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FRANCE: FATAL SHOOTING OF FABRICE FERNANDEZ BY LYONS POLICE OFFICER

Amnesty International is concerned at the shooting and killing, in a Lyons police station, of Fabrice Fernandez by an officer of the National Police on 18 December 1997. While Amnesty International welcomes the prompt opening of administrative and judicial inquiries into the shooting, it is concerned about the apparent use of excessive force in violation of the standards of international law. Reports so far received further appear to indicate that the shooting and killing of Fabrice Fernandez was contrary to French law and police regulations regarding the use of arms by police forces. Amnesty International is seeking information from the French authorities about the progress and eventual outcome of the investigation into Fabrice Fernandez's death, and any further judicial or administrative proceedings arising from it.

The following account is based on newspaper reports.

Twenty-four-year-old Fabrice Fernandez lived with his partner and their five children in the Lyons district of Saint-Rambert-Ile-Barbe, close to other members of his family in the district of La Duchère. La Duchère, a northwestern district of Lyons, is known for its high unemployment and social tension.

Press reports conflict over the circumstances leading up to the arrest of Fabrice Fernandez. However, Fabrice Fernandez's uncle stated in a press interview¹ that on 18 December 1997 his nephew had gone to La Duchère to visit him and his wife. At approximately 9pm they overheard a disturbance in the street immediately below their fifth floor apartment. They went to the balcony and noticed that one of Fabrice Fernandez's step-brothers, Daniel Pappalardo, was embroiled in an argument with a group of local youths. Fabrice Fernandez decided to go downstairs to investigate. As he was doing so a gun was fired, apparently into the air. A pump-action shotgun was reported to have been in the possession of Daniel Pappalardo.

¹*Libération*, 20-21 December 1997.

Two police officers from the Anti-Crime Brigade (*Brigade anticriminalité*, BAC), who had reportedly been called to the area to investigate a separate incident, were alerted by the gunshot and, arriving at the scene, called for reinforcements. According to a press release issued on 19 December 1997 by the Public Prosecutor, Fabrice Fernandez had been drinking and opposed the arrest of Daniel Pappalardo and another step-brother². In the course of their arrest the police seized the shotgun. At approximately 9.30pm all three brothers were taken to the police station in the ninth arrondissement of Lyons, to be placed in custody (*garde à vue*). The confiscated shotgun, which was not unloaded, was also taken to the station.

According to reports, Fabrice Fernandez and his step-brothers were angry and the atmosphere was tense. Fabrice Fernandez was led into a room where, still in handcuffs, he was interrogated by a National Police officer. In as yet unclarified circumstances the officer, who was handling the confiscated weapon, shot Fabrice Fernandez in the jaw. Death was instantaneous.

On 20 December the police officer was placed in preventive detention in Villefranche-sur-Saône prison, some 30kms outside Lyons. An internal administrative inquiry was opened by the General Inspectorate of the National Police³ and a judicial investigation into a charge of manslaughter (*coups et blessures volontaires ayant entraîné la mort sans intention de la donner*) was initially opened. This charge was almost immediately increased to murder (*homicide volontaire*) by the investigating judge. The officer, who had been immediately suspended from duty following the shooting was, on the orders of the Minister of the Interior⁴, dismissed from the force on 17 January 1998.⁵

The Minister of the Interior was quoted as saying that: "Using a firearm on a handcuffed man without checking whether it is loaded is absolutely unacceptable"⁶. He was also said to have stressed the importance of a "basic code of ethics" governing police use of firearms. A month before, during a meeting at Villepinte, the Minister had announced the creation of a *Conseil supérieur de la déontologie et de la sécurité* (CSDS) and on 14 January 1998 a draft law setting up this independent body was presented to the Council of Ministers (*Conseil des ministres*). The CSDS is expected to be given wide powers to inquire into allegations of infringements of deontological rules by the various police forces, including the *gendarmerie*, but will not be able to interfere with judicial inquiries.

²There are conflicting reports concerning the whereabouts of the second step-brother; some reports published in the days immediately following the shooting in the police station indicate that he was with Fabrice Fernandez in the apartment, whilst others indicate that he was outside with Daniel Pappalardo when the dispute with the local youths broke out.

³*Inspection générale de la police nationale* - IGPN. The IGPN has been traditionally responsible for carrying out internal inquiries into complaints against the police.

⁴The decision to dismiss the police officer was taken by the Minister of the Interior following a recommendation made by the police disciplinary body, *le Conseil de discipline de la police*. In cases such as this, the final decision rests with the Minister of the Interior.

⁵It was reported that the police officer had been suspended on two previous occasions, including once for assault. The Minister of the Interior maintained that he had been "insufficiently sanctioned" (« *insuffisamment sanctionné* » - *Libération*, 17-18 January 1998) for previous failings.

⁶« *L'utilisation d'une arme à feu, dont on n'a pas vérifié qu'elle n'était pas chargée, contre un homme menotté, est un acte absolument inacceptable* » - *Le Monde*, 23 December 1997.

In the aftermath of the killing of Fabrice Fernandez cars in the area of La Duchère were set alight and stones thrown at police officers and fire-fighters. Gunshots were also fired. A number of youths were arrested and taken in for questioning.