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# **amnesty international**

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## **EUROPE AND CENTRAL ASIA Summary of Amnesty International's Concerns in the Region July – December 2006**



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INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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# **Europe and Central Asia**

## **Summary of Amnesty International's Concerns in the Region July – December 2006**

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### **FOREWORD**

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This bulletin contains information about Amnesty International's main concerns in Europe and Central Asia between July and December 2006. Not every country in the region is reported on; only those where there were significant developments in the period covered by the bulletin, or where Amnesty International (AI) took specific action.

A number of individual country reports have been issued on the concerns featured in this bulletin. References to these are made under the relevant country entry. In addition, more detailed information about particular incidents or concerns may be found in Urgent Actions and News Service Items issued by AI.

This bulletin is published by AI every six months. References to previous bulletins in the text are:

AI Index EUR 01/005/2004 Concerns in Europe and Central Asia: January – June 2004  
AI Index EUR 01/002/2005 Concerns in Europe and Central Asia: July – December 2004  
AI Index EUR 01/012/2005 Concerns in Europe and Central Asia: January – June 2005  
AI Index EUR 01/007/2006 Concerns in Europe and Central Asia: July – December 2005



## ALBANIA

### Background

In September the European Parliament ratified a Stabilisation and Association Agreement between the European Union (EU) and Albania. In November the Albanian parliament ratified Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms (ECHR), thereby abolishing the death penalty in all circumstances. Various legislative reforms were delayed because of party disputes related to forthcoming local elections (February 2007), which led to the boycott of some parliamentary sessions by opposition deputies towards the end of the year.

### Allegations of torture and ill-treatment

#### *Police custody*

In July the European Committee for the Prevention of Torture (CPT) published its reports on visits to Albania in 2003 and 2005. The CPT reported that during both visits most of the detainees interviewed alleged that they had been beaten by police, often during questioning. In some cases the alleged beatings amounted to torture. In a number of cases a medical examination of the complainant found injuries consistent with these allegations. The Organization for Security and Co-operation in Europe (OSCE) in its report *Analysis of the Criminal Justice System in Albania* published in November, based on research carried out at 13 pre-trial detention premises from October to December 2005, reached similar conclusions. The report noted: "Many arrestees, i.e., 35 out of 71 (49%) interviewed, seven of whom were juveniles, stated that they were physically maltreated during either the arrest, the transport to the police station or the first interrogation at the police commissariat."

Ill-treatment by police was facilitated by a failure to respect legal safeguards for

people arrested or taken into police stations for questioning, in particular the right of prompt access to a lawyer. In July the Albanian Ombudsperson drew particular attention to the violation of the legal safeguards for children. He stated that he had received many complaints from children or their parents that police officers had ill-treated them or had in other ways violated their rights when they were taken in for questioning by police as suspects or as witnesses. In most cases they had been questioned without a lawyer or a social worker being present, in violation of the law. He called on the Minister of the Interior to assign to the police the necessary funds to pay for lawyers and social workers to assist children.

A total of over 140 complaints concerning "arbitrary acts" (a term covering ill-treatment and certain other forms of misconduct) by police officers were reportedly received by the Ombudsperson's Office during 2006. Upon investigation, the Ombudsperson reportedly found 69 per cent of these complaints to be well-founded. The Ombudsperson criticized local police chiefs for not only failing to punish police officers who ill-treated detainees, but also for pressing their subordinates to achieve high detection rates, regardless of means.

The Ministry of the Interior was reported to have stated in response that during the year more than 40 police officers accused of ill-treating people, taking bribes or other misconduct in relation to the treatment of suspects at police stations had been punished administratively and been referred to prosecutors' offices for investigation. However, few were brought to trial, and it appeared that none had been prosecuted under Article 86 of the Criminal Code ("Torture and any other degrading or inhuman treatment"). Trial proceedings before Tirana District Court against two police officers on lesser charges of "arbitrary acts" - generally punished by non-custodial sentences - had not been concluded by the end of the year.

The wording of Article 86 was so vague that it failed to define the elements of the crime

of torture and ill-treatment, and was consequently criticized in 2005 by the UN Committee against Torture, which called for its amendment. Draft amendments to various articles of the Criminal Code, including Article 86 – designed to bring its definition of torture into line with that of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) – could not be adopted, after opposition deputies walked out of a parliamentary session in November.

### **Ill-treatment in prisons and pre-trial detention premises**

Between March and August, the Ombudsperson inspected a number of prisons and pre-trial detention premises, and reportedly identified at least 10 cases of the “unjustified use of violence” by prison guards and police officers. The Ombudsperson deplored the fact that none of his earlier recommendations, regarding measures to be taken to prevent such abuses, had been acted upon. In September the Ombudsperson received complaints about ill-treatment from prisoners held in Burrel prison. Commissioners from the Ombudsperson’s office, who subsequently visited the prison to investigate these complaints, confirmed that during cell searches prison guards had physically and psychologically ill-treated prisoners. They also reportedly stated that some prisoners had been shut into the prison wash-rooms, and made to stand against a wall for several hours with their hands raised and their legs apart. The prison director reportedly denied that prisoners had been ill-treated and threatened to sue the commissioners.

### **Conditions of detention**

Experts from Euralius (European Assistance Mission to the Albanian Justice System), the OSCE, the Albanian Ombudsperson’s Office, and Albanian human rights organizations all repeated previous criticisms of detention conditions. In particular, they emphasised sometimes severe overcrowding, very poor

hygiene and sanitation, an inadequate diet based on the norms established in 1974 under communist rule, and poor, or sometimes non-existent, on-site medical provision for detainees. Conditions for detainees held at police stations, including Durrës, Korça and Elbasan police stations, were reportedly particularly harsh. Concern was also voiced at the lack of appropriate accommodation and treatment of mentally ill prisoners. Various measures proposed by the authorities to remedy these problems had not been implemented by the end of the year. In particular, parliament had not yet adopted an amnesty law intended to alleviate over-crowding, nor had improved prison food rations, promised for some time, been introduced.

However, in November the Minister of Justice promised a major increase in funding (with EU assistance) for remand centres and prisons. In particular, there were plans to build new prisons in Fushë-Krujë and Korça, a new remand centre in Vlora, and an institution for mentally ill prisoners in Durrës. The prison authorities also announced plans to increase the small numbers of social workers and psychologists working in prisons.

### **Enforced “disappearance” and impunity – the case of Remzi Hoxha [update to AI Index: EUR 01/005/2004]**



*Remzi Hoxha with his wife.*

In October the Prosecutor General announced that an investigation into the "disappearance" of Remzi Hoxha, an Albanian from Macedonia, had been reopened.

Remzi Hoxha was taken from his workplace in Tirana on 21 October 1995 by men in civilian clothes driving a car reportedly belonging to the National Information Service (ShIK), the secret police. Earlier investigations had been suspended; in 2003, two ShIK officers were detained and charged with his alleged torture but were released without being brought to trial on the basis of an amnesty law of 1997. In November Bashkim Gazidede, the ShIK director at the time that Remzi Hoxha disappeared, but who had lived abroad from 1997 to late 1995, was summoned for questioning by prosecutors; he denied any knowledge of the case. However, his successor as director of ShIK was reported to have stated that he had learned that Remzi Hoxha had died at a ShIK base in October 1995 as a result of torture, but that it had not been possible to determine where his body had been buried or who was immediately responsible for his death. By the end of the year the persons responsible for the "disappearance" of Remzi Hoxha had still not been brought to justice.

### **Domestic violence**

Domestic violence is not specifically prohibited in the Criminal Code, although it is generally recognized that such violence, particularly against women and children, is widespread. In its report, issued in November the OSCE noted that "domestic violence is under-reported, under-investigated, under-prosecuted and under-sentenced", and that "the overwhelming majority of perpetrators are granted impunity".

There were signs, however, that official and general public awareness of this issue had increased. In July the Director General of the State Police directed the police to implement recommendations made by AI in its report issued in March, *Albania: Violence against women in the family: "It's not her*

*shame"* (AI Index: EUR 11/002/2006). He ordered police to respond promptly to all reports of domestic violence, to document complaints made by victims and order their examination by forensic doctors, and to liaise with local non-governmental organizations (NGOs) offering legal assistance and shelter to victims of domestic violence.

Possibly as a result of these directives, more victims of domestic violence reported their partners or parents to the police. According to police sources, there were 208 cases of domestic violence reported to police in 2006 - an increase of 112 over the previous year. Nonetheless, many victims did not seek assistance from the police; others who did were not always provided with adequate protection, despite repeated violent incidents.

Between mid-July and the beginning of August the wife and daughter of N.T. reported him three times to Berat police because of his alleged violence to them and to three younger children in the family. It appears that apart from briefly detaining N.T. the police took no effective action after these incidents. Early in August his wife fled to her parents for safety, after which N.T. also temporarily left the home. Their daughter, aged 17, left alone at home with her three younger siblings, attempted suicide. On 12 October N.T. was again detained by police after further alleged violence to his family, but yet again no effective action was taken by police and he reportedly escaped from the police station the same day.

In December parliament adopted a law "On measures against violence in family relations" drafted by a group of domestic NGOs. This is a civil law and does not criminalize domestic violence. The law aims both to prevent such violence and to introduce procedures to give victims of domestic violence effective protection. It is reportedly due to come into force in mid-2007.

### **Trafficking of human beings**

The trafficking of women, often minors, for sexual exploitation abroad appeared to have decreased, as a result of tighter border controls and other preventive measures, such as the establishment of local anti-trafficking committees. However, internal trafficking of women for forced prostitution reportedly increased. Children, mostly Roma, were trafficked to be exploited as beggars, for cheap labour, crime or for adoption.

Prosecutors noted that the work of the police had played little part in the identification of traffickers and in the collection of evidence against traffickers. As a result, prosecutions were almost always started on the basis of a complaint by an alleged victim of trafficking and relied heavily on the evidence of victims. However, these prosecutions frequently failed because victims withdrew their evidence at trial, as a result of threats made against them or their families by traffickers – or more rarely – because traffickers bribed them to withdraw their evidence. Witness protection continued to be weak, although in November the Minister of the Interior reportedly stated that the Office for the Protection of Witnesses was to be upgraded to department level. According to official statistics, during the year there were 103 prosecutions relating to charges of trafficking women for prostitution, and 11 to charges of trafficking children. Over the same period, 12 people were convicted of trafficking women for prostitution, and six people for trafficking children.

In December the Serious Crimes Court convicted Muhamet Kraho of trafficking for prostitution a 16-year-old girl to Greece and Italy in 2004. He was sentenced to 16 years' imprisonment.

In November, Albanian police arrested two men on a charge of attempting to sell a four-year-old Romani child to Greece; five other people allegedly involved in the same transaction were arrested in Greece.

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## **ARMENIA**

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### **Freedom of expression**

Human rights activists and the Ombudsman expressed concern over incidents of intimidation and harassment against independent journalists, including two assaults and anonymous death threats issued to an investigative journalists' association.

In July death threats were made against journalists of the online newspaper *Hetq* (Tracks), affiliated to the non-governmental organization (NGO) Investigative Journalists, demanding that they cease reporting allegations that influential businessmen and political figures were involved in the illegal appropriation of land for redevelopment.

Freelance journalist Gagik Shamshian, a correspondent for the opposition thrice-weekly newspaper *Chorrord Ishkhanutyun* (The Fourth Power) and independent daily *Aravot* (Morning) claimed to have been subject to a pattern of harassment he alleged was orchestrated by a local government prefect. He was robbed in the Nubarashen suburb of the capital Yerevan on 12 July by a crowd allegedly including relatives of the local prefect. Gagik Shamshian was reportedly threatened, abused and shoved, and his mobile phone, dictaphone and wallet were stolen. On the following day the electricity supply and telephone line at his apartment were cut off.

On 20 July the offices of the *Chorrord Ishkhanutyun* newspaper were set on fire, although rapid intervention by the fire service prevented serious damage.

Gagik Shamshian claimed the 12 July assault was related to his publication of an article in *Chorrord Ishkhanutyun* alleging the involvement of relatives of the local prefect in a recent robbery. After the attack the local prefect's brother was arrested on charges of robbery, hooliganism and obstruction of a journalist's professional duties; he was released on bail on 2 August. Allegedly, the prosecutor investigating the case then asked Gagik Shamshian to retract

his allegations against the prefect's brother, which he refused to do; the prefect's brother was later acquitted.

Later in August police opened a criminal case against Gagik Shamshian on the grounds of complaints filed by six local residents that he had extorted money from them over the period 1998-2004 by threatening to publish compromising articles about them. He was also charged with fraud and defamation on the grounds of unpublished cartoons he had drawn depicting local residents; if convicted he could be imprisoned for a period of up to seven years. Gagik Shamshian was also reportedly evicted from his apartment following complaints allegedly lodged by relatives of his landlord, and forced to move out of the district. Gagik Shamshian claimed the criminal case and complaints lodged against him were related to his efforts to unmask alleged complicity in wrongdoing by local government officials. He alleged that the six extortion complainants were all linked to the local prefect. The case was still pending at the end of the year.

In another attack on 6 September Hovannes Galajian, editor of the regional independent bi-weekly newspaper *Iravunk* (Constitutional Right), was beaten by two men outside his home, after receiving a threatening phone call the previous evening. According to reports, Hovannes Galajian and his colleagues believe the attack may have been a response to articles published in *Iravunk* criticizing prominent officials. Hovannes Galajian alleged physical similarities between his assailants and the bodyguards employed by local businessmen associated with local government circles. The *Iravunk* newspaper is linked to a small opposition party, the Union of Constitutional Rights.

### **Policing and prison conditions**

#### *European Committee for the Prevention of Torture publishes findings on Armenia*

In November the European Committee for the Prevention of Torture and Inhuman or

Degrading Treatment or Punishment (CPT) published a report to the Armenian Government on its findings following a visit to Armenia in April 2004. The purpose of the visit was to investigate alleged human rights abuses following the detention of over 100 opposition demonstrators following rallies in Yerevan in April 2004. The CPT's findings confirmed a number of human rights violations including abuse of detention procedures, the use of excessive force against demonstrators (including the use of 'electric truncheons' against crowds sprayed with water jets and the deployment of 'sound/light bombs', resulting in injuries requiring surgical treatment) and the use of torture to obtain confessions.

#### *Prison conditions*

The director of the Nubarashen jail on the southern outskirts of Yerevan denied allegations that four inmates serving life sentences who had attempted an escape in July had been motivated by a worsening of prison conditions since his appointment in 2005. He also denied that the four prisoners were subsequently tortured and held in inhuman conditions. It was reported that three of the four had tried to commit suicide as their escape attempt failed. Following a visit to the prison the staff of the Ombudsman's office expressed concern that the prisoners were being denied medical attention, physical exercise and the conditions necessary for personal hygiene. Allegedly, the prisoners also mounted a week-long hunger strike in response to being reportedly ill-treated in the aftermath of their escape bid.

In October the Public Monitoring Group at the Detention Facilities of the Penal Services of the Ministry of Justice, consisting of members of several public and legal organizations, presented a report on prison conditions. While acknowledging progress since the transfer of jurisdiction over prisons and pre-trial detention facilities from the Ministries of Internal Affairs and National Security to the Ministry of Justice in January 2003, the report noted numerous problems relating to living

conditions in Armenia's seven prisons. Many of these problems, such as lack of ventilation, pest infestations, high humidity and lack of space for physical exercise, related to disrepair, lack of maintenance and the use of old buildings ill-suited to provide modern penal facilities. Only the facility at Vardashen, thoroughly renovated and modernized in 2003-2005, was noted as approaching international standards. The report further noted testimonies of prisoners alleging torture and other ill-treatment, particularly at the Nubarashen prison. Detainees in this prison alleged that they had been beaten with rubber truncheons and iron bats. It was also reported that doctors at the Nubarashen facility did not keep records of injuries sustained by prisoners while serving their terms.

In November some 24 prisoners serving life sentences at Nubarashen went on hunger strike to protest against what they claimed was a sharp deterioration in living conditions. The prisoners protested about an alleged decline in the standard of food and health care, and new restrictions for family visits. The Ministry of Justice denied the allegations.

#### **Research casts doubt on judicial independence**

In August Armenia's highest criminal court, the Court of Cassation, issued a report showing that of 1,500 criminal rulings in the first six months of 2006 only four (less than 1 per cent) acquitted defendants. Court of Cassation Chairman Hovannes Manukian admitted that these results cast doubt on judicial independence.

#### **Conscientious objectors still imprisoned**

Armenia did not release conscientious objectors to military service, in defiance of obligations and commitments undertaken when acceding to the Council of Europe to respect the right to freedom of thought, conscience and religion, and despite the introduction of an alternative civilian service

to military service in national legislation in July 2004. Conscientious objectors continued to complain that in both its legislative framework and implementation, Armenia's alternative service was under the supervision and control of the military and so did not constitute a real civilian alternative to military service. At the end of the year there were reportedly 53 Jehovah's Witnesses in detention for draft evasion. Forty-seven had been tried and sentenced to terms ranging from 18 to 48 months' imprisonment; the remaining six were charged and awaiting trial. In October a decision of the Court of Appeal granted a prosecutor's request for a stricter sentence to be handed down to Jehovah's Witness Hayk Avetisian. His sentence was increased from 24 to 30 months. AI considers all conscientious objectors detained in Armenia to be prisoners of conscience.

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## **AZERBAIJAN**

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#### **Freedom of expression further restricted**

A continuing pattern of assaults on opposition journalists by unidentified actors, politically motivated arrests and the use of criminal defamation suits against journalists reporting on corruption in public office resulted in further restrictions on freedom of expression in the period under review (for greater detail on most of the cases mentioned below, see Azerbaijan: the contracting space for freedom of expression, AI Index: EUR 55/003/2007).

Two assaults by unidentified men against opposition media workers took place in December. On 24 December the press secretary of the opposition Azerbaijan National Independence Party Ali Orucov was assaulted a short distance from his home in the capital Baku. He claimed that he had been shadowed by unknown men for a number of days, after he had published an article in the Rating (Rating) newspaper criticizing the government. He suffered bruising and a fractured finger as a

result of the assault. On 25 December 2006 a journalist with the opposition *Azadlıq* (Freedom) newspaper, Nicat Hüseynov was attacked by unknown men at 11.30am as he left his home in Baku for work. He was thrown to the ground, beaten and attacked with a knife. He was later hospitalized with internal injuries, head injuries and a minor stab wound. He had published a number of articles on the subject of corruption in high office for the *Azadlıq* newspaper, and claimed that he had received a number of threatening phone calls in the period preceding the attack.

In August the Ministry of Internal Affairs filed separate charges against three opposition or independent newspapers *24 Saat* (24 Hours), *Milli Yol* (National Path) and the Russian language newspaper *Realny Azerbaydzhan* (Real Azerbaijan). All the charges related to the publication by these newspapers of materials alleging the complicity of Minister of Internal Affairs Ramil Usubov in the criminal activities of the gang allegedly headed by former Ministry official Haci Mammedov, whose trial was ongoing at the time. All three trials against the newspapers resulted in convictions; Eynulla Fatullayev and Fikret Faramazoglu were given suspended sentences and substantial fines and editor Shahin Ağabeyli was sentenced to one year in prison; he was later pardoned by presidential decree in October.

On 24 November police forcibly evicted a number of opposition and independent media outlets from their premises at 33 Xagani Street in Baku, including newspaper *Azadlıq*, news agency *Turan*, newspaper *Bizim Yol* (Our Way), independent journalists' association *Yeni Nesil* and internet newspapers *Kiv.Az* and *Times.Az*. The eviction followed claims by the State Property Committee that *Azadlıq's* occupancy of the building was illegal, a claim upheld by the First Economic Court of Azerbaijan on 13 October. The building's occupants contested the claim, asserting that it was politically motivated due to the concentration of independent and opposition media outlets on the premises.



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*Nicat Hüseynov in hospital.*

On the same day as the eviction of *Azadlıq* the *ANS* television and radio station was temporarily taken off the air as a result of alleged standards violations. Although *ANS* disputed these allegations no opportunity was reportedly granted by the authorities to verify the claims made and *ANS* was taken off the air the same day. Following numerous appeals by international organizations and Azerbaijani civil society *ANS* was permitted to resume broadcasting on a temporary basis on 12 December, pending the completion of a tender for its frequencies on 5 January 2007.

In August it was reported that access to [www.tinsohbeti.com](http://www.tinsohbeti.com), a foreign-based satirical blog featuring caricatures of leading government figures in Azerbaijan, was blocked to internet users within the country. The website also featured political commentary critical of the Azerbaijani government.

On 15 November the Nasimi District Court of Baku ordered that journalist Rafiq Taği and Editor-in-chief Samir Sadaqatoğlu of the bimonthly *Sanat* (Art) newspaper be held in pre-trial detention for two months, while police investigate charges that they had incited national, racial or religious hatred in an article published on 1 November. If found guilty under Article 283 of the Azerbaijani criminal code, Rafiq Taği and Samir Sadaqatoğlu could face between

three and five years' imprisonment. The article, entitled 'Europe and Us', allegedly compared Christian and Islamic values and claimed that Islam had hindered the development of Azerbaijan and other Muslim states. The case was quickly complicated by demonstrations in the village of Nardaran north of Baku, known for its strong religious observance, in which demonstrators reportedly made death threats against Rafiq Taġi and Samir Sadaqatoġlu. The protests spread to Iran, which has a substantial ethnic Azeri population, and culminated in the issuing of a fatwa by Iranian Grand Ayatollah Fazel Lankarani calling for the murder of both the journalist who authored the article and its publisher. The Azerbaijani authorities reportedly responded to the issuing of the fatwa by declaring that death threats were 'unacceptable' and that the case would be resolved only within the framework of the law. AI continued to monitor the case.

*The case of Sakit Zahidov (update to AI Indexes: EUR 01/017/2006 and EUR 55/003/2006)*

On 18 August the trial opened of *Azadlıq* satirist Sakit Zahidov, arrested on 23 June on charges of possession of illegal narcotics with intent to distribute. Sakit Zahidov and his supporters claimed that narcotics had been planted on him by the police officers arresting him, in order to put an end to the critical column he wrote for *Azadlıq*. On 4 October Sakit Zahidov was sentenced to three years' imprisonment after a trial which failed to comply with international fair trial standards. His appeal was rejected on 15 December. On 24 December Sakit Zahidov was moved to the maximum security prison facility at Qobustan, where Azerbaijani human rights activists have previously documented human rights violations and severe prison conditions.

*The cases of Fikret Hüseynli and Baxaddin Xaziyev (update to AI Index 01/017/2006)*

No progress was reported in the investigations into the assaults on

journalists Fikret Hüseynli and Baxaddin Xaziyev, perpetrated in March and May respectively. AI met with Baxaddin Xaziyev in July, when he was convalescing at a relative's apartment due to fears he would be targeted again if he returned to his home. He said that the police had shown no interest in the investigation of the assault against him; they also allegedly recorded the crime as a case of minor injury, rather than abduction and grievous bodily harm. Furthermore, the police allegedly imputed the assault to matters relating to his personal life rather than Baxaddin Xaziyev's journalistic activities.

### **Opposition figures sentenced or still held in pre-trial detention**

A number of opposition figures and former government ministers, including those arrested at the time of the November 2005 parliamentary elections, were either sentenced after unfair trials or continued to be held in pre-trial detention.

*The case of Farhad Aliyev (update to AI Indexes: EUR 01/017/2006 and EUR 55/002/2006)*

Farhad Aliyev and his brother Rafiq (no relation to President Aliyev) continued to be held in pre-trial detention after their arrest in October 2005 on charges of plotting a violent coup and other serious crimes. According to a report published by the Washington-based organization the Azeri Democracy Initiative (ADI) in November, an American lawyer taking up the case of the Aliyev brothers was denied access to his clients during a visit in September. Reportedly, relatives of the Aliyev brothers have been intimidated and fired from their jobs, and the brothers' property has been expropriated. Farhad Aliyev continued to be denied appropriate medical treatment and the brothers' access to legal counsel continued to be restricted. No preliminary hearing had been heard or trial date set by the end of the period under review.



*The case of the Yeni Fikir (New Idea) youth movement (update to AI Indexes: EUR 01/017/2006 and EUR 55/004/2006)*

After a trial lasting three and half months, the three leaders of the Yeni Fikir youth movement arrested in 2005 were sentenced in July on charges of plotting the violent overthrow of the government. Ruslan Başirli, leader of the movement, was sentenced to seven years' imprisonment, while his deputies Ramin Tagiyev and Said Nuri were sentenced to four years' imprisonment and a five-year suspended sentence (on account of a thalassaemia condition) respectively. Allegations of torture in the case of Ruslan Başirli were not investigated, and medical care was allegedly denied to Said Nuri.

*The case of Natiq Efendiyev (update to AI Index EUR 55/002/2006)*

Natiq Efendiyev was sentenced on 7 September to five years' imprisonment. The former head of the Ganja police department and deputy chairman of the opposition Democratic Party of Azerbaijan, Natiq Efendiyev was arrested in October 2005 on charges including plotting the violent overthrow of the government. Previously detained at the maximum security facility at Qobustan, he had been released in March 2005 by presidential decree after classification as a political prisoner by the Parliamentary Assembly of the Council of Europe (PACE). His wife and lawyer alleged that he had been tortured after his arrest in October 2005, but these allegations were never investigated.

**Freedom of assembly denied**

Police routinely dispersed unauthorized but peaceful demonstrations mounted by various political groups. A number of opposition political parties claimed that they had been denied permission by municipal authorities to organize authorized demonstrations in central locations.

On 27 July and 2 August demonstrations outside the US embassy and United Nations office protesting American support for

Israeli military action in Lebanon were forcibly dispersed. The demonstrations were organized by the Centre for the Protection of Freedom of Conscience and Religion; a spokesman for the organization alleged that several demonstrators had been beaten by police during the dispersals, and some 18 arrested. On 7 August several activists of the Islamic Democratic Party of Azerbaijan were arrested during a demonstration outside the Israeli embassy; demonstrations mounted by the same party in the village of Nardaran were reportedly not dispersed.

In September and October demonstrations outside the Iranian embassy protesting the treatment of ethnic Azeris in Iran were forcibly dispersed and a number of protesters detained.

On 8 November police forcibly dispersed a demonstration outside the State Committee for Property Control mounted by a reported 50 journalists to protest the eviction of the opposition newspaper *Azadlıq* from its premises. Emin Hüseynov, a journalist and director of the media freedom non-governmental organization, the Institute for Reporter Freedom and Safety, was reportedly thrown to the ground and beaten by men in plain clothes.

On 23 November a demonstration mounted by the opposition Popular Front of Azerbaijan Party in support of freedom of expression was forcibly dispersed by the police. According to reports, as the demonstrators turned towards the presidential administration their path was blocked by police and a number of protestors were beaten as the demonstration was dispersed. Reportedly, several Popular Front activists were detained for a number of days following the demonstration.

On 24 December armed police reportedly broke into a rented facility where a meeting of some 200 Jehovah's Witnesses was ongoing and dispersed the meeting. Allegedly no search warrant was produced and two of those present at the meeting were beaten. Most of those present were detained at a local police station and

released later the same day without charge. Jehovah's Witnesses in Azerbaijan also reported other problems during the period under review, including harassment, including in some cases beating, upon re-entry into the country after attending religious meetings abroad, confiscation of religious literature and personal items and problems with importing religious literature.

### **Concern over penal conditions in Qobustan**

Deaths of prisoners serving life sentences at the maximum security prison at Qobustan raised concerns over the conditions at this facility. On 14 August prisoner Kamandar Aslanov was found dead in a solitary confinement cell. According to reports in the Azerbaijani press he had been put into solitary confinement following a scuffle with a guard the previous day over his request for a window slat to be opened on account of the high heat. Allegedly, once in solitary confinement Kamandar Aslanov attempted to cut his wrists, but was discovered in time for first aid to be administered. He was then reportedly returned to his cell, yet he was found dead the next morning in the solitary confinement cell. It was not known when and why he was returned to solitary confinement. Qobustan's director, Sadaget Agayev, reportedly refused to comment on the case.

Kamandar Aslanov's death drew public attention to penal conditions in Block 6 of Qobustan prison, containing prisoners originally sentenced to death, whose sentences were commuted to life sentences following the abolition of the death penalty in 1998, and prisoners receiving life sentences since then. A number of allegations appeared in the Azerbaijani press regarding the torture and ill-treatment of prisoners in this block, including allegations that the conduct of prison guards was responsible for the deaths of a number of prisoners, including in connection with the suicide of prisoner Magbet Bagirov on 19 May.

On 15 November Dayanat Kerimov, another prisoner serving a life sentence, began a hunger strike to protest against prison conditions, especially in relation to allegations of bribery to secure family visits, food and clothes stolen by prison staff, and ill-treatment, and to draw attention to some prisoners' appeals for their life sentences to be decreased to 15 years.

On 4 December another prisoner in Block 4 of the prison, Maxir Mustafayev, died as a result of burns sustained from a fire in his cell. Reportedly, keys to the cells are kept overnight in a central safe since an escape attempt from the prison in 1999, which delayed access to Maxir Mustafayev's cell. He was reportedly still alive when his cell was opened, but died shortly after arrival at the prison hospital.

### **Conscientious objection again denied**

In defiance of its obligations undertaken when acceding to the Council of Europe to respect the right to freedom of thought, conscience and religion and despite the amendment of the Azerbaijani Constitution in 2002 to allow for an alternative civilian service, Azerbaijan failed to introduce a legal framework for an alternative service and continued to convict conscientious objectors. Although Azerbaijan pledged to adopt a law on alternative service by January 2003, a law has yet to be promulgated. The Azerbaijani authorities claimed that without this legal framework being in place, young men may not opt for alternative service. AI is concerned that this ambiguity is serving to dissuade young men from exercising their constitutional right to perform an alternative civilian service.

*The case of Muşviq Mammedov (update to AI Indexes: EUR 01/017/2006 and EUR 55/001/2006)*

On 21 July Jehovah's Witness and conscientious objector Muşviq Mammedov was given a six-month suspended sentence for refusing to perform military service. Although he had stated his willingness to perform non-military service in line with his

religious beliefs, he had been detained since his arrest on 28 April.

### **Refugee and extradition concerns**

On 13 October Kurdish journalist Elif Pelit was extradited to Turkey, where she was detained on charges of membership of the Kurdish Workers' Party (PKK). In 1999 she had been granted asylum, then citizenship, in Germany. She was first arrested in Azerbaijan on 4 November 2004, for illegally crossing the border from Iraq while on assignment for *Mesopotamia*, a Kurdish news agency linked to the PKK. Fined and released in March 2005, she was immediately re-arrested under a Turkish extradition order, and her extradition was confirmed by the Supreme Court of Azerbaijan in October 2005. She was extradited despite the repeated interventions of the United Nations High Commissioner for Refugees (UNHCR) and the Government of Germany.

The Council of Chechen Refugees in Azerbaijan expressed concerns in December regarding what it called the 'seriously worsening' conditions for Chechen refugees in the country. Their principal concerns were abductions of Chechen refugees in Azerbaijan and the failure of the Azerbaijani state to fulfil its obligations under the Geneva Convention to support refugees, leaving them with little choice but to risk return to Chechnya in search of subsistence. According to information disseminated by the Council, on 9 November a Chechen refugee Ruslan Eliev disappeared without trace in the Nasimi district of Baku. His fate was still unknown at the end of the period under review. The Council further drew attention to a number of cases of individuals who had returned to the Russian Federation only to then disappear without trace, including Zara Tsulaeva, abducted on 14 January in the Chechen village of Vedeno. She had been registered by UNHCR as a refugee in Azerbaijan but was forced to return to the Russian Federation for economic reasons. Her whereabouts remained unknown.

### **Constitutional referendum in the Nagorny Karabakh not recognized**

On 10 December a referendum took place on the adoption of a constitution in the self-proclaimed, internationally unrecognized Nagorno-Karabakh Republic (NKR), formally constituting part of Azerbaijan but under the *de facto* control of its Armenian population. The referendum took place without the participation of Nagorny Karabakh's Azeri population (recorded as 40,700 in the last Soviet census prior to the 1991-1994 Armenian-Azeri conflict, conducted in 1989; Azerbaijani sources today claim the figure was closer to 46,000), currently living in internal displacement in Azerbaijan or as refugees abroad. The government of Azerbaijan and the European Union issued statements rejecting the legitimacy of the referendum and its outcome.

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## **BELARUS**

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### **International scrutiny**

The UN General Assembly on December 20 adopted a resolution on human rights violations in Belarus, condemning the government's failure to cooperate with the UN Special Rapporteur on Belarus and calling on the authorities to bring electoral regulations into line with international standards and hold a free and fair presidential election. It also voiced concern about the harassment of opposition activists, non-governmental organizations, and journalists covering opposition demonstrations, and about the criminal prosecution of opposition leaders.

### **Freedom of expression and human rights defenders**

Members of the political opposition and civil society activists continued to be obstructed and harassed by the Belarusian authorities, in an attempt to impede their work. In October, the European Union (EU) announced a scholarship programme for

Belarusian students expelled from universities as a result of their political activities during and after the presidential elections. This gave many an opportunity to continue their studies in neighbouring countries, in particular at the European Humanities University in Vilnius, Lithuania (which the EU helped to set up) and in Ukraine.

*Belarusian Helsinki Committee: (Update to AI Index: EUR 01/017/2006)*

In the ongoing case against the only remaining national human rights organization in Belarus, the Belarusian Helsinki Committee was still facing a potential fine equivalent to US\$70,000 for alleged tax evasion and possible closure. On 1 November, the Belarusian Economic Court decided to confiscate property worth US\$118,300 towards payment of the tax that it ruled was owing. The property was removed on 5 December. On 19 December, the property department of the presidential administration informed the organization that they must vacate their office premises by 20 January 2007. Without a legally registered office, the organization would cease to exist. At the end of the year, the case was still pending.

In October, the EU presented its annual human rights award, the Sakharov Prize for Freedom of Thought, to Alyaksandr Milinkevich, leader of the Belarusian opposition.

**Prisoners of Conscience (Update to AI Index: - EUR 01/017/2006)**

On 4 August, Mikalay Astreyka, Enira Branizkaya, Tsimafey Dranchuk and Alyaksandr Shalayka, the four members of the election-monitoring organization, Initiative Partnership, were all sentenced to various terms of imprisonment for 'organizing and running an unregistered organization that infringes the rights of citizens' under article 193, Part 2, of the Criminal Code. Enira Branizkaya and Alyaksandr Shalayka were sentenced to six months' imprisonment and released on 21

August, having served the full term of their sentences. Mikalay Astreyka was sentenced to two years' imprisonment and conditionally released on 17 November and Tsimafey Dranchuk was sentenced to one year's imprisonment and released on parole on 26 December. Their imprisonment was widely condemned by the international community, including by the EU and the Organization for Security and Co-operation in Europe (OSCE).

On 1 November, Zmitser Dashkevich, a leader of the youth opposition movement Malady Front (Young Front), was sentenced to 18 months' imprisonment for 'organizing or participating in an activity of an unregistered non-governmental organization' under article 193, Part 1 of the Criminal Code. On 15 December 2006, his appeal was rejected by Minsk City Court and the original sentence was upheld.

On 13 July a Minsk district court sentenced Alyaksandr Kazulin to five and a half years' imprisonment. Alyaksandr Kazulin, leader of the Belarusian Socialist Democratic Party, Hramada, former presidential candidate and former rector of the Belarusian State University, had been arrested on 25 March.. He was charged under the provisions of the Criminal Code, with "hooliganism", (article 339, part 2), and with "the organization of group activities that breach public order or active participation in similar activities", (article 342, part 1). The prosecutor called for Alyaksandr Kazulin to be sentenced to a total of six years' imprisonment, three years on each charge. The sentence continued to be widely condemned by the international community. In September, the EU visa ban was extended to include those officials directly involved in the sentencing of Alyaksandr Kazulin.

**Death Penalty**

According to official statistics, nine death sentences were passed in 2006. This was considerably more than the official figure of two in 2005. There were no official statistics for the number of executions.

According to the Belarusian authorities, there were more death sentences in 2006 because "several large criminal gangs and organizations were neutralized". One such alleged gang, based in the city of Gomel, was accused of 16 murders and had 48 members, according to Belarusian authorities.

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## BELGIUM

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### Asylum and immigration

New asylum laws introduced in July required new asylum petitions, including appeals, to be processed within 12 months. The asylum procedure was reformed to grant subsidiary protection for those not covered by the 1951 Refugee Convention but who risk serious rights violations if they return to their country of origin. Decisions on granting of refugee status will now be made by the General Commissioner for Refugees (Commissariat general aux réfugiés), a body independent of the Ministry of the Interior, instead of the Office for Foreigners (Office des étrangers). A new body will be created to deal with appeals. The new legislation did not, however, address the situation of irregular migrants.

Occupations of churches and public buildings by irregular migrants and failed asylum-seekers demanding regularization of their situation, an end to expulsions and the shutting down of closed detention centres continued in the second half of the year (see AI Index: EUR 01/017/2006). In July, some 40 buildings were simultaneously occupied across the country.

In a landmark ruling on 12 October the European Court of Human Rights found that Belgium was in violation of the prohibition of inhuman treatment and of the right to respect for private and family life guaranteed under the European Convention on Human Rights (Articles 3, 8 and 13). In 2002 an unaccompanied five-year-old asylum-seeker had been detained and subsequently deported unaccompanied

back to the Democratic Republic of the Congo, her country of origin, where no family member had been advised to meet her.

On 17 November AI issued an urgent appeal on behalf of 12 Iranian nationals at risk of forcible return to Iran. The group consisted of rejected asylum-seekers and irregular immigrants who were amongst 23 individuals that had been occupying a church (l'Eglise des Minimes) in Brussels for the previous four months in an attempt to avoid being returned to Iran. On 8 November the men had undertaken a widely publicised protest in which several people doused themselves in petrol and threatened to set themselves alight, and two more climbed a construction crane threatening to jump from it. The police intervened and the 12 were put into different secure migration centres for rejected asylum-seekers and irregular migrants pending expulsion. Regardless of the original grounds for claiming asylum, there was a serious concern that those individuals were now at heightened risk of reprisals by the Iranian authorities should they be returned due to their widely publicised protests in Belgium. On 21 December they were all released from detention and their lawyer undertook action to ensure they could remain in Belgium legally.

On 16 November the journal *Ciné Télé Revue* (Issue No.46) published an article in which four staff members from Vottem closed detention centre reported poor conditions and mistreatment of detainees. It was alleged that detainees with mental health problems were sometimes left naked for a week or more in isolation cells. Furthermore, there were inadequate measures in place to attend to detainees who were incapable of attending to their own personal hygiene. As a result, individual staff members were left to take the initiative for bathing the detainees and cleaning their cells, including in the case of those who were incontinent. It was alleged by the witnesses that detainees had been left in their own excrement for up to a week. AI wrote to the Minister of the Interior

requesting that the results of an investigation into the conditions at Vottem, including a thorough examination of each of the allegations made in *Ciné Télé Revue*, be made public.

AI also raised its concerns with the Ministry of the Interior and the Office des étrangers regarding the allegations contained in an anonymous letter made public by the non-governmental organization (NGO) MRAX on 20 November. The author is believed to be an interpreter at the Office des étrangers who witnessed a man suffering serious physical injury, caused in part by the negligence of the security officers detaining him, as he tried to avoid being placed in a closed centre. In another incident she saw two security guards putting a young child through a baggage scanning machine. This was reported to the authorities but at the time no disciplinary action was taken against those responsible. She also reported having witnessed security guards carrying a woman who was approximately seven months pregnant by the hands and feet, and throwing her into a van to be taken to a closed detention centre. In response to questioning, the Minister of the Interior informed the Senate on 23 November that the Office des étrangers had conducted an internal investigation into these allegations, which concluded that no staff member was guilty of misconduct. AI again requested that the full conclusions of this investigation be made public.

#### **Police ill-treatment and deaths in custody**

On the night of 22 to 23 July Alexis Nkuranga, a young man of Congolese origin, was detained and allegedly severely beaten by police officers in Brussels. His injuries were so severe that he needed emergency surgery for perforations to the intestine and duodenum and injuries to the stomach and liver. He remained in a coma until the beginning of September. Alexis Nkuranga was stopped by police while driving his mother's car. After allegedly hitting and kicking him as he lay handcuffed on the ground, the police transferred him to the

police station where he was further assaulted. He was finally taken to a cell. Some time later he was taken to hospital where he was examined and then returned to police custody, despite his injuries. Upon returning to the police station he was reportedly beaten again and racially insulted. After losing consciousness he woke the following day in the hospital of Saint-Etienne de Saint-Josse-Ten-Noode where he allegedly received inadequate medical care. He discharged himself and left the hospital barefoot. He finally arrived at his mother's house where he collapsed unconscious on the doorstep.

Alexis Nkuranga and his family have filed a complaint against the police and the Centre for Equal Opportunities (Centre pour l'Égalité des Chances) has joined the suit as a civil party. A preliminary investigation is underway.

Police officers allegedly ill-treated individuals being forcibly deported. On 1 August a third attempt was made to expel Hawa Diallo, a failed asylum-seeker from the Republic of Guinea, but was aborted after passengers disembarked in protest at her treatment. The evening before, she had been separated from her 19-month-old baby until the time of the flight. The five police officers accompanying her were reported to have assaulted and racially insulted her. Following the failed deportation, she was freed under orders to leave Belgium within five days. From hiding, she lodged a complaint of ill-treatment to the Permanent Commission for Control of Police Services (Comité Permanent de Contrôle des Services de Police).

#### **"War on Terror"**

In July a Senate committee investigating alleged secret flights by the US Central Intelligence Agency (CIA) on Belgian territory found there was insufficient supervision of operations by foreign intelligence services operating in Belgium, making it impossible to ascertain the destination and purpose of suspected CIA rendition flights. An investigation by the European Parliament found that, of 1,080

stopovers by suspected CIA flights in Europe, four concerned Belgium.

### **Prison conditions**

Following strike action in other prisons earlier in the year (see AI Index: EUR 01/017/2006), staff at the prison in Termonde went on strike in August following the escape of 28 prisoners. In September they renewed strike action, claiming that promised improvements regarding overcrowding and understaffing had not materialized.

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## **BOSNIA-HERZEGOVINA**

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### **General and political developments**

Bosnia and Herzegovina (BiH) remained divided in two semi-autonomous entities, the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), with a special administrative status granted to the Brčko District. The international community continued to exert significant influence over the political process in BiH, as part of the civilian implementation of the Dayton Peace Agreement, led by a High Representative whose nomination is proposed by the Peace Implementation Council (PIC), an intergovernmental body that monitors implementation of the Dayton Peace Agreement.

Approximately 6,000 troops of the European Union (EU)-led peacekeeping force EUFOR remained in BiH mandated to ensure the implementation of the Dayton Peace Agreement and to contribute to a safe and secure environment in BiH. EUFOR's mandate was extended by the UN Security Council in November for a further year. In addition to EUFOR, about 150 North Atlantic Treaty Organisation (NATO) troops remained in the territory of BiH, reportedly to assist the BiH authorities in defence reform, to provide support to the International Criminal Tribunal for the former Yugoslavia (Tribunal) with regard to

the detention of persons indicted for war crimes, and to combat terrorism.

In October general elections were held in BiH, the first to be fully administered by local authorities. The electoral campaign saw the widespread use of nationalist rhetoric, including calls to organize a referendum for the independence of the RS. Results showed that the electorate remained divided along ethnic lines. At the end of the period under review, a new government had yet to be formed.

In November, NATO offered BiH membership of the alliance's Partnership for Peace. BiH officially joined the programme in December. The Tribunal's Prosecutor stated that the decision to allow BiH to join Partnership for Peace, despite the failure of BiH to fully cooperate with the Tribunal (see below), was a powerful signal that the international support for the Tribunal was decreasing.

### **War crimes and crimes against humanity (update to AI Index: EUR 01/007/2006)**

#### *International investigations and prosecutions*

The Tribunal continued to try alleged perpetrators of war crimes and crimes against humanity committed during the violent collapse of Yugoslavia. None of the Tribunal indictees still at large was transferred to the Tribunal's custody in the period under review and a total of six publicly indicted suspects remained at large at the end of December.

Under the terms of the "completion strategy", laid down in UN Security Council Resolutions 1503 and 1534, the Tribunal was expected to complete all trials including appeals, by 2010. As a result of the tight deadlines imposed by the "completion strategy", the Tribunal continued with its policy of referring cases involving lower level perpetrators to national jurisdictions in the former Yugoslavia. In September the case of Paško Ljubičić was transferred to BiH. The accused is suspected of having

committed crimes against humanity and war crimes against the Bosniak (Bosnian Muslim) population, including persecutions and murder, in connection with his alleged role as a commander in the military police of the Croatian Defence Council (Hrvatsko vijeće obrane, HVO), the Bosnian Croat armed forces. In October, the case of Savo Todović and Mitar Rašević was also transferred to BiH. The two are accused of having committed crimes against humanity and war crimes including persecutions, torture and beatings, wilful killings and murder, and enslavement of non-Serb detainees in Foča. According to the indictment, Savo Todović and Mitar Rašević were commanders in the Foča "KP Dom" prison camp.

In July the trial of Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Vinko Pandurević, Radivoje Miletić and Milan Gvero started at the Tribunal. All suspects are accused of crimes against humanity and war crimes. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Vinko Pandurević are also accused of genocide and conspiracy to commit genocide. For all the accused, charges relate to their alleged role as commanders of the Bosnian Serb Army (Vojska Republike Srpske, VRS) in the systematic killing of thousands of Bosniak men and boys in Srebrenica in July 1995. Zdravko Tolimir, jointly indicted with the accused on charges of genocide, conspiracy to commit genocide, crimes against humanity and war crimes, remained at large.

In September Momčilo Krajišnik, who between 1991 and 1995 held high-ranking positions in the Bosnian Serb leadership, was sentenced to 27 years' imprisonment for crimes committed against the non-Serb population. He was found guilty of persecution, extermination, murder, deportation and forced transfer. He was acquitted of genocide and complicity in genocide charges.

Cooperation between the RS authorities and the Tribunal remained inadequate. So far not a single person indicted by the Tribunal

has been arrested by the RS police and no progress was made by the RS in locating former Bosnian Serb leader Radovan Karadžić. Radovan Karadžić faces charges, including of genocide, for his alleged role in crimes committed against the non-Serb population, including in Srebrenica in 1995. In December, in her address to the UN Security Council, the Tribunal Prosecutor noted that central institutions were not working efficiently and that RS authorities, despite some recent improvements, did not show a robust willingness to arrest Radovan Karadžić and Stojan Župljanin, the fugitives most likely to be in BiH.

#### *Domestic investigations and prosecutions*

Progress was made in the domestic prosecution of war crimes, including in proceedings at the War Crimes Chamber (WCC) within the BiH State Court, although efforts to bring perpetrators to justice remained insufficient given the scale of the crimes committed and the potentially huge number of crimes to be investigated and prosecuted. Moreover, there continued to be concerns over the lack of financial and other resources needed to ensure the long-term sustainability of the WCC and to enable it to carry out its activities effectively.

In July, after proceedings at the WCC, former RS policeman Boban Šimšić was found guilty of having assisted members of the Bosnian Serb Army in committing in 1992 the crimes of enforced disappearance and rape against non-Serbs in the Višegrad area. He was sentenced to five years' imprisonment.

Following the airing of a video showing a former Army of Bosnia and Herzegovina (Armija Bosne i Hercegovine, ABiH) commander apparently ordering the burning of Bosnian Serb villages during military operations in 1995, an investigation was opened in October by the Office of the Prosecutor at the WCC into the role of ABiH members in war crimes.

Nikola Kovačević, a former member of Bosnian Serb forces, was sentenced in



November by the WCC to 12 years' imprisonment for the persecution of the non-Serb population in the Sanski Most area. Marko Samardžija, former VRS commander in the Ključ area, was found guilty of crimes against humanity and sentenced to 26 years' imprisonment, including for his role in the killing of at least 144 Bosniak detained men.

Also in November, the WCC rendered its first judgement in a case transferred by the Tribunal. Radovan Stanković was found guilty of crimes against humanity committed against the non-Serb population in the Foča area. Radovan Stanković, a former VRS member, was convicted of having participated in the rape of women held in detention by Bosnian Serb forces and sentenced to 16 year's imprisonment.

In December, Nikola Andrun, a former member of the HVO, was sentenced to 13 years' imprisonment for war crimes committed in his capacity of Deputy Commander of the Gabela detention camp, including the torture and intimidation of non-Croat detainees. After proceedings at the WCC, former VRS member Dragan Damjanović was sentenced to 20 years' imprisonment for having committed murder, torture, rape, enforced disappearance and other inhuman acts against non-Serbs in the Vogošća Municipality and surrounding villages.

Also in December, the re-trial of former member of Bosnian Serb forces Neđo Samardžić before an appellate panel of the WCC ended with a prison sentence of 24 years for crimes against humanity committed against the Bosniak population in the Foča area. Such crimes included severe deprivation of physical liberty, sexual slavery, rape, and other inhuman acts. In April he had been sentenced to 13 years and four months' imprisonment after a first instance trial. The first instance verdict was revoked in October.

Some war crimes trials of low-level perpetrators were also held in local entity courts. Courts at the entity level continued to face difficulties in dealing with war crimes cases, including as a result of lack of

staff and other resources. In these proceedings, victims and witnesses remained without adequate protection from harassment, intimidation and threats including as a result of a failure to implement existing witness protection legislation.

In July, after proceedings at the Sarajevo Cantonal Court, former ABiH member Samir Bejtović was sentenced to 14 years and six months' imprisonment for his role in the murders of Bosnian Serbs in Kazani, near Sarajevo, in 1992 and 1993.

In October, an indictment was confirmed at the Sarajevo Cantonal Court against a man suspected of having committed, as a member of Bosnian Serb forces, war crimes against the civilian population and prisoners of war. The indictment *inter alia* alleges that the suspect was involved in the beating and abduction of Vladimir and Radislav Mađura from their home in Ilidža, a suburb of Sarajevo. The bodies of Vladimir and Radislav Mađura were exhumed and identified in 2004.

#### **Enforced disappearances (update to AI Index: EUR 01/007/2006)**

According to estimates of the International Commission on Missing Persons (ICMP), over 13,000 persons who went missing during the 1992-1995 war were still unaccounted for. Many of the missing were victims of enforced disappearances, whose perpetrators continued to enjoy impunity.

Progress continued to be slow in transferring competencies from the missing persons commissions of the FBiH and the RS to the national Missing Persons Institute (MPI). The MPI's Steering and Supervisory Board members were appointed in December by the BiH Council of Ministers.

In July the bodies of 305 mostly Bosniak people were buried in Prijedor in a ceremony attended by international and local officials, including the Chairman of the BiH Presidency. The bodies had been exhumed from mass graves in the Prijedor area and identified, mostly through DNA analysis.

In August the exhumation of a mass grave in Kamenica, near Zvornik, uncovered 1,009 incomplete and 144 complete skeletons. The site is believed to contain the remains of victims killed by Bosnian Serb forces in Srebrenica in 1995, and was reportedly the biggest mass grave excavated since the end of the war.

In November the exhumation of a mass grave in Snagovo, a village north of Srebrenica, was completed. The grave contained 90 complete and 66 incomplete bodies, believed to be victims of killings in Srebrenica.

Also in November, 115 complete skeletons and 162 incomplete mortal remains were uncovered from a mass grave in Gorice, near Brčko. Some of the identification documents of the victims, found during the exhumations, were reportedly those of non-Serbs from Brčko listed as missing. Some of the bodies presented indications that the victims had been executed by gunshot from close range.

In December the commission implementing a 2001 decision by the BiH Human Rights Chamber on the "disappearance" of Avdo Palić (Palić Commission) was reportedly reactivated. In April 2006 the Palić Commission had presented a report to the Office of the High Representative, which claimed to reveal the location of the mortal remains of Avdo Palić and to detail his fate. The report was also forwarded to the BiH Prosecutor. However, the information contained in the report proved to be insufficient to carry out the exhumation of the body. ABiH Colonel Avdo Palić had "disappeared" after reportedly being forcibly taken by VRS soldiers from the UN Protection Force compound in Žepa on 27 July 1995. He had gone there to negotiate the evacuation of civilians from the town which had just surrendered to the VRS.

**Right to return in safety and with dignity (update to AI Index: EUR 01/007/2006)**

Since the end of the war, out of an estimated 2.2 million people displaced

during the conflict, more than a million refugees and internally displaced persons (IDPs) were estimated to have returned to their homes. Progress in the return of those still displaced was limited. The office of the UN High Commissioner for Refugees in BiH registered approximately 1,100 returns between July and October. Of these, approximately 900 were returns in a minority situation.

Cases of violence and harassment by non-state actors (private individuals) against returnees and minorities were reported, especially in the months leading up to the general elections in October. These included threats, harassment, damage to property and religious buildings and violent attacks.

In October, an anti-tank rocket was fired at a mosque in Mostar, causing considerable material damage. A man suspected of involvement in the attack was identified and arrested by local police in November.

Lack of access to employment continued to be a major obstacle to the sustainable return of refugees and IDPs. Employment opportunities were scarce in general, reflecting the weak economic situation and difficulties of economic transition and post-war reconstruction. In addition, returnees faced discrimination on ethnic grounds.

In August an agreement was reportedly reached by the Aluminij company in Mostar and the FBiH government dealing inter alia with the issue of former employees dismissed during or shortly after the war. As a result of these dismissals, from being a company with a significant number of Bosniak, Bosnian Serb and Bosnian Croat employees, Aluminij has now an overwhelmingly ethnic Croat workforce.

The agreement provided for all former workers who were employed by Aluminij on 31 December 1991, to register with the company and to have their working years at Aluminij recognized. The deadline for former workers to present their documentation to Aluminij was 14 October 2006. Aluminij informed AI that, by this deadline, more than 3,000 workers had presented their claims, which were still

being processed at the end of the period under review.

**'War on terror' (update to AI Index: EUR 01/007/2006)**

The six men of Algerian origin who in 2002 were unlawfully transferred by the FBiH authorities to US custody and detained in Guantánamo Bay, Cuba, remained in detention.

In July the European Parliament adopted a resolution on the "alleged use of European countries by the CIA for the transportation and illegal detention of prisoners". The resolution *inter alia* urged "that investigations be continued to clarify the role of US soldiers, who were part of the NATO-led Stabilisation Force (SFOR), in the abduction and transfer to Guantánamo Bay of six Bosnian nationals and/or residents of Algerian origin" and called for the possible role of the BiH authorities in this case to be examined further.

In September lawyers representing the six detainees filed applications to the European Court of Human Rights on behalf of their clients. The applications claim that the failure of the authorities in BiH to implement binding decisions by domestic courts and to act to protect the rights of the detainees is in violation of a number of provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols No. 6 and No. 13.

The BiH State Commission for the Revision of Decisions on Naturalization of Foreign Citizens, which had begun its work in March 2006, continued its activities. Reportedly, the Commission had decided to withdraw approximately 300 citizenships, at the end of the period under review. The Commission can propose to the BiH Council of Ministers to withdraw the citizenship of, among others, those who are deemed to have obtained it not in accordance with the relevant regulations, or on the basis of false information, in those cases where the individuals affected would not be rendered stateless.

Reportedly, the activities of the Commission could affect approximately 1,500 individuals, many of whom are reported as having come to BiH to join Bosniak forces as volunteer foreign fighters during the 1992-95 war, or to work for Islamic charities during and after the war. There were concerns that decisions to withdraw citizenship would not be subject to an effective appeal and that those whose citizenship was withdrawn would be deported, extradited or otherwise transferred to countries where they would be at risk of human rights violations, including the death penalty, torture and other ill-treatment.

**Lack of access to education for Romani children**

Primary school attendance rates for Romani children were low and extreme poverty remained one of the main causes of the exclusion of Roma from education. Moreover, Romani language, culture and traditions were not included in a systematic way in school curricula. Insufficient progress was made by the authorities at state, entity and cantonal level, in the implementation of the 2004 Action Plan on the Educational Needs of Roma and Members of Other National Minorities.

A Council for National Minorities of Bosnia and Herzegovina, tasked with overseeing the implementation of the Action Plan on the Educational Needs of Roma and Members of Other National Minorities, which had been formally created in April, was not yet operational at the end of the period under review.

In November AI published the report *False starts: The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia* (AI Index: EUR 05/002/2006), dealing with the human rights violations suffered by Roma as a result of their exclusion from primary education in the three countries. In the report AI called on the authorities in BiH *inter alia* to ensure that accurate data and statistical information are collected on the Romani population, as well as on its

inclusion in education, disaggregated by gender and age; to take steps to ensure that children from low-income Romani families are provided with assistance in a timely and comprehensive manner, in order to overcome barriers in access to education; to take steps to ensure that Romani culture, history and traditions are included in school curricula; to take steps to ensure that Romani children have access to pre-school programmes of a sufficient duration; to take steps to ensure that Romani assistants and mediators are employed in a systematic and comprehensive way in all schools and pre-schools with a significant Romani population; to take steps to ensure that teachers and other staff working in schools receive training on Romani culture, history, traditions and language; and to provide pedagogical and other relevant training to Romani assistants and mediators.

### **Violence against Women**

The reported incidence of domestic violence remained high. In 2006, Cantonal Ministries of Internal Affairs in the FBiH recorded 712 criminal acts of violence in the family. However, both local non-governmental organizations and police authorities estimated that a significant proportion of cases of domestic violence went unreported. Moreover, in criminal proceedings charges against the perpetrators were often reportedly brought on the basis of provisions in the entities' criminal codes, and not on the basis of provisions in more recent legislation on domestic violence, adopted in the two entities.

In September, the BiH Council of Minister adopted a Gender Action Plan, detailing a number of measures to address gender inequality and violence against women. Inter alia, the Action Plan envisages legislative changes to harmonize legislation on domestic violence in the two entities and the adoption of all relevant regulatory acts necessary to its implementation. The Action Plan also foresees the education and training of judges, prosecutors, members of police forces and social workers on legislation on domestic violence and

violence against women. Moreover, the Action Plan provides for the collection, analysis, and publication of statistical data on violence against women.

### **UN Human Rights Committee**

In November the UN Human Rights Committee (HRC) issued its Concluding Observations after considering BiH's initial report on the implementation of the International Covenant on Civil and Political Rights. The HRC inter alia expressed concern about the underfunding of entity courts dealing with war crimes cases and the unsatisfactory implementation of witness protection legislation at the entity level. The HRC called on BiH to "allocate sufficient funds and human resources to the district and cantonal courts trying war crimes and ensure the effective application of the State and Entity Laws on Protection of Witnesses".

Moreover, the HRC noted with concern that the fate and whereabouts of "some 15,000 persons who went missing during the armed conflict (1992 to 1995) remain unresolved" and urged BiH to take immediate and effective steps to investigate all cases of missing persons and ensure without delay that the MPI becomes fully operational.

The HRC was also concerned "about the reported lack of implementation of the State and Entity laws on protection against domestic violence, underreporting, lenient sentences for perpetrators and inadequate assistance for victims of acts of domestic violence in both Entities". The HRC called on BiH to ensure the effective implementation of legislation to combat domestic violence, to intensify the training provided to judges, prosecutors and law enforcement officers on the application of such legislation, to introduce standard procedures for the collection of medical evidence of domestic violence, and enhance victim assistance programmes and access to effective remedies.

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## **BULGARIA**

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### **Background**

In September, the European Commission finally opened the way to Bulgaria's accession to the European Union in January 2007, despite continuing concerns about corruption, on condition that the required changes to the Civil Procedure Code, judicial system and Constitution were adopted.

### **International Scrutiny**

Representatives of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), on a visit to Bulgaria in September, examined the treatment of detainees in the custody of the regular and border police; conditions in investigative detention facilities; regimes for prisoners serving life sentences and for foreign prisoners; and implementation of legal safeguards on compulsory placements to psychiatric institutions under the Health Act.

### **Policing concerns**

Reports of police ill-treatment continued, particularly against members of the Romani community.

In October, for example, police reportedly used excessive force in quelling fighting involving 400 Roma in Pazardzhik. Officers were accused by Romani people and the regional governor of exceeding their powers by entering homes and damaging property.

### **Discrimination against Minorities**

The human rights of minorities remained inadequately protected, particularly the housing rights of Romani communities threatened with unlawful and summary eviction. In November, the non-governmental International Helsinki Federation for Human Rights (IHF) reported a rise in anti-minority rhetoric and discrimination.

### *The Romani community*

In July, as Bulgaria assumed the presidency of the Decade of Roma Inclusion, a regional intergovernmental initiative aimed at reducing social and economic exclusion and disparities, legal challenges were initiated by Romani communities over instances of discrimination. The cases concerned threats to demolish houses and the refusal by Sofia Municipality to provide public transport in Sofia's largest Roma settlement in the Fakulteta District.

### *Evictions of Roma*

Plans to forcibly evict inhabitants of a number of Romani neighbourhoods in Sofia were suspended after protests by members of the European Parliament. Some of Sofia's district governments continued to threaten forced evictions, and did little if anything to address the extreme poverty and denial of human rights in many Romani communities. A working group was formed by the Sofia Municipality and Romani non-governmental organizations (NGOs) to propose solutions. In July, the Ministry of Labour and Social Policy provided funds equivalent to 150,000 euros to purchase caravans as a temporary solution for evicted residents.

### *The Macedonian minority*

The authorities and the judiciary continued to deny the existence of a Macedonian minority in Bulgaria, and insisted that there was no legal obligation to protect this group, a policy backed by all political parties represented in parliament.

In October, the Sofia City Court decided to refuse registration to OMO Ilinden PIRIN, a political party representing some members of the Macedonian minority in Bulgaria, despite an October 2005 ruling by the European Court on Human Rights that a previous ban of the party violated rights to freedom of association. In November the European Parliament Rapporteur on Bulgaria and the Enlargement Commissioner of the European Commission

urged the government to register OMO Ilinden PIRIN.

### **Concerns about mental health care**

In October two NGOs, the Mental Disability Advocacy Centre and the IHF, through its local branch, the Bulgarian Helsinki Committee (BHC), filed with the European Court of Human Rights a case of a man they believed was needlessly detained in a psychiatric hospital and given psychiatric medication against his will, despite five psychiatrists recommending that he receive outpatient treatment.

### **Discrimination against Migrants**

In November, the BHC published its "Research of the Rights of Migrants in Bulgaria from a Human Rights Perspective", finding that 6.2 % of working migrants reported discrimination on the basis of perceived race or skin colour in their access to the labour market. The majority of respondents allege that they have been discriminated against when their job application was rejected or they were given only menial work. They are predominantly Chinese, African, Arab, Iranian, Afghani and Armenian men.

Immigrants reported discrimination in daily activities and dealings with institutions. They reported being treated with disregard and disrespect, verbally abused with xenophobic and racial slurs or suspected of terrorism.

The BHC also expressed its concerns about the non existence of social integration policy, being the sole attempts to setting integration objectives for refugee and persons with humanitarian status.

### **Violence against Women**

In December, in the case "M.C. vs. Bulgaria", the ECtHR condemned Bulgaria because Bulgarian law did not provide effective protection against rape and sexual abuse, as only cases where the victim resists actively are prosecuted. The applicant is a Bulgarian national who

alleged that she had been raped by two men on 31 July and 1 August 1995, when she was fourteen years. The subsequent investigation was terminated with the conclusion that there had been insufficient proof that the applicant had been compelled to have sex. However, in its ruling, the ECtHR reiterated that, under Articles 3 and 8 of the European Convention on Human Rights, signatory States have a positive obligation both to enact criminal legislation to effectively punish rape and to apply this legislation through effective investigation and prosecution. The ECtHR also noted that the party States of the Council of Europe have agreed that penalizing non-consensual sexual acts, whether or not the victim had resisted, was necessary for the effective protection of women against violence, and had urged the implementation of further reforms in this area. The ECtHR considered that the authorities should have explored all the facts and should have decided on the basis of an assessment of all the surrounding circumstances. The investigation and its conclusions should also have been centred on the issue of non-consent.

In July, the Government adopted the bill on equal opportunities for men and women. The law aims to create equal opportunities for both women and men and ensure equal start for both sexes in all spheres of public, professional and private life in addition to equal rights and equal access to public resources. The bill is completely in line with the requirements of the European Union. Employers will be obliged to develop programmes and measures that will offer the same opportunities for professional development to both sexes, guaranteeing protection against sexual harassment in the workplace and striking a balance between professional and family life and parenting of women and men. The law also bans any advertisements and multimedia products that undermine the dignity of men and women or gender equality. The Anti-Discrimination Committee will be in charge of the overall control over the application of the law.

### Trafficking of human beings

Bulgaria ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women in September and signed the Council of Europe Convention on Action against Trafficking on Human Beings in November.

In December, the International Organization for Migration (IOM) in its survey on human trafficking reported that Bulgarians were overall the most aware of human trafficking of the five countries (Belarus, Bulgaria, Moldova, Romania and Ukraine) which were the subjects of its study. It warned that, in general, rural residents tended to underestimate the risk of being subject to human trafficking, although the actual prevalence of human trafficking was greater in rural as opposed to urban areas. The IOM also reported that Bulgarians tended to blame trafficking more on the supposed 'irresponsibility' of its victims themselves than the authorities. The IOM pointed out that because of this, those recovering after being subjected to human trafficking in Bulgaria may face more difficulties in their social adaptation.

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## CROATIA

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### General and political developments

The government of Ivo Sanader continue to pursue Croatia's full European integration. The first phase of the accession, the screening by the European Union (EU) and Croatia of the *acquis communautaire* (the body of EU common rights and obligations that candidate countries must accept) was completed in October. The screening is conducted in order to identify priority areas where progress is needed in the harmonization of national provisions with the *acquis communautaire*.

In November the EU Commission issued its Progress Report on Croatia which observed that, despite some progress in war crimes prosecutions, "[a] systematic mechanism for resolving and ending ethnic bias by

ensuring application of a uniform standard of criminal responsibility has not been developed". The report noted that witnesses, particularly those called to testify against members of the Croatian army, still faced intimidation. The EU Commission Progress Report also highlighted little change in overcoming the difficulties faced by returning refugees. The main concerns remained access to housing and employment, as well as the lack of convalidation of working years in areas under Croatian Serb control, resulting in smaller or no pension for those affected.

### War crimes and crimes against humanity (update to AI Index: EUR 01/017/2006)

#### *International prosecutions*

In August the International Criminal Tribunal for the former Yugoslavia (Tribunal) found Josip Jović, former editor in chief of the Croatian daily *Slobodna Dalmacija* (Free Dalmatia), guilty on charges of contempt of the Tribunal. In 2000 the newspaper had published court transcripts and parts of a testimony in closed session by protected witness Stjepan Mesić, President of Croatia, in the case against Croatian Army General Tihomir Blaškić.

In October the Appeal Chamber of the Tribunal confirmed the decision by the Trial Chamber to join the case against Ante Gotovina and the case against Ivan Čermak and Mladen Markač. The three suspects are former Croatian Army commanders and are accused of crimes against humanity and war crimes against Croatian Serbs, including persecutions, deportation and forcible transfers, and murder. Also in October, the Trial Chamber denied requests by the Republic of Croatia to appear as *amicus curiae* (adviser to court on points of law) in the case against Ante Gotovina, Ivan Čermak and Mladen Markač as well as in another case against six Bosnian Croat former military and political leaders. Croatian Prime Minister Ivo Sanader had been quoted in September as stating that Croatia had a right to act as *amicus curiae*

in these cases, on the grounds that the indictments were not correct and that "Croatia has the right to explain the background, historical circumstances and the situation on the ground" in the period covered by the indictments.

In November the Tribunal's Referral Bench ordered the transfer of the case of Vladimir Kovačević to Serbia. The accused, a former commander of the Yugoslav People's Army, was suspected of having committed war crimes, including murder, cruel treatment and attacks on civilians, during an attack on the Croatian City of Dubrovnik. Vladimir Kovačević had been declared unfit to stand trial by the Tribunal's Trial Chamber in April 2006, on mental health grounds. The Referral Bench was satisfied that mechanisms exist in Serbia for the monitoring of the health of the accused and the resumption of proceedings, should he become fit to stand trial.

#### *Domestic investigations and prosecutions*

Trials for war crimes and crimes against humanity continued or started before local courts, often *in absentia*; the vast majority of such trials were against Croatian Serb defendants. There continued to be widespread impunity for crimes allegedly committed by members of the Croatian Army and Croatian police forces despite some steps taken with a view to investigating and prosecuting cases of war crimes against Croatian Serbs.

Investigations into the alleged involvement of Branimir Glavaš in war crimes, including murders, committed against Croatian Serb civilians continued, although they were suspended in December after the health of the suspect reportedly deteriorated, following a hunger strike. Branimir Glavaš had formerly been a local leader of the ruling Croatian Democratic Union (Hrvatska demokratska zajednica, HDZ) Party in the Osijek region. In May the Croatian Parliament had lifted his immunity from prosecution.

The trial continued at the Osijek County Court of two suspects accused of having

committed war crimes, including murders, against Croatian Serbs in Osijek. Proceedings were ongoing at the end of the period under review. In October, six former members of a military formation were arrested on suspicion of having murdered Croatian Serb civilians in Osijek in 1991-92. Following the arrest, the Osijek County Court investigative judge ordered the opening of an investigation into the alleged role of Branimir Glavaš in these crimes as well.

The third retrial continued at the Karlovac County Court of a former member of the Croatian special police on charges of having shot dead 13 disarmed Yugoslav People's Army (Jugoslovenska narodna armija) reservists in 1991 in Karlovac, by firing bursts from his machine gun. Two earlier acquittals of the suspect had been overturned by the Croatian Supreme Court.

In December an indictment was issued by the Zagreb County Court in the case of Rahim Ademi and Mirko Norac, which had been transferred by the Tribunal to Croatia in November 2005. Reportedly, the delay in issuing the indictment was due to difficulties in incorporating in an indictment compatible with Croatian law the charges included in the Tribunal indictment. Rahim Ademi and Mirko Norac are former Croatian Army commanders and are suspected of having committed war crimes against Croatian Serbs during military operations in the so-called "Medak pocket" in 1993.

#### **Missing persons and enforced disappearances (update to AI Index: EUR 01/017/2006)**

In various public statements, the Croatian authorities continued to claim that they were still searching for approximately 1,100 missing persons, mostly from the first phase of the 1991-95 war. Despite the reported creation of a unified list of missing persons earlier in 2006, this figure does not include people, mostly Croatian Serbs, who went missing during military operations "Storm" and "Flash" in 1995. The authorities reported that, in 2006, the



mortal remains of 176 people were exhumed and 74 bodies were identified.

Many of those reported as missing are believed to be victims of enforced disappearances. Impunity for these crimes, especially with regard to those allegedly committed by the Croatian Army and Croatian police forces, remained widespread.

**Right to return (update to AI Index: EUR 01/017/2006)**

At least 300,000 Croatian Serbs left Croatia during the 1991-95 war, of whom only approximately 125,000 are officially registered as having returned. This figure is widely considered to be an overestimation of the real numbers of those who have returned and remained in Croatia.



*A settlement in Croatia.*

Croatian Serbs continued to be victims of discrimination in access to employment and in realising other economic and social rights. Many Croatian Serbs, especially those who formerly lived in urban areas, could not return because they had lost their occupancy/tenancy rights to socially-owned apartments. Implementation of existing programmes to provide "housing care" to former occupancy/tenancy rights holder was very slow.

In August the Croatian government announced plans to make available 4,000 flats (3,600 of which to be newly built) to former occupancy/tenancy rights holders. However, there were concerns that the

deadline for the completion of the plan was only in 2011, and that under this scheme occupants would not be able to purchase the flats at a substantially reduced price, putting them in a less favourable position than those occupants, mostly ethnic Croats, who in the past were given the opportunity to purchase their flats.

In December the European Court of Human Rights found that Croatia had violated Article 1 of Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), protecting the peaceful enjoyment of possessions, and of Article 13 of the ECHR, providing for the right to an effective remedy. The application originated from the failure of the Croatian authorities, for more than six years, to return to the applicant her privately owned flat, which she had vacated and which after the war had been allocated by the authorities to a temporary occupant. The European Court of Human Rights found that, as it took more than six years for the applicant to repossess her flat through administrative and civil action, these remedies to protect her right to property were not effective.

Cases of violence and harassment by non-state actors against Croatian Serbs continued to be reported. These have included racist graffiti, threats, damage to property and violent acts. In July four houses of Croatian Serbs in the village of Biljane Donje, near Zadar, were stoned and surrounding vegetation set on fire. The incident was condemned by the Croatian Government and President. Four men were arrested shortly after the incident on suspicion of their involvement in the attack and faced proceedings before the Benkovac Municipal Court on charges of racial discrimination.

The perpetrators of the murder in May 2005 of an elderly Croatian Serb man in Karin, near Zadar, were still at large at the end of the period under review. No progress was made in the investigation into the deaths, in October and November 2005, of two Croatian Serb returnees who were killed by explosive devices in a wood in the village of

Jagma, in the Lipik municipality. The incidents raised particular concern since they occurred under similar circumstances, in an area that was not considered affected by mines.

### **Lack of access to education for Romani children**

Members of Romani communities in Croatia lacked full access to primary education, especially in geographical areas not covered by existing governmental and other programmes to promote the inclusion of Roma in education.



A pre-school in Čakovec, Croatia, attended by Romani children.

Although "Roma only" classes were increasingly rare, Romani children still experienced discriminatory treatment because of teachers' negative stereotyping and low expectations. Romani children with little or no command of the Croatian language faced extreme difficulties when they started school. The languages spoken by Roma in Croatia were not used in schools, unlike other minority languages. Despite improvements in this area, notably in the Međimurje region, the majority of Romani children remained excluded from pre-school programmes.

In November AI published the report *False starts: The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia* (AI Index: EUR 05/002/2006), dealing with the human rights violations suffered by Roma as a result of their exclusion from primary

education in the three countries. In the report AI called on the Croatian authorities *inter alia* to ensure that the placing of children in separate primary school classes or groups is not discriminatory; to take steps to ensure that Romani culture, history and traditions are included in school curricula; to ensure that Romani children, especially in areas not adequately covered by existing initiatives, have access to pre-school programmes of a sufficient duration; to take steps to ensure that Romani assistants and mediators are employed in a systematic and comprehensive way in all schools and pre-schools with a significant Romani population; and to take steps to ensure that teachers and other staff working in schools receive training on Romani culture, history, traditions and language.

### **Violence against women**

The reported incidence of domestic violence remained high. In August the non-governmental organization Autonomous Women's House Zagreb filed a criminal complaint against employees of the Ivanić Grad Centre for Social Welfare and two judges at the Ivanić Grad Municipal Court and Misdemeanour Court for their failure to act to protect a 25-year-old woman who had been killed in June by her husband, who then committed suicide. The victim was murdered while she was visiting her child placed in a home for children in Zagreb. Reportedly, before being killed, she had requested assistance and protection to the relevant authorities in connection with the violent behaviour of her husband. In February 2006, in particular, she applied for an emergency protection order to the Ivanić Grad Misdemeanour Court on which reportedly the Court failed to act.

The criminal complaint was rejected as unfounded by the Velika Gorica County Prosecutor in November.

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## CYPRUS

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### **Racist violence**

On 22 November about 20 students from different high schools in Nicosia, wearing hoods, caps and scarves over their faces, attacked a group of Turkish Cypriot students and their Turkish Cypriot teacher with wooden sticks during a class at the English School, a mixed secondary school. The attack was widely condemned, and by the next day the police had identified and questioned the perpetrators, all of whom were minors apart from an 18-year-old, who was charged. The youths claimed to represent an organization named the National Voice of Greek-Spirited Youths (EFEN), which was reported to be linked to one of Nicosia's main football clubs and to have recruited young members from among the capital's business and political elite. EFEN stated on 27 November that membership had been withdrawn from those alleged attackers who had been members. Police investigations were continuing at the end of 2006.

### **Violence against women**

In the last six months of 2006, four women were killed and their partners subsequently arrested on suspicion of murder. On 17 August, the bones of 30-year-old Anna Vasileva, a national of Kyrgyzstan, were found in a barrel in the area of Nicosia after her husband confessed to murdering her and her lover and then burning her body. On 5 September, police found the body of 20-year-old Janka Kovacova, a Slovak national, who had gone missing three weeks earlier, in a shallow grave in the area of Nicosia. She had been abducted, raped and murdered. On 15 October the body of 42-year-old Roulla Panteli, who had gone missing in previous weeks, was discovered by a member of the public in the area of Limassol. She had been shot in the back and her partner was taken into custody and charged with her murder. On 14 December police were led to a rural spot where the half-burnt body of 37-year-old Androulla

Avraam-Goumenou was discovered. The discovery took place after her partner had been found by police cleaning blood traces from his car; he subsequently confessed to killing her the night before.

The murders sparked public debate on violence against women. According to statistics on domestic violence reported in the press in November, 18 per cent of murders from 1980 to 2005 resulted from domestic violence, and nearly all of the victims were women. In 2005, reported incidents of domestic violence rose to 940 from 505 the previous year. Of these incidents, 731 concerned physical violence, 189 psychological violence and 20 sexual abuses (*Cyprus Mail* newspaper, 5 November).

In November it was reported that the government planned to set up a shelter for victims of trafficking and domestic violence, but within Nicosia central prison. Furthermore a local non-governmental organizational, Apanemi (shelter from winds), reported that the government had failed to fulfil funding pledges to allow Apanemi to continue operating its own shelter for victims of domestic violence. Apanemi also criticized the authorities for not providing effective protection for victims of domestic violence or adequate access to justice for foreigners who had been raped, and for failing to produce national action plans on domestic violence or the trafficking of women.

### **Dispute over army death**

In October, an inquest opened into the death in September 2005 of Athanasios Nicolaou, a military service recruit aged 26. The police investigation had concluded that his death was suicide, a finding his family disputed. The family believed his death was related to bullying that he had experienced in his unit. The police investigation had not adhered to international standards of independence, thoroughness and impartiality, failing to examine crucial evidence properly. AI was concerned that the autopsy carried out on the body and the ensuing toxicology tests were not

undertaken by independent experts. Local police had also not been allowed to interview witnesses in the military unit where Athanasios Nicolaou had served without the presence of a military officer. Additional evidence, which could have been used to question the original verdict, was not considered. The inquest had not concluded by the end of 2006.

#### **Police ill-treatment (update to EUR 01/007/2006)**

The criminal investigation into the ill-treatment of 27-year-olds Marcos Papageorgiou and Yiannos Nicolaou in December 2005 by members of the special police department, the Immediate Response Mobile Unit (MMAD) was concluded and 11 officers charged with a number of offences, including torture, were awaiting trial at the end of December.

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## **CZECH REPUBLIC**

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#### **Forced Sterilization of women (update to AI Index: EUR 01/017/2006)**

In May the government criticized a recommendation in the last Ombudsman's report in 2005 that a law be introduced to provide compensation for women who were sterilized without their consent. The recommendation was not implemented.

In August the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) issued its Concluding Comments on the Czech Republic's compliance with international law in the area of banning discrimination against women. CEDAW commended the adoption of its national action plan entitled "Priorities and procedures of the Government in promoting equality of women and men" and the new provisions since the last periodic report was submitted in the Employment Act, the Labour Code and the Act on Labour Inspection which prohibit direct and indirect discrimination and sexual harassment. However, it urged stronger efforts to

overcome persistent and deep-rooted discriminatory stereotypes of women and expressed concern at the lack of a general anti-discrimination law. CEDAW urged the Czech government to implement the recommendations of the 2005 Ombudsman's report and called for a legal definition of informed, free and qualified consent; mandatory training of medical professionals and social workers on patients' rights; and measures to enable victims of involuntary or coercive sterilization to obtain compensation.

The European Roma Rights Centre and two local human rights groups, the League of Human Rights (Liga lidských práv) and Life Together (Vzájemné soužití) issued their own report in August in connection with the CEDAW review. They concluded that legal protection against discrimination was insufficient and that women remained vulnerable to serious human rights abuses. With regard to domestic violence, the report found that the following were lacking: sufficient training of professionals, therapeutic programmes for victims and perpetrators, victim services in various regions, comprehensive services, investigation into allegations of domestic violence, and protection from "stalking".

#### **Discrimination against Roma**

*The Romani minority continued to face discrimination at the hands of public officials and private individuals.*

- *Access to housing*

In August the Ministry of Labour and Social Affairs issued the results of a study showing that the number of Roma in low-standard housing had risen over the last 10 years. The study found no comprehensive government programme combating social deprivation.

In October, the Chief of Police Vladislav Husák apologised for the misuse of police powers in the town of Bohumín on 4-6 October 2005. Private security guards hired by the municipality had prevented independent observers from entering a

hostel where several hundred residents, many of them Roma, were being targeted for expulsion by the municipality. In June 2005 the municipality had issued eviction orders to the residents of the hostel which it had decided to convert into flats (see AI Index: POL 10/001/2006).

- *Evictions*

In October the Mayor of Vsetín, Jiří Čunek, ordered the removal from the city into other localities of 50 Roma families, alleging that the current accommodation was substandard and that most of the families "had debts in paying the rent". The move was criticized by many, including regional politicians and the Roma themselves, who considered that the mayor had not solved a problem but only postponed it through creating a new "ghetto". Mayors of the localities where the evicted families were sent described the removal as "brutal" and "like a deportation". The houses where the families were relocated did not provide access to basic housing needs such as water and electricity.

In November, Roma families from Vsetín who have been moved to three small municipalities in the Jeseník vicinity lodged a complaint against the leadership of the Vsetín town hall, and representatives of the Romani association Roma Vidnava alleged that the Roma had signed contracts for the dilapidated properties under duress.

### **Police ill treatment**

On 10 July, the Czech Republic ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, whose objective is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Reports of ill-treatment by the police continued, particularly of Roma. On 30 June, for example, two municipal policemen

from Brno were alleged to have detained a young Romani man in Brno, driven him to the outskirts of the city, beaten him, put an unloaded gun in his mouth and pulled the trigger. They reportedly suspected him of attacking and robbing the son of one of the officers and other schoolchildren. In November, they were convicted of beating and torturing the man, and given a suspended two-year prison sentence and banned from serving as police officers for five years. Both lodged appeals which were pending at the end of the period under review.

### *Update on the CzechTek case (see AI Index: POL 10/001/2006)*

The League of Human Rights decided on 30 June to submit a formal complaint to the authorities in response to actions taken by a senior police officer to disperse those attending a music festival in 2005. The complaint related to injuries sustained by one of the festival goers, and was lodged after the Ministry of the Interior closed the case on the grounds that the alleged perpetrators could not be identified. The League of Human Rights believed that the investigation had not been thorough and comprehensive, and therefore should be reopened.

In October, the Minister of Interior Ivan Langer criticised the work of the Interior Minister's Inspection when investigating the police crackdown at the CzechTek festival in 2005. The Inspection has the task of detecting and verifying facts indicating that a criminal act has been committed by a police officer and establishing whether the offender shall be carried out, under the Code of Criminal Procedure. The Minister said that in future if suspicions emerge that policemen acted at variance with the law, the Inspection should use operative devices more frequently and process citizens' complaint in a systematic way, investigating allegations against police officers deployed in such operations more thoroughly.

On 30 July 2005 police had intervened to disperse some 5,000 people gathered in a

field near the village of Mlýnec, West Bohemia, for a music festival known as CzechTek, which was allegedly unauthorized and causing damage to private property. Police in riot gear reportedly shot tear gas grenades and used water cannons to end the festival. More than 80 people were injured, and around 20 members of the public and five police officers sought medical attention. In November that year the Ombudsperson's office stated that the intervention was legal but that police failed to take adequate preventative measures that might have helped to avoid the later use of force.

### **Racially motivated attacks on Roma**

Roma were often the target of racially motivated attacks, and penalties handed down by the courts did not reflect the seriousness of the crimes or the racist motives of the assailants.

On 31 August, three young men had their sentences for an attack on a Romani couple in Jeseník increased by the regional appeals court in Olomouc. Two were given prison terms of three years and three months and three years respectively, and the third received a suspended three-year prison sentence. A public outcry had greeted the original suspended sentences on all three, passed by the district court in Jeseník in January 2004.

On 18 September, an alliance of five Romani organizations in the Czech Republic (Info Roma Kontakt Plzeň, Romani Aliance Rokycany, ROS Karlovy Vary, Roma Realia Dobromerice and Futurum Roma Beroun) protested against a two-year suspended sentence imposed by the Regional Court in Plzeň on a soldier convicted of beating a Romani man, which was not appealed by the state attorney. The Romani organizations lodged an appeal against this sentence. A decision was pending by the end of the year.

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## **ESTONIA**

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### **Minority rights**

Discriminatory practices, including barriers to employment, continued towards the country's linguistic minority, affecting some 430,000 people, approximately 30 per cent of the population.

In August, the UN Committee on the Elimination of Racial Discrimination adopted its Concluding Observations on Estonia. The Committee recommended that the definition of what constitutes a minority set out in the Law on Cultural Autonomy of National Minorities should be amended to include non-citizens, including stateless people with long-term residence. The Committee further recommended that Estonia enact anti-discrimination legislation in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee also suggested that Estonia consider providing free Estonian language courses to all those applying for citizenship.

In December, AI published a report on the Russian-speaking linguistic minority in Estonia (Linguistic minorities in Estonia: Discrimination must end, AI Index: EUR 51/002/2006). The report highlighted that person belonging to this minority enjoyed very limited linguistic and minority rights, and often found themselves *de facto* excluded from the labour market and educational system through a system of rigorous language and citizenship requirements for employment and limited possibilities of studying in minority languages in higher education.

The report maintained that comprehensive and restrictive citizenship requirements for employment both in the public and private sector, together with Estonia's failure to effectively fulfil several linguistic and educational rights, have led to a situation in which there are disproportionately high levels of unemployment among the Russian-speaking linguistic minority. This in turn further contributed to social exclusion and vulnerability to other human rights abuses.

AI urged the Estonian authorities to become more proactive in finding pragmatic and needs-based solutions to policies towards minorities. This would, for example, involve Estonia revising its current definition of what constitutes a national minority, which currently leaves the majority of persons who actually belong to a minority without any formal minority rights or protection. The report further encouraged the Estonian authorities to review the possibilities to provide affordable, or free, Estonian language teaching for persons belonging to the Russian-speaking linguistic minority. Estonia was also urged to consider more proactive ways of combating unemployment amongst minority communities and legal and practical ways of including minorities into mainstream Estonian society.

### **Lesbian, gay, bisexual and transgender rights**

On 12 August, participants in a Lesbian, Gay, Bisexual and Transgender (LGBT) Pride march in Tallinn were attacked by more than a dozen counter-demonstrators. More than ten participants in the march were injured and one person was hospitalized with head injuries.

The counter-demonstrators, who reportedly defined themselves as Estonian nationalists, physically and verbally attacked marchers, spat on them as well as throwing stones and eggs at them. The counter-demonstrators were able to attack the marchers without being stopped by law enforcement officials. Later in the evening, a window of an entertainment venue hosting Pride participants was smashed. Following the march, six counter-demonstrators have allegedly been arrested for "violating public order".

The Estonian authorities provided insufficient numbers of law enforcement officials, and those who were present were not adequately identifiable to act as a deterrent from attacks. The protection offered to the Pride March participants was not adequate and failed to act with due diligence to protect LGBT people against violence.

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## **FRANCE**

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### **Police ill-treatment and impunity**

On 17 August, Albertine Sow, who was six months' pregnant, was reportedly violently handled and punched by police when she asked what was happening during a violent arrest of two young men in Paris, one of whom was her brother. Another relative of the young men also tried to intervene. The situation deteriorated and both the second relative and Albertine Sow were hit by police batons on the head and ribs. Albertine Sow lodged a complaint with the disciplinary body of the Paris police (Inspection Générale des Services) on 19 August, supported by numerous witnesses. The same weekend, a judicial proceeding was opened into the incident alleging a group assault on the police. At the end of the year both cases were still in the preliminary phases.

On 29 August it was reported that the French Minister of Justice was making plans to introduce routine video-taping of adult suspects in police custody, with the exception of terrorist suspects and those accused of criminal conspiracy. Since 2002, all interrogations of minors have been recorded but until this point there had been no moves to introduce this for adults. There was also a plan to equip 400 police cars with video cameras before the end of 2006, and Minister of the Interior Nicolas Sarkozy was negotiating the introduction of video cameras in investigating judges' chambers. AI has long been urging the introduction of video-taping in all police stations as a way of combating the effective impunity of law enforcement officials in relation to allegations of ill-treatment, highlighted in the April 2005 report, *France: The search for justice – The effective impunity of law enforcement officers in cases of shootings, deaths in custody, or torture and ill-treatment (EUR21/001/2005)*.

The National Commission on Ethics and Security (Commission Nationale de

Déontologie de la Sécurité, CNDS) issued a report on 2 November reviewing its first six years' of work. The report revealed that over half of the cases dealt with by the CNDS concerned complaints against the police. It highlighted insufficient training, excessive use of force, and racism as problematic issues within the police force.

On 28 September, three police officers appeared before the Magistrates' Court in Bobigny charged with involuntary manslaughter for the death in January 2003 of Getu Hagos Mariame, an Ethiopian national whose asylum application had been rejected. He died in hospital after being forcibly restrained by police officers accompanying him during his expulsion. The officers allegedly used such force that they blocked the arterial blood flow to his brain. The officers were suspended from duty for 10 months but were later readmitted to the border patrol police. On 23 November, d'Axel Dallier, the senior officer involved, was convicted of voluntary homicide on the grounds of "failing to fulfil safety obligations". He was given a six-month suspended sentence. The other two officers involved in the expulsion were acquitted due to lack of evidence linking their actions to the death.

#### **Restriction on freedom of expression**

On 12 October parliament adopted a bill that would make it a crime to contest that the massacres of Armenians in the Ottoman Empire in 1915 constituted genocide. Should the bill be enacted into law, those who contravene it would face up to five years imprisonment and a 45,000-euro (\$56,400) fine. At the end of the year the bill was awaiting approval by the Senate and President, although President Jacques Chirac had already stated his opposition to the proposed law.

AI was concerned that the bill could violate freedom of expression as the wording was very vague and may be interpreted as prohibiting peaceful debate as to whether the massacres of 1915 would have constituted genocide under the 1948 Convention for the Prevention and

Punishment of the Crime of Genocide had it been in force at the time. This bill, if it were to be enacted into law, might lead to people being imprisoned solely for exercising their right to freedom of opinion and expression, thereby becoming prisoners of conscience (see EUR21/009/2006).

#### **Asylum and immigration**

The number of asylum applications in 2006 fell by 40 per cent compared to the previous year. Albania, Macedonia, Madagascar, Niger and Tanzania were added to the list of 12 "safe" countries from which asylum-seekers are dealt with under a fast-track procedure with reduced protection and no social support. Appeals lodged under this system do not lead to the suspension of expulsion proceedings. Following criticism from non-governmental organizations (NGOs), including AI, the government abandoned moves to reduce from one month to 15 days the time allowed to appeal against a rejected asylum application.

A new immigration law, under which irregular migrants will no longer benefit from automatic regularization of status after 10 years' residency in France, was passed in July despite strong popular opposition. Regularization will now take place on a case-by-case basis. Family reunification applications will be allowed after 18 months (previously one year) and applicants must demonstrate sufficient means to support family members wishing to join them. For migrants entering France specifically to work, different forms of residence permits will be granted according to the length of contract and level of professional skill in order to support the programme of "selective immigration". A special three-year permit will be created for "highly qualified" immigrants. In other cases, residence permits will be limited to the duration of the holder's work contract. As loss of employment would lead to the risk of expulsion, some migrants will face heightened risk of exploitative working conditions. Foreign residents convicted of "rebellion" (resisting arrest) may have their



10-year residence permit replaced with a one-year permit, renewable annually. The offence of "rebellion" is extremely broad and is commonly cited in controversial arrests or as a counter-charge to accusations of police misconduct.

Expulsions of illegal immigrants continued, totalling some 24,000 by the end of the year. In June the Interior Minister offered financial assistance to families fulfilling certain criteria to return voluntarily to their country of origin and threatened a review of their migration status if they declined such aid.

### **'War on terror' concerns**

#### *Guantánamo Bay detainees*

Six former detainees at the US military base in Guantánamo Bay went on trial in France for alleged "criminal conspiracy in relation to a terrorist enterprise". The six, all French nationals, were captured in Afghanistan in 2001 and transferred to Guantánamo Bay. In 2004 and 2005 they were released to France, where they subsequently spent an average of 18 months in remand detention. The men had been interviewed in Guantánamo in 2002 by French secret service agents. Although the information gathered was not presented at the trial in France, the men's lawyers said that it had triggered the judicial investigation. The court, which had been due to deliver its judgment in September, asked for further investigations, including the questioning of high-ranking officials from the secret services and Ministry of Foreign Affairs. A new trial was due to start in May 2007.

#### *Abu Grahیب investigation*

The Paris public prosecutor opened a judicial investigation on 3 October into the "illegal arrest" and "arbitrary detention" of French national Peter Cherif at Abu Grahیب prison in Iraq for 20 months. He was detained close to Fallouja in Iraq on 2 December 2004 by American forces and sentenced at the beginning of July to 15

years' imprisonment for illegally entering Iraqi territory. He was alleged to be connected to the "Iraqi jihadist network" directed by a radical preacher in Paris, Farid Benyettou. On 15 September Cherif's family and lawyer wrote to the French minister for foreign affairs requesting diplomatic protection but have so far received no reply.

#### *Forcible Returns*

On 28 July AI urged immediate action (see EUR 21/005/2006) regarding the case of Adel Tebourski, a Tunisian national at imminent risk of being forcibly returned to Tunisia by the French authorities. AI was concerned that were he to be returned, he could be charged under anti-terrorism legislation, and would be at grave risk of torture and other serious human rights violations. Adel Tebourski, who until that time held dual French/Tunisian nationality, had been detained in France since 2001, spending more than three years in prison before being tried. In May 2005 he was sentenced to six years' imprisonment for providing false identity documents to two alleged al-Qa'ida operatives involved in the killing of Commander Massoud, leader of the Northern Alliance coalition group in Afghanistan, on 9 September 2001. On 21 July 2006 he was released from prison and on the same day he was stripped of his French nationality and moved to an immigration detention centre. This followed an order by the French Minister of Interior to have him expelled from France under the terms of an emergency deportation procedure which denies individuals the right to have their removal suspended while they appeal. On 28 July, the French government body which determines the status of refugees, the Office français de protections des réfugiés et apatrides (OFPRA), rejected Adel Tebourski's request for asylum. Despite action by his lawyer and AI, and a pending appeal, he was deported to Tunisia on 7 August.

On 7 September a 62 year-old imam, Chelali Benchellali, was forcibly returned to his native Algeria, 45 years after originally

leaving it to live in France. He was convicted in June of 'criminal association in relation with terrorism' and expelled. Chelali Benchellali, who had married in France and had six children, preached a very strict interpretation of Islam. Chelali Benchellali was sentenced in relation to the "Chechen Network" which allegedly planned terrorist attacks in Paris, and for incitement to racial hatred. Although his conviction was under appeal, he was nonetheless expelled to Algeria. Since the attacks in the USA of 11 September 2001, authorities have expelled from France 71 people, including 15 imams, believed to be connected with radical Islam.

The youngest son of Chelali Benchellali, Mourad, spent some two years in US detention in Guantanamo Bay before being transferred to French custody in July 2004. He was tried in Paris in July 2006 for involvement in terrorist conspiracy following a period in an alleged Al-Qaeda training camp in Afghanistan in 2000 and was due to receive the verdict on 27 September. However, the magistrate's court refused to rule on the case and has instead opened an investigation into the visits to Guantanamo Bay conducted by agents of the French intelligence services which were the origin of the case against Mourad Benchellali and his five co-accused. The case will begin again on 2 May 2007.

#### *CIA flights*

At the end of August the public prosecutor of Bobigny closed without further action the preliminary inquiry into suspected stop-over flights on French territory by the US Central Intelligence Agency (CIA). The case had been opened following a complaint lodged by two NGOs in December 2005. The prosecutor stated that it was not possible to gather information on the identity of passengers of the flights in question. For further information on this topic see the April 2006 report, USA: Below the radar: Secret flights to torture and 'disappearance' (AMR 51/051/2006).

#### *Discrimination on "security" grounds*

On 19 October the French Transport Workers' Trade Union filed a complaint to the Prosecutor of Bobigny in the name of 72 Muslim Roissy airport workers who had had their security passes severely restricted resulting in an inability to carry out their work. The passes were revoked in August following investigations by the anti-terrorism unit UCLAT, which suspected the workers of possible links with terrorist or fundamentalist networks. On 27 October the High Authority Against Discrimination (HALDE) opened its own investigation into the case. Eight of the affected individuals lodged a case against the state, claiming that the burden of proof had been reversed. Interior Minister Nicolas Sarkozy stated that he would prefer to risk court action for being too severe than to risk a drama for not being severe enough and remarked that if the employees thought they had been discriminated against they could approach a court. On 8 November, two of the eight employees involved in the court case had their security clearance reinstated.

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## **GEORGIA**

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### **International obligations**

#### *European Neighbourhood Policy Action Plan*

On 14 November the European Neighbourhood Policy Action Plan was adopted by the European Union-Georgia Cooperation Council. In the Action Plan that outlines the strategic objectives regarding the cooperation of Georgia with the European Union over the next five years, Georgia committed itself, among other issues pertaining to human rights and the rule of law, to ensure "proper separation of powers, independence and impartiality of the judiciary, prosecution, police and law enforcement agencies"; to improve "access to justice notably through the establishment of an effective legal aid system"; to implement the Optional

Protocol to the UN Convention Against Torture and the recommendations made by the European Committee for the Prevention of Torture (CPT); to "further [improve] the legal basis and practice in the sphere of detention, in particular pre-trial detention, to prevent torture and ill-treatment of detainees"; and to ensure freedom of the media and "the equality of men and women in society and economic life".

*UN Committee on the Elimination of Discrimination against Women on domestic violence*

On 15 August the UN Committee on the Elimination of Discrimination against Women (CEDAW) considered Georgia's combined second and third periodic reports under the Convention on the Elimination of Discrimination against Women. With regard to domestic violence, in its concluding comments issued on 25 August, CEDAW raised concern about the lack of official data on the issue and that domestic violence "may still be considered a private matter". CEDAW also expressed concern that the "implementation of aspects of the law on domestic violence, including those relating to the provision of shelters", has been postponed and that "marital rape has not been included in any proposals for new legislation". CEDAW urged the authorities to "complete and implement promptly the national action plan to combat domestic violence"; to ensure that all victims of domestic violence "have access to immediate means of redress and protection, including protection orders and [...] a sufficient number of safe shelters and legal aid". CEDAW also recommended data collection, research and evaluation of measures taken; training; and public awareness raising.

**Violence against women in the family  
(update information to AI Index:  
EUR 01/017/2006)**

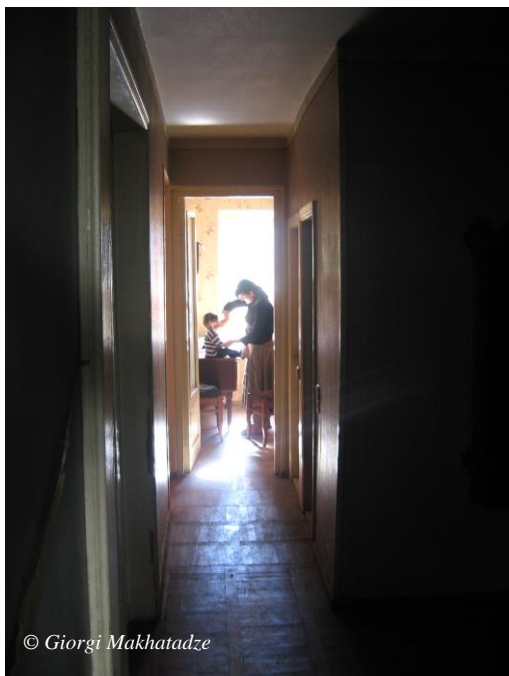
On 25 September AI released a report entitled *Georgia: Thousands suffering in silence. Violence against women in the family* (AI Index: EUR 56/009/2006), which

documented widespread domestic violence in Georgia and the lack of government measures to end it.

The report documented how violence against women by their partners and former partners included verbal and psychological abuse, physical and sexual violence, and killings. Most frequently, women were beaten, hit and kicked, but they were also burned with cigarettes, had their heads bashed against walls, or were raped.

The authorities did not gather comprehensive statistics on domestic violence. A study published by the non-governmental Caucasus Women's Research and Consulting Network in 2006 reported that 5.2 per cent of women had experienced frequent physical abuse by their partner, adding to the data produced by UN Population Fund studies in Georgia in 1999 and 2005 which found that five per cent of women reported physical abuse.

Among obstacles to eradicating domestic violence were the widespread impunity enjoyed by its perpetrators, and insufficient measures and services to protect victims such as temporary shelters and adequate, safe housing. The authorities also failed to ensure a functioning cross-referral system between health workers, crisis centres, legal aid centres, and law enforcement authorities, or to provide mandatory government training programmes for police, prosecutors, judges and medical staff.



© Giorgi Makhatadze

*A woman with child in the shelter of the Anti-Violence Network of Georgia. The Georgian authorities failed to approve a national action plan on domestic violence in 2006 – as was stipulated by the law – which raised doubts about the authorities' commitment to protect women from domestic violence.*

While the domestic violence law adopted in May 2006 in Georgia was an important step in meeting the government's obligations to prevent abuses and protect survivors, the failure to approve a national action plan on domestic violence – as stipulated by the law – raised doubts about the authorities' commitment to eradicate domestic violence.

Georgia is a party to international and regional human rights treaties, all of which require the government to protect, respect and fulfill the human rights of those persons in its territory and subject to its jurisdiction. Thus, Georgia is obliged under international law to act with due diligence to prevent and investigate violence against women and hold perpetrators of violence accountable, and ensure protection and reparation to victims.

### **Arbitrary detention – the case of Irakli Batiashvili**

On 29 July Irakli Batiashvili, leader of the Forward Georgia opposition group and former Security Minister, was detained by police and charged with "liability of perpetrator and accomplice" (Article 25 of the Criminal Code of Georgia), "treason" (Article 307), "conspiracy or uprising to overthrow the constitutional order by force" (Article 315, part 3) and "failure to report a grave crime" (Article 376).

Irakli Batiashvili's arrest was related to a conflict between the central authorities and Emzar Kvitsiani, representative of former President Eduard Shevardnadze in the Kodori Gorge area of Georgia until 2004 and leader of the armed group Monadire (Hunter). The group initially existed as a paramilitary group and was later formally subordinated to the Ministry of Defence. Under the government of President Mikhail Saakashvili there have been attempts to disband Monadire or to restructure it, and the Ministry of Defence has proposed subordinating it to the Ministry of Internal Affairs of Abkhazia in exile. On 22 July 2006 Emzar Kvitsiani was quoted by *InterPressNews* as saying that the Minister of Defence of Georgia "announced war against us and is planning to attack the gorge on 27 July". Later that day he was quoted in a broadcast by *Rustavi-2* television as saying that "any armed force, which will enter the gorge, will be repelled". On 25 July the authorities sent troops to the gorge in what they termed an "anti-criminal operation". The government announced it had re-established control over the gorge by the end of July. There was conflicting information regarding casualties resulting from the special operation. While many of Emzar Kvitsiani's supporters were arrested, Emzar Kvitsiani managed to escape.

The authorities alleged that Irakli Batiashvili provided advice and information to Emzar Kvitsiani in order to support an insurrection to overthrow the government of Georgia. In addition, Irakli Batiashvili was accused of aiding Emzar Kvitsiani by mobilizing public

opinion in his favour, including by expressing support for an armed insurrection in public speeches and by referring to Emzar Kvitsiani as a hero. Further, it was alleged that Irakli Batiashvili failed to inform the authorities of Georgia of an offer allegedly made to Emzar Kvitsiani by the authorities of the internationally unrecognized territory of Abkhazia to support an armed uprising.

According to information available to AI, the charges were based on recordings by the Ministry of Internal Affairs of telephone conversations between Irakli Batiashvili and Emzar Kvitsiani between 23 and 25 July and recordings of interviews and other media appearances of Irakli Batiashvili that were broadcast between 23 and 27 July.

AI received reports from non-governmental sources that Irakli Batiashvili's aim was to act as a peace broker who actively opposed the use of force and called on both Emzar Kvitsiani and the Georgian authorities to settle the conflict by peaceful means. According to these sources, the recorded telephone conversations and media interviews did not contain any information indicating that Irakli Batiashvili supported an armed uprising against the authorities.

A recording of a telephone conversation between Emzar Kvitsiani and Irakli Batiashvili on 23 July, broadcast by *Rustavi-2* television, documented Emzar Kvitsiani telling Irakli Batiashvili that the de facto Deputy Minister of Defence of the internationally unrecognized territory of Abkhazia had offered him support. According to Irakli Batiashvili's lawyer Ioseb Baratashvili, the authorities – before passing the recording to the television station – had deleted a passage of the conversation, in which Emzar Kvitsiani told Irakli Batiashvili that he turned down the offer. Ioseb Baratashvili alleged that the recording was tempered with in order to gain public support for portraying his client as a traitor.

In letters sent to the Prosecutor and the Minister of Justice regarding the case of Irakli Batiashvili on 14 November, AI sought assurances that any charges solely

connected to the lawful exercise of Irakli Batiashvili's right to freedom of expression as guaranteed under Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms be dropped, and that Irakli Batiashvili only be tried for any recognizably criminal offence of which he is reasonably suspected, in proceedings which meet international standards of fairness.

In addition, AI raised concerns about alleged violations of Irakli Batiashvili's internationally guaranteed fair trial rights. For example, several representatives of the authorities and leading politicians made public statements about Irakli Batiashvili which may have violated his right to be presumed innocent unless and until proven guilty, and may impinge on the fairness of any trial against him. For example, on 1 August Givi Targamadze, the chairman of the parliamentary committee on defence and security of Georgia, was quoted in a broadcast by *Rustavi-2* as saying that if "anybody still had doubts about Batiashvili's guilt, then today nobody should have doubts anymore".

**Torture, ill-treatment, excessive use of force and impunity (update information to AI Indexes: EUR 56/001/2005 and EUR 01/017/2006)**

On 2 November AI wrote a letter to the Prosecutor General reiterating its recommendation that a new action plan against torture should promptly be drafted and implemented to build on the two-year Plan of Action against Torture in Georgia that expired in December 2005. AI believed that a comprehensive, coherent and appropriately resourced action plan against torture was urgently needed to ensure that all recommendations made by intergovernmental bodies, as well as by non-governmental organizations would be adequately addressed. These included recommendations by the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or

punishment following his visit to Georgia in February 2005, by the UN Committee against Torture, and by the CPT.

In addition, AI reiterated its concerns with regard to allegations of excessive use of force and ill-treatment in investigation-isolation facilities and prisons that had come to the attention of the organization since December 2005. The organization also asked for update information with regard to a number of cases involving allegations of torture or ill-treatment by police that were included in AI's November 2005 report *Georgia: Torture and ill-treatment -- Still a concern after the "Rose Revolution"* (AI Index: EUR 56/001/2005).

AI also raised the case of Sandro Girgvliani, who died in January 2006 as a result of severe beatings and other ill-treatment by Interior Ministry officers. On 6 July Tbilisi city court sentenced four officers -- Giorgi Alania, Avtandil Aptsiauri, Mikheil Bibiluri, and Aleksandre Gachava -- to terms of imprisonment of seven and eight years for causing Sandro Girgvliani's death. On 11 December the court of appeals upheld the sentences. There were allegations that no impartial investigation had been opened into allegations that those who killed Sandro Girgvliani acted on the orders of senior officials of the Interior Ministry.

According to information provided by the Human Rights Protection Unit of the Prosecutor General's office, in 2006 investigations were opened into allegations of torture or ill-treatment in police custody or during arrest in dozens of cases. Five officers were sentenced to prison terms of between three and seven years.

There were allegations that at least in some cases investigations were excessively protracted and failed to bring perpetrators to justice.



*AI delegate discussing issue of torture with a Georgian journalist.*

For example, Vakhtang Guchua and Zaal Akobia were allegedly ill-treated by at least a dozen special police officers in April 2005. The forensic medical expert Roin Petelava examined the two young men later in April and found bruises and scratches on their bodies. According to his assessment, the injuries, which he classified as light injuries, were caused by a blunt object. The Human Rights Protection Unit of the Prosecutor General's office reported, in its newsletter covering December 2005 to March 2006, that having conducted a preliminary investigation against a former officer of the Special Operative Department of the Ministry of Internal Affairs, for "compelling to provide evidence" (Article 335, part 2), the case was forwarded to Zugdidi district court on 31 January 2006. Vakhtang Guchua's lawyer told AI in October that this former officer had been released on bail and that no charges had been brought against the other officers allegedly involved in the ill-treatment. He also said that his client had not received any compensation for the ill-treatment he was believed to have been subjected to.

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## GERMANY

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### **Torture and other ill-treatment**

In August, after negotiations between the government and the US authorities German-born Turkish citizen Murat Kurnaz was released from US detention at Guantánamo Bay, Cuba. Classified government documents leaked in March showed that the USA had offered to release Murat Kurnaz in 2002, but Germany had proposed that Murat Kurnaz be sent to Turkey even though there was no evidence that he had committed a crime. Following his release, Murat Kurnaz said that while in US detention in Kandahar, Afghanistan, German soldiers hit his head on the ground. The prosecutor's office in Tübingen started an investigation into this allegation. German soldiers who helped guard the prison in Kandahar confirmed that there had been a German-speaking detainee there.

In November, after a retrial, Moroccan citizen Mounir el-Motassadeq was found guilty of being an accessory to murder on 246 accounts in connection with the 11 September attacks on the World Trade Center in New York in 2001. He was sentenced to seven years' imprisonment. In June 2005, the Hamburg Supreme Court had ruled that evidence possibly obtained under torture or cruel, inhuman or degrading treatment was admissible in the retrial, a ruling that breached international law.

### **Police accountability**

In November, the Regional Court of Dessau <sup>1</sup> refused to open proceedings against two policemen allegedly involved in the death of Sierra Leonean citizen Oury Jalloh because of insufficient evidence. Oury Jalloh died in police detention in 2005 after being burned alive in his cell where he was chained to his bed allegedly because he had resisted arrest. Preliminary

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<sup>1</sup> *Landgericht Dessau*

investigations by the State Attorney concluded that the fire alarm in Oury Jalloh's cell had been switched off during the incident.

### **Universal jurisdiction**

In November a criminal complaint was filed against the US former Secretary of Defense Donald Rumsfeld and other high-ranking US officials for alleged crimes under international law committed in Iraq and at Guantánamo Bay. The complaint was based on the Code of Crimes against International Law.

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## GREECE

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### **Denial of refugee protection**

The government continued to fail to comply with its obligations under international law in relation to providing access to asylum procedures and the prohibition of *refoulement*. No progress was made in proposing a new law on asylum. On several occasions groups of people arriving in Greece seeking asylum were forcibly expelled without being given access to asylum procedures.

On 23 September, 118 people who had been shipwrecked on the island of Crete two weeks before, were expelled to Egypt, without being given access to lawyers and AI representatives who had requested to meet them. AI expressed concern that the expulsion to Egypt may have violated the rights of those among them who may have been refugees.

On 27 September the bodies of six people were found on the Turkish coast in the region of Karaburun. The six had been on a boat which sank while trying to cross the sea border clandestinely from Turkey to the Greek island of Chios. The Turkish authorities rescued 31 survivors from the same boat. Another two people were reportedly missing. The survivors claimed that after their boat sank, the Greek coastguard, who had been patrolling the

area, took them aboard, handcuffed, then sailed towards the Turkish coast and forced them into the water. The Greek authorities denied the allegations.

In August, representatives of a non-governmental organization (NGO) who had visited the detention centre on Chios, reported that six unaccompanied minors were being held there. The following month the NGO also reported overcrowding and lack of toilet facilities at the centre.

In September, an Athens-based NGO reported that five unaccompanied minors had been detained in Volos for 45 days in previous months, then transferred to Athens and detained again.

On 25 October AI wrote to the authorities expressing concern about reports received that 40 migrants who were attempting to board ships to Italy from the port of Patras had been detained at the Patras Port Security Office. AI was concerned that some of the detainees were minors, while others reported having been beaten.

### **Domestic violence**

On 10 October a law combating domestic violence (N 3500/2006), which was initially proposed in December 2005, was adopted by the parliament. The Law Combating Domestic Violence criminalizes violence against family members, including physical, psychological and sexual violence, as well as the threat of violence. Violence against minors is punished more harshly. Marital rape is criminalized within the context of the criminalization of 'rape within the family' (art 8) and 'violation of sexual honour' (art 9) and punishable with imprisonment, in the latter case of up to three years.

While AI broadly welcomed the adoption of this law, the organization remained concerned that some of its provisions were not fully in line with the duty of the state to protect the rights of women. AI was concerned that the domestic violence law is based on a philosophy which places emphasis on the preservation of the family unit rather than on respecting and

protecting the rights of the victim, who in the vast majority of cases is a woman.

Specifically, AI was concerned that under the law, the ultimate decision on initiating judicial mediation rested with the prosecutor, rather than being offered as a service to the victim, and that the mediation process was not completely independent from the proceedings regarding restitution. The organization was further concerned that the provisions relating to restraining orders did not ensure immediate and effective implementation and that by the end of the year measures to ensure the implementation of the law, including funding for shelters, hotlines, awareness-raising campaigns and training programmes for relevant officials had not been put in place.

### **CPT report on ill-treatment in detention centres, prisons and psychiatric hospitals**

A report was published on 20 December by the European Committee for the Prevention of Torture (CPT), following its fourth periodic visit to the country in August and September 2005. The CPT found that a number of facilities used to detain migrants were in a poor state of repair, unhygienic, and lacking in basic amenities. Some of these facilities had been visited by AI in January 2005 and similar concerns had been expressed by the organization in its report on Greece released in October 2005 (see AI Index: EUR 25/016/2005).

In two of these facilities, in the areas of Mytilini and Venna, the CPT heard detainees' allegations of ill-treatment by the authorities. In 11 cases, it found that detainees had suffered physical injuries consistent with their allegations of having been beaten with sticks and kicked. In the detention centre in Venna, the CPT requested an immediate forensic-medical examination of the detainees concerned and noted with concern that two days later, the forensic doctor called by the authorities to carry out this examination had not examined the most seriously injured person. On receiving the findings of the



examination five days later, the CPT noted “glaring differences between the conclusions of the doctor with those of the two medical members of the CPT’s delegation”, as well as the fact that two of the names on the delegation’s list did not correspond to the names on the report provided by the authorities, including that of the most seriously injured person. By 9 November 2005, the authorities had submitted an explanation regarding the mistakes and corrections to the initial report, which the CPT described as “confusing, incoherent and inconsistent and, therefore, totally unsatisfactory”. During its follow-up visit, the most seriously injured detainee told the CPT that he had been expressly prohibited from seeing the forensic doctor.

The CPT was also concerned about overcrowding in prisons around the country and about allegations of ill-treatment of women in Korydallos prison by male staff, including slapping, verbal abuse, and internal body searches when women left the prison, which amounted to degrading treatment.

The CPT also visited the Corfu psychiatric hospital, where it noted complaints of ill-treatment including slapping and punching of inmates, and the use of restraints for punishment.

### **Ill-treatment by police**

On the evening of 17 November, police attacked Avgoustinos Dimitriou, a 24-year-old Cypriot national, during clashes with students that followed a demonstration held in Thessaloniki to commemorate the anniversary of the students’ uprising against the 1967-74 dictatorship. Avgoustinos Dimitriou received serious injuries to his face and body and was hospitalized for several days. He denied having taken part in the demonstration. An investigation was launched into the attack, which was caught on camera by reporters covering the demonstration, and seven policemen and one former officer were charged in December.

### **Counter-terrorism (update to AI Index: EUR 01/007/2006)**



On 6 November, Javed Aslam (pictured above), the president of the Pakistani Community in Greece, was arrested by Greek police and was held in Korydallos prison awaiting deportation, after an arrest warrant was issued by the Pakistani authorities, charging him with illegal migration and smuggling of human beings. Javed Aslam had complained to the prosecutor on behalf of six of his co-nationals and one Indian national from the region of Kashmir, who had been abducted in July 2005, allegedly by Greek intelligence service agents in coordination with British MI6 agents. AI was concerned that Javed Aslam’s arrest may have been connected to his attempt to defend the human rights of those who were abducted in July 2005. Javed Aslam was released on bail on 23 November. The investigation into the abductions was ongoing at the end of the period under review.

### **Conscientious objection to military service (update to AI Index: EUR 01/007/2006)**

In June the Athens Military Appeals Court ruled on the cases of two conscientious

objectors accused of disobedience. Boris Sotiriadis was acquitted and Giorgos Koutsomanolakis was convicted and handed a 10-month suspended prison term.

In October the Athens Military Appeals Court decreased Giorgos Monastiriotis' 40-month prison sentence for desertion to 24 months, with three years' suspension. He was convicted after refusing to follow his unit to Iraq.

### **Trafficking in human beings**

Police arrested four suspected traffickers in November, three of whom were Greek nationals and one Romanian. They were accused of sexually exploiting two Ukrainian women, whom they had forced into prostitution after luring them to Greece. Another two people had been arrested in Thessaloniki in September, following the filing of a complaint by a victim.

### **Freedom of expression**

In July the European Court of Human Rights ruled unanimously that Greece had violated Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the case of Mehmet Agga, an elected but unofficial Mufti in the prefecture of Xanthi. Mehmet Agga had been convicted in 1997 by a domestic court for usurping the function of a minister of a "known religion" under Article 175 of the Criminal Code. Mehmet Agga died on 9 September.

### **The killing of Marinos Christopoulos (update to POL 10/001/2002)**

On 30 November, Giorgos Tylianakis, the police officer who had killed a 22-year-old Romani man, Marinos Christopoulos, in October 2001, was sentenced to 10 years and three months' imprisonment by the Court of Appeals for reckless homicide.

### **AI's Secretary General visits Athens**

On 22 September the Athens Bar Association presented an award to AI's

Secretary General Irene Khan, in its annual ceremony, for her contribution to the protection of human rights worldwide.



AI's Secretary General Irene Khan (pictured above) legation of AI representatives to the country between 19 and 22 September, during which she met with government representatives and human rights activists. Irene Khan presented AI's concerns about the human rights situation in Greece in meetings with the Minister of Interior and officials of the Ministry of Public Order. Irene Khan called on the authorities to put in place an effective asylum procedure that would allow access to those applying at the border and provide an independent review of rejected asylum applications, as well as legal aid for such applicants. Concerns were also raised with the Greek authorities about the case of the alleged abduction and incommunicado detention of individuals of Pakistani origin after the July 2005 bombings in the UK. AI's Secretary General assured the authorities that the organization would closely follow the legal proceedings of the two Greek secret intelligence agents, charged in connection with the case. As the country's Parliament discussed a draft bill on domestic violence, Irene Khan also called on it to adopt legislation that puts the protection of women at its centre. During the visit, Irene Khan also emphasized the organization's key concern in relation to the government's action on combating trafficking of women for forcible sexual exploitation: the linking

of a victim's protection to a requirement that she testifies against the traffickers. She also raised the violation of the rights of Roma to adequate housing and the rights of people arbitrarily stripped of their citizenship to re-instatement.

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## HUNGARY

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### **Police excessive use of force and ill-treatment**

It was reported that police officers had used excessive force against peaceful protesters during demonstrations which turned violent in the capital, Budapest, during the night of 20 and 21 September and again on 23 October. There were also allegations that police officers ill-treated people who were in custody, that minors were held in detention together with adults, and that some of the charges brought against persons allegedly involved in the disturbances were fabricated. Some people were denied immediate access to a lawyer. There were also allegations of indiscriminate use of rubber bullets and tear gas against both peaceful demonstrators and violent protesters without previous warning, and reports that police officers were not wearing any badges of identification, such as identity numbers, and had their faces covered with masks.

#### *Ill-treatment during arrest and during police custody on the night of 20-21 September 2006*

AI received reports that on the night of 20-21 September tens of people were ill-treated by the police during arrest and afterwards while held in detention at a police station. The organization also received reports of persons under the age of 18 being detained and then placed in the same cells as adults, and of people being held in pre-trial detention with reportedly convicted prisoners, both of which violate Hungary's obligations under Article 10 of the International Covenant on Civil and Political Rights.

Highlighted below are two cases illustrative of AI's concerns;

#### *– Brothers Károly & Vince Kruchina*

Károly and Vince Kruchina gave the following account of what happened to them on the night of 20 September. After participating peacefully in the demonstration, they set off to walk home, accompanied by two journalists from the Associated Press agency (AP). When they came to Rakóczi street, which was blocked by the police, a group of policemen reportedly charged towards them and, without apparent rationale or warning, Károly Kruchina was thrown to the ground and struck with an electro-shock baton. Vince Kruchina was detained and handcuffed when he said he was with his brother; he reportedly fainted at the 10th District police station on Harmat Street because of the pain caused by the handcuffs which had been applied too tightly to his wrists. The two AP journalists, who witnessed what had happened, testified later in court that the two young men had not been involved in any attack against the police or others.

The two brothers were denied access to a lawyer for two days. On 22 September in the first instance court, Károly and Vince Kruchina learned that they had been charged, along with a third person, whom they did not know, of "group truculence". It is alleged that they had together committed this crime, although Károly and Vince Kruchina claim that they had not been with or acted with this third person. An essential element for proving the crime of "group truculence", which is punishable up to six years in prison, is that at least three people act in concert. The trial decision was pending still, at the end of December, and the two brothers were remanded to house arrest pending trial.

#### *– Ángel Mendoza*

Ángel Mendoza, a Peruvian national, who is married to a Hungarian national and has two Hungarian national children, went to buy some food with a friend on

the night of 20 September, when the police started one of their charges against demonstrators. Ángel Mendoza and his 14-year-old friend managed to return safely to their building, near the Erzsébet Avenue, in a street in central Budapest close to the square where the main demonstration took place. After they had entered the first gate of the building, but before reaching the second gate of the building which provides access to the individual apartments, the police broke down the first gate of the building and detained them in the hall between the two gates. Ángel Mendoza reported that there were cameras at the entry to the police station where he would have appeared to be without any injury at the time that he entered there. While the detainees were waiting in the reception of the 10th District police station on Harmat Street, a group of policemen arrived and reportedly started to insult them and hit them with batons. According to medical records, Ángel Mendoza's nose was broken and one rib seriously damaged. The human rights organization Hungarian Helsinki Committee (HHC) represented Ángel Mendoza and his 14-year-old friend who were charged for the alleged attack of police officers. The HHC lodged a complaint about the reported ill-treatment of Ángel Mendoza at the police station. Peruvian authorities also lodged a complaint with the Hungarian Ministry of Foreign Affairs. He had yet to receive a reply to these complaints at the end of the year.

AI is also concerned about the reported decision by the first instance courts to order the pre-trial detention of almost all those detained on the night of 20 and 21 September, even in cases where there was convincing evidence that individuals had not participated in the violent acts during the demonstration of that night.

#### *Ill-treatment during arrest on 23 October 2006*

The commemoration of the 50th anniversary of the start of the Hungarian

revolution was marked by demonstrations which took place in Budapest and other parts of the country on 23 October. Some protesters reportedly threw stones and petrol bombs at police and disrupted the peaceful demonstration in central Budapest; the police response included the use of tear gas, water cannons and rubber bullets. Dozens of people, including children, elderly people and at least one police officer, were reportedly injured and more than 100 people were hospitalized. AI is concerned about allegations of excessive use of force by police officers, the alleged indiscriminate use of tear gas, water cannons and rubber bullets without prior warning, and reports that the identity of some of the police officers involved was concealed as none were reportedly wearing badges of identification, such as identity numbers, and had their faces covered with masks.

The day after the 23 October demonstration, the Budapest chief of police, Péter Gergényi, was reported in the media to have said that police "acted lawfully, professionally and proportionately", and that "anyone who had a problem with their conduct should turn to the Prosecutor's Office." AI understands that on 27 October, the European Commission (EC) requested an explanation from the Hungarian authorities "on the allegation of the possible excessive use of force." It is reported that the Minister of Justice and Law Enforcement replied to the EC Justice, Freedom and Security Commissioner Franco Frattini, assuring him that "Hungary holds human rights in high regard and that the police actions were justified."

Below are two cases which are illustrative of AI's concerns;

#### *- Fruzsina Gáspár & Miklós Solymoss*

Fruzsina Gáspár and Miklós Solymoss stated that they were just walking near where the main demonstration was taking place between the Erzsébet and Szabadság bridges. When told that the police were approaching, they tried to go back home, but the police forces were blocking all their possible routes. Without apparent reason or justification a

policeman ordered them to lie down on the ground and to place their hands behind their backs; their hands were then bound with plastic handcuffs. While they were lying on the ground, one of the police officers reportedly sprayed tear gas in the direction of their faces. They were then taken to the Gyorskocsi street police station, where they were held overnight.

It was only after Fruzsina Gáspár was questioned on 24 October at the police station that she was granted access to her lawyer. When she and her lawyer requested a copy of the statement she had made to the police, this was refused. On the same day, Miklós Solymoss was questioned at the same police station, in the absence of his lawyer who had come to the police station to inquire about him. It was only after the police had finished questioning him that his father was informed about his arrest and whereabouts. Miklós Solymoss was charged with "group truculence", but the charge was later dropped. Both Fruzsina Gáspár and Miklós Solymoss were released on 25 October.

– *K. I. (full name known to Amnesty International but withheld on request)*

On the evening of 23 October, K. I., aged 58, was going to visit her granddaughter at the hospital. When told by authorities to leave the premises of the metro station at Deák Square, she found herself in the middle of the disturbances. She therefore decided to descend back into the metro station, but having found the tear gas there unbearable, she decided to return to the street. When she did so, she was ordered by some policemen to move away. She hesitated, as she did not know in which direction to move, amidst the confusion. She said that she was then shoved by a policeman. When she complained, the policeman reportedly shoved her harder and threw her to the ground and handcuffed her. Once in the police station, she asked for a form and wrote down everything that had happened to her in detail. She asked for a copy of the form, but she did not get one.

During her detention, she was reportedly verbally abused by policemen, who told her that she would not be able to prove anything against them. On the following day, she was taken to the public prosecutor's office. Before she left the police station, she was told that all her papers would be forwarded to the prosecutor, so she did not need to take them herself. Her husband and her lawyer were waiting for her at the office of the public prosecutor. The prosecutor informed her of her rights and read out the charges against her. She realized only then that she was being charged with violence against four policemen, including hitting and kicking them, accusations which she refutes. The proceedings against her remain pending.

Raising these concerns with the Hungarian authorities, AI urged them to ensure that police respect and protect the absolute prohibition of torture and other cruel, inhuman and degrading treatment or punishment. The principles of necessity and proportionality should be respected by law enforcement officers at all times, whenever force is used, including in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles).

In the face of credible allegations of human rights violations, such as those set up above, AI called on the Hungarian authorities to ensure that the complaints by individuals concerning alleged violations of their human rights in the context of the policing of the demonstrations and their aftermath were promptly, thoroughly, independently and impartially investigated. Any person reasonably suspected of responsibility for human rights violations should be brought to justice in proceedings which meet international standards of fairness. Furthermore, AI called on the Hungarian authorities to ensure that any civilians charged with criminal conduct in connection with the demonstrations were tried within a reasonable time in proceedings which met international

standards of fairness. With a view to the future, AI also urged the Hungarian authorities to ensure that police officers were informed of and trained in their duties to respect and protect human rights.

Furthermore, AI urged that the authorities ensure that law enforcement officers engaged in crowd control and those who make arrests wear visible forms of identification, such as name tags or identification numbers, as well as the insignia of the force to which they belong.

AI also called on the Hungarian authorities to establish a fully resourced independent agency to investigate all allegations of serious human rights violations by law enforcement officers, including but not limited to torture, and other cruel, inhuman or degrading treatment, and discrimination, with the power to direct that disciplinary proceedings be instigated against law enforcement officials and with the power to remit a case directly to the Prosecutor for consideration of whether to bring criminal proceedings.

AI also noted that a committee had been set up by the Prime Minister in November with remit "to explore the social, economic and political causes which led to the demonstrations and the response thereto". The report of the committee was due to be made public in February 2007. Among other things, AI urged the committee to investigate whether the use of force by law enforcement officers, including but not limited to, the use of rubber bullets, water cannons and tear gas, was consistent with international standards of necessity and proportionality set out in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles. In addition, AI urged the committee to investigate the concealment by police officers of their identity by covering and their faces and failing to wear any identification badges.

AI also called on the Hungarian government to ensure that the committee was provided with sufficient human and

financial resources to carry out its mandate. Among other things, AI urged that the committee have access to expert advice and assistance under international standards, considering that it was of particular importance that the committee have access to independent experts in forensic pathology, ballistics, crowd control and crime scene.

### **Women's rights**

In September, a Council for Women's and Men's Social Equality (*Nők és Férfiak Társadalmi Egyenlősége Tanács*) was established under the auspices of the Ministry of Social and Work Affairs, replacing the former Women's Representation Council (*Nőképviselői Tanács*). The new institution had a remit to continue the work of its predecessor aimed at securing equality between women and men.

#### *Forced sterilization of women*

In August, the UN Committee on the Elimination of Discrimination against Women expressed concern that Hungary had violated the Convention on the Elimination of All Forms of Discrimination against Women in connection with the sterilisation of a Romani woman without her consent in January 2001. With respect to the claim that Hungary violated the Convention by failing to provide information and advice on family planning the Committee stated that the applicant "has a right protected by Article 10(h) of the Convention to specific information on sterilization and alternative procedures for family planning in order to guard against such an intervention being carried out without her having made a fully informed choice." According to the decision, apart from offering compensation, the government should review domestic legislation on the principle of informed consent in cases of sterilisation and ensure its conformity with international human rights and medical standards. The Committee stated that provisions allowing physicians "to deliver the sterilization

without the information procedure generally specified when it seems to be appropriate in given circumstances" should be repealed.

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## ITALY

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### Migration issues

#### *Access to migrant detention centres*

Following a declaration by the Minister of Interior in late 2006 that AI should be allowed to access migrants detention centres, procedures were initiated to authorize such access. Access had previously been denied to AI and other non-governmental organizations.

#### *Corruption and abuses in detention centres*

Conditions in many detention centres continued to be problematic. There were reports of guards taking bribes to supply migrants with overpriced goods and complaints of poor medical and psychological care. There were further reports that detainees did not receive proper legal and medical assistance. In October, for example, it was reported that groups of migrants escaped from the Caltanissetta detention centre in Sicily after bribing guards. The Ministry of Interior and the Caltanissetta public prosecutor began investigations into abuses and crime at the same centre.

### Measures aimed at countering terrorism

#### *Abu Omar abduction and rendition (see also AI Index: EUR 30/006/2006)*

Preliminary judicial investigations were concluded in the case of Abu Omar, an Egyptian citizen with an Italian residence permit, who was abducted from a street in Milan in 2003 as part of the USA's programme of secret detentions and renditions – the unlawful transfer of people between states outside of any judicial

process. Abu Omar was flown by the USA to Egypt, where he was reportedly tortured in detention. The abduction was reported to have been carried out by US Central Intelligence Agency agents and members of the Italian military intelligence and security service agency Servizio per le Informazioni e la Sicurezza Militare (SISMI). Although the Minister of Justice gave permission for Italian magistrates to interview suspects in the USA, by the end of 2006 it had not forwarded extradition requests to the US authorities. By the end of the year a total of 26 arrest warrants for alleged US operatives had been issued, including for the head of the CIA office in Italy at the time of the abduction. Arrest warrants were also issued for two SISMI agents including the head of SISMI at the time of the abduction.

#### *Collective expulsions*

During the second half of the year, evidence emerged regarding a governmental "black list" of migrants to be expelled on suspicion of involvement in terrorism. At least one of the persons expelled in 2006 based on counter-terrorist legislation introduced in 2005 (the so-called "Pisanu Law") was on the "black list".

The Pisanu Law allows expulsion orders of both regular and irregular migrants to be decided and implemented based on well-grounded reasons to believe that an individual's stay in Italy could favour in any manner terrorist organizations and activities. The law does not require the person deported to have been convicted of or charged with a crime connected to terrorism. The expulsion can be ordered by a Prefect and the Pisanu Law does not provide for judicial confirmation or authorization of the expulsion decision and of its implementation.

A decision to expel under the law may be appealed before a judge, but the appeal does not have a suspensive effect on the deportation. Amnesty International is therefore concerned, among other things, that the expulsion procedure lacks effective protection against *refoulement*.

In November 2006, the European Court of Human Rights issued Interim Measures which had the effect of suspending the deportation of three people about to be expelled from Italy under the Pisanu Law. The Court based its decision on the risks they would run in their countries of origin if expelled, including the risk of torture and ill-treatment.

During the latter part of 2006, the Italian Constitutional Court was investigating whether some provisions of the Pisanu Law violate the right to judicial remedy, the right to defence, and the right to fair trial. This investigation was still pending at the end of the year.

*Policing of 2001 demonstrations (see also AI Index: EUR 01/012/2005)*

Trials of police officers continued in relation to policing operations around the mass demonstrations in Naples in March 2001 and during the G8 Summit in Genoa in July 2001. Italy has not established an independent public commission of inquiry into the G8 summit events. In November a Genoa court declared that it would not reopen investigations into the death of Carlo Giuliani, a young man fatally shot by a law enforcement official during the 2001 demonstrations in the city. Calls to reopen investigations had been prompted by the emergence of potential new evidence.

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## KAZAKSTAN

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### **Fear of refoulement**

#### *Fear of forcible return to China*

In November and again in December the office of the United Nations High Commissioner for Refugees (UNHCR) expressed serious concern for the safety of an Uighur asylum-seeker, whose fate and whereabouts were unknown since his release from detention in October. A court in Almaty had quashed the criminal charges - reportedly of illegal possession of

weapons - on which 38-year-old Arkin Sadik had been detained in June and had ordered his release. Arkin Sadik's relatives and supporters claimed that the weapons were planted by law enforcement officers during an unsanctioned search of his home in Almaty. They maintained that he had no links to armed separatist groups in the Xinjiang Uighur Autonomous Region of China (XUAR). Arkin Sadik had been recognized by UNHCR as a refugee. The agency feared that he might have been forcibly deported to China where he was at risk of being subjected to serious human rights violations.

*Fear of forcible return to Uzbekistan (update to AI Index: EUR 01/017/2006)*

In August the authorities released Uzbekistani national Gabdurafikh Temirbaev into the care of UNHCR and allowed him and his family to be permanently resettled to a third country. Gabdurafikh Temirbaev had reportedly been in Kazakhstan since 1999 when he fled persecution for his religious beliefs in Uzbekistan. He was detained by officers from the security services in June reportedly following an extradition request received from Uzbekistan. Gabdurafikh Temirbaev had been recognized as a refugee by the UNHCR in June after a thorough status determination procedure. This procedure included a confirmation from Kazakstani authorities that no criminal charges or cases had been filed against him.

**Fair Trial Concerns (update to AI Index: EUR 01/017/2006)**

In August Rustam Ibrahimov, a former member of an elite special unit of the security services and a defendant in the trial for the murder of opposition politician Altinbek Sarsenbaev, was sentenced to death. He was convicted of having carried out the murder. Because of a moratorium on executions he was not in imminent danger of being executed. Yerzhan Utembaev, the former head of the Senate's secretariat and the main defendant in the trial, was sentenced to 20 years in prison.



He had been accused of having ordered the murder of Altinbek Sarsenbaev. In December the Criminal Chamber of the Supreme Court began a review of the verdicts of these two men and eight other defendants also sentenced to prison terms in August.

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## KYRGYZSTAN

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### The death penalty (update to AI



**Index: EUR 01/017/2006)**

*Activists mark their opposition against the death penalty in Bishkek which is the first city in Central Asia that joined global initiative Cities For Life - Cities against the Death Penalty in 2006.*

A moratorium on executions in place since 1998 was extended until the abolition of the death penalty. At least eight death sentences were passed in the second half of the year. Three men were sentenced to death in August for the murder of a member of parliament during widespread prison riots in October 2005. Three other men were sentenced to death in October for their alleged involvement in an armed raid in May (see below). In July two men were sentenced to death for the murder of a businessman and member of parliament from Osh.

A new constitution which entered into force in November abolished the death penalty. However, legislation to replace the death penalty with life imprisonment in the criminal and criminal procedural codes had not been passed by the end of the year.

### Deaths in suspicious circumstances

At least two ethnic Uzbek men were killed in suspicious circumstances during security and counter-terrorism operations conducted jointly by Kyrgyzstani and Uzbekistani security forces. In August independent Kyrgyzstani imam (religious teacher) Muhammadrafik Kamalov from Kara-Suu was shot and killed by security forces together with two suspected IMU members who had been accused of conducting an armed raid on the border with Tajikistan in May during which at least a dozen people, security forces and armed men, died.

Three men were sentenced to death for their part in the raid in October. The SNB initially accused imam Muhammadrafik Kamalov of being an IMU member, and then suggested that he could have been used as a human shield. The death and burial of imam Muhammadrafik Kamalov sparked large demonstrations – all of them peaceful – in Kara-Suu. In September an Uzbekistani national suspected of being an IMU leader reportedly was killed by SNB officers when he refused to surrender. SNB sources claimed that the wounds he sustained during the raid on the house where he was hiding were not fatal and that he had died of heart failure in hospital. The SNB had linked him to the May border incident and to the death of imam Muhammadrafik Kamalov.

### Refugees from Uzbekistan at risk

*Forcible return (update to AI Index: EUR 01/017/2007)*

In August the authorities extradited four refugees and one asylum-seeker to Uzbekistan. Zhakhongir Maksudov, Odilzhon Rakhimov, Yakub Toshboev and Rasulzhon Pirmatov had been detained in

Kyrgyzstan since June 2005. They were part of a group of more than 500 asylum-seekers who fled the city of Andizhan in eastern Uzbekistan on 13 May 2005 after security forces fired on thousands of mainly unarmed demonstrators. The office of the United Nations High Commissioner for Refugees (UNHCR) recognized all four men as refugees, a decision contested through the courts by the Department of Migration Services. The men lost their appeals against the authorities' decision not to recognize them as refugees in June. Uzbekistani asylum-seeker Faez Tadzhikalilov, who fled from Andizhan after the other men, had been held with them in Osh since September 2005. His application for refugee status was still in the process of being reviewed when he was extradited. UNHCR was not given prior notice of the five men's extradition. The Kyrgyzstani authorities had reportedly been given diplomatic assurances by Uzbekistan that the five men would be treated according to Uzbekistani criminal legislation and that international organizations would be granted access to them. However, the five were reportedly held incommunicado in Uzbekistan. In November the general prosecutor's office announced that they had been informed by their Uzbekistani counterpart that a criminal investigation into the cases of the five men had been completed and that all five had been charged with the murder of the Andizhan city prosecutor in May 2005.

### **Arbitrary detentions**

Uzbekistani nationals who had not been recognized as refugees and had not applied for asylum but were in hiding in Kyrgyzstan were reportedly among hundreds of people arbitrarily detained both as part of security operations conducted by Kyrgyzstani security forces and joint counter-terrorism operations with Uzbekistani security forces.

Gulmira Maksudova, a daughter of Akram Yuldashev, the jailed alleged leader of Akramia accused by Uzbekistan of having organized the May 2005 Andizhan events, was detained in July in Osh and was

transferred to the pre-trial detention centre. She was reportedly charged with forgery – law enforcement sources said she had been in possession of counterfeit documents – and with terrorism. In September Osh Regional Court cleared her of all charges and ordered her release after the presiding judge found no evidence to back the terrorism charge. She was subsequently resettled to a third country by UNHCR.

### **"Disappearances"**

In August UNHCR and human rights organizations expressed concern at the apparent "disappearances" of a number of Uzbekistani refugees and asylum-seekers in the south of Kyrgyzstan. At least two who had "disappeared" in late August were reportedly in pre-trial detention in Andizhan in Uzbekistan. UNHCR said that they had received no replies from Kyrgyzstani officials when they addressed them with their concerns about "disappearances" of at least five named Uzbekistani refugees, among them a secular opposition activist who was reportedly abducted in July by Uzbekistani security services. Because the safety of the refugees could not be guaranteed in Osh, UNHCR moved all registered refugees to Bishkek, the capital, with a view to resettling them permanently in a third country.

### **Allegations of torture and other ill-treatment in detention**

On 5 August special troops were sent in to the temporary detention facility (IVS) of Jalalabad City's Department of Internal Affairs (GOVD) after riots reportedly broke out following a violent altercation between an inmate and a guard. GOVD officials initially denied that the troops had used excessive force, but later admitted that officers had made detainees come out from the cells one by one and had kicked, punched and beaten them with batons in the corridor. Human rights activists, who were given access to the IVS two weeks after the beatings took place, were told by detainees how some had been beaten by up to seven officers while their hands had been

handcuffed behind their backs. They had also reportedly had gasmasks fitted on their heads with the air supply turned off. Human rights activists were able to document evidence of torture and other ill-treatment on some of the detainees they interviewed. Detainees claimed that beatings and torture were routine in the IVS. They also complained about cruel, inhuman and degrading conditions of detention with severe overcrowding, no sanitation, no bedding, inadequate ventilation and no exercise.

Two detainees died in the IVS on 17 August reportedly as a result of the conditions of detention. The head of the GOVD had reportedly ordered guards to stop food parcels for a 30-year-old male detainee who was suffering from diabetes in order to punish him. The detainee reportedly died as a result of not receiving adequate and appropriate food for his medical condition. The second detainee to die had suffered from tuberculosis. He had reportedly not received any medical attention and had not been transferred to a medical ward or a hospital. He died in an overcrowded IVS cell.

Detainees also told human rights activists that in July the head of the GOVD had severely beaten a 20-year-old mentally ill female detainee in the IVS corridor in order to force her to reveal her husband's whereabouts. Her husband, a suspected IMU member, gave himself up to prevent further ill-treatment of his wife. The woman who was in the early stages of pregnancy reportedly had a miscarriage subsequently. After the beatings in the IVS she was reportedly transferred to a psychiatric hospital where she remained by the end of the year.

**Human rights organizations harassed for taking up cases of custodial violence against women (update to AI Index: EUR 01/017/2006)**

In July a 26-year-old woman was convicted of theft and sentenced to five years in prison by a court in Jalalabad. An appeal court upheld the conviction but suspended

her sentence and released her from detention. An appeal with the Supreme Court was pending at the end of the year. Vozdukh (Breath of Air), a human rights non-governmental organization from Jalalabad Region which had taken up the young woman's case, reported that the woman and her family complained that officers from the Jalalabad Regional Internal Affairs Department (UVD) were putting pressure on them to withdraw torture allegations against one of their fellow officers. The woman had a prior conviction and had been detained twice before, in 2003 and 2005. On both occasions she had raised serious allegations of torture or other ill-treatment in detention, including having been repeatedly raped and having needles inserted under her fingernails.

Azimzhan Askarov, a human rights defender from Vozdukh, was reportedly personally threatened by the UVD officer, whom the woman had accused of having tortured her in 2005. Vozdukh was also threatened with criminal prosecution for slander by the same officer.

Azimzhan Askarov was also called to the district prosecutor's office to discuss his human rights activities and was ordered to submit all the articles on human rights issues he had published to the district prosecutor's office for investigation. He was warned by the district prosecutor that the articles incited social, racial or ethnic hatred and that in future he had to clear all articles with the prosecutor's office prior to publication.

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## LATVIA

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### Minority rights

On 17 November, the Parliamentary Assembly of the Council of Europe (PACE) issued a resolution on national minorities in Latvia. PACE invited the Latvian authorities to review the existing difference in rights between citizens and non-citizens with a view to abolishing those that were not justified or strictly necessary. PACE also

invited the Latvian authorities to amend legislation so as to make it possible for national minorities to use the relevant minority language in relations between them and the administrative authorities in areas where they live in substantial numbers, and invited them to implement the Framework Convention for the Protection of National Minorities in good faith and to consider withdrawing the two declarations recorded in the instrument of ratification.

**Lesbian, gay, bisexual and transgender rights (see also Poland and Latvia: Lesbian, Gay, Bisexual and Transgender Rights in Poland and Latvia, AI Index: EUR 01/019/2006)**

On 19 July, Riga City Council announced it would not permit the "Riga Pride 2006" march to take place. Riga City Council said its decision was based on information it had allegedly received concerning several threats of violence against march participants if the march was allowed to go ahead, and that the police could not guarantee security and order during the march. The nature of the threats the authorities had received has never been disclosed. On 21 July, the Riga Administrative Court confirmed Riga City Council's decision not to permit the march to go ahead.

On 22 July, those attending a church service in Riga, held in support of Riga Pride, were attacked by a large group of people who threw, among other things, eggs and human excrement at them as they left the church. Despite requests by those organising the church service, no law enforcement officials were present to protect the worshippers.

Following a press conference organized by the Riga Pride 2006 organizers on 22 July at a hotel in central Riga, the majority of those attending were prevented from exiting the hotel by a group of up to 100 anti-LGBT protesters. The protesters attacked anyone trying to leave the hotel with amongst other things water, flour,

eggs and human excrement. Those prevented from leaving the hotel included Riga Pride 2006 organizers, journalists, a member of the European Parliament and members of national parliaments from around Europe. The organizers of the march had requested police protection for the press conference several days before the event, yet no significant police presence materialised until two hours after the attacks started.

Under international and European law, Latvia is not only obliged to respect the rights to freedom of assembly and expression, but also has a positive duty to take active measures to protect participants in events such as these from attacks against them.

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## MACEDONIA

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### Background

In elections held on 5 July, the government was replaced by a coalition of the Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity, (Vnatrešno-Makedonska Revoluciona Organizacija-Demokratska Partija za Makedonsko Nacionalno Edinstvo, VMRO-DPMNE) and the Democratic Union for Integration (Demokratska Unija za Integracija, DUI). Nikola Gruevski, replaced Vlado Buckovski as prime minister in August.

Following the parliamentary elections, the Democratic Party of Albanians (Partia Demokratike Shqiptare, DPA) – who had won more seats than the DUI – protested their exclusion from the government, including by blocking roads and holding mass demonstrations. Party leaders alleged that the Ohrid Agreement, which concluded the 2001 internal conflict, had broken down.

Legal reforms required by the Stabilization and Association Agreement with the European Union (EU) continued. In October the EU Commissioner stated that it was too early to set a date for the start of

negotiations. The EU 8 November progress report noted concerns about the independence of the judiciary, widespread corruption, failure to ensure the representation of minorities in public administration, and the situation of Roma.

In November the North Atlantic Treaty Organization announced that Macedonia would be invited to join the Partnership for Peace programme in 2008.

**Impunity for War Crimes (update to AI Index: EUR 01/017/2006)**

Former Minister of Internal Affairs Ljube Boshkovski remained in the custody of the International Criminal Tribunal for former Yugoslavia (Tribunal); the trial was expected to start in March or April 2007. He had been indicted in 2005, along with Johan Tarchulovski, for command responsibility for the attack on the village of Ljuboten in August 2001 when seven ethnic Albanian men died and over 100 more were detained and subjected to torture and ill-treatment.

In Helsinki in October, the Chief Prosecutor of the Tribunal announced that four other cases over which the Tribunal had seized primacy, but for which they had not issued indictments, would be returned in 2007 to the Macedonian authorities for prosecution. It was confirmed by the Minister of Justice, Mihajlo Manevski, that the cases would be returned to local courts, starting in January. Almost all of the defendants, former members of the Albanian National Liberation Army, are currently officials of the DUI party.

No further progress was reported in November in an investigation into the whereabouts of three ethnic Albanians – Sultan Memeti, Hajredin Halimi and Ruzdi Velu – who are believed to have been “disappeared” by the Macedonian authorities during the 2001 internal conflict. The case of the 12 Macedonian citizens abducted by armed ethnic Albanians in 2001 remained with the Tribunal.

**War on Terror (update to AI Index: EUR 01/017/2006)**

No progress was made by the Macedonian authorities in investigating the involvement of security and intelligence officials in the unlawful arrest, detention and ill-treatment of Khaled el Masri, a German citizen of Lebanese descent. The authorities had allegedly held him for 23 days in 2003 in a Skopje hotel, before rendering him to the US authorities in Skopje airport, from where he was flown to Afghanistan.

Although in November the Minister of the Interior informed AI that they would cooperate with investigations conducted by the Parliamentary Assembly of the Council of Europe and the European Parliament, the authorities failed to publicly acknowledge that any violations had taken place.

**Torture and ill-treatment**

The non governmental organisation (NGO) the Helsinki Committee for Human Rights in Republic of Macedonia, criticized the draft Law on the Police – which aimed to ensure the representation of the Albanian community in the police force – for failing to provide an independent mechanism for police accountability, including over the “Alpha” special police units, suspected of ill-treatment and torture; the law was passed in October. Local NGOs and international organizations called for the establishment of an office of police ombudsperson or other independent body. The Ministry of the Interior favoured a reform of existing internal procedures, which NGOs alleged were neither impartial nor thorough. Cases of torture and ill-treatment, which continued to be reported, included incidents where police officers arbitrarily beat people in the street, including women working as prostitutes, drug users and other vulnerable individuals.

On 29 September 2006 two unarmed Romani man were reportedly beaten outside a police station in Skopje and subsequently dragged into the police station where officers continued to beat them severely until they bled. The head of

the Helsinki Committee for Human Rights, and a member of the NGO, who happened to be passing, were eyewitness to the beating and, following the men into the police station, asked to report a crime. They were informed that no form was available and were instructed to wait to talk to the commanding officer. He arrived 40 minutes later and informed the head of the NGO that he could not accept the complaint. She waited another 15 minutes to report the crime to the police internal control officers; they also informed her that they could not accept her report, and told her to make her complaint in writing. The Helsinki Committee was subsequently informed that the Sector for Internal Control and Professional Standards had undertaken an investigation, which concluded that "the use of coercion against the individuals A.S. and S.S. by authorized personnel ... was in accordance with the valid legal rules". The eyewitnesses who had lodged the complaint were not contacted by the authorities. With the consent of the two men, the Helsinki Committee has opened a private prosecution.

### **Freedom of expression**

Despite the removal of penal sanctions for the offence of defamation in May, several journalists were prosecuted under the old legislation and sentenced to terms of imprisonment. On 21 November journalist Zoran Bozinovski was released from a three-month prison sentence for defamation, following domestic and international appeals.

### **Discrimination against minorities**

Despite the official implementation in July of aspects of the Ohrid agreement introducing minority representation in the police and in employment at municipal level, members of the DPA continued to report discrimination against Albanians in these areas of public life.

The Roma community continued to suffer massive discrimination. In November the UN Committee on Economic, Social and

Cultural Rights noted widespread discrimination against Roma, including in obtaining citizenship and personal documents required for social insurance, health care and other benefits, and recommended special measures to address discrimination in employment faced by Roma and other minority women.

In a mission to Macedonia in November, AI delegates found that Romani women were denied access to basic social and economic rights, including education, employment and health, on the basis of both their ethnicity and their gender. A coalition of Romani women's NGOs launched a platform for action to address these violations, which the Macedonian government had failed to address, despite its participation in the Decade of Roma Inclusion.

### **Refugees from Kosovo (Update to AI Index: EUR 01/017/2006)**

The majority of an estimated 2,000 predominantly Roma and Ashkalia from Kosovo who remained in Macedonia had been denied refugee status under the Law of Asylum and Temporary Protection. Those given temporary protection, extended on an annual basis, feared deportation to Kosovo. Some 25 persons refused any status (often after appeal) were awaiting deportation, although in November the deportation of one family was prevented after an intervention by the Office of the high commissioner for Refugees (UNHCR).

AI concluded that many persons had been denied refugee status on the basis of decisions that often failed to provide them with an individual determination – particularly in the case of women. In some cases, where appeals had been lodged, decisions made by a commission within the Ministry of the Interior or the Supreme Court were flawed in that they did not refer to the appellant by their correct name or circumstances of the case.

Access to basic rights including housing, education and health care were denied by the government, and instead such services were provided by UNHCR in the absence of

Macedonia's willingness to abide by its obligations.

**Violence against women (Update to AI Index: EUR 01/017/2006)**

The UN Committee on the elimination of Discrimination against Women (CEDAW) remained concerned about the high prevalence of violence against women, including domestic violence, and the persistence of trafficking in women and girls despite the formulation of a National Programme to Combat Human Trafficking and Illegal Migration. Local NGOs reported an increase in internal trafficking. The government began to harmonise relevant legislation in accordance with the Council of Europe convention on Action against Trafficking in Human Beings.

In most proceedings against traffickers, defendants were convicted for less serious offences. In October the Kumanovo Basic Court ordered eight defendants to pay compensation for material and non-material damages to women they had trafficked into forced prostitution; the verdict was appealed.

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## MOLDOVA

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**Opposition politicians detained**

AI is concerned that a number of opposition politicians have been detained and charged with financial crimes. The violations that have accompanied these detentions and the number of similar charges raise concern that these men are being detained and charged solely for the peaceful exercise of their right to freedom of expression and opinion.

Gheorghe Straisteanu, a former member of parliament, founder of the first private television company in Moldova and a well-known critic of government attacks on media freedoms, was detained on 21 August and charged with threatening to murder Mihai Mistret, the mayor of Tiganesti, in connection with a local council

decision to cancel the lease on land he was renting. On two occasions cups of chlorine bleach were reportedly thrown into his cell, causing him to faint. He was released under house arrest on 28 November. Gheorghe Straisteanu had previously been detained in 2005 and charged with a series of large-scale thefts from cars. The charges are still pending.

Ivan Burgudji, a politician from the Gagauz Autonomous Region, member of the opposition Republican People's Party and outspoken critic of the government's policy towards Gagauzia, was arrested in Cedar Lunga in Gagauzia on 17 December. He was allegedly dragged from his car by force and beaten by officers of the department for organized crime. He was initially told that he was being detained because of an incident in October 2005 in Kirsovo in the Komrat region, in which someone had allegedly thrown a hand-grenade, but on 29 December he was charged with misappropriation of funds under Article 195, Part 2 of the Criminal Code which carries a sentence of 10 to 25 years' imprisonment. The charge relates to the budget of the representative office of Gagauzia in Tiraspol (capital of the unrecognized Dnestr Moldavian Republic) for the year 2001. At the end of the year he remained in detention in Komrat.

**Freedom of Expression**

In August, AI wrote to the Prosecutor General concerning nine members of the Moldovan non-governmental organization (NGO), Hyde Park, who were arrested at a demonstration in the capital, Chişinău, for which they had been granted permission. They were demanding the erection of a statue to the famous Romanian writer, Liviu Rebreanu. Audio recordings made on a mobile phone during the arrest by one of the members of Hyde Park showed no evidence that the demonstrators had resisted the police or insulted them. The demonstrators were detained for 40 hours in badly ventilated cells at Buiucani district police station. A lawyer was present and asked to speak to them, but police officers

turned down the request on the grounds that he had not yet drawn up a contract with the accused. The demonstrators were fined the equivalent of 30 euros each, but were acquitted on appeal.

On 31 August, a signature-collecting action in the capital, Chişinău, which had been organized jointly by AI Moldova and other NGOs as part of AI's global campaign to stop violence against women, was disrupted by police officers who tried to prevent the lesbian, gay, bisexual and transgender organization, GenderDoc-M, from displaying its banner. The police claimed that GenderDoc-M carries out propaganda for homosexual lifestyles, and that the organization had not been named as an official participant in the action. The police eventually withdrew, but threatened to inform the Mayor's office that AI Moldova was cooperating with GenderDoc-M, so that it could take this into consideration when giving permission for future actions.

On 4 October, the Mayor of Chişinău refused permission for AI Moldova to hold a rally against the death penalty in front of the Belarus and US embassies on 10 October. On 15 November the Supreme Court declared the Mayor's decision to be unlawful.

#### **Death penalty (update to AI Index: EUR 01/017/2006)**

On 29 July parliament ratified Protocol 13 to the European Convention on Human Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights, both of which confirm states parties' total abolition of the death penalty.

The self-proclaimed Dnestr Moldavian Republic (DMR) continued to hand down death sentences, but a moratorium on executions has been in place since 1999. In an address to mark the World Day against the Death Penalty, René van der Linden, President of the Parliamentary Assembly of the Council of Europe (PACE), expressed concern about the retention of the death penalty in the DMR and the other separatist

territories of Abkhazia and South Ossetia on the territory of Georgia. He called for the abolition of the death penalty in these territories and for the sentences of all prisoners currently on death row to be immediately commuted to terms of imprisonment. On 17 September the DMR voted in favour of continuing the region's de facto independence from Moldova and for eventual union with the Russian Federation.

#### **Torture and Ill-treatment**

In this period the European Court of Human Rights ruled in two cases that Moldova had violated Article 3 of the European Convention on Human Rights which prohibits torture and other ill-treatment. One case concerned Nicolae Boicenco who was detained by police from the Department for Economic Crime and Corruption on 20 May 2005, and allegedly beaten by police officers. He was subsequently diagnosed with acute head trauma and concussion, and reportedly remained in a state of stupor for four months. The European Court of Human Rights said that he was not given adequate medical treatment, and his complaints about being ill-treated by the police were not subjected to an effective investigation.

#### **Violence against women**

In December the International Organization for Migration published the results of a survey of the prevalence of human trafficking in Belarus, Bulgaria, Moldova, Romania and Ukraine. The survey found that the highest rate of human trafficking was to be found in Ukraine, and that Moldova had the second highest rate. Rural residents in all countries were found to have the lowest level of awareness about the dangers of trafficking, and in Moldova the population of the Gagauz Autonomous Region were found to be most in need of information.



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## MONTENEGRO

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### Background

Montenegro had declared independence from Serbia and Montenegro (SCG) on 3 June, following a referendum held on 21 May. It was recognised as a UN member state on 28 June.

Parliamentary elections held on 10 September resulted in victory for the pro-independence government coalition led by Prime Minister Milo Djukanović who, contrary to all expectations announced his resignation in October. He was succeeded in November by former Justice Minister Željko Šturanović.

Following the referendum the European Union Commissioner for Enlargement had previously announced in May the preparation of a separate mandate to negotiate a Stabilization and Association Agreement (SAA) with Montenegro; talks continued in October and technical agreements were concluded by December; a date for talks on the SAA was anticipated early in the new year.

Montenegro had formally requested membership of the Council of Europe in June, but the Parliamentary Assembly of the Council of Europe (PACE) deferred their decision, requiring Montenegro to adopt a new constitution before entry.

In October, the Venice Commission on behalf of the PACE, concluded that priority areas for reform included the protection of human rights and minority rights; the independence of the judiciary; and corruption and the fight against economic and organised crime. Relevant legislation in force remained to be implemented. In November rapporteurs for the PACE Legal Affairs and the Monitoring Committees criticized constitutional provisions relating to the appointment of judges and stressed that the new constitution must ensure that international law should take precedence over local jurisprudence.

On 4 September all serving conscripts were dismissed from compulsory military service which was abolished on 31 August. Montenegro joined the North Atlantic Treaty Organization's Partnership for Peace programme on 14 December.

### **Montenegro: The right to redress and reparation for the families of the "disappeared", (AI Index: EUR 66/001/2006)**

Civil proceedings continued against the state of Montenegro in connection with the enforced disappearance in 1992 of some 83 Bosniak civilians, from Montenegro to territory in the Republic of Bosnia and Herzegovina then under Bosnian Serb control (Republika Srpska).

On 18 September 2006 Podgorica District Court issued a decision awarding damages to the relatives of Suad Karačić, a 26-year old waiter, who was deported to and killed at Foča. On 17 November, the wife and four children of Izet Tufekčić, originally from Višegrad in BiH, were awarded €120,000 for the emotional pain caused by the death of their relative. In both cases – as in all six cases heard by the end of the year – their application for reparations for their suffering due the failure of the authorities to open an investigation into the "disappearance" was dismissed. In each case Montenegro appealed the court's decision, on grounds including that there had been no causal link between the actions of the Montenegrin police in detaining the "disappeared" and handing them over to the de facto military and police authorities of the Republika Srpska, and their subsequent deaths.

AI reminded the authorities that the European Court of Human Rights has consistently held that the failure of states to inform the relatives of the "disappeared" of the fate and whereabouts of their loved one amounts to inhuman and degrading treatment under Article 3 of the European Convention on Human Rights.

In November 2006 the investigative judge began to issue witness summons, including

to the relatives of the disappeared living in Bosnia and Herzegovina, in relation to criminal proceedings against six former police officers indicted in February for the arrest and subsequent "disappearance" of the Bosniak civilians.

In December Montenegro sought to exempt itself from proceedings for genocide brought against Serbia and Montenegro (then the Federal Republic of Yugoslavia, FRY) by Bosnia and Herzegovina at the International Court of Justice, on the grounds that they were not the legal successor state to the FRY.

### **Torture and ill-treatment**

On 9 September, following the Orlov let (Eagle's flight) "anti-terrorist" arrest operation, some 17 males of ethnic Albanian origin, including three US citizens, were arrested. In statements made to their lawyers and human rights organizations, they reported ill-treatment -- in some cases amounting to torture -- and racist abuse, by members of the special police, uniformed and plain-clothes law enforcement officers and court police during their arrest and subsequent detention at Podgorica police station. They were remanded into pre-trial detention at Spuž prison on 12 September; 14 of them remained in detention by the end of the year. On 7 December 18 men (some *in absentia*), including five US citizens, were indicted on conspiracy charges for "terrorism" and armed insurrection.

Despite a criminal complaint made by five of the men on 29 September, the prosecutor had reportedly failed to complete investigations into allegations against the police by the end of the year.

### **Possible extrajudicial executions and political killings (Update to AI Index: EUR 01/017/2006).**

On 14 August 10 suspects were indicted in connection with the murder in August 2005 of Slavoljub Šćekić, former chief of the Montenegrin police. On 27 December Damir Mandić was acquitted of being an

accomplice to murder in 2004 of Duško Jovanović, editor of the newspaper Dan, on the basis of insufficient evidence; appeals were immediately lodged. On 24 October, the right wing author Jevrem Brković was attacked and his driver Srdjan Vojičić murdered.

### **Forced displacement**

In addition to 6,926 persons displaced from Bosnia and Herzegovina and Croatia before 1995, some 16,196 Roma and Serbs displaced from Kosovo in 1999 remained in Montenegro at the end of the year. Persons displaced from Kosovo had previously been unable to gain access to civil, political, economic or social rights -- as civil registration had been denied to them. The office of the United Nations High Commissioner for Refugees (UNHCR) continued to provide them with accommodation and access to health care and social benefits. No displaced persons had been granted refugee status under an asylum law introduced earlier in the year, and which the authorities had not yet fully implemented. AI urged the authorities to provide displaced persons with continued international protection and access to basic rights. UNHCR reported that a further 2,000 people were still awaiting decisions on displaced person status, and that a large number of persons without documentation remained in Montenegro, at risk of statelessness.

### **Minority Rights**

In July the Constitutional Court of Montenegro ruled that the provisions of the minority rights Act, adopted only days before the referendum on independence, were unconstitutional in that the law contravened the principle of the equality of all citizens as laid down in the constitution.

### **Violence against women**

A draft law on Protection from Violence in the Family failed to include measures to criminalize the breach of protection orders issued by the court. NGOs called for the

establishment of a coordination body to ensure the effective application of the law after its introduction.

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## POLAND

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### **Discrimination on grounds of sexual orientation**

#### *Homophobic statements by leading public officials*

Despite the fact that the Equality March in Warsaw on 10 June was able to proceed in the end without major incidents as did the Equality Parade in Poznań in November, these positive steps were not part of a larger move towards greater tolerance. During July and August further openly homophobic statements from public officials and leading figures worsened the climate of discrimination and intimidation. Mirosław Kochalski, a spokesman for the mayor of Warsaw, was quoted on 5 July as saying that the march was "immoral and a danger to the inhabitants of Warsaw."

On 7 August Paweł Zyzak, editor in chief of the leading Law and Justice Party (*Prawo i Sprawiedliwość*, PiS) magazine, *Right Turn!*, wrote that gays were "animals" and were "the emissaries of Satan sent to destroy the Catholic Church." Around the same time, in the city of Koscierzyna, a leading PiS member of parliament who is also a member of the party's governing council, Waldemar Bonkowski, placed a large banner on the wall of the local party headquarters. "Today it is gays and lesbians -- what's next, zoophilia? Is that liberty and democracy? No, that's syphilis! Our Polish pope [the late John Paul II] is looking down from the sky and asking: Whither go thou, Poland?" the banner read.

The new Prime Minister Jarosław Kaczyński did not acknowledge this climate of intolerance towards Lesbian, Gay, Bisexual and Transgender (LGBT) people in Poland when, during his visit to the European Commission on 30 August, he said that

"people with such [homosexual] preferences have full rights in Poland, there is no tradition in Poland of persecuting such people" and he asked the President of the European Commission, Jose Manuel Barroso "not to believe in the myth of Poland as an anti-Semitic, homophobic and xenophobic country."

In July, TV Opole, a Polish public television network, abruptly cancelled its planned broadcast of the fifth year of an important music festival because, according to the network's director, Jacek Kruczkowski, the festival organizers "had hidden the fact that the theme of this edition of the festival was "tolerance" and, he added, "tolerance can be dangerous, because in its name gays want to distribute in the schools brochures on the techniques of homosexual love."

#### *Actions by the Ministry of Education (update to AI Index: EUR 01/017/2006)*

After the dismissal in June of the director of the National In-Service Teacher Training Centre (Centralnego Ośrodka Doskonalenia Nauczycieli, CODN) on the grounds that the CODN had books that "there were encouraging teachers to organize meetings with LGBT organizations" a new director was appointed in October.

However, in spite of concerns about the worsening climate of homophobia in Poland and the official tolerance of homophobic behaviours expressed by the Council of Europe and the European Commission, the new director of the CODN, Teresa Łęcka, she stated on 9 October 2006 that "active homosexuality is contrary to human nature". When asked whether it was appropriate to discuss homosexuality at schools she was reported to have responded that "improper patterns must not be present at schools, because the objective of the school is to explain the difference between good and evil, beauty and ugliness (...) school has to explain that homosexual practices lead to drama, emptiness and degeneracy".

*Discrimination against non-governmental organization*

On 26 September, the Polish Selection Committee of the Ministry of Education rejected a project proposal submitted by the Campaign Against Homophobia (Kampania Przeciw Homofobii) to the National Agency of Youth Programme, the Polish partner of the framework of the European Voluntary Service and the European Youth Programme. The reason given was "that the policy of the Ministry does not support actions that aim to propagate homosexual behaviour and such attitude among young people. Also, the role of Ministry is not to support cooperation with homosexual organizations."

**Death penalty**

In July President Lech Kaczyński called for the restoration of the death penalty in Poland and throughout Europe on the Polish Public Radio Programme 1, stating that: "countries that give up this penalty award an unimaginable advantage to the criminal over his victim, the advantage of life over death."

On 2 August, the League of Polish Families (Liga Polskich Rodzin, LPR) announced a Europe-wide campaign to restore the death penalty and for a referendum on its reintroduction in Poland. LPR vice-president Wojciech Wierzejski called for a ban on the death penalty across the EU "anachronistic."

Responding to these statements on behalf of the EU, the European Commission spokesman Stefaan de Rynck stated that "the death penalty is not compatible with European values." The EU Guidelines on the death penalty state that "abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights". The Guidelines establish as an EU objective "to work towards universal abolition of the death penalty as a strongly held policy view agreed by all EU member states."

The President of the Parliamentary Assembly of the Council of Europe (PACE), René van der Linden, on 3 August wrote an open letter to Lech Kaczyński in his capacity as President of a Council of Europe member stating that: "In our view, the death penalty has no place in the criminal justice system of any modern, civilised country." He added: "to suggest that its reintroduction could in any sense represent a positive development would be a direct attack on our common values, which are founded on respect for the basic human dignity of every person." See also *Poland goes backwards: No to the restoration of the death penalty* (AI Index: EUR 37/002/2006)

**Secret detention centres and renditions (update to AI Index: EUR 01/017/2006)**

In November, members of the European Parliament's Temporary Committee on allegations of illegal activity in Europe by the US Central Intelligence Agency (CIA) said that more investigation of the CIA's possible actions in Poland was needed. It deplored the lack of co-operation by the Polish authorities and regretted that no special inquiry committee had been established and that the Parliament did not conduct an independent investigation. The Committee considered that "in the light of serious circumstantial evidences, a secret detention centre may have been located" in Poland and called for more investigation.

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## ROMANIA

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**General background**

In September, the European Commission allowed Romania's accession to the European Union to go ahead in January 2007, despite continuing concerns about the transparency and efficiency of the judicial process and about the impartiality and effectiveness of investigations into allegations of high level corruption.

**The Romani community**

Roma continued to face discrimination and intolerance. In November, the National Council for Combating Discrimination (Consiliul Național pentru Combaterea Discriminării, CNCD) fined several members of the New Right (Noua Dreaptă, ND) organization for having published on the organization's website several articles containing degrading, humiliating and offensive material about the Romani community. The Roma Centre for Social Intervention and Studies (Centrul Romilor pentru Intervenție Socială și Studii) lodged a formal complaint against the New Right and against its leader, Tudor Ionescu; a decision was still pending at the end of the year.

**Evictions**

In October, the Tulcea municipality forcibly evicted 25 Romani families, around 110 people, from a building that they had occupied for the previous seven years. The eviction took place after the Tulcea court agreed in August to a request by the building's current owner to have the occupants evicted. Some Roma accepted the offer by the municipality of rooms in two ruined buildings with no access to electricity, hot water and sanitation and only limited access to drinking water, located in an enclave inside the Tulcea industrial port. After their relocation, the children stopped going to school because of the distance and their parents' fear for their safety.

The rest of the people evicted remained sleeping outside the building. The local authorities had only offered to move them to mobile housing located outside Tulcea, also in a heavily industrialized area. The authorities acknowledged these structures offered very limited shelter since they could not be connected to any utilities. Court proceedings challenging the legality of the evictions, which were brought by the European Roma Rights Centre and other Roma non-governmental organizations, were continuing at the end of the year.

**Policing concerns**

There were continued reports of police ill-treatment, particularly of members of the Romani community.

In August, for example, five Romani individuals reported that they had been subjected to physical abuse during a joint operation by Bontida village police and Cluj county gendarmerie. Two of the Roma were minors who were allegedly prevented from contacting their parents while held at the police station. Both the police and gendarmerie denied any abuses. A complaint lodged by the men was still pending at the end of the year.

In September, violent clashes between police and members of the Romani community resulted in injuries to two policemen and 36 Romani women, men and children. The incident reportedly began when a police officer alleged that he had been assaulted by two Romani men. Shortly afterwards, a violent altercation broke out after plain-clothes police officers and masked Special Forces police officers arrived at Reghin, in the Apalina district, reportedly to serve two subpoenas. The police claimed they were attacked by several Roma using rocks, metal bars and pitchforks. The Roma claimed that Special Forces officers provoked the violence by using excessive force, including by firing rubber bullets and tear gas. The initial police investigation cleared the officers of any wrongdoing. In November, following a visit by two members of the European Parliament, the General Police Inspectorate opened a preliminary investigation into the incident. The investigation was continuing at the end of the year.

**Trafficking of human beings**

In August, Romania ratified the Council of Europe Convention on Action against Trafficking in Human Beings.

In December, the International Organization for Migration (IOM) issued a survey on human trafficking in Romania and four other countries (Belarus, Bulgaria,

Moldova and Ukraine) in the region. The IOM reported that in Romania there were gaps in levels of awareness among urban and rural residents on the danger of being subjected to human trafficking and that general awareness of human trafficking in Romania might be improved by raising the awareness of rural people. The IOM also reported that Romanian public opinion tended to blame human trafficking on the poor legal environment and corruption rather than the supposed 'irresponsibility' of its victims.

## RUSSIAN FEDERATION

### **Murder of journalist Anna Politkovskaya**

Russian journalist and human rights defender Anna Politkovskaya was shot dead on 7 October at the block of flats where she lived in Moscow, in all likelihood killed because of her work as a journalist. Her courageous coverage of the conflict and human rights situation in the Chechen Republic since 1999 for *Novaia Gazeta* (New Newspaper) had won her numerous awards, and she had also written extensively about violence in the army, state corruption and police brutality. She had been subjected to intimidation and harassment by the Russian and Chechen authorities because of her outspoken criticism. Following worldwide protests, including from the European Union and the Council of Europe, Russian President Vladimir Putin said in an interview that her death caused more harm to Russia than her work as a journalist had. An investigation into her murder was opened under the control of the Russian Procurator General.

### **Concerns relating to freedom of assembly**

#### *Vigil in memory of Anna Politkovskaya dispersed*

A vigil in Anna Politkovskaya's memory on 16 October in Nazran, Ingushetia, was

dispersed violently by police and men in civilian clothes, who reportedly stamped on portraits of Anna Politkovskaya and beat the demonstrators. One of the men in civilian clothes reportedly punched a demonstrator, Katia Sokorianskaia, causing her to suffer from concussion and a broken nose. An investigator from the office of the procuracy of Nazran questioned Katia Sokorianskaia about the assault and then issued a decision not to open a criminal case, dated 7 November. This decision was subsequently overturned by the Deputy Procurator of Nazran and sent back to the district procuracy for re-examination.

Following the vigil, at least five people – three women and two men, all local human rights activists – were detained by police and charged with administrative offences. A lawyer was denied access to visit the three women, who according to the non-governmental organization (NGO) Memorial were detained for six hours, twice the three-hour maximum allowed for administrative detention. Four of the detained were later found by a court not to have violated any law. The fifth, the official organizer of the vigil, Magomed Mutsulgov, was fined R1000 (US\$38) for violations of the procedure for organizing a picket, despite the fact that, in accordance with Russian law, he had informed the authorities in advance of the intention to hold the vigil. Magomed Mutsulgov heads Mashr, an NGO campaigning against enforced disappearances and abductions in Ingushetia.

#### *Administrative detention for organizer of Beslan vigil*

Human rights defender Lev Ponomarev was sentenced to three days' administrative detention on 26 September, for organizing a memorial event for the victims of the Beslan hostage tragedy. Lev Ponomarev, the head of the NGO Movement "For Human Rights", had complied with the legal requirement to inform the authorities of the vigil.

*G8 summit protestors and observers detained*

Dozens of anti-globalization protesters were prevented from participating in protests against the G8 summit in St. Petersburg in July. Many were detained in the run-up to the summit and during it, sometimes on apparently spurious grounds. Also among the detained were reported to be journalists, such as Ukrainian journalist Maxim Butkevich, who was reportedly filming officers from a special police unit (OMON) breaking up a demonstration when he was detained for an alleged administrative violation. Most of those detained were released without charge. Those who were charged received administrative detention orders for the period of the G8 summit.

Two German students working for a local German radio station were detained in St. Petersburg ahead of the summit and sentenced to 10 days' administrative detention on a charge of urinating in public. The two men denied the accusation and told AI that they had been detained in the flat of an acquaintance. They were released early but only after the summit had finished. Other protesters were detained for having allegedly committed similarly minor acts of "hooliganism", such as swearing in the street. Denis Tikhotskii, one of the organizers of the Social Forum in St. Petersburg, was detained for allegedly using false documents (Article 327 of the Russian Criminal Code). Denis Tikhotskii insisted that the items were placed in his pockets by those police officers who detained him. He was released on 19 July. The criminal case against him was closed a month later as the investigation found too many contradictory statements in the police reports about his detention. Following this, Denis Tikhotskii filed a complaint under Article 286 (abuse of power) and Article 161 (theft) of the Russian Criminal Code with the procuracy in St. Petersburg against the police, who had reportedly not returned his possessions to him and had fabricated a criminal case against him. According to the lawyer of Denis Tikhotskii, there were no

further developments during the period under review.

**The "Civil G8" NGO forum**

AI participated in July in Moscow in the "Civil G8", a forum for Russian and international NGOs organized by the Russian federal authorities ahead of the official G8 summit. President Vladimir Putin also met separately with leaders of international NGOs, including with AI's Secretary General Irene Khan. Following sharp criticism of the new restrictive law governing NGOs (see below), President Putin promised to review its implementation. However, by the end of the year, no official review process was discernible, far less one involving independent civil society organizations and experts in that area of the law (for more information see AI Index: EUR 46/031/2006).

**First effects of the new NGO law (update to AI Index: EUR 01/017/2006)**

Foreign and international NGOs were required to re-register their Russian branches or representative offices with the newly created Federal Registration Service (FRS) by 18 October, under the requirements of the new legislation governing civil society organizations in Russia. However, the re-registration procedure lacked clarity and imposed undue burdens on NGOs. Communication from the FRS was unclear during much of the six months given to re-register, and the department was not adequately staffed to provide the advice required by the NGOs in order to fully understand the process accurately. Because of the complexity of the re-registration process, many foreign and international NGOs were compelled to hire additional staff or pay external lawyers to fulfil the requirements of the process. The lack of clarity and the complexity of the procedure also meant that some organizations failed to meet the 18 October deadline. Their activities had to be suspended pending approval of their registration. Other organizations were

refused registration but were invited to resubmit their paperwork. The Stichting Russian Justice Initiative (SRJI) was one such organization. The SRJI provides legal assistance for individuals wishing to submit applications to the European Court of Human Rights, including for the applicant in the recent case *Bazorkina v Russia*, in which the European Court for the first time found Russia responsible for the enforced disappearance of an individual (see AI Index: EUR 46/034/2006).

By 29 December, 196 foreign and international NGOs had been re-registered. Russian NGOs were not required automatically to re-register; however, AI was aware that some Russian NGOs had to re-register in order to bring the wording of their official documents in line with the new law.

### **Russian-Chechen Friendship Society ordered to close down**

*Stanislav Dmitrievskii*



On 11 October, a court in Nizhni Novgorod ordered the closure of the human rights NGO Russian-Chechen Friendship Society (RCFS). The court's decision was based in large part on the conviction earlier that year of the executive director of the RCFS, Stanislav Dmitrievskii, for "inciting racial hatred" (see AI Index: EUR 01/017/2006). According to the new law governing NGOs (see above), a person convicted of an "extremist" crime, such as "inciting racial

hatred", cannot head an NGO. In order to try to save the NGO from closure, his colleagues would have had to remove him from his post, which they refused to do. AI considered Stanislav Dmitrievskii to be wrongfully convicted and was convinced he was convicted solely for exercising his right to freedom of expression. Accordingly, the Russian-Chechen Friendship Society should not have been closed.

### **Amendments to extremism law**

Amendments in July to the 2002 federal law "On combating extremist activity" broadened the definition of "extremism" and threatened to restrict, intimidate and punish the activities of civil society organizations and opposition politicians that criticize government policies. The law criminalized public justification of terrorism and public slander of government officials. The UN Human Rights Committee had already described the 2002 law as "too vague to protect individuals and associations against arbitrariness in its application". The new amendments can be used to restrict the right to freedom of expression and limit public scrutiny of actions by government officials.

### **Death penalty**

On 15 November the State Duma (parliament) postponed the introduction of jury trials in Chechnya to 2010. Chechnya is the only remaining Russian Federation region without a jury system. This decision therefore had the effect of extending the current moratorium on the death penalty in Russia, which was introduced in 1999 by the Russian Federation Constitutional Court when it banned court judges from sentencing people to death until the jury system had been introduced in all regions of the Russian Federation. While the extension of the moratorium can be welcomed, reportedly legal practitioners in Chechnya had been looking forward to the establishment of jury trials as providing individuals with a greater possibility for a fair trial in Chechnya.



Russia had yet to ratify Protocol 6 to the European Convention on Human Rights (ECHR) which provides for abolition of the death penalty in times of peace, despite an obligation to the Council of Europe to do so within three years of joining that organization, thus by February 1999.

### **Targeting of Georgian nationals**

Growing nationalist sentiment raised fears of increasing xenophobia in the run-up to elections in 2007. After relations worsened between Russia and Georgia in September and October, hundreds of Georgian nationals were deported for allegedly violating immigration rules or being involved in crime. Individuals were held pending deportation in insanitary conditions and without water and food. Two Georgian nationals were reported to have died awaiting deportation, allegedly due to the poor conditions and inadequate medical attention. Council of Europe representatives who carried out a fact-finding mission to Tbilisi and Moscow on the situation wrote: "according to all evidence the conditions in most of those places are unimaginably 'overcrowded', 'unbearable' and 'inhumane'. The detainees have not only been deprived of medical assistance but also of any possibility to satisfy the primary necessities of life" (see Information note of the co-rapporteurs following their fact-finding visits to Tbilisi (20-22 November) and Moscow (28-30 November), Monitoring Committee of the Parliamentary Assembly of the Council of Europe in January 2007). Lawyers and human rights activists reported on several cases of detention and attempted deportation of Georgians who had a legal right to remain in the Russian Federation. In protest against such measures, Russian civil society activists held a Georgian film festival in Moscow, while reportedly some Russian citizens in St. Petersburg even applied to have their family names changed into Georgian names.

### **Ongoing conflict in the North Caucasus**

Serious human rights violations including enforced disappearances and abductions, arbitrary detention, torture including in unofficial places of detention, and extrajudicial executions, were reported in the zone of counter-terrorism operations in the North Caucasus, in particular in Chechnya and Ingushetia, as well as in Dagestan and North Ossetia. The presence of numerous various paramilitary forces in Chechnya, their arbitrary actions and lack of accountability made it harder to determine the identity of those responsible for continuing serious human rights violations. Shamil Basaev, the Chechen opposition leader who claimed responsibility for the Beslan school siege, North Ossetia, in September 2004 and other war crimes in the Chechen conflict, was killed in July in an explosion in Ingushetia, North Caucasus.

#### *Apparent enforced disappearance of Elina Ersenoeva and the abduction of her mother*

Freelance journalist and humanitarian worker Elina Ersenoeva and her aunt were detained on 17 August in the centre of the capital Grozny, Chechnya, by armed, masked men and taken away in a car. While the aunt was released after a couple of hours, Elina Ersenoeva has not been seen since. Reportedly, her mother Margarita Ersenoeva learned a few days after her daughter's reported enforced disappearance that she had been married to Shamil Basaev the year before. The authorities opened a criminal investigation into her abduction. Margarita Ersenoeva told AI that she considered her daughter to have been a hostage of Shamil Basaev rather than his wife. Margarita Ersenoeva reportedly received on 2 October a call on her mobile phone and was asked to come to the building of the local administration in Starye Atagi, in order to receive information about her daughter. Following that call she left the house of her relatives where she was staying at the time. She has not been

seen since and it is believed that she has also been "disappeared" or abducted.

### **Official investigations and prosecutions of abuses**

#### *Torture of Malika Soltaeva*

The Chechen authorities opened an investigation into the apparent arbitrary detention and torture of Malika Soltaeva, which was ongoing at the end of the year. In March, Malika Soltaeva, a 23-year-old pregnant Chechen woman from Argun, had been detained and allegedly tortured by Chechen law enforcement officials, who filmed the abuse on their mobile phones. Malika Soltaeva and her family filed formal complaints about the abuse, and mobile phone film footage of the torture, taken by the perpetrators themselves, was widely circulated in Chechnya. The footage shows Chechen security service officers viciously beating her, shaving her head and eyebrows, taunting her, calling her abusive names, and publicly humiliating her, as they accused her of having had a relationship with an ethnic Russian. They marked her forehead with a cross in green, a colour associated with Islam. In the footage, some of the perpetrators are clearly identifiable. However, the official investigation was opened only following international outcry in August, when the footage was posted on the *New York Times* website.

#### *Trial into the killing of six civilians (update to AI Indexes: EUR 01/005/2004, EUR 46/027/2004, EUR 01/002/2005, EUR 01/012/2005, EUR 01/007/2006)*

AI continued to monitor developments in the prosecution of four soldiers charged with murder. Following two acquittals by jury panels, a third trial, heard by a collegium of judges rather than a jury, started in December. The four soldiers, from a special unit of the Ministry of Defence, had killed six civilians near the Chechen village of Dai in January 2002. As in previous trials, the defendants pleaded not guilty, despite admitting the facts.

#### *Alleged torture of Rasul Kudaev (update to AI Index: EUR 01/017/2006)*

In Kabardino-Balkaria, Rasul Kudaev remained in detention amid concerns about his health. A former Guantánamo detainee released in 2004, he was arrested and charged with terrorism-related offences after the October 2005 attack on Nalchik, Kabardino-Balkaria. His pre-trial detention period was extended in November for a further six months. His state-appointed lawyer, removed from the case in November 2005 after she complained officially that he had been tortured in police custody, was not reinstated despite appeals to the courts.

The Nalchik City Court ruled in September that the city procurator's decision not to open an investigation into the alleged torture of Rasul Kudaev should be overturned. However, according to the information available to AI, by the end of the year an investigation had yet to be opened.

### **Reprisals**

#### *Defence lawyer assaulted*

On 15 August, lawyer Zhabrail Abubakarov was allegedly attacked by the head of the investigation department of a police department in Chechnya. Zhabrail Abubakarov was acting as a defence lawyer for a man accused of "banditism" (Article 208 of the Russian Criminal Code). He had complained that his client had been subjected to physical and psychological pressure in detention in order to sign a "confession". During a meeting at the police department, the head of the investigation department reportedly initially verbally abused Zhabrail Abubakarov and then started beating him and tried to strangle him. The district procuracy initially refused to open a criminal case against the senior police officer. Only following repeated calls from Russian and international human rights activists to the procuracy was a criminal case opened. Zhabrail Abubakarov

decided later to accept an apology from the police officer and the case was closed.

#### *Threats and intimidation of an applicant to the European Court*

Following serious intimidation and threats to her life, Aminat Khambulatova left Russia during the period under review to seek asylum in another country.

The body of her son, Timur Khambulatov, was found, apparently by an official from the procuracy, at the Naurskii District Department of Internal Affairs in Chechnya, in March 2004, the day after he had been detained at his home by law enforcement officials. An official autopsy report recorded numerous bruises and injuries on his body, but concluded he died from heart disease, complicated by heart and lung failure. Relatives took photos and a video of Timur Khambulatov's body which clearly showed extensive bruising and abrasions to the head, torso and all four limbs. An independent medical expert concluded, on viewing the video, that Timur Khambulatov had been assaulted during his detention and died of internal injuries associated with his extensive externally apparent injuries.

Aminat Khambulatova has tirelessly demanded an independent investigation into his death but so far domestic investigations have been inconclusive. With the assistance of an NGO, Aminat Khambulatova filed an application to the European Court of Human Rights, which was lodged on 14 September 2005.

AI representatives had met with her several times while she was still living in Russia. She told AI about the repeated threats and intimidation by officials she experienced as a result of her demands for an independent investigation into her son's death. She was repeatedly called to the office of the Procurator of Chechnyas by the investigator in charge of her son's case, who tried to intimidate her. For instance, she said that in the spring of 2006 she and her daughter had been called to the procuracy where the investigator led her into the building via a back door and told her that nobody knew

the women were in the building. He then reportedly started intimidating them, suggesting they would live longer if they withdrew their appeal to the European Court of Human Rights, and told Aminat Khambulatova that she would never achieve an independent re-examination of her son's body.

In December the Russian Duma voted to refuse to adopt protocol No. 14 of the European Convention on Human Rights and Fundamental Freedoms, which sets out provisions to improve the work of the European Court of Human Rights. During the debate in the Duma several parliamentarians criticized the European Court as an instrument to harm Russia's interests.

#### **Torture**

##### *UN Special Rapporteur on torture*

In October the UN Special Rapporteur on torture postponed his visit, set to focus on the North Caucasus, because the Russian authorities had said the standard conditions of such visits – in particular, arriving unannounced at places of detention and interviewing detainees in private – contravened Russian law. The Special Rapporteur had been asking to visit Chechnya since 2000. In May, for Russia's election to the UN Human Rights Council, the government had pledged active cooperation with UN human rights bodies and highlighted the scheduling of a visit by the UN Special Rapporteur on torture for 2006.

##### *UN Committee against Torture*

In November the UN Committee against Torture (CAT) reviewed Russia's fourth periodic report on its implementation of the UN Convention against Torture. The CAT welcomed some positive developments but expressed concern about a number of issues, including the absence of a definition of torture in the Russian Criminal Code that reflected the definition in the Convention against Torture; laws and practices that

obstructed access to lawyers and relatives of suspects and accused; particularly numerous, ongoing and consistent allegations of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel, including in police custody; hazing in the military and reprisals against victims lodging complaints; reports of prevalent domestic violence and trafficking of women and children; failures in investigations into allegations of torture and ill-treatment; and lack of safeguards against non-refoulement. In connection with Chechnya, the CAT expressed concern about reliable reports of unofficial places of detention, enforced disappearances and abductions, and torture, as well as other issues. AI published a report, Russian Federation: Torture and forced "confessions" in detention (AI Index: EUR 46/056/2006), and a briefing Russian Federation: Supplementary briefing to the UN Committee against Torture (AI Index: EUR 46/039/2006), highlighting AI's concerns, in particular relating to police practices to circumvent safeguards against torture and ill-treatment, in order to be able to extract confessions from detainees. During a visit to Moscow in December, AI delegates raised the concerns directly with a number of officials including from the Ministry of Justice, the Ministry of Internal Affairs and the Presidential Administration.

### **Violence in prison colony in Yekaterinburg**

Ordinary regime prison colony UShCh 349/2, also known as IK-2, in the centre of Yekaterinburg was known until recently to have been used as a temporary detention centre where male suspects were tortured by other prisoners. From 1 to 3 July there were major disturbances in IK-2, which the fire service and OMON officers brought to an end. According to two separate eye-witness accounts inside the prison colony, on the night of 2/3 July around 25 prisoners stormed the third-floor premises where other prisoners were housed, and fought them with sticks and pipes. Five people are said to have been killed, three of them

prisoners who had reportedly terrorized other inmates - it was widely believed at the behest of the prison administration. The two other victims of this fight were also prisoners. IK-2 was closed in November after an official investigation, following campaigning by local activists and lawyers.

### **Ongoing concerns for health of Mikhail Trepashkin (update to AI Index: EUR 01/017/2006)**

Mikhail Trepashkin, a lawyer and former security services officer, was denied adequate medical treatment for chronic bronchial asthma while in prison. He was serving a four-year sentence in a prison colony imposed by a military court in 2005 following conviction on charges including divulging state secrets. He was reportedly placed several times in an unheated, unventilated punishment cell by the prison administration in an attempt to make him withdraw complaints about the fairness of his trial and his treatment. In December, the prison authorities initiated proceedings with the aim of transferring him to a prison colony with a stricter regime. Prisoners can be moved in this way if found to have repeatedly violated prison rules. Court proceedings examining his alleged violations of the prison rules started in December and were ongoing at the end of the year (see also AI Indexes: EUR 46/012/2006, EUR 46/067/2006).

### **Violence against women in the family**

In November, while reviewing Russia's fourth periodic report on its implementation of the UN Convention against Torture, the CAT expressed concern about the reports of prevalent domestic violence and the lack of sufficient shelters for women. The CAT recommended that the Russian authorities ensure protection of women by adopting specific legislative and other measures to address domestic violence, providing for protection of victims, access to medical, social and legal services and temporary accommodation and for perpetrators to be held accountable.

**Concerns relating to refoulement to Uzbekistan***Possible extradition of 13 Uzbekistani nationals*

On 31 July, the Office of the General Procurator informed the Procuracy of Ivanovo Region that the 13 Uzbekistani nationals detained in Ivanovo could be extradited to Uzbekistan. The men appealed this decision. The Ivanovo Regional Court turned down their appeal in August. However, also in August the General Procurator's office halted the extradition procedure following a request by the European Court of Human Rights on 7 August to stay the extradition. The Supreme Court on 28 November turned down the men's appeal against the extradition decision, which meant that the decision entered into force, although it was not implemented.

In December a district court in Ivanovo separately ruled that the Russian Federal Migration Service (FMS) had violated a number of laws and regulations when it had refused to grant the men temporary asylum in November. The court found that the FMS had failed to demonstrate that forcibly returning the men to Uzbekistan would not put them at risk of torture and ill-treatment. The court also noted that the FMS had failed to pay attention to the recognition of the men by the United Nations High Commissioner for Refugees as mandate refugees and had ignored the prohibition of refoulement.

*Deportation of Rustam Muminov*

The Russian authorities opened a criminal investigation in October into the deportation of Rustam Muminov to Uzbekistan. Rustam Muminov, a citizen of Uzbekistan who had been living in Russia since 2000, was deported on 24 October to Uzbekistan, although the Moscow City Court had yet to rule on his appeal of his deportation order and he had informed Russian officials that he wished to apply for asylum. The European Court of Human

Rights had issued a request to stay the deportation just prior to his removal.

Rustam Muminov had been detained in February following an extradition request from the Uzbekistani authorities. The Russian Procurator General decided on 29 September that Rustam Muminov could not be extradited to Uzbekistan and he was released the same day from detention. However, during his period in detention, his registration in the Russian Federation had expired and following his release, the authorities refused to renew it. On 17 October he was detained again at the office of the Russian human rights organization *Grazhdanskoe Sodeistvie* (Citizen's Assistance) in Moscow. The same day a court in Moscow found him guilty of violations of the Administrative Code of the Russian Federation in connection with his expired registration permit, and issued an order for his deportation. A lawyer from *Grazhdanskoe Sodeistvie* appealed against this order on his behalf. Rustam Muminov also appealed to the European Court of Human Rights to issue interim measures to halt his deportation. Despite these two pending court decisions Rustam Muminov was taken in handcuffs to an airport in Moscow and flown to Uzbekistan. According to the news agency Interfax, the FSB proclaimed Rustam Muminov guilty of crimes committed in Uzbekistan, which constituted a violation of the principle of presumption of innocence. A week after his deportation, the district court in Moscow found Rustam Muminov not guilty of violations of the Administrative Code. A criminal investigation into the unlawful deportation of Rustam Muminov was opened. Despite all this, the FMS informed *Grazhdanskoe Sodeistvie* on 18 December that Rustam Muminov had left the country voluntarily on 24 October, not awaiting a final court decision. Amnesty International had no news of his fate or whereabouts in Uzbekistan at the end of the period under review.

*Asylum-seeker Bairamali Yusupov's appeal against extradition order successful*

Uzbekistani national Bairamali Yusupov was released on 6 October, after the regional court in Tiumen accepted his appeal against an extradition order. Bairamali Yusupov had been in detention since 31 August 2005 following an extradition request from Uzbekistan, where he was accused of "attempting to overthrow the constitutional order". He had applied for asylum in Russia on 16 August 2005, fearing torture and an unfair trial in Uzbekistan, but was detained on 31 August. The extradition request had initially been granted, despite his pending asylum claim, based on a statement by the FSB which alleged that the death penalty had been abolished in Uzbekistan and political persecution had ceased. In July the Supreme Court of the Russian Federation heard Bairamali Yusupov's appeal against his extradition. The Court returned the case for further review to the lower court in Tiumen, which had earlier ruled he could be extradited. Representatives of AI and Russian human rights organizations were present at the Supreme Court hearing.

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## **SERBIA (INCLUDING KOSOVO)**

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### **General and political developments**

Negotiations with the European Union (EU) on Serbia's Stabilization and Association Agreement remained suspended over the authorities' failure to arrest suspects indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal) – in particular former Bosnian Serb General Ratko Mladić.

Just over 50 per cent of voters in a referendum in October favoured the new Serbian Constitution, which restated that Kosovo and Metohija were part of Serbian territory. The Albanian minority in southern Serbia boycotted the referendum, and ethnic Albanians in Kosovo were not eligible to vote.

After the secession in May of Montenegro from the state of Serbia and Montenegro (SCG), Serbia's progress in assuming the responsibilities and international obligations as the successor state was slow. The Council of Europe continued to monitor Serbia's compliance as a successor to SCG with conditions which had been previously agreed on accession to that organization. On 14 December Serbia was admitted to the North Atlantic Treaty Organization's Partnership for Peace programme.

### *Final status of Kosovo*

Kosovo remained part of Serbia - administered by the UN Interim Administration Mission in Kosovo (UNMIK). In August Joachim Rucker replaced Søren Jessen-Peterson as the Special Representative of the UN Secretary General (SRSG). Talks on the future status of Kosovo concluded in October without agreement between the parties. The Contact Group (an informal group of countries - France, Germany, Italy, Russia, United Kingdom and USA - with a significant interest in the Balkans), urged the UN Office of the Special Envoy for Kosovo (UNOSEK) to impose a solution by the end of 2006, while UNOSEK and the EU advocated delaying until after the Serbian elections, then planned for December. In November UN special envoy Martti Ahtisaari announced – with the agreement of the UN Secretary General – the postponement of the publication of his proposal on final status until after Serbian elections, to be held in January 2007.

AI advocated in a July report for human rights protection for all in persons in Kosovo to be at the heart of the talks process, and for the meaningful inclusion of representatives of non-Serb minority communities in the talks (*Human Rights Protection in Post-status Kosovo/Kosova: Amnesty International's recommendations relating to talks on the final status of Kosovo*, AI Index: EUR 70/008/2006). The organization also called for women to be represented in the process, as set out in UN

Security Council Resolution 1325 on Women, Peace and Security.

The process of transferring government responsibilities from UNMIK to the Provisional Institutions of Self Government (PISG) in Kosovo continued; in August it was announced that responsibility for missing persons had been transferred to the Ministry of Justice. On 1 June the SRSG announced that UNMIK had begun preparations to leave Kosovo and to hand over to an EU Crisis Management Operation, which then prepared for the establishment of a European Defence and Security Policy mission in 2007.

*Impunity for war crimes: proceedings at the Tribunal (Update to AI Index: EUR 01/001/2007).*

Carla del Ponte, Chief Prosecutor to the Tribunal, continued to express serious concerns at the lack of cooperation by the Serbian authorities. In July additional funds were allocated to the action plan for cooperation with the Tribunal.

Proceedings continued against former Yugoslav National Army officers known as the "Vukovar Three". Mile Mrkšić, Miroslav Radić, Veselin Šljivančanin were indicted for crimes against humanity and violations of the laws or customs of war for their responsibility for the forcible evacuation of at least 264 Croatian men and two women from the Vukovar Hospital in 1991, their transfer to the Ovčara farm where they were ill-treated, and their murder. Proceedings against lower ranking soldiers had already been conducted in Serbia (see below).

Following the joining of two previously separate indictments for Kosovo, proceedings started in July against six senior political, police and military officials indicted for crimes against humanity and violations of the laws and customs of war. Former deputy Serbian president Milan Milutinović, former deputy prime minister Nikola Šainović, former General Chief of Staff (later Minister of Defence) Dragoljub Odjanić, former police colonel general

Sreten Lukic (later Assistant Interior Minister), former Yugoslav Army colonel generals Nebojša Pavković and Vladimir Lazarević were jointly charged with crimes against humanity and grave violations of the Geneva Convention. Former police colonel general Vlastimir Đorđević, who had also been indicted for Kosovo, remained at large, apparently in Russia.

Proceedings against Vojislav Šešelj, currently leader of the Serb Radical Party and indicted for crimes against humanity and violations of the laws and customs of war in Bosnia and Herzegovina (BiH), were disrupted after 11 November when he started a hunger-strike protesting against restrictions that the Tribunal placed on visits by his wife and on his ability to choose the defence team of his choice.

On 17 November the Tribunal transferred to Serbia the indictment against Vladimir Kovačević, although the Tribunal had declared him unfit to enter a plea on medical grounds in April; he is charged with six counts of war crimes in connection with the bombing of Dubrovnik in Croatia.

In separate but related proceedings, the International Court of Justice continued public hearings on genocide charges filed by BiH against Serbia and Montenegro.

## **Serbia**

*Domestic war crimes trials (Update to AI Index: EUR 01/001/2007).*

In July 10 suspects, including former security chief Jovo Djogo, were indicted for assisting former Bosnian Serb General Ratko Mladić to escape arrest. They had allegedly kept him hidden in at least five apartments in Belgrade. Proceedings opened in [check] September, and in October Ratko Mladić's former driver, arrested in May, was indicted for the same offence.

Progress was made in bringing Serbs suspected of war crimes to justice in domestic proceedings at the special War Crimes Chamber of the Belgrade District

Court, although most were low-ranking officials.

The trial continued of five former members of the paramilitary unit known as the Scorpions. They were charged with war crimes, with three others, for the killing of six Bosniak civilians in 1995 at Godinjske bare near Trnovo in BiH. In October, charges against two defendants were changed, indicting them as accessories to murder.

On 9 August Vladimir Vučković, the war crimes prosecutor opened an investigation into the killing of 700 Bosniaks by Serbian paramilitary forces in the vicinity of Zvornik in BiH in June 1992; in December, he reported that an investigation had been opened in connection with a mass grave in the Zvornik region, believed to contain between 670 and 750 bodies.

Later in August two former Serbian police officers were indicted for the murders of three brothers - Agron, Mehmet and Ilijem Bytici - in Kosovo in July 1999. The brothers of Kosovo-Albanian origin held US citizenship, and had reportedly joined the Atlantic Brigade fighting alongside the Kosovo Liberation Army (KLA). The trial opened on 13 November.

On 18 September the special War Crimes Chamber sentenced Anton Lekaj, a former KLA soldier to 13 years' imprisonment for war crimes, including the rape of a Romani girl in Kosovo and the murder of three Romani men.

On 2 October, the trial started at the special War Crimes Chamber of eight former police officers - including Radoslav Mitrović, former Kosovo special police commander and Radojko Repanović, police commander in Suva Reka - indicted on 25 April for the murder of 48 ethnic Albanian civilians, all but one from the same family, in Suva Reka in March 1999. Some of their bodies had been exhumed at Batajnica.

In December, the Serbian Supreme Court overturned the decision against 15 defendants, sentenced in December 2005 and January 2006, for involvement in war

crimes against Croatian civilians in 1991 at Ovčara farm in Croatia.

#### *Enforced disappearances*

On 30 June the last of the bodies of more than 700 ethnic Albanians exhumed from mass graves were returned to Kosovo. Police investigations were opened, according to reports in September, but no indictments had been published by the end of 2006 relating to the responsibility for the transfer of those bodies to Serbia from Kosovo.

Evidence relating to the transfer was presented at the trial of eight former police officers indicted for the murder of 48 ethnic Albanian civilians in Suva Reka in March 1999, (see above). Prosecution witnesses described how the bodies were originally buried in military ranges in Prizren, and subsequently - allegedly on the orders of former general Vlastimir Đorđević - transported to Batajnica.

#### *Torture and ill-treatment*

In November police used excessive force against prisoners who had locked themselves into areas of Niš prison in protest against the government's failure to implement an amnesty law; lawyers and relatives were unable to visit some of the 50 prisoners who were hospitalized - some with very serious injuries - or had been placed in solitary confinement. The Minister of Justice announced that an internal investigation would be opened, but no progress had been reported by the end year.

#### *Political killings and political violence (update to AI Index: EUR 01/017/2006)*

The retrial of Mirolad Ulemek and former secret police chief Radomir Marković continued, after the Supreme Court had in May cited serious violations of procedure. The two men, along with eight others, had been convicted of the attempted murder of government minister Vuk Drašković and the murder of four other men Mirolad Ulemek and Radomir Marković had been sentenced



in June 2005 to 15 and 10 years' imprisonment respectively.

In October, Dobrosav Gavrić, Milan Djurić (in absentia) and Dragan Nikolić were convicted of the murder of former paramilitary commander Željko Ražnatović (also known as Arkan) at the Intercontinental Hotel in Belgrade in 2000, and each sentenced to 30 years' imprisonment.

In November, Aleksander Simović was arrested for the murder on 3 June of Zoran Vokojević, a witness at a separate trial of Mirolad Ulemek and others charged with the murder of former Serbian Prime Minister Zoran Đinđić. Aleksander Simović was found dead at the side of a road in Belgrade, his wrists handcuffed behind his back. Others indicted for the murder remained at large.

On 10 September municipal Election List for Sandžak candidate Ruždija Durović was killed in a shooting incident at a polling station in Novi Pazar believed to be politically motivated. Three others were injured. Two suspects were arrested within 24 hours. Four people were injured in November when an explosive device was thrown into the home of a Democratic Action Party official.

#### *Discrimination against minorities*

Discrimination continued against Rom and other minorities. A survey of 36,000 Romani people published in December revealed that almost half the Romani people in Serbia did not have identification documents providing them with the right to state services. In most cases, documentation was denied because they lived in unregistered or temporary settlements.

The Serbian authorities took action in a number of cases involving private individuals ('non-state actors'), including the arrest on 29 August of a Serb and a US national for an alleged anti-Semitic attack; and the arrest of 37 people in October after a racist incident in Čačak in which football supporters wearing Klu Klux Klan outfits

taunted a Zimbabwean member of their own club; eight were charged. Also in November, police detained 152 football fans in Belgrade, 47 of whom were under 18 years of age, on suspicion of inciting racial hatred during a match against a predominantly Bosniak team from Novi Pazar in the Sandžak region of Serbia, reportedly shouting "Serbia for the Serbs, out with the Turks". The Minister for Sports and Education called for "fast action and harsh sentences".

#### *Violence against women*

Violence against women, including domestic violence and trafficking for the purposes of forced prostitution, remained widespread. On 10 January, the Ministry for Labour, Employment and Social policy published a draft strategy on combating violence against women.

#### **Kosovo**

The UN Human Rights Committee criticized the lack of human rights protection in Kosovo following consideration of an UNMIK report in July, see Kosovo (Serbia and Montenegro): United Nations Interim Administration Mission in Kosovo (UNMIK) – Conclusions of the Human Rights Committee, 86th Session, July 2006 (AI Index: EUR 70/011/2006). UNMIK failed to establish a Human Rights Advisory Panel which was intended to provide persons in Kosovo with access to remedies for acts and omissions by UNMIK.

In November the European Court of Human Rights considered the admissibility of a case against France brought by the father of a 12-year old child who was killed in May 2000 by an unexploded cluster bomb, which a multi-national contingent of the Kosovo Force (KFOR) led by France had failed to detonate or mark; his younger son was severely injured. A decision was expected in 2007.

### *Inter-ethnic violence*

The perpetrators of ethnically motivated attacks were occasionally brought to justice. Most attacks involved the stoning of buses carrying Serb passengers by Albanian youths. In some cases, grenades or other explosive devices were thrown at buses or houses, and Orthodox churches were looted and vandalized.

On 26 August, nine people were reportedly injured in a grenade attack on a café in north Mitrovicë/a. A 16-year-old ethnic Albanian was detained, although a witness to the attack reportedly identified a 40-year-old man as the perpetrator.

In September four members of a Serb family who had returned to Klinë/Klina in 2005 were injured when an explosive device was thrown at their apartment. Other returnees were subjected to ethnically motivated bombings, armed attacks, and physical and verbal attacks. Those forcibly returned to Kosovo from EU member states were rarely provided with support and assistance by the authorities.

### *War crimes trials*

Impunity for war crimes against Serbs and other minorities continued; few investigations or criminal proceedings were conducted by international prosecutors and judges.

On 11 August former KLA member Selim Krasniqi and two others were convicted before an international panel of judges at Gnjilanë/Gjilan District Court of the abduction and ill-treatment at a KLA camp in 1998 of ethnic Albanians suspected of collaborating with the Serb authorities. They were sentenced to seven years' imprisonment. A visit to Selim Krasniqi in prison by Prime Minister Agim Çeku provoked an outcry.

### *Disappearances and abductions*

By the end of November some 2,150 persons were still listed as missing by the International Committee for the Red Cross.

UNMIK police failed to conduct investigations into outstanding cases of abducted members of minority communities. On 13 October the bodies of 29 Serbs and other non-Albanians exhumed in Kosovo were handed over to the Serbian authorities and families for burial in Belgrade.

In October, the PISG adopted a decision to establish a Government Commission on Missing Persons – Persons Unaccounted For mandated to coordinate activities to ensure the fate and whereabouts of all persons missing in Kosovo between 1998 and 1999. Their decision was assisted by the International Commission for Missing Persons who had helped to establish similar commissions elsewhere in the region.

### *Excessive force and ill-treatment by the police*

UNMIK and Kosovo Police Service (KPS) police used excessive force on a number of occasions during protests by the non-governmental organization Vetëvendosje! (Self Determination!).

On 23 August, 15 people were reportedly ill-treated following arrest at Pristina police station. The acting Ombudsperson asked the prosecutor to open an investigation in the case of one man whose arm and nose were broken and eyes injured. Tear gas was used by police during a demonstration in November.

On 6 December the commander of Peja/Peć KPS and two KPS officers were reportedly suspended from duty following a detainee's death in custody.

### **Discrimination**

Romani, Ashkali and Egyptian families who had been living on lead contaminated sites near Mitrovicë/a had voluntarily moved to a former military camp at Osterode at the beginning of the year (see AI Index: EUR 01/017/2006). The lack of meaningful consultation with the communities which had occurred before relocation continued with respect the rebuilding of their former homes in the Roma mahala (neighbourhood)

of south Mitrovicë/a. By the end of the year some families had moved into the completed houses and apartments, but community leaders expressed concerns that guarantees for their safety and access to education had not been provided.

Research conducted by the Serbian non-governmental organization Humanitarian Law Centre (HLC) reportedly found that although members of some minority communities enjoyed increased freedom of movement and integration in 2006, this was not the case for Serbs and Roma. The HLC also reported that the rights of all minorities continued to be violated, with little response from the authorities, including in the restitution of property.

#### **Violence against women**

Up to three cases a day of domestic violence were reported by the UNMIK police. The Ministry of Justice and Social Welfare agreed in July to provide funding for the women's shelter in Gjakova/Đakovica, and promised financial support for other shelters.

Trafficking in persons for the purposes of forced prostitution continued to be widespread; women and girls were trafficked from both outside and within Kosovo. The KPS Human Beings Trafficking Investigation Sector arrested some 79 suspects of whom 30 were charged with trafficking in human beings, 21 for soliciting prostitution, six for prostitution and 12 for other criminal acts.

Fifty-eight trafficked persons were provided with shelter and services by government- and NGO- run shelters and the International Organization for Migration. Of 10 internally-trafficked minors, five were successfully reintegrated with their families as part of a project by the ministry of Labour and Social Welfare to reintegrate children working in severe forms of child labour, including trafficking. Some prosecutions took place, but little progress was made in implementing aspects of the Kosovo Action Plan of Trafficking related to

the justice system, including an effective system of witness protection.

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## **SLOVENIA**

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### **The "erased" (update to AI Index: EUR 001/017/2006)**

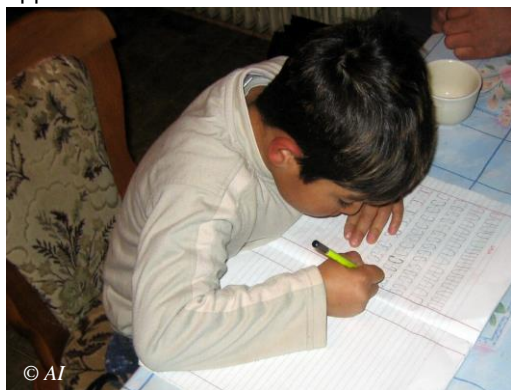
The Slovenian authorities failed to restore the status of the "erased" and to ensure that they have full access to economic and social rights, including their right to employment, pension, and health care. Moreover, those affected by the "erasure" continue to be denied access to full reparation, including compensation. The "erased" include at least 18,305 individuals unlawfully removed from the Slovenian registry of permanent residents in 1992. They were mainly people from other former Yugoslav republics who had been living in Slovenia and had not acquired Slovenian citizenship after Slovenia became independent. Of those "erased" in 1992, some 12,000 had their permanent residence status restored, but only with effect from 1999 or later. Some 6,000 people remain without Slovenian citizenship or a permanent residence permit.

In October, the Slovenian Ministry of Interior decided to forcibly return from Slovenia to Germany Ali Berisha, an "erased" person, his wife Mahi, and their five children (see AI Index: EUR 68/001/2006). Following his "erasure", in 1992, Ali Berisha was forced to leave Slovenia. He voluntarily returned there in September 2005 and since then has lived with his family in a reception centre for asylum-seekers in Ljubljana. In November 2005 Amnesty International had urgently called on the Slovenian authorities not to transfer Ali Berisha and his family to Germany, where they would have been at risk of being removed to Kosovo (see AI Index: EUR 68/003/2005). In Kosovo, as members of Romani/Ashkali/Egyptiani communities, they would have been at risk of ethnically-motivated attacks. An appeal against the decision to forcibly return from

Slovenia to Germany Ali Berisha and his family was pending at the end of the period under review.

### Discrimination against Roma

The Slovenian authorities failed to fully integrate Romani children in the Slovenian educational system and tolerated in some cases the creation of special classes for Romani children, where often a reduced or simplified curriculum is taught. A policy allowing for the creation of different groups and classes on the basis of the pupils' knowledge and performance in school has led to the development of the so-called "Bršljin model", which is being implemented at the Bršljin School in Novo Mesto. This model provides for the creation of separate groups of children experiencing difficulties in certain subjects. Teachers in Bršljin admit that such groups are composed mostly, and in some cases only, of Romani pupils. This model had been criticized in Slovenia by education experts for being de facto a continuation of the old segregation approach.



*A Romani child from Šentjernej, Slovenia, doing his homework.*

In July a project was completed for the standardization of the two main variants of Romani language spoken by Roma in Slovenia. This project entailed the creation of grammar books and dictionaries. The standardization of Romani languages was intended to be the first step leading to the inclusion of such languages in school

curricula and to the preparation of textbooks and other teaching materials.



*Romani children from Slovenia dancing.*

In November AI published the report *False starts: The exclusion of Romani children from primary education in Bosnia and Herzegovina, Croatia and Slovenia* (AI Index: EUR 05/002/2006), dealing with the human rights violations suffered by Roma as a result of their exclusion from primary education in the three countries. In the report AI called on the Slovenian authorities inter alia to ensure that the implementation of the "Bršljin model" does not result in the effective segregation of Romani pupils; to ensure that, in those cases where this is not happening, children from low-income Romani families are provided with assistance in order to overcome barriers in access to education; to take steps to ensure that Romani culture, history and traditions are included in school curricula; to take steps to ensure that Romani children have access to pre-school programmes of a sufficient duration; to take steps to ensure that Romani assistants and mediators are employed in a systematic and comprehensive way in all schools and pre-schools with a significant Romani population; to take steps to ensure that teachers and other staff working in schools receive training on Romani culture, history, traditions and language; and to provide pedagogical and other relevant training to Romani assistants and mediators.

In October, members of a Romani family composed of approximately 30 persons,

living in the village of Ambrus, were forced to leave their homes under police escort after having been targeted in ethnically motivated attacks by non-Roma. They were provided temporary accommodation in a reception centre for refugees and subsequently prevented from returning to their homes. The authorities promised that they would find a permanent housing solution for the members of the family, whose homes were demolished in December on the grounds that they had been built illegally. The authorities failed to investigate ethnically motivated attacks with a view to bringing those responsible to justice.

Events in Ambrus prompted the Council of Europe Commissioner for Human Rights to visit Slovenia in November, to be informed of the circumstances surrounding attacks against Roma. In a letter to the Slovenian Prime Minister, following his visit to Slovenia, the Council of Europe Commissioner for Human Rights noted that "it is unacceptable that a group of people have to leave their homes because the majority population in the neighbourhood so require and that safety of the minority group is at risk" and urged the authorities, as well as opposition parties, to manifest a common position against xenophobia and hate speech.

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## SPAIN

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### **Migration and asylum**

Over 31,245 asylum-seekers and undocumented migrants from west Africa arrived by boat in the Canary Islands in 2006. Autonomous regional authorities used makeshift reception centres to house the growing number of arrivals and the severe overcrowding aggravated poor conditions in pre-existing centres. The region's reception capacity for unaccompanied minors was greatly exceeded by the several hundred minors arriving in the islands, resulting in the violation of their fundamental rights.

Overcrowding in immigration centres led to tension and violence. In September, the Public Prosecutor's Office of the Canary Islands began a series of inspections into the conditions in immigration detention centres following complaints by police trade unions that they did not comply with basic standards of hygiene due to the overcrowding.

The arrival of large numbers of asylum-seekers put extreme pressure on the asylum determination procedures in the Canary Islands, which had already been identified by AI as inadequate in the June 2005 report *Spain: The Southern Border – The State turns its back on the human rights of refugees and migrant*" (AI Index: EUR 41/008/2005). There were concerns about the restricted access to legal and interpreting assistance and the accelerated returns process.

In July complaints of ill-treatment of asylum-seekers in the reception centre of Alcobendas, Madrid, were made public in the press. Residents at the centre complained of degrading treatment, denial of access to phones and internet to contact family members, irregularities in payment of their government allowance, and inadequate medical attention including for women in the advanced stages of pregnancy. The regional Minister for Immigration (Consejera de inmigración de la comunidad de Madrid) was amongst those who expressed condemnation of the conditions in the centre.

On 3 July three migrants were killed as they attempted to cross the border at Melilla. They were shot at with rubber bullets by the Spanish police and live ammunition by Moroccan forces, causing them to fall from the six-metre-high fence. One of the men allegedly died from a gunshot wound, but AI was unable to obtain the autopsy results from the government. An AI delegation raised concerns about the situation at the borders of Ceuta and Melilla at a meeting on 4 July with the Spanish Minister of the Interior. The Minister agreed to provide AI with updated information on the investigation into the circumstances of the

death that happened on the Spanish side of the border. He also agreed to look into the status of the area between the fences and the legislation to be applied to people found in that area, and to consider AI's recommendations for ensuring that the rules on the use of force are consistent with international laws and standards.

On 6 July, the Spanish government approved 10.5 million euros in aid to Morocco for border control measures, without tying these to human rights clauses or demanding an explanation for the deaths at the border in 2005 and 2006. Under a pre-existing returns agreement, migrants continued to be sent back to Morocco when it could be proved that they had departed from that country. There were insufficient legal and protection guarantees accompanying these measures, putting migrants at risk of ill-treatment.

In August the government announced a tightening of immigration measures, declaring that all irregular migrants would be returned to their country of origin and that more than 52,000 irregular migrants had already been expelled from Spain in the course of the year. In September the government began deporting irregular migrants to Senegal from the Canary Islands.

On 26 October AI launched a report entitled *Spain and Morocco: Failure to protect the rights of migrants – Ceuta and Melilla one year on* (AI Index: EUR 41/009/2006). The report highlighted the fact that, one year after 13 migrants were killed and hundreds were wounded while trying to enter the Spanish enclaves of Ceuta and Melilla, investigations into the actions of the Spanish and Moroccan security forces involved had still not been concluded and no preventive measures had been adopted to avoid a recurrence of such incidents. AI delegates discussed the report's findings with government authorities and the Office of the Public Prosecutor (Fiscalía General del Estado) during a visit in November but little new information was forthcoming. Officials at the Ministry of the Interior confirmed that the controversial area

between the two border fences where many human rights violations have occurred was indeed under Spanish jurisdiction.

Spain was one of the countries participating in a joint sea patrol mission launched in August by various European Union (EU) countries and co-ordinated by Frontex, the EU external border control agency. This operation was intended to intercept migrants' boats at sea and return them to the country of origin. This raised serious concerns regarding the respect for fundamental rights such as the right to seek asylum, the right to leave one's own country, and the right not to be forcibly returned to a country where a person would be at risk of serious human rights violations.

### **Violence against women**

Violence against women continued to be a serious problem. By the end of 2006, 86 women had died as a result of domestic violence, 68 of whom were killed by their partner or ex-partner.

On 28 June AI Spain launched its report, *More rights but the obstacles remain* (AI Index: EUR 41/006/2006) concerning the implementation of the law on gender-based violence. Since January 2005 complaints regarding such crimes have increased by 18 per cent. However, despite the positive potential of the law the new courts dedicated to dealing with such cases had insufficient resources to deal with the number of cases received. More than 20 per cent of the protection orders requested by victims were rejected by the judicial authorities. Rehabilitation programmes for those convicted of domestic violence did not meet demand and 1,700 convicted abusers were waiting for a place on such a programme. There was a continuing lack of crisis centres for victims in many areas.

### **Police ill-treatment and impunity**

In July, a group of women made complaints of sexual abuse against a number of police officers working in the immigration reception centre of Málaga. Despite being granted protected witness status by the

investigating court, three of these women were expelled to their country of origin shortly after making their initial declaration to the court. Two other witnesses in the case were released from the immigration centre at the end of July with orders to sign in at the police station every two weeks.

In August, two more witnesses (both irregular migrants) were scheduled to be expelled from Spain, despite having status from the court as protected witnesses. AI took urgent action on both cases urging the authorities not to forcibly expel the witnesses. In the first instance, the expulsion went ahead and the witness was returned to Colombia on 17 August. The second witness suffered a miscarriage in the reception centre in the early hours of the same morning (17 August) following an alleged altercation with police officers on duty. The expulsion order against her was later suspended indefinitely. She has made a complaint of negligence against the police officers at the centre for failing to obtain adequate medical assistance in time.

The case is still under investigation. The director and sub-director of the immigration centre have been replaced and the accused officers have been suspended from duty.

On 20 November the investigating judge ordered five police officers to testify in the case of a Romanian man who accused them of excessive force and possible torture during his arrest in July in the centre of Barcelona. It was the first time that officers of the Mossos d'Esquadra (Catalonian autonomous police) have been indicted since the force began operating in the centre of Barcelona just over one year ago. Lucian Paduraru alleged that the police officers beat him during the arrest and during the journey to the police station, and one of them threatened him with a gun. He said the assault only ended once they arrived at the police station where a police officer on duty told the other officers to stop beating him as "there are cameras here". Lucian Paduraru's partner, who was allegedly violently arrested on the same day, also lodged a complaint against the police.

On 28 November the Supreme Court advised the government to implement a partial pardon (*indulto*) for the sentences passed on two policemen convicted for illegal imprisonment on the grounds that the incident took place in the Basque country, "a place with a special history of ETA terrorism, with all the consequences that brings". The pardon would reduce the sentence of exclusion from office from eight to two years, but the fine of 1,500 euros would remain. The two officers were convicted following an altercation with bar staff in a disco in Bilbao who refused to serve them because they were accompanied by a third officer who had allegedly assaulted a waitress in the bar a few days earlier.

### **Racism**

On 12 September a coalition of Non-Governmental Organisations (NGOs) including Justice Initiative, Women's Link Worldwide and SOSRacismo-Madrid applied to the UN Human Rights Committee to challenge the 2001 ruling of the Spanish Constitutional Court that condoned the police practice of relying on specific physical or racial characteristics when targeting people for identity checks. The Court had argued that this was a reasonable indication of the non-national origin of the individual and therefore the greater likelihood that he or she was an illegal immigrant. The specific case in question related to an African-American woman of naturalized Spanish citizenship who was stopped and asked for identity documents by a National Police officer in the Valladolid train station in 1992. The white family members travelling with her were not asked to produce identification. When asked to explain the reason for this discrepancy, the officer involved told the applicant that he had been specifically instructed to identify people "who looked like her" because they were frequently illegal immigrants. The appeal to the Human Rights Committee argued a breach of the rights to non-discrimination and freedom of movement, as enshrined in Articles 2, 12(1) and 26 of

the International Covenant on Civil and Political Rights.

### **"War on Terror"**

On 24 July, the Supreme Court quashed the sentence of Hamed Ahmed, a former Guantánamo Bay detainee, and ordered his immediate release. After returning to Spain from Guantánamo Bay, where he had been detained since 2002, he was convicted by the Spanish National High Court in October 2005 of membership of a terrorist organization and was sentenced to six years' imprisonment. The Supreme Court ruled that Guantánamo Bay constituted a legal limbo without guarantees or control, and therefore all evidence originating from it must be declared completely null and void. As a result, there was no evidence against Hamed Ahmed except his own statement, which the Supreme Court found contained no incriminating evidence.

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## **SWEDEN**

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### **War on terror deportations – the case of Mohammed El Zari and Ahmed Agiza**

In November the UN Human Rights Committee found that the Swedish authorities' summary expulsion of Mohammed El Zari to Egypt in 2001 breached the prohibition of refoulement (i.e. the involuntary return of anyone to a country where they would be at risk of serious human rights abuses), and that the diplomatic assurances obtained from Egypt in this case were insufficient to eliminate the manifest risk of torture. These findings confirmed the conclusions of the UN Committee against Torture in 2005 in respect of a complaint against Sweden by another Egyptian asylum-seeker, Ahmed Agiza, jointly expelled to Egypt with Mohammed El Zari.

The Human Rights Committee also found that the Swedish authorities were responsible for the ill-treatment at the

hands of US agents on Swedish soil immediately before the expulsions; failed to instigate a prompt, independent and impartial investigation into the ill-treatment and bring appropriate charges; and failed to provide an effective, independent review of the decision to expel Mohammed El Zari, despite the real risk of torture in Egypt. The Swedish authorities also breached his right of complaint by immediately expelling him despite advance notification that he would be seeking international interim protection measures in the event of a negative decision on his asylum claim.

The government continued to insist that such decisions by UN Committees were not legally binding, and provided no legal ground for compensation. For further details see the AI report: The case of Mohammed El Zari and Ahmed Agiza: violations of fundamental rights by Sweden confirmed, AI Index: EUR 42/001/2006).

### **Refugees and asylum-seekers**

In September the Stockholm Migration Court rejected the appeal of an Iranian asylum-seeker who had sought asylum on the grounds of his sexual orientation. The Court used only one source of country information, a Swedish Ministry for Foreign Affairs report, concluding that he was not at risk of persecution in Iran solely on these grounds, particularly if he concealed his sexual orientation. AI criticized the decision and the Ministry report, arguing that persecution based on sexual orientation was enshrined in law in Iran and could lead to the imposition of the death penalty. In December the Migration Court of Appeal declined to hear an appeal against the lower court's decision, which therefore became final.

From September, under a Migration Board decision, all asylum-seekers were to be granted an appointed legal representative, apart from those whose claims would be determined by another European Union member state in accordance with the so-called Dublin Regulation.



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## **TAJIKISTAN**

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### **Torture and ill-treatment**

There were continuing reports of widespread and routine torture or other ill-treatment by law enforcement officers. Several law enforcement officers were sentenced to prison terms for unlawful arrests and beatings and other ill-treatment.

In May relatives wrote public appeals to the government and international organizations and held a press conference in which they detailed instances of torture or ill-treatment routinely suffered by inmates from Kurgan-Tiube prison. Some 100 prisoners had reportedly slashed their wrists in protest at cruel, inhuman and degrading conditions of detention and routine ill-treatment in August 2005. The authorities claimed it was a riot and 12 inmates went on trial in May for their alleged part in it. Relatives claimed that some of the men had broken limbs and head injuries, but had the plaster casts and bandages removed for their court appearances. The judge reportedly refused to look at the prisoners' injuries and dismissed their allegations of torture.

In November the UN Committee against Torture, after considering Tajikistan's first periodic report to the Committee, raised concern about the "numerous allegations concerning widespread routine use of torture and ill-treatment by investigative personnel, particularly to extract confessions to be used in criminal proceedings." It also reported on "the failure of judges to dismiss or return cases for further investigation in instances where confessions were obtained as a result of torture" and was further concerned with the "very small number of convicted [officials]" for acts of torture or other ill-treatment.

### **Death in custody**

Sadullo Marufov, a member of the opposition Islamic Revival Party (IRP), died in police custody in May after he was detained for questioning by law enforcement officers in Isfara. Initially the

officers claimed that he had committed suicide by jumping from a third floor window. The IRP, however, claimed that an autopsy report indicated that he had been beaten and ill-treated and alleged that he had been pushed from the window. The general prosecutor's office subsequently announced that following an investigation three officers had been detained in connection with his death.

### **Detentions and unfair trials**

In June the opposition Democratic Party of Tajikistan (DPT) expressed concern that its leader Mamadruzi Iskandarov, continued to be held in incommunicado detention in the Ministry of National Security. He was sentenced to 23 years' imprisonment by the Supreme Court in October 2005 on charges of terrorism and corruption, which he denied, and should have been moved to a prison camp shortly after the verdict. Supporters claimed that he was not allowed to receive parcels or newspapers and that visits of relatives and his lawyers had been obstructed. An appeal against his sentence had been turned down in a closed hearing in January. Mamadruzi Iskandarov was abducted from Moscow, Russia, where he lived in exile, in 2005 after the Russian authorities refused to extradite him to Tajikistan.

Relations with neighbouring Uzbekistan continued to be tense and at least four ethnic Uzbek men were sentenced to long prison terms on charges of espionage after reportedly unfair trials. In October a senior government official accused Uzbekistan of misrepresenting the banned armed Islamic Movement of Uzbekistan (IMU) as an international terrorist group threatening regional security in order to internationalize Uzbekistan's internal problems with the IMU. Nevertheless at least 30 alleged IMU members were detained in Tajikistan and several were sentenced to long prison terms on terrorism charges after reportedly unfair trials.

More than 50 alleged members of the banned Islamic opposition party Hizb-ut-Tahrir, including at least 20 women, were

detained and many were sentenced to long prison terms after unfair trials.

In July a court in Khujand sentenced nine women to prison terms of between five and 11 years for their membership of Hizb-ut-Tahrir. They had been charged with distributing proscribed literature which called for the establishment of an Islamic state. The alleged leader of the group was sentenced to 11 years because she had reportedly been particularly active in recruiting new female members.

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## TURKEY

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### Political developments

On 11 December foreign ministers of European Union (EU) member states voted to suspend eight out of 35 chapters of Turkey's EU accession negotiations in a decision formally endorsed at the EU Council of Ministers Summit on 14-15 December. The decision was motivated by Turkey's continuing refusal to open seaports and airports to the Republic of Cyprus in protest at the continuing economic embargo of the self-proclaimed Turkish Republic of Northern Cyprus. No time limit was put on the suspension, and the recommendations of some EU member states to review Turkey's entire EU accession bid a year later were rejected. The decision to suspend chapters was condemned strongly by the Turkish Prime Minister. While the European Commission had been critical of Turkey's progress in the area of human rights reform in its annual Progress Report on the country, the issue of human rights as such played no part in the decision to suspend negotiation chapters. Commentators in Turkey warned of the adverse effect the partial suspension of negotiations would have on the reform process.

### Continuing restrictions on freedom of expression (update to AI Index: EUR 01/017/2006)

Laws containing fundamental restrictions on freedom of expression remained in force, resulting in the prosecution and sometimes conviction of groups such as journalists, writers, publishers, academics, human rights defenders and students for the peaceful expression of their beliefs.



*Hrant Dink*

Many prosecutions under Article 301 (denigrating Turkishness, or state institutions) of the Turkish Penal Code continued to be brought. While there was evidence of a general trend where most such cases ended with acquittal after several hearings, in July the General Penal Board of the Court of Cassation upheld, by 18 votes to six, a six-month suspended sentence imposed on the journalist Hrant Dink under this article. Hrant Dink had been convicted in October 2005 for denigrating Turkishness in an article about Armenians in the late Ottoman period. In violation of European Court of Human Rights judgments, the General Penal Board of the Court of Cassation reasoned that "when criticizing institutions... derisive and belittling statements must not be used". The president of the General Board, Osman Şirin, had voted with five others for the quashing of the decision and argued that Hrant Dink's article represented "a typical use of the right to criticize".

Human rights defenders in Turkey and internationally campaigned for the repeal of Article 301 on the grounds that the law lacked legal certainty of the crime, and rejecting the arguments of the Ministry of Justice to the effect that in due course the development of case law would signal an end to arbitrary prosecutions. The European Commission focused strongly on the need to repeal the article in its 2006 Progress Report on Turkey published on 8 November and in many speeches made by Enlargement Commissioner Olli Rehn.

Trial hearings of those tried under Article 301 were the scene of aggressive and threatening behaviour in and out of the courtroom on the part of those associated with the nationalist lawyers' association, the Union of Jurists, under the chairmanship of the lawyer Kemal Keriñsiz. Many prosecutions under Article 301 in the course of the past 18 months were begun by prosecutors on the basis of complaints against published writings initially lodged by Kemal Keriñsiz.

### **Torture or other ill-treatment**

Although overall there has been a general decrease in the number of reports of cases of torture or other ill-treatment in the past two years, some disturbing patterns continued to blight Turkey's record. These included the persisting problem of reported abductions, during which individuals are subjected to verbal threats, intimidation, beating and assault in unofficial detention situations. Reports of the torture or ill-treatment in police custody of those suspected of ordinary crimes continued.

Erdal Bozkurt reported that he was detained with others on 25 September in Alibeyköy, Istanbul, in relation to activities with local neighbourhood groups in protest at drug dealers and social problems. Erdal Bozkurt reported that he was later threatened by the police in the street and, on 12 October at around 6pm, was forced into a car by two men introducing themselves as police officers and subsequently blindfolded and handcuffed. Erdal Bozkurt alleged that he was taken to

an unknown place where he was beaten and assaulted, while being threatened and interrogated for a whole day about his and other people's activities in the neighbourhood. Released the following day, he filed a formal complaint and documented evidence of his injuries. The public prosecutor's initial investigations into the allegations were continued at the end of the year.

Four young men among 18 others detained on 20 November in Ankara in connection with protests against F-type prisons (see below) organized by the prisoners' solidarity group TAYAD were remanded to the Ankara Closed Prison for Children and Youths where they alleged they were tortured. İlker Şahin, Özgür Karakaya, Nadir Çınar and Cenar Altunç reported to their lawyer that on 20 December they were tortured in the prison. A representative of the Ankara Bar Association met with the four in prison and organized for the Forensic Institute to prepare a medical report documenting injuries allegedly sustained as a result of being tortured. The medical reports documented severe bruising to arms, backs and soles of feet, consistent with the four men's account of having been beaten and subjected to *falaka* (beating on the soles of the feet) with iron pipes and cudgels. The public prosecutor began an investigation at the year end.

### **Conditions in F-type prisons**

The F-type prison system in Turkey continued to be a much-debated subject in Turkey (for background see 'Turkey: "F-Type" Prisons: Isolation and allegations of torture and ill-treatment', AI Index: EUR 44/025/2001). Six years on from the opening of the F-type prisons, serious complaints about the regime in these prisons continued. Four areas were of particular concern:

Prisoners, their lawyers and human rights groups continued to raise concerns about harsh and arbitrary disciplinary punishments meted out to prisoners in F-type prisons and reported treatment of

prisoners which, in some cases, AI would consider as amounting to term cruel, inhuman and degrading. These complaints related mainly to prisoners remanded or convicted under anti-terrorism legislation but also in some cases to those convicted of organized-crime-related offences.

It was reported once again during the period under review that many of the disciplinary punishments meted out to prisoners were harsh and arbitrary and were typically for offences such as writing petitions deemed suspect for their oppositional political content, and similarly for writing letters and faxes containing content judged to be inappropriate; for participating in hunger strikes for restricted or unrestricted periods; for shouting slogans; for speaking Kurdish on the phone to family members, or for deliberately choosing to remain silent in front of prison guardians. A number of these offences are spelled out in the Law on the Execution of Sentences and Security Measures, as are punishments for such offences. Punishments consist of one- to three-month bans on meeting with visitors, on receiving or sending mail, on the possibility to participate in activities or workshops in the prison, and also periods in solitary confinement. It was reported to AI by lawyers who regularly visited their clients in prison and kept records of disciplinary punishments in Tekirdağ F-type Prison that although prisoners had the right to appeal against a punishment, the number of such punishments overturned on appeal was minimal.

Prisoners at Van F-type prison reported to the Van branches of the non-governmental organizations (NGOs) Association of Human Rights and Solidarity for the Oppressed (Mazlum Der) and the Human Rights Association (İnsan Hakları Derneği) that a large number of prisoners were given disciplinary punishments for expressing solidarity with other prisoners who had made a complaint about the practice of forcing those convicted of membership of the Kurdistan Workers' Party (PKK) to share cells with former PKK members who had become informers.

There were complaints by prisoners of excessive and arbitrary body searches on the way to meetings with visitors (family members or lawyers) for both open and closed meetings. Prisoners reported that they were searched twice on being escorted to the meeting and twice on being escorted back to the cell, and complained of the body searches being humiliating and intrusive. There were particular complaints in July from women prisoners at Sincan Women's Prison - Nilüfer Şahin, Figen Çağrı and Necla Çomak - of being beaten during their 29 June transfer from Ankara Central Prison (Ulucanlar) to Sincan L-type Women's Closed Prison, and on arrival of being forcibly subjected to strip searches and attempted anal and vaginal examinations. Complaints by prisoners of being ill-treated were mostly reported as occurring during prisoner transfer, and some prisoners complained of being taken to court hearings handcuffed so tightly as to cause pain and of the humiliation of not being uncuffed to go to the toilet. There were also reports of prisoners being beaten during routine head counts.

There were alarming allegations documented by the Izmir Independent Prison Monitoring Group, made up of Izmir branches of different human rights NGOs, the Contemporary Lawyers Association and the Medical Chamber, relating to Izmir Kırklar F-type prisons Nos. 1 and 2. Representatives of the Group interviewed 10 prisoners remanded or convicted of ordinary crimes (in the context of organized crime) who alleged that one form of disciplinary punishment in the prison consisted of being placed in a small cell with padded walls and of being subjected to a form of restraint known as the "hogtie" (*domuz bağı*). The prisoners reported that they had been left for prolonged periods with their wrists bound behind their backs, their ankles bound, and wrists then bound to ankles, so that they were left lying on the floor. AI has documented numerous deaths in US police custody as a result of restraint procedures such as the "hogtie" which are known to be dangerous; such practices can severely restrict breathing

and can lead to death from "positional asphyxia", especially when the subject is agitated or under the influence of drugs. AI has campaigned for such forms of restraint to be banned (for example, the USA and Canada; see AI Index: AMR 51/35/98 and website

<http://www.rightsforall.amnesty.org/info/report/r03.htm#>). AI considers that restraint of this kind in a prison cell may amount to torture. In the Izmir case, handcuffs, rags, sheets and binding tape had reportedly been used and some prisoners reported the humiliation of being fed while hogtied by prison guards and of not being untied to go to the toilet. It was reported to AI that the allegations of the use of this form of punishment were under investigation by the public prosecutor in Izmir, though lawyers expressed concern that the prosecutor conducting the investigation was the same individual responsible for the day-to-day monitoring of the prison and that this could constitute an obstacle to an independent and effective inquiry.

Some groups of prisoners associated with left-wing political groups focused their complaints on the isolation-type regime in F-type prisons: they continued to oppose a prison regime in which individual prisoners were prevented from associating with those from the same or related political traditions to their own, and were offered very limited possibilities of associating with prisoners selected by the prison authorities. These prisoners continued to demonstrate their principled opposition to the F-type regime *per se* by boycotting the available opportunities for participating in out-of-cell activity such as workshops. The lawyer Behiç Aşçı from the law firm, the People's Law Office (Halkın Hukuk Burosu) continued a "death fast" begun in April 2006 in protest at the F-type isolation regime. On 28 December, the Union of Turkish Medical Chambers (Türk Tabipleri Birliği) undertook an inspection visit to Tekirdağ F-type Prisons Nos. 1 and 2 and concluded that the regime there amounted to isolation or small-group isolation and that this had serious repercussions for the psychological and physical health of prisoners.

Comparing the current implementation of regulations in F-types with the guidelines developed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) about out-of-cell activity and association time, AI considered that the stark disparity between the two demonstrated that an isolation or small-group isolation regime continued to be perpetuated.

On 6 September, the report of the CPT's visit to Turkey on 7-14 December 2005 visit was published. The report made a number of criticisms of two F-type prisons, Adana F-type and Tekirdağ F-type Nos. 1 and 2. Some of the CPT's criticisms can be summarized as follows.

The situation of communal activities for prisoners outside their living units remained "highly unsatisfactory" with workshops not used by prisoners and "very limited possibilities for association (conversation) periods and sport". While there was a legal provision of five hours per week conversation time for groups of up to 10 persons, such an arrangement was not on offer in the establishments they visited and in Adana F-type, for example, where prisoners desired to participate one-hour sessions were being offered five or six times per month. The CPT thus concluded that taking into account participation in conversation groups, sport and visits – and noting that very few prisoners attended workshops – "a typical prisoner in Adana F-type would spend at best scarcely five hours a week outside his living unit". The CPT went on to conclude that at Tekirdağ F-type No 2, this would be six hours per month, including visits and phone calls, with only a few prisoners participating in workshops for up to 27 hours per week. The CPT therefore recommended that in order to overcome "the accusation of perpetuating a system of small-group isolation", the authorities take steps to develop communal activity programmes and that "immediate action should be taken to ensure ... a significant increase in the amount of association time offered per week, the goal being to reach the maximum permitted by the regulations". It should be

noted, as stated previously, that the regulations permitted only five hours association time through conversation groups made up of 10 people.

It is worth noting here that in its own guidelines (2nd General Report [CPT/Inf (92) 3]), the CPT has recommended that:

"...prisoners cannot simply be left to languish for weeks, possibly months, locked up in their cells, and this regardless of how good material conditions might be within the cells. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable." [emphasis added]

It can be assumed here that "purposeful activity of a varied nature" out of cell should also include social contact and association time with other prisoners. AI was of the view that, according to CPT guidelines, a prison regime which did not have adverse effects on the psychological and physical well-being of prisoners required very significantly more than the five hour per week association time through conversation periods specified in the Turkish regulations (Ministry of Justice Prisons Directorate Regulation No. 45, 01/01/2006). Indeed in its 11<sup>th</sup> General Report [CPT/Inf (2001) 16], the CPT specified that in high-security units (in the case of Turkey, this would be F-types), prisoners "should enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities." On the basis of this reasoning, AI considered that the restriction of association time to five-hour per week conversation groups – reported by the CPT and many lawyers not to be implemented in practice – could constitute cruel, inhuman or degrading treatment.

In its September report the CPT also raised serious concerns about the solitary confinement regime applied to those prisoners serving aggravated life sentences barring them from any form of contact with other prisoners and participation in activities. In this context too, AI continued to be concerned about the isolation regime imposed on the imprisoned leader of the PKK, Abdullah Öcalan, still held in solitary confinement on İmralı Island and regularly denied visits from lawyers and relatives on the grounds of weather conditions preventing access to the island.

3) The range and content of the available out-of-cell activities (workshops for ceramics and so on, religious education courses) remained limited and reports from prisoners via their lawyers suggested that for those prisoners who chose to participate the conditions of participation were themselves restrictive of reasonable social interaction between prisoners. It was reported that prisoners who participated in workshops in Tekirdağ F-type Prison Nos. 1 and 2 were quite strictly prevented from communication with other prisoners and were liable to be excluded on grounds of "straying from the purpose" of the workshop by talking.

4) Health care and psychiatric provision in F-type prisons continued to be areas where resources were extremely inadequate and the decisions about the welfare of prisoners with health conditions seemed to be arbitrary and harsh. This was an area which the CPT addressed once again in its September report.

The prisoner Savaş Kör completed his sentence in November and was discharged from Kandıra F-type prison suffering extreme physical and psychological ill-health. His extreme ill-health reportedly originated from a prolonged hunger strike resulting in Wernike Korsakoff syndrome for which he had been discharged from prison in July 2001. His condition was reportedly exacerbated when he was returned to prison in January 2004 after receiving a finalized sentence and being denied the appropriate care and treatment for

someone in such an extreme condition. He was blind on leaving prison and was admitted to hospital for intensive and long-term treatment.

### **Bombings**

On 12 September a bomb in a public park in the Bağlar neighbourhood of Diyarbakır killed 10 people. The dead included four children and three infants from two families. Although at the year end an investigation into the incident was continuing and no individual had been convicted, responsibility for the bombing was claimed on a website posted soon after the incident by the Turkish Revenge Brigade (Türk İntikam Tugayı), a shadowy ultra-nationalist group which has in the past claimed responsibility for bombings and armed attacks.

Following the PKK ceasefire with effect from 1 October, there was a decline in the number of armed clashes between the military and the PKK and a decline too in bombings of civilian targets by perpetrators whose identity was not always clear.

### **Fair Trial concerns**

Following its 9 to 20 October visit to Turkey, the UN Working Group on Arbitrary Detentions raised a number of concerns about prolonged trial proceedings and unrestricted pre-trial detention for those charged under anti-terrorism legislation, commenting: "Their trials register a perfunctory hearing every month or two. The prosecutors told us that evidence was still being gathered and analysed, but it is not clear to us what evidence could possibly need to be analysed thirteen years after the terrorist crime was committed, no matter how complex the case is." The Working Group also raised concerns about the delayed entry into force of legislation introducing a limit to remand detention pending a final verdict. Limits were introduced in the 2005 Criminal Procedure Code but are not due to enter into force until April 2008. The Working Group also commented on the continued use in court of evidence based on statements made to

the police in the absence of a lawyer and allegedly under torture, despite the 1 June change in the Criminal Procedure Code which requires that interviews are made in the presence of a lawyer. Calling on the government to extend the application of the provision also to pending cases in which such statements were made before 1 June 2005, the Group issued the reminder that "Turkey's obligations under the Convention Against Torture and fundamental considerations of justice require it".

These concerns, and others relating to unfair trials, were documented at length in AI's report, *Turkey: Justice Delayed and Denied: The persistence of protracted and unfair trials for those charged under anti-terrorism legislation*, AI Index: EUR 44/013/2006).

### **Conscientious objectors**

In a retrial in October, Sivas Military Court sentenced conscientious objector Mehmet Tarhan (pictured below) to two years and one month's imprisonment on two charges of insubordination following his refusal on two occasions to perform military service (see AI Index: EUR 44/019/2006). At the year end he was at liberty. If imprisoned, AI would once more consider him to be a prisoner of conscience.



Conscientious objector Halil Savda was taken into custody at the first hearing of his retrial at the Çorlu Military Court on 7 December on charges of insubordination for refusal to perform military service. He had been sentenced to a three-year prison sentence in January 2005 for insubordination, a conviction overturned by the Military Appeals Court in August 2006.

### Violence against Women

A circular from the Prime Minister in July, outlining measures to combat violence against women and children, and to prevent so-called "honour killings", represented a step towards acknowledging an entrenched and endemic problem. In December, Parliament passed revisions to the Law on the Protection of the Family, widening its scope.

## TURKMENISTAN

### Political developments

According to official reports, President Saparmurad Niyazov died early on 21 December of cardiac arrest. The same day the State Security Council and the Cabinet of Ministers of Turkmenistan appointed Deputy Prime Minister and Minister of Health and Medical Industries Kurbanguly Berdymukhammedov as acting President. On 22 December President Niyazov's constitutionally designated successor, the chairman of the *Mejlis* (Parliament), was dismissed and criminal charges were reportedly brought against him.

On 26 December the *Halk Maslahaty* (People's Council) approved the nomination of the acting President and another five candidates for Presidential elections due to take place on 11 February 2007. All were members of the Democratic Party of Turkmenistan, the only registered party in the country. The interim government ignored calls by exiled opposition groups to allow opposition leaders to run in the Presidential elections.

### International scrutiny

The UN Secretary General, reporting to the UN General Assembly in October, concluded that "gross and systematic violations of human rights continued in [Turkmenistan], notwithstanding gestures by the government". He highlighted the plight of human rights defenders and minorities, restrictions on freedom of expression and religion, the use of torture, the absence of an independent judiciary, and the limited access to health care and education. He reiterated calls made in recent years by the UN General Assembly and the UN Commission on Human Rights that Turkmenistan invite the special mechanisms of the UN Human Rights Council to visit the country.

### Death in custody of prisoner of conscience Ogulsapar Muradova and imprisonment of two co-defendants (update to AI Index: EUR 01/017/2006)



Ogulsapar Muradova

Between 16 and 19 June four human rights defenders – Annakurban Amanklychev, Sapardurdy Khadzhev, Ogulsapar Muradova and Elena Ovezova – were taken



into custody; in addition, Ogulsapar Muradova's three adult children were detained. On 1 July Elena Ovezova and Ogulsapar Muradova's children were released. There were allegations that Annakurban Amanklychev, Sapardurdy Khadzhev and Ogulsapar Muradova, members of the human rights group Turkmenistan Helsinki Foundation (THF), were ill-treated in detention, and that Annakurban Amanklychev and Ogulsapar Muradova were given psychotropic drugs in an attempt to extract "confessions" and to force them to incriminate each other.

On 25 August Azatlyk district court in Ashgabat sentenced Ogulsapar Muradova to six years' imprisonment and both Annakurban Amanklychev and Sapardurdy Khadzhev to seven years' imprisonment, in a trial that reportedly lasted less than two hours. The three were charged with "illegal acquisition, possession or sale of ammunition or firearms" (Article 287, part 2 of the Criminal Code of Turkmenistan). Their lawyers were reportedly not given the indictment before the trial commenced. International observers and relatives of the defendants were barred from the trial. Officers from the Ministry of National Security who were sitting in a car near the court building filmed everybody who came close to the building and other officers who were standing on the street recorded the names of anybody they could identify. The defendants' relatives were unable to obtain a copy of the verdict.

AI adopted the three as prisoners of conscience, believing the charges against them to have been fabricated and not proven in a fair trial. On 19 June the Minister of National Security of Turkmenistan had publicly stated that Annakurban Amanklychev had been engaged in "subversive activities" and planned a revolution in Turkmenistan. The accusations mainly related to attendance of human rights courses in Poland and Ukraine; the gathering and passing on of human rights-related information to the director of the THF in Bulgaria; and cooperation with foreign journalists.

According to a 28 August press release issued by Miklos Haraszi, the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe (OSCE), Turkmenistani government sources had informed him earlier that Annakurban Amanklychev had been "apprehended during 'illegal collection of information in order to encourage public dissatisfaction' and for 'transmitting materials to foreign citizens'". He and Ogulsapar Muradova were "involved in criminal activities related to organiz[ing] subversive acts and collect[ing] defamatory information in Turkmenistan in order to create public dissatisfaction".

In September Ogulsapar Muradova died in custody in suspicious circumstances. When her children were shown her body in the morgue in Ashgabat they reported to have seen "a huge wound on her forehead and marks on her neck". The authorities failed to open a prompt, thorough and impartial investigation into her death.

**Prisoner Geldy Kyarizov  
 "disappeared" (update to AI Index:  
 EUR 61/003/2005)**



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*Geldy Kyarizov*

Yulia Serebryannik, Geldy Kyarizov's wife, had permission to visit him in the prison in Turkmenabad (formerly Chardzhou) in the eastern Lebap region on 2 September but when she arrived she was told that her husband had been transferred to another place. The prison director reportedly said that he did not know his whereabouts.

Before his "disappearance" Geldy Kyarizov had been in poor health and relied on medication that his wife, a doctor, brought to him in detention. The authorities had not provided him with appropriate medical treatment. Geldy Kyarizov had two heart attacks and a stroke and suffered from pneumonia while in pre-trial detention.

On 18 September an official of the Ministry of Internal Affairs reportedly informed Yulia Serebryannik that Geldy Kyarizov was not registered as an inmate in any detention facility run by his Ministry. On 13 December Geldy Kyarizov's family was visited by a man who introduced himself as an official of the Ministry of National Security but did not present any identification. He reportedly told them that Geldy Kyarizov had been tortured to death. Repeated attempts by the family to receive information about his fate from the authorities were unsuccessful.

Geldy Kyarizov, former director of the government association Turkmenatlary (Turkmen Horses) and an internationally renowned breeder of Akhalteke horses, had been detained on 30 January 2002. He was sentenced to six years' imprisonment by Ashgabat city court on 4 April 2002 on charges including "abuse of office" and "negligence". It was alleged that he was charged arbitrarily after falling out of favour with the late President Niyazov. It was believed that Geldy Kyarizov had been caught up in the politically motivated clampdown on senior government officials carried out by the then authorities. As part of the clampdown numerous officials were demoted or dismissed from their workplaces, and scores were imprisoned.

While Geldy Kyarizov was in pre-trial detention, officers of the Ministry of National Security reportedly pressurized him to "confess" to the charges. For example, three officers reportedly tortured a detainee in Geldy Kyarizov's presence by giving the detainee electric shocks to his genitals. Geldy Kyarizov was reportedly frequently interrogated during this period for 24 hours without a break.

**Prisoner of conscience Kakabay Tedzhenov released (update to AI Index: EUR 01/017/2006)**

Kakabay Tedzhenov, aged 70, was forcibly confined in medical institutions, mostly in a psychiatric hospital in Garashsyzyk district in the eastern Lebap region, from January 2006 until October, when he was released following international pressure. Upon his release he reportedly had to sign an undertaking stating that he would refrain from political statements in the future. AI believed he was being punished for protesting at government policies and adopted him as a prisoner of conscience. In February the Turkmenistan delegation to the OSCE had told all participating states that Kakabay Tedzhenov had never been detained or confined in a medical institution.

**Hare Krishna devotee Cheper Annaniyazova freed under Presidential amnesty (update to AI Index: EUR 01/007/2006)**

Hare Krishna devotee Cheper Annaniyazova was freed under a Presidential amnesty on 19 October. She was released from the women's prison colony in Dashoguz near the border with Uzbekistan and returned to her family in Ashgabat. She was released under the condition that she had to report to the police on a daily basis. It was reportedly unlikely that she would be allowed to travel abroad for at least four years, as has been the case with other amnestied prisoners.

Cheper Annaniyazova had been sentenced to seven years' imprisonment on 17 November 2005 by Ashgabat city court. There were allegations that she was targeted to punish her for peacefully exercising her right to freedom of religion and belief.

**Incommunicado imprisonment (update to AI Indexes: EUR 61/003/2005 and EUR 01/007/2006)**

Dozens of prisoners sentenced following unfair trials in connection with the 2002

alleged assassination attempt continued to be held incommunicado, denied all access to families, lawyers and independent bodies including the International Committee of the Red Cross. There were allegations that many had been tortured and ill-treated following their arrests, and that some had died as a result of torture, ill-treatment and harsh prison conditions. The authorities failed to conduct thorough or impartial investigations into the allegations, or to let families or lawyers know whether the prisoners were alive or dead.

In October President Niyazov announced that eight prisoners serving sentences in connection with the alleged assassination attempt would be released in a forthcoming amnesty. The eight had repented, "were not involved much and did not use arms", he said. None of those prisoners known to have been convicted of involvement in the alleged coup attempt was included in the published amnesty list.

#### **Environmental activist Andrei Zatoka detained**

On 17 December Andrei Zatoka was detained by local police at the airport at his home town of Dashoguz, near the border with Uzbekistan. He had been preparing to fly to the capital, Ashgabat, and then on to Moscow the following day, to meet with members of the non-governmental International Social and Ecological Union and to spend his holidays with his family in Russia. Reportedly, he was initially arrested for an alleged breach of public order and remained in detention in the facilities of Dashoguz city police at the end of the period under review. There were allegations that he was targeted to punish him for his peaceful work as an environmental activist.

#### **Nurberdi Nurmamedov reportedly detained by Ministry of National Security officers**

According to reports issued by exiled opposition politicians, Nurberdi Nurmamedov, a former leader of the opposition group Agzybirlik, was detained

by officers of the Ministry of National Security on 23 December and released on 28 December. The sources alleged that he was targeted in connection with a recent interview he had given to the US-funded *Radio Liberty* where he commented on the future of Turkmenistan following President Niyazov's death.

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## **UKRAINE**

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### **International Scrutiny of Human Rights**

In October, the UN Human Rights Committee (HRC) considered Ukraine's sixth periodic report on implementation of the International Covenant on Civil and Political Rights. AI had briefed the HRC on its concerns (see *Ukraine: Briefing to the UN Human Rights Committee*, June 2006, AI Index: EUR 50/003/2006). Many of these concerns were shared by the HRC, which issued a number of recommendations regarding torture and ill-treatment in police custody, the rights of refugees and asylum-seekers, domestic violence and anti-semitic and racist attacks (see below).

Thomas Hammarberg, the Human Rights Commissioner of the Council of Europe, visited Ukraine in December. Speaking to the press at the conclusion of his visit he said that "incidents of police torture of detained suspects and hate crimes continue in Ukraine despite progress in protection of human rights". He also drew attention to discrimination against Roma and the continuing problem of corruption in the judicial system. A full report on this visit will be published in April 2007.

### **Racist attacks/discrimination**

In August the UN Committee on the Elimination of Racism and Discrimination (CERD) reviewed Ukraine's eighteenth periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. In its submission, the

Ukrainian government had stated that "racial discrimination in all its forms [had] been eliminated in Ukraine and the equality of every person before the law [had] been secured." However, non-governmental organizations (NGOs) continued to report incidents of racist attacks and discrimination. The CERD recommended among other things that Ukraine should "take preventative measures against acts directed against persons or religious sites belonging to minorities and that it investigates such acts and bring perpetrators to justice".

In October Kunuon Mievi Godi, a Nigerian man who had been resident in Ukraine for 25 years was stabbed and killed near Poznyaki metro station on the outskirts of Kyiv by a group reportedly shouting racist slogans. The attackers did not steal the US\$400 that the victim was carrying. On 15 November a suspect was detained. In a television interview on 2 December the Kyiv Prosecutor stated that the attack had been racially motivated, and that the suspect would be charged under Article 161 of the Criminal Code (Violation of citizens' equality based on their race, nationality or religious preferences).

According to a report published by the European Roma Rights Centre in December, Roma in Ukraine face widespread racial discrimination which remained unaddressed by the government. The report highlighted racially motivated violence from state and non-state actors, racial discrimination in the criminal justice system, and the denial of access to education, health care and housing because of lack of identification documents. In its conclusions the CERD had also called for all Roma to be issued with identification documents.

### **Violence against Women**

AI was concerned that provisions in the Law on the Prevention of Violence in the Family allowed victims of domestic violence to be given a warning for "victim behaviour", perpetuating the myth that women are to blame for the violence inflicted on them and encouraging impunity for the perpetrators.

There were very few shelters designed especially for women victims of domestic violence, and women who attempted to take perpetrators to court were hampered by corruption in the criminal justice system and by derisory sentences handed down by the courts. In November, AI presented a briefing on domestic violence in Ukraine to a roundtable hosted by the Ministry for Family Youth and Sport. AI recommended amendments to the Law on the Prevention of Violence in the Family to exclude the concept of "victim behaviour", and to provide more detail on the nature of institutions and services foreseen by the law. AI also recommended an end to the practice of imposing fines for domestic violence; secure and long-term funding for a network of appropriate shelters; better statistical information; more public awareness campaigns; and better training for law enforcement officers. Following the roundtable, a proposal was submitted to parliament by a group of deputies calling for, among other things, changes to the administrative code to replace the punishment of a fine for domestic violence with corrective labour for one month, and changes to the Law on the Prevention of Violence in the Family to exclude the concept of "victim behaviour" and to specifically mention shelters.

The HRC called on Ukraine to 'intensify efforts to combat domestic violence, and ensure that social and medical centres for rehabilitation are available for all victims'.

In December the International Organization for Migration published the results of a survey of the prevalence of human trafficking in Belarus, Bulgaria, Moldova, Romania and Ukraine. The survey found that the highest rate of human trafficking was to be found in Ukraine. Rural residents in all countries were found to have the lowest level of awareness about the dangers of trafficking.

### **Torture and Ill-treatment**

In September Ukraine ratified the Optional Protocol to the UN Convention against Torture (OPCAT). To comply with the

requirements of the OPCAT, the government is required to establish a truly independent and transparent body to monitor places of detention. Torture and ill-treatment in police custody continued to be widespread. In its concluding observations the HRC called on Ukraine to "ensure the safety and proper treatment of all persons held in custody by the police, including measures necessary to guarantee freedom from torture and from cruel, inhuman or degrading treatment." The HRC also recommended that Ukraine should "provide for the independent inspection of detention facilities, with the authority to interview any inmates in private."

#### **Murder of Georgiy Gongadze (Update to AI Index: EUR 01/012/2005)**

The trial against three police officers charged with murdering the investigative journalist, Georgiy Gongadze in 2000, continued, but little progress was made. In July a rapporteur for the Parliamentary Assembly of the Council of Europe expressed disappointment at the lack of progress in investigating the instigators and organizers of the killing as opposed to the perpetrators. In August the journalist's mother announced that she would no longer attend court hearings because of her lack of confidence in the trial's outcome. In September, at a rally to commemorate the death of the journalist, the Minister of Internal Affairs said prosecutors lacked the "political will" to solve the murder. In November, the Ministry of Justice informed Georgiy Gongadze's widow that it had stopped an investigation into the issues raised by a European Court ruling of November 2005. The European Court ruled that the Ukrainian authorities had violated Article 2 (the right to life), Article 3 (prohibition of inhuman or degrading treatment) and Article 13 (right to an effective remedy), of the European Convention for the Protection of Human Rights and Fundamental Freedoms, and expressed "serious doubts" about the authorities' commitment to investigating the case thoroughly.

## **UNITED KINGDOM**

### **Universal jurisdiction**

In August, AI wrote to the Attorney General warning that the UK may become a safe haven for people suspected of committing genocide (see AI Index: EUR 45/013/2006). The letter expressed grave concern that, despite the UK's obligations under international law, the UK authorities had so far failed to conduct an investigation into allegations against two Rwandan nationals who were living in the UK, both of whom were subjects of international arrest warrants issued by the Rwandan government for the crime of genocide. AI called on the UK authorities to either prosecute these two individuals in the UK guaranteeing them the right to a fair trial or to extradite them to a third country that would be willing to prosecute them in proceedings fully consistent with the right to a fair trial.

### **Terrorism measures**

#### *Pre-charge detention*

At the end of July, the provisions in the Terrorism Act 2006 allowing for an extension of detention without charge from 14 to 28 days for people arrested under terrorism legislation came into force. AI was unreservedly opposed to any such extension, and considered that the previous limit of 14 days was already very long. Prolonged detention without charge or trial undermines fair trial rights, including the right to be promptly informed of any charges, the rights to be free from arbitrary detention, torture or other ill-treatment and the presumption of innocence. The organization's worldwide monitoring over decades has shown that prolonged pre-charge detention creates a climate for abusive practices that can result in detainees making involuntary statements, including confessions, and undermines confidence in the administration of justice.

*"Control orders"*

In the period under review, instead of bringing people to justice, the UK authorities continued to impose "control orders" under the Prevention of Terrorism Act 2005 (PTA) on individuals allegedly involved in "terrorism-related activity". Consequent judicial proceedings were profoundly unfair, denying individuals the right to a fair hearing, including because of heavy reliance on secret hearings in which intelligence information had been withheld from the appellants and their lawyers of choice, as well as a particularly low standard of proof.

In addition, the conditions imposed under some "control orders" pursuant to the PTA amounted to imprisonment without charge or trial by other means; this was confirmed by a judgment of the High Court of England and Wales in June. In August the Home Secretary lost his appeal against the ruling of the High Court that had quashed the "control orders" against six foreign nationals. The Court of Appeal of England and Wales upheld the June High Court ruling that had found that the obligations imposed on the six men, including a daily curfew confining each man to a small flat for 18 hours a day, amounted to deprivation of liberty contrary to Article 5 (enshrining the right to liberty) of the European Convention on Human Rights (ECHR); and that, in the circumstances, the Home Secretary had made these orders unlawfully.

However, on the same day the Court of Appeal of England and Wales allowed the Home Secretary's appeal against a judgment by the High Court of England and Wales that the procedure under the PTA was incompatible with the right to a fair trial under Article 6 of the ECHR. The Court of Appeal overturned the High Court judgment and held that the provisions for review by the court of the making of a non-derogating "control order" by the Home Secretary did comply with the requirements of Article 6.

Nonetheless, the Court of Appeal clarified the following issues: a) the Home Secretary was under a duty to keep the decision to impose a "control order" under continual review, so as to ensure that the restrictions imposed be no greater than necessary; b) the PTA required the court to consider whether the Home Secretary's decisions in relation to a "control order" were flawed in the light of the circumstances which existed at the time that the court came to determine the issue -- rather than considering the circumstances which existed at the time that the Home Secretary had made these decisions; c) the standard of review which the court was capable of discharging under the PTA did not fall short of that required to satisfy Article 6 of the ECHR. Under the PTA the court had to consider whether there were reasonable grounds for suspicion that the person against whom the "control order" had been imposed was involved in "terrorism-related activity". In doing so, the Court of Appeal held that the correct approach for the court was to consider a matrix of alleged facts, some of which would be clear beyond reasonable doubt, some of which would be established on the basis that they were more likely than not, and some of which would be based on no more than circumstances giving rise to suspicion. The court held that the exercise of establishing whether this "matrix" as a whole amounted to reasonable grounds for suspicion was, therefore, different from that of deciding whether a given fact had been established according to a specified standard of proof. What was required, in order to satisfy Article 6, was that the overall procedure for determining whether reasonable grounds for suspicion existed would be fair; and d) the PTA contained appropriate safeguards to mitigate the unfairness arising from the fact that the grounds of suspicion were not disclosed to the person concerned.

In December, 16 "control orders" were in force, seven of which were against UK nationals.

*Detention of people arrested under terrorism legislation*

In August the European Committee for the Prevention of Torture (CPT) published the reports on its visits to the UK in July and November 2005. It found that the Special Security Unit in Full Sutton Prison was inappropriate for holding people who had previously been interned, in some cases for more than three years; that the threat of deportation to countries where people had apparently suffered torture or other ill-treatment increased the possibility of self-inflicted deaths in custody; that the detainees' medical examination always took place within the hearing of prison officers; that some detainees had not had prompt access to a lawyer following arrest; and that during transport detainees were handcuffed despite being locked inside metal cages. The CPT found that people detained under terrorism legislation were not physically brought before a judge, even for the initial authorization to extend police custody beyond 48 hours. Instead, conferences by video link were held, with the detainee guarded by police officers on one end of the link and the judge on the other end. It recommended that legislation be amended to ensure that anyone arrested has access to a lawyer from the outset of their detention. The CPT also reiterated that the conditions at Paddington Green High Security Police Station were inadequate for prolonged detention.

*Appeals against deportations on national security grounds before the Special Immigration Appeals Commission (update to AI Index: EUR 45/004/2006)*

Throughout the period under review, instead of bringing people to justice, the authorities continued to seek to deport individuals they asserted posed a threat to "national security". Those attempts continued despite the fact that the men concerned would face a real risk of serious human rights violations, including torture or other ill-treatment, if returned to their country of origin. Up until August 2005, the UK authorities had themselves recognized

that, as a result of that risk, under the UK's domestic and international human rights law obligations, none of these men could lawfully be deported back to their country of origin. The authorities' attempts to deport these men began in August 2005 and were continuing at the end of the period under review. Some of these men were asylum-seekers in the UK; while others had been granted refugee status by the UK authorities. AI considered that these attempts were contrary to the prohibition of sending persons to countries where faced a real risk of serious human rights violations.

The UK authorities maintained that these men posed a threat to the "national security" of the UK, and that, therefore, their presence in the country was "not conducive to the public good". They also asserted that these deportation attempts were a last resort since they did not have sufficient evidence to bring charges against the men. The UK authorities' claims against these men were based on secret information, including intelligence material, never disclosed to the individuals concerned or their lawyers of choice.

In August 2005, the UK authorities had asserted that they would successfully negotiate a framework agreement with their Algerian counterparts for obtaining assurances, known as a Memorandum of Understanding (MoU), with a view to ensuring that deportees' human rights be respected upon return. This MoU, the UK authorities maintained, would allow the UK to deport a number of men to Algeria safely and lawfully. In the UK authorities' original scheme, their MoU with Algeria would be "enforced" by a complementing monitoring mechanism which would ensure that the human rights guarantees were respected in each case.

At that time, the UK authorities asserted that, but for the successful completion of the MoU with Algeria, none of these men could be lawfully deported to that country.

In August 2005 deportation proceedings began before the Special Immigration Appeals Commission (SIAC) with the men appealing against the deportation orders

issued by the UK authorities on "national security" grounds. The appeals before SIAC in which people can attempt to challenge orders for deportation on "national security" grounds are inherently profoundly unfair because of heavy reliance on closed hearings in which secret information, including intelligence material, is considered in the absence of the individuals concerned and their lawyers of choice, and because of the application of a particularly low standard of proof.

In November 2005, with no MoU with Algeria in sight, the UK authorities continued to assert in court that the successful conclusion of the MoU would be announced shortly. In March 2006, after months of legal wrangling and an inordinate delay, the UK authorities admitted in court proceedings monitored by AI that the successful conclusion of the MoU with Algeria was still "months away" and asked the court to grant them more time in which to conclude the MoU. The judge ruled that the appeals would proceed and rejected the UK authorities' request for more time.

Shortly afterwards, the UK authorities admitted in court that they had failed to get the MoU with the Algerians. According to the evidence presented by a UK Foreign Office diplomat to the court in April/May 2006, the Algerian authorities had assured their UK counterparts that, once back in Algeria, the deportees would be detained only for a few days before being released. However, during cross-examination, he also admitted that: the Algerians had only provided oral assurances without any written confirmation; that the UK authorities had not requested any such confirmation; and that the UK authorities had not kept a written record of their discussions with their Algerian counterparts.

The UK authorities maintained that measures taken by the Algerian authorities with the stated intention of consolidating "national reconciliation" made the need for an MoU and the monitoring mechanism redundant. They referred, in particular, to the Charter for Peace and National Reconciliation, a framework document

adopted by national referendum in 2005 in Algeria, and an amnesty law issued under presidential decree on 28 February 2006 to implement the Charter. The amnesty law notably granted exemption from prosecution to members of armed groups who surrendered to the authorities within a six-month period and provided for the release under an amnesty of some 2,200 people who had been charged with or convicted of involvement in terrorist activities.

According to the arguments presented by the UK authorities to SIAC over the course of a number of cases involving Algerian men, the events in Algeria were such that, as far as these deportations were concerned, the UK would be complying with its human rights obligations by simply obtaining assurances from the Algerian authorities on a case-by-case basis. Accordingly, each man would receive assurances that he would be treated humanely and that, under the terms of the Charter and the amnesty law, he would be granted immunity from prosecution and that, therefore, any proceedings pending against him in Algeria would be extinguished.

On this basis, on 24 August 2006, SIAC dismissed the appeal of Mustapha Taleb (formerly known for legal reasons only as "Y", see below) against his deportation on "national security" grounds to Algeria. SIAC held that he would be automatically released from custody in relation to any outstanding charges in Algeria. However, in September, the Algerian authorities informed their UK counterparts that SIAC's interpretation of the amnesty law (and the right to immediate release from custody) was not an interpretation that had been recognized under Algerian law; nor was it the underlying purpose of the particular release provisions upon which SIAC had relied.

Moreover, the amnesty law only applied to people involved in activities within Algeria who had presented themselves to the authorities within six months of the issuing of the law, and not to those against whom



there were allegations that they were involved in criminal activities abroad, such as "participation in a terrorist network operating abroad".

#### *Mustapha Taleb*

Mustapha Taleb survived torture in Algeria and came to the UK where he was granted refugee status. Mustapha Taleb was among those who were charged, tried and eventually acquitted in 2005 of all charges in the UK in connection with an alleged conspiracy to produce poisons and/or explosives. After his acquittal of all charges, he was released from custody in April 2005, where he had been held since January 2003. Later, in 2005, he was re-arrested and held pending deportation to Algeria on "national security" grounds.

Mustapha Taleb appealed to SIAC against being labelled a risk to "national security" by the UK authorities, as well as on the grounds that returning him to Algeria would expose him to a real risk of torture. AI delegates monitored the majority of the open hearings before SIAC of Mustapha Taleb's challenge against his deportation. Despite his previous acquittal on all charges, the UK authorities' case against him during these open hearings, for the most part, consisted of the same allegations that had been made at the criminal trial.

In reaching its decision in Mustapha Taleb's case, SIAC relied on secret intelligence provided by the UK authorities that was withheld from him, his lawyers of choice and the public. The SIAC proceedings were profoundly unfair, denying Mustapha Taleb the right to a fair hearing and making it impossible for him to effectively refute the UK authorities' case that he was a "national security" risk.

SIAC also failed to recognize the real risk of torture that Mustapha Taleb would face if he were deported to Algeria. If returned, it was likely that he would be taken into the custody of Algeria's intelligence agency known as the Department for Information and Security (*Département du renseignement et de la sécurité*, DRS), the

authority which specializes in interrogating people thought to possess information about terrorist activities, and is widely known to practise torture or other ill-treatment. The risk of torture faced by individuals who are arrested by the DRS has been extensively documented by AI.

Three of the jurors who had acquitted Mustapha Taleb in the criminal proceedings expressed their shock that despite his acquittal at the criminal trial, the exact same evidence was being used again in the open proceedings before SIAC to "justify his deportation".

On 24 August AI expressed dismay at this decision (see AI Index: EUR 45/014/2006 and AI Index: NWS 21/009/2006).

#### *Abu Qatada*

By the end of the year, a ruling was still awaited on a lead case involving reliance by the UK authorities on a MoU concluded in 2005 with Jordan. Up until the conclusion of this MoU -- which purported to provide a framework for diplomatic assurances that deportees' human rights would be respected -- the UK authorities recognized that Jordanian national Omar Mahmoud Mohammed Othman (also known as Abu Qatada) could not be returned there since he would be likely to face torture or other ill-treatment or other violations of his fundamental human rights.

Abu Qatada is a Jordanian national. In 1993, after arriving in the UK, he sought asylum for himself, his wife and three children. In 1994 he was granted refugee status by the UK authorities. He was interned without charge or trial in the UK under the now defunct Part 4 of the Anti-terrorism, Crime and Security Act 2001. In March 2005 he was "released" from detention and put under a "control order" under the PTA. He was then rearrested in August 2005 and held under immigration powers pending deportation on "national security" grounds to Jordan.

The UK and the Jordanian authorities had also agreed that the implementation of the MoU would be monitored by a local,

Jordanian, non-governmental organization, the Adaleh Centre for Human Rights Studies, purportedly to ensure its "enforcement". It had been said that, among other things, the Centre would be permitted access to Abu Qatada in detention. However, the MoU would not be enforceable under international law, UK and Jordanian law. Therefore it would provide no effective remedy to Abu Qatada in the event that he be tortured or otherwise ill-treated. AI considered that the existence of a monitoring body would not provide a safeguard against these practices.

In May 2006 the SIAC had heard Abu Qatada's appeal of against his deportation to Jordan on "national security" grounds. AI delegates had observed most of the open hearings before SIAC during which Abu Qatada's lawyers challenged the Home Secretary's decision to order his deportation to Jordan. The proceedings were deeply unfair, denying Abu Qatada the right to a fair hearing, and making it impossible for him to effectively refute the UK authorities' secret information, including intelligence material, that he was a "national security risk". In addition, AI had noted with extreme concern that the proceedings took place for the most part in secret, even when SIAC was reportedly considering the safety upon forcible return part of the appeal against deportation, rather than the "national security" grounds of the challenge.

During the open proceedings, ample evidence was adduced on behalf of Abu Qatada, showing that he would face a real risk of torture or other ill-treatment and/or other violations of his fundamental rights if returned to Jordan. The evidence presented by his lawyers included material published by AI extensively documenting the routine infliction of torture or other ill-treatment on "security suspects" in Jordan, a practice which occurred with impunity.

#### *Disclosure in SIAC cases*

In October, it emerged that, in breach of the SIAC rules, the Home Secretary had failed to disclose relevant material in an appeal by one individual against his

deportation on "national security" grounds. The SIAC concluded that there had been fault on the part of the Home Secretary. The latter had advanced an allegation against the above-mentioned individual during his appeal. However, the Home Secretary had then been forced to withdraw the same assertion in the context of another appeal.

It therefore appeared that secret intelligence presented by the UK authorities in cases involving "national security" was flawed, and that, but for a fortuitous coincidence, the SIAC would not have even been aware of the mistake. The SIAC had itself concluded that "The Commission should have been made aware of the full extent of the failure to disclose", and that "the administration of justice in the Commission is put at risk if failures in connection with disclosures of documents occur."

#### *Guantánamo detainees with UK links (update to AI Index: EUR 45/004/2006)*

At the end of the year, at least eight former UK residents continued to be held at the US detention camp in Guantánamo Bay, Cuba.

In July the UK authorities granted UK citizenship to David Hicks, an Australian national detained in Guantánamo Bay. The UK authorities had been forced to give effect to a December 2005 court ruling that David Hicks was entitled to be registered as a UK citizen and therefore to receive assistance from the UK authorities. The Court of Appeal of England and Wales had upheld this ruling and had refused the UK government permission to further appeal in April 2006. However, the government had successfully introduced measures to thwart the import of the ruling. As a result, a few hours after being granted citizenship, David Hicks was stripped of it. His appeal against this decision was pending.

In October, the Court of Appeal of England and Wales refused to order the UK authorities to make representations seeking the return to the UK of Bisher al-Rawi, an Iraqi national and long-term UK resident;

Jamil el-Banna, a Jordanian national with refugee status in the UK; and Omar Deghayes, a Libyan national also with refugee status in the UK.

AI considered that the Court had missed an opportunity to send a clear message to the UK government that it must fulfil its responsibilities towards all Guantánamo detainees, regardless of whether they were UK citizens or residents. AI pointed out that the UK had obligations under domestic and international law to make representations on behalf of all UK residents still held at Guantánamo Bay to ensure that their human rights were upheld (see AI Index: EUR 45/017/2006 and AI Index: EUR 45/018/2006).

Prior to the Court of Appeal ruling the UK authorities had announced that they had agreed to petition their US counterparts to seek the release and return to the UK only of Bisher al-Rawi. The announcement came after the emergence of allegations that, while in the UK, Bisher al-Rawi, at the request of the UK security services, had agreed to inform them about someone who, at the time, was in hiding and whom the authorities suspected of involvement with international terrorism. It was revealed that the UK security services had promised Bisher al-Rawi that they would assist him if he found himself in any difficulty.

It had also been alleged that the UK was involved in the arrest of both men in the Gambia and their eventual rendition to US custody. In light of this, AI continued to call for a full independent and impartial investigation into the UK's involvement in the cases of Bisher al-Rawi and Jamil el-Banna.

### *Renditions*

Despite the emergence of further evidence implicating the UK in the unlawful transfer of Bisher al-Rawi and Jamil el-Banna to US custody (see above) and in other known cases of renditions (illegal transfer of people between states outside of any judicial process), the government failed to

instigate an independent and impartial inquiry.

In August, in the context of its Counter-Terrorism Policy and Human Rights inquiry, the Parliamentary Joint Committee on Human Rights (JCHR) expressed regret that the Director General of the Security Service had refused an invitation to meet with the Committee to give evidence to it or to meet its members informally. In her refusal, the Director General had stated that all of the areas outlined in the JCHR's letter of invitation had been or were the subject of investigation by the Intelligence and Security Committee (ISC). The JCHR expressed concern that the head of the security services was not "prepared to answer questions from the parliamentary committee with responsibility for human rights". It stated that there was:

an increasingly urgent need to devise new mechanisms of independent accountability and oversight of both the security and intelligence agencies and the Government's claims based on intelligence information. In addition to more direct parliamentary accountability, we consider that in principle the idea of an 'arms length' monitoring body charged with oversight of the security and intelligence agencies, independent of the Government and those agencies, and reporting to Parliament, merits consideration in this country.

In October, AI delegates gave evidence to the ISC in the context of its inquiry into allegations of UK involvement in the US programme of renditions, including about the rendition of Bisher al-Rawi and Jamil el-Banna. Given that the ISC reported directly to the Prime Minister, and that it was the latter who, ultimately, decided whether to place before Parliament any ISC report and, also, the extent to which the report's content would undergo some redacting, AI considered that the ISC was not endowed with adequate independence from the executive. In addition, based on relevant domestic and international human rights law and standards pertaining to the independence, thoroughness, impartiality and effectiveness of investigations into

allegations of serious human rights violations, AI expressed its view that the then ongoing ISC inquiry was not capable of fulfilling these stringent requirements.

#### *Rashid Rauf*

In August, AI wrote to the Home Secretary about the case of Rashid Rauf, including the alleged role that the UK may have played in the treatment meted out to Rashid Rauf, and possibly others, at the hands of the Pakistani authorities. Rashid Rauf, a dual UK/Pakistani national, had been detained in Pakistan in early August. He had been identified in media reports as a key suspect in the alleged plot uncovered in early August in the UK to detonate liquid-based explosives on board US-bound airplanes after their departure from UK airports. Rashid Rauf was believed to be the brother of Tayib Rauf, who, in turn, had been among those arrested in the UK in connection with the above-mentioned plot. It had been reported Rashid Rauf had spoken under torture.

In its letter to the UK Home Secretary, AI expressed grave concern at reports that UK Metropolitan Police detectives had been in Islamabad to interrogate Rashid Rauf, and asked to be informed whether UK personnel had indeed interviewed Rashid Rauf, and if so in what circumstances, given the legal limbo in which he had been held by the Pakistani authorities, and the prevalence in Pakistan of torture of alleged terror suspects. In addition, AI requested information about whether UK personnel had in any way been involved in the arrest, interrogation and continued detention of Rashid Rauf, as well as that of any of the other individuals who had been held in Pakistan and had been linked to the alleged plot in the UK. AI expressed its continued concern about the use by the UK of information which may have been obtained through the use of torture or other ill-treatment in the context of measures taken by the UK authorities with the stated view of countering terrorism.

#### **The Al-Skeini case (update to AI Index: EUR 45/004/2006)**

##### *Baha Mousa*

In the reporting period, there was a major development in efforts to hold the armed forces of the UK legally accountable for the death of Baha Mousa. His death, together with those of five other Iraqi civilians killed at the hands of UK service personnel, at the time when the UK was an Occupying Power in Iraq, was at the centre of the UK court case of *R (Al-Skeini) v Secretary of State for Defence*. An appeal in this case was, at the end of the period under review, waiting to be heard by the Law Lords.

In September separate court martial proceedings began in the UK concerning allegations that seven UK servicemen stationed in Basra, Iraq -- at a time when the UK was an Occupying Power -- violated the rights of a number of Iraqis who had been arrested following a planned operation in September 2003. The allegations disclosed evidence that the UK servicemen may have committed war crimes. The court martial proceedings focussed, in particular, on one case, that of Baha Mousa, a 26-year-old Iraqi civilian father of two children, who sustained multiple injuries as a result of being ill-treated by UK soldiers both at the time of his arrest on 14 September 2003 at a hotel and during his detention at a British military base in Basra where he died, approximately some 36 hours later, on 15 September. When the trial opened in September, one of the seven defendants pleaded guilty to a charge of inhumane treatment of Baha Mousa. He pleaded not guilty to two further charges, namely, manslaughter of Baha Mousa and perverting the course of justice.

The proceedings confirmed that interrogation techniques, which, particularly when applied simultaneously or cumulatively, amounted to torture or other ill-treatment were used routinely on detainees held by the UK authorities, including on Baha Mousa and other Iraqis detained at the same time. They included: hooding detainees; keeping them in stress

positions; and depriving them of sleep. The UK had purportedly banned these techniques in the 1970's when their use was widespread in Northern Ireland. The European Court of Human Rights subsequently found that they amounted to a breach of Article 3 of the ECHR, prohibiting torture or other ill-treatment.

In light of this, AI considered that there had been a failure, at the highest level, on the part of the UK authorities to ensure that such techniques would never be reintroduced, including by devising and delivering appropriate training and legal advice. AI also continued to be concerned that the UK authorities had failed to conduct a prompt, independent, impartial and effective investigation into the case, thereby contravening the UK's obligations under domestic and international human rights law and standards, including Articles 2 (enshrining the right to life) and 3 of the ECHR. AI continued to urge the UK authorities to establish a civilian-led mechanism to investigate all suspected human rights violations by UK armed forces personnel. Such a mechanism should be capable of applying international human rights law and standards relevant to the investigations of allegations of serious human rights violations by the military.

By the end of the reporting period, the court martial proceedings had not concluded.

### **Police shootings**

#### *Forest Gate operation*

In August an investigation into the massive counter-terrorist operation, conducted by the police in June, that included forced entry into the home of Muhammad Abdulkahar and his family in Forest Gate, London, during which they shot and wounded him, concluded that the shot had been fired accidentally and that, in the circumstances, the officer involved had not committed any criminal or disciplinary offence. It also emerged that the operation was based on erroneous intelligence.

#### *The killing of Jean Charles de Menezes (update to AI Index: EUR 45/004/2006)*

In July the prosecuting authorities announced that no individual police officer would be prosecuted for any criminal offence in connection with the fatal shooting of Jean Charles de Menezes in London in 2005. Instead, they decided to prosecute the Office of the Commissioner of Police of the Metropolis under health and safety legislation, a prosecution which, if successful, could result in a financial penalty only. In September the inquest into the death of Jean Charles de Menezes was adjourned indefinitely pending completion of ongoing criminal proceedings against the Office of the Commissioner of Police. In December a legal challenge brought by the family of Jean Charles de Menezes against the prosecuting authorities' decision not to bring criminal charges against any individuals in connection with his killing was dismissed. AI called on the UK authorities to ensure prompt, full and public scrutiny of the allegations that the killing of Jean Charles de Menezes resulted from unlawful use of force; an immediate resumption of the inquest; and criminal charges to be brought against those individuals responsible for the killing of Jean Charles de Menezes (see AI Index: EUR 45/015/2006; AI Index: EUR 45/016/2006; AI Index: EUR 45/021/2006; AI Index: EUR 45/022/2006; and AI Index: NWS 21/011/2006).

#### *The death in police custody of Christopher Alder (update to AI Index: EUR 01/005/2004)*

In December the sister of Christopher Alder, who in 1998 had choked to death on the floor of a police station while handcuffed, won the right to sue the prosecuting authorities for racial discrimination in connection with their handling of the case.

### **Prisons**

By the end of the year, in England and Wales alone, the prison population soared to nearly 80,000, among the highest per capita worldwide. Police cells were used as

a result of the overcrowding crisis. Among other things, overcrowding continued to be linked to self-harm and self-inflicted deaths, greater risks to the safety of staff and inmates, and detention conditions amounting to cruel, inhuman and degrading treatment.

In November leaked internal official reports revealed that more than 160 prison officers were implicated in allegations of torture of inmates at Wormwood Scrubs Prison that had come to light in the late 1990s. Reportedly, many of the incidents that the authorities had publicly refused to admit were acknowledged in the reports, and some managers had colluded in the abuse by ignoring it. The author of one of the reports allegedly stated that officers implicated in the abuses continued to pose an ongoing threat to inmates.

**Freedom of expression and assembly  
(AI Index: EUR 01/005/2004)**

In December the Law Lords confirmed that detaining Jane Laporte to forcibly return her to London had been unlawful and violated her right to liberty. She was among three coach-loads of anti-war protesters who were prevented from reaching the air force base at Fairford – used by US B52 bombers to fly to Iraq – and forcibly returned to London in March 2003. The court also found that by preventing the coaches from reaching Fairford the police had violated Jane Laporte's right to freedom of peaceful assembly and expression.

**Northern Ireland**

Direct rule continued throughout the period under review.

Despite concern about its lack of independence, the Police Service of Northern Ireland continued to investigate unresolved conflict-related deaths.

*Collusion and political killings (update to  
AI Index: POL/001/2006)*

By the end of the year, the government had still failed to establish an inquiry into

allegations of state collusion in the 1989 killing of prominent human rights lawyer Patrick Finucane. The Secretary of State for Northern Ireland stated that a Finucane inquiry would only be constituted under the Inquiries Act 2005. The Irish government and the US House of Representatives stated that the Act would be incapable of delivering an independent and impartial inquiry into the killing. In October AI wrote to the Northern Ireland Secretary to reiterate that it considered that numerous provisions in the Inquiries Act were incompatible with domestic and international human rights law and standards pertaining to effective, independent and impartial investigations of human rights violations. As a result, the organization viewed the prospect of an inquiry into Patrick Finucane's killing under that legislation as a sham.

In December David Wright won his legal challenge against the government's decision to convert the inquiry into allegations of state collusion in the killing of his son, Billy Wright, into an inquiry constituted under the Inquiries Act 2005. AI intervened jointly with other non-governmental organizations, asserting that the legislation was inadequate to fulfil the requirements of human rights law for such inquiries.

Allegations of collusion between UK security forces and Loyalist paramilitaries in many human rights abuses, including bombings at Dublin airport and Dundalk in 1975 and at Castleblayney, County Monaghan, in 1976, were once again raised in an Irish Parliament report in November.

By the end of the year, two other public judicial inquiries into alleged state collusion in the killings of Robert Hamill in 1997, and Rosemary Nelson in 1999, were ongoing.

**Asylum-seekers and refugees**

In July the European Court of Human Rights found that the UK had violated an asylum-seeker's right to be informed promptly of the reasons for his detention. He had been detained for some 76 hours before his

representative had been informed of the reasons for his detention.

In September, 32 Iraqi Kurds were forcibly returned to northern Iraq despite concern for their safety there.

In December, the government announced that the Independent Police Complaints Commission would be charged with investigating complaints arising from incidents involving immigration officials exercising police-like powers.

## UZBEKISTAN

### **Investigation into the May 2005 mass killings in Andizhan (update to AI Index EUR: 01/017/2006)**

The authorities continued to refuse to allow an independent international investigation into the May 2005 Andizhan events.

However, they appeared to be willing to address some of the concerns of the European Union (EU) in bilateral discussions in the second half of the year. In September, for example, a delegation from the EU Commission visited Uzbekistan and held talks at ministerial level - the delegation was to assess improvements in Uzbekistan's observance of their human rights commitments and obligations. The EU delegation described the talks as constructive. In November the EU reviewed the 2005 visa and arms bans imposed on Uzbekistan and decided to extend them by six and 12 months' respectively. The EU also resumed bilateral meetings with Uzbekistan under the Partnership and Cooperation Agreement and held an expert meeting on the Andizhan killings in Uzbekistan in December. No findings of the expert meeting had been made public by the end of the year.

In October President Karimov conceded publicly that socio-economic reasons, in particular the failure of local and regional authorities in Andizhan to address the concerns of citizens and businesses and corrupt practices by these authorities,

might have contributed to the Andizhan events. He dismissed the regional governor of Andizhan over his failure to stop the Andizhan unrest.



*© AI group Speyer/ Germany*  
*AI group in Germany marked the anniversary of the Andizhan events by installing a "Human Rights" scale on the market place in Ludwigshafen. Passers-by filled in the basket on one side of the scale with appeals to the Uzbekistani President Karimov, which than freed the "prisoner" on the second side of the scale.*

In its September session the UN Human Rights Council reviewed Uzbekistan under the confidential 1503 procedure and decided to keep Uzbekistan under review. An earlier "riposte" by the Uzbekistani authorities to the UN General Assembly December 2005 Resolution on Uzbekistan, published in August, denied any grave and systematic human rights violations and rejected claims by the UN Special Rapporteur on torture that torture was still systematic and ongoing. In its 2005 Resolution on Uzbekistan the UN General Assembly had expressed concerns at grave human rights violations in Uzbekistan.

### **Harassment and convictions of human rights defenders (update update to AI Index: EUR 01/017/2006)**

The situation for human rights defenders continued to deteriorate throughout the second half of the year. Only five out of 11 human rights defenders invited to meet the new German ambassador reportedly managed to get to the meeting in Tashkent in September. The others were prevented from attending by being either threatened,

put under house arrest or, in the case of Elena Urlaeva, detained in the street, forced into a car and driven around for four hours while questioned and reportedly threatened by police officers. In November human rights defenders were detained and placed under house arrest when they demonstrated outside the Ministry of Foreign Affairs calling for dialogue with the authorities. Earlier human rights activists had been questioned and reportedly threatened by members of the security services after attending a meeting with Richard Boucher of the US State Department in August.

Tolib Yakubov, the head of the independent non-registered Human Rights Society of Uzbekistan (HRSU), and Abduzhalil Boimatov, his deputy, left the country in August out of concerns for their safety after receiving repeated threats. They crossed the border into Kazakhstan and asked for protection at the office of the United Nations High Commissioner for Human Rights (UNHCR) in Almaty. Both of them were recognized as mandate refugees. They subsequently left for Western Europe.

In August Bakhtior Khamroev, the head of the HRSU Dzhizzakh section, was attacked by a group of some 20 women, who reportedly burst into his apartment, accused him of being a traitor to his homeland and beat him up. At the time of the attack Bakhtior Khamroev was meeting with two representatives of the UK embassy. Police officers called to the apartment apparently only intervened to stop the women when Bakhtior Khamroev was hit over the head with a blunt object. Bakhtior Khamroev was reportedly refused medical assistance at the local hospital. A UK embassy spokesperson was quoted as saying that it looked like the attack was timed to coincide with the visit of the diplomats. Bakhtior Khamroev's 21-year-old son Ikhtior was detained at the beginning of August on a reportedly fabricated charge of hooliganism (Article 277, part two, of the criminal code). It was believed that he was detained as a result of his father's human rights activities. On 25 September, Ikhtior Khamroev was

sentenced to three years in prison by Dzhizzakh City Court. He was transferred to a prison camp in the village of Chikurgan in Dzhizzakh Region. At the end of December he reportedly complained about stomach problems and asked to see a doctor. According to reports by the HRSU he received no medical treatment but the following day he was handcuffed by prison guards and ill-treated, including by being kicked in the stomach. He was then transferred to a solitary confinement/punishment cell, but when his stomach pains did not subside the prison director ordered him to be taken to the district hospital to be examined by a doctor. He reportedly received no treatment at the hospital and was sent back to the prison camp.

According to some reports prominent human rights defender and prisoner of conscience, Saidzhakhon Zainabidinov, who was sentenced to seven years in prison by a court in Tashkent in January, after a closed trial, was moved to Tashkent prison (Tashturma) in the second half of the year. The whereabouts of his son Ilhom, remained unknown.

Mutabar Tadzhibaeva, chairperson of the human rights organization Fiery Hearts Club, based in Ferghana City, and one of the founders of the national movement Civil Society, was sentenced to eight years in prison on economic and political charges by a court in Tashkent in March. Her appeal against the verdict was turned down in May. AI considered her a prisoner of conscience. Mutabar Tadzhibaeva was being detained in the Women's Prison in Tashkent. According to the prison authorities she was transferred to the psychiatric wing of the prison in July for 10 days reportedly because she was suffering from severe stress following the appeal hearing. Her family and supporters, however, alleged that this transfer was to punish her for speaking out from prison. Her family and lawyers also complained that their visits were being obstructed by prison officials and that their parcels were not being passed on. In August her family was finally granted a three-day visit after she was



transferred back to the ordinary prison wing. Mutabar Tadzhibaeva reportedly told them that after she was transferred back from the psychiatric wing, scissors were placed under her mattress, as a result of which she was put in a punishment cell for 10 days for breaking prison rules. She also complained about not receiving enough drink and food while in the punishment cell. One of her lawyers said in August that she had decided not to represent Mutabar Tadzhibaeva anymore after repeated threats against herself and her family. In October her family expressed concern that her health appeared to be deteriorating. According to information they had received Mutabar Tadzhibaeva had been transferred to an intensive care unit in the medical wing of the prison. However, they had not been granted a visit and could therefore not confirm the extent of her health problems. In December law enforcement officers broke up a small demonstration by members of her family in front of the presidential administration building in Tashkent. Her relatives were asking to be granted access to Mutabar Tadzhibaeva and calling for her release. The officers reportedly threatened and insulted the demonstrators, pushed them and tore up their posters.

Yadgar Turlibekov, a 69-year-old independent journalist and head of the HRSU Kashkadaria Regional branch, was sentenced for bribery under Article 165 of the Criminal Code to three-and-a-half years in prison in October after an unfair trial. According to human rights activists who monitored his case his lawyer was not notified in advance of the start date of the trial and the trial went ahead without the lawyer, legal representatives, human rights activists and independent monitors being present. In November Kashkadaria Regional Court turned down his appeal against his prison sentence. Yadgar Turlibekov's lawyer and relatives reportedly were again not informed of the appeal hearing and were therefore unable to attend. He was released from prison under a presidential amnesty in December. He lost 20 kg during the six months he spent

in detention and his health reportedly deteriorated.

Yadgar Turlibekov had been detained at his home in Karshi in June by police officers and members of the security service. His family was only allowed to visit him two months after his detention. He was initially charged under four articles of the criminal code including insulting the honour and dignity of the president of Uzbekistan, slander and distribution of materials constituting a threat to national security. However, according to human rights activists, during the criminal investigation these charges were dropped for lack of evidence and the new charge of bribery was brought against him. The main reason for his detention and the criminal investigation reportedly was a five-page printed tract in Uzbek, critical of the socio-political situation in Uzbekistan, written by Yadgar Turlibekov and distributed at a local market in Karshi. AI considered him a prisoner of conscience.

On 21 December human rights activist and independent journalist Umida Niazova was detained for nine hours by transport police as she cleared customs at Tashkent airport. The 32-year member of the unregistered independent human rights organization Veritas had just returned from a human rights seminar in Bishkek, Kyrgyzstan. Although she was released after questioning, police confiscated her laptop computer, flashcard and passport. No criminal charges were brought but she had to sign an undertaking not to leave the country and to cooperate with prosecutors in their investigation into possible offences committed by her, namely possession of anti-state materials on her laptop computer. Her laptop was sent for expert examination to establish whether any materials stored on it were of a "subversive or extremist" nature. Some of the materials contained on the laptop were reportedly reports by the international non-governmental organization (NGO) Human Rights Watch (HRW), namely its published report on the Andizhan mass killings in May 2005. Umida Niazova was at the time working for HRW's office in Tashkent as a translator. She had previously worked for the international

freedom of expression NGOs, Internews and Freedom House. There was concern that the authorities threatened Umida Niazova with criminal prosecution in order to intimidate her and to force her to stop her human rights activities.

### Freedom of Expression

On 14 September Ulugbek Khaidarov, an independent journalist, was detained at a bus stop in Dzhizzakh as he was returning from a meeting with HRSU Dzhizzakh chairperson Bakhtior Khamroev. While he waited at the bus stop a woman brushed past him and reportedly put US\$400 into his pocket. Aware that this might be a set up, Ulugbek Khaidarov immediately retrieved the money and dropped it on the ground. Thereafter, however, law enforcement officers suddenly appeared at the bus stop and detained him. Ulugbek Khaidarov was charged with extortion and blackmail under Article 165 of the Criminal Code. His wife, who was able to visit him briefly in the pre-trial detention centre in the Dzhizzakh Region on 23 September, said that he looked ill and emaciated and appeared in very low spirits. It is reported that one side of his face was apparently paralyzed and lower than the other side. He reportedly found it difficult to speak, leading to concerns that he had been ill-treated. He was transferred to the pre-trial detention centre in Khavaz in Syrdaria Region, some 70km from Dzhizzakh.

On 4 October, two weeks after his arrest, trial proceedings began against Ulugbek Khaidarov. Human rights observers and members of his family who went to the court reported that he refused the services of an independent defence lawyer and asked human rights observers to leave the courtroom. They believed that he had been coerced into doing so. On 5 October, he was found guilty and sentenced to six years' imprisonment.



© Private

Ulugbek Khaidarov in prison.

On 1 November, he was taken to the general-security prison number UYa 64/29 in Navoi. On 4 November Ulugbek Khaidarov and 14 other prisoners, all of whom had been transferred to that prison on 1 November, reportedly were taken out of their cells by prison guards and led to the prison courtyard. Once in the courtyard they were reportedly made to kneel with their hands held behind their necks and were forced to keep this position for half an hour. After that, guards armed with clubs appeared and ordered the prisoners to take off their shoes; the guards then reportedly beat the prisoners on their heels. It was reported that Ulugbek Khaidarov was hit at least 10 times on his heels; upon his release it was determined that he had sustained a hairline fracture to one of his heel bones, as a result of the beatings. Ulugbek Khaidarov and the other prisoners were also forced to bob up and down with their eyes closed and arms outstretched while a group of other prisoners chosen to mete out punishments struck them with one-and-a-half litre plastic bottles of water. According to Ulugbek Khaidarov, the chosen

prisoners also kicked them on their buttocks. The 15 prisoners were also forced to crouch down on their haunches and climb up and down three flights of stairs while maintaining the crouched position, after having been beaten on their heels. Any prisoner who fell or was unable to climb the steps was severely beaten and kicked. None of the prisoners received any medical attention after the beating. It was reported that Ulugbek Khaidarov himself was in so much pain that he found it difficult to walk for at least two weeks after the beating took place.

On 7 November, Ulugbek Khaidarov was released after his conviction was quashed. Just two days before Ulugbek Khaidarov's detention his colleague, independent journalist Dzhamsheed Karimov, "disappeared" also in Dzhizzakh after visiting his mother in hospital. His family believed that his "disappearance" was linked to his journalistic activities. In October sources reported that he had been forcibly confined to a psychiatric hospital. Local authorities continued to deny any knowledge of his whereabouts, stating merely that he had undergone psychiatric treatment in the past. He was believed to be in a maximum security ward at Samarkand city psychiatric hospital. His family were intimidated by local authorities and their phone was cut off after they alerted international organizations. Dzhamsheed Karimov is the nephew of President Islam Karimov. Both Dzhamsheed Karimov and Ulugbek Khaidarov had worked for the Institute of War and Peace Reporting and as stringers for other independent websites. They had been harassed in the past and Ulugbek Khaidarov was badly beaten up in 2005 by unknown assailants. Both men had expressed fears for their safety in letters to a Swedish journalist in August and were preparing to leave the country.

On 8 September Dadakhon Khasanov, a well-known singer and song-writer, was given a suspended three-year prison sentence for writing and performing a song about the May 2005 Andizhan events. He had been charged with insulting the honour

and dignity of the President of Uzbekistan, attempting to overthrow the constitutional order and producing and distributing materials containing a threat to national security. The trial, although announced as open to the public, was in fact closed. According to human rights defenders, Dadakhon Khasanov was pressured by the authorities to request a closed trial. He reportedly voluntarily refused the services of his defence team on the first day of the resumption of the trial. The trial had started on 9 August but had been deferred to 5 September. Dadakhon Khasanov was released on bail, which is rather unusual in Uzbekistan. Earlier in the year, two men who had listened to recordings of Dadakhon Khasanov's songs received long prison sentences for being in possession of "subversive materials".

**Requests for extraditions and forcible returns of "terrorism suspects" to Uzbekistan (update to AI Index: EUR 01/017/2006)**

The authorities continued to actively seek the extradition in the name of national security and the "war on terror" of members or suspected members of banned Islamic parties or movements, such as Hizb-ut-Tahrir and Akramia, whom they accused of participation in the Andizhan events, from neighbouring countries as well as Russia and Ukraine. Most of the men forcibly returned to Uzbekistan continued to be held in incommunicado detention, thus increasing their risk of being tortured or otherwise ill-treated. Some were sentenced to long terms of imprisonment after unfair trials.

Independent imam (religious teacher) Rukhuddin Fakhriddinov was sentenced to 17 years in prison on September following a closed trial in Tashkent. He had been forcibly returned from Kazakhstan in November 2005 where he had been in hiding since 1998 and held incommunicado until March.

Four Uzbekistani refugees and one asylum-seeker forcibly returned by Kyrgyzstan in August were detained in Andizhan pre-trial

detention centre, according to the Uzbekistani authorities. A criminal investigation had reportedly been launched into the men's participation in the Andizhan events. Although the authorities reportedly had given diplomatic assurances to their Kyrgyzstani counterparts that international organizations, including representatives of the UN, would have access to the men after their return, this had not been granted by the end of the year.



*AI group in Ukraine protested against the forcible return of Uzbekistani refugees by the Ukrainian authorities.*

In August the General Procuracy of the Russian Federation suspended the extradition order of 13 Uzbeks detained in Ivanovo pending a review of the men's appeals by the European Court of Human Rights. Earlier the Uzbekistani authorities had welcomed the decision by the Russian authorities to proceed with the extraditions after the asylum-seekers had exhausted the appeals process.

Uzbekistan confirmed that 41 refugees who had fled the country after the Andizhan events and had been evacuated by the UNHCR first to Romania and then resettled to the United States (US) returned home in August. A group of 12 Andizhan refugees had returned from the US in mid-July, reportedly with safety guarantees from Uzbekistani officials, although human rights groups expressed doubts about the circumstances of their return. According to

reliable sources the Uzbekistani Embassy in the US arranged for the return journeys of the refugees and even paid half of the air fare. A third group of refugees resettled to the US state of Idaho were reportedly preparing to return in September. Two refugees resettled to Idaho died in August and September under mysterious circumstances. There were reports that some of the refugees were pressured into "voluntarily" returning to Uzbekistan. A group of the July returnees were apparently shown on Uzbekistani television saying that they had been forced against their will to leave Kyrgyzstan by international organizations and international actors intent on harming Uzbekistan and that they were very grateful to the Uzbekistani authorities for assisting them in returning to their homeland. The third group of refugees had not returned by the end of the year.

#### **Death penalty (update to AI Index: EUR 01/017/2006)**

There were reports of the construction of new prison facilities for life imprisonment near the detention camp of Yaslik in the Karakalpakstan desert. The UN Special Rapporteur on torture as well as human rights organizations, including AI, had previously expressed serious concern about the conditions of detention in the Yaslik camp.