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AMNESTY INTERNATIONAL CONCERNS IN WESTERN EUROPE

May 1990 - October 1990

This bulletin describes matters of concern to Amnesty International in Western Europe and major initiatives undertaken by the organization in the region during the period May 1990 - October 1990. This time period is, however, flexible because of the need to report developments which extend over a long period of time.

ANDORRA

1. Abolition of the Death Penalty

Andorra has become the world's 42nd country to abolish the death penalty for all crimes as a result of the entry into force on 1 September 1990 of a penal code, the country's first. This makes no provision for the death penalty. Previously justice was administered by a court using the law of custom - an unwritten system of justice for penal matters based on Roman, Catalan, Canon, Spanish and Napoleonic law.

The death penalty has been applied only once this century, in 1943 when a citizen convicted of the murder of his two brothers was shot by firing-squad.

AUSTRIA

1. Ill-treatment of People Held in Police Custody

Amnesty International continues to receive reports of the ill-treatment of detainees held in police custody.

a) D.D.. (full name cannot be given for reasons of confidentiality)

A Yugoslav citizen D.D., 18 years old at the time of his arrest, was detained by police officers from the Himberg police station (Gendarmerieposten) on 16 January 1990 on suspicion of attempted theft. He was taken to Himberg police station where he was interrogated by police officers from Himberg and Lower Austria.

D.D. alleges that five or six police officers made him undress completely, secured his hands behind his back, pushed sharp objects underneath his fingernails, burned him with a lighted cigarette and beat his genitals with a ruler. He alleges that this treatment lasted from between 6pm and 7pm until "late at night" and that other police officers who did not take a direct part in the alleged torture watched and imitated his cries of pain.

As a result of the alleged torture D.D. agreed to sign a confession in which he inculpated himself and two friends of a number of break-ins and attempted thefts. His two friends also signed confessions after allegedly being told by D.D. that they would suffer the same treatment if they did not sign.

On 18 January 1990 D.D. was handed over to the custody of the Vienna Juvenile Court (Jugendgerichtshof Wien). The following day he was questioned by an investigating judge who noticed signs of injury on D.D.'s body and ordered that he be medically examined. The examination was carried out the same day by two doctors from the Institute of Forensic Medicine of Vienna University. The examination established six marks of second to third degree skin burns on the left side of D.D.'s back. On the second and fourth fingers of his left hand signs of bleeding beneath the nails were established. A bruise and swelling were found on the penis, which were considered by the examining doctors to be the effects of being beaten with a blunt instrument ("die Blutunterlaufung und Schwellung an der Rückseite des Gliedes sind auf eine stumpfe Gewalteinwirkung uncharakteristischer Art zurückzuführen"). The examination also established scratch marks on the centre of the chest. The doctors found that the injuries were at least three days old and could have occurred during the time D.D. was held in police custody. Later (at D.D.'s trial) police officers stated that D.D. had not been injured when they arrested him.

During D.D.'s trial, at the Vienna Juvenile Court on 9 and 30 May 1990, all the police officers involved in the accused's interrogation denied having ill-treated D.D. in any way. The court did not accept the validity of the confession signed by D.D.

because it regarded the allegations of torture as a "possibility [which] could not be excluded". Consequently, it also refused to accept the validity of the confessions signed by D.D.'s two friends. As there was no evidence apart from the confessions, D.D. was only convicted of those offences to which he admitted in open court and his two friends were acquitted. This is the first occasion known to Amnesty International in recent years that an Austrian court has declined to admit evidence possibly coerced through torture. The court also found that D.D. had been forced to remain naked for a period "much longer than that necessary to conduct a search of him or his clothing".

The Vienna Juvenile Court also declined to accept the Public Procurator's application to extend the indictment to include the accusation that D.D. had committed the offence of "defamation" (under Article 297 of the Penal Code) by making the allegations of torture. The Public Procurator was given leave to pursue this accusation by means of separate proceedings, should he wish to do so. Amnesty International believes that the common practice of prosecuting complainants in Austria under this Article of the Penal Code may amount to "intimidation" and thus be contrary to Article 13 of the UN Convention against Torture which asks the relevant authorities to "ensure that the complainant . . . [be] protected against all ill-treatment or intimidation as a consequence of his complaint . . . "

The Vienna Public Procurator has investigated D.D.'s allegations of torture. Amnesty International has written to the Austrian authorities asking to be informed of the outcome of the investigation and inquiring whether the Public Procurator intends to prosecute D.D. for "defamation".

b) Karoline O. (full name cannot be given for reasons of confidentiality)

The information on this case is based on several newspaper articles which appeared in Austrian newspapers during July and August 1990.

According to the articles, on 27 May 1990 19-year-old Karoline O. was detained by two police officers and taken to the Karlsplatz police post (Wachzimmer) in Vienna. She says that she was asked to undress and was forced to have oral sex with two police officers. A third police officer, who knew that Karoline O. was being sexually assaulted, did not intervene to stop it. Reportedly, he later admitted to police officers carrying out an investigation into the incident that the sexual abuse had in fact taken place. Karoline O., who is homeless and addicted to drugs, says that she was given drugs (in the form of tablets) as a "reward" by the police officers.

On 26 June Karoline O. made an official complaint about the incident at the police station. According to the newspaper reports, the two police officers involved have been suspended and could be dismissed from the police force, while the third police officer faces disciplinary charges.

Amnesty International has written to the authorities inquiring about the final result of the investigation and about the measures taken against the police officers concerned.

c) Helmut Lang

Helmut Lang had made a criminal complaint to the Eisenstadt Public Procurator, and sent written complaints to the Constitutional Court and the Interior Ministry about ill-treatment during his detention in Kohfidisch police station (Gendarmerieposten) in January 1990 (see AI Index: EUR 03/01/90). Helmut Lang alleged that he was beaten by police officers in order to coerce a confession.

The Austrian Government informed Amnesty International in August that the Public Procurator had stated that Helmut Lang's complaint was not substantiated and could even be partly refuted. However, the government did not give the basis for the Public Procurator's decision.

d) Correspondence between the Austrian Government and Amnesty International

Amnesty International has corresponded extensively with the Austrian Government about the issue of ill-treatment in Austria. The exchange of letters concerned both the judicial investigation into individual cases mentioned in the Amnesty International report published in January 1990, Austria: Torture and Ill-treatment (AI Index: EUR 13/01/89) as well the rules of procedure and practices affecting detainees.

What follows are the main points put forward by the Austrian Government in a number of letters sent to Amnesty International in the period of May to October 1990.

According to the Austrian Government:

- the measures to combat ill-treatment, announced by the Austrian Minister of the Interior have been implemented. These measures include improved training of police officers on issues such as human rights and fundamental freedoms, unannounced visits by police doctors to police stations to make on-the-spot examinations of detainees, the distribution to every detainee of a paper outlining the detainee's rights, and the setting up of an expert group to examine further proposals to prevent ill-treatment;

- it is the exception rather than the rule that counter complaints, such as "defamation" are lodged by the police and that subsequent judicial proceedings are initiated against those detainees who make a criminal complaint about ill-treatment in police custody. Nobody can prevent the police officer in question from lodging a criminal complaint with the Public Procurator. Defamation is a criminal act which has to be prosecuted ex officio

by the Public Procurator independent of any proceedings conducted by the security forces;

- the government does not keep statistics on the number of cases in which criminal proceedings for defamation have been initiated. However, the government has answered a number of parliamentary questions on this subject. The government said it is clearly in the minority of cases that such proceedings are commenced and that they seldom lead to convictions;

- the government does keep statistics about the number of complaints made by detainees about ill-treatment;

- of the 13 cases mentioned in the Amnesty International report of January 1990, seven have not been substantiated. In one case a police officer was fined, and in another a verdict concerning a police officer concerned was expected. In a further case, four police officers have been indicted;

- the particularly serious allegations in the Amnesty International report, such as suffocation with plastic bags and electric shocks, have not been substantiated;

In its correspondence with the Austrian Government Amnesty International said it welcomed the improvements announced by the government to the procedures for investigating complaints about police ill-treatment. However, the organization said that such improvements will not be fully effective if would-be complainants continue to be dissuaded from making complaints through fear of being charged with a criminal offence such as defamation.

In this context the organization asked the government to bring Principle 33 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment to the attention of the expert commission set up by the Interior Minister to examine proposals on ways of preventing ill-treatment. Paragraph 3 of Principle 33 states that "confidentiality concerning. . .the complaint [about ill-treatment] shall be maintained if so requested by the complainant". Amnesty International pointed out that this paragraph is essentially to protect prisoners from intimidation arising from the making of a complaint, and that someone making a complaint from a state of liberty about ill-treatment during a previous detention (as is usually the case in Austria), might not need the same degree of protection as a prisoner. However the principle reflects the fact that confidentiality is recognized as one means of taking steps, as required by Article 13 of the United Nations Convention against Torture, to protect complainants from intimidation.

Amnesty International raised the point of confidentiality in connection with its call to the government to set up an effective complaints mechanism, providing a prompt, thorough and impartial investigation and an enforcable right to fair and adequate compensation.

The organization also asked if the government intended to publish statistics on complaints of police ill-treatment on a regular basis.

Amnesty International furthermore responded to the government's statement that Amnesty International's particularly serious allegations of ill-treatment in the report, for example the suffocation of detainees, had not been substantiated. In this connection Amnesty International asked the government to confirm if the head of the Special Branch and his deputy had been correctly quoted in the newspaper Der Standard of 15 January 1990, as saying that they had given instructions that there should be "an end to beatings during interrogations" and that "the water bucket should not be used".

Amnesty International sought clarification from the government about a number of factual points relating to three individual cases mentioned in the Amnesty International report of January 1990.

2. Conscientious Objection to Military Service

a) Martin Dengscherz

Martin Dengscherz, a 25 year-old electrician from Vienna, is currently in investigative detention for refusing to perform military service.

On 16 April 1987 Martin Dengscherz applied to the Vienna Alternative Service Commission. In his written and oral submission he stated that it was his belief that each person is a unique human being who cannot be exchanged at random with another. Martin Dengscherz said that it would cause a great conflict of conscience for him either to participate in preparations to kill someone or to commit the act of killing.

On 29 July 1987 The Vienna Alternative Service Commission turned down his application to perform alternative civilian service, stating that Martin Dengscherz had not been able to persuade them that to perform military service would create a severe conflict of conscience for him. The Commission said that his references to the fact that he would experience a great conflict of conscience if he had to kill someone, were too superficial to be considered profound conscientious grounds, as required by the law on alternative service.

On 18 September 1987 Martin Dengscherz appealed against this decision to the Vienna Higher Alternative Service Commission, restating his beliefs, but his appeal was turned down on similar grounds.

Martin Dengscherz was told to report to the Wallenstein-Kaserne (Wallenstein Barracks) in Götzendorf on 1 October 1990. He refused to put on a military uniform and take

up arms and was subsequently taken into investigative detention. On 18 October he was given a suspended sentence of two weeks for refusing to obey military orders under the Military Penal Code (Militärstrafgesetz). At the end of the court hearing he was taken back to the barracks and refused again to do military duties. He was once more taken into investigative detention and is expected to stand trial. He could face a term of imprisonment of up to two years.

Amnesty International believes that the right to refuse military service for reasons of conscience is inherent in the notion of freedom of thought, conscience and religion as laid down by Article 9 of the European Convention on Human Rights and Article 18 of the International Covenant on Civil and Political Rights, both ratified by Austria.

Amnesty International considers imprisoned conscientious objectors to be prisoners of conscience if (inter alia) they are prepared to undertake alternative service and have stated to the decision-making authorities the reasons for their conscientious objection. Amnesty International has adopted Martin Dengscherz as a prisoner of conscience and has called on the Austrian authorities to grant his immediate and unconditional release.

b) Christian Schwarz

On 3 July 1990 Christian Schwarz was released from the district prison of Wiener Neustadt after serving a three-month sentence for refusing to perform military service on religious and pacifist grounds. He had applied to do alternative civilian service but both his application and his appeal were rejected. In explaining their reason for rejecting his application, the Vienna Higher Alternative Service Commission said that performing military service would not cause a serious conflict of conscience for Christian Schwarz and that he had not presented his convictions in a credible manner.

Amnesty International had adopted Christian Schwarz as a prisoner of conscience. Groups in the Netherlands, Belgium and the Federal Republic of Germany had appealed to the Austrian authorities for his immediate and unconditional release.

Men in Austria between the ages of 18 and 35 are liable for call-up into the army, and military service lasts eight months. Since January 1975, there has been provision for conscientious objectors in Austria to perform alternative civilian service outside the army instead of military service. It normally lasts eight months. The provisions for alternative service are set forth in Article 2 (1) of the Law on Alternative Service (Zivildienstgesetz). Applicants for recognition as a conscientious objector must demonstrate to the Alternative Service Commission that, apart from cases of personal defence or assistance in an emergency, they reject the use of force of arms against another person for serious reasons of conscience and that they

would thus experience a severe conflict of conscience by performing military service.

BELGIUM

1. Signature of International Human Rights Instrument Relating to the Death Penalty

On 12 July 1990 Belgium signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first treaty of worldwide scope aimed at the abolition of the death penalty, which was adopted by the General Assembly of the United Nations on 15 December 1989.

CYPRUS

1. Conscientious Objection to Military Service

Jehovah's Witnesses continued to be imprisoned for their conscientious objection to military service or reservist exercises. Between May and October Amnesty International adopted as prisoners of conscience some 20 conscientious objectors.

Usually conscientious objectors to military service were given prison sentences of between three and six months and those who refused to perform reservist exercises were sentenced to between several weeks and four months.

On 13 September conscientious objector Georgios Anastasi Petrou was sentenced to three months' imprisonment by Nicosia Military Court, his second term of imprisonment this year for refusing to perform reservist exercises. He had served a two-month prison sentence from 17 January. Georgios Anastasi Petrou had also served a 12-month prison sentence for his refusal to perform military service between May 1984 and May 1985. Charalampou Antoni Charalampous, who served a 12-month prison sentence between 1983 and 1984 for his refusal to perform military service, was sentenced to a further six months' imprisonment for the same offence on 27 July.

Another conscientious objector, Antonis Kyriakou Damianou, was sentenced to two months' imprisonment on 13 July for refusing to perform military service. Antonis Kyriakou Damianou had been certified as physically unfit by his doctor to perform military service after undergoing three operations for severe colitis, during which he had his colon removed. Amnesty International understands that normally in such a case, a conscript would be exempted from having to perform military service altogether. However, since Antonis Kyriakou Damianou refused to enlist on conscientious grounds, he was not given the opportunity to be examined by a military doctor.

On 1 October, Independence Day, five imprisoned conscientious objectors were amnestied by President Vassiliou. It is not known whether they will be called up again.

In July President Vassiliou informed Amnesty International that he had been assured that draft legislation recognizing the right to conscientious objection for the first time in Cyprus would be debated by the House of Representatives before the end of the year. The draft legislation providing for alternative service for conscientious objectors was first submitted to the House of Representatives in September 1988. It proposed a three-year unarmed military service within the military sphere in a force indirectly connected with military operations, almost one and a half times as long as ordinary military service, which generally lasts for 26 months, and a four-year military service outside the military sphere in a Civil Defence Force or a social service, almost twice as long as military service and hence apparently punitive

in character and intent. In September Amnesty International wrote to the Cypriot Government welcoming the fact that the legislation would recognize for the first time in Cyprus the right to conscientious objection. However, it once again expressed concern about the punitive length of the proposed service and the fact that conscientious objectors are defined in the draft legislation as those who invoke "reasons of religious conviction", so conscientious objectors on ethical, moral, humanitarian, philosophical, political or similar motives would not be included. Amnesty International also queried whether provision will be made for conscientious objectors to reservist exercises and sought clarification about the exact nature of the service envisaged. It queried whether the service provided for by the draft legislation would be of a purely civilian character. Paragraph (3)(a) of the proposed legislation states that:

"unarmed military service without a military uniform and outside the military sphere means military service without the obligation to carry arms or wear a military uniform in social service or within the National Civil Defence Force."

Paragraph (4) states that a conscientious objector is placed either in social service or within the Civil Defence Force, or, according to the situation, within a service in a force not directly connected to the conduct of military operations, on the basis of a decision of the Minister of Defence, who is also responsible for determining the necessary details of such a service.

It is not entirely clear from paragraph (4) whether or not the "social service" mentioned in paragraph (3) is of a purely civilian character and under civilian control. Furthermore the wording of paragraph (4) calls into question whether a conscientious objector would have the right to choose for himself to serve in the social service and seems to suggest that he may be placed without consultation by the Ministry of Defence in a Civil Defence Force.

In the same letter, Amnesty International asked the Cypriot Government to clarify what types of work are envisaged by "social service", whether these would come under the control of the military authorities and whether a conscientious objector would be able to choose in which of the services described in paragraph 4 he served.

Amnesty International pointed out that if conscientious objectors are not free to opt for alternative service which is completely outside military control and of a completely civilian character, it is probable that many of them will find the type of alternative service offered to them unacceptable and will therefore continue to face terms of imprisonment for their refusal to perform either military service or alternative service. Such objectors would still be considered prisoners of conscience by Amnesty International.

The Government of Cyprus has reserved the right to comply or not with Paragraph 9 of Council of Europe Committee of Ministers Recommendation No. R (87) 8 (Regarding Conscientious Objection to Compulsory Military Service). This paragraph recommends that alternative service "shall be in principle civilian". Amnesty International urged the Cypriot Government to accept the terms of the Recommendation in full and amend the draft legislation to bring it fully into line with the provisions of this recommendation and to take into account the organization's concerns and amend the draft legislation before it was voted on by the Cypriot parliament.

Throughout the period under review Amnesty International appealed to the Cypriot Government repeatedly for the release of all imprisoned conscientious objectors as prisoners of conscience.

DENMARK

1. Detention of Asylum-seekers

In September 1988 an article was published in the newsletter of the Danish Section of Amnesty International making serious allegations about various aspects of detention of asylum-seekers in Copenhagen prisons. The authors of the article, prison nurses Lars Peterson and Lars Wiinblad, stated that asylum-seekers were being detained with criminals and that many of them spent 90% of their time in cells. They alleged that some asylum-seekers were subjected to racist insults and were beaten by prison officers. They reported the existence of special cells in which prison inmates were strapped down and where bright lights were left on continuously. The article described an instance of an asylum-seeker being strapped to a bed so tightly that he could not reach the call button.

Following the publication of the article the Danish Parliament decided to end the imprisonment of asylum-seekers and move them to a special centre for refugees at Sandholm. The asylum-seekers would be moved to Copenhagen prisons only when the Sandholm camp is overcrowded.

The Danish Union of Prison Officers sued the two former nurses for making allegedly defamatory statements in their article. The hearing took place in January and February 1990. Amnesty International sent an observer to the trial to collect the information presented to the court about the allegations of ill-treatment of detainees. On 2 April the judge ruled that four out of the five complaints made by the Prison Officers' union were not justified. These four points covered the nurses' allegations of racist abuse, ill-treatment and forcible restraint of prisoners. The nurses were given a fine for the fifth point which was an allegation of severe beating of one refugee. The judge ruled that the nurses' unqualified statement on that point, although made in good faith, was unjustified. The judge stated in her summary:

"In reaching a decision as to the unlawfulness of the statements the Court has finally considered the aforesaid importance of protecting the free exchange of views of matters which, like the one at issue, are of great public importance, where on the evidence the criticism voiced by the defendants can even be deemed to have contributed towards a hastening of the endeavours to find an alternative form of detaining asylum-seekers. On an overall evaluation the Court accordingly finds that the defendants have not exceeded the limits of what it is justified to say in the given context."

In May Amnesty International asked the Danish Government whether it had initiated an independent inquiry into the allegations concerning the treatment of detained asylum-seekers and whether it had taken steps to ensure that such people would not in future be subjected to ill-treatment.

The government replied in August, stating that it had taken a number of initiatives. In May 1990 the Minister of Justice paid a visit to one of Copenhagen's prisons to look into the conditions and to discuss the situation with the prison management and inmates. His proposed recommendations included new and extended training of the prison officers in dealing with foreign inmates; changes of the prison structure to create closer relationships between prison officers and inmates; renovation of the Copenhagen prisons and a mechanism to interview inmates who were punished for violent behaviour by solitary confinement, to obtain their version of the incident.

In September Amnesty International wrote to the Minister of Justice welcoming the initiatives and expressing the hope that the proposed recommendations would ensure full protection for detained asylum-seekers in Denmark against all forms of ill-treatment. The organization asked to be kept informed about the implementation of the recommendations. Amnesty International also welcomed the initiation by the government of an independent judicial inquiry into the allegations concerning the treatment of asylum-seekers.

2. Allegations of ill-treatment in custody

In October Amnesty International wrote to the Danish Government about its concerns in relation to the case of Himid Hassan Juma, a Tanzanian national, who was allegedly beaten by guards at the prison of Copenhagen Central Police Station during his detention there on 19-20 September 1990. Himid Hassan Juma was visiting Denmark as a tourist when he was detained by the police on 19 September on suspicion of possessing a false passport. Himid Hassan Juma claims that he was subsequently placed in custody at Copenhagen Central Police Station, where he was reportedly assaulted by a police officer and then beaten with fists and leather straps by at least six prison guards. On 20 September Himid Hassan Juma was released into the care of a friend living in Denmark. After his release Himid Hassan Juma spent 24 hours in hospital, where he was treated for broken ribs and a ruptured spleen allegedly sustained as the result of the beatings. Amnesty International understands that the Danish police have refused to investigate the case, preferring to leave the matter for an internal investigation by prison authorities. Himid Hassan Juma's lawyer has filed a complaint with a district attorney.

Amnesty International urged the Danish government to initiate a prompt and thorough investigation into this matter, and to make the results of the inquiry public.

FINLAND

1. Conscientious Objection to Military Service

Amnesty International remains concerned about the cases of several people who were sentenced to imprisonment in connection with their refusal to do military service on conscientious grounds. Amnesty International considers that the length of alternative service for conscientious objectors to military service (currently twice the length of ordinary military service), under the 1987 temporary law on alternative service, could be deemed a punishment for the non-violent expression of conscientious objectors' beliefs. The organization therefore considers those conscientious objectors in Finland who are refusing to perform the 16-month alternative service to be prisoners of conscience.

Two prisoners of conscience adopted by Amnesty International, Mauri Robert Ryomä and Timo Kinnunen, participated in a hunger strike along with two other imprisoned conscientious objectors in April-May 1990 (see AI Index: EUR 03/01/90). Their strike was aimed in part at drawing attention to the punitive length of alternative service under the 1987 law. The four hunger-strikers' action was part of a larger national strike of those doing alternative service in April-May. Approximately 120 individuals doing alternative service withdrew their labour for four weeks until the government appeared prepared to agree to meet their demands. On 18 May the Labour Ministry announced that the new legislation on conscientious objection then being prepared would reduce both the length of civilian service and the length of prison sentences presently given to total objectors. The strikers returned to work the following day. Amnesty International issued an urgent appeal on behalf of Mauri Robert Ryomä and Timo Kinnunen on 10 May, calling on the government to release the two men immediately and to guarantee them adequate medical care. On 31 May, the Finnish President granted a pardon to two of the hunger-strikers and reduced the prison sentence of prisoner of conscience Mauri Robert Ryomä. This last action made possible Mauri Robert Ryomä's release from imprisonment shortly thereafter.

Prisoner of conscience Timo Kinnunen had been forced to end his hunger strike on 18 May, as a result of his deteriorating health. He was subsequently returned to his work camp to resume his sentence, and was not included in the presidential pardon of 31 May accorded to two of the other hunger-strikers. Neither did he receive a reduction in his sentence. His appeal to have this decision reversed was rejected on 15 June. In a letter of 14 August to the Finnish President, Amnesty International expressed its concern that Timo Kinnunen had not received a pardon or reduction of sentence - despite the similarity of his case to those of the other three hunger-strikers.

The temporary law on alternative service, which became effective at the start of 1987, was to be given a trial period of five years. Before its expiry in 1992, a review of the law and its success in application was to be carried out. In February 1989

the Ministry of Defence set up a working group to review the 1987 temporary law and to consider alterations to be made in the drafting of a permanent act to succeed it in 1992. The working group was composed of representatives of the Ministries of Defence, Labour, and Justice, as well as members of the General Staff. The working group's report, published in February 1990, revealed that a majority of its members were of the opinion that the length of alternative service should be approximately 14 to 16 months. The minority opinion, held by representatives from the Ministries of Justice and Labour, favoured an alternative service of 11 to 12 months. The majority of the group argued that an alternative service of substantially longer length than ordinary military service was necessary in order to provide an adequate test of the sincerity of the objector's convictions in the absence of the examination boards. They also argued that some discrepancy between the length of alternative and military service is justified by the fact that conscripts generally serve longer hours each day (often seven days a week) than those doing alternative service, and are usually required to perform more physically and mentally demanding tasks. The minority of the group held to the view that the existing system of an individual declaration of ethical or religious objection should be sufficient, and that no other guarantee of genuine conviction was needed.

Although the draft law itself will not be published until late 1990, details of the proposed provision on the length of alternative service to be included in the new legislation were disclosed by the Ministry of Labour in May. The draft law would appear to represent a compromise between the conflicting views held by those in the working group in calling for an alternative service of 12 to 13 months. The new legislation is expected to come before parliament in late 1990 or early 1991. In its letter of 14 August to the Finnish President, Amnesty International welcomed the news that the new law on conscientious objection will most likely reduce the length of alternative service from the current 16 months. The organization will continue to monitor the progress of the legislation in the coming months.

FRANCE

1. The Alleged Ill-treatment of Abdelaziz Gabsi and Kamel Djellal

Amnesty International sought information on the progress and outcome of judicial and administrative inquiries opened into allegations of ill-treatment lodged against the police by Abdelaziz Gabsi and Kamel Djellal.

Abdelaziz Gabsi, the 38-year-old manager of a bar and betting-shop (un bar PMU) in Echirolles, near Grenoble, and his brother-in-law, Kamel Djellal, allege that at approximately 11pm on 11 December 1989, when they were on the point of closing the bar for the night, a police officer belonging to the night patrol squad (brigade de surveillance nocturne) entered carrying a pump-action shotgun. A second police officer stationed himself at the entrance with a police dog.

According to statements made by Kamel Djellal, which were reported by the press in January 1990, when the first police officer asked to see Abdelaziz Gabsi's identity papers, Abdelaziz Gabsi offered him a jacket containing the papers and told the police officer to take them. The officer allegedly then struck him violently on the face with the butt of his gun saying, "Arabs aren't going to lay down the law" ("les Arabes ne vont pas faire la loi"). Kamel Djellal states that the police officer struck Abdelaziz Gabsi several more times and then attacked Kamel Djellal himself. He claims he was first hit, then handcuffed and then struck down and hit on the pavement outside the bar while being bitten by the police dog. The press reported that, following the incident, Abdelaziz Gabsi's face was badly bruised and swollen while Kamel Djellal required 20 stitches to his head and face.

According to the same press reports, the police subsequently stated that the accused police officer had been attacked by Abdelaziz Gabsi and had acted only in self-defence.

After receiving the complaints which Abdelaziz Gabsi and Kamel Djellal made against the police, the Public Prosecutor's Office in Grenoble ordered the Lyon office of the Inspection générale de la police nationale (IGPN), General Inspectorate of the National Police, a police body responsible for investigating allegations of police misconduct, to carry out an inquiry into the affair.

2. Conscientious Objection to the National Service Laws

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

humanitarian nature "in the general interest".

Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service. However, Amnesty International believes that an essential component of the right to conscientious objection to armed service is that alternative service should not be imposed as a punishment for such objection. As the length of civilian service in France is, at 24 months, twice that of ordinary military service, Amnesty International considers that it does not provide an acceptable alternative to military service and that those imprisoned for refusing to undertake it are prisoners of conscience. (See 2 a - Cases of Gilles Morlot and Thierry Daligault.)

Under Law 83-605, the right to conscientious objection may only be exercised within strictly defined time limits. Amnesty International adopts as prisoners of conscience those conscientious objectors to military service whose applications for conscientious objector status and civilian service are rejected on the grounds that they have been received outside the stipulated time limits and who are subsequently imprisoned for refusing military service. Amnesty International believes that conscientious objectors are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time, both up to and after the issuing of call-up orders to military service. Amnesty International is also concerned that conscripts for national service in France do not appear to receive sufficiently detailed information on the procedures to be followed in order to obtain conscientious objector status. (See 2 b - Case of Ludovic Bouteraon.)

a) The Cases of Gilles Morlot and Thierry Daligault

Amnesty International considered Gilles Morlot to be a prisoner of conscience when he was detained in military barracks between 13 June 1990 and 4 July 1990, as a result of his refusal to perform military service. Gilles Morlot, a 30-year-old electrician with a wife and four-year-old son, was first called up to the army in 1978. He based his objection to both military and civilian service principally on his pacifist and anti-militarist beliefs and did not apply for conscientious objector status at any time, either before or after the introduction of Law 83-605.

Instead of responding to his 1978 call-up order to national service, he joined a non-profit making collective founded by a group of French conscientious objectors to national service. Their aim was to register their dissatisfaction with the limited alternative civilian service then available to conscientious objectors in France by demonstrating that it was possible to carry out a civilian service which was "concrete, constructive, enriching and, above all, useful". The collective, in direct collaboration with disadvantaged families, planned, designed and constructed housing suited to their needs. Gilles Morlot worked

in the collective for a period of approximately two years, the length of the official alternative service offered by the State.

By failing to respond to his call-up order Gilles Morlot committed the offence of insoumission (refusal to report for national service) and became liable to arrest and imprisonment. A presidential amnesty covering a wide range of offences, including insoumission, came into effect in August 1981. It applied to offences committed before 22 May 1981, but it did not absolve unrecognized objectors from a future obligation to perform military service and a new call-up order was issued in Gilles Morlot's name in February 1982. Two amnesty laws were passed in 1988 and 1989, but covered only certain offences against the national service; they did not apply to Gilles Morlot's case. The 1988 amnesty law also freed persons who had reached the age of 29 by 31 December 1988 from their obligation to perform military service. Gilles Morlot did not appear to qualify as his 29th birthday was not until 19 January 1989 and, on checking with the authorities, he was informed that he would remain liable for military service until the age of 34.

He lived in France continuously over the 12 years following his first call-up in 1978 but was not arrested for his refusal of military service until stopped by the gendarmerie while driving his car in Aubusson on 12 June 1990. He was transferred to the military barracks of the 11th Company of the 126th Infantry Regiment in Brive-la-Gaillarde the following day. From there he was taken to Limoges Recruitment Centre for National Service and declared fit for military service. On his return to barracks he refused to perform military service or put on military uniform and was placed under close arrest.

On 4 July 1990 he was brought before a Limoges court of first instance (tribunal correctionnel) to stand trial on a charge of refus d'obéissance (insubordination), rather than insoumission. The trial was however postponed until 14 August 1990. After leaving the court-room Gilles Morlot decided to return to his family rather than return to military barracks, as expected by the military authorities. However, he attended his trial hearing on 14 August. On 5 September 1990 the court found him guilty of the offence of refus d'obéissance but exempted him from any sentence. Amnesty International is trying to establish whether Gilles Morlot is still liable for recall to military service and therefore, in the case of his continued refusal to obey the order, to possible further prosecution and imprisonment.

Thierry Daligault was adopted as a prisoner of conscience by Amnesty International in September 1990. He, like Gilles Morlot, did not apply for conscientious objector status and alternative civilian service, basing his objection to both military and civilian service on his pacifist and Christian beliefs. He was arrested on 19 July 1990 and imprisoned in Rennes Maison d'arrêt, a civilian prison, awaiting trial on charges of insoumission and refus d'obéissance. Amnesty International continues to appeal for his release.

b) Case of Ludovic Bouteraon

Ludovic Bouteraon is a 22-year-old conscript who is currently serving a 15-month prison sentence as a result of his refusal to perform military service. Although he presented an application for conscientious objector status to the authorities, it was rejected on the grounds that it had been made outside the time limits laid down by law. Amnesty International believes his refusal of military service is the result of his conscientiously-held beliefs and considers him to be a prisoner of conscience who should be immediately released.

In Spring 1990 Ludovic Bouteraon reported to a selection centre for national service for the three days of tests which all conscripts undergo in order to determine the branch of national service to which they will be sent. Ludovic Bouteraon informed the authorities at the centre of his wish to obtain conscientious objector status and perform an alternative civilian service compatible with his pacifist beliefs. However, no information was reportedly given to him regarding the procedures to be followed in order to obtain conscientious objector status.

In July 1990 he received a call-up order to military service and on 1 August 1990 reported, as ordered, to an airforce base near Strasbourg. However, he immediately declared his conscientious objection to military service and refused to put on military uniform and to carry a fire-arm. He was put under arrest and held at the base until 17 August 1990 when he appeared before a summary court in Strasbourg (septième chambre correctionnelle du tribunal de grande instance) and was sentenced to 15 months' imprisonment for insubordination (refus d'obéissance).

He was then transferred to Strasbourg-Elsau prison and on 21 August 1990 lodged an appeal against his sentence.

On 8 September he wrote to the French authorities, applying for recognition as a conscientious objector and to be allowed to perform alternative civilian service. He explained that, at the time of his conscription he had not been given any information on the procedures to be followed in order to obtain conscientious objector status. In early October, the Minister of Defence rejected his application because it had been made outside the stipulated time limits.

On 13 September 1990 Ludovic Bouteraon was transferred to a civilian prison in Colmar where he is awaiting a hearing of his appeal before the Colmar Court of Appeal on 6 November 1990.

FEDERAL REPUBLIC OF GERMANY

1. Alleged Isolation of Prisoners Detained under Anti-terrorist Laws

a) Correspondence with the Government

Since 1979 Amnesty International has expressed concern to the authorities of the Federal Republic of Germany (FRG) about the prolonged isolation of prisoners detained under anti-terrorist legislation, mainly Article 129a of the Penal Code. The organization is concerned that prolonged isolation, including "small-group" isolation (the isolation of a small number of prisoners from the rest of the prison population), can have serious physical and psychological effects and may constitute cruel, inhuman, or degrading treatment. Amnesty International has urged the FRG authorities to seek alternatives to this form of imprisonment, stressing that ways should be found to accommodate security needs with humane treatment. (For further details see AI Index: EUR 03/02/89 and Amnesty International's Work on Prison Conditions of Persons Suspected or Convicted of Politically Motivated Crimes in the Federal Republic of Germany, AI Index: EUR 23/01/80.)

On 17 August the Federal Minister of Justice wrote to Amnesty International in response to the entry on the FRG in the Amnesty International Report 1990.

The government said that "Amnesty International should not take up uncritically the issue of isolation which is propaganda used by Red Army Faction members and sympathizers". Furthermore, the government said that the conditions in which those detained under Article 129a are held are too far from a total withdrawal of social contact to be called "isolation".

Amnesty International replied that it did not "take up uncritically the issue of isolation" and that it had always presented the allegations which it thought warranted its consideration to the authorities for their comment. Amnesty International also said that while, according to the the government, the degree of isolation experienced by the prisoners in question is not such as to justify the term "isolation", it has been recognized by medical authorities in this field that the limitations on contact with other prisoners, such as experienced by many of those detained under Article 129a, may have serious effects on the physical and mental health of prisoners.

On the issue of strip-searches the government said these are only carried out where there are good reasons and that the necessity of such intrusive actions is constantly reviewed.

Amnesty International replied that it recognized that strip-searches may sometimes be necessary for security reasons and that it only objected when it was undertaken with the deliberate intention of degrading or humiliating prisoners. Amnesty

International pointed to a ruling by the regional court in Stuttgart that the use of less intrusive methods of security control, such as the metal detector and frisking, was a sufficient guarantee that a prisoner [Christian Klar, detained under Article 129a] would not obtain objects illicitly.

The government gave an update on the cases of Manuela Happe, Eva Haule and Andrea Sievering (see Amnesty International Report 1990), all previously detained in Stuttgart (also known as Stammheim) prison. Regarding Stuttgart prison the government said that it was not correct to say that Stuttgart prison was a men's prison. The prison had always been designed for the admission of women. However, they acknowledged that was better suited for investigatory detention than for the carrying out of a sentence for women.

In its reply Amnesty International referred to a statement made in 1989 by the Baden-Württemberg Ministry of Justice that Eva Haule and Manuela Happe had been moved, as Stuttgart prison was not suitable for the long-term detention of women prisoners.

b) Brigitte Mohnhaupt

In June 1990, Brigitte Mohnhaupt, detained since 1982 for terrorist related crimes and previously imprisoned in Aichach prison, was moved to Stuttgart prison in Baden-Württemberg.

Brigitte Mohnhaupt's mother says her daughter spends 23 hours in isolation in her cell and that she has one hour's exercise (Hofgang) a day, which she takes alone one day and the next day with three other women prisoners who are foreign. Reportedly, only one of the three other women, who are of Spanish and Italian nationality, speaks a little German, making communication with the women very difficult. Brigitte Mohnhaupt's lawyer says that she is suffering from concentration problems and that the length of time during which she is able to concentrate has deteriorated due to years of isolation. Brigitte Mohnhaupt says that she has been told by the prison authorities that there is no possibility of a transfer to another prison within the next year.

Amnesty International is concerned that, despite the fact that the Baden-Württemberg Ministry of Justice in 1989 has stated that Stuttgart prison is not suitable for the long-term detention of women prisoners, it appears that the authorities have expressed the intention of keeping Brigitte Mohnhaupt in Stuttgart prison for a long period. Amnesty International is concerned that Brigitte Mohnhaupt is allegedly held in virtual isolation, because her only communication with other prisoners

during the exercise period is impeded due to language barriers.

2. Accession of the German Democratic Republic to the Federal Republic of Germany

On 25 June Amnesty International wrote to the Chancellor of the FRG and to the Prime Minister of the German Democratic Republic (GDR) submitting a number of documents describing the organization's concerns in both countries. It said that many of the concerns in the GDR, such as imprisonment for exercising the right to freedom of movement, expression, association and assembly seemed, happily to belong to the past. It pointed out that Amnesty International's concerns in the FRG however were still current and cited its concerns such as the preventive detention of peaceful demonstrators; the imprisonment of conscientious objectors to military service; the prosecution of persons for the expression of non-violent opinions; the alleged isolation of prisoners detained under anti-terrorist legislation; and issues relating to the protection of refugees and asylum seekers.

The organization asked for the documents to be brought to the attention of the FRG and GDR representatives of joint commissions which had been set up to examine ways in which the social, economic and political systems of the two countries could be brought into harmony to facilitate reunification.

On 31 July, the Federal Ministry of Justice replied that it had brought the documents submitted by Amnesty International to the attention of the relevant persons.

On 3 October the GDR acceded to the FRG under Article 23 of the FRG constitution. Following the accession, the FRG constitution came into force in the five newly created Länder (states), Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen. The official name of the new country is the Federal Republic of Germany. Federal law (Bundesrecht) became applicable throughout the new country and international treaties and obligations undertaken by what was formerly the FRG were also extended to the five new Länder. The former GDR municipal, regional and district courts (Stadtsgerichte, Kreisgerichte and Bezirksgerichte) continue to exist during a transitional period, but the GDR Supreme Court (Oberstes Gericht) was abolished. Instead the Federal High Court (Bundesgerichtshof) will hear appeals in civil and criminal cases.

GREECE

1. Conscientious Objection to Military Service

Jehovah's Witnesses continued to be imprisoned for their refusal to perform military service. Amnesty International considered all of them to be prisoners of conscience. During the period under review, about 400 Jehovah's Witnesses were in prison, most of them serving four-year sentences. A number with family obligations were serving shorter sentences and a number, who had received particularly severe sentences, were serving sentences of up to five years. Generally, conscientious objectors were able to reduce their sentences by about a quarter by working in Kassandra Agricultural Prison. This meant that a conscientious objector sentenced to four years' imprisonment usually spent a total of about three years in prison. Several conscientious objectors faced the additional punishment of five years' deprivation of civil rights, meaning they will not be permitted to vote, be elected to parliament, work as civil servants, be issued with a passport or a licence to set up their own business for five years after their release.

At the end of October about 260 conscientious objectors were in Avlona Military Prison, some 120 in Kassandra Agricultural Prison and a small number in Kavala, Larissa and Thessaloniki Military Prisons. By the end of October some 34 conscientious objectors, who were not Jehovah's Witnesses, had declared their conscientious objection to military service on a variety of grounds but had not been charged or imprisoned.

On 1 June 28 conscientious objectors were transferred from Avlona Military Prison to Kassandra Agricultural Prison. Eleven prisoners had been transferred in early March. Conditions in Avlona remained very poor due to overcrowding. Reportedly it was not uncommon for 13 conscientious objectors to be sharing a cell designed to accommodate six prisoners.

There was no indication from the Greek Government that parliament intends to vote in the near future on legislation which would allow conscientious objectors to perform alternative service.

Amnesty International appealed repeatedly to the Greek Government for the release of all imprisoned conscientious objectors as prisoners of conscience and urged it to introduce legislation offering conscientious objectors civilian alternative service of non-punitive length.

2. Imprisonment of Jehovah's Witness Religious Ministers for their Conscientious Objection to Military Service

Amnesty International was concerned about the continued imprisonment of three Jehovah's Witness religious ministers, Daniel Kokkalis, Timothy Kouloubas and Dimitris Tsirlis, for their conscientious objection to military service (for further details see AI Index: EUR 03/01/90). These three men had been imprisoned despite the existence of law 1763/88 exempting "religious ministers, monks or trainee monks of a recognized religion" from having to perform military service. Prior to their imprisonment, Daniel Kokkalis, Timothy Kouloubas and Dimitris Tsirlis had conducted marriages, funerals and baptisms, all of which were recognized as lawful by the local prefectures of their congregations. Daniel Kokkalis' appeal against his four-year prison sentence had been rejected on 31 October 1989 on the grounds that he was not a religious minister of a recognized religion. This verdict was in direct contradiction to Decision 2106/1975 of the Council of State, the highest administrative court, which ruled that the Jehovah's Witness faith fulfilled the criteria of a "recognized religion".

On 30 May Timothy Kouloubas was sentenced to four years' imprisonment by the Military Court of Athens. His appeal was due to be held on 12 July but was postponed to 27 November. Dimitris Tsirlis' appeal was due to have been heard on 19 June but was postponed to 29 November.

On 25 September Daniel Kokkalis' case was examined by the Council of State. Daniel Kokkalis had petitioned the Council of State to annul decision No. F.429.36/325/334870/S.5231/4-10-1989, issued by the Director of Recruiting at the General Headquarters for National Defence which was submitted to the Appeal Court and which ruled that, on the basis of information it had received from the Ministry of Education and Cults/Section for Heterodox Parties and the Ministry of Defence, Daniel Kokkalis was not a religious minister of a recognized religion. The Court of Appeal had based its verdict of 31 October 1989 on this document. On 17 October the Council of State delivered its decision (3601/1990). It ruled that the decision of the Chief of the Armed Forces set out in the document had been unlawful. The Council of State invoking Article 6, para. 1 of Law 1763/1988 and stating that "the dogma of Jehovah's Witnesses fulfils the requirements of a recognized religion, according to Article 13 of the Constitution (Council of State decision 2106/1975, full session 3533/1986), annuled the decision of the Director of Recruiting at the General Headquarters for National Defence. On 31 October Daniel Kokkalis remained in prison. As the Council of State is not empowered to revoke penal decisions, reportedly his release is dependent upon a decision by the Minister of Justice or the Prime Minister to instruct the Prosecutor of Chalkidiki to release him from prison on parole.

Throughout the period under review, Amnesty International appealed for the release of Daniel Kokkalis, Timothy Kouloubas

and Dimitris Tsirlis and urged the Greek Government to honour the terms of law 1763/88 and exempt them from their military obligations.

3. Torture and Ill-Treatment

During the period under review Amnesty International received a number of allegations of torture and ill-treatment in police custody.

In a letter of 10 August to the Prime Minister, Mr Constantine Mitsotakis, Amnesty International raised the cases of Vangelis and Christos Arabatzis, Vasilis Papadopoulos and Kostas Kiriazis, who had alleged they were tortured in September 1987 at the Security Police Headquarters in Thessaloniki, and the alleged torture at the same station of some eight students who had been detained in connection with the occupation of the Aristotoleio University of Thessaloniki in June 1986. Amnesty Interntional expressed concern that one of the alleged victims in the first case, Vangelis Arabatzis, may have been sentenced to life imprisonment on the basis of statements taken under torture and that his brother, Christos, and Vasilis Papadopoulos are facing a trial in which these statements may also be used as evidence. Amnesty International asked for further information about these cases and urged the Greek Government to ensure that a thorough and impartial investigation was carried out into the allegations.

In another letter to Mr Mitsotakis, dated 16 August, Amnesty Interational raised the case of Horst Bosniatzki who had alleged that he had been tortured in police custody in September 1989 in Litochoro.

In addition Amnesty International wrote to the Minister of Public Order requesting further information in connection with the cases of Dimitris Voglis and Kostas Andreadis (see below); Kostas Stamateas, allegedly beaten with clubs by police; Sotirios Kalogrias, allegedly hit on the face and punched by police, and Dimitris Vavatsikou, allegedly beaten with clubs by police officers.

On 22 October the Ministry of Public Order replied to Amnesty International's inquiries in connection with the case of Kostas Stamateas. The letter stated that Kostas Stamateas had not made a complaint against the police and that his allegations were unfounded. By 31 October no replies had been received to any of Amnesty International's other inquiries.

In its letter of 10 August, Amnesty International urged the Greek Government to ratify the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which entered into force in February 1989. Amnesty International pointed out that early ratification of this important regional instrument would be a strong indication that torture or ill-treatment of detainees and prisoners will not be tolerated in Greece.

a) Alleged Torture of Vangelis and Christos Arabatzis, Vasilis Papadopoulos and Kostas Kiriazis at Thessaloniki Police Headquarters 8 September 1987

Four young gypsies, brothers Vangelis and Christos Arabatzis, Vasilis Papadopoulos and Kostas Kiriazis, have stated they were tortured at the Police Headquarters in Thessaloniki (Ασφαλε_α) 11-13 Valoritou, on 8 and 9 September 1987 following an armed robbery during which Haralambis Varsamas was murdered in Karasia, Nea Mihanionas, Thessaloniki, on 24 August 1987. Allegedly as a result of the torture they were subjected to, all four boys made a confession to the police that they had committed the murder and the robbery. Vangelis Arabatzis was sentenced to life imprisonment on 24 October 1988 by Yannitsa Mixed Jury Court and is serving his sentence in Korydallos Prison. Vasilis Papadopoulos and Christos Arabatzis remain free pending trial in a minors' court. Kostas Kiriazis, although taken into police detention and allegedly tortured until he made a confession, was released without charges. At the time of their detention and alleged torture Vangelis Arabatzis was 16, Vasilis Papadopoulos 13, Christos Arabatzis 12 and Kostas Kiriazis 13 years old.

Vasilis Papadopoulos and Kostas Kiriazis were taken to Police Headquarters on 8 September at about 2.30pm and reportedly were interrogated separately at first. Vasilis Papadopoulos has stated that he asked for a lawyer and was told that he could see a lawyer after the interrogation.

Kostas Kiriazis has stated that he was beaten by some 20 policemen with wooden clubs, given electric shocks and threatened with being put in a barrel and thrown into the sea.

Vasilis Papadopoulos has stated that as a result of being subjected to torture he confessed that he, Vangelis and Christos Arabatzis had killed Haralambis Varsamas and that he had stolen a cash box from the workshop where Haralambis Varsamas had been working. He alleges that he was beaten with clubs, whipped on the soles of his feet, dragged by his hair and given electric shocks.

Christos and Vangelis Arabatzis were detained in the early hours of the morning (probably 9 September 1987). Reportedly Christos Arabatzis told the police that he was 12 years old. When he asked for a lawyer, allegedly he was told that he would be allowed to see a lawyer when he had told the police what they wanted. He stated that he was taken to the third floor where there were a number of police officers, was stripped, made to lie down on a bench and tied up. Then he was slapped, had pressure applied to the nerves at the bottom of his neck and electricity applied to his genitals. A helmet was put on his head. He was told to talk and when he said he did not know what the police were talking about the voltage was increased. As a result of this treatment, he made a confession. Reportedly, he was then dragged to his brother Vangelis by a policeman holding him under his arms.

Christos told Vangelis to say that they had committed the murder so that they could go. Christos says that when Vangelis saw him he started crying, told the police to leave his brother alone and said that he had killed Haralambis Varsamas.

The prosecutor reportedly took their statements at the police station and they were made to sign these without having read them.

The boys' families have stated that they did not lodge a complaint against the police about the injuries their sons sustained. When they had asked for the boys to be examined by a doctor this request was reportedly refused. They had little confidence that their story would be believed, because they were gypsies. In addition, the boys were advised by their lawyer not to dwell on the way their statements were taken or "the situation would get worse". Vangelis and Christos Arabatzis' father, Constantinos Arabatzis, has complained to the Ministry of Public Order and the Director of Thessaloniki Police Headquarters that despite the fact that all the boys were minors, their parents were not notified immediately of their whereabouts by the police, nor were their children informed that they had had the right to contact their parents and lawyers during detention.

The boys and their families have continued to maintain their innocence. Apart from confessions allegedly extracted under torture, the principal evidence for Vangelis Arabatzis' conviction was a hunting rifle which was found hanging in the Arabatzis' home. The gun was thought to be the same as the murder weapon. Since his conviction, a forensic test has been carried out by the the Attica Police Sub-Directorate of Criminal Research (Υποδιε_θυνσις Εγκληματολογικ_ν Ερευν_ν τ_ς Ασφαλε_ας Αττικ_ς) which has established that the hunting rifle found in the Arabatzis family's home was not the weapon used to kill Haralambos Varsamas.

b) Alleged torture of eight students at Thessaloniki Police Headquarters in June 1986

Eight students have alleged they were tortured at the Thessaloniki Headquarters following a demonstration on 8 June 1986 on the university campus of the Artistotle University of Thessaloniki in connection with the disaster at Chernobyl. During the demonstration there were clashes between police and students and two policemen were seriously injured when their car was set on fire. Some students occupied the Physics and Mathematics Faculties where university property was damaged.
On 9 and 10 June the police began to take suspects into detention. Kostas Petrou, Thanassis Svetkous, Michalis Tachous, Thanassis Vangilis, Argyris Mouratidis, Ana Tsambasis, Ioachim Tsinitsis and Nikous Stefanidis, who were among those detained, subsequently alleged they were tortured during interrogation.

During police detention, which lasted up to 48 hours, they were denied access to a lawyer or their families. On 10 June they were taken before the prosecutor and then taken back to the police headquarters. On 11 June they were taken to the examining

magistrate. Allegedly they were not permitted by the prosecutor or the examining magistrate to see a doctor. In prison their request to see a doctor was rejected on the grounds that there was no doctor in the prison. None of those alleged to have been tortured has sued the police. Without official medical reports the defendants considered they had no evidence to support their allegations. One of the defendants has also stated that she was advised against suing by her lawyer.

Ana Tsambasis has stated that her parents were about to report her missing to the police. She said that among other things she was beaten round the ears and cheeks, had her hair pulled by a senior policewoman and was verbally abused. The policewoman kept asking her whether particular people had been involved in the incidents. Some junior policemen allegedly threw her against a wall, shouted at her and pulled her hair. Then the interrogation was again taken over by the policewoman. This alternation reportedly continued for more than 24 hours. Ana Tsambasis has said that once the door of the room where she was being held was shut and she could not see the other detainees she became frightened and made a confession. After her release, some 40 days later, her family tried to get their lawyer to pursue the matter but were advised not to lodge a complaint because feeling was so high among the Thessaloniki police as a result of the injuries sustained by the two policemen.

Thanassis Svetkous has stated that he had had a stomach operation prior to the incident and asked the police not to beat him in the stomach. They allegedly ignored his request.

Nikos Stefanidis stated he had been beaten all over, mainly on the ribs and stomach, and he was taken up to the third floor of the police station where he was given electric shocks from an old "wind up" telephone. His mother has confirmed that he was tortured.

Argyris Mouratidis reportedly had a bald patch where his hair had been pulled out. Someone who visited him once he had been transferred to prison stated that he was coughing up blood. Argyris Mouratidis described being taken up to the third floor where he was put onto a bed and his eyes covered, but the doctor in charge there said he was too thin to withstand electric shocks. He also reported he had been beaten and psychologically abused.

Six of the eight students who alleged they were tortured are said to have made a confession as the result of torture. A total of 27 students were put on trial on various charges - public disturbance, damage to university property and attempted manslaughter.

The trial of 24 of the defendants was held between 20 and 25 June 1990 at Serres Mixed Jury Court (Criminal Court) [Μικτ_ Ορκωτ_ Δικαστ_ριο Σερρ_ν (Κακουργιοδικε_ο)]. During the trial some of the defendants made torture allegations which were ruled

out of order by the president of the court who stated that these had nothing to do with the matter at hand.

All 24 defendants were found innocent of the original charges but seven of them were found guilty of illegal possession of weapons and sentenced to 10 months' imprisonment commuted to a fine of 400 drachmes per day. The trial of three remaining defendants was due to be heard on 3 October 1990 but was postponed. A new date had not been set by the end of October.

c) Case of Horst Bosniatzki

Horst Bosniatzki, a national of the Federal Republic of Germany, currently held in Larissa Prison, has alleged he was tortured while in police custody in September 1989 in Litochoro, near Katharini. Horst Bosniatzki believes he is on trial charged with murder but does not know the exact charges against him. Amnesty International is currently seeking further information about his case.

Horst Bosniatzki was detained on 15 September 1989 around 4pm near Litochoro. He was first interrogated by about 15 to 20 policemen. Although he spoke almost no Greek no interpreter was called. Reportedly he asked permission to contact the Consulate of the Federal Republic of Germany but this request was refused. He kept repeating this request and two of the policemen present allegedly slapped him on the face. After an interval the same two policemen hit him on the face, the kidneys and stomach.

At about 12 midnight he was taken to a beach, about 7km away from the police station, where his feet were chained up. He was then picked up by three policemen who threatened to throw him into the sea. After this he was dragged along the beach for about 1.5km while being punched on the head and kidneys. One of the policemen reportedly threatened him with a pistol between the ribs and urged him to "confess".

He was then taken back to the police station where he was beaten on the fingertips with a thin stick until one of his fingertips split open. The interrogation reportedly continued with further beatings until about 3.30am.

The following day the interrogation started again at about 10am. He was asked to sign a statement, with the promise that if he agreed to do so, he would be spared further beatings. According to Horst Bosniatzki's account, the beating started again when he refused to sign on the grounds that he could not read the statement. He once again asked to speak to the consulate but was told that he could only telephone them after he had signed the prepared statement. An interpreter arrived but instead of translating for him, reportedly attempted to interrogate him. When Mr Bosniatzki refused to answer the interpreter's questions the interpreter left. In his testimony, Horst Bosniatzki described how he was then subjected to falanga (beating on the soles of the feet), combined with beatings on other parts of his body.

This interrogation lasted until about 1pm. He was then made to clean himself up and was urged to sign a statement. Horst Bosniatzki says that he signed the statement to avoid further torture. However, since he could not read it, he added "with reservations".

In the evening of 16 September he was taken to the police jail in Katharini. Reportedly, he had not received anything to eat for two days. That evening Horst Bosniatzki was put before a press conference and his case was subsequently reported in the press. He was kept incommunicado at the police jail for nearly a week, but finally permitted to contact the Consulate of the Federal Republic of Germany the day before he was transferred to a prison in Thessaloniki. It seems that from Thessaloniki he was transferred to Larissa Prison.

On 7 June 1990 at 12 noon he was taken to Veria for his trial. On 11 June his trial took place in Veria. He says that he was unable to obtain a translation of his indictment and as a result had to go to trial unprepared. He claims that during his trial he was not given adequate interpretation and that witnesses for the defence were not called.

Amnesty International is concerned that evidence extracted under torture may have been used at Horst Bosniatzki's trial and that despite the fact that Greek law stipulates that a person in police detention should have prompt access to a lawyer and family, Horst Bosniatzki was allegedly held incommunicado for almost ten days and, despite repeated requests, refused contact with his consulate.

d) Case of Kostas Andreadis and Dimitris Voglis

Dimitris Voglis and Kostas Andreadis were detained near Thessaloniki aerodrome by police on 23 March on charges of breaking the law on explosives as members of the organization "Vigilant Anarchists", which allegedly blew up two cars belonging to the security police with Molotov cocktails. According to the police, the two men had been intending to rob a vehicle for transporting money. A hunting rifle, a radio set and two knives were said to have been found in their car. On 28 March Kostas Andreadis was detained in custody after appearing before the examining magistrate. Dimitris Voglis was detained in custody on 29 March. They were taken to Diavata Prison, Thessaloniki.

On 2 April they reportedly began a hunger-strike in protest against their detention, which they claimed was the result of a plot on the part of the Thessaloniki Security Police and that their statements had been taken under physical and mental torture. Dimitris Voglis stated that the charges against him and Kostas Andreadis were based on a statement made by Kostas Andreadis after he was tortured by falanga, electric shocks and being threatened with defenestration. Kostas Andreadis was issued with a medical report from Thessaloniki Forensic Medical Department, dated 28 March 1990 (Number 1596) and signed by Dr Nikolaos Vasiliadis, which certified "bruising and ecchymosis of a deep red colour to the inner surface of ball of the foot and bruising and ecchymosis barely visble to the inner surface of the ball of the left foot, caused one to two days ago by a blunt object" and which recommended that he should stay off work for four to five days. Dimitris Voglis has stated that he was deprived of his right to confer with his lawyer during the initial detention period.

The two men were transferred to the medical wing of Korydallos Prison and their health was said to be in danger. Following a request by their lawyer they were both granted a temporary release from prison and as a result came off their hunger-strike on or around 24 May. At the end of October they remained free while their case underwent routine pre-trial investigation (αν_κρισις), after which the final charges will be determined.

During the torture Kostas Andreadis' head was covered with a hood making it impossible for him to identify his torturers. This was one of the reasons he gave for not filing a complaint against the police.

IRELAND

1. Abolition of the Death Penalty

The Government Bill (Criminal Justice Bill Number 2) abolishing the death penalty passed through the Irish Parliament (Dail) on 13 June 1990, and was then signed into law by the President of the Republic on 13 July 1990. The measure became effective immediately.

ITALY

1. Torture and Ill-treatment

a) The Torture and Death in Police Custody of Salvatore Marino (Update to information given in AI Index: EUR 03/01/90. See also Amnesty International Report 1986 to 1990).

On 25 May 1990 Caltanisetta Court of Assizes, Sicily, announced the verdicts in the trial of 15 law enforcement agents prosecuted in connection with Salvatore Marino's death in a Palermo police station in August 1985. An autopsy and forensic tests carried out on Salvatore Marino's body had revealed substantive evidence of ill-treatment. Amnesty International was concerned that the judicial inquiry and court hearing took nearly five years to complete. Ten defendants received suspended sentences, two were amnestied and three were acquitted.

The 11 police and four carabinieri officers had been committed for trial in 1986, on the charge of participating in the unintentional homicide (concorso in omicidio preterintenzionale) of Salvatore Marino. During the court hearing in 1990 the Public Prosecutor asked for sentences of six years and eight months' imprisonment for all the defendants, except two senior officers who had been additionally accused of committing perjury (falso ideologico) by altering their official reports on the circumstances of the death. He requested sentences of seven years' imprisonment for these two defendants.

The court, however, found none of the defendants guilty of unintentional homicide but found 10 of them guilty of a lesser charge: "manslaughter, brought about as a result of another illegal act, that is, physical coercion" (omicidio colposo conseguente ad altro reato - violenza privata). In the view of the judges the death was not, therefore, the direct consequence of the ill-treatment inflicted. The 10 defendants were sentenced to two years' suspended imprisonment and a two year temporary prohibition from holding state employment; this sentence was also suspended. In the cases of two further defendants, the court reduced the charge to one of causing involuntary physical injury (lesioni colpose), thus qualifying them for an immediate amnesty. Three defendants were fully acquitted (assolti con formula piena per non aver commesso il fatto). The two senior officers accused of perjury were both fully acquitted of this offence.

Salvatore Marino, a 25-year-old fisherman and amateur footballer, had been called in for questioning at the offices of the Palermo Flying Squad (Squadra Mobile) on 1 August 1985, in connection with the killing of a police commissioner in charge of a Palermo anti-mafia squad.

On the evening of 2 August the head of the Palermo Flying Squad issued a statement confirming rumours of the death of Salvatore Marino. He said that he had appeared to faint during

questioning; water had been thrown over him in an attempt to revive him but he was found to be dead on arrival at a local hospital. After a preliminary examination the duty doctors recorded the cause of death as "cardiac arrest" and estimated the time of death at approximately 4am on 2 August. The Public Prosecutor's Office immediately opened an inquiry into the death and ordered an autopsy and forensic tests to be carried out by three forensic specialists.

Amnesty International wrote to the Minister of Justice on 29 August 1985, asking to be informed of the findings of the inquiry, after it had received reports that Salvatore Marino had been beaten and forced to swallow large quantities of salt water through a plastic tube during questioning. There were also reports that, when the body was taken to the hospital on the morning of 2 August, the police did not identify it to the doctors and that the family was not informed of the death until some 10 to 12 hours later. The Minister of Justice replied over four months later, on 11 January 1986, confirming that a judicial inquiry was underway in Palermo to ascertain responsibility for the death of Salvatore Marino and that penal proceedings had been opened against certain members of the police and carabinieri. The Minister stated that he would inform Amnesty International of the outcome of the inquiry.

According to the findings of the autopsy and forensic tests published in early October 1985, Salvatore Marino died of "respiratory constriction which led to heart arrest" ("insufficienza cardio-circolatoria secondaria a danno polmonare acuto diffuso"). The report also referred to injuries to the trachea which might have been caused by a tube, trauma to the kidneys, contusions to the feet, hands and wrists, indications of punches and kicks in the abdomen and lung areas, and light wounds on the head. More serious wounds elsewhere on the body were said to have been caused by a blunt instrument.

During October 1985, a total of 18 law enforcement agents were arrested on suspicion of participating in "unintentional homicide". In the course of the following month 13 of the detainees were granted provisional liberty or house arrest. In October 1986 15 officers were committed for trial. In the interval between their committal for trial and the opening of the first trial hearing, the majority of the accused officers were reassigned to administrative posts within the police and carabinieri services.

The first hearing opened on 3 May 1989 but was postponed after two hours, at the prosecutor's request, when it was discovered that in several cases the official notices informing the defendants of the hearing had been sent to home addresses which were several years out-of-date and that two defendants were absent from court. The trial then reopened on 3 April 1990.

b) The Torture and Ill-treatment of Francesco Badano (Update to information given in AI Index: EUR 03/02/89. See also Amnesty International Report 1989 and 1990)

In April 1990 the Paduan judge of instruction responsible for investigating the alleged ill-treatment of Francesco Badano during his detention in the central offices (questura) of the Padua Flying Squad (Squadra Mobile) on 16 May 1988, issued his written judgment (sentenza) on penal proceedings opened against an inspector of the Padua Flying Squad and two lower-ranking policemen. The judge concluded that the accused should not be committed for trial on charges of aggravated abuse of authority towards a detained person (abuso di autorità contro arrestati e detenuti), aggravated physical injury (lesioni personali) and coercion (violenza privata) by means of blows - on the grounds that they had not committed the crimes (per non aver commesso il fatto).

In his conclusion the judge stated that:

"...although it can reasonably be proven that Francesco Badano was subjected to violence to force him to give his name and that of his accomplices, it has not been possible to collect sufficient evidence to prove that the [three] accused or any individual amongst them was responsible..."

The judge also commented that:

> "...the attitude of very many witnesses was that of someone who, rather than being concerned with providing the judge with facts in order to reconstruct the truth, is more concerned with proving his own extraneousness to the events, not only with regard to direct participation in them but also regarding the possibility of having observed the course of events. The fact remains that noone reported specific facts with regard to the ill-treatment inflicted on Francesco Badano in the precincts of the Padua Questura on 16 May 1988"

Francesco Badano had been arrested by the Padua Flying Squad in the morning of 16 May 1988, in connection with a robbery. A police officer was fatally shot in the course of his arrest. A lawyer appointed de oficio to defend Francesco Badano visited him in the police station during the afternoon of 16 May and subsequently stated that when he saw his client his eyes and face were heavily bruised and swollen and his feet were so swollen he was unable to walk. Francesco Badano alleged that he had been beaten and given several injections. A forensic doctor called to examine him ordered his immediate transfer to hospital. He was admitted to Padua General Hospital at approximately 7.15pm and after an extensive examination, put on an intravenous drip and admitted to the hospital's high security wing for detainees. The following day his family was informed that Francesco Badano had committed suicide by hanging in his hospital room.

His father filed an official complaint on 18 May 1988 and the Public Prosecutor opened a judicial inquiry. The police stated that the injuries on the detainee's body were attributable to a violent struggle at the time of arrest. In early November 1988 the findings of forensic specialists representing both the

prosecutor's office and the family confirmed the existence of injuries to the soles of the deceased's feet which were "not consistent" with injuries inflicted in the course of a violent arrest. However, there were also said to be other injuries on his body which were "consistent" with such an arrest.

Amnesty International wrote to the Public Prosecutor's Office in Padua, asking to be informed of the outcome of the judicial inquiry and of any eventual judicial proceedings arising from it. No reply has ever been received. Amnesty International also wrote to the Minister of the Interior, who carries overall responsibility for the police, asking if he could confirm a report that his Ministry had decided not to open an administrative inquiry into the case and indicate the reasons for this decision. The Minister replied in March 1989, stating only that the case was being examined by the judicial authorities; he did not supply the information requested by Amnesty International.

Amnesty International is currently seeking information from the Minister of the Interior as to whether any administrative inquiry has ever been carried out into the alleged ill-treatment of Francesco Badano and, if not, whether such an inquiry will now take place, in the light of the comments of the Padua judge of instruction regarding the attitude of witnesses in the Padua police station and his conclusion that Francesco Badano had been subjected to ill-treatment during his detention there.

Amnesty International is also seeking information from the Minister of Justice as to whether, in view of the Paduan judge's conclusions, steps will be taken to reopen the judicial inquiry, in order to establish the identity of the person or persons responsible for Francesco Badano's treatment in the Padua questura. Amnesty International believes that it is the responsibility of the authorities to determine the identity of those responsible, in view of the provisions of Resolution 690 on the Declaration on the Police, adopted by the Parliamentary Assembly of the Council of Europe in 1979. This states in section A, articles 9 and 10:

9. A police officer shall be personally liable for his own acts and for acts of commission or omission he has ordered and which are unlawful.

10. There shall be a clear chain of command. It should always be possible to determine which superior may be ultimately responsible for the acts or omissions of a police officer.

c) The Alleged Ill-treatment of Salvatore Vianelli

During the period under review Amnesty International sought information from the Italian authorities on the outcome of a formal complaint of ill-treatment lodged against prison warders by Salvatore Vianelli, a 60-year-old Italian citizen born in Somalia.

Salvatore Vianelli alleges that he was arrested by the police at a bus-stop in the main square of Frascati, near Rome, on 7 August 1988. The exact circumstances of his arrest are unclear and Salvatore Vianelli claims that he did not understand the reason for his arrest. He was taken from the bus-stop to a police station where he alleges that the police punched him and subjected him to racial insults, apparently because of his African features and colouring. Later in the evening of 7 August he was transferred to Rebibbia prison in Rome and alleges that he was subjected to further ill-treatment by prison warders during the admission procedures. He states that, when he asked the reason for his arrest and imprisonment, one prison warder immediately grasped him by the shoulders and kicked him. Several others then hit him with their fists and administered what Salvatore Vianelli describes as 'karate' blows, causing severe injuries.

He was released from prison five days later, pending trial on charges of resisting and insulting a public official (resistenza ed oltraggio a pubblico ufficiale). However, he claims that, prior to his release, prison warders forced him to sign a document stating that he had suffered no ill-treatment in Rebibbia prison and that the attack on his person and all the resulting injuries had been sustained while in police custody. The warders apparently threatened that he would never leave prison if he did not sign.

After his release Salvatore Vianelli was immediately admitted to San Camillo hospital in Rome for 20 days' treatment for at least six fractured ribs and a perforated ear-drum. He then lodged a formal complaint against the prison warders and a judicial investigation was opened. Five prison warders were subsequently committed for trial: one, an officer, was accused of coercion (violenza privata) while four subordinates were accused of causing aggravated personal injury (lesioni aggravate).

During the investigation the prison warders apparently claimed that Salvatore Vianelli was drunk on 7 August 1988 and that they had not ill-treated him, confining themselves only to keeping him in check while he "flew into a rage", under the influence of alcohol. They stated that all the injuries had been caused by Salvatore Vianelli falling and hitting himself several times against a wall and a radiator in the prison. However, an official report drawn up by forensic experts at the request of Rome Tribunal established that Salvatore Vianelli had suffered a perforated ear-drum and multiple fractures to his ribs and that such injuries could have been caused by the blows and punches which he had alleged.

On 20 February 1990 both Salvatore Vianelli and five warders from Rebibbia prison appeared before the 11th Penal Section of Rome Tribunal. Salvatore Vianelli was called to answer charges of resisting and insulting a State officer; the five prison warders were called to answer charges of coercion and causing aggravated

personal injury. A second hearing was reportedly scheduled for 24 March 1990.

Amnesty International wrote to the Italian authorities expressing its concern about the case and seeking their coooperation in communicating to the organization the progress and outcome of the proceedings before Rome Tribunal. No reply had been received at the time of writing.

2. Conscientious Objection to Military Service (Update to information given in AI Index: EUR 03/02/89. See also Amnesty International Report 1990)

Since a Ministry of Defence directive issued in August 1989, all recognized conscientious objectors have been able to terminate their alternative service after 12 months (that is, the current length of ordinary military service) rather than after 20 months, which Amnesty International considered to be a punitive length. This followed a Constitutional Court ruling of July 1989 which found Article 5 of Law 772, the current law governing conscientious objection to military service, to be unconstitutional because it directs that alternative civilian service should be eight months longer than ordinary military service. The court considered that the greater length of alternative service was a sanction against conscientious objectors. It also commented that a difference in the length of military and alternative service could only be justified if the law were to lay down that a specialized training period was necessary before the alternative service could be performed; the difference should, however, be "contained and reasonable".

In April 1989 the Defence Committee of the Chamber of Deputies finalized the text of a new draft law to replace Law 772, widening the grounds on which conscientious objector status might be granted, proposing a reorganization of alternative service and reducing the length of alternative service from 20 to 15 months. However, the draft law makes no provison for individuals to claim conscientious objector status after incorporation into the armed forces. The text was drawn up on the basis of a number of draft bills put forward by various political parties and was approved by the government.

It had been widely anticipated that the Chamber of Deputies would allow the law to be passed as quickly as possible by delegating the power of final approval to the Defence Committee, sitting in a legislative session. The government expressed surprise when, on 26 July 1990, some 90 members of the Chamber of Deputies stated their objection to the proposals contained in the draft law and exercized their right to block its passage through the Defence Committee, requesting that it be discussed in a plenary session of the Chamber. As a result the draft law was still awaiting discussion at the end of October 1990.

Also on 26 July 1990, the Senate approved a draft law reorganizing national service which proposes - inter alia - that

from 1 January 1992 both military and alternative service should be 10 months in duration. The draft law was then passed to the Chamber of Deputies where it is currently awaiting examination.

NETHERLANDS

1. Signature of International Human Rights Instrument Relating to the Death Penalty

On 9 August 1990 the Netherlands signed the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first treaty of worldwide scope aimed at the abolition of the death penalty, which was adopted by the General Assembly of the United Nations on 15 December 1989.

PORTUGAL

1. Allegations of Ill-treatment in Police Custody (Update on information given in AI Index: EUR 03/01/90)

Daniel Rodriguez Perez, a 48-year-old Spanish electrician, is currently serving a sentence of seven and a half years' imprisonment in Paços de Ferreira prison for handling counterfeit money and carrying false papers.

He has alleged that over the two week period following his arrest on 28 April 1988 in Sto. Tirso, Northern Portugal, he was on three occasions beaten by members of the Public Security Police (Policia de Segurança Publica - PSP) and the Judicial Police (Policia Judiciaria - PJ) during questioning.

On 28 April he was taken to a police station at Sto. Tirso for questioning by officers of the Public Security Police. He stated that the officers insulted, punched and kicked him, knocking him to the floor several times. He alleged that he was at one point struck with a pistol which opened a gash on his head. On the evening of 28 April between approximately 9pm and 10pm he was taken to the hospital in Sto. Tirso where he received several stitches and medication.

On the following day, 29 April 1988, he was ordered by the court in Sto. Tirso to be detained on remand in Chaves prison, pending judicial investigation, on charges of robbery, forgery and handling counterfeit money. On 6 and 10 May officers of the PJ took him from the prison to the station in Chaves for further questioning. He has consistently claimed in written statements that on these two dates, officers of the PJ insulted, threatened, punched and kicked him. In support of these allegations he has claimed that there were persons who had seen him in prison who could testify to his physical condition after he had been questioned and that he has also denounced the treatment that he received to judicial authorities and other bodies.

On 30 November 1988 he was called before the Second Section of the Court in Matosinhos (Porto) where he was asked to make a statement and answer questions about his allegations of ill-treatment by the police.

The Portuguese Ministry of the Interior (Ministério da Administração Interna) in a letter sent to Amnesty International in February 1990 stated that Daniel Rodriguez Perez was in a very excitable state ("entrou em estado de grande exaltação") when he was taken to Sto. Tirso police station for questioning on 28 April 1988 and that the injury to his head was caused when he knocked it against a table in the waiting room. The Portuguese Embassy in Bonn (FRG) stated in a letter to Amnesty International in March 1990 that during his detention he had inflicted injuries on himself in Sto. Tirso police station, in the offices of the Judicial Police in Chaves and in Chaves prison in order to incriminate the police.

It also stated that he had attacked a plainclothes policeman causing him to require medical treatment. The letter did not describe the alleged self-inflicted injuries, nor did it indicate the dates when they occurred or the circumstances under which they took place.

In consequence of reports made by the PJ officers to the Prosecutor (Ministerio Publico - Tribunal da Comarca de Chaves) about this alleged attack it was decided to prosecute Daniel Rodriguez Perez under Articles 142 and 385, No. 1, of the Penal Code, for physically assaulting and insulting an officer while under interrogation.

In view of Amnesty International's concern about the allegations of ill-treatment (see previous West Europe Bulletins, AI Index: EUR 03/02/89 and 03/01/90), a delegate from the organization was sent to Chaves to observe the trial which was due to open on 20 September 1990.

In the event the trial was postponed at the last moment, reportedly because of the failure of the court to appoint a judge to hear the case. However, the Amnesty International delegate learned that the prison doctor in Chaves had examined the prisoner on three separate occasions following his interrogations by the police and had registered a formal complaint on 12 May 1988 as to his physical state in the court in Chaves. The doctor's medical examinations showed a stitched scalp wound, bruising of differing degrees of severity to his face, chest, throat, shoulder and arms and blood in his ears.

In May 1988 the Prosecutor in Chaves called for reports from the parties involved in this complaint. The Director General of the Judicial Police replied on 23 December 1988 indicating that the complaint should be archived "for the reason that insufficient configurative elements were collected to indicate any disciplinary infraction by officers".

On 14 July 1989 the Prosecutor ordered the papers to be filed and no further investigation has been undertaken since then. In view of the gravity of the charge and the substantive nature of the complaint, Amnesty International has requested the authorities to initiate an action for a judicial review of the decision to file Daniel Rodriguez Perez's complaint of ill-treatment in custody.

2. Allegations of Ill-treatment in Linhó Prison (Update to AI Index: EUR 03/01/90)

In the last year, Amnesty International has received various reports alleging serious incidents of ill-treatment in this prison. These allegations included the death in custody in June 1989 of Mário Manuel da Luz and the beatings of 19 prisoners in March 1990.

Mário Manuel da Luz, a 29-year-old common prisoner from the Republic of Cape Verde, was found unconscious on the bed of his cell in the maximum security wing of Linhó prison on 21 June 1989. He died in Caxias prison hospital a few hours later. At the time of his death, he was being held in isolation in a punishment cell completing a one-month disciplinary sentence imposed after he attacked and seriously wounded a prison guard. He had been due to be released from isolation the next day, 22 June.

A number of fellow-prisoners alleged that for a month before his death he had been subjected to systematic ill-treatment by prison guards. The allegations mostly referred to severe daily beatings (see AI Index: EUR 03/02/89 for further details). An autopsy was carried out. According to press reports published in February 1990, it concluded that the cause of death was bronchial pneumonia caused by injuries (traumatismos remotos).

Dr Fernando Duarte, the Director General of Prison Services (Director Geral dos Serviços Prisionais) ordered an internal inquiry, the results of which were made public at the beginning of February 1990. It concluded that "serious acts" had been committed in the maximum security wing and punishment cells of Linhó prison during the second half of 1989. The Director General stated to the press that the acts in question constituted "serious breaches of discipline and, probably, criminal offences" (infracções disciplinares graves e, provavelmente, ilícitos criminais).

In August 1990, the Director General of Prison Services informed Amnesty International that "a judicial investigation had been opened into the death of Mário Manuel da Luz". He also stated that disciplinary proceedings, conducted by a judge, had been opened against the prison governor, Adolfo Assis Teixera, the prison doctor and some other prison officers. According to press reports in February 1990, the prison governor had been suspended by the Minister of Justice under the disciplinary statute for officials of the public administration. This was because of another allegation of ill-treatment involving four prisoners in the security wing of the prison.

Allegations have also been made of violent clashes in March 1990 between prisoners and prison guards (see AI Index: EUR 03/01/90). These followed a transfer of 19 prisoners by the intervention squad of the General Directorate of Prison Services (Direcção Geral dos Serviços Prisionais - DGSP).

The press reported that officers of the DGSP had beaten prisoners with truncheons and threatened them during the transfer.

In a statement to the press, on 10 March 1990, the Director General of Prison Services stated that he had ordered an inquiry into the reports.

Amnesty International has received no further information on the progress of these numerous inquiries, both judicial and disciplinary, which are currently taking place.

3. Ratification of International Human Rights Instruments on Torture and the Death Penalty

a) On 29 March 1990 Portugal ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

b) On 17 October 1990 (the date of receipt of the relevant documents by the UN Secretary General) Portugal ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first treaty of worldwide scope aimed at the abolition of the death penalty, which was adopted by the General Assembly of the United Nations on 15 December 1989.

SPAIN

1. Shootings in the Foz de Lumbier, Navarre

On 25 June 1990 an armed encounter took place between three alleged members of the "Nafarroa Commando" of the armed Basque group Euskadi Ta Askatasuna (ETA) and two members of the security forces in a canyon known as the Foz de Lumbier in Navarre. One sergeant of the Civil Guard, José Luis Hervás, was killed and his companion, José Domínguez Piris, was seriously wounded in an exchange of gunfire. Reportedly, some hours later, one of the ETA members, Germán Rubenach Roig, was found by members of the security forces seriously wounded and the following morning two more ETA members, Juan María Lizarralde and Susana Arregui, were discovered dead in the canyon, also by the security forces.

In a reported statement in Pamplona, on 26 June 1990, the Minister of the Interior indicated that they had apparently committed suicide to avoid being taken alive by the security forces, and that Germán Rubenach had attempted suicide for the same reason.

Amnesty International wrote to the Spanish government on 2 July 1990. It welcomed the immediate opening of a judicial inquiry in Aoiz (Navarre) into the deaths of Juan María Lizarralde and Susana Arregui and the wounding of Germán Rubenach and the separate judicial inquiry which was opened into the shooting of the two Civil Guards and other actions of the Nafarroa Commando by judge of instruction No. 4 in the National Court in Madrid, a court with judicial competence in suspected cases of terrorism. However, Amnesty International expressed its concern over reports it had received which indicated that the facts established on a preliminary examination of the dead bodies were inconsistent with the original, official explanation that both the ETA members had committed suicide. In particular, it was pointed out that Susana Arregui had two entry wounds from bullets in the left side of her head and Juan María Lizerralde had substantial quantities of water within his body.

In the weeks after these incidents, further versions of the timing, location and manner of the shootings were reported by the press. Neither judicial inquiry had reached a conclusion by the end of October.

The confusion and uncertainty surrounding the shootings prompted widespread public concern, including allegations that the three ETA members had been shot through the head by members of the security forces.

Amnesty International recognizes that international norms relating to law enforcement permit officials to use lethal force in accordance with principles of necessity and proportionality - for example, when the lives of others are jeopardized and less extreme measures are not sufficient. However, Amnesty

International opposes the intentional killings of persons when they can reasonably be assumed to be the result of a policy at any level of government to eliminate, or permit the elimination of, specific individuals as an alternative to arrest and imprisonment. It describes such deliberate and unlawful killings as extrajudicial executions.

The organization therefore urged the government to ensure that the fullest possible judicial investigation be undertaken into the events of 25 and 26 June, that the judges be given all the necessary powers, assistance and logistic support for their inquiries and that the findings of the autopsies and other relevant information be made publicly available as soon as possible.

On 18 July 1990, Amnesty International again wrote to the Minister of Justice because of certain reports it had received of alleged abuses and violations of the judicial process in aspects of these inquiries. In particular, Amnesty International drew the attention of the Minister to the long delay - nearly two weeks - before the Civil Guards involved in the operation were available to give testimony to the judge in Aoiz. Furthermore, there were press reports that the judge had had difficulty in obtaining access to a key witness, Germán Rubenach, while he was in the Intensive Care Unit of the Navarra Hospital in Pamplona. It was also reported that the judge from Court No. 3 in Pamplona who went to question the witness on 11 July was initially refused access to the Department of Neurosurgery where Germán Rubenach was held. When, after being searched by the police, he did gain access to Germán Rubenach's room he reportedly had to order eight Civil Guards, five of them in plain clothes, to leave the room before he could begin his examination of the prisoner. After the officers had left the room, and over half way through his interview with Germán Rubenach, the judge discovered that a tape recorder had been concealed in a bag by the Civil Guard and that it was recording the confidential interview. A search of the bathroom attached to Germán Rubenach's room then revealed an officer hidden in there listening to the judge's examination. In its letter, Amnesty International stated that, if these reports were accurate, they constituted serious breaches of the judicial process and, in the view of the organization, could jeopardize the impartiality of the investigation.

The Spanish government had not replied to either of Amnesty International's letters by the end of October.

At the end of August, the judge in Aoiz made an application to the Judge of Instruction No. 4 in the National Court in Madrid for the judicial inquiry being conducted in Aoiz to be transferred to the National Court. The application was rejected.

2. The Alleged Ill-treatment of José Antonio Montoya Barrios

In September 1990, Amnesty International wrote to the judicial authorities in Valencia to ask what judicial action was being pursued regarding the allegations of ill-treatment made in court

by José Antonio Montoya, a 27-year-old Spanish citizen, living in Valencia. He was stopped in a car by National Police with a friend just after leaving work on the evening of 19 January 1990. They were told to get out of the car and produce their identity papers.

According to the reported statements of José Antonio Montoya, when they went to fetch their papers from their car, the officers assaulted them with truncheons.

He alleged that he was beaten on his head, back and arm. He was then handcuffed and, because of his injuries, taken to the Hospital Clinico Universitario for treatment. The hospital issued a medical certificate describing his injuries and the treatment he received the same day. Photographs taken five days later show clearly the stitches to his head and severe contusions on his arm and back. After medical treatment he was taken to the police station, arrested and charged with assault and abusive behaviour to the officers. José Antonio Montoya has denied that he was ever violent or assaulted the officers.

On 16 May 1990, the magistrate in section No. 5 of Valencia Provincial Court (Juzgado No 5 de la Audiencia Provincial de Valencia) summoned all parties, including the police and defence lawyers, to appear for a preliminary investigation. Only the plaintiffs attended the court and no communication was received from the police. On 2 July, the same magistrate envoked an oral hearing but again the police did not attend.

3. Shooting and alleged ill-treatment in Pamplona by police officers

On 18 October 1990, Amnesty International wrote to the Spanish authorities expressing its concern about reports it had received of the shooting of Mikel Castillo in Pamplona on 18 September 1990 and the allegations of torture and ill-treatment made by his companion, Bautista Barandalla, in the National Court in Madrid.

According to press reports, 23-year-old Mikel Castillo, a citizen of Pamplona, was shot by an officer of the Cuerpo Superior de Policia while running away. Two police officers had approached a stationary car in Pamplona and asked the occupants for their identification. According to the reports there were three men inside who are alleged to have been members of ETA. There are conflicting accounts of what then took place. It was reported that all three got out of the car; Mikel Castillo, after a brief struggle with one of the police officers, ran down calle El Carmen de Pamplona pursued by the officer.

The officer then fired at him, how many times is unclear, and hit him in the back with one of his shots. It is reported that Mikel Castillo later died in hospital.

Amnesty International understands that the family of the deceased are appearing as an interested party in the inquiry into

a charge of homicide Sumario 2/90 opened in the Court of Instruction No. 2 in Pamplona. Press reports of the inquiry say that contradictory statements have been made by the police officers concerned and certain witnesses to the incident. In particular, it is not clear whether Mikel Castillo was armed at any time or whether he was warned to stop before the officer fired at him. Because of the reported conflict in the accounts of what took place Amnesty International has requested the Spanish authorities to ensure that the fullest possible judicial inquiry be held to establish the facts and that they should be made known publicly as soon as possible.

Amnesty International was also concerned to receive reports that one of the other men in the car, Bautista Barandalla, has alleged that he was ill-treated while in custody. He was arrested without a struggle, while in possession of an unfired weapon. According to information Amnesty International has received, Bautista Barandalla was held incommunicado, by virtue of the special procedures of the law relating to armed groups and terrorism, and then made a statement to the court in Pamplona on the shooting of Mikel Castillo before being transferred to Madrid where, on 21 September 1990, he made a further statement to the National Court. Amnesty International understands that on that occasion Bautista Barandalla made a substantive allegation of ill-treatment while in custody in Pamplona and Madrid. Bautista Barandalla was examined by a doctor of the court in Madrid and Amnesty International has been informed that in his report the doctor stated that Bautista Barandalla showed signs of having been ill-treated.

There are no reports of the third man having been arrested.

4. Conscientious Objection to Military Service

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

a) Case of Carmelo Sanz Ramiro (Update to information given in AI Index: EUR 03/02/90)

Carmelo Sanz Ramiro, a 20-year-old baker from Burgos, was adopted as a prisoner of conscience on 21 May 1990 during his imprisonment in Alcala de Henares Military Prison, Madrid, awaiting trial on a charge of desertion from the armed forces (deserción militar). He had already completed several months service in the army when

he concluded that further military service was incompatible with his pacifist beliefs and left his barracks. He was arrested when he presented himself voluntarily at the Military Governor's office in Burgos on 23 February 1990. Approximately one week previously he had submitted an application for recognition as a conscientious objector to the Consejo Nacional de Objeción de Conciencia (CNOC), National Council on Conscientious Objection, which is the authorized decision-making body.

On 19 March 1990, after refusing on conscientious grounds to put on military uniform, he was placed in isolation for several weeks, with his civilian clothing removed. It is alleged that during this period he was given only his underclothing to wear, that his incoming correspondence and reading material were withheld and that, although allowed telephone contact with his lawyer and girlfriend, he was not allowed to receive their visits.

He was released on 25 May 1990 but apparently only on condition that he report back to barracks to continue his military service. Amnesty International is not aware of what, if any, time limit was set for Carmelo Sanz to comply with the order.

b) The Cases of Fermín Palomo Curiel and Lluis García Espallargas

During the period under review, Amnesty International investigated the cases of Fermín Palomo Curiel and Lluis García Espallargas, both of whom were imprisoned as a result of their refusal, reportedly on grounds of conscience, to continue their military service.

Fermín Palomo, a 19-year-old conscript from Alsasua in the Province of Navarre, commenced his military service in Aizoain army barracks, near Pamplona, on 28 November 1989. However, within three weeks of his arrival, he reportedly concluded that further military service was incompatible with his conscientiously-held beliefs and on 18 December 1989 informed a senior officer that he wished to declare himself a conscientious objector to military service. He received no response to this request and two days later informed his captain of his decision to become a conscientious objector and to refuse all further military service. He was advised to reflect on his decision and warned that refusal of military service could lead to imprisonment.

On 21 December 1989, after signing a statement confirming his refusal to perform military service, he was allowed to leave barracks and return home. On 26 December 1989 he made a formal application for conscientious objector status to the Consejo Nacional de Objeción de Conciencia (CNOC). He appeared before a military judge in Pamplona on 17 January 1990 and again confirmed his refusal to perform military service. He was allowed to return home but warned that he could face military charges as a result of his refusal.

On 4 May 1990 he was arrested at his home by Civil Guard officers, on the orders of the Pamplona military judge, and imprisoned in Alcala de Henares military prison. He was released on 13 June 1990 but had reportedly still not been charged at the time of his release.

According to reports received by Amnesty International, Lluis García Espallargas, a 22-year-old conscript from Vic in Catalonia, commenced his military service in Berga military barracks on 27 January 1990, as ordered. On 5 March 1990 he apparently decided to leave his barracks and within a week contacted the Movimiento de Objeción de Conciencia (MOC), the Movement of Conscientious Objectors. A few days later he made a public declaration of his conscientious objection to military service during a press conference organized by MOC.

On 15 May 1990 he presented himself before a military judge in Barcelona to express formally his objection to military service to the military authorities, together with 22 other conscripts who had received call-up papers and were declaring their own objection to military service. He was not arrested at that time but on 26 July 1990 the National Police arrested him in his home town of Vic. He was taken to the police station and, after appearing before a military judge in Barcelona, transferred to the Modelo prison in Barcelona. He was released into conditional liberty on 4 August 1990 but in September received an order to appear before a military court in Barcelona on 29 October 1990.

SWEDEN

1. Kurdish Refugees under Town Arrest

Amnesty International's correspondence with the Swedish Government on the subject of the Kurdish refugees under town arrest continued (see AI Index: EUR 03/01/90). In June 1990 the Swedish authorities replied to Amnesty International's letter of April. The government believed that sufficient information was not available that the persons concerned had abandoned their connections with the Kurdish Workers' Party (PKK), and it therefore retained the expulsion orders and restrictions in these cases. In its reply of October, Amnesty International expressed once more its concern that the continuance of restrictions placed on the refugees had not been reviewed by a judicial authority. The organization called on the government to ensure not only an immediate judicial review in the specific cases of the Kurdish refugees but also that provision for such a review should be contained in new legislation being proposed.

On 15 October the Swedish Government cancelled the municipal arrest of six of the nine Kurdish refugees under town arrest. Two others had their municipal arrest and deportation orders lifted last year (see AI Index: EUR 03/01/90), and one, serving a prison sentence for drug offences, has not had any restrictions lifted. The six men can now move freely around the country and may also change jobs and addresses without the permission of the police. However, they are still considered to be terrorists; the deportation orders on the Kurds remain and they have to report to the police once a week.

The government is going to examine the restrictions placed on the Kurds and the terrorism allegations at least once a year, taking into consideration the assessment made by the police. According to the government, the deciding factor in lifting the municipal arrest was the police view that the Kurds' terrorist affiliations were now minor. The other reason for the government's decision was the fact that the restrictions placed on the freedom of movement had lasted so long that they could have been considered as a deprivation of freedom.

SWITZERLAND

1. Conscientious Objection to Military Service

Amnesty International continued to be concerned about the imprisonment of large numbers of conscientious objectors to military service and the lack of any provision for alternative civilian service.

Between the ages of 20 and 50 male citizens are required to perform regular periods of military service, amounting to a total of approximately 12 months' basic service. Unarmed military service is available to conscripts able to prove that the use of arms would result in a "severe conflict of conscience" on religious or moral/ethical grounds. Article 81 of the Military Penal Code allows military tribunals to sentence people refusing all forms of military service to up to three years' imprisonment although, in practice, sentences rarely exceed one year. All sentences are served in civilian prisons. If a tribunal recognizes an individual's refusal of military service is the result of a "severe conflict of conscience" on religious or moral/ethical grounds, a more lenient sentence of up to six months' imprisonment may be passed. This is normally served in the form of arrêts répressifs, a system of imprisonment allowing prescribed work to be performed outside the place of detention during the daytime. Sentences of up to six months' imprisonment may also be served in the form of 'semi-detention', allowing the objector to continue his normal or approved employment during the day. In the majority of cases, the objector is granted remission of sentence for good behaviour and released into conditional liberty after serving two-thirds of his sentence. Most are also excluded from future military service at the time of sentencing.

During the period under review, Amnesty International worked on the cases of conscientious objectors sentenced to between three months' and 10 months' imprisonment for their refusal of military service. Amongst those adopted as prisoners of conscience was Michel Oeuvray, a 28-year-old teacher from Bienne, who entered Bienne District Prison on 6 August 1990.

Michel Oeuvray is a member of Amnesty International and a supporter of several national associations promoting the introduction in Switzerland of a civilian alternative to compulsory military service. When first called to register for military service in 1982 he applied, on ethical grounds, to perform unarmed military service but this application and a subsequent appeal were both rejected by the military authorities. He then performed his military recruit school training, as ordered, in 1984, as well as two compulsory refresher courses in 1986 and 1987.

Over the years his pacifist and ethical beliefs strengthened and by the time he was called to perform a further refresher course

in November 1988 he had concluded that further military service was incompatible with these beliefs. He did not report for the refresher course, having written to the military authorities the previous month to inform them of his decision to refuse all further military service on grounds of conscience.

In January 1989 a judicial investigation was opened into his refusal and, during an interview in March 1989 with the military judge of instruction responsible for investigating his case, he handed over a letter explaining in detail the pacifist and ethical grounds for his objection to military serivce. He also stated that, in his view, the army consumed financial and technological resources far better utilized to aid development in the third world.

The Military Divisional Tribunal which heard his case at Yvorne on 6 September 1989 acknowledged that Michel Oeuvray had put forward moral concerns in support of his decision to refuse military service but was not convinced that they were of an "absolute and compelling" character ("caractère absolu et contraignant"). The tribunal also found a rebellious aspect to be preponderant in the defendant's convictions ("l'aspect réfractaire était prépondérant dans les convictions de l'accusé"). This meant that Michel Oeuvray did not qualify for the more lenient sentence of arrêts répressifs. The tribunal sentenced him to three months' imprisonment, plus costs of 800 Swiss Francs and excluded him from further military service.

Frédéric Maillard, the 25-year-old commercial director of a publicity company in Fribourg, was adopted as a prisoner of conscience by Amnesty International when he entered Fribourg Central Prison on 3 September 1990.

Frédéric Maillard has been a committed Christian since the age of 16 and plays an active role in his local Catholic community. He is the Vice-President of the Swiss branch of Action by Christians against Torture (ACAT) and is also a member of Amnesty International. When first called to register for military service he made a successful application, on religious grounds, to perform his service in an unarmed unit. He carried out his four month recruit school training in 1985 but states that this direct experience of the army served to reinforce his belief in non-violence. His next session of military training, a compulsory refresher course scheduled for 1986, was postponed. He did not present himself for kit inspections in 1987 and 1988 nor for a refresher course commencing on 18 April 1988.

On 4 April 1988 he had written to the military authorities informing them of his decision to refuse further military service on grounds of conscience. He explained to the military judge of instruction assigned to his case and to the Military Divisional Tribunal which heard his case at Payerne on 28 August 1989 that his decision was based on mature religious convictions which compelled him to condemn all use of violence and therefore also

made it impossible for him to perform further military service.

The Military Tribunal recognized that Frédéric Maillard's refusal of military service was motivated by sincere religious and pacifist convictions and that he was suffering a "severe conflict of conscience". He therefore qualified for the more lenient sentence of arrêts répressifs. The court sentenced him to three months' arrêts répressifs, plus costs of 700 Swiss Francs and excluded him from further military service.

Amnesty International appealed for the release of people who were imprisoned for refusing to perform military service on conscientious grounds, for the introduction of the right to refuse military service on such grounds and for the provision of a genuine alternative service outside the military system. In reply to these appeals the federal authorities stated that the introduction of such a service required an amendment to Article 18 of the Constitution (under which there is a binding obligation for male citizens to perform military service) and that national referendums in 1977 and 1984 had decisively rejected such an amendment; a government bill, proposing to "decriminalize" certain categories of conscientious objection was, however, under parliamentary examination (see Section 2. below).

2. Parliamentary approval of Bills modifying the Military Penal Code and the Federal Law on Military Organization (Update to information given in the Amnesty International Report 1990 and AI Index: EUR 03/01/90)

A government bill modifying the Military Penal Code and amending the penalties available for certain categories of conscientious objection was approved by the Council of States, the second chamber of parliament, on 26 September 1990. It had been approved by the other chamber, the National Council, on 14 December 1989. The law was published in the official record (Bundesblatt/Recueil des lois fédérales) on 16 October 1990 but will not come into force until 16 January 1991, at the earliest. The possibility still exists for the electorate to reject the law. Under the Swiss legislative system, a public referendum may be held on a law, if it is requested by a minimum of 50,000 citizens within 90 days of its publication. A referendum committee, consisting of groups supporting the right to conscientious objection to military service and opposed to the new law, is currently trying to collect the necessary number of signatures for a referendum.

Under the new law, refusal to perform military service remains a criminal offence. If a conscript is able to show to the satisfaction of a military tribunal that he cannot reconcile military service with his conscience because of "fundamental ethical values" ("des valeurs éthiques fondamentales/ethische Grundwerte") then he will be sentenced to a period of work in the public interest ("un travail d'intérêt général /Arbeits-leistung, die öffentlichen Interessen dient"). This period may range from one and a half times the total length of military service to a

maximum of two years. If completed, no criminal sentence will be registered on the individual's record. Refusal to carry out the work sentence is punishable by up to three years' imprisonment. Those objecting to military service on grounds of conscience, such as political grounds, which are not recognized under the law, will continue to receive prison sentences and a criminal record.

Amnesty International has repeatedly expressed concern that the law will not introduce a genuine alternative civilian service and that, under its provisions, people refusing military service for reasons of conscience will continue to be punished.

On 26 September the Council of States also approved a bill modifying the Federal Law on Military Organization. Under the bill, a conscript who applies to perform unarmed military service will now be be accepted to this service if the military authorities consider that he is unable to reconcile armed military service with his conscience because of "fundamental ethical values".

UNITED KINGDOM

1. Alleged Forced Admissions during Incommunicado Detention

Amnesty International has for several years expressed concern about some cases of people who were convicted of serious offences in connection with the disturbances at Broadwater Farm Estate in London in 1985 (see AI Index: EUR 03/01/90).

The organization has been concerned about the very limited inquiry that was carried out into the police conduct during the investigation into the disturbances. Over 350 people were arrested as part of the investigation. Amnesty International has said that allegations made by detainees indicated a pattern of police misconduct in keeping suspects in incommunicado detention and in coercing confessions from suspects which later became the basis for convictions. It has consistently called on the government to initiate a wide-ranging inquiry into the police conduct in all those cases where people were convicted of serious offences on the sole basis of uncorroborated and contested confessions. It has stated that the police inquiry, supervised by the Police Complaints Authority (PCA), was too limited and did not look into the patterns of alleged misconduct.

In a recent letter to Amnesty International the Home Office stated that "the investigation was very wide-ranging, and while it clearly placed particular emphasis on specific complaints, it also covered all areas about which concern had been expressed". The organization has sought clarification of this statement, because it has been informed by the PCA that the inquiry was limited and looked into very specific cases of complaints, and not the pattern of allegations by suspects about which public concern had been expressed. Amnesty International was specifically told by the PCA that the cases of the three men convicted of murder were not looked into. The government is aware that although in many cases suspects did not make formal complaints, their allegations were serious enough for judges to exclude their confessions as evidence. At the murder trial, the judge commented on the behaviour of the police in the interrogation not only of Jason Hill but also of another juvenile defendant whose confession was excluded as evidence and who was acquitted of the murder charge. In the latter case the judge listed seven grounds of improper police conduct, while in the former he listed nine grounds. The judge criticized personally Detective Chief Superintendent Graham Melvin, who was in overall charge of the investigation, for the way in which Jason Hill had been treated during his initial detention. Furthermore in the trials of many others, including Asheen Abdullah, Stephen Edwards, Howard Kerr and Hassan Muller, it was established in court that they had been denied access to a lawyer; they all alleged that confessions had been coerced.

However, because the Commissioner of the Metropolitan Police did not refer these cases to the PCA, they were not investigated. The government's letter of 27 February to Amnesty International

said that the procedure laid down in the Police and Criminal Evidence Act (PACE) allowed for complaints to be fully investigated, and that therefore there was no justification for establishing a separate inquiry. Amnesty International considers that it was inadequate for the government to have relied on the existing procedures to deal with a situation that was not covered by the Act, namely serious allegations about a pattern of police misconduct affecting many cases, which were not the subject of formal complaints. It was the government's responsibility to ensure that all the allegations were fully looked into.

Moreover, despite the public concern about these allegations, the results of the limited inquiry by the PCA remain secret. The only fact that was made public was that the PCA had recommended disciplinary charges to be brought against Detective Chief Superintendent Graham Melvin, who had overall responsibility for the police investigation into the disturbances.

The three charges against Detective Chief Superintendent Melvin all related to the treatment of Jason Hill, aged 13 at the time of arrest, who had been held for three days at the police station and denied access to parents and solicitors and who made a confession while dressed only in underpants. The charges were reported to be: a) that he abused his authority in allowing the oppressive treatment and protracted questioning of Jason Hill; b) that he disobeyed orders by breaching Judges Rules and PACE when denying access to a solicitor, and by breaching the Children and Young Person's Act by allowing him to be held at a police station overnight; and c) that he was an accessory to breaches of statute committed by other officers.

The result of the internal disciplinary hearing, which took place over two weeks, was that on 4 June Detective Chief Superintendent Melvin was found guilty of denying Jason Hill access to a solicitor, a verdict which has been appealed. The appeal will be heard by the Home Secretary. During various trials the senior officer had attempted to justify the practice of not allowing detainees access to solicitors by stating that he believed solicitors could have wittingly or unwittingly interfered with the course of justice.

Barbara Hill, the mother of Jason Hill, has claimed that the arrest, 15-month detention and trial of Jason "has ruined my life, Jason's life, all our lives. I have been through a divorce and two heart attacks because of this. I can't sleep properly at nights now, and Jason has lost all chance of a normal adolescence and a normal education". She believes that those responsible for his treatment should face criminal prosecution and she has called upon the government to subject the whole affair to a dispassionate and public review.

It was Detective Chief Superintendent Melvin's testimony which provided the basis for Winston Silcott's conviction for murder. He was the officer in charge of the interrogation of Winston Silcott, and had conducted the interview that had resulted in an

ambiguous exchange which did not amount in itself to a confession. However, the officer's description in court of Winston Silcott's "guilty posture" during the interview was decisive testimony.

Evidence has recently come to light which casts further doubt on the safety of the convictions for murder of Winston Silcott, Engin Raghip and Mark Braithwaite. A television programme entitled Inside Story reported that new psychological testing was carried out on Engin Raghip and on that basis it was argued that his confession was unreliable, both because he did not have the intellectual resources to cope with the interrogation and because he was abnormally suggestible. This is even more significant when coupled with the fact that he made his confession in the absence of a lawyer. Further evidence based on psychological testing in the case of Mark Braithwaite argued that he suffered from attacks of claustrophobia; it was claimed that this evidence cast doubt on the reliability of his confession. In the case of Winston Silcott it was alleged that his name had been suggested by the police to various detainees as the ringleader of the attack on Police Constable Blakelock. One suspect, Howard Kerr, named Winston Silcott and 19 other people; however it was eventually proved that he was 50 miles away and not anywhere near the riot. Jason Hill, who was also charged with murder, incriminated Winston Silcott in his confession, which was seen by the jury. Jason Hill's confession was declared inadmissible as evidence by the judge, but only in the "trial within a trial" (that is, in the absence of the jury). Thus the jury did not hear the judge's description of the evidence as unreliable and "incredible" and "fantasy". Jason Hill stated that the police had persuaded him to say that Winston Silcott was present at the riot and the murder.

Amnesty International has welcomed the information that the Home Office has recently launched an internal inquiry into the cases of the three men convicted of the murder of PC Blakelock, and has requested to be informed of the nature of the inquiry. Although Amnesty International welcomes this inquiry, it believes there is still a need for an independent inquiry into all the cases of people convicted on the basis of contested confessions made in the absence of their lawyer.

2. The Six Men Convicted of Bombings in Birmingham (known as the "Birmingham Six")

The United Kingdom Home Secretary, David Waddington, referred the cases of the six prisoners, convicted in 1975 to life imprisonment for pub bombings, back to the Court of Appeal on 29 August 1990 (see AI Index: EUR 03/01/90). This is the second time that the cases of the six, known as the "Birmingham Six", will have had a hearing in the Court of Appeal. The Home Secretary's decision was based upon an interim report from the Devon and Cornwall Police investigation of the case. This investigation was requested in March after new evidence had been submitted to the Home Secretary by a solicitor acting on behalf of some of the men. The police investigation had not been concluded by the end of October.

However, the interim report disclosed the results of new forensic tests which suggested that some pages of the record of an interview with Richard McIlkenny, one of the six, may have been written at a later time than the rest of the record. This raised the possibility that evidence presented to the trial may have been fabricated. It had been claimed at the original trial that the record had been taken down at the time of the interview. This evidence was supported by Detective Superintendent George Reade, who was overall in charge of the police investigation. Richard McIlkenny had always denied that this interview took place. (At the 1987 appeal hearing the defence lawyers produced a schedule, giving the times of the 26 interviews, drawn up by Detective Superintendent Reade. The lawyers alleged that the schedule was prepared to ensure that the timing and the fabricated accounts of their interviews were consistent. The police denied this.)

This evidence followed the revelation in August that the scientific officer, who testified about forensic tests made after the arrests to the 1987 Appeal hearing, claimed that her own slender evidence had been misinterpreted by the judges. She had said that her tests had revealed a "possible finding" of nitroglycerine on the hand of one of the defendants, Paddy Hill, whereas the judges stated: "Fresh evidence on this topic makes us sure that Hill's hand is proven to have nitroglycerine upon it, for which there is and can be no innocent explanation. That conclusion is fatal to the appellants."

On the basis of the new information, the Home Secretary stated that there was now sufficient doubt about the safety of the convictions to make it necessary to refer the cases back to the Court of Appeal once again. At the end of October a date for the Court of Appeal hearing had still not been set, nor was it known whether the Director of Public Prosecutions would contest the cases.

Amnesty International welcomed the Home Secretary's decision to refer the cases back to the Court of Appeal, and urged the government to ensure a speedy resolution of the cases.

3. The May Inquiry

An inquiry, headed by Sir John May, was established to look into the circumstances surrounding the various convictions arising from the trials of the "Guildford Four" and the members and friends of the Maguire family (see AI Index: EUR 03/01/90). An interim report of the inquiry was published on 11 July 1990; the report dealt with the cases of the members and friends of the Maguire family, which had been the subject of public hearings since 21 May. On the same day the Home Secretary referred these cases to the Court of Appeal.

Seven members and friends of the Maguire family had been convicted in 1976 of possessing and handling explosives on the basis of forensic evidence. The arrests were made by detectives investigating the Guildford and Woolwich pub bombings of 1974. Annie Maguire, her husband Patrick, their two sons, two friends and Guiseppe Conlon (the father of Gerard Conlon, one of the "Guildford Four", who died in prison in 1980), were jailed for between five and 14 years. None of them ever made a confession, and they all proclaimed their innocence from the first.

The interim report criticized the judge in the first trial, the Appeal Court judges, the prosecution and Ministry of Defence scientists for mishandling and misunderstanding crucial forensic evidence. Sir John stated: "It has been shown that the whole scientific basis upon which the prosecution was founded was in truth so vitiated that on this basis alone the Court of Appeal should be invited to set aside the convictions." He also stated that he plans to look at four wider issues which have emerged from the Maguire case: the preparation of court evidence and the role of experts; advance disclosure of scientific findings; the process by which a prosecution based on scientific evidence is authorized; and Home Office procedures for assessing scientific evidence after claims of a miscarriage of justice.

The second part of the inquiry, looking at the wrongful convictions of the "Guildford Four", may not start for another two years. It cannot proceed until the criminal investigation into the Surrey police officers, said to have lied to secure convictions, is complete and any subsequent trials and appeals disposed of. It is reported that the second part of the inquiry will also consider allegations that someone deliberately doctored the Maguires' handswabs and allegations of police brutality against the Maguires.

4. Arrest and Detention of Six Men of Kuwaiti and Bahraini Origin

Amnesty International was concerned about the cases of six men of Kuwaiti and Bahraini origin who were arrested and detained under the Prevention of Terrorism Act on 22 May 1990. One of the six men, Anwar al-Harby headed the Committee for the Defence of Freedom in Kuwait. He had lived in the United Kingdom for 15 years,

and applied for asylum in 1988. His request for asylum was refused on 24 May 1990, after he had been detained. The government stated that he had been refused asylum after the Home Office determined that he did not have a well-founded fear of persecution in Kuwait.

Another of the six men, Mohammed Said Shehabi, is the editor of Al Alam magazine, which covers the Middle East. He has lived in Britain for 18 years. Along with three others, he was released without charge after four days of interrogation.

On 24 May two of the detained Kuwaiti men, Anwar al-Harby and 'Abd al-'Aziz Nasser, were served with deportation orders which stated that their presence was not conducive to the public good on the grounds of national security. Despite their stated wish to remain in the United Kingdom, they were expelled to Iran against their will on 31 May.

Amnesty International wrote to the Home Secretary on 12 July asking to be informed of the reasons for the arrest and detention of the men. Amnesty International expressed concern that the six men may have been detained for their non-violent political activities. If this is the case, the organization would consider them to have been prisoners of conscience.

Amnesty International also expressed concern that Anwar al-Harby was not allowed to appeal against the refusal of his application for asylum and may have been detained and expelled for his well-known human rights work on Kuwait. The fact that he was not allowed to appeal against refusal before being expelled contravenes the principle set forth in para. (vii) of Conclusion No. 8 (XXVIII) of the Executive Committee of the Programme of UNHCR (United Nations High Commissioner for Refugees):

> "The applicant should be permitted to remain in the country pending a decision on his initial request by the competent authority...unless it has been established by that authority that his request is clearly abusive. He should also be permitted to remain in the country while an appeal to a higher administrative authority or to the courts is pending."

The organization expressed further concern after noting reports that on the same day that Anwar al-Harby's asylum request was refused, the Home Office assured the UNHCR that neither of the people who were threatened with deportation had applied for asylum.

Amnesty International opposes the practice of detaining refugees and asylum seekers unless detention is for reasons recognized as legitimate by international standards and these reasons are reviewed by means of a prompt, fair, individual hearing before a judicial or similar authority. The right to have judicial supervision of detention is contained in Principle No. 11 of the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In this case the

organization is concerned not only that the actual reason for detaining Anwar al-Harby may have been his non-violent political activity, but also that the grounds of detention were never tested in a court of law.

5. Derogation from the European Convention on Human Rights

In May 1990 Amnesty International wrote a letter to the Home Secretary expressing concern about the United Kingdom Government's statement of 14 November 1989 that it will derogate indefinitely from Article 5(3) of the European Convention on the Protection of Human Rights and from Article 9(3) of the International Covenant on Civil and Political Rights. Derogation means that the government has announced its intention to suspend its obligations for compliance with these particular provisions of the Convention and the Covenant. Both Article 5(3) of the European Convention and Article 9(3) of the International Covenant require that a suspect "be brought promptly before a judge or other officer authorized by law to exercise judicial power".

On 29 November 1988 the European Court of Human Rights (ECHR) delivered its judgment in the case of Brogan and Others. The case concerned four men who had been arrested in Northern Ireland in 1984 under the Prevention of Terrorism Act and detained for periods from four days, six hours to six days, 16 hours without being brought before a judge or charged. The European Court of Human Rights found that the lengths of time for which they had been held before being brought before a judge amounted to a violation of Article 5(3) of the European Convention on Human Rights.

In order to comply with the judgment the United Kingdom would have had to change its legislation because the Prevention of Terrorism Act permits the Secretary of State to extend the detention of those suspected of involvement in terrorism for up to seven days. However, the United Kingdom notified the Council of Europe that it was entering a derogation from its obligations under Article 5(3) of the European Convention, pursuant to Article 15(1) of the Convention. Article 15(1) provides that states may derogate from their obligations under the Convention in times of public emergency threatening the life of the nation. On 14 November 1989 the United Kingdom Government stated that it would derogate indefinitely from Article 5(3) of the European Convention.

The Human Rights Committee, established by the International Covenant on Civil and Political Rights, has emphasized in its General Comment on Article 4 of the Covenant concerning derogation that "measures taken under Article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that in times of emergency, the protection of human rights becomes all the more important, particularly those rights from which no derogations can be made".

Amnesty International shares

the view of the Human Rights Committee that it is precisely in those situations where governments are dealing with internal conflicts and confronting armed opposition groups that violations of human rights are particularly likely to take place. At such times, we believe that a government has an added responsibility to ensure strict adherence to international human rights standards.

In its letter to the United Kingdom Government, Amnesty International noted that the Home Secretary has defended the government's decision with regard to the European Convention as being in line with the Convention's provision for derogation under Article 15 "in time of war or other public emergency threatening the life of the nation". The organization also noted that the Home Secretary has said that the derogation was therefore necessary "in the context of the continued threat to the United Kingdom - on a scale unknown elsewhere in Europe - posed by terrorism connected with the affairs of Northern Ireland".

Amnesty International expressed regret that the government's decision to derogate indefinitely was based on a conclusion that "a satisfactory procedure for the review of the detention of terrorist suspects involving the judiciary has not been identified". The Home Secretary has maintained that the current practice of ministerial review of any detention longer than two days will provide "reasonable safeguards" against ill-treatment. In its letter to the government, Amnesty International expressed the belief that prompt and regular access to a lawyer and the judicial supervision of continued detention are two of the most effective safeguards against ill-treatment. In the organization's view, sustained detention without such regular access to a lawyer or the safeguard afforded by judicial supervision also increases the risk of a confession being made as the result of coercion. The organization reminded the government that Article 14(3)g of the International Covenant specifically guarantees an individual's right "not to be compelled to testify against himself or to confess guilt". Amnesty International is concerned here with the upholding of the guarantee in both Article 6 of the European Convention and Article 14 of the International Covenant of the right to a "fair and public hearing". Amnesty International is not convinced that the search for a solution to the problem of a satisfactory judicial review procedure for detained suspects has genuinely been exhausted. The organization has therefore urged the government to comply with the ruling of the European Court of Human Rights by providing a judicial supervision of continued detention.

Notwithstanding its derogation from Article 5(3) of the European Convention, the United Kingdom Government remains bound to take measures to rectify the violation found by the European Court of Human Rights in the Brogan case as soon as the derogation is terminated. Article 53 of the European Convention provides that all States Parties undertake to abide by decisions of the Court in any case to which they are parties. Derogation by itself cannot amount to a satisfactory

execution of a judgment by the Court since derogation is, by its very nature, an exceptional and limited measure which should be temporary. Article 15(1) of the Convention states that measures of derogation may only be taken in times of war or public emergency that threatens the life of the nation. Even then derogation must be restricted to those measures strictly required by the exigencies of the situation.

Article 54 of the European Convention requires the Committee of Ministers of the Council of Europe to supervise the execution of judgments handed down by the European Court. The Committee generally examines the steps taken by states in consequence of judgments against them and, when it is satisfied, the Committee adopts a decision to that effect noting that it has carried out its functions under Article 54.

The Committee of Ministers invited the United Kingdom Government to inform it of measures taken following the judgment in the Brogan case and took up consideration of this, in exercise of its functions under Article 54, on 24 September 1990. In the information it provided to the Committee, the United Kingdom Government stated only that "it had not been possible to identify a procedure which could satisfy the requirements of Article 5, Paragraph 3 of the Convention on the issue of the review of detention of terrorist suspects by a judge or other officer authorised by law". In consequence, the government stated that its derogation "must remain in place for as long as circumstances require" and the relevant legislative provisions allowing suspects to be held for up to seven days without being brought before a judge would also remain in force.

The Committee of Ministers did adopt a decision on this case, but the wording of that decision - which differs significantly from the usual language of its decisions taken pursuant to Article 54 - appears to indicate that it does not consider that the United Kingdom Government has satisfactorily complied with the judgment of the Court in the Brogan case.

The Committee usually states in its Article 54 decisions that it has "satisfied itself" that appropriate remedial measures have been taken by the state in question and, in conclusion, declares that the Committee has exercised its functions under Article 54. Both these elements are missing from its decision in respect of the Brogan case. Instead, the Committee merely noted that it could not pronounce on the validity of a derogation notified pursuant to Article 15(1) and decided "to discontinue its examination of the present case". It would also appear from the wording of this decision that the Committee could resume its consideration of this case under Article 54 at some time in the future, either following termination of the derogation by the United Kingdom or if the derogation was successfully challenged and found not to be in compliance with Article 15(1).

Northern Ireland

6. Killings by Security Forces

Amnesty International has been concerned for several years about incidents involving disputed killings by security forces in Northern Ireland (see AI Index: EUR 03/01/90). Recently the organization has focussed on two incidents: the killing of Brian Robinson, and that of three men shot dead at a betting shop (see AI Index: EUR 45/02/90).

Brian Robinson was killed in September 1989, by undercover soldiers who were reported to have witnessed the killing of Patrick McKenna. The soldiers then gave chase to Brian Robinson and Davy McCullough, the alleged perpetrators. The circumstances of his death were investigated by the Royal Ulster Constabulary (RUC) and the police file was reportedly forwarded to the Northern Ireland Director of Public Prosecutions in February 1990. Before an inquest can take place into the death of Brian Robinson, a trial will be held of Davy McCullough for the murder of Patrick McKenna. It has been reported that the statements for this trial do not contain the report of the forensic tests carried out on the weapons, nor any statements by the soldiers involved. It has been alleged that this is an attempt to block the giving of evidence by key witnesses and their cross-examination.

The family of Brian Robinson obtained the autopsy report one year after his death. It states that he was shot four or possibly five times and that he died from brain injuries inflicted by two bullets to the head. (The release of the autopsy report before the holding of an inquest is highly unusual in Northern Ireland. It is up to the coroner to decide whether to release the report or not. However although Amnesty International welcomes the release of the report, it is still concerned about the considerable delay, one year, before the autopsy report was received by the family.)

John McNeill, Peter Thompson and Edward Hale were shot in January 1990 by undercover soldiers as they were attempting to carry out a robbery in a betting shop. The investigation into the circumstances of their deaths was carried out by the RUC. The police file was submitted to the Director of Public Prosecutions on 26 March. In a letter from the RUC to the Committee on the Administration of Justice, dated 13 April, the RUC stated that the post-mortem results had not yet been received by the coroner, the police or the Director of Public Prosecutions. The autopsy results were sent to the families in August. A letter from the Director of Public Prosecutions to one of the families stated in October 1990 that the file on the cases had been returned to the police for further investigation.

The autopsy report into the death of John McNeill, who was shot as he sat at the wheel of a stolen, getaway car, was the most disturbing. It revealed that six shots had been fired at his head and trunk; and that the gunshot that made the fatal wound to the right side of the face was fired within a range of less than 24 inches. He was unarmed and unmasked. The other autopsy reports showed that Eddie Hale had been shot 13 times and Peter Thompson

10 times. The reports also indicated that possibly both had been fired upon while lying on the ground.

7. Inquests

There was a further postponement in the holding of long overdue inquests. The inquests into the killing of eight IRA men in Loughall, and a passing motorist, Anthony Hughes, were to have taken place in September. However, because of a legal challenge from a separate inquest, heard by the Court of Appeal in October 1990, all inquests involving disputed killings by security forces were postponed pending the Appeal Court's decision. The legal challenge came from the case of Charles Breslin and Michael and David Devine, (killed in 1985), in which the families' lawyers objected to the admissibility as evidence of the written statements of members of the security forces involved in the shootings. They argued that the written statements should not be admissible if the security force personnel are not there to give testimony and to be cross-examined. A recent House of Lords hearing ruled that security force personnel are not obliged to attend and give testimony to inquests.

REFUGEES

1. Harmonization of Asylum Policy in Europe

As part of the process for achieving the single internal market within the European Community (EC) by the end of 1992, the member states are making arrangements to cooperate systematically with each other in imposing visa requirements on nationals of the same countries and sanctions on transport operators which carry people -- including asylum-seekers -- not in possession of the required visas or travel documents. Amnesty International is concerned that visa requirements and sanctions can obstruct people fleeing the risk of imprisonment as prisoners of conscience, torture or execution from obtaining access to refugee determination procedures. This concern is heightened if governments cooperate with each other to impose such restrictions on nationals of the same countries. In this instance Amnesty International is concerned that these visa requirements and sanctions will obstruct asylum-seekers seeking asylum in any of the EC member states, when this may be their only practical means of obtaining protection.

Amnesty International is calling on the governments of the member states to ensure and demonstrate that these measures will not obstruct asylum-seekers in this way. If the governments cannot demonstrate this, Amnesty International opposes the visa requirements and sanctions in question.

The EC member states are also making arrangements to coordinate their policies and practices governing the entry of asylum-seekers into the territory of the member states and their access to refugee determination procedures. Under these arrangements, people fleeing human rights violations who seek protection in any of those states will be allowed to submit their asylum claim in only one, specified, member state. In some member states procedures at the border and refugee determination procedures lack certain essential safeguards, which has sometimes led to asylum-seekers in need of protection being returned to a country where they are at risk. In some cases they are known to have suffered human rights violations after their return. Amnesty International is concerned because, under these arrangements, a particular state where a person asks for asylum could refuse to hear that person's request and instead send him or her to another contracting state which is determined to be responsible for examining the request but where the border procedures or refugee determination procedures lack certain essential safeguards for the protection of asylum-seekers and refugees.

These arrangements are set out in three intergovernmental treaties, two of which were signed in June 1990, and the third of which is expected to be signed in December. They are likely to be ratified in 1991. While to date the treaties which have been formally concluded on these points have been signed only by countries which are EC member states, other countries in Europe

outside the EC have expressed interest in taking part in this cooperation; it is understood that arrangements for this are in hand and may be concluded in 1991.

In 1990 Amnesty International has been raising its concerns on these matters with the governments of the EC member states and with officials in the EC Commission and the Presidency of the EC. It set out its concerns in two papers: *Harmonization of Asylum Policy in Europe - Amnesty International's concerns: April 1990* (AI Index: POL 33/03/90) and *Harmonization of Asylum Policy in Europe - Amnesty International's concerns* (AI Index: EUR 01/01/90), issued in November.