doctor of their choice. The delegation noted that the rule regarding medical examination of detainees within 24 hours of arrest had not been implemented in many cases and urged that this instruction should be carried out explicitly. It also recommended that all detainees should be provided at the time of arrest with a form explaining their rights and that this should be made available in a range of languages.

The CPT urged that high priority should be accorded to new detention establishments

being placed under the jurisdiction of the Ministry of Justice. In many of the police stations visited the CPT was concerned about conditions of detention which amounted to inhuman and degrading. It recommended that all persons detained should be provided with suitable beds and bedding, drinking water and means of maintaining hygiene, and accommodated in rooms with appropriate lighting, ventilation and heating. The CPT made a number of specific demands for the improvement of, or closing down, of inappropriate facilities.

With regard to prison establishments the CPT expressed concerns about allegations of physical ill-treatment in Codlea and Craiova prisons and also noted that the use of tear gas should not be used inside cells in order to control individual prisoners. Poor material conditions, serious overcrowding and lack of activities (educational, leisure and sports) in some of the establishments visited were also considered to amount to inhuman and degrading treatment. Serious reservations were expressed about the health services in the establishments visited, including in the Bucarest-Jilava prison hospital. Concern was also raised regarding disciplinary procedures and restrictive regimes imposed on those who had been disciplined, in particular the physical conditions in the panishment cells.

Judgment of the European Court of Human Rights

The European Court of Human Rights delivered in June its judgment in the case of *Pantea v. Romania*. In April 1994 Alexandru Pantea, a former public prosecutor, who now works as a lawyer, was involved in an altercation with a person who sustained serious injuries. He was prosecuted and remanded in custody. Alexandru Pantea stated that at the instigation of the staff of Oradea Prison he had been savagely beaten by his fellow-prisoners and then made to lie under his bed, immobilized with handcuffs, for nearly 48 hours. He alleged that, suffering from multiple fractures, he had been transferred to Jilava Prison Hospital in a railway wagon, and that during the journey, which had lasted several days, he had not received any medical treatment, food or water, and had not been able to sit down because of the large number of prisoners being transported. He further alleged that while in Jilava Prison Hospital he had been obliged to share a bed with an Aids patient and had suffered psychological torture. Alexandru Pantea's complaint, accusing the prison warders and his fellow-prisoners of ill-treatment, was dismissed by the Oradea military prosecutor, who ruled that the accusations against the prison warders were unsubstantiated and that the complaint against the applicant's fellow-prisoners was out of time.

The Court held unanimously that there had been a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights on account of the treatment to which the applicant had been subjected during his detention as well as on account of the fact that the authorities had not conducted an adequate and effective inquiry into that treatment. The Court also ruled that there had been a violation of Article 5, paragraph 1 (right to liberty and security) of the Convention on account of the fact that the applicant was arrested when it could not reasonably have been considered necessary to prevent him from fleeing after committing an offence and the fact that the applicant's detention continued after the validity of the warrant for his committal to prison had expired. The court also held that there had been violations of Article 5, paragraphs 3, 4 and 5 (Alexandru Pantea had not been promptly brought before a judge after his arrest, the Romanian court had not ruled speedily on his application for release or to compensate him for his unlawful detention) and a violation of Article 6 § 1 (right to a fair trial within a reasonable time) of the Convention.

RUSSIAN FEDERATION

The Chechen Conflict: crimes against civilians continue unchecked

On 23 March a constitutional referendum was held in the Chechen Republic as a further sign of what the Russian government described as the normalization of the situation. However, the reality on the ground was far from 'normal' as both Russian armed forces and Chechen fighters continued to commit serious abuses of international human rights and humanitarian law. In the aftermath of the referendum, which resulted in a substantial yes vote for a new constitution amid allegations of rigging, the security situation in the republic actually further deteriorated in some respects. There were reports that violations committed by federal troops and local police against Chechen civilians had spread across the border to neighbouring Ingushetia where tens of thousands of Chechens have sought refuge. An increasing number of suicide bombings took place, not only in Chechnya itself but in other parts of the Russian Federation.

Alleged violations by federal forces and Chechen police

The number of large scale military raids – known as 'zachistki' – appeared to have decreased. Instead, Russian federal troops as well as pro-Moscow Chechen police undertook targeted operations, very often at night, during which specific houses and persons were singled out. Such operations were routinely accompanied by serious human rights violations, and Chechens – particularly males – continued to be killed or 'disappeared' in large numbers. The Office of the Special Representative for Human Rights in the Chechen Republic registered 63 'disappearance' cases in January alone. In addition, according to a leaked report from the pro-Moscow administration, published in the international press, 126 kidnappings took place from January to March.

A large number of unmarked mass graves have been found in the Chechen Republic during the conflict. On 13 January one such grave containing 10 corpses was discovered in the Grozny region. The bodies had been blown up, apparently in an attempt to make identification more difficult. While the procurator general claimed that they were bodies of people abducted by Chechen fighters and said that two of the corpses had been identified as such, the human rights organization 'Memorial' reported instead that one of the victims, Ramsan Kagermanov, had been detained by federal troops in December 2002, and the other, named only as Mr Tepsuyev from Grozny, had also been taken into custody by federal troops on 22 December. According to Memorial the remaining corpses were so damaged by the explosion that they were impossible to identify, but the organization nevertheless concluded that 'there are serious reasons to believe' that all of the bodies belonged to people who had been detained by federal troops.

One of the disappearance cases reported to AI during the period under review concerned Rizvan Yaragievich Appazov who was detained by Russian federal soldiers at a checkpoint in the Vedeno region on 5 May. He was reportedly taken to an army barracks, but when two of his relatives went there trying to ascertain his whereabouts, they were told that he had been transferred to the main Russian military base at Khankala for further checks. No reason was known to have been given for his detention by the end of the period under review (see AI Index: EUR 46/049/2003).

On 21 May six people were reportedly killed in an early morning raid on a number of houses in the Kalinovskaya settlement near one of the main military bases in the Chechen Republic. According to eyewitnesses interviewed by Memorial, a group of 15 armed men in camouflage uniforms – most of whom did not wear masks and were later described as 'clearly not Chechen' - entered the house of Ramzan Iduyev. They killed him, his wife Zura Bitiyeva, their son Idris Iduyev and Zura Bitiyeva's brother Abubakar Bitiyev. Only a one year old child survived the attack. Later that same morning, Turpal

Imailov and Islambek Gadiyev were shot in their respective homes, allegedly by the same group. Memorial suspects that Zura Bitiyeva's house may have been targeted because she had been an outspoken critic of the behaviour of federal troops and had lodged a complaint at the European Court of Human Rights in Strasbourg.

Military raids spread to Ingushetia

About 90,000 internally displaced Chechens remained in neighbouring Ingushetia, either in tent camps, spontaneous settlements or private homes of the local population. The situation continued to be tense as these people were reportedly pressurized by local and federal authorities into returning to Chechnya. Moreover, the type of military raids that have caused so much fear in Chechnya itself started to spread across the border to Ingushetia, where Chechen settlements as well as Ingush villages were targeted. There were reports of arbitrary arrest and detention, ill-treatment and looting during such operations.

On 10 June at approximately 7 pm, three members of the Zabiev family were driving home from their potato field in the direction of their home village of Ghalashki in Ingushetia when their car came under heavy gunfire. Tamara Zabieva, aged 65, was seriously wounded, and her son Ali Zabiev ran for help, leaving his brother Umar with his mother. When Ali Zabiev returned later with other relatives and representatives of the local police, they managed to find Tamara Zabieva and take her to a hospital, but Umar Zabiev had disappeared. Later the same evening, two local villagers who were taking part in the search for Umar Zabiev were detained for three hours by a group of well armed Russian soldiers. Two days later, the body of Umar Zabiev was found in a shallow grave a short distance from the place where the villagers had been detained. It had numerous fractures, injuries, bruises and gun shot wounds. The Zabiev family and other sources alleged that evidence suggested the involvement of federal troops in the attack.

Russian investigations into allegations of human rights violations

Prosecutions for serious human rights violations remained few and far between, and the majority of investigations appeared to be conducted in a superficial manner and then suspended. Failure to investigate adequately allegations of violations committed by Russian forces, and bring those responsible to justice, has continued to foster a climate in which Russian security forces believed that they could violate the fundamental rights of the civilian population in Chechnya with impunity.

The case of Colonel Yury Budanov (update to AI Index: EUR 01/002/2003 and EUR 46/002/2003)

The widely criticized verdict of the North Caucasus Military Court to relieve Colonel Yury Budanov of criminal responsibility for the murder of the 18-year-old Chechen girl, Kheda Kungaeva, due to temporary insanity was appealed by the prosecution on 10 January. On 28 February the military collegium of the Supreme Court annulled the verdict and sent the case back to the court to be retried with new judges. The retrial started on 21 April and continued at the end of the period under review. On 30 June, having conducted the fifth psychiatric test of Colonel Budanov, an expert panel found that he was sane at the time of the murder. A previous psychiatric report had reached the opposite conclusion, paving the way for the verdict on 31 December 2002.

The Zelimkan Murdalov 'disappearance' case (update to AI Index: EUR 46/027/2003)

During the period under review, Sergei Lapin, an officer of the special police forces (OMON) was still awaiting trial for his alleged participation in the ill-treatment and disappearance of Zelimkan Murdalov who was detained in January 2001 in Grozny and subsequently 'disappeared'. The trial was set to start in April but has been delayed.

Extradition cases against Chechen leaders (update to AI Index: EUR 46/065/2002 and EUR 46/069/2022)

Extradition proceedings in the case against Akhmed Zakayev, envoy of the Chechen president Aslan Maskhadov, continued in London during the period under review. The Russian Federation authorities accuse Akhmed Zakayev of having committed serious crimes during his time as a high ranking official in the Chechen Republic between the two conflicts and are seeking his extradition. Akhmed Zakayev was arrested upon his arrival in the UK on 5 December 2002 after having been released by the Danish authorities for want of sufficient evidence to support a similar extradition request by the Russian authorities. He was immediately released on bail and has remained so since then. AI was concerned that Akhmed Zakayev would be subjected to torture and ill-treatment should he be extradited to Russia. The Russian authorities were also seeking the extradition of other prominent Chechens. Among them are the former president Zelimkhan Yandarbiev (see AI Index: MDE 22/003/2003) who has sought refuge in Qatar and the former deputy prime minister, Movladi Udugov, who is reportedly in Turkey. AI believes that both of these men would be at risk of torture and ill-treatment should they be returned to the Russian Federation.

Chechnya and the international community

During its January session the Parliamentary Assembly of the Council of Europe (PACE) criticized the Russian authorities for seeming 'unable to stop grave human rights violations in Chechnya'. The assembly deplored the climate of impunity in the Chechen Republic and concluded that 'the prosecuting bodies are either unwilling or unable to find and bring to justice the guilty parties'.

In early April the PACE voted in support of a resolution focusing on the climate of impunity in the Chechen Republic and criticizing the Russian government as well as successive Chechen regimes for failing to protect the population from serious human rights abuses. The PACE also demanded better co-operation from the Russian authorities with national and international mechanisms of redress and called on member states of the Council of Europe to pursue all avenues of accountability with regard to the Russian Federation, including interstate complaints before the European Court of Human Rights.

On June 30 the Russian government authorized the publication of one of the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) concerning its visit to the Russian Federation. Previously, Russia had been the only member state to have refused to authorize such publication. AI welcomed the decision but also reiterated its call on the Russian authorities to make public *all* such reports. CPT delegations have so far made 11 visits to different regions of the Russian Federation, including six to the Chechen Republic. (See AI Index: EUR 46/059/2003)

In a major blow to the protection of human rights in the Russian Federation, a draft resolution on the Chechen Republic was defeated in the UN Commission on Human Rights in April for the second year in a row. AI expressed profound disappointment with this decision, describing the Commission's lack of action as a 'blatant disregard' of the suffering of the victims of human rights abuses. (see AI Index: EUR 46/033/2003)

The summit between the European Union and Russia on 31 May failed to produce any positive developments on the question of human rights in the Chechen Republic. Prior to the summit, AI had called upon the EU to urge the Russian Federation to guarantee the protection of human rights of the Chechen population, bring to justice those responsible for the grave abuses committed during the conflict and grant access to the Chechen Republic to international organizations. However, the wording of the summit's final joint statement was held in very general terms, condemning 'any kind

of violence'. (See AI Index: EUR 46/046/2003)

Human rights abuses by Chechen fighters

Chechen fighters continued to commit serious human rights abuses. They reportedly targeted civilian members of the pro-Moscow administration, and were reportedly responsible for a number of suicide bombings that caused indiscriminate harm to civilians.

On 14 May, a female suicide bomber blew herself up in the middle of a crowd of several thousand people attending a Muslim religious celebration in the village of Ilishkan-Yurt east of Grozny. At least 18 people were killed and 145 wounded. The attack was apparently aimed at the leader of the pro-Moscow Chechen administration, Akhmad Kadyrov. The following week, Chechen warlord Shamil Basayev claimed responsibility for this and other suicide bombings on a website, warning that more attacks would follow.

Amnesty legislation

On 6 June, the State Duma approved a draft decree on the declaration of an amnesty for crimes committed in Chechnya as well as a decree on the implementation procedures of the amnesty. Critics – including AI – warned that the amnesty decree is seriously flawed. While it specifies that perpetrators of crimes such as murder, rape and hostage taking will be excluded from the amnesty, it does not clearly exclude perpetrators of such serious crimes under international law as torture and "disappearances". AI also noted that amnesties that do not provide for full reparations for the victims are prohibited by international law. (see AI Index: EUR 46/052/2003)

Ethnically motivated violence

In March AI published a detailed report '*Dokumenty!' Discrimination on grounds of race in the Russian Federation'* (EUR 46/001/2003) as part of its worldwide campaign against human rights abuses in Russia. The report highlights the problems faced by ethnic minority groups in the Russian Federation, such as arbitrary detention and ill-treatment; the situation of former Soviet citizens, whose legal right to Russian citizenship is denied; and racist attacks against asylum seekers and refugees, who suffer the additional difficulty that their documentation is not recognized by the police.

On 21 May a coalition of NGOs, including AI, sent an open letter (see AI Index: EUR 46/051/2003) to president Vladimir Putin expressing their concern that 'discriminatory practices and procedures are preventing many former Soviet citizens in the Russian Federation from obtaining permanent residency rights and Russian citizenship.' The letter referred to two new laws that have exacerbated the problems faced by hundreds of thousands of former Soviet citizens in obtaining official legal status and urged the president to table amendments to these laws and issue a decree concerning former Soviet citizens entitled to Russian citizenship.

One particularly vulnerable group are the Meskhetians, particularly in the Krasnodar Territory, where thousands are refused the right to Russian citizenship. One such case involves Lachin Adinov who has lived in Krasnodar Territory for more than 12 years. As a Soviet citizen resident in the Russian Federation at the time the Law of Citizenship came into force in 1992, he is entitled to Russian citizenship. However, this right continues to be denied to him. The reason is discrimination on the grounds of ethnicity. The result is discrimination in almost every aspect of daily life including education, employment and health care.

Atish Ramgoolam, an 18-year-old medical student from Mauritius, died on 1 February from injuries sustained during a vicious assault by a group of 'skinhead' teenagers in St Petersburg. His death shocked and frightened the hundreds of foreign students at the Mechnikov Medical Academy who are routinely subjected to racist abuse by local youths. Prior to the attack on Atish Ramgoolam, the authorities had reportedly

failed to address allegations of such abuse. Four fellow Mauritians who witnessed the attack without being able to interfere were so traumatized that they preferred to return to their native country. Three local youths have been arrested in connection with the death of Atish Ramgoolam.

On 8 April a group of 10-15 young men dressed in black were reported to have viciously attacked Kelvin Benson Sinkala, a student from Zambia, in the city of Vladimir approximately 200 km east of Moscow. Kelvin Benson Sinkala received a large number of stab wounds and underwent a two-hour operation for injuries to his lungs, diaphragm and liver. He spent two and a half weeks in hospital but by late May he was attending lectures again. However, in late June it was reported that Kelvin Benson Sinkala had not yet fully recovered his physical strength and feared travelling alone, even during the daytime. On the day of the attack, three suspects were arrested. They were subsequently released by the Leninsky district police department on the grounds that they were not implicated in the attack. However, reports indicate that a witness to the attack recognised one of these people as having been involved. AI has recently been informed that the case has been transferred from the Leninsky district police department to the main Vladimir region police department for further investigation. Nevertheless, Kelvin Benson Sinkala and fellow students fear that the criminal case into his attack will soon be closed due to "lack of evidence." AI has urged the authorities to ensure that the investigation is conducted in a prompt, thorough and impartial manner and called for the allegations that the attack was racially motivated to be fully investigated and given due consideration in any charges brought against suspects. (See AI Index: EUR 46/053/2003)

The anniversary of the birth of Adolf Hitler, 20 April, was again marked by an escalation of racially motivated harassment and violence in a number of Russian cities, although levels were down on previous years.

On 20 April, a group of German children of Kurdish origin were attacked by seven young men with shaven heads as they were stepping out of a metro train in St Petersburg. One 15-year-old victim was hit in the face and another sustained bruises around the head, spine and ribs. The attackers were said to have dispersed at the command of a man who did not appear to be a 'skinhead'. The police at the metro station reportedly refused to search for the attackers, but ultimately a Metro Police investigator launched criminal proceedings into the case (hooliganism). The St Petersburg City Procuracy has informed AI that a number of suspects have been identified. (see AI Index: EUR 46/038/2003)

On 25 April a group of 50-60 youths, some of them reportedly armed with chains, knuckle-dusters and other weapons, carried out a series of racially motivated attacks in the Krasnodar Territory. They first attacked a nightclub in the village of Kholmskii where they singled out people who appeared to originate from the Caucasus. Some of the victims were so severely beaten that they lost consciousness. The group was then said to have moved on to the centre of the village, attacking other passers-by who appeared to belong to ethnic minority groups. Finally, the youths reportedly travelled to the village of Akhtyrskii where another nightclub was targeted. According to reports, a Meskhetian and two Armenians were injured in this attack. In total, 30 people are said to have been injured during the attacks and six were hospitalised. Following pressure from AI and local NGOs, news of the incident reached the national press, and on 29 April a criminal investigation was opened into the Kholmskii attack. Five people were questioned but no charges were brought. The investigation continues. (see AI Index: EUR 46/064/2003)

In a rare verdict, six youths were sentenced in early June for the racially motivated murder of a Bangladeshi student, Akhmad Sheikh Kamal Uddin, in the provincial town of Ivanovo. They were part of a group of approximately 20 'skinheads' who attacked

a number of dark-skinned foreign students on 10 March 2002. Akhmad Uddin went into a coma as a result of being severely beaten and died two months later in a local hospital. Another Bangladeshi student spent 15 days in hospital and subsequently left Russia. Two of the youths were given prison sentences of five years and four years and three months respectively for the murder itself, while four others were sentenced to between one and a half and two and a half years in prison under a rarely applied law prohibiting "group hooliganism committed on the grounds of racial hatred."

Violence against women

Thousands of Russian women die every year as a result of domestic violence, while tens of thousands are abused and ill-treated by their husbands. Yet the problem is often not taken seriously by the police who time after time refuse to interfere in what they perceive as domestic squabbles. AI is increasingly focusing on domestic violence in Russia in cooperation with local NGOs and crisis centres. Among other things, AI is campaigning for disaggregation of crime statistics according to the sex of the victim, a new code of conduct for law enforcement officials who deal with domestic violence and gender sensitive training for all law enforcement officials.

Torture and ill-treatment

On 27 January the official investigation into the alleged torture and ill-treatment of two 17 year old boys, Andrei Osenchugov and Aleksei Shishkin, at Nizhnii Novgorod pre-trial detention centre was closed. The investigation was originally closed in November 2002 but had been reopened in December. According to the Nizhnii Novgorod Committee against Torture (NNCAT) this was largely due to 'international pressure' from AI members who campaigned on behalf of the boys. Although there was evidence that the boys were ill-treated by officers at the pre-trial detention centre, the case was closed because both boys as well as a detainee who had allegedly participated in the ill-treatment withdrew their statements. Andrei Osenchugov and Aleksei Shishkin were reportedly both put under severe psychological pressure by prison staff to retract their accusations. Following a request from the parents, AI has ceased to campaign on this case but remains seriously concerned that neither the boys nor witnesses have been protected by the authorities.

Politically motivated killings

When Galina Starovoitova was murdered in 1998, AI issued a public statement and added the following paragraph in the Annual Report:

Galina Starovoitova, a member of parliament and co-Chairperson of the Democratic Russia Party, was killed in St Petersburg in November. She was an outspoken critic of corruption among the political elite, an opponent of the communists and nationalists in parliament, and an active human rights defender. According to police, a man and a woman shot Galina Starovoitova and one of her aides, Ruslan Linkov, in the stairwell of her apartment. Galina Starovoitova died instantly; her aide suffered serious head wounds. Two days before her murder, eight officers of the Russian Federal Security Services (fsb) alleged at a press conference that the fsb had been involved in extortion, terrorism, hostage-taking and contract killing.

The prominent reformist member of parliament and co-chairman of the Liberal Russia party, Sergei Yushenkov, was shot dead near the entrance to his apartment block on 17 April. He was the tenth Russian parliamentarian to be murdered during the past decade. So far, none of the murder cases have been solved. Sergei Yushenkov, a former army officer, had been a courageous and outspoken opponent of both conflicts in Chechnya and had consistently demanded an independent investigation into the apartment bombings in September 1999 that served as one of the grounds for Russian Federation forces

to re-enter Chechnya. Most commentators believe that there was a political background to his murder.

The release of prisoner of conscience Grigory Pasko (update to AI Index: EUR 46/008/2003)

On 23 January the Russian journalist and environmentalist Grigory Pasko was released on parole. At the time he had served two-thirds of his four-year sentence on treason charges in a prison colony in the Russian Far East. While welcoming the fact that Grigory Pasko had been set free, AI continued to insist that his conviction must be quashed as he was arrested and sentenced solely for exercising his basic human right to freedom of expression. Grigory Pasko, a reporter for a Russian Pacific Fleet newspaper, was first arrested in 1997 for passing allegedly sensitive information to Japanese media but two years later he was acquitted of all spying charges. After an appeal, a Military Court in the city of Vladivostok gave Grigory Pasko a four-year sentence for treason and espionage in December 2001. He is currently appealing this sentence to the Presidium of the Supreme Court.

SERBIA AND MONTENEGRO

Background

Following an agreement in November 2002 on a new Constitutional Charter, the name of the country was changed on 4 February after acceptance by the respective parliaments from the Federal Republic of Yugoslavia (FRY) to 'Serbia and Montenegro' (SCG). The constituent republics became semi-independent states running their own separate economies, currencies and customs systems, while the joint entity retained control of defence, foreign policy matters and UN membership, as well as being responsible for human and minority rights and civil freedoms. The agreement allowed either of the two republics to secede after three years. In March Svetozar Marović took over the SCG presidency from Vojislav Koštunica. Following failed elections due to a turnout below the statutory minimum, Serbia continued with interim presidency of assembly speaker Nataša Mićić, while Montenegro changed its electoral law to overcome similar problems and on 11 May Filip Vujanović was elected president.

On 3 April SCG joined the Council of Europe and concurrently signed the European Convention for the Protection of Human Rights and Fundamental Freedoms (to be ratified within a year of accession).

The UN Mission in Kosovo (UNMIK) continued to administer Kosovo, with the Special Representative of the UN Secretary-General (SRSG) holding governmental powers. At the end of June SRSG Michael Steiner left office.

State of emergency and "Operation Sabre"

On 12 March Prime Minister of Serbia Zoran Đinđić was assassinated. Zoran Živković took over as Serbia's Prime Minister. The government declared a state of emergency and introduced emergency legislation which remained in force until 22 April. AI expressed concern about aspects of the emergency regulations that might give rise to human rights violations, especially the regulation allowing the Ministry of the Interior to detain people for up to 30 days without access to a lawyer or family. Thousands were arrested in 'Operation Sabre', a large-scale clampdown on elements of organized crime seen by the authorities to have been behind the assassination. On 21 April the Interior Ministry of Serbia announced that in the operation over 10,000 people had been arrested of whom 4,500 remained in detention, with criminal charges being brought against 3,200 people.

A number of unsolved murders and "disappearances" were claimed to have been solved including that of former Serbian President Ivan Stambolić who

disappeared while jogging in Belgrade in August 2000. He had been extrajudicially executed and buried in a pre-dug lime pit. The authorities said he had been kidnapped and shot by members of a special police force (JSO), set up under former Yugoslav President Slobodan Milošević, and filed charges for the murder against former President Milošević, the former head of state security in Serbia, Radomir Marković (who on 31 January was sentenced to seven years' imprisonment for involvement in an attempt in 1999 to kill leading opposition politician Vuk Drašković in which four people died), and JSO members including Milorad "Legija" Ulemek-Luković, a prime suspect for the assassination of Djindjic, who remained at large.

Among those arrested in Operation Sabre were current and former high officials including deputy public prosecutor of Serbia Milan Sarajlić, head of army security Aleksandar (Aco) Tomić, former State Security chief Jovica Stanišić and JSO founder Franko "Frenki" Simatović. AI received many allegations of torture by police of detainees arrested during this operation (see below).

War crimes

The trial of Slobodan Milošević, accused of responsibility for war crimes committed in Croatia, Bosnia-Herzegovina and Kosovo, continued before the International Criminal Tribunal for the former Yugoslavia (the Tribunal). Witnesses testified that Serb "paramilitaries" responsible for atrocities were in fact controlled by the Milošević government. In January former Serbian President Milan Milutinović, who had enjoyed immunity while in office, voluntarily went to the Hague to face charges of crimes against humanity in connection with Kosovo, while in February Vojislav Šešelj, leader of the Serbian Radical Party, was also indicted by the Tribunal and flown to the Hague for crimes against humanity in connection with events in Croatia, Bosnia-Herzegovina and the Vojvodina. In May, Jovica Stanišić and Franko Simatović were both indicted by the Tribunal for similar charges in connection with Bosnia-Herzegovina and Croatia in 1991-5 and were subsequently transferred to the Hague. On 21 February Miroslav Radić, indicted for involvement in a massacre at Ovčara of some 200 people taken from Vukovar hospital in Croatia, reportedly gave himself up and was transferred to the Hague on 17 May while a co-accused and the last of the so-called "Vukovar three", Veselin Šljivančanin, was arrested in a high profile raid in Belgrade on 13 June.

US officials had stated that continuance of aid to SCG was contingent on cooperation with the Tribunal, and apparently as a result of the above, on 16 June the USA gave SCG $110 million in financial aid. The Serbian authorities had also released a number of documents which hitherto had not been available. However, this spirit of cooperation appeared to have deteriorated by late June with the Tribunal again stating that documents were unforthcoming, and that 16 indictees remained at large in Serbia.

In February the International Court of Justice in the Hague accepted to hear a case brought by Bosnia-Herzegovina against SCG for genocide and aggression in connection with the 1992-5 war (there is already a case similarly brought by Croatia before the ICJ in 1999).

There were three domestic war crimes trials in the period under review. On 20 January the trial began in Belgrade of Dragutin Dragićević and Djordje Sević for the abduction and murder in October 1992 of 17 Muslims, 16 of whom were taken from a bus in Bosnia-Herzegovina. In April the trial of Saša Cvjetan, accused of involvement in the murder of 19 ethnic Albanians in Podujevo in 1999, resumed in Belgrade – it had previously been held in Prokuplje but transferred, reportedly because of threats against the prosecutors. His co-accused, Dejan Demirović, was apprehended in Canada on 20 January but released on 20 May, apparently because of lack of evidence. He is being tried *in absentia*. On 27 May Serbian Justice Minister Vladan Batić announced that six people had been

charged in connection with the Ovčara massacre (see above).

On 12 June the Supreme Military Court increased the sentences imposed for war crimes by the Niš Military Court in October 2002 on Zlaten Mančić from seven to 14 years, Rade Radojević from five to nine years, Danilo Tesić from four to seven and Misel Sergej from three to five years. The Supreme Military Court also announced that military courts would no longer try cases of war crimes which henceforth would all be transferred to civilian courts.

Exhumations and returns

In the period under review there were no further exhumations from mass graves of the bodies of ethnic Albanians transported from Kosovo to Serbia during the 1999 Kosovo conflict. This was due to the establishment of the new state union of SCG and attendant reorganization in the federal Commission on Missing Persons responsible for exhumations. In June the bodies of 22 bodies previously found in a mass grave in Petrovo Selo were returned to Kosovo making a total of 67 repatriations out of the 900 or so ethnic Albanians exhumed till then from mass graves in Serbia. Jose Pablo Baraybar, Head of UNMIK's Office for Missing Persons and Forensics, expressed dissatisfaction at the slow pace of returns. No suspects were indicted.

Legal developments

On 11 April the Serbian Assembly approved amendments to the Law on Organization and Jurisdiction of Government Authorities in Suppression of Organized Crime which were in clear breach of international standards. In particular the amendments allowed the Interior Ministry to authorize detention of up to 60 days without authorization from a court or judicial body. On 5 June the Constitutional Court of Serbia ruled the amendments to be unconstitutional and suspended them.

On 13 April the Law on Cooperation with the International Criminal Tribunal for the former Yugoslavia, which had been widely criticized (see *Serbia and Montenegro: AI's concerns in Serbia and Montenegro* AI Index: EUR 70/004/2003), was amended to allow immediate extradition of indicted suspects. Article 39, which stipulated that transferral to the Tribunal was only applicable to those already indicted when the law entered into force, was repealed.

On 30 May the Serbian assembly adopted a law on lustration which prohibited individuals who have violated human rights from holding public office.

Trafficking in women and girls

Women and girls continued to be trafficked in and through SCG for the purposes of forced prostitution and there was concern that victims of forced trafficking were being failed by the judicial system. On 30 May a high profile trial collapsed after the Prosecutor's Office in Podgorica halted criminal proceedings against the Montenegrin deputy state prosecutor and three other men for involvement in sex-slavery (see *Serbia and Montenegro: High profile sex trafficking case collapses – suspicion of a cover up*, AI Index: EUR 70/017/2003). After widespread international criticism, the Montenegrin authorities agreed in June that the OSCE would conduct an investigation into why the case had collapsed.

Police torture/ill-treatment and impunity

Torture and ill-treatment by law-enforcement officers continued to be widespread especially in connection with "Operation Sabre"(see above). Past police use of torture and ill-treatment by the police (see *Federal Republic of Yugoslavia (Serbia and Montenegro): Continuing police torture and ill-treatment,* AI Index: EUR 70/001/2003, and *Serbia and Montenegro: Legal loopholes allow impunity for torturers in the Sandžak*, AI Index: EUR 70/002/2003) and the emergency legislation allowing lengthy incommunicado detention gave cause for concern about the possible use of torture against the

thousands arrested in "Operation Sabre". On 14 and 15 April representatives of the UNHCHR, the OSCE and ODIHR were allowed to visit Belgrade central prison and the main police station. Their initial findings and recommendations noted that the delegation heard allegations or saw indications of torture or ill-treatment during arrest concerning two of the eight detainees interviewed. The delegation also noted that the conditions under which some were being held amounted to cruel, inhuman or degrading treatment. Although many detainees, when eventually released after lengthy periods, were too scared to openly allege that they had been tortured, apparently due to fear or re-arrest and possible similar repeat treatment, a number of detailed torture allegations did eventually emerge. These indicated that the use of torture had been widespread.

For example, Sandra Petrović informed AI that her husband, Goran Petrović, and brother, Igor Gajić, were arrested in Kruševac on 14 March and kept in incommunicado detention until 13 May during which they were allegedly tortured by police officers in an attempt to extract confessions of extortion from them. She informed AI that after15 days in detention in Kruševac Goran Petrović had allegedly been taken by to Čuprija where police officers had taken him to a nearby forest, taped a bag over his head and had beaten him so severely, injuring his spine so that when she saw him on 13 May he still had difficulty in walking. She informed AI that her brother had similarly been taken to the forest where police also taped a bag over his head and beat him. She alleged that in detention he had also been tortured by electric shocks to his body after being doused with water, also while having a bag taped over his head. Marija Jotić informed AI that her husband, Zoran Jotić, was arrested at the same time, and that after 15 days' detention he had been taken to Niš, and similarly to the others, had been beaten while having a bag taped over his head. She also reported that he had been beaten by pistol blows to his head and that he had been subjected to mock executions.

A high-profile case involved Milan Sarajlić, Deputy Public Prosecutor of Serbia, arrested on 19 March and kept in incommunicado detention until 11 April. He was taken to the infamous '29 November' Belgrade police where, AI was informed, many other detainees were also allegedly tortured before and during "Operation Sabre". His wife, Danila, and a lawyer acting on behalf of the family informed AI that while they were unable to divulge details of the charges under which he was being held - Article 540v of the Code of Criminal Procedure, introduced in April, forbade publicizing details of the pre-trial process on cases of organized crime without written permission from the prosecutor with possible prison sentences under Article 208 of the Serbian Criminal Code for infractions - they could divulge details of his alleged torture as these had also been officially given to the investigative judge. They alleged that over an extended period he had been physically tortured with electric shocks to his temples while, as above, having a bag taped over his head. They also alleged that he had been subjected to a variety of psychological pressure including threats to kill his daughter, and that on three occasions he was taken in a trunk with a bag on his head to an unknown location where he was subjected to mock execution by rifle fire. As a result of his treatment in detention he had lost 40 kilograms of weight and suffered psychiatric problems - the latter confirmed by the Institute for Neurology, Psychiatry and Mental Health in Novi Sad where he was transferred while remaining in custody.

Allegations of police ill-treatment and torture were not confined to "Operation Sabre". For example, in January in Kruševac a group of policemen allegedly severely beat Zoran Todorović, and insulted and sexually molested his partner, Danijela Bogojević, after bursting into their rented apartment without a warrant and without any apparent motive. The beating allegedly continued even though the police reportedly received radio confirmation from headquarters that no charges of any kind had been filed against the victims. The

policemen left telling them to move out by the following morning. In June the Humanitarian Law Centre (HLC - a Belgrade non-governmental organization) filed a suit against the Republic of Serbia with the First Municipal Court in Belgrade, seeking compensation for the victims.

Allegations of torture were also received from Montenegro. On 15 June three named police officers in Pljevlja allegedly severely beat and tortured Admir Durutlić, Dragoljub Džuver, Jovo Ćosović and Mirko Gazdić in an attempt to force them to confess to dealing in narcotics. The HLC reported that during the police raid on an apartment in the town, the police took Admir Durutlić into the bathroom and while two of them held his hands behind his back, the other hit him in the stomach. They then allegedly knocked him to the ground, grabbed him by the hair and shoved his head into the toilet bowl. The police then ordered him to strip and, when he was naked from the waist up, allegedly continued to hit and kick him, including blows to the genital area. The police then took Dragoljub Džuver into the bathroom and allegedly hit him repeatedly in the stomach and ribs, demanding that he confess "where the marihuana was". Following this, the police officers brought them to the police station in Pljevlja, where they were allegedly individually beaten by the offciers over a period of three hours. They were all released the next morning, and the Surgical Department of Pljevlja General Hospital noted that they had numerous bruises and welts. In June the HLC filed criminal charges with the Basic Prosecutor's Office in Pljevlja against the three policemen.

Compensation for forced conscription

Compensation continued to be awarded by the courts in cases brought by the HLC against Serbia on behalf of 644 Serb refugees from Croatia and Bosnia-Herzegovina forcibly conscripted in 1995, 64 of whom were killed after being dispatched to war-zones. On 15 January the First Municipal Court in Belgrade ordered Serbia to pay compensation of between 160,000 – 220,000 dinars (2,700 – 3,700€) in compensation to 10 such people.

Conscientious objection

The new Constitutional Charter of Serbia and Montenegro in Chapter xviii guarantees the right to conscientious objection and Article 28 of the Charter on Human and Minority Rights and Civil Freedoms (which is an integral part of the Constitutional Charter), adopted in February 2003, allowed conscientious objectors to "request to undertake corresponding civilian service according to the law". However, no such law was introduced resulting in an ambiguous situation and some conscientious objectors continued to be held in custody. Jehovah's Witness Milan Gligorić, who had been sentenced to a suspended prison term of two years in December 2002 for refusing to perform military service on grounds of conscience, was called up again in February. He again refused and was taken into custody on 6 March but was allowed to apply for civilian service. However, instead of a genuinely alternative service he was sent to a military-economics unit in Karadjordjevo, and when he refused to serve on grounds of conscience he was placed in detention.

Freedom of expression

There were a number of cases of newspaper editors being sued for criminal libel by politicians. These trials almost invariably ended in fines or suspended sentences. In one case, Mile Perić, from Valjevo, was arrested on 5 April and kept in detention until 23 April when he was sentenced to a fine of 30,000 dinars (approx 500€) by the Valjevo Municipal Court under Article 98 of the criminal code dealing with injury to the reputation of the Republic of Serbia for posting a derogatory article about government leaders on his web site. AI believes, in line with the recommendations of a number of International bodies such as the (UN) Human Rights Committee and others, that such cases should be tried under civil and not criminal codes and procedures.

Roma

Widespread discrimination against Roma continued. A memorandum in April prepared by the European Roma Rights Center, an international NGO, in association with the UNHCHR found that there was deep discrimination against Roma in almost every aspect of everyday life. There were attacks on Roma by racist groups with little apparent protection afforded by the authorities. On 27 February groups of youths armed with baseball bats attacked Roma in a settlement in Belgrade with no apparent action by the authorities in response.

The majority of the Roma who fled Kosovo after July 1999 continued to face severe problems exacerbated by difficulties in obtaining registration and thus deprived of access to health and social welfare. In May an unofficial Roma site in Belgrade was destroyed and its inhabitants - over 300 mostly Kosovo Roma (the majority of whom were children) - forcibly evicted with no provision for alternative housing. However, on 4 June it was announced that the Belgrade municipal assembly had drafted a program, costing €12.5 million, for clearing "unhygienic" Roma settlements, which should be realized in the autumn. The program foresaw the construction of 5,000 apartments for some 50,000 Roma from 100 Roma settlements. The World Bank announced its support for the program and stated that it would set up a foundation for Roma education and other projects.

Kosovo (Kosova)

War crimes

Arrests and trials continued of ethnic Albanians accused of war crimes. In January the Tribunal secretly indicted four ex-Kosovo Liberation Army (KLA) members, Fatmir Limaj, Haradin Bala, Isak Musliu and Agim Murtezi for crimes against humanity and violations of the laws or customs of war in connection with the murder and torture of Serbs and Albanians perceived as collaborating with them in the Lapušnik/Llapushnik prison camp and elsewhere in Kosovo in 1998. The indictment was made public after the arrest by KFOR of Bala, Musliu and Murtezi in February. They were transferred to the Hague. It transpired that Agim Murtezi was not the person referred to in the indictment and he was released on 28 February. Limaj, a senior aide to leading Kosovo politician Hashim Thaci, was allowed to fly to Austria with Thaci despite the indictment. However, he was detained in Slovenia and extradited to the Hague in early March.

On 17 January the trial began of Rustem Mustafa (ex-KLA commander 'Remi'), Nazif Mehmeti, Latif Gashi and Naim Kadriu for war crimes connected with the illegal confinement, torture and murder of suspected ethnic Albanian 'collaborators'. On 8 February 11 people including four members of the Kosovo Protection Corps (an official body made up former KLA members) and four members of the Kosovo Police Service were charged in connection with the murder of an Albanian family seen as 'collaborators' in August 2001.

The arrests, transferrals and trials provoked mass protests by tens of thousands of Kosovo Albanians who saw the detainees as 'freedom fighters', as well as attacks on UNMIK vehicles and property. Seemingly undeterred, the administration continued to arrest and try leading ex-KLA members for war crimes and murder.

Trials and re-trials of Serbs who had previously been convicted of war crimes or genocide by panels with majority of ethnic Albanian judges also continued. On 3 February the former mayor of Orahovac/Rahovec, Andjelko Kolasinac, was sentenced by the Prizren international court to eight years' imprisonment for war crimes against the Kosovo Albanians in 1999. He had previously been sentenced to five years in 2001 but the Kosovo Supreme Court had ordered a re-trial. On 30 May the Gnjilane/Gjilan international court acquitted former Kosovo police chief Momčilo Trajković of war crimes but sentenced him to three years and four months'

imprisonment on lesser charges. His previous sentence of 20 years for war crimes had similarly been revoked by the Supreme Court. On 26 June the international court in Peć/Pejë sentenced Veselin Besović to seven years' imprisonment for war crimes against civilians in 1999.

Witnesses assassinated

On 4 January Tahir Zemaj was murdered in his car along with his son and cousin by gunmen. He was a key witness in a trial of four ex-KLA members - one of whom is the brother of a leading politician - sentenced in December 2002 for unlawful detention and murder. On 15 April gunmen similarly shot dead another witness in the trial, Ilir Selmanaj, along with a relative. Both incidents occurred in Peć/Pejë.

'Disappearances' and abduction

There was limited progress in identifying the "disappeared" and abducted and there were some further exhumations of burial sites. In March the International Commission for Missing Persons announced that there had been 209 cases where DNA analysis had identified bodies exhumed. AI welcomed the announcement on 20 May of the formation by UNMIK of a special police unit to investigate the hundreds and possibly thousands of unsolved killings committed in 1999/2000.

Minorities

Attacks against minorities and against minority properties continued. In January KFOR reversed the decision taken in late 2002 to remove protection from Orthodox churches and monasteries against attacks by ethnic Albanians. In June a Serb family, 80-year-old Slobodan Stolić, his 78-year-old wife Radmila and 55-year-old son Ljubinko were brutally murdered in Obilić/Obiliq and their house burnt in what was seen as a racist attack to intimidate remaining Serbs into leaving the area. In June KFOR announced that the security situation in Uroševac/Ferizaj had deteriorated with arson attacks on minority properties and an explosion in the yard of an Orthodox church. Minorities also faced discrimination in access to employment, medical care and education (see *Serbia and Montenegro (Kosovo/Kosova): Amnesty International's concerns for the human rights of minorities in Kosovo/Kosova*, AI Index: EUR 70/010/2003). Few IDPs and refugees returned. In June SRSG Michael Steiner stated that some 1,000 Serbs (of the 180,000 or so who had fled since the 1999 war) had returned since January. Also in June UNMIK in conjunction with UN Development Program launched a Rapid Response Returns Facility to help returning IDPs and refugees.

Trafficking in women and girls

Women and girls continued to be trafficked in and through Kosovo for the purposes of forced prostitution. On 9 June UNMIK police arrested three Kosovo Albanians and one Pakistani member of the international civilian police force (CIVPOL), whose immunity from prosecution (enjoyed by all UNMIK personnel) was waived, for sexual slavery and prostitution. The three Kosovars were charged with obscene behaviour, rape and other sex crimes, causing injuries and neglectful treatment of minors, while the CIVPOL officer was charged with obscene behaviour and failure to perform official duties. UNMIK police reported the arrest of some 11 other people in connection with the trafficking of women. A Memorandum of Agreement between OSCE and UNMIK in March established an Interim Security Facility, which opened on 16 June, for one year to protect and support victims of trafficking,

SLOVAKIA

Forcible sterilization of Romani Women

In February Amnesty International wrote to Pál Csáky, Deputy Prime Minister responsible for Human and Minority Rights, expressing concern about allegations of

forced sterilization of Romani women in Slovakia. The organization was also concerned that the investigation into these allegations appeared not to be conducted independently, thoroughly and impartially as required by international law, that some of the victims had been reportedly threatened and harassed by the investigators, and that the government, in breach of internationally recognized principles, had intimidated human rights defenders who reported on the alleged forced sterilization.

Following the publication of a report by the Center for Reproductive Rights and *Poradna pre obcianske a lucske prava* (Center for Civil and Human Rights), Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia, on 28 January, the Office of the Deputy Prime Minister initiated a criminal investigation into the reported allegations. On 12 February, 21 women from Romani settlements in Richnava and Bistrany had been questioned at the Krompachy police station in connection with sterilization procedures to which they had been subjected. The names of 19 women had apparently been given to the police by the staff of the Krompachy hospital. All of the women were taken for questioning by police officers who had come to their homes unannounced. Most of the women did not understand in what capacity they were wanted for questioning nor were they aware of their right to refuse to comply with an orally presented summons. Some women thought that they were being treated as criminal suspects. In view of the poor relations between the police and the local Romani communities such police conduct was perceived, particularly by women, as threatening and degrading. Furthermore the questioning of Romani women concerning sterilization procedure to which they had been subjected had been conducted by male police officers who reportedly demonstrated no sensitivity to the intimate nature of the procedure, the circumstances in which it took place or its effects. At least two women who had claimed to have been forcefully sterilized stated that they were threatened by officers who questioned them. The officers reportedly implied that the women had been induced to claim that they had been forcefully sterilized with promises of financial and other gain. The women were reportedly told that they should sign a criminal complaint for the offence of genocide, although they had no knowledge of, nor had they been instructed about, the significance of the formulation of this charge. At the same time they were told that they would face imprisonment of up to three years for false accusation in case their complaint should prove to be false.

A press release issued by the Office of the Deputy Prime Minister on 28 January 2003 implied that the co-authors of the report, should the allegations in the published report prove true, would be investigated for failing in their legal duty to report a criminal offence. Furthermore, if the allegations in the report are not corroborated, criminal proceedings would be initiated against the authors of the report for "spreading false rumours".

In March the Deputy Prime Minister wrote to Amnesty International to assure the organization that the investigation into allegations of forcible sterilization of Romani women would be investigated thoroughly and impartially. Among a number of measures that had been put in place to ensure this the Minister of the Interior had appointed a special investigation team, comprising specialist on various issues involved in the case. The team would be based in Žilina, outside the region where the alleged offences had been perpetrated, with staff from departments from all parts of the country. A woman investigator had been appointed as chief of the investigation team. All investigation procedures would be videotaped. The Attorney General's Office had taken over the monitoring of the investigation. The Deputy Prime Minister had invited Christine McCafferty, Vice-chairperson of the Council of Europe Parliamentary Assembly's Committee for Social, Health and Family Affairs to conduct a fact-finding mission regarding the investigation.

On 23 June, the Slovak government reported to the Council of Europe Parliamentary Assembly on the criminal and administrative investigations being conducted into allegations of forced and coerced sterilization in Slovakia and stated the Slovak government's assurance that it will not pursue criminal proceedings against the authors of *Body and Soul*.

SLOVENIA

On 5 and 6 May 2003 the Committee against Torture (CAT) examined Slovenia's Second Periodic Report on measures taken to give effect to the rights enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). Prior to the examination of this report Amnesty International submitted a written briefing to the CAT (see AI Index: EUR 68/001/2003), setting out its concerns about Slovenia's implementation of the Convention against Torture.

Amnesty International's concerns about Slovenia's implementation of the Convention against Torture

Failure to prevent acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture

AI continued to receive reports of ill-treatment and use of excessive force by police officers in Slovenia and the organization was concerned that such cases were apparently not investigated promptly and impartially as required by international standards and Slovenian domestic law. In one such case, in Sentjur-pri-Celju in November 2002, a police officer reportedly kicked a 23-year-old man to the ground and jumped on his back with such force that he broke his collarbone. His 19-year-old girlfriend was also reportedly beaten and subsequently verbally abused and threatened at the police station.
Many of these allegations focussed on members of ethnic and racial minorities and in several cases the victims were children. In most instances which came to attention, the ill-treatment appeared to occur during routine police actions, apprehensions or during short-time detentions of individuals at police stations. In the latter scenario, the organization had additional concerns that people in police detention were often denied the right to call their family or a lawyer, or have immediate access to medical assistance.

Failure to ensure the initiation of prompt and impartial investigations into allegations of ill-treatment and to ensure the right of victims to make complaints after having been subjected to torture and ill-treatment

Amnesty International was concerned that the cases which came to its attention were apparently not investigated promptly and impartially as required by Articles 12 and 13 of the Convention against Torture. In one such case, a 36-year-old man died during a house search in Ljubljana in early 2000 after having allegedly been ill-treated by special police officers who refused to allow him timely access to vital medical equipment. More than three years after this incident a thorough and impartial investigation had yet to be initiated. The organization noted that, in virtually every case reported to it, the authorities had been made aware of the allegations as victims had lodged complaints with the responsible authorities - mostly the relevant police station or the local public prosecutor.

The organization repeatedly requested the Slovenian authorities to provide it with up-to-date and concise data on the total number of complaints, received by the Slovenian police force, by individuals who allege physical ill-treatment by police or other law enforcement officials, and how many of these cases resulted in disciplinary or criminal proceedings against police officers and with what outcome. However, to date, no such information was ever sent to the organization by the Slovenian authorities.

Failure to ensure that victims of torture and ill-treatment obtain redress and have the right to fair and adequate compensation

Amnesty International was concerned that victims of ill-treatment in Slovenia were denied redress. While in worst cases the victims of police ill-treatment complained in writing to the relevant police and judicial authorities and provided medical evidence describing their injuries, the majority of these complaints were rejected after what appeared to have been only summary investigations.

AI also raised concern about the mechanism of processing complaints of police misconduct as the organization believed that this did not meet the requirements of a genuinely independent and effective body which could immediately investigate serious complaints.

Failure to criminalize acts of torture as distinct offences in the Slovenian Penal Code

Amnesty International raised concern about the lack of a specific criminal offence of torture in Slovenian criminal legislation in a letter to the Slovenian Interior Ministry in May 2002. The organization requested to be informed whether any progress had been made in the implementation of the recommendation of the Committee issued in May 2000, which Amnesty International considered to be a significant step in combating impunity for acts of torture.

Furthermore, Amnesty International noted that the definition proposed in the Second Periodic Report seems to limit criminal responsibility for torture to perpetrators who are agents of or have close links with the state. The organization was concerned that such a definition would not satisfy the government's obligation under Article 4 nor does it reflect the definition of torture set out in Article 1 of the Convention against Torture.

CAT's recommendations

The CAT recommended that Slovenia establish an "effective, reliable and independent complaints system to undertake prompt and impartial investigations into allegations of ill-treatment or torture by police and other public officials and to punish the offenders".

The CAT also recommended that Slovenia promptly introduce a definition of torture covering all elements of this human rights violation as required under the Convention against Torture, an obligation which has been outstanding since May 2000, when the Committee examined Slovenia's Initial Report. In addition, the government was requested to repeal the statute of limitation for torture that currently applies, and to increase the limitation period for other types of ill-treatment.

The government was also requested to provide up-to-date statistics concerning the number of cases of ill-treatment, information which Amnesty International has also repeatedly sought from the authorities.

SPAIN

AI was concerned that several incidents, all relating to the Basque Country, had contributed to an atmosphere detrimental to the free exercise of freedom of expression and assembly.

ETA killings

Following the fatal, pre-electoral shooting, in February, of a Socialist Party activist, Joseba Pagazaurtundua, AI called on the Basque armed group *Euskadi Ta Askatasuna* (ETA) to renounce its attempts to stifle freedom of expression in the Basque Country with shootings, bombings and campaigns of intimidation.

Joseba Pagasaurtundua, who was killed in Andoain (Guipúzcoa) less than a month before the opening of the municipal elections campaign, was a member of the Basque Socialist Party and of the *"Basta Ya"* movement, which vigorously opposes ETA violence. He was a former member of a wing of ETA known as *ETA Politico-Militar*

and was on sick leave from his post as commander of the Municipal Police of Andoain following persistent death threats.

Joseba Pagazaurtundua was killed in the same town as the journalist and peace activist José Luis López de Lacalle who was shot dead by ETA in 2000. Several town councillors have left Andoain, as from elsewhere, in recent years after receiving death threats. At the end of September 2002 ETA had announced that offices and organized meetings of the ruling centre-right Popular Party and opposition Socialist Party would be viewed as "military targets" and threatened the lives of party activists. The statement followed an earlier declaration in August that it would "take measures" against political parties which voted for, or did not vote against, the new Law on Political Parties. According to this law, parties that fail to respect democratic or constitutional values would be illegal. It was widely seen as a step in the campaign to outlaw the Basque nationalist grouping Batasuna, generally regarded as the political expresson of ETA and as an intrinsic part of ETA (which Batasuna has always denied). The Supreme Court voted for a permanent ban of Batasuna in March.

In its press release of 10 February AI stated: "If indeed ETA is responsible for this killing, it can only be seen as an attempt to intimidate those who articulate views different from, or opposed to, its own policies and actions … The deliberate killing of political party members or political activists, and the attempt to intimidate them by acts of violence is an attack on the most fundamental of human rights – the right to life and the rights to freedom of assembly and expression."

The Socialist Party (PSOE) won a relative majority of the votes in the municipal elections in May. With regard to the Basque Country and Navarra the climate during the elections remained tense, owing, in part, to the move by the Spanish government and public prosecutor to annul 249 candidate lists, on the basis that they contained candidates linked to ETA and Batasuna. The Supreme Court confirmed the annulation of 241 of these.

On 30 May, five days after the elections were held, two police officers were also killed and a civilian and another officer were injured in a limpet bomb explosion, attributed to ETA, in the town of Sangüesa in Navarra.

Basque newspaper closed

In February AI called on the Spanish authorities to act promptly to clarify and substantiate the grounds on which a Basque-language newspaper was shut down and a number of persons arrested.
On 20 February a National Court judge ordered the precautionary closure of the Basque newspaper *Euskaldunon Egunkaria*, the only newspaper written entirely in the Basque language, and the arrest of 10 persons associated with the newspaper. They included the Jesuit priest, Padre José María (Txema) Auzmendi Larrarte, S.J., and one of the directors, Pedro (Peio) Zubíria, who reportedly attempted suicide following arrest. All were held incommunicado under the anti-terrorist legislation and taken to the National Court in Madrid.

As AI explained in its press release, the judge justified the closure and arrests in a decision in which he stated that the company which published *Egunkaria* was financed and directed by ETA. Founded in 1990, the newspaper allegedly contributed to a Basque-language information structure which facilitated the dissemination of "terrorist" ideology.

The closure of *Egunkaria* followed the – unrelated – case of the closure of the Basque newspaper *Egin* by a National Court judge in 1998. *Egin* was suspected of printing coded messages of ETA and of being an instrument of "terrorism". The closure order was lifted a year later but a trial hearing is still pending.

In its press statement AI warned: "…an action as serious as the closure of a newspaper, and the arrest of those involved in its production, has clearly injurious

consequences for the fundamental right to freedom of expression. It is, therefore, imperative that any judicial investigation is prompt and thorough".

Detained journalists claim torture and are sued by Spanish government

After being released from detention, in connection with the precautionary closure of *Egunkaria*, Martxelo Otamendi Egiguren claimed that he and others had been subjected to torture, while being held incommunicado. It was alleged that they had been subjected to the *"bolsa"* (asphyxiaton with a plastic bag), exhausting physical exercises, threats and simulated execution – forms of torture which, by their very nature, are not easy to prove but which, once alleged, require serious, prompt and impartial investigation, whether or not a formal complaint has been lodged.

In March AI wrote to the Minister of the Interior to raise a number of concerns in connection with the arrests. The organization referred to reports that the Spanish government was considering legal action against some of the directors for making allegations of torture. It also referred to the apparent suicide attempt, while held incommunicado, of Pedro Zubíria, who was reportedly suffering from a serious, degenerative illness, and to reports received by AI that Father Auzmendi was a person "publicly known for his clear opposition to violence and his defence of the 'marginalised' and vulnerable". AI referred to the torture allegations made by Martxelo Otamendi, among others. It drew the Government's urgent attention to the submission which it had made to the Committee against Torture in October 2002, and to the "deep concern" expressed by the Committee about the continued application, for up to a maximum of five days, of incommunicado detention for certain serious categories of crime. AI expressed deep alarm that the Spanish government, far from examining how it could take steps to implement the recommendations made by the Committee in 2002, was proposing to more than double the period of time under which certain persons may be held incommunicado and strongly urged it to re-consider its plans.[15]

Hours after the above letter was sent, the Spanish government declared that it had lodged a complaint with the National Court in which it accused Martxelo Otamendi and three other directors of "collaborating with an armed band" (ETA) by making torture claims as part of an ETA-inspired strategy to undermine democratic institutions. In a press statement AI referred to the strong reservations it had already expressed to the Interior Minister about threats of legal action. AI stated: "The Government knows what it must do to guard against false complaints: introduce greater safeguards for detainees that would, at the same time, help protect law enforcement officers from malicious accusations. Amnesty International does not believe that torture is systematic in Spain, but the Government must resist the temptation of regarding all torture allegations as part of some ETA-inspired strategy".

AI added that it was irresponsible to categorically deny the existence of torture or ill-treatment when the Government had so far failed to provide any substantive response to the "profound concern" expressed last November by the Committee against Torture about the incommunicado regime and were, on the contrary, considering steps to extend it.

CPT report critical of lack of fundamental safeguards

In March the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on a visit made to

15 In a draft bill reforming the Code of Criminal Procedure with regard to provisional imprisonment of January 2003, Article 509 provides that an investigating judge or court can order that a detainee be held incommunicado for up to five days. However, in cases relating to membership of, or connection with, armed bands, or to "organized crime", where an order of imprisonment has been made by a judge, following police custody, incommunicado detention may be extended for another five days, extendable yet further by three days. This would mean that a person could be held incommunicado, first on police or Civil Guard premises, and then in prison, for a maximum of 13 days.

Spain in July 2001. The report focused on "whether the Spanish authorities had established effective safeguards against ill-treatment and accountability mechanisms for cases involving allegations of such treatment". The CPT found that, despite earlier reassurances, the Spanish authorities had failed to implement previous CPT recommendations about granting right of access to a lawyer as from the outset of detention (in cases of persons suspected of connection with armed bands) and about the length of incommunicado detention. "Disapproving" of the stance of the Spanish authorities, the CPT concluded that "In practice, the existing provisions on the right to legal assistance fail to ensure that persons deprived of their liberty by the law enforcement agencies have, as from the outset of their custody, the fully-fledged right of access to a lawyer which the Committee has recommended". The CPT also found that it was still "common practice" for persons suspected of terrorist offences to be held for up to legal maximum of five days incommunicado.
In addition, the CPT concluded that current legal provisions and practice concerning access to a doctor by detainees failed to safeguard against ill-treatment and that certain specific improvements it had proposed in terms of forms to be used by forensic doctors to record the results of their medical examinations had not been applied. The CPT added that "in most cases, forensic doctors were not even using the current version of the standardised forms".

The CPT called on the Spanish authorities to take concrete action, without further delay, to follow its longstanding recommendations on "fully-fledged right of access to a lawyer" from the very outset of detention; to shorten the incommunicado period to a maximum of 48 hours; to grant incommunicado detainees the right to be examined by a doctor of their own choice; and to amend the forms currently used to inform detainees of their rights and to record details of medical examinations. The CPT further recommended, among other things, that persons held incommunicado be systematically brought before the competent judge and that "consideration be given to creating a fully independent investigating agency to process complaints against law enforcement officials".

In a press release, issued in March by the CPT, the Committee observes that: "In their response, the Spanish authorities indicate that they do not consider it necessary to review the current legal framework".

Police officers accused of "manipulation of justice"

In March a judge opened a criminal inquiry into accusations against four National Police officers of false complaints, illegal detention and simulation of a crime. The decision followed a ruling by a Barcelona court, which annulled a conviction against two persons who had been arrested during a demonstration during the EU summit meeting in Barcelona in March 2002. In a strongly-worded ruling the Fifth Section of the Court of Barcelona reportedly stated that the officers had been involved in a "clear attempt to manipulate justice", all the more reprehensible in that police officers had the duty to protect the fundamental rights of citizens and to collaborate in the fair and impartial administration of justice. The court stated that it was "intolerable" that the officers had "constructed a fiction" to explain the reason for arresting the two demonstrators and had forged police statements which led to their conviction.[16]
During the demonstration, one of the demonstrators (M.B.A.S.) had reportedly refused to remove the hood which covered his face, had pushed and kicked an officer and had resisted arrest. The second demonstrator had reportedly gone to the aid of the first, and had also forcibly resisted arrest. The court examined video

16 The Quinta Sección de la Audiencia de Barcelona reportedly stated: "Nos hallamos ante un claro intento de manipulación de la justicia, más reprobable, si cabe, por proceder de funcionarios policiales que tienen la mission de proteger el ejercicio de los derechos fundamentales de los ciudadanos y el deber de colaborar en la recta administración de justicia ….. resulta intolerable que, literalmente, se construya una ficción para explicar las detenciones, ficción que se traslada a un atestado que más tarde se ratifica en un acto solemne de juicio y que da lugar a la condena de dos personas". [Quoted in El Mundo, 5 March 2003 and in El Mercantil Valenciano, 13 March 2003].

film of the demonstration before reaching its conclusions.

According to a subsequent report, the National Police Corps (*Cuerpo Nacional de Policía*) stated that it would not open disciplinary proceedings against the officers until formal charges had been made.

At the time of the EU summit in Barcelona AI publicly called on the Spanish authorities to ensure that policing of demonstrations respected the right to peaceful protest (AI Index: EUR 41/004/2002).

Violence against women: police inspector convicted

In June the Court of Sevilla sentenced an inspector of the National Police to a two-year prison sentence and to a 12-year ban from public service for sexual abuse of three undocumented Colombian women. The Andalucian court found that the police inspector had taken advantage of his position as head of the Aliens Operative Group (Grupo Operativo de Extranjería) to seek sexual favours in return for helping the women to avoid expulsion. AI has expressed concern about the particular vulnerability of undocumented immigrant women in relation to state agents, notably in its report on race-related ill-treatment (Crisis of identity: Race-related torture and ill-treatment by state agents, AI Index: EUR 41/001/2002).

Spanish "disappeared"

The United Nations (UN) has added Spain to its list of countries where people have "disappeared". In November 2002 the Spanish parliament for the first time condemned the regime of General Franco (1939-1975) and backed initiatives to uphold the memory of the victims of the Civil War (1936-1939), including the exhumation of the burial pits of over 30,000 people, most thought to be Republican (*Amnesty International Report 2003)*. A number of bodies have been located and identified over the last few months. It was reported in June that the UN Working Group on Disappearances has partially accepted a request by an NGO working in this field (*Asociación para la Recuperación de la Memoria Histórica*) to include Spain in the list and has asked the Spanish government to investigate two specific cases of "disappearances" dating from after 1945, the date of the foundation of the United Nations. By the end of the June it had not received a response from the Spanish government.

SWITZERLAND

Allegations of ill-treatment and excessive force by police officers

A number of demonstrations took place during the period under review, often involving violent confrontations between protestors and police. However, there were allegations that police used unwarranted and excessive force in the context of several demonstrations and public protest actions, including those connected to the World Economic Forum held in Davos in January, to policies of the World Trade Organization (WTO), and to the G8 summit in Evian (France) in June.

AI was particularly concerned by allegations of police use of unwarranted and excessive force at Cornavin railway station in central Geneva on 29 March, in the aftermath of a demonstration to protest against the policies of the WTO. AI noted and welcomed statements by the Geneva cantonal authorities that the FN 303 "less lethal" launcher and projectiles, which a Geneva police officer used to fire at a female demonstrator at the station, causing her significant facial injury, would not be used during the G8 policing operation taking place in June. AI also welcomed the appointment of an independent, three-person commission of inquiry to conduct three investigations, two relating to the use of the FN 303 launcher and one wider-ranging investigation to encompass the circumstances surrounding the events of 29 March, including the allegations of unwarranted and excessive force by police.

In the lead-up to the G8 summit in Evian in June, and the numerous connected demonstrations and protests expected in Switzerland, AI wrote to the relevant federal and cantonal authorities involved in the G8 policing operation. The organization welcomed the steps taken by the authorities to enter into dialogue with demonstrators in the lead-up to G8 and the affirmation, in the rules of engagement adopted by the relevant cantonal and city authorities in May, that proportionality should be a guiding principle for all G8 police interventions. At the same time, AI called on the authorities to ensure that all law enforcement officers, security and military personnel, both domestic and foreign, engaged in G8 policing be aware of, and act at all times in accordance with key international human rights standards relating to: freedom of expression and assembly, the use of force and firearms by law enforcement officials, the right not to be subjected to arbitrary arrest or detention and the fundamental rights of people deprived of their liberty. AI also urged that all officers engaged in direct interventions with the public during the policing operation prominently display some form of individual identification -- such as a service number -- in line with the European Code of Police Ethics. The organization expressed concern at police statements that this would not be done, as it could clearly prevent the identification of any officers accused of misconduct, including excessive use of force, and thus provide them with complete impunity.

The two main -- centrally organized and authorized -- anti-G8 demonstrations which took place on 29 May in Lausanne, and between Geneva and Annemasse (France) on 1 June passed largely peacefully. However, in the aftermath of the G8 summit, extensive violent confrontations occurred between protestors and police, as well as peaceful demonstrations and protest actions in and around Geneva and Lausanne. AI expressed public concern as allegations emerged of instances of unwarranted and excessive use of force by police officers against peaceful protestors and bystanders -- including independent observers and journalists, as well as of arbitrary arrests and of violations of some of the fundamental rights of people deprived of their liberty, in particular in connection with over 400 people detained near Lausanne. AI welcomed the prompt opening of a criminal investigation into the circumstances which resulted in a UK demonstrator suffering multiple fractures as a result of falling from a bridge on the Lausanne-Geneva motorway, after a police officer cut the rope from which he was hanging. AI called for the authorities to initiate prompt, thorough and impartial investigations into the other emerging allegations of human rights violations by police officers, wherever there were reasonable grounds to believe that such violations had occurred, even if no formal complaint had been made. (See AI Index: EUR 43/003/2003).

As underlined in its letters to the Swiss authorities, AI recognizes the difficulties faced in policing major international meetings, especially if certain factions are set on causing violence and also recognizes that the authorities have a duty to ensure the safety and security of participants in such meetings, as well as of peaceful demonstrators, local inhabitants and property. AI does not oppose the lawful use of reasonable force by law enforcement officers. However, policing must be carried out with full respect for international human rights standards. AI welcomed, therefore, the action taken by the Geneva Cantonal Parliament later in June when it voted for the establishment of an extra-parliamentary commission of inquiry, to be nominated jointly by the government and representatives of the parliamentary parties, to investigate, amongst other things, the conduct of the Geneva government, police and judicial authorities during the G8 policing operation, the role played by the agreement which the anti-G8 demonstration organizers signed with the government in the run-up to the G8 summit.

Case Updates

• In April a Geneva cantonal court rejected an appeal against the Geneva Attorney General's decision to dismiss a criminal complaint lodged against Geneva police officers by a Cameroonian woman, following her detention -- together with her five-week-old baby -- in August 2002, after a dispute over a bus fare (see AI Index: EUR 01/002/2003). The woman alleged that Geneva police officers subjected her to physical and racial abuse, strip-searched her in the presence of male officers and separated her from her unweaned baby. The Geneva Attorney General had opened a criminal investigation following the woman's complaint and a police report accusing her of obstructing them in the performance of their duty. Lawyers acting on behalf of the woman announced their intention of lodging an appeal with the Federal Court, complaining, amongst other things, that the investigation into their client's complaint had been closed, without her ever having been questioned about her allegations and without any attempt to obtain statements from relevant and available witnesses, such as two doctors who examined her on the day of the incidents.

• In May a judge attached to Bern-Laupen district court acquitted four Bern Municipal Police officers standing trial in connection with the death in July 2001 of Cemal Gömeç, a Turkish-Kurd refugee (see AI Index: EUR 01/0022003). All four had been charged with attempted grievous bodily harm and two of them had also been charged with causing his death through negligence. Both the lawyer representing Cemal Gömeç's widow, who had constituted herself a civil party to the criminal proceedings, and the public prosecutor indicated their intention of lodging appeals against the verdict.

A video recording made by neighbours of Cemal Gömeç, who had a history of psychiatric illness and was in a highly agitated state at the time of the incidents, showed police officers striking him some 15 times with batons at the end of a four-hour standoff at his apartment during which he had threatened officers with a knife. Officers repeatedly fired rubber bullets and irritant sprays at him and used a stun grenade and batons to overcome him. Six officers then pinned him to the ground for some 10 minutes, applying pressure to his head and trunk. After a doctor injected him with a sedative he lost consciousness and suffered a cardiac arrest. He died in hospital four days later. The findings of forensic examinations included injuries caused by a blunt instrument to his face, head, torso and limbs, and fractures to his face.

The judge ruled that his death was attributable to intense stress combined with the restraint methods used to subdue him while he lay on the ground. This had resulted in positional asphyxia. (In 1995 the US National Law Enforcement Technology Centre defined this as "death as a result of body position that interferes with breathing"). During the criminal proceedings the police officers and the doctor at the scene indicated that they had been unaware of the danger of positional asphyxia associated with the restraint methods they had used and the judge, noting this, ruled that the officers had used no more force than necessary in subduing him. He also noted that, since the death of Cemal Gömeç, the Bern Municipal Police had been instructed in the risks of positional asphyxia arising from certain restraint methods.

In May 2001, following a death occurring in the Valais Canton in the context of a forcible deportation operation and subsequently attributed to positional asphyxia, AI had drawn the attention of the Federal Office of Justice and Police to the risk of positional asphyxia attached to certain dangerous restraint techniques and also to details of the findings issued by the US National Law Enforcement Technology Centre in 1995, including its recommended guidelines to minimize the risk (see AI Index: EUR 43/005/2001). In June 2001 AI also issued a public call to all cantonal authorities to review police restraint techniques and ensure that "methods of restraint impeding respiration and involving significant risk for life are banned and appropriate guidelines are in place to

minimize the risk of positional asphyxia" (see AI Index: EUR 43/006/2001).

● In January a French investigating magistrate committed a Basel-Stadt Cantonal police officer for trial before a French assize court in connection with the fatal shooting of Michel Hercouët in August 2001, while travelling in a stolen car accompanied by his partner and 11-week-old son (see AI Index: EUR 01/002/2002 and EUR 43/009/2001). Following the shooting, which occurred on French territory following a car chase which began on Swiss territory, AI wrote to the relevant authorities to express concern at reports that the two officers involved in the incidents, during which 19 police bullets were fired, might have used their firearms against unarmed people in a situation where there was no clear danger to their lives or the lives of others, and thus in a manner violating the minimum standards of international law.
The French investigating magistrate said that the officer, whom he had identified as having fired the fatal shot, should stand trial on charges of wilfully committing violent acts leading unintentionally to death, and doing so while carrying out his duties as a public official. The magistrate concluded that, at the moment of the fatal shooting, Michel Hercouët's vehicle posed no danger to the police officers and that the shots fired constituted, therefore, an "unlawful and totally disproportionate" act.

● In February the relevant district public prosecutor's office in Zurich ordered the closure, without further action, of criminal proceedings relating to the case of Eldar S, a Bosnian, who following his detention in April 2002, apparently on suspicion, later found to be groundless, of drug-dealing, lodged a criminal complaint accusing four Municipal Police officers of causing him bodily harm (see AI Index: EUR 01/007/2002). He claimed that physical injuries he incurred during his arrest on the street and detention in a police station, which necessitated his transfer from police custody to hospital for emergency treatment within hours of his arrest, as well as severe psychological trauma requiring subsequent hospital treatment, were the result of an unprovoked police assault on the street and in police headquarters. The police vehemently rejected the accusations and lodged a complaint against Eldar S for violent and threatening behaviour against police officers, while resisting arrest. In March Eldar S lodged an appeal against the prosecutor's decision which was still awaiting a ruling at the end of June.

The case of Eldar S was prominent amongst a series of cases of alleged misconduct by members of the Zurich Municipal Police which came to public attention in 2002 (see AI Index: EUR 01/007/2002). In May 2002 Zurich City Council had announced various measures to address the issues arising, including the appointment of a prominent local lawyer to head an independent complaints mechanism to deal with complaints by the public concerning verbal and physical infringements of rights by members of the municipal police and complaints by police officers concerning verbal or physical aggression by third parties.

In June 2003, it was announced that, out of over 100 complaints and inquiries dealt with by the complaints body over the period of a year, 46 complaints concerned "real or putative" physical and/or verbal infringements of rights by the police. In the introduction to his report on the year's work, the head of the body, while indicating that he had found no evidence of systematic physical assault by the municipal police, stressed that "no police force is immune to error. Wherever a monopoly of force is exercised, there are disproportionate acts, infringements of rights." He proposed a range of measures, including long-term action to ensure that every appropriate step be taken to minimize the use of force, and also, in order to reduce "possible discrimination against foreigners", increased advice to police on inter-cultural matters. It was announced that the proposals were under consideration by the police authorities and that the work of the independent complaints body was in future

to fall under the auspices of the City of Zurich's Ombudsman's Office.

Violence against women: UN Committee on the Elimination of Discrimination against Women (CEDAW) examines Switzerland's record

In January CEDAW examined the combined initial and second periodic reports of Switzerland on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women. In its concluding comments CEDAW listed violence against women amongst its principal areas of concern**.** While recognizing legal and other efforts by Switzerland to address the issue, CEDAW expressed concern about "the prevalence of violence against women and girls, including domestic violence" and called on Switzerland to intensify its efforts to address the issue as an infringement of human rights. In particular, CEDAW urged the adoption of laws and implementation of policies in accordance with its general recommendation on violence against women, "in order to prevent violence, provide protection, support and services to the victims, and punish and rehabilitate offenders." AI noted that in April the Swiss Crime Prevention Centre, a coordinating body of the Conference of Cantonal Directors of Justice and Police which develops and formulates crime prevention campaigns and projects, launched a nation-wide campaign with the stated aim of promoting "an attitude of zero-tolerance towards domestic violence among the public and to create awareness regarding the role of the police in dealing with the problem." The Centre envisaged that the campaign would lead to more protection, safety and help being available for the victims of domestic violence and to "a social and legal environment in which abusers are forced to deal with the consequences of their violent behaviour."

CEDAW was also "deeply concerned by the significant number of cases of female genital mutilation among migrant women of African descent" and recommended that Switzerland urgently take all appropriate measures, including legislation, to eradicate the practice**.**

While recognizing Switzerland's efforts to address trafficking in women and girls, CEDAW remained concerned about "the prevalence of this grave problem, which is a human rights violation." It recommended the formulation of a comprehensive strategy, to include measures of prevention, the prosecution and punishment of offenders and increased international, regional and bilateral cooperation. It called on Switzerland to ensure that trafficked women and girls have the support they need, including residence permits, so that they can provide testimony against their traffickers. It further urged that training of border police and law enforcement officials be pursued so as to enable them to render support to victims of trafficking. (For full details of CEDAW's findings – see www.un.org/womenwatch/daw/cedaw).

TURKEY

Background

On 1 March the parliament's rejection of a bid to authorize US troop deployment on Turkish soil ended US plans to send troops into Iraq from the north and signalled that Turkey would not be closely involved with the war. In the subsequent weeks the widely anticipated refugee flows from the north of Iraq towards the Turkish border did not materialize. Although in the first half of 2003 there were many detentions following demonstrations, some of which were anti-war protests, human rights violations in this period were in general not directly connected with the impending war context. However, continuing allegations of torture, ill-treatment and restrictions on freedom of speech and assembly, particularly but not exclusively in the south-eastern and eastern provinces of Turkey, remained a matter of concern to Amnesty International over the period.

Under the new Justice and Development Party (AKP) government a change in the constitution paved the way for AKP Chair Recep Tayyip Erdoğan to stand for parliament in a by-election in the Siirt province and on 14 March officially assume office as Prime Minster in place of Abdullah Gül. In the first half of 2003 the government continued to preside over fundamental legal reforms begun under the previous administration. As legal reform is a requirement of EU accession negotiations, the government continued to bring articles of the Turkish Penal Code and domestic laws into line with the political norms promoted in the Copenhagen Criteria. Many of these reforms related to human rights protection and civil liberties and once again Amnesty International welcomed the process and reiterated its call on the government to show real commitment to change by ensuring full practical implementation of the letter and the spirit of these reforms.

New Legislation

The first "adjustment package" this year came into effect on 11 January and included a number of important provisions. Among these was the stipulation that sentences for the crimes of torture and ill-treatment could no longer be converted to fines, suspensions on probation or postponement. The requirement to secure permission from the relevant senior official in order to proceed with investigation and prosecution of an official accused of acts of torture or ill-treatment was lifted. Medical examinations of prisoners on being transferred to and from prison were made obligatory. Detainees other than those detained for offences under the remit of the State Security Courts were given the right to meet with a lawyer immediately after being detained. The Press Law was amended to uphold the right of journalists not to disclose their sources. Foundations connected with the religious minority communities of Turkey were granted permission to acquire property. The process of initiating the closure of a political party was changed to become more formalized and extended. However, the People's Democracy Party (HADEP) was closed down by a Constitutional Court ruling on 13 March.

A second "adjustment package" that came into effect on 4 February granted the right to automatic retrial for those who the European Court of Human Rights (ECHR) had ruled had suffered a violation of the European Convention of Human Rights as a result of a court judgment in Turkey. This opened the way for a retrial of the four imprisoned Democracy Party (DEP) deputies – Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak – who, according to an ECHR ruling, had been found not to have received a fair trial in 1994.

Further legislation in the form of the reforms known as the "sixth adjustment package" had been fully agreed upon but not implemented by June. Reforms included: the abolition of article 8 of the Anti-Terror Law (the crime of spreading separatist propaganda); lifting of restrictions on non-Turkish-language (thus Kurdish) broadcasting on private television and radio stations; lifting of prohibition on non-Turkish (thus Kurdish) names; and upholding the right of *all* detainees (including these detained for offences falling under the remit of the State Security Courts) to have immediate access to legal counsel. A "seventh adjustment package" envisaged, among other measures, changes in the organization and status of the National Security Council.

Torture, ill-treatment and conditions of detention after the new laws

Amnesty International noted that in the first half of 2003, in accordance with the recently introduced four-day limitation, detention periods were being quite clearly kept within the legal limit. Access to a lawyer for detainees was still rarely implemented, however, despite the lifting of restrictions on such access for all but those detained under the remit of the State Security Courts. Related to this, there was little evidence to suggest that detainees were being read their rights and informed of their right to legal counsel, or that their

relatives were being informed by the police of their detention. There were continuing reports of police officers being present in the examination room while doctors examined detainees.

Two cases illustrate a number of the problems that AI continued to receive reports of in 2003:

Ali Ulvi Uludoğan and his brother İlhan Uludoğan were detained on 25 May for driving through a red light in the Kulu district of Konya province and reportedly subjected to torture and ill-treatment in detention in Kulu police station. Ali Ulvi Uludoğan's wife reported to AI that, on telephoning the police station, she was informed by police officers that her husband and his brother, Ilhan Uludoğan, were not in detention. Ali Ulvi Uludoğan reported that during a medical examination, a plain-clothed police officer remained in the examination room and that without examining him or his brother the doctor wrote a report which made no mention of the visible injuries on their faces and bodies. M. Emin Ete reported being detained on 19 April 2003 in Siirt by three plain-clothed police officers, then threatened by a superintendent who got into the police car with them and held a gun to his head and slashed him with a knife. M. Emin Ete was taken to hospitial, where he received stitches to his hand, but the superintendent who had allegedly inflicted the injury reportedly confiscated the doctor's report and neither M. Emin Ete nor his lawyer have been able to obtain a copy of it. At his first attempt to file a complaint against the police, M. Emin Ete was turned away by the public prosecutor. It was only when a member of the executive committee of the Siirt Human Rights Assocation (İHD) accompanied him to the prosecutor's office that his complaint was accepted.

There were continuing complaints about very heavy-handed policing of demonstrations, with a pattern of police officers dressed in anti-riot gear singling out demonstrators, chasing them, kicking them and beating them repeatedly with truncheons, even as they fell to the ground, and also again after they had been apprehended and were being taken in a police van to the police station. Three university students, Mahir Mansuroğlu, Dilsat Aktaş and İbrahim Karabağlı, reported to AI their experience of being severely beaten when they peacefully demonstrated on 2 April against the visit of Colin Powell to Ankara. In an anti-war protest in Izmir on 11 April, in scenes that were broadcast on national and local television news broadcasts, police were seen to disperse student protesters by beating and kicking them. One student protester, Mesut Kılıç, reported to AI that he suffered a broken leg as a result of police brutality during the demonstration. AI is not aware that any investigation has been opened into the policing of this demonstration or the conduct of individual police officers.

Abduction and unrecorded detention

A worrying practice, demonstrating the way in which some law enforcement officers are ready to by-pass regulations, was that of unrecorded detention whereby the abducted person was not registered as being in detention and was generally not taken to the police station but to another place, or was driven around in a marked or unmarked police car. The case of Gülbahar Gündüz was perhaps the most disturbing example of this to have come to light. Gülbahar Gündüz reported to AI that she was apprehended in the street in Istanbul on 14 June by three plain-clothed men who identified themselves as police officers to a passer-by who attempted to intervene. She stated that she was blindfolded, taken in a car to a building, threatened for her activities in the women's section of the Istanbul branch of the political party DEHAP, tortured and orally raped in the course of the day, then released. There was no record of her detention, and since she reported being kept blindfolded throughout her abduction she had little chance of identifying her torturers. An incident of this kind, coinciding with major attempts to introduce legal reforms and a professed political will to eradicate torture in Turkey, reinforced allegations that there were some

elements in the security forces who wished to sabotage the process of reform.

Many instances of lower-level harassment and ill-treatment of people during abduction and unrecorded detention have been reported to AI, as well as some instances involving torture.

Impunity

While the prosecution of the police officers in the case of the Manisa youth (AI Index: EUR 44/052/2002) has been hailed as a landmark in the struggle to combat police impunity for the crimes of torture and ill-treatment, the case risked exceeding the statute of limitations and collapsing. There have been continuing reports of trials collapsing on this basis and AI called for a repeal of the statute of limitations for the crimes of torture and ill-treatment.

AI welcomed the news of a prosecution initiated against four police officers accused of acts of torture of two women, N.C. and S.Y., who were detained in September 2002 at the Vatan Caddesi Police Headquarters in Istanbul (AI Index: EUR 44/006/2003 and AI Index: EUR44 01/002/2003). However, it was disturbing to learn that the reason the four police officers were not able to attend their first trial hearing at the 4th Heavy Penal Court in Istanbul on 13 June was reported to be that they were on duty elsewhere and therefore not available. AI continued to recommend that police officers facing investigation or prosecution for the crimes of torture and ill-treatment be suspended from active duty pending the outcome of trial proceedings against them.

In general impunity was still an area of deep concern. The ratio of prosecutions of members of the security forces to complaints of torture and ill-treatment filed by members of the public remained pitifully low.

Despite the change in the law that disallowed the conversion of a sentence for torture or ill-treatment to a fine, a suspension on probation or postponement, AI noted that there have been at least two cases reported of judges ignoring the change in law and granting a suspension of sentence. AI considered that there was a need to introduce more effective mechanisms to inform members of the judiciary of changes in the law.

Prison conditions

AI received continuing complaints about conditions in prisons – both F-type and non F-type – across the country. These included reports of inmates not receiving medical treatment, sometimes for very serious conditions. One particularly disturbing case was that of Mehmet Akça, who was serving his sentence in Amasya Prison. Sixty-five years old and suffering from various illnesses, Mehmet Akça is blind, allegedly as a result of torture inflicted upon him while in detention in İdil, Şırnak, in 1993. He could not look after himself and required the help of fellow inmates. His lawyer applied to the president for the granting of a pardon on health grounds; it was refused in early June. Another case was that of a female prisoner, Şermin Dorak, who was being held in Kürkcüler remand prison in Adana pending the outcome of her trial. In January 2002 she had an operation to treat thyroid cancer and since then has reportedly not been receiving follow-up treatment and was in severe discomfort.

There were complaints of ill-treatment and harassment in some prisons. On 29 May 3 five female inmates of Kürkcüler remand prison were reportedly beaten during the head count. İsmail Aşkan and Zennur Kızılkaya alleged that they were subjected to torture and ill-treatment in Bitlis prison on 14 and 15 May. Their lawyer reported that on meeting with his clients he saw that they had visible injuries to their faces and bodies. It was not yet known whether their complaint lodged with the prison prosecutor would be investigated.

There were reports that prisoners' complaints against prison warders were not effectively investigated by the prison monitoring boards and the enforcement judge and that disciplinary punishments – such as temporary bans from receiving

visitors – were exercised harshly and arbitrarily. Some inmates reported that when they lodged a written complaint it would go missing.

Regular access to communal facilities for prisoners kept in solitary confinement and "small-group" isolation in F-type prisons was a continuing concern for AI. AI noted that the Turkish government in their response (published 25 June) to the latest report on Turkey by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) did not provide a direct answer to the CPT's question as to the number of hours per week prisoners may use communal facilities. In line with the CPT's 2nd General Report, AI considered that prisoners should be allowed to spend at least eight hours of the day taking part in communal activities outside their living units.

During "closed" visits in many prisons, visitor and inmate now communicated through glass screens and telephones, a system which was introduced recently. Physical contact is impossible and meetings are conducted under the supervision of prison warders. Nevertheless some prisoners reported being subjected to repeated and seemingly unnecessary body searches while being taken to and from these "closed" meetings with their relatives. Many relatives visiting in groups complained that communicating through one telephone was an unsatisfactory and dehumanizing experience. There were reports of regular weekly ten-minute telephone conversations from inmates in prison to their relatives at home being cut short if Kurdish was spoken. The fact that inmates themselves now have to pay their electricity and water bills and are also obliged to buy from the prison canteen any provisions, and even sometimes basic clothing such as underwear, often rebounded on their relatives outside and may be an impossible economic burden.

Killings

On 24 April the body of Sıddık Kaya (UA 340/02 AI Index: EUR 44/055/2002 and EUR 44/016/2003) was found washed up on the banks of the Murat River in the Bulanık district of Muş province. The initial forensic report showed that, blindfolded and gagged, Sıddık Kaya had been shot through the head and a sandbag tied to his waist to weigh his body down in the waters of the river. Given that AI had received allegations that a member of the security forces may have been involved in the killing of Sıddık Kaya, the organization considered that the government should ensure a thorough and independent investigation into the circumstances surrounding his murder.

An unlawful killing reported to AI in March was that of Bülent Firik. After having no idea as to the whereabouts of Bülent Firik since June 2001, the Firik family received written confirmation that the armed opposition group, the Turkish Communist Party (Marxist-Leninist), recently renamed the Maoist Communist Party (Maoist Komünist Partisi), had claimed responsibility for the 'punishment with death' of Bülent Firik, along with several named others. The Firik family made a public statement, expressing their grief and asking for the immediate return of Bülent Firik's body for burial by the family.

Human Rights Defenders

Pressure on human rights defenders continued with many legal proceedings opened against them for their activities. Such cases usually resulted in acquittal or the sentence being commuted to a fine or suspended. While this was an improvement on the previous pattern of physical attacks or imprisonment of human rights activists, or closure of human rights groups' branches, the initiation of huge numbers of legal proceedings represented a form of judicial harassment designed to intimidate human rights defenders and restrict their activities.

Peaceful statements and activities have often been prosecuted under Article 169 of the Turkish Penal Code (aiding and abetting an illegal organization), or Article 312 (inciting the people to enmity), or Article 8

of the Anti-Terror Law (making separatist propaganda).

Founded in 1986, the Human Rights Association (İnsan Hakları Derneği – İHD) is Turkey's largest human rights organization. According to figures supplied by the İHD, a total of 300 cases were opened against it in the first fourteen years of its existence; in the last three years alone there have been more than 450 cases opened. On 6 May police officers searched the headquarters of the İHD in Ankara and confiscated books, reports on human rights violations, files, cassettes, press releases and hand-written notes, as well as seven computers and computer discs. They also asked for access to the bank accounts of the İHD. After completing their search, the same group of police officers then went to the offices of the local Ankara branch of the İHD, where they carried out a search and took away one computer and other written materials (see AI Index: EUR 44/014/2003). AI was informed in a communication from the Ministry of Justice that the search had been carried out on the orders of Ankara State Security Court under Article 169 of the TPC "upon established suspicion that the Headquarters… has been coordinating a campaign to voice support for the terrorist organisation PKK/KADEK".

The Law on Meetings and Demonstrations and the Law on Associations also contain numerous provisions that have been used to seriously impede the activities of associations including the Organization for Human Rights and Solidarity with the Oppressed (Mazlum Der), the Human Rights Foundation of Turkey (*Türkiye İnsan Hakları Vakfı* – TİHV), and medical chambers and various trade unions. Large numbers of cases have been opened against these organizations for being in breach of the Law of Association under which they can be imprisoned, fined or have vital equipment confiscated. AI was concerned that these laws were being used to restrict the right to peacefully express opinions, form associations and assemble in public.

TURKMENISTAN

Clampdown on dissent following the 25 November 2002 events (update to AI Index: EUR 01/002/2003)

The wave of repression triggered by the November 2002 alleged assassination attempt on the President continued. In the period under review at least 55 people accused of involvement were convicted in unfair trials, accompanied by credible allegations of torture and ill-treatment. As a result, the full truth about the 25 November events has not yet come to light. Relatives continued to be targeted because of their family relationship with those implicated in the November events. The authorities showed no political will to improve Turkmenistan's human rights record, thereby ignoring widespread international concern.

By the end of the period under review, many relatives of those imprisoned in connection with the November 2002 events did not know where they were kept. No representatives of independent bodies had been granted access to the prisoners. The lack of transparency heightened AI's concern for the prisoners' safety. Many relatives of those imprisoned reported that they had been refused permission to pass on food parcels and medicine to the prisoners.

A number of detainees arrested in connection with the November 2002 events were handed over to the authorities of their home country. Russian-US citizen Leonid Komarovsky, who had allegedly been ill-treated in the Ministry of National Security (MNB) and who had not been granted full consular access while in detention, returned to his family in the United States in April 2003. He had to publicly repent before his release. Six Turkish citizens accused of involvement in the alleged assassination attempt were handed over to Turkey in March, where they remained in detention.

Scores convicted in grossly unfair trials

At least 55 people were convicted to prison terms ranging from five years' to life imprisonment by the Supreme Court and Ashgabat City Court in a series of closed trials in January. The authorities of Turkmenistan did not disclose comprehensive information about the defendants, including their whereabouts and the charges brought against them, and only on 31 January was an official list of names, charges and sentences published in the Adalat newspaper. The large majority were convicted on charges including "conspiracy to violently overthrow the government and/or change the constitutional order", "attempting to assassinate the President", and "setting up or participating in a criminal organization".

The defendants were not represented by independent lawyers. In many cases the defendants' lawyers were given little or no notice before the court hearings began. Some lawyers representing the defendants in court reportedly began their plea with the words "I am ashamed to defend a person like you…". The defendants were reportedly forced to sign a document saying they were familiar with the documentation of their criminal case and the indictment, without being given the chance to study these documents. Representatives of embassies and the Organization for Security and Co-operation in Europe (OSCE) who requested to observe the trials were not given access to any of the court hearings. AI received reports that many of the defendants were tortured and ill-treated in pre-trial detention (see AI Index: EUR 61/004/2003). The authorities did not launch thorough and independent investigations into these allegations.

Punishing the relatives

Relatives of those accused of involvement in the alleged assassination attempt continued to face harassment, intimidation, torture and ill-treatment. Their freedom of movement inside the country as well as of those wishing to leave the country was severely restricted.

Many relatives were evicted from their homes. Most court verdicts handed down in relation to the November 2002 attack included the confiscation of property. However, in many cases the confiscation of property was believed to have been carried out weeks before the verdicts were pronounced and reportedly severely affected family members.

For example, Edzhebay Yklymova, the 75-year old mother of exiled opposition politician Saparmurat Yklymov, who is confined to a wheelchair, has been evicted twice since the November 2002 events. On 27 November she was evicted from the family's house on Rustaveli street in Ashgabat together with several children belonging to the Yklymov family. Reportedly, they had to leave most of their possessions, which were also confiscated, in the house. Edzhebay Yklymova and the children went to live in the homes of other relatives and lived in constant fear of another eviction. On 27 March 2003 law enforcement officers reportedly forcibly took Edzhebay Yklymova out of the house. She found refuge with other relatives.

International concern

In the face of the escalating human rights situation following the November 2002 events, on 15 January 2003, 10 OSCE member states appointed the French international law professor Prof. Emmanuel Decaux to examine concerns in the context of the investigation into the alleged assassination attempt. Contrary to OSCE procedure, [17] Turkmenistan refused to appoint a second rapporteur. It also denied Prof. Emmanuel Decaux access to the country for a fact-finding mission.

[17] For more information on the so-called Moscow mechanism invoked by OSCE participating states in relation to Turkmenistan, see the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, 3 October 1991, and AI's Concerns in Europe and Central Asia covering the period from July-December 2002 (AI Index: EUR 01/002/2003).

In his 13 March report, Prof. Emmanuel Decaux described the conditions in which the trials of those implicated in the November 2002 events took place as "appalling" and "in breach of all the most elementary principles of the rule of law". He recommended the Turkmen authorities, among other things, to "[create] an independent Constitutional Court, which would be the guardian of the primacy of international law over domestic law, of separation of powers and of the review of the constitutionality of laws"; to "review, either by appeal or through new trials" the "political trials" following the 25 November events; to "respect … the rights of individuals belonging to civil society"; to "guarantee freedom of movement inside the country and freedom to leave the country for all Turkmen nationals, as well as for foreigners"; to "abandon discriminatory discourses or practices, based on a conception of 'racial purity"; and to meet the country's obligations as a member of the United Nations (UN) and a party to many major human rights treaties, and as a member of the OSCE.

On 16 April the UN Commission on Human Rights adopted a resolution on Turkmenistan, expressing "grave concern" about the human rights situation, including "the persistence of a governmental policy based on the repression of all political opposition activities", "the suppression of independent media and freedom of expression", "restrictions on the exercise of the freedom of thought, conscience and religion", "the heavy prison sentences given to objectors to compulsory military service on religious grounds […] and the lack of alternative service compatible with the reasons for conscientious objection". With regard to the investigation into the 25 November 2002 events, the Commission, for example, deplored "[t]he treatment of accused individuals in violation of the International Covenant on Civil and Political Rights", "the harassment of family members of the accused and the arbitrary confiscation of their homes and property", the "conduct of the Turkmen authorities with regard to the lack of fair trials of the accused, the reliance on confessional evidence which may have been extracted by torture or the threat of torture, the closed court proceedings […] and the refusal to allow diplomatic missions or international observers […] access to the trials as observers." The Commission called upon the authorities of Turkmenistan, among other issues, to "grant urgently access by independent bodies, including the International Committee of the Red Cross, to the persons detained following the events of 25 November 2002", "to ensure that those responsible for human rights violations are brought to justice", to "remove restrictions on the activities of non-governmental organizations, particularly human rights non-governmental organizations, and other civil society actors", and to "immediately and unconditionally […] release all prisoners of conscience". In addition, the Commission requested several UN Special Rapporteurs, the Working Group on Arbitrary Detention and the Special Representatives of the Secretary-General on internally displaced persons, and on human rights defenders to seek invitations from the authorities of Turkmenistan to visit the country.

Harassment, intimidation and imprisonment of civil society activists

Civil society activists continued to face harassment, including routine summoning to the security service, detention, and imprisonment. During high-profile visits of senior UN and OSCE representatives in the period under review several civil society activists and others were reportedly prevented from meeting with them and their delegation. They were warned by the security service not to attend meetings with the foreign delegation or not to address any

issues that may shed a negative light on the authorities, and threatened that non-compliance would have "serious repercussions". In many cases the telephones of activists were apparently disconnected throughout the time of the visit.

Prisoner of conscience forced to 'repent' upon his release

Prisoner of conscience and civil society activist Farid Tukhbatullin was released on 2 April from the detention facilities of the MNB in Ashgabat. Prior to his release he had to sign a 'confession' stating, for example, "I fully support your [Saparmurat Niyazov's] domestic and foreign policy, whose aim is the welfare and prosperity of the Turkmen people and stability of Turkmenistan's forward movement in a golden age … I fully acknowledge my personal guilt before you and the entire Turkmen people." Farid Tukhbatullin's 'confession' was reportedly videotaped and he had to swear an oath on the Koran and the President's book Rukhnama promising to refrain from any "criminal activities" in the future.

Farid Tukhbatullin had been detained in December 2002 and sentenced to three years' imprisonment in a closed trial at Azadlyk district court in Ashgabat in March 2003. He was convicted on fabricated charges, brought solely to punish him for exercising his right to freedom of expression and for his peaceful work as a civil society activist. AI adopted him as a prisoner of conscience and called for his prompt and unconditional release. Before the trial, Farid Tukhbatullin's lawyer had been denied access to his client under various pretexts four times, and thus did not see him for more than a month. On 26 February, for example, the lawyer was told that he could not see Farid Tukhbatullin because of "repair work" at the MNB.

UNITED KINGDOM

The UK's response to 11 September 2001 (Update to AI Index: EUR 01/002/2003)

By the end of June, 13 individuals continued to be detained under the Anti-terrorism, Crime and Security Act 2001 (ATCSA) which allows for the indefinite detention without charge or trial (i.e. internment) on the basis of secret evidence of foreign nationals who, purportedly, cannot be deported or removed from the UK, and whom the UK Secretary of State "reasonably believes" to be a risk to national security and "suspects" of being "international terrorists".

In February, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report of its February 2002 visit to the UK to review the detention conditions of those held under the ATCSA in two high security prisons in the UK. Among other things, the CPT report noted allegations of verbal abuse; it expressed concern about the detainees' access to legal counsel and recommended that measures be taken to ensure that the right of access to a lawyer be guaranteed at the "very outset of custody" under the ATCSA; it remarked that the detention regime and

conditions of ATCSA detainees should take into account the fact that they had not been accused or convicted of any crime and of the indefinite nature of their detention; it recommended that immediate steps be taken to ensure that all ATCSA detainees be guaranteed access to at least one hour daily of outdoor exercise, and that their health care arrangements be reviewed to ensure, in particular, that they receive appropriate psychological and psychiatric care. With respect to the proceedings before the Special Immigration Appeals Commission (SIAC) -- the tribunal empowered under the ATCSA to grant bail, hear appeals against, and regularly review, certification by the Secretary of State of non-UK nationals as "suspected international terrorists"-- the CPT expressed concern about the fact that secret evidence may be considered by SIAC without it being disclosed to the individual concerned, and that ATCSA detainees and their legal representatives of choice can be excluded from SIAC hearings.

In February Lord Carlile of Berriew, the Parliamentary reviewer of the detention provisions of the ATCSA, criticized the detention regime and conditions of the ATCSA detainees. He recommended, among other things, that ATCSA detainees as "persons who have not been charged with any offence should have that status reflected in the circumstances of their detention", and that ATCSA detainees should be kept "in a separate, secure environment with greater internal freedom of association and of activity".

In May, the SIAC began hearing appeals brought by 10 individuals against their detention under ATCSA following their certification by the UK Secretary of State for the Home Department under the ATCSA as "suspected international terrorists and national security risks". An AI representative attended a number of hearings for the purpose of monitoring the open sessions of the judicial proceedings. Among others, AI observed the SIAC appeal brought by Mahmoud Abu Rideh, a Palestinian refugee and torture victim who had been originally interned at Belmarsh high security prison, London, following his arrest in December 2001, and who was later transferred to Broadmoor Psychiatric Hospital, a high security mental hospital, where he continued to be detained under the ATCSA.

Having observed a substantial part of the SIAC appeals proceedings, AI considered that they were deeply flawed as they failed to guarantee even basic minimum fair trial safeguards. Furthermore, the SIAC appeal proceedings were inconsistent with a number of international human rights law standards, including treaty provisions by which the UK continues to be bound despite its derogation from Article 5(1)(f) of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 9 of the International Covenant on Civil and Political Rights (ICCPR), both guaranteeing the right to liberty and security of person.

Among others, the organization considered that the SIAC appeals proceedings under the ATCSA denied the appellants the right to a fair trial, enshrined in, *inter alia*, Article 6 of the ECHR and Article 14 of the ICCPR. In addition, AI considered that by providing for detention without charge or trial, for unspecified and potentially unlimited duration exclusively of non-UK nationals on the basis of secret evidence, the ATCSA and the SIAC proceedings thereunder violate the rights to be free from discrimination, equality before the law and equal protection of the law without any discrimination, enshrined in, *inter alia*, Articles 2(1) and 26 of the ICCPR, and in Articles 1 and 14 of the ECHR. The UK has not derogated from any of these provisions. As a result, the organization believes that as judicial proceedings the appeals against the Secretary of State's certifications of non-UK nationals as "suspected international terrorists and national security risks" before the SIAC amount to a perversion of justice. By the end of June, judgments in the above-mentioned appeals were still pending.

In February, AI wrote the UK authorities to express concern about the role that they had allegedly played in the unlawful

rendering to US authorities' custody of Bisher al-Rawi, an Iraqi national legally resident in the UK, and Jamil Al-Banna, a Jordanian national with refugee status in the UK. They are among more than 650 individuals currently held without charge or trial, access to the courts, lawyers or their families at the US Naval Base in Guantánamo Bay. Since then, the organization also expressed concern at the refusal of the UK's authorities to make representations on behalf of Bisher Al-Rawi and Jamil Al-Banna to the US authorities urging them to uphold their human rights.[18] AI also continued to express concern at the UK authorities' failure to make vigorous representations to their US counterparts urging them to uphold the human rights of the nine UK nationals in US custody at Guantánamo Bay. Family members of some of the nine UK nationals held at Guantánamo Bay told the organization that they had not received any letters from their relatives for approximately six months. AI continued to call on the UK authorities to urge the US authorities to repatriate the UK nationals immediately unless they were promptly charged with a recognizably criminal offence by the US authorities and brought to trial before an independent court in proceedings respectful of their rights to a fair trial and that excluded the possibility that the death penalty may be imposed.

By the end of June, despite reportedly more than 400 purportedly "terrorist-related" arrests since 11 September 2001, there had been only two convictions related to the so-called *al-Qa'ida* network.

Army deaths in disputed circumstances

In June, AI published a report entitled "*United Kingdom - Army Barracks Deaths: Families Demand Justice*" (AI Index: EUR 45/004/2003) detailing its concerns regarding the high incidence of deaths in disputed circumstances of UK Army personnel in non-combat situations in and around army barracks in the UK. The report highlighted the fact that since 1990 there have been nearly 1,800 "non-natural" deaths of members of the armed forces in or around UK Army barracks, some 200 of which have been described as self-inflicted. AI has received allegations that some of these deaths may have involved unlawful killings, either intentional or as a result of negligence, through, for example, the misuse of lethal weapons; deaths during strenuous training exercises; and self-inflicted deaths, at times following bullying and other ill-treatment, including sexual harassment, by other soldiers and superior officers.[19] The circumstances surrounding many of these fatalities continue to be disputed. Serious questions have been raised about the adequacy and effectiveness of the authorities' response giving rise to an increasing impression that there has been institutional collusion in, and cover-up of, some of these deaths. AI considered that such serious allegations paint a pattern in which the UK authorities appeared to be failing to comply with their domestic and international human rights obligations -- including their obligations to ensure the right to life, and the right to an effective remedy before a national authority against human rights violations -- guaranteed in treaties to which the UK is a state party, including the ECHR.

In light of the above, AI supported the families' call for a wide-ranging public inquiry into all non-combat deaths of UK Army personnel in an around Army barracks in the UK since 1990. The organization also called on the UK authorities to undertake prompt, thorough, independent and impartial investigations into all deaths in disputed circumstances of UK Armed Forces personnel.

AI also continued to express particular concern about the treatment of young soldiers: one third of all recruits to the UK army are under 18.

18 For further information, see "UK: Government must act now on behalf of Guantánamo detainees", (AI INDEX: EUR 45/019/2003).

19 For further information about bullying, sexual harassment and other ill-treatment, see also "UNITED KINGDOM - U-18s: Report on Recruitment and Deployment of Child Soldiers"(AI Iindex: EUR 45/057/2000) , and "UNITED KINGDOM - U-18s: Child Soldiers at risk" (AI Index: EUR 45/056/2000).

On 24 June the UK ratified the Optional Protocol (OP) to the Convention on the Rights of the Child on the involvement of children in armed conflict. At the time of ratification the UK confirmed that the "declaration" (which in fact has the effect of a reservation) entered when it signed the OP was reaffirmed with its ratification. AI considered that the reservation entered by the UK was "incompatible with the object and purpose" of the OP.[20] The reservation set out the circumstances in which they anticipated they *would* deploy under-18s in their armed forces to take a direct part in hostilities. The reservation is against the object and purpose of the OP which is that "*States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities"*. The UK reservation was all the more dismaying given that in October 2002 the Ministry of Defence informed AI that the army would no longer deploy anyone below the age of 18 years on "hostile" operations outside the UK.

Hundreds of Kenyan women allege that they were raped by UK soldiers

In June AI sent a mission to central Kenya to gather data and conduct interviews with women who alleged that they had been raped by UK Army personnel, chiefs, witnesses, NGOs and others in the areas of Dol Dol and Archers Post and in the town of Nanyuki (central Kenya). Following the research mission to Kenya in June, AI published a report expressing the organization's grave concern at serious allegations that members of the UK Army, posted to Kenya for training, raped hundreds of Kenyan women (see "*United Kingdom - Decades of Impunity: Serious Allegations of Rape of Kenyan Women by UK Army Personnel*", AI Index: EUR 45/014/2003). The report highlighted hundreds of allegations of rape that had emerged against members of the UK Army. Most of the incidents reported to AI occurred in the last 20 years, but the allegations cover a period of more than 35 years. More than half of the cases involve allegations of gang rape. Some of those reported to have been sexually assaulted were children at the time. Women reported suffering serious physical injuries and long-lasting psychological trauma as a result of being attacked. Several of these rape claims appeared to have been reported to either or both UK and Kenyan authorities soon after the alleged attacks took place. Both countries' authorities failed to take effective action either to investigate the claims and bring the alleged perpetrators to justice or to prevent further attacks. AI expressed concern that such systemic failure over more than two decades may amount to institutional acquiescence in these rapes and may have contributed to the emergence of a pattern of grave human rights violations.

Oseina Thomas Koitat ©AI

Police shootings

In January 2003 the Police Complaints Authority (PCA) published a report, commissioned by the Home Office, in which it reviewed police shootings in England and Wales between 1998 and 2001, focussing in particular on 24 cases. The PCA noted that many of those killed had been mentally ill. It also noted that 55 shots had been fired by police but that no suspects had fired back. Seven individuals had been in possession of real guns, seven replica firearms and four sharp instruments. The PCA found that the Metropolitan Police (Met), responsible for the London area, was

20 Article 19(c), Vienna Convention on the Law of Treaties.

twice as likely as other police forces to open fire on a suspect. A number of recommendations were made, including carrying out a review of the Met tactics and regarding the handling of situations in which persons involved are mentally ill.

Harry Stanley (Update to AI Index: EUR 01/007/2002)

In April the High Court quashed the "open" verdict that a coroner's jury had issued in June 2002 at the conclusion of an inquest into the fatal police shooting of Harry Stanley, and ordered a fresh inquest. The family of the deceased had applied for a judicial review of the inquest's verdict on the grounds that the coroner had wrongly prevented the jury from considering the options of returning a verdict of "unlawful killing" and a verdict of failing to take reasonable care in circumstances where there was sufficient evidence against the police to do so. The family had also maintained that the independence of the inquiry had been fatally undermined by the refusal of the coroner to call an expert firearms witness whom the family had wanted to give evidence.

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

In March the Crown Prosecution Service ruled that the police officer who killed Derek Bennett should not face charges, due to lack of evidence. Derek Bennett was reportedly unarmed, but was carrying a gun-shaped silver cigarette lighter at the time of the shooting.

Deaths in police custody

Christopher Alder (Update to AI Index: EUR 01/007/2002)

In February 2003 the Police Complaints Authority recommended that disciplinary proceedings for neglect of duty be brought against five police officers in connection with the death of Christopher Alder at Hull police station in 1998. Humberside police force, of which the five are members and from which they had been suspended on full pay since the incident in 1998, decided that they would not be offered legal representation. The disciplinary inquiry, conducted by the chief constable of Cleveland police, cleared the five men later in the year. In the wake of this outcome and of the June 2002 collapse of the criminal trial against the five police officers who had been with Christopher Alder at the time of his death and who had been charged with manslaughter and misconduct in public office, in June the family of the deceased announced that they were applying to the European Court of Human Rights.

Northern Ireland

Impunity: legacy of the past

"Stevens 3" summary report on collusion

On 16 April, on the eve of the delivery by Sir John Stevens, the Metropolitan Police Commissioner, of his long-awaited report into matters of collusion in Northern Ireland, known as "Stevens 3", to the Chief Constable of the Police Service of Northern Ireland (PSNI), AI and other domestic and international NGOs renewed their call on the UK authorities to establish forthwith a full, public, international, independent and impartial judicial inquiry into all the circumstances surrounding the 1989 killing of human rights lawyer Patrick Finucane (see "*In the Finucane case, nothing short of a full, public, international, impartial and independent judicial inquiry will do*", AI Index: EUR 45/002/2003). A few days prior to the publication of a summary of the "Stevens 3" report, the media reported the death of Brian Nelson, a member of the British Army who had directly assisted Loyalist paramilitaries in the targeting of Patrick Finucane and others for assassination. AI and the other NGOs emphasized how his death further underlined the need for the immediate establishment of a public inquiry in the Finucane case since continuing to delay such an inquiry may well result in other key testimonies eventually avoiding public

scrutiny. The allegations arising from the case of Patrick Finucane include claims that his killing was the result of state policy. The evidence of collusion and subsequent cover-ups in the case implicates at least three intelligence agencies: the Special Branch of the former Royal Ulster Constabulary (RUC), whose members have been assimilated into the current PSNI; the British Army's secret intelligence unit known as the Force Research Unit (FRU); and MI5, the UK's secret service.

Among other things, the published summary of the "Stevens 3" report confirmed widespread collusion between state agents and Loyalist paramilitaries and "the extreme of agents [of the state] being involved in murder". With respect to the killing of Patrick Finucane, the published summary noted that his murder "could have been prevented" and confirmed that there was collusion in the killing and the circumstances surrounding it. It also found that "the RUC investigation of Patrick Finucane's murder should have resulted in the early arrest and detection of his killers". The published summary also found that the RUC failed to protect both sides of the community in Northern Ireland equally by, among other things, the withholding of evidence and intelligence. The summary also officially and in a high-profile, public way confirmed the existence of the FRU which had been staffed by members of the British Army and British Army agents who had actively colluded with Loyalist paramilitaries in targeting people, including Patrick Finucane, for assassination. At the time of the publication of the summary of the "Stevens 3" report, it was confirmed that more than 50 individual files pertaining to serving and retired army personnel and police officers had been sent by the Stevens team to the Northern Ireland Director of Public Prosecutions for a decision with respect to the institution of criminal proceedings.

In the aftermath of the publication of the summary of the "Stevens 3" report, one individual was charged with, among other things, the killing of Patrick Finucane. At a court appearance he protested all involvement in the offences with which he had been charged and, referring to the killing of Patrick Finucane, he claimed that he had been entrapped.

Peter McBride (Update to AI Index: EUR 01/002/2003)

On 13 June AI and four other human rights organizations welcomed the Northern Ireland Court of Appeal's judgment in respect of the murder of Peter McBride in 1992. The McBride family had for years been challenging the decision by the British Army to continue to employ Guardsmen Fisher and Wright even though they had been convicted of Peter McBride's murder. The Court found that the reasons given by the army for the retention of Fisher and Wright did not amount to the "exceptional reasons" required under Queen's regulations dealing with soldiers convicted of criminal offences. As a result of this judgment the Army Board would reconsider the case yet again. AI and the other NGOs had expressed concern that in deciding not to dismiss Guardsmen Fisher and Wright**,** the British Army had failed to recognize the gravity of the human rights violation which they committed and that their retention fostered impunity and undermined effective redress for the victim's family.

Gervaise McKerr

In February, the family of Gervaise McKerr, who was shot dead by the RUC in 1982 reportedly in a "shoot to kill" incident, was granted leave to apply for a judicial review of the Northern Ireland Secretary of State's failure to provide an effective investigation into his death. This followed a decision in the Court of Appeal in January in which it was found that the death had not been properly investigated.

Human rights abuses by non-state actors

During the reporting period, violence continued unabated. There were a number of killings, the majority of which was attributed to Loyalist paramilitaries. Members of armed groups were responsible

for so-called "punishment" and sectarian attacks.

Killings

A number of killings were carried out reportedly as a result of feuds among and within Loyalist paramilitary organizations. Roy Green, allegedly a member of the Ulster Defence Association (UDA), Northern Ireland's main Loyalist paramilitary group, was killed in early January reportedly because of his links with the leadership of a rival loyalist faction. John Gregg and Robert Arson were killed in February as part of a feud involving rival factions within the UDA. In May, Jim Johnston was killed after reportedly being suspected of involvement in the killing of a man from a rival loyalist faction. Alan McCullough's body was discovered early June – the 21-year-old had reportedly been missing for a week. The Ulster Freedom Fighters, a Loyalist paramilitary group, allegedly claimed responsibility for his killing as part of a lethal feud among Loyalist paramilitaries.

No armed group claimed responsibility for the killing in March of Keith Rogers. His death was reportedly attributed by the PSNI to a fall-out between two factions within the Irish Republican Army.

Attacks

A marked increase in so-called "punishment" attacks attributed to Republicans was reported representing a substantial shift in the pattern recorded over the last three years. According to figures published in the media, since January Republican groups carried out 48 paramilitary-style shootings and 28 beatings, while Loyalist groups carried out 59 paramilitary-style shootings and 59 beatings. Many of the victims were children.

In April, members of the Irish National Liberation Army – a dissident Republican group – were reportedly accused of a so-called "punishment" attack in which two boys, aged 14 and 15 respectively, were allegedly chained to a lamppost and covered in tar.

In May Gareth O'Connor, on bail on charges in the Republic of Ireland of belonging to the Real IRA -- a dissident Republican group -- went missing. His family expressed fears that he had been abducted by the IRA. However, the IRA has denied any responsibility. Neither his car nor his body has been found.

UKRAINE

Torture and ill-treatment

Torture and ill-treatment were among several concerns highlighted in the annual report of the National Human Rights Ombudsperson, Nina Karpachova, on the situation of human rights in Ukraine. The annual report was delivered to the Ukrainian parliament on 18 April. According to the National Human Rights Ombudsperson, in the previous two years around 12,000 individuals had alleged that they had been subjected to torture and ill-treatment, most commonly in the context of interrogation for the purpose of eliciting a forced "confession". She stated that detainees had been beaten by police officers, painfully suspended by their handcuffed hands, suffocated using plastic bags or gas masks and subjected to electro-shock torture. As a result many detainees had suffered serious injury and sometimes death.

These same concerns were also shared by the United Nations (UN) Special Rapporteur on torture, Theo van Boven. In the Report of the Special Rapporteur on the question of torture, published in February, the UN Special Rapporteur cited several cases of alleged torture and ill-treatment and drew attention to concerns expressed by the UN Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the UN Human Rights

Committee, which considered Ukraine's fourth and fifth periodic reports respectively in late 2001. The Special Rapporteur noted that the former treaty body had expressed concern about the "numerous instances indicating that torture is still being regularly practiced" in Ukraine and the "[f]ailure on the part of the authorities to carry out prompt, impartial and thorough investigations of such acts and to prosecute and punish those responsible". The Special Rapporteur similarly drew attention to the findings of the Human Rights Committee, which had expressed concern about "the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials".

The European Court of Human Rights

On 29 April the European Court of Human Rights ruled in favour of six men, who had been held as prisoners on death-row in various Ukrainian prisons and had filed complaints against Ukraine under various articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). In all six cases the Court found that their material conditions of detention had been so poor as to violate Article 3 of the ECHR, which states: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

In the case of *Poltoratskiy v. Ukraine* the European Court ruled that Ukraine had violated Article 3 of the ECHR on two accounts. Borislav Poltoratskiy, then aged 19, had been convicted of murder in December 1995 and sentenced to death. He was imprisoned at Ivano-Frankivsk Prison in conditions described by the Court as follows: "[U]ntil at earliest May 1998, the applicant, in common with other prisoners detained in the prison under a death sentence, was locked up for 24 hours a day in cells which offered only a very restricted living space, that the windows of the cells were covered with the consequence that there was no access to natural light, that there was no provision for outdoor exercise and that there was little or no opportunity for activities to occupy himself or for human contact." The Court also found that for one month in 1998 Borislav Poltoratskiy "… was detained in a cell where there was no water tap or washbasin but only a small pipe on the wall near the toilet, and where the water supply could only be turned on from the corridor, where the walls were covered with faeces and where the bucket for flushing the toilet had been taken away". The Court considered that the conditions of detention must have caused Borislav Poltoratskiy "considerable mental suffering, diminishing his human dignity". Similar conditions of detention, which violated Article 3 of the ECHR, were also found in the cases of *Kuznetsov v. Ukraine, Dankevich v. Ukraine, Aliev v. Ukraine, Khokhlich v. Ukraine* and *Nazarenko v. Ukraine*.

In the cases of *Poltoratskiy v*. *Ukraine* and *Kuznetsov v. Ukraine* the Court also found that Ukraine had violated Article 3 of the ECHR for failing to carry out effective investigations into allegations made by the men that they had been tortured and ill-treated by prison officials. Borislav Poltoratskiy had alleged that he was assaulted by prison staff on four separate occasions in September 1998. During one such incident on 2 September 1998 prison staff allegedly beat him on the legs, hips, back and chest with clubs, while on another occasion he was allegedly ordered out of his cell, told to undress and then beaten by prison officials. Although the Court could not establish "beyond reasonable doubt" that Borislav Poltoratskiy had been tortured and ill-treated in prison, it considered that the allegations had not been effectively investigated by the authorities, constituting a violation of Article 3 of the ECHR.

Freedom of expression

During its January part-session the Parliamentary Assembly of the Council of Europe adopted Recommendation 1589 (2003), *Freedom of expression in the media in Europe*. Concerns about press freedom in Ukraine persisted and featured repeatedly in Recommendation 1589 as an example of a country where press freedom was

violated. The Parliamentary Assembly, while noting that "[v]iolence continues to be a way of intimidating investigative journalists or of settling scores between rival political and economic groupings", expressed concern about acts of violence in a number of countries, including Ukraine. It also stated that it was "unacceptable that no substantial progress had been made in the investigation of crimes committed earlier, such as the murder of Heorhiy Gongadze in Ukraine and the disappearance of Dmitry Zavadsky in Belarus" (see below). It urged that substantial progress be made in the investigations into the deaths of the journalists and that the perpetrators of such crimes be punished.

The Parliamentary Assembly also noted that various forms of legal harassment, such as defamation suits or disproportionately high fines "that bring media outlets to the brink of extinction" continue to proliferate in several countries, including Ukraine. It stated that intimidation of the media also takes the form of police raids, tax inspections and other kinds of economic pressure. Both international human rights treaty bodies and international non-governmental organizations, which promote and defend press freedom, have previously expressed concern about such practices in Ukraine (see AI Index: EUR 50/001/2001 and EUR 01/002/2002).

The "disappearance" of Georgiy Gongadze (update to AI Index: EUR 01/007/2002 and EUR 50/001/2001)

Relatively little progress had been made in determining who was responsible for the "disappearance" of the independent journalist, 31-year-old Georgiy Gongadze, whose whereabouts became unknown late in the evening of 16 September 2000. On 12 March *Reporters Without Borders* announced that an expert examination of the body believed to be that of the missing journalist "is almost certainly" that of Georgiy Gongadze. The expert examination, commissioned by *Reporters Without Borders* at the request of the journalist's mother, Lesia Gongadze, and conducted by an independent team of experts from the Institute of Criminal Medicine in Lausanne, Switzerland, found "a statistical probability of more than 99.991 percent" that Lesia Gongadze is the mother of the decapitated man found in a shallow grave in the forest district of Tarashcha in early November 2000. It stated: "The material link between Lesia Gongadze and the corpse to be identified is therefore virtually proven." *Reporters Without Borders* also stated that a two-hour meeting with the Ukrainian Prosecutor General, Svyataslav Piskun, in March had revealed that the ongoing investigation into the "disappearance" was focusing on officials in the Ministry of the Interior.

On 6 May a court in Kyiv convicted a former prosecutor of Tarashcha district of abuse of office, where the decapitated body believed to be that of the missing journalist was found. Shevchenko District Court reportedly found that Sergey Obozov had obstructed the criminal investigation into the "disappearance" and had forged documents relating to the investigation. The court sentenced him to two-and-a-half years' imprisonment but then immediately amnestied him for family reasons.

UZBEKISTAN

Human rights defenders (update to AI Index: EUR 01/002/2003)

Despite the registration in March of the non-governmental human rights organization Ezgulik (Good Deeds) and the release in January of Yuldash Rasulov who worked with the unregistered Human Rights Society of Uzbekistan (OPCHU), human rights defenders continued to face harassment, intimidation, ill-treatment, detention and imprisonment.

Women human rights defenders

Two women, Larisa Vdovina and human rights defender Elena Urlaeva, who had been forcibly confined in a psychiatric hospital at the end of August 2002, were released on 22 January 2003 and 30

December 2002 respectively. Both women, however, faced court cases to consider their mental state. On 16 June the Mirzo-Ulugbek district civil court in Tashkent declared Larisa Vdovina mentally unsound. An appeal to Tashkent city court against the district court's decision remained pending at the end of June. Elena Urlaeva travelled to Moscow, Russian Federation, in March for an independent psychiatric assessment by the Independent Psychiatric Association of Russia. According to supporters of Elena Urlaeva the psychiatrists who examined her concluded that she could be held mentally responsible for her actions and that she was

Elena Urlaeva (left) ©AI

not in need of psychiatric treatment. Her court case remained pending at the end of June. AI believed that the two were targeted because of their human rights activities.

On 17 April Elena Urlaeva was detained by police on her way to a demonstration she had organized outside the Presidential Palace in Tashkent. During questioning she was reportedly threatened with renewed forcible confinement in a psychiatric hospital if she did not desist from organizing and participating in public protests.

On 4 May police detained Larisa Vdovina on her way to a peaceful protest to be held across the road from the building where the annual meeting of the European Bank for Reconstruction and Development (EBRD) was taking place. She was detained for several hours and reportedly questioned about the placard she was carrying and threatened with further legal action if she did not stop attending protest demonstrations.

Other human rights defenders also reported intimidation and harassment by law enforcement officials during and following the EBRD's Annual Meeting in Tashkent at the beginning of May. Although the Uzbek authorities complied with the EBRD's request to allow representatives of non-governmental organizations (NGOs) and secular opposition political parties to attend the meeting and address the delegates with their concerns about the human rights situation in Uzbekistan, law enforcement officers, including the National Security Service (SNB), were reported to have questioned human rights defenders about their presentations and to have threatened them with reprisals for their "negative" and "unpatriotic" views. Tamara Chikunova, the head of the unregistered NGO Mothers against the death penalty and torture, reported that she and other members of her organization were threatened by SNB officers following their contributions at the EBRD meeting. They were told for example that the NGO was "blacklisted" and that the SNB was awaiting orders to "eliminate" the organisation. SNB officers also tried to discredit the NGO by claiming that it was involved in prostitution. Tamara Chikunova and Dilobar Khudayberganova, a young member of the organisation and the sister of Iskander Khudayberganov, currently on death row awaiting execution, also received death threats.

Arrest of Ruslan Sharipov

Ruslan Sharipov, a correspondent with the Russian newsagency PRIMA and chairman of the unregistered human rights organization Grazhdanskoe sodeystvye (Civic Assistance) was detained by police on 26 May in Tashkent and charged with homosexuality, punishable by up to three years' imprisonment under Article 120 of the Uzbek Criminal Code.

He was later also charged under Article 127 (encouraging minors to commit antisocial behaviour) and Article 128 (having sexual relations with minors) of the Uzbek Criminal Code. Police interrogating him reportedly confronted him about several articles he had written on the subject of human rights violations in Uzbekistan, shouting at him and threatening him with rape and suffocation. He also claimed that he was beaten by police officers.

Ruslan Sharipov has published a number of articles about torture and ill-treatment by Uzbek law enforcement agencies and harassment of human rights activists, and has worked alongside several international human rights organizations. In 2001 and 2002, he was questioned by members of the Uzbek National Secret Service about his journalistic activities. He was detained in August 2001 and accused of membership of a terrorist organization.

It was feared that Ruslan Sharipov would be subjected to further ill-treatment and torture in detention, by both law enforcement officials and other prisoners because of his outspoken criticisms of local police officers and also because he is openly bisexual. AI was therefore concerned that a trial against him might not follow international standards of fair trial. His trial was set to start in July.

Update on imprisoned OPCHU members (update to AI Index: EUR 01/007/2002)

On 3 January OPCHU activist Yuldash Rasulov was released under an amnesty announced in December 2002. He had been sentenced in September 2002 to seven years' imprisonment for "religious extremism" and membership of the banned Islamist party Hizb-ut-Tahrir. There were strong indications that Yuldash Rasulov was imprisoned to punish him for his work with OPCHU.
However, four other OPCHU activists continued to serve their prison sentences. Dzhura Muradov (aged 37), chairman of Nishansky district branch of OPCHU in Kashkadarya region in southern Uzbekistan, as well as two members of the branch, Musulmonkul Khamraev and Norpulat Radzhapov (both aged 26), were sentenced to prison terms ranging from five to six years' in September 2002. The three were convicted on criminal charges, including "hooliganism" and "robbery". In January the Karakalpakstan Supreme Court reduced Tursinbay Utamuratov's sentence on appeal to four years. Tursinbay Utamuratov, the chairman of OPCHU's branch in Karakalpakstan Autonomous Republic, was sentenced to nine years' imprisonment in November 2002. According to OPCHU, the four men were punished for their human rights activities and their public criticism of local officials.

Possible prisoners of conscience

Detention of relatives of independent Islamic leader Obidkhon Nazarov (update to AI index: EUR 01/01/98, EUR 01/02/98, EUR 01/01/99 and EUR 01/02/99)

Abdumalik Nazarov, the youngest brother of imam Obidkhon Nazarov, in hiding since March 1998, was re-arrested in April after he was released at the beginning of the year under an amnesty declared in December 2002. According to unofficial sources Abdumalik Nazarov was detained at his eldest brother's house in Tashkent on 4 April by officers of the Tashkent city Internal Affairs Department (GUVD). Prior to his detention the officers had allegedly forced their way into the house and conducted an unsanctioned search. They also reportedly tried to detain one of his nephews, Khusniddin Nazarov, Obidkhon Nazarov's eldest son, but were prevented from taking him by the interference of neighbours. Instead they were said to have detained one of the neighbours, Shukhrat Khodzhaev and to have taken him and Adbumalik Nazarov to the Sobir Rahkimov district department of internal affairs (ROVD) in Tashkent. Abdumalik Nazarov was later transferred to the Tashkent GUVD and was believed to be still held there at the end of June. Relatives and supporters feared that Abdumalik Nazarov was being subjected to torture and ill-treatment to punish him for not revealing imam

Obidkhon Nazarov's whereabouts. There was also grave concern for the safety of Shukhrat Khodzhaev.

Abdumalik Nazarov had suffered torture and ill-treatment both in pre-trial detention in 1997 and 1998 and later in prison camps. He served five years in various prison camps after being sentenced to nine years' imprisonment by Fergana Regional court on narcotics charges in April 1998. AI was concerned that the drugs had been planted by law enforcement officers and that the charges were fabricated to punish Abdumalik Nazarov for his eldest brother's religious activities.

Another of imam Obidkhon Nazarov's brothers, Umarkhon Nazarov, continued to serve an 11-year sentence on allegedly fabricated charges in a prison camp in Karshi. He was sentenced together with Abdurashid Nasriddinov, the brother of Obidkhon Nazarov's wife, in May 1999 for "attempting to overthrow the constitutional order of Uzbekistan" following the February 1999 bomb explosions in Tashkent. Relatives of imam Obidkhon Nazarov who are not in prison also continued to be harassed by law enforcement officials. His mother reported that her house in Namangan and Obidkhon Nazarov's house in Tashkent were under surveillance and that frequent unsanctioned raids were conducted by law enforcement officers usually at night and usually after someone had visited the houses.

Detention of relatives and associates of exiled leader of the banned opposition Erk party, Muhammad Salih (update to AI Index: EUR 01/02/99, EUR 01/001/2000, EUR 01/003/2000, EUR 01/001/2001, EUR 01/003/2001)

In February Komil Bekzhon, older brother of Muhammad Salih, was released from prison under the December 2002 amnesty. He had been sentenced to 10 years' imprisonment on narcotics charges in June 1999. AI was concerned that the charges were fabricated to punish Komil Bekzhon for his relationship to Muhammad Salih and that he did not receive a fair trial. Komil Bekzhon had reportedly been held in solitary confinement for the first year of his prison sentence. He had also been subjected to torture and ill-treatment while in detention.

Muhammad Salih's other brothers, Muhammad and Rashid Bekzhon, did not fall under the December 2002 amnesty and continued to serve their sentences amid increasing concern for their health. They were sentenced to 15 and 12 years' imprisonment after an unfair trial in August 1999. AI was concerned at allegations that they were severely tortured in pre-trial detention in order to force them to confess to fabricated charges and to incriminate Muhammad Salih. The organization also received reports that they continued to be tortured and ill-treated in prison colonies following their verdicts and during transfers between prison colonies. In June, in an unprecedented move the Uzbek authorities granted a journalist from the international NGO the Institute for War and Peace Reporting (IWPR) an interview with Muhammad Bekzhon in the prison hospital in Tashkent to which he was transferred at the beginning of the year, suffering from tuberculosis. Muhammad Bekzhon told IWPR that since being sentenced in 1999 he had been detained in five different prison colonies and that he was tortured and ill-treated in all of them. In Yaslik colony he had been beaten every day and his leg was broken, but he was given no medical treatement. As a result of the constant beatings he also reported having lost the hearing in one of his ears.

Political prisoners

Trials of political prisoners continued and supporters and alleged supporters of the banned Islamic party Hizb-ut-Tahrir and members of independent Islamic congregations and their families, including women, continued to face imprisonment, detention and intimidation. The authorities continued to violently disperse peaceful protests organized by female relatives of imprisoned Hizb-ut-Tahrir members.

Harassment of female demonstrators

Female relatives of prisoners convicted for their affiliation or suspected affiliation with independent Islamic congregations or Hizb-ut-Tahrir organized dozens of peaceful demonstrations in several cities and towns in Uzbekistan to protest the conditions of detention and the ill-treatment and torture suffered by their male relatives. The reported numbers of those participating in the protests ranged from dozens to several hundred women and children. The majority of these protest demonstrations were reportedly broken up by law enforcement officers, often violently, with officers using force to detain or disperse the demonstrators. In some instances law enforcement officers were also reported to have demanded that the protestors sign pledges not to take part in further demonstrations.

On 7 May, for example, some 60 women and children gathered in Andizhan and started marching to the offices of the regional administration in the centre of town. Large numbers of law enforcement officers reportedly surrounded the marchers and tried to stop them by grabbing their hands and their headscarves. When the women refused to board buses commissioned by the police, law enforcement officers allegedly started beating and kicking them all the while swearing at them and dragging them by force, including by pulling their hair, into the buses.

Women's rights to fair trial violated

On 5 June Chilanzar District Court in Tashkent sentenced Malika Raimova to eight years' imprisonment on charges including "attempting to overthrow the constitutional order of Uzbekistan" and "being a member of a religious, extremist, separatist, fundamentalist or other prohibited organization". The court deferred Malika Raimova's sentence for one year because she was pregnant. Her three co-accused, Mukaddam Nigmanova, Saodat Nigmanova and Fatima Nigmanova received suspended three and two-year sentences. According to local human rights defenders the trial went ahead despite the accused not having defence lawyers. The court reportedly also failed to take into consideration allegations by Malika Raimova and Mukaddam Nigmanova of ill-treatment and torture by law enforcement officers in pre-trial detention. The charges against the women related to Hizb-ut-Tahrir leaflets reportedly smuggled by Malika Raimova to Mukaddam Nigmanova's husband during a prison visit. In March Malika Raimova had gone to Karshi to visit her husband, Husnuddin Inagamov, in prison on charges of belonging to Hizb-ut-Tahrir. She had reportedly promised to hand over a letter for Mukaddam Nigmanova's husband, who is also serving a sentence on charges of belonging to Hizb-ut-Tahrir at the same prison colony. Prison officials alleged that Malika Raimova had concealed Hizb-ut-Tahrir leaflets in the letter, a charge she consistently denied. She was detained for eight days in Karshi, four of which she spent in solitary confinement in an unheated cell in sub-zero temperatures despite having told the police officers that she was pregnant. Mukaddam Nigmanova reportedly told the court that she was ill-treated by police officers during pre-trial detention, including by being deprived of sleep and by being threatened with rape.

Conditions of detention for Muslim women prisoners (update to AI Index: EUR 01/003/2001, EUR 01/002/2002 and EUR 01/007/2002)

In April and May a group of Muslim women serving prison sentences on charges including "attempting to overthrow the constitutional order of Uzbekistan" and "being a member of a religious, extremist, separatist, fundamentalist or other prohibited organization" described their conditions of detention in Tashkent women's prison KIN-7 (64/7) in open letters addressed to the Minister of Internal Affairs of Uzbekistan and the president of the EBRD. Among the 24 signatories were possible prisoner of conscience Rahima Akhmadalieva, who was sentenced to seven years' imprisonment on allegedly fabricated charges in September 2001 and Nargiza Usmanova who was sentenced to four

years' imprisonment in April 2002. In the letters the women alleged that they were not allowed to wear their headscarves in prison nor to perform their prayers. They complained that prisoners sentenced under Article 159 of the Uzbek Criminal Code (Infringement of the Constitutional System) were singled out for particularly harsh treatment and were forced to work regardless of their physical conditions. Prison authorities would reportedly regularly punish them for infringements of the prison regime, such as praying or lying down on a bunk bed if they did not feel well, which disqualified them from falling under the annual presidential amnesties.

United Nations (UN) Special Rapporteur on torture

In February the UN Special Rapporteur on torture issued a report on the findings of his visit to Uzbekistan from 24 November to 6 December 2002. At the end of his visit he had declared that torture was "systematic" in Uzbekistan and that "many confessions obtained through torture and other illegal means were then used as evidence in trials, [including] in trials that are leading to the death penalty or to very severe punishment". The report reiterated that "the Special Rapporteur believes, on the basis of the numerous testimonies he received during the mission, that torture or similar ill-treatment is systematic." The report also noted that the "Special Rapporteur has no doubt that the system of torture is condoned, if not encouraged, at the level of the heads of the places of detention where it takes place…If the top leadership of these forces and those politically responsible above them do not know of the existence of a system which the Special Rapporteur's delegation was able to discover in a few days, it can only be because of a lack of a desire to know." In March the Uzbek authorities refuted this claim and the French news agency AFP quoted a presidential advisor as saying that "torture is not systemic (in Uzbekistan), and the report contains a number of mistakes." The report made a number of recommendations, among them, "first and foremost, [that] the highest authorities need to publicly condemn torture in all its forms", a recommendation President Karimov had promised to implement personally when he was asked by the president of the EBRD to condemn torture in his speech to the bank's annual meeting in Tashkent at the beginning of May. However, he failed to do so and reportedly pointedly refused to listen to the speech of the EBRD president when he mentioned the bank's concerns about human rights violations in Uzbekistan.

In his report the UN Special Rapporteur on torture also raised serious concern about the death penalty (see below) in Uzbekistan. He stated that "the abolition of the death penalty would be a positive step towards respect for the prohibition of torture and other forms of ill-treatment." He also deplored what "appears to be a lack of appropriate consideration of, and action in relation to, requests [by the United Nations Human Rights Committee] on behalf of individuals at risk of torture or even of execution, or who have been victims of acts of torture". The UN Special Rapporteur on torture labelled the treatment of the relatives of prisoners on death row in Uzbekistan as "malicious and amounting to cruel and inhuman treatment." According to him, the "complete secrecy surrounding the date of execution, the absence of any formal notification prior to and after the execution and the refusal to hand over the body for burial are believed to be intentional acts, fully mindful of causing family members turmoil, fear and anguish over the fate of their loved one(s)." He recommended to the authorities that "relatives of persons sentenced to death should be treated in a humane manner with a view to avoiding their unnecessary suffering due to the secrecy and uncertainty surrounding capital cases."

The Special Rapporteur's report also included the recommendation to "…give urgent consideration to closing Jaslyk [Yaslik] colony, which by its very location creates conditions of detention amounting to cruel, inhuman and degrading treatment or punishment for both its inmates and their relatives." Human rights

organizations, including AI, have reported dozens of deaths in custody in suspicious circumstances since Yaslik was opened in 1999.

Torture and deaths in custody

There were continuing reports of torture and ill-treatment in pre-trial detention and places of imprisonment as well as allegations that many such reports were not promptly and impartially investigated. At least two men died in custody in suspicious circumstances in the period under review. For example, the body of Orif Ershanov, a 37-year-old father of four from Tashkent, was returned to his family in Karshi on 16 May where he had reportedly been detained earlier by SNB officers on suspicion of being a member of Hizb-ut-Tahrir. Eyewitnesses interviewed by Human Rights Watch in Tashkent said that Orif Ershanov's corpse showed signs of heavy bruising to the arms, shoulders, upper chest, legs and soles of the feet. There were reportedly also open wounds to one arm and his back, and several ribs were broken. The authorities reportedly told the family that he became ill while in SNB custody in Karshi and that he died of natural causes in the local hospital on 15 May. The family was reportedly questioned for several hours about Orif Ershanov's activities before the SNB released his body. SNB officers claimed to have found 1,500 Hizb-ut-Tahrir leaflets on Orif Ershanov. They did not return his clothes and they did not give the family a death certificate. SNB officers were reportedly present at Orif Ershanov's funeral.

At the beginning of May prison officials informed the family of another prisoner that he had unexpectedly died of a heart attack. However, the body of Otamaza Gafarov who had served a seven-year sentence on allegedly fabricated charges of stealing state property and who was due to be released in September from Chirchik prison camp, reportedly showed signs of torture. Family members who prepared the body for burial described a large wound to his head as well as bruising to the back of his head.

The death penalty

Authorities disregard the UN Human Rights Committee

Ilkhom Babazhanov, Maksud Ismailov, Azamat Uteev, and Muzaffar Mirzayev were executed in the period under review despite interventions on their behalf by the United Nations Human Rights Committee (HRC) urging the authorities to stay the executions while the cases were under consideration by the Committee. In his February report (see above) the Special Rapporteur on torture criticized the authorities for their failure to act appropriately on interventions by the HRC.

AI was concerned that no government agency appeared to coordinate government response to HRC interventions and had sufficient powers to ensure adherence to the requirements of the Committee's interventions. In addition, the organization was concerned at statements made by officials at meetings with AI delegates in June that indicated disregard for the supremacy of international law over domestic law despite Uzbekistan's commitment to uphold a number of major international human rights treaties.

By ratifying the Optional Protocol to the International Covenant on Civil and Political Rights in September 1995, Uzbekistan recognized the competence of the HRC to consider communications from individuals subject to Uzbekistan's jurisdiction who claim to be victims of violations of rights set out in the Covenant. By failing to consistently adhere to its commitments as a party to the Optional Protocol, Uzbekistan has deprived its citizens of this crucial mechanism to seek redress in cases where a death row prisoner allegedly fell victim to the flaws of Uzbekistan's criminal justice system.

Mental illness ignored

There were strong indications that Abror Isaev, currently on death row, became mentally disturbed following his trial. The authorities have appeared to ignore

allegations in this regard, in contravention of domestic law and international standards meeting re follow up to work on EU PEST national standards.[21]
The 19-year-old man was sentenced to death by Tashkent Regional Court on 23 December 2002 after being convicted of killing two people in May 2002. He had gone to the police of his own accord in May 2002 as a potential witness, but was reportedly detained and beaten for a week to make him 'confess' to the crime. He consistently maintained his innocence. Co-defendant Nodirbek Karimov, who admitted involvement in the killing, was also sentenced to death and two further co-defendants were sentenced to prison terms of 12 and 20 years' imprisonment respectively. Nodirbek Karimov also alleged ill-treatment in pre-trial detention. The HRC urged the authorities of Uzbekistan in February 2003 to stay the executions of the two men while their case was being considered by the Committee.

When Abror Isaev's mother visited her son in Tashkent prison on 3 April 2003, he was extremely pale and shivering. "Abror was completely beside himself. He whispered to me that the prison guards had told him right before the visit that they were taking him to be shot… When I visited him in May I knocked at the glass screen between us and dangled a thread in front of his eyes, but his eyes did not follow. I said 'It is mama', but he did not recognize me. He was humming and had his eyes fixed on the ceiling." Guards told her that her son had not spoken to anyone for two weeks. When she urged a prison doctor to treat him, he reportedly said that her son was just pretending. After complaints, Abror Isaev's mother received a letter from Erkin Kamilov, the director of Tashkent prison, where death row prisoners are kept. He wrote: "At the moment he does not speak, he whistles all the time and wants to explain something by doing so. [However], he understands the questions being asked of him." In June 2003 a Ministry of Interior official wrote to the family: "Your son receives medical treatment and his state of health is satisfactory."

[21] For example, the UN Economic and Social Council has resolved that states retaining the death penalty must "[eliminate] the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution." (Resolution 1989/64, 24 May 1989). In its April 2003 resolution the UN Commission on Human Rights reiterated its conviction that those countries that retain the death penalty must "not…impose the death penalty on a person suffering from any form of mental disorder or to execute any such person" (Resolution 2003/67). The Criminal Code of Uzbekistan also prohibits passing or carrying out a death sentence on someone who is mentally disturbed.