

# CONCERNS IN EUROPE

## January - June 2001

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 2001. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

The five Central Asian republics of Kazakstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are included in the Europe Region because of their membership of the Commonwealth of Independent States (CIS) and the Organisation for Security and Co-operation in Europe (OSCE).

This bulletin contains an index on pages 100 and 101 about cases and incidents investigated by Amnesty International affecting women and children. They are not an exhaustive summary of the organization's concerns, but a reflection of the range of violations suffered by women, children and juveniles in Europe.

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

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

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# ALBANIA

## ***Allegations of torture and ill-treatment of detainees by police***

There were further allegations that police had tortured and ill-treated detainees. On the night of 20 to 21 January Azgan Haklaj, a local leader of the opposition Democratic Party in the northern district of Tropoja, was arrested at home and subsequently detained for investigation on charges of “taking part in illegal demonstrations” and “violence against property”. The charges, which he denied, related to a rally held in the town of Bajram Curri in November 2000 which escalated into violent clashes between armed men and police. During these the police station was attacked and one man (a civilian) was shot dead by police, and others wounded. On 22 January Azgan Haklaj filed a complaint alleging that masked police officers who had arrested him had beaten him with rifle butts, struck his wife and child, and had continued to beat and kick him while driving him to Tirana. A forensic medical report confirmed he had injuries consistent with these allegations. The Ministry of Public Order denied that his wife or child had been ill-treated, and stated that police officers had resorted to force only because he had violently resisted arrest. In early April his lawyer stated that he had only once been questioned in connection with his complaint, and claimed that no other investigation work had yet been undertaken by police or prosecutors.

In March a police officer in the town of Pogradec reportedly punched and kicked Lorenc Çallo, whom he wrongly suspected of having fired a gun. He also hit him with a radio handset, injuring his left eye. Eyewitnesses and a forensic medical examination confirmed Lorenc Çallo's allegations. The People's Advocate (Ombudsperson) who investigated this incident recommended the dismissal of the officer.

Çlirim Proko from the southern village of Lazarat was arrested on 16 March in connection with an incident in September 2000 when a government minister was prevented from entering the village by a group of armed men. He was also reportedly accused of wounding a police officer. Following his detention in Gjirokastra, several police officers reportedly took him from the police station and drove him into the hills outside the city where they brutally beat him. His bruises were reportedly visible to his lawyer and to a doctor who examined him nine days later.

In April the Secretary General of *Shoqata Gay Albania* (Gay Albania Society), Nasser Almalak, a Jordanian resident in Albania, and Amanta Bakalli, a transvestite, were attacked by four members of the Republic Guards (a force responsible for the security of government officials and buildings) outside the Guards' barracks, where they had gone to meet a friend. When they later went to the Guards' headquarters to complain, they were reportedly subjected to sexual threats, but allowed to make a formal complaint. Amanta Bakalli shortly afterwards left the country.

On 25 January Armenia and Azerbaijan formally acceded to the Council of Europe, following an invitation from the Committee of Ministers on 9 November 2000. On the day of joining, Armenia and Azerbaijan signed the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) as well as Protocol Six to that convention, which provides for the abolition of the

death penalty for crimes committed in peacetime. The countries had committed to signing and ratifying those two conventions within one year of joining.<sup>1</sup> Council of Europe Secretary-General Walter Schwimmer instituted post-accession monitoring of the two new members' commitments relating to respect for democratic principles, rule of law and the observance of human rights. In particular, in February the

In the run-up to national elections on 24 June the Democratic Party complained that on 17 June police had beaten and injured many of its supporters during a rally by the governing Socialist Party in the town of Kavaja. The authorities stated that some Democratic Party supporters had attempted to disrupt the rally, and had thrown stones at police officers who had asked them to desist. Four police officers were said to have been lightly injured.

## ***Torture and ill-treatment of minors***

In March 2001 an Albanian NGO, the Legal Clinic for Minors, stated that almost all of the 45 minors detained in custody or serving sentences which the Clinic had interviewed during the previous six months had been subjected to physical violence - beatings - in police stations.

## ***Investigation of allegations of police ill-treatment***

In June AI was informed by the prosecuting authorities that judicial investigations into (separate) complaints of ill-treatment filed by Ferit Çepi and Naim Pulaku (see AI Index: EUR 01/001/2001 where Naim Pulaku is incorrectly named as Sami Pulaku) had been completed and the cases sent to court for trial. In a third case, Elbasan district court found a police officer, Tahir Çausi, guilty of “committing arbitrary acts” and sentenced him to a fine of 150,000 leks (about US\$1,000). He had detained and beaten Gjentian Bici in February 2000, causing him injuries.

## ***AI visit and report***

In March two AI delegates visited Albania for research purposes; during their visit they met and interviewed victims of police ill-treatment and their lawyers as well as Albanian NGOs working in the field of human rights and journalists. They also spoke with officials, including the Minister of Public Order, police and prosecutors. See *Albania: Torture and ill-treatment - an end to impunity?* (AI Index: EUR 11/001/2001), May 2001

# ARMENIA

## ***Accession to the Council of Europe*** (update to AI Index: EUR 01/001/2001)

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<sup>1</sup>See PACE Opinion Numbers 121 and 122

Secretary General appointed three independent experts to inquire into cases of alleged political prisoners in Armenia and Azerbaijan (see Azerbaijan entry).

#### *Law on alternative service*

The draft law on introduction of alternative civilian service remained under discussion in the period under review. In March, Armenian Defence Minister Serzh Sarkisian reportedly put forward the possibility that the law would be adopted towards the end of 2002. According to the minister, the law would allow service in other structures for those people who do not want to carry out military service due to religious convictions, as well as individuals who are unsuited to military service for health reasons. On joining the Council of Europe, Armenia committed to adopting a law on alternative service within three years, and in the meantime to pardon all conscientious objectors sentenced to prison terms or service in disciplinary battalions.

#### **Prisoners of conscience**

(update to AI Index: EUR 01/03/00 and EUR 01/001/2001)

In spite of Armenia's commitment to pardon all conscientious objectors, 15 young men, all Jehovah's Witnesses, were reported to have been imprisoned for their conscientious objection to compulsory military service in the first half of 2001, and sentenced to terms ranging from one to three-and-a-half years' imprisonment. They were named as Sergey Alaverdian, Karen Yegoian, Hovik Hakobian, Artur Suleymanian, Garik Gareginian, Sermen Seyranian, Khachatur Harutiunian, Vrezh Antonian, Armen Yeghiazarian, Hayk Yenokian, Misha Ivanian, Armen Khachatrian, Arutiun Stepanian, David Vahanian and Arshak Militonian. At least a further three conscientious objectors had reportedly been arrested in June and were awaiting trial in detention. They were named as Ara Tarjoumanian, Khachik Khachatrian and Karapet Haroutiunian. AI understands that such young men have repeatedly expressed their willingness to perform a civilian alternative to military service, should they be offered this possibility. The Another of Armenia's commitments on joining the Council of Europe was to adopt its draft Criminal Code, which was drawn up over four years ago, thereby replacing the death penalty with life imprisonment, and decriminalizing homosexual relations between consenting adults. However, public and political support for 'making an exception' for the death penalty with respect to the accused in the October 1999 parliamentary shootings case, (see below), which intensified after the start of the trial in February, suggested that the adoption of the Criminal Code could be delayed. Among others, the deputy parliamentary speaker, Tigran Torosian, and Vladimir Nazarian, head of the parliamentary legal department, were reported to have made statements supporting the application of the death penalty in this case. Tigran

continuing imprisonments appeared to be a violation, at the very least, of the spirit of Armenia's commitment on accession to the Council of Europe to pardon all conscientious objectors pending the adoption of a law on alternative service.

In the first half of 2001, at least eight conscientious objectors were reportedly conditionally released from detention and allowed to live at home, after serving a part of their sentence, but were still required to report regularly to the police. Among those conditionally released were Vitaly Usupov and Rafik Tonoian, who had alleged they had been beaten by Armenian police and military personnel respectively, as a result of their conscientiously-held beliefs. AI is still seeking information from the Armenian authorities regarding any investigation opened in response to these allegations. Others conditionally released were named as Yervand Poghosian, Sergey Grigorian, Vardan Virabian, Martin Shahinian and Mkhitar Abroian. On 28 June, Arshak Militonian submitted an application for release under the terms of the amnesty marking the 1700th anniversary of Christianity (see below), and is thought to have been released shortly after, having served one month of a two year sentence for evasion of military service under Article 75 of the Armenian Criminal Code. Other releases under the amnesty were due to follow, although it was believed that anyone sentenced under Article 255a of the military section of the Criminal Code for "desertion" would not be included as their crime is viewed as 'too serious'. Those individuals treated as 'deserters' by the courts include conscientious objectors who have been forcibly conscripted, and have been faced with an ensuing intolerable - and insoluble - conflict with their deeply-held religious beliefs. Escape from the military unit is often the only way to avoid the military demands that their consciences forbid them to carry out. Some conscientious objectors who have been forcibly conscripted have also reportedly sustained beatings at the military units for refusing to dress in military uniform.

#### *Introduction of new Criminal Code*

Torosian was reported to have said "the situation has changed. The perpetrators of the killings must face the severest punishment. In this particular case, the death penalty will not be abolished."

However, Mikael Grigorian, an advisor at the Ministry of Internal Affairs, is reported in April to have categorically denied that the delay in adopting the new Criminal Code had any connection with the trial in the case of the October 1999 shootings. Mikael Grigorian, who is head of the working group at the commission for drafting the new Criminal Procedural Code and finalisation of the new Criminal Code, explained that, in his opinion, the delay had been caused by the existence of an alternative draft of the Criminal Code, which had recently been submitted to

the parliament, and by parliamentary deputies failing to focus sufficiently on the issue.

#### *Ombudsperson*

A further commitment on joining the Council of Europe was to adopt, within six months of accession, the law on the Ombudsperson. However, in March, the deputy parliamentary speaker, Tigran Torosian, was reported to have indicated in an interview with *Hayots Ashkhar* newspaper that this timeframe was problematic, and that parliament was seeking a delay of six months starting from the completion of constitutional reforms. Meanwhile, the Human Rights Commission at the office of the President continued its activities in monitoring human rights in Armenia, including in the army and place of detention, publishing its report for 2000 in March. Among other issues, the report is said to have noted serious shortcomings in observing the rights of citizens dealing with law-enforcement bodies. The report is said to have noted cases of people being arrested and then tortured, and that conditions in penal colonies were unsatisfactory.

#### *Transfer of the penitentiary system*

In March the head of the Department for execution of criminal punishments at the Ministry for Internal Affairs announced that the prison system would be transferred from the Ministry of Internal Affairs to the Ministry of Justice in October this year, in line with Armenia's commitment to the Council of Europe. He stated that currently, of the 15 existing prisons and prison colonies in Armenia, only 12 are operational, holding around 6,000 prisoners.

#### *Amnesty*

On 13 June, parliament adopted a Presidential decree regarding an amnesty to mark the 1700<sup>th</sup> anniversary of Armenia's adoption of Christianity as state religion. Under the Armenian Constitution, the president has the right to grant amnesty with the agreement of the parliament.

The amnesty was reported to be due to run until September 2001, affecting over 2,100 people, with 1,250 scheduled for release. The amnesty did not extend to individuals who had been convicted of murder or other serious crimes. Reportedly, for the purposes of the amnesty, the definition of serious crimes included the military crime of 'desertion', and

There are currently at least 30 people on the country's only death row in Nubarashen prison, near Yerevan. One of those individuals was reported to be Artur Mkrtchian, a 24-year-old Armenian soldier sentenced to death in 1996 for shooting five of his comrades. During the period under review, AI received a report of allegations that military police had ill-treated Artur Mkrtchian's family while questioning them as part of the investigation. The report alleged further that his brother had been arrested and detained for three months, during which time he was beaten and

therefore many conscientious objectors would not come under the terms of the amnesty (see above).

#### *Prosecution of sexual minorities*

In April, an adviser to the Armenian Minister of Internal Affairs, Mikael Grigorian, is reported to have stated that in 1999, 15 people were prosecuted under the Armenian law which criminalizes homosexual relations between men. Under the existing criminal code in Armenia inherited from the Soviet era, Article 116 punishes 'sodomy', defined as 'sexual relations of a man with another man'. Part 1 of the article punishes consenting sex between adult males by up to five years' imprisonment. Other parts of the article punish consenting or non-consenting sex between two males where one is a minor, and other non-consenting sex between two males. It is not clear at present under which part of the law the 15 men were prosecuted. The new draft criminal code is said to abolish the criminalization of consenting homosexual acts between adult males. Pending the adoption of the new code, AI has urged officials to initiate moves to repeal Article 116 part 1, and not to pursue criminal prosecutions of men for consenting same-sex relations between adults in private.

#### *The death penalty*

(update to AI Index: EUR 01/001/2001)

Though no execution has taken place in Armenia since independence, courts continue to hand down death sentences for particularly severe crimes. In March, Armenia's Court of Appeal, the highest criminal justice court, upheld the death sentences passed on Armen Ter-Saakian and Alik Grigorian. The two men had been sentenced to death with confiscation of property in July of last year in connection with the murders, several years previously, of a number of people regarded as opponents of those in power at the time. In another case on 11 April, Vayotsdzorsky Regional Court is reported to have sentenced servicemen Tsolak Melkonyan, Levon Madilyan and Artak Alekyan to death for killing eight people - a three-year-old child, two traffic police, three soldiers and two civilians - in July last year while deserting from their army unit. The three men's appeal was heard on 12 June by the Court of Cassation. The outcome of the hearing is not currently known to AI.

tortured. There were also allegations of fair trial violations during the trial of Artur Mkrtchian.

#### *The case of Arkady Vartanian - concerns relating to access to defence lawyer and family*

In the period under review, AI raised with the Armenian authorities its concerns relating to the case of Arkady Vartanian, in particular allegations that his arrest and detention had been politically motivated. Arkady Vartanian had first been detained on 30 October 2000 following a demonstration he had

organized on that day in Yerevan's central square, attended by several thousand people. The demonstration, held apparently with the permission of the city authorities, was to protest at living conditions and to call on President Robert Kocharian to resign. After the three-hour rally a group of demonstrators had left the area designated for the meeting and marched towards the Presidential Palace, President Kocharian's official residence. The marchers submitted a letter calling for the president's resignation, and then dispersed. According to some reports the march, which was not sanctioned by the authorities, was led by Arkady Vartanian and Karo Karapetian, his lawyer and associate.

Arkady Vartanian and Karo Karapetian were detained later that evening, and taken to Yerevan's Arabkir District Department of the Interior Ministry. The following day they were sentenced to 10 and seven days' administrative arrest respectively for holding an unsanctioned demonstration. Fifteen other people were also reported to have received terms of administrative arrest, and another four were fined. Arkady Vartanian was not released at the end of this period, however, as a criminal case was opened against him on a charge of calling for the violent overthrow of the state system, under Article 65 part 2 of the Armenian Criminal Code (which carries up to seven years' imprisonment). On 9 November he was transferred from the custody of the Yerevan Department of Internal Affairs to the investigation-isolation prison of the Ministry of National Security. On 13 November the court of first instance of Yerevan's Tsentr and Nork-Marash communities confirmed arrest for a period of two months as the measure of restraint to be applied against Arkady Vartanian. On 7 December the Court of Appeal for Criminal and Military Cases turned down an appeal by his defence lawyers to change this measure to a non-custodial one. The prosecutor's request for a one month extension to this term was approved by a court at the beginning of January this year. However, on 23 January, in the light of growing concerns about Arkady Vartanian's health, he was transferred from the Ministry of National Security prison to the Health Ministry's Institute of Cardiology and was subsequently released from detention on 22 February. According to the Office of the General Procurator, the investigation of the criminal case was halted on 1 March pending his recovery. He was reported to have left Armenia on 21 May in order to be with his family in Moscow.

The trial into the armed attack on the Armenian parliament on 27 October 1999 opened on 15 February at the court of first instance of Yerevan's Tsentr and Nork-Marash communities. AI has expressed concern about the numerous allegations of torture, ill-treatment and violations of fair trial standards in connection with the case. While giving testimony during the trial on 17 April, one of the defendants, Nairi Unanian, is reported to have repeated his allegations that he was tortured during the pre-trial investigation. He alleged that he was beaten with rubber batons over an extended period of time by four people, and that investigators and other officials made various threats against him in an attempt to force him to give testimony that they were seeking. He also stated that he was forced, through physical pressure, to give testimony against four men originally detained - Alexan Harutyunian, Mushegh Movsisian, Harutyun Harutyunian and Nairi Badalian. They were all later released, and charges against them dropped. According to Nairi Unanian, a formal statement he had made on 8 June 2000, describing how he was tortured during the pre-trial investigation, had not been included in the material before the court. During

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In a letter to AI dated 20 March, the head of section for supervision of implementation of investigation and detective work at the Office of the General Procurator, Samvel Manukian, confirmed the fact of Arkady Vartanian's arrest on 13 November and subsequent release from detention on 22 February for health reasons. He also stated that Arkady Vartanian had been provided with lawyers who could see him regularly. This was in answer to AI's request for clarification regarding access to a defence lawyer by detainees detained and sentenced under the administrative code. However, the letter did not comment on allegations that the arrest had been politically motivated, nor did it comment on the current position relating to access for families to those held in administrative or pre-trial detention. AI had received reports that Arkady Vartanian's family had not been allowed to visit him during the period of administrative arrest.

### ***Allegations of ill-treatment***

***Arrests following parliamentary assassinations - allegations of torture and violations of due process*** (update to AI Index: EUR 01/01/00, EUR 03/01/00 and EUR 01/001/2001)

the court hearing the next day, the prosecution reportedly submitted to the court Nairi Unanian's formal statement of 8 June. The prosecution reportedly explained that on 1 June 2000, Nairi Unanian had filed a complaint regarding the method of investigation, in response to which an intradepartmental investigation was opened. The investigation reportedly concluded on 30 June with a decision not to initiate criminal proceedings for lack of sufficient evidence.

On 20 June, six of the defendants in the trial were reported to have been cleared of criminal charges under the amnesty to mark the 1700<sup>th</sup> anniversary of Christianity (see above). Those amnestied included two police officers who were on duty at the parliament building on the day of the shooting and had been charged with crimes of negligence in connection with the events. Those amnestied also included three men who had been charged with illegal possession of firearms, and one man who had been charged with failure to report a crime to the law-enforcement agencies. Lawyers representing the families of the victims said they would appeal the decision to amnesty the six men.

***Alleged ill-treatment at the Ministry of Internal Affairs and subsequent anonymous intimidation of journalist Vahagn Ghukasian***

In the period under review, freelance journalist Vahagn Ghukasian received threatening anonymous telephone calls, and his workshop in Yerevan burnt down in what appeared to be an arson attack. The workshop was Vahagn Ghukasian's only source of income for himself and his family. AI was concerned that this campaign of intimidation against Vahagn Ghukasian appeared either to be aimed at stopping him from exercising his right to freedom of expression, or was designed to ensure that he would not pursue further his complaint of ill-treatment against an official from the Ministry of Internal Affairs.

The first threatening phone call was reportedly made on 20 May, one day after the publication of the first of three articles in *Haykakan Zhamanak* newspaper concerning the events of 27 October 1999, when a number of senior officials were shot dead in the Armenian parliament. The anonymous caller allegedly warned him not to 'play with fire', and demanded that he stop his writing activities. On 24 June, the day after the publication of the third article, his workshop was burnt down. The anonymous telephone calls allegedly continued after this incident, threatening that if Vahagn Ghukasian continued to 'stick his nose into other people's business' that his house would be burned down.

Vahagn Ghukasian told AI that he thought that the destruction of his workshop could also have been a warning not to give evidence to the Procurator's office against an Interior Ministry official who had reportedly ill-treated him in June last year. The alleged ill-treatment followed the publication on 27 May 2000 by Vahagn Ghukasian of a brochure, entitled "Observer's version", about the investigation into the events of 27 October 1999 in the Armenian parliament. Vahagn Ghukasian told AI that he explains in the brochure his opinion that an official from the Ministry of Internal Affairs, whom he names, should not be participating in the investigation into the shootings, and gives his reasons for that.

On 6 June 2000 Vahagn Ghukasian was reportedly summoned to the Ministry of Internal Affairs. Two officers are alleged to have ill-treated Vahagn Ghukasian and only stopped when they learnt that prior to his departure for the ministry, Vahagn Ghukasian had left a message with a reporter of *Aravot* newspaper, telling her where he was going. One Interior Ministry official allegedly threatened to hold Vahagn Ghukasian at the Ministry, and open a criminal case against him. When Vahagn Ghukasian asked what for, the official is alleged to have responded: "For carrying drugs or rape. Any street prostitute will testify that you raped her". The names of both officials are known to AI. Later officials from the Ministry of Internal Affairs reportedly searched Vahagn Ghukasian's home and confiscated floppy discs containing the text of his brochure. On 9 June Vahagn Ghukasian went to polyclinic No. 19 in

Yerevan where it was diagnosed that he had scratches and bruises on his chest, his right hand and his forehead.

AI continued to urge the authorities to take all necessary steps to ensure an impartial, prompt and thorough investigation into the allegations of ill-treatment of Vahagn Ghukasian, and to bring to justice anyone reasonably suspected of having participated in such abuse. AI also called on the Armenian authorities to investigate the campaign of intimidation of Vahagn Ghukasian, and meanwhile to ensure that he and his family are afforded all appropriate protection.

## A U S T R I A

### ***Unequal age of consent***

AI adopted a gay man, Franz L.<sup>2</sup> as a prisoner of conscience after being arrested on 14 February 2001 for having consensual sexual relations with a 15-year-old adolescent. The organization called for his immediate and unconditional release. In Austria the legal age of consent for heterosexuals and lesbians is set at 14 years of age, but 18 for gay men. Men convicted of contravening the relevant part of the

In July 2000 AI had expressed concern about the conviction of another man, 19-year-old Michael Wodicka, for having sexual relations with his then 16-year-old boyfriend in September 1999. He escaped imprisonment with a fine of 4500 Austrian Schillings (see AI Index: EUR 01/001/2001).

### **Intergovernmental bodies**

In June the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report of its visit to Austria in September 1999. On the basis of its fact-finding visits to a number of police gaols, police stations and gendarmerie posts the CPT stated: "During the visit undertaken in 1999 the delegation recorded a certain number of complaints of police ill-treatment. However, compared with the allegations received during earlier visits the instances were less numerous and the ill-treatment less serious".<sup>3</sup> However, the CPT stated: "The continuation of a certain number of allegations of ill-treatment clearly indicates, that the Austrian authorities must continue to be vigilant in this area".<sup>4</sup>

The majority of the complaints of ill-treatment encountered by the CPT during its 1999 visit were made by foreign males, mainly assuming the form of punches, kicks and slaps, particularly of handcuffed detainees. Police ill-treatment was most commonly alleged to have occurred at the time of arrest, prompting the CPT to reiterate an earlier recommendation that at the time of arrest, no greater degree of force should be applied than is absolutely necessary. It added: "... there can be no justification whatsoever for brutal behaviour on the part of police officers as soon as the person being apprehended is brought under control".<sup>5</sup>

The CPT also made a number of recommendations to the Austrian authorities to strengthen the safeguards against ill-treatment, most notably, that persons suspected of a crime should have the right of access to legal counsel from the very start of their arrest. The Committee stated: "Despite the recommendations formulated by the CPT in the course of the past 10 years, people suspected of a crime still

Austrian Penal Code may face up to five years' imprisonment. The man remained in detention until 27 February when a judge at Vienna Regional Criminal Court (*Landesgericht für Strafsachen Wien*), which had issued the original arrest warrant and had authorized his detention thereafter, released him under mounting international pressure.

do not always have the right of access to a legal counsel, when they find themselves in police custody. This situation can no longer continue".<sup>6</sup> The CPT also repeated another previously cited recommendation that any medical examination of a detainee should not take place within hearing or seeing distance of police officers, unless this is specifically requested by the doctor.<sup>7</sup> In its response to the CPT report the Austrian Government explicitly rejected this last recommendation on account that it "... constitutes too great a risk for the doctor concerned".<sup>8</sup>

### **Allegations of police ill-treatment**

During the period under consideration AI received several reports of alleged excessive use of force and ill-treatment of people by police officers. In several instances the alleged ill-treatment was captured on film.

AI received several reports that police officers allegedly ill-treated or used excessive force against demonstrators during an anti-government demonstration, which turned violent, on 22 February in Vienna, resulting in more than 40 arrests. A significant number of police officers were injured during the demonstration after violent elements among the demonstrators began throwing bottles, stones and other objects at police officers. However, a number of complaints have subsequently arisen from people who had reportedly peacefully participated in the demonstration, alleging that police officers used excessive force against them or, in some cases, ill-treated them. The President of Vienna's Police, Dr Peter Stiedl, reportedly stated after the demonstration that, due to the escalating situation, it had been difficult for the police to differentiate between "good and bad demonstrators, passers-by and journalists".

During the demonstration a police officer from the WEGA (*Wiener Einsatzgruppe Alarmabteilung*) special police detachment, referred to as Ernst A. by the Austrian news media, was also captured on film, hitting a demonstrator across the face with his hand, who was playing on a drum. The demonstrator had allegedly verbally abused officers from the WEGA special police detachment as "arseholes", prior to

<sup>2</sup>His full name is known to AI

<sup>3</sup>CPT/Inf (2001) 8, 21 June 2001 - paragraph 15

<sup>4</sup>ibid. - paragraph 16

<sup>5</sup>ibid. - paragraph 20

<sup>6</sup>ibid. - paragraph 37

<sup>7</sup>ibid. - paragraph 38

<sup>8</sup>ibid. - page 24

being hit. The photograph, which was taken by the Reuters news agency, was subsequently widely published in the Austrian press and was reportedly

In late May AI learned of the decision of an Independent Administrative Tribunal (*Unabhängiger Verwaltungssenat*) in Vienna to uphold the allegations of a 25-year-old demonstrator, referred to as Martin P. in the Austrian news media, that he was ill-treated by police officers on 4 February during an anti-government demonstration. In his complaint to the Independent Administrative Tribunal he alleged that several police officers had knocked him to the ground with their batons near the headquarters of the Austrian Freedom Party in Vienna. The police officers repeatedly hit him with their batons as he lay on the road, causing him to sustain multiple injuries. The police officers subsequently arrested the man and charged him with breaching the peace (*Landfriedensbruch*) and attempting to resist state authority (*versuchter Widerstand gegen Staatsgewalt*). He was released shortly before 11am the next day.

According to the official verdict of the Independent Administrative Tribunal, the police officers denied the charges, stating that they did not repeatedly strike Martin P. with their batons. However, a photographer from the Austrian Press Association had photographed the incident, reportedly clearly capturing the police officers on film, repeatedly striking the man with their batons as he lay on the ground. According to the verdict, the photographer himself would have been attacked, had he not had his press identity card in his possession. In its verdict the Independent Administrative Tribunal stated: "One can certainly speak of inhuman and degrading treatment, when - as in the present case - a person is unjustifiably hit with police batons". The Tribunal also found that the arrest of the detainee was unlawful. AI has written to the Austrian authorities, requesting to be informed whether any legal or disciplinary measures will be taken against the police officers involved in the incident.

The above described incidents have not been the only recent cases of police officers having been captured on film ill-treating members of the public. On 5 December 2000 two police officers were captured on video film allegedly physically assaulting the Associated Press photographer, Gianfranco Faccio. According to reports about the incident, Gianfranco Faccio was photographing a protest action, during which demonstrators had occupied one of Vienna's main thoroughfares, *die Hadikgasse*. Two plainclothes police officers from the Security Bureau (*Sicherheitsbüro*) were reportedly filmed approaching Gianfranco Faccio as he photographed the police, who were using force to clear demonstrators off the road. One of the police officers allegedly grabbed Gianfranco Faccio from behind and threw him towards his colleague. The photographer was then reportedly twice punched in the stomach and dragged into an apparently unobserved street corner, where one of the police officers allegedly threw his camera flash onto the ground. In contrast to the filmed version of events, the police officers reportedly alleged that

sent to the Ministry of Justice, which is examining the case.

Gianfranco Faccio kicked them and spat at them. Gianfranco Faccio brought charges of physical assault and criminal damage against the police officers, but AI has not been informed of the outcome.

In June AI wrote to the Austrian authorities, requesting to be informed of its findings of an investigation which had been opened into the alleged police ill-treatment of a female Romanian national in April. A gendarme allegedly ill-treated the female detainee on the night of 8 to 9 April at a police station in the town of Aschach an der Steyr, resulting in Steyr District Hospital (*Landeskrankenhaus Steyr*) lodging an official complaint of physical assault against the gendarme. AI is informed that two gendarmes allegedly arrested the woman after she failed to produce identification, as she walked with her Austrian husband through Aschach an der Steyr late that night.

According to media reports about the incident, the man went home in order to obtain the identity papers of his wife and proceeded to the police station, where his wife was being detained. While she was held there one of the two gendarmes allegedly repeatedly kicked the woman, causing bruising and swelling to her legs and feet. A report of a medical examination of the woman, made at Steyr District Hospital, reportedly documents the injuries. It is also alleged that the gendarme threatened the woman with deportation. After the detainee's husband arrived at the police station with her passport, it is alleged that the gendarme refused to allow him to be present while the gendarme questioned his wife. The gendarme allegedly violently forced the man from the questioning room and prevented him from re-entering the room by locking the door and, in doing so, caused the man to sustain abrasions to his legs. The couple were later allowed to leave the police station, after which they sought medical treatment for their injuries at Steyr District Hospital.

#### **Death during deportation**

(update to AI Index: EUR 13/01/00)

In May a significant development came to light in the investigation into the death of 25-year-old Marcus Omofuma, a Nigerian national who died in May 1999 after being gagged and bound during his forced deportation from Vienna to Nigeria, via Sofia, Bulgaria. The results of a third autopsy, which was conducted by a German specialist and made public in early May appeared to reinforce the findings of an initial autopsy (conducted in Bulgaria shortly after the death) that Marcus Omofuma had died of asphyxia. A second autopsy, which was concluded in November 1999 in Austria, suggested that an undetected respiratory related heart defect meant that it could not be said with the required certainty that there was a causative link between the gagging of Marcus Omofuma and his death. No trial date had been set for the three accompanying police officers, who face charges of ill-treating a detainee with death as a



consequence (*Quälen eines Gefangenen mit Todesfolge*), more than two years after the incident. The police officers, who were suspended shortly after the incident, were allowed to return to work in early February.

At the end of June AI learned that the police officer accused of shooting dead an unarmed man with his own gun on 19 May 2000 in Vienna will go on trial. The dead man was referred to in the Austrian news media as Imre B. The police officer is reportedly facing the charge of manslaughter through culpable negligence (*fahrlässige Tötung*) and will be tried by Hietzing District Court (*Bezirksgericht Hietzing*) at a later, as yet unspecified, date.

## A Z E R B A I J A N

### **Repeat parliamentary elections**

(update to AI Index: EUR 01/001/2001)

On 7 January, repeat elections to the Milli Mejlis (Parliament) were held for 11 single-mandate constituencies in Azerbaijan for which the results of the 5 November ballots had been annulled due to serious violations in the electoral process. However, despite the fact that votes in those constituencies had been annulled for the nation-wide proportional ballot as well as for the single-mandate constituencies (Azerbaijan has a mixed electoral system), there were no repeat elections for the proportional ballot. Some opposition parties, including Musavat, the Democratic Party and the Liberal Party, boycotted the repeat elections, and the National Independence Party withdrew all its candidates at the last moment. The Organization for Security and Co-operation in Europe reported that the repeat elections were an improvement on the 5 November ballot, with fewer instances of intimidation of voters and observers and less interference in the electoral process. However, observers again noted a number of serious irregularities, such as ballot stuffing, multiple voting, a failure to follow counting procedures in the majority of polling stations, and artificially inflated turnout figures.

### **Accession to the Council of Europe**

(update to AI Index: EUR 01/001/2001)

The Committee of Ministers had formally invited Azerbaijan and Armenia to join the Council of Europe on 9 November 2000, but simultaneously requested Azerbaijan to respond within one month to charges by international observers of electoral fraud, and to correct the reported frauds. Following an examination of Azerbaijan's response by the Monitoring Group set up by the Committee of Ministers, and a visit to

### **Police shooting**

(update to AI Index: EUR 01/03/00)

Azerbaijan to observe the partial repeat elections, (as well as a visit to Armenia) the Committee of Ministers set 25 January as formal accession date for Armenia and Azerbaijan.<sup>9</sup> On the day of joining, Armenia and Azerbaijan signed the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as Protocol No. 6 to that convention, which provides for the abolition of the death penalty for crimes committed in peacetime. The countries had committed to signing and ratifying those two conventions within one year of joining.<sup>10</sup>

Council of Europe Secretary-General Walter Schwimmer instituted post-accession monitoring of the two new members' commitments relating to respect for democratic principles, rule of law and the observance of human rights. In particular, the Secretary General appointed in February three independent experts to inquire into cases of alleged political prisoners in Armenia and Azerbaijan. According to the Council of Europe, the experts are requested to give an opinion on cases referred to them as to whether the persons in question may be defined as political prisoners on the basis of objective criteria, and in the light of the case-law of the European Court of Human Rights and Council of Europe standards. This was prompted by the requirement placed on Azerbaijan on accession to the Council of Europe to release or grant a new trial to "those prisoners who are regarded as 'political prisoners' by human rights protection organizations".

Moves were made in the first half of this year to fulfil another commitment made on accession, that of broadening access to the Constitutional Court, including by individual complainants. The Milli Mejlis coordinator on the Council of Europe's Venice Committee, Safa Mirzoyev, is reported to have announced in February that a plan of amendments to the Constitutional Court system, including allowing individual citizens to apply to the court, had been drawn up. The amendments were scheduled to be implemented within a six-month timeframe, although by the end of the period under review, no amendments had yet been implemented.

### **The death penalty**

The law "On extraditing criminals", that forbids Azerbaijan from extraditing an individual in cases where the crime forming the basis of the extradition request is punishable by the death penalty in the requesting country, was signed by the President on 15 May and has now entered into force. AI welcomes this law as a positive development in line with the growing

<sup>9</sup>Communication on the activities of the Committee of Ministers. Report by the Latvian Chair of the Committee of Ministers to the Parliamentary Assembly (25 January 2001), document

CM/AS(2001)2, 24 January 2001

<sup>10</sup>See PACE Opinion Numbers 121 and 122

international consensus that the death penalty is an unacceptable punishment. The extradition law also forbids extradition if there are sufficient grounds to believe that the person would face torture, cruel, inhuman or degrading treatment or punishment in the (update to AI Index: EUR 01/001/2001)

Reports suggested that conditions of detention in Gobustan strict regime prison, where many political prisoners are detained, might amount to cruel, inhuman and degrading treatment. For example, according to his lawyer Alakram Alakbar oglu Hummatov (one of the three political prisoners whose cases were highlighted by the Council of Europe), was being held in a cell with no ventilation, and with an electric light which was permanently switched on, resulting in temperatures in his cell reaching 44 degrees centigrade. In the case of Alakram Hummatov, his health appeared to be particularly at risk, as he was reportedly suffering from pulmonary tuberculosis and has suffered two heart attacks. He had been transferred from Bayilov prison to Gobustan prison on 5 January, together with other prisoners including Rahim Hasan oglu Qaziyev. Iskender Mejid oglu Hamidov, another political prisoner who was transferred to Gobustan on 8 February, was reported to have been denied visits from his family for a three-month-long stretch. He also reportedly experienced problems receiving parcels of letters, warm clothing and bedding following his transfer to Gobustan.

#### **Arrests post elections**

(update to AI Index: EUR 01/001/2001)

On 26 March, members of the Jalilabad branch of opposition party Musavat were sentenced to prison terms of 12 to 18 months for their part in organizing demonstrations in Jalilabad following the November parliamentary elections last year in which there were reportedly violent clashes with the police. Alif Badirli, said to be Chair of the Jalilabad branch of Musavat, and three political activists, Iman Zeynalov, Rustam Rustamov and Aliheydar Salmani, were reportedly among those arrested on 18 November 2000 under an administrative procedure in connection with the mass protest. They were detained at the Jalilabad police station. Iman Zeynalov and Rustam Rustamov were both subsequently arrested on 23 November under the criminal procedure for allegedly wounding a police officer. Opposition sources report that Iman Zeynalov, who is said to suffer from a heart condition, was beaten by police at the Jalilabad regional police station. There were also reports of serious irregularities in the trial process such as the use of fabricated evidence. A police officer (whose name is known to AI) reportedly withdrew his initial evidence against the defendants, and stated in a court hearing on 7 March that he had been forced to give false evidence in the case by heads of the local law enforcement organs.

In April, the Office of the Procurator General replied to a letter from AI which detailed the organization's concerns regarding a number of arrests following mass disturbances in Sheki on 18 November

requesting country, or if the individual would face persecution for reasons of race, nationality, language, religion, citizenship, political opinion or sex.

#### **Political prisoners**

2000. The reply states that investigations were opened under Articles 233 (organizing groups/movements leading to disturbance of public order), 186.2.2 (intentional damaging of property), and 315.2 (resistance or violence against representatives of the state) of the Criminal Code, and that a number of individuals were charged with these articles and were detained.

AI had raised concerns about some individual allegations of ill-treatment of demonstrators, including the case of Anvar Gulusoy and the case of Gulhar Pashayeva. In response, the Office of the Procurator General confirms in its letter that Anvar Gulusoy had been detained, but does not comment on the allegations he was beaten by police. AI had received reports that he had sustained a broken arm as a result of being beaten by police. The letter also states that Gulhar Pashayeva had not been formally detained or prosecuted. AI had received reports that on 20 November, police officers had taken 61-year-old Gulhar Pashayeva to a police station in the city of Sheki and had demanded that she admit to taking part in the meeting, and name others who had done so. She initially refused, and then described how three officers had severely beaten her and threatened to rape her with a truncheon. Employees at the Central Hospital in Sheki were said to have been too afraid of the police to render medical assistance to Gulhar Pashayeva, and it is also reported that the state forensic service in Baku would not examine her as the procuracy declined to request a medical examination from them.

#### **Fair trial concerns**

##### *The case of Natig Efendiyev*

On 11 January, the Court for Grave Military Crimes sentenced Natig Efendiyev, said to be former head of Ganja city police, to life imprisonment and stripped him of military rank and orders after convicting him of attempting a coup in 1999. In February last year, AI had raised concerns with the Azerbaijani authorities at reports that he had not been given access to a defence lawyer up to two weeks after his arrest, and sought assurances that both Natig Efendiyev and Rza Mamedov, detained together with him, would receive fair trials in accordance with international standards. However, AI has yet to receive a response from the Azerbaijani authorities to these concerns. During the course of the trial, which started in October last year, the lawyers for the defence are reported to have complained of procedural irregularities and that the hearings were not objective. Natig Efendiyev had reportedly been detained on or around 11 January 2000 in Turkey and subsequently returned to Azerbaijan.

##### *The case of Rauf Arifoglu*

(update to AI Index: EUR 01/001/2001)

The criminal case against Rauf Arifoglu was returned to the Office of the Procurator for additional investigation in February, according to his lawyer. The lawyer stated that this was the second time that the period of investigation had been extended. He had been arrested on 22 August 2000 at his home in Baku after police claimed to have found an illegally-held "Makarov" pistol in the apartment. Rauf Arifoglu, editor of the opposition newspaper *Yeni Musavat*, strongly denied the charge, and claimed that the pistol was planted by police to fabricate grounds for arrest and implicate him in a failed hijacking several days earlier.

### **Reports of police ill-treatment of journalists**

During the period under review, AI received reports of a number of incidents in which police, sometimes together with unidentified men in civilian clothing, allegedly ill-treated journalists. For example, on 12 May police reportedly beat a number of journalists covering an unsanctioned demonstration of an estimated 2,000 people organized by the opposition Democratic Party of Azerbaijan (ADP) in Fizuli square in the centre of Baku, to demand the release of political prisoners. Reportedly, the editor-in-chief of *Hurriyet* (the newspaper of the ADP), Suleiman Mamedli, was attacked, beaten and detained by police; Seimur Verdizade, correspondent of *Bu Gyun* newspaper, was beaten by men in civilian clothing who also broke his cassette recorder; Aibenz Velikhanly and Parvin Sadai, correspondents of *Milletin Sesi* newspaper, sustained minor injuries inflicted by police; men in civilian clothing beat Raghim Gadinov, correspondent of *525-ci qezet* newspaper, and broke his cassette recorder; police physically assaulted reporters of Russian ORT and NTV and Turkish television channels and interfered with their filming; and Rasim Mustafaoglu, an editor of *Hurriyet*, had minor injuries inflicted by men in civilian clothing who also confiscated his journalist identification.

### **Alleged failure to protect women demonstrators**

At about 1pm on 20 June, around 30 to 40 women activists are reported to have conducted a silent sit-down demonstration in a square near the State Philharmonic building in Baku, in protest against police violence. The demonstration is understood to have been organized by the Dilara Aliyeva Society to Protect Women's Rights, in conjunction with other human rights organizations. Reportedly, police officers attempted to prevent the demonstration from

Unofficial and official reports also differ as to the reason Ilgar Javadov was initially detained. According to his wife, Jannet Abdullayeva, Ilgar Javadov resisted being forced into a police car by police who said they wanted to take him to the police station to check his identity (he did not have his documents with him). Another police car was summoned, and the arriving officers reportedly beat Ilgar Javadov with truncheons

taking place, but are then said to have left the women alone. However, men in civilian clothing then allegedly appeared in the square and tried violently to seize and destroy the protestors' placards, reportedly twisting some of the women activists' arms in the process. Some of the women were reportedly injured. The women assaulted reportedly include the chair of the Dilara Aliyeva Society to Protect Women's Rights, and a well-known singer, Flora Kerimova. A large group of police officers reportedly stood nearby and watched while this happened. The head of Sabail District Police Department who was present at the demonstration is reported to have stated that the incident was the women's "own provocation".

### **Deaths in custody**

#### *The case of Ilgar Javadov*

Ilgar Javadov, a 28-year-old engineer with the oil company SOCAR, died following his detention at police station No. 9 in Baku's Sabail District on 13 May. Ilgar Javadov's relatives believe that he died in the early hours of 13 May after being severely beaten by police officers, causing injuries such as fractures to the right arm, ribs and spine, and bruising to the legs and body. Ilgar Javadov's lawyer was reported on 23 May to have announced that a forensic examination had proved the cause of death was beating. However, police sources have reportedly claimed that Ilgar Javadov sustained these injuries after falling to his death from the second floor of the police station while trying to escape. According to this account, Ilgar Javadov requested to go to the lavatory and while unguarded he sought to climb out of a window. He lost his balance, however, and fell into the courtyard below. Medical aid was summoned, but Ilgar Javadov died before the ambulance arrived. It is not clear how this account fits in with another report shortly after Ilgar Javadov's death, which stated that a criminal case had been instituted against three police officers from police station No. 9 on a charge of incitement to suicide (Article 125 of the Criminal Code). A later report stated that the charge was changed to "exceeding official powers with the use or threat of force" under Article 309.2. According to a report received by AI, a court hearing was arranged at short notice in Sabail District at which all three police officers were released from custody (AI is seeking clarification as to the nature of the court hearing). Ilgar Javadov's relatives are demanding that his body be exhumed in order to establish the exact cause of his death.

and demanded a bribe not to detain him. Regarding the money he had on him as insufficient, the officers took Ilgar Javadov away and told his wife to bring the necessary sum to police station No. 9 within one hour in order to obtain her husband's release. A different version is given by the head of the Sabail District Police Administration at the time, Nazim Nagiyev, who is quoted as stating that police officers intervened

as the couple were arguing on the street. According to this version, Ilgar Javadov refused to listen to or obey the officers, and so was detained and taken to police station No. 9.

**Visit of the United Nations  
Special Rapporteur on torture**

The report of the UN Special Rapporteur on torture's visit to Azerbaijan which took place on 7 to 15 May 2000 was made public during the period under review. The Special Rapporteur identified some notable improvements relating to the treatment of prisoners, in particular the positive effect moving correctional facilities and remand centres from the jurisdiction of the Ministry of Internal Affairs to the Ministry of Justice, as well as successive Presidential amnesties reducing the prison population, had had on material conditions and regime in detention. While commenting that he believed there had been a reduction in the incidence of physical torture over the two years leading up to his visit, in particular with regard to detainees held in connection with alleged criminal activities committed for political motives, nevertheless the Special Rapporteur concluded on the basis of numerous testimonies that torture or similar ill-treatment remained widespread. He commented: "Indeed, [torture or similar ill-treatment] is believed by so many to be automatic, that the mere threat or hint of adverse consequences for failure to comply with investigators' wishes (such as to sign a confession) is assumed to mean torture. For some, the mere fact of detention has the same implication."

Ill-treatment had been facilitated, in the opinion of the Special Rapporteur, by factors such as the power of prosecutors to order detention in temporary detention facilities under the jurisdiction of the Ministry of Internal Affairs for up to 30 days, and by limited or obstructed access to lawyers. This was exacerbated in some cases by detainees waiving their right to access to a lawyer, through ignorance of their role, the fact that they have to rely on poorly paid and poorly motivated state lawyers, or through fear. The Special Rapporteur was also informed by non-governmental organizations (NGOs) that victims of torture and ill-treatment were very often afraid of making their complaints public before their trials, fearing repercussions. He also witnessed the reluctance or refusal of detainees to make their allegations public, even after conviction, for the same reason. There was a reported lack of confidence among victims, lawyers and NGOs that those officially charged with investigating complaints would act promptly and impartially if allegations of torture were made, and they did not believe that an effective sanction would be taken against anyone found responsible. The Special Rapporteur was not presented with any case law on prosecution for torture in Azerbaijan.

In June, supporters of Samvel Babaian reportedly collected 8,000 signatures in Karabakh and in Armenia in support of his release. Ashot Sevyan, one of the supporters collecting signatures, was reportedly

**Optional Protocol to CEDAW**  
(update to AI Index: EUR 01/001/2001)

Azerbaijan ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 1 June, bringing the number of parties to 22 at the end of the period under review. AI welcomes this positive step towards ensuring that women have the means to ensure full implementation of their rights under the Convention.

**Concerns in the disputed Karabakh region**

*Prisoners of conscience*

Three conscientious objectors were convicted in the first half of the year for "evasion of military development call-up" under Article 214 Part I of the Criminal Code in use in Karabakh. Two of the men, Vladimir Kiroian and Edgar Bagdasarian, were sentenced to custodial sentences, of eight and six months respectively. The third conscientious objector, Vladimir Osipian, received a suspended sentence of one year. When sentencing all three men, the Shushinsky District court reportedly did not take into account that they had all previously served in the army and were refusing only to attend a one-day military refresher course. Moreover, Edgar Bagdasarian and Vladimir Osipian both have health problems which were reportedly not taken into consideration by the court. Edgar Bagdasarian reportedly suffers from an ulcer in his small intestine (duodenum), and Vladimir Osipian reportedly has a head injury, difficulties with his hearing, and damaged his eyesight during his previous military service.

**The trial of Samvel Babaian - allegations of  
torture and violations of due process**  
(update to AI Index: EUR 01/001/2001)

On 26 February, the Supreme Court of Nagorno-Karabakh found Samvel Babaian guilty of organizing a failed assassination attempt on Arkady Ghukasian, "President" of the self-proclaimed Nagorno-Karabakh Republic. The court sentenced him to 14 years' imprisonment, and the other defendants in the trial to terms ranging from suspended sentences to up to 14 years in prison. This verdict was upheld on 29 March by the board of the Supreme Court. AI had expressed concern at reported violations of fair trial standards and of ill-treatment of Samvel Babaian and other defendants in the case. There were reports in May that co-defendant Sasun Agadzhanian, sentenced to 14 years' imprisonment, had been moved from Shushinsky prison in Karabakh to a hospital in Yerevan, Armenia, and was said to be in a serious condition. Allegedly, a doctor treating him stated in May that the deterioration of his health was a direct result of stress.

arrested on 11 June by the authorities in Karabakh. His wife claimed that the arrest, which the Mardakert department of the Internal Affairs Ministry is said to have explained was connected to irregular business

deals, was in fact motivated by her husband's political activity collecting the signatures.

## BELARUS

### **Possible "Disappearances" - Dmitry Zavadsky**

AI learned in May that several past and present members of the elite *Almaz* police unit were being held in custody, charged in connection with the kidnapping and possible murder of Russian Public Television (*ORT*) cameraman Dmitry Zavadsky. Valery Ignatovich, Maksim Malik, Aleksey Guz and Sergei Savushkin were expected to come to trial at Minsk Regional Court in July. In contravention of various international human rights standards the trial was reportedly going to be held behind closed doors.

Dmitry Zavadsky went missing on the morning of 7 July 2000, after he drove to a Minsk airport to meet a journalist colleague, Pavel Sheremet, who was arriving on an aeroplane from Moscow (see AI Index: EUR 01/001/2001). Even though Dmitry Zavadsky's car was found parked at the airport no trace has ever been found of the 27-year-old cameraman. Dmitry Zavadsky's wife, Svetlana, informed an AI delegation in March that she and their young son have received no word from him since his whereabouts became unknown.

The investigations into the apparent "disappearance" of Dmitry Zavadsky as well as the other missing opposition leaders Yury Zakharenko, Viktor Gonchar and his companion Anatoly Krasovsky have been cloaked in controversy, eliciting domestic and international criticism relating to their perceived transparency and impartiality (see AI Index: 49/002/2001). In March, the Parliamentary Troika, composed of members of the European Parliament and the Parliamentary Assemblies of the Council of Europe and the Organization for Security and Co-operation (OSCE) in Europe, which had visited Belarus from 5 to 7 March, also expressed "... its continuing concern about the human rights situation" and particularly "... at the lack of progress in investigating the disappearances of political opponents, Mr Zakharenko, Mr Gonchar, Mr Krasovsky as well as the journalist Mr Zavadsky".<sup>11</sup>

On 5 February prisoner of conscience Vladimir Koudinov was released in an amnesty after serving four years' in prison. He was originally sentenced to seven years' imprisonment in August 1997 on the charge of allegedly bribing a police officer (see AI Index: EUR 49/14/00). As a deputy of the dissolved Belarusian parliament, the 13<sup>th</sup> Supreme Soviet, Vladimir Koudinov had taken an active role in attempting to impeach President Alyaksandr Lukashenka for dissolving parliament in November 1996. AI believed that he - like other deputies of the 13<sup>th</sup> Supreme Soviet - had been imprisoned for his opposition activities. In early March he informed an

Toward the end of the period under review there were reports that two officials of the Prosecutor General's Office, Dmitry Petrushkevich and Oleg Sluchek, assigned to investigate the possible "disappearances", fled to the USA in June, where they obtained asylum. They alleged that officials in President Lukashenka's immediate circle of appointees had employed the elite *Almaz* police group to eliminate a number of Belarus' opposition. The missing men are reportedly buried in a graveyard to the north of the capital, Minsk.

### **Prisoner of conscience - Professor Yury Bandazhevsky**

On 18 June 43-year-old Professor Yury Bandazhevsky was sentenced by the Military Collegium of the Belarusian Supreme Court in Gomel to eight years' imprisonment in a strict penal colony with confiscation of property for allegedly taking bribes from students seeking admission to the Gomel Medical Institute, of which he is the former rector (see AI Index: EUR 49/008/2001). AI believes that his conviction is related to his outspoken criticism of the Belarusian authorities' reaction to the Chernobyl nuclear reactor catastrophe of 1986, and considers him to be a prisoner of conscience.

International and domestic trial observers considered not only that the basis of Yury Bandazhevsky's conviction appeared extremely weak, but also that his right to a fair trial had been repeatedly violated. The Advisory and Monitoring Group of the OSCE in Belarus, which had observed the entire duration of the trial, noted eight different infringements of the Belarusian Criminal Code during the pre-trial investigation and trial. These included the violation of Yury Bandazhevsky's right to defence, as he was denied access to counsel during the entirety of his six months in pre-trial detention. At the time of writing Yury Bandazhevsky was imprisoned at the UZ 15/1 prison in Minsk, where he was being held in a dormitory-type prison cell with around 150 other prisoners, sleeping in three-tiered bunk beds.

### **The release of prisoner of conscience Vladimir Koudinov**

AI delegation visiting Minsk about the egregious conditions of his detention and how he felt that he had been adversely treated by the prison authorities on account of his political status.

### **Human rights defenders**

For 12 days at the end of February and the beginning of March an AI delegation visited the Belarusian cities of Brest, Gomel, Minsk, Mogilov and Vitebsk, conducting interviews with a range of human rights defenders. The report of the visit, *In the Spotlight of the State: Human Rights Defenders in Belarus* (AI

<sup>11</sup>Parliamentary Troika visit to Belarus - Final statement, 7

March 2001

Index: EUR 49/005/2001) highlights the considerable obstacles faced by individuals engaged in human rights defence and promotion in Belarus.

***Prisoner of conscience -  
human rights defender Valery Schukin***

On 12 June 60-year-old Valery Schukin the veteran human rights defender, independent journalist and member of the dissolved Belarusian parliament began a three-month prison sentence. He was convicted by Minsk City Court on 17 April for his role in organizing the October 1999 pro-democracy Freedom March, and for alleged hooliganism relating to an incident which occurred on 16 January, when police officers refused him entry to a press conference given by the Minister of the Interior, Vladimir Naumov, in Minsk. A struggle reportedly ensued between the human rights activists and guards policing access to the conference, who violently forced him to the ground. In early July Valery Schukin was transferred to Zhodino prison where prison officials allegedly forcibly shaved off his long beard using a blunt razor.

***New legal restrictions of the rights to freedom  
of association and assembly***

AI expressed concern about the introduction of two presidential decrees, apparently designed to hamper the peaceful protest activities of Belarus' opposition in the run-up to the presidential election, planned for 9 September. On 14 March President Alyaksandr Lukashenka issued the decree "Several Measures on Improving Distribution and Use of Foreign Humanitarian Aid", which effectively prohibited the use of foreign funding for pro-democracy purposes. The decree prevents foreign monetary and non-monetary aid given to non-government organizations (NGOs) and political parties from being used for a broad range of activities, including the organization and monitoring of elections and various protest actions. NGOs will run the risk of incurring fines and closure if they violate the broadly-sweeping legislation.

On 11 May Presidential decree, "On Certain Measures to Improve Procedures of Holding Meetings, Rallies, Street Processions, Demonstrations and other Mass Actions and Pickets", also came into effect, which imposes new restrictions on the right of freedom of assembly. Under the decree the body organizing a sanctioned event will be held entirely responsible for the action and may be fined or de-registered if public order is deemed to have been violated.

In the period under review AI learned of significant numbers of other pro-democracy and human rights activists who were arbitrarily deprived of their liberty. On the peaceful Day of Freedom demonstration on 25 March around 15 demonstrators were detained in Minsk for organizing or participating in an unsanctioned demonstration. While most of the

***Arbitrary detention of Zubr human rights  
activists***

During the period of review a significant number of activists of the newly emerged youth pro-democracy and human rights organization, Zubr, served periods of imprisonment after being arrested on account of their peaceful protest activities. On 5 March three Zubr activists were detained outside the Presidential Administration Building in central Minsk for protesting against the spate of possible "disappearances" in Belarus. One of the three youths, Anton Telezhnikov, was sentenced to 15 days' imprisonment. AI considered him to be a prisoner of conscience.

In the early hours of 5 April four Zubr activists, Aleksey Shidlovsky, Timofey Dranchuk, Dmitry Drapochko and Ales Apranisch, were detained in Minsk for allegedly spray-painting on the wall of a factory: "Where is Gonchar? Where is Zavadsky? Where is Zakharenko?". They were released late the following day and were allegedly not given prompt access to a lawyer. The youths are currently facing criminal charges and were expected to be tried later in 2001. In February 1998 Aleksey Shidlovsky was sentenced to 18-months' imprisonment for a similar offence and was adopted by AI as a prisoner of conscience.

On the same day, another Zubr youth activist, Nikita Sasim, was reportedly detained in the town of Baranovich, south-west of Minsk, by two police officers for writing the word 'Zubr' on walls. He was held overnight. According to the human rights organization Spring-96, the police officers beat the handcuffed youth and poured paint over his head. During his interrogation on 6 April the police officers allegedly forced the youth to the floor of the prison cell and threatened to torture him with electric shock treatment. He was released later that day when his mother collected him from the Moskovsky District Department of Internal Affairs, where he was being held.

On 21 April 33 young people were detained during a peaceful anti-presidential event in Gorky Park in Minsk. A number of the detainees alleged that police officers used excessive force to detain them or otherwise ill-treated them. Fourteen of the 33 youths remained in detention at Okrestina detention centre in Minsk until 25 April when they were brought before a court, which sentenced them to three days' imprisonment. Having remained in Okrestina detention centre since 21 April they were allowed to go free. Participants Sergei Pyanukh and Valery Zherbin were later sentenced to 10 days' imprisonment in May. AI considered them to be prisoners of conscience.

detainees escaped imprisonment with a fine, several others including 20-year-old Dmitry Chubarenka, Spring-96's Ales Byalytski and Vincuk Via\_orka were subsequently sentenced to between 10 and 15 day terms of imprisonment. AI considered them to be prisoners of conscience.

In the morning of 18 May, police officers reportedly detained approximately 30 protestors outside the Palace of the Republic building in Minsk. The protestors - who belonged to the Belarusian Conservative Christian Party - reportedly carried posters of the men who have apparently "disappeared". Other protestors reportedly held placards and distributed leaflets contesting the proposed union of Belarus with Russia. Plain-clothes police officers are alleged to have used force to disperse the peaceful protestors and ill-treated a number of them, resulting in one man, Vladimir Yukho, suffering a broken arm and another man reportedly experienced severe heart problems. Throughout the day and evening plain-clothes police officers reportedly detained other peaceful protestors from the Youth Front of the Belarusian Popular Front and the United Civic Party. Both groups of protestors lined Minsk's main thoroughfare, Prospect Frantsysk Skaryna, at different times of the day holding placards of the missing opposition figures. The plainclothes police officers reportedly detained around a dozen protestors, seven of them youths, one of whom was allegedly seriously beaten.

#### **Possible harassment of opposition family members**

The sons of two of President Alyaksandr Lukashenka's political opponents were arrested in the period under review. AI is concerned that the two men may have been deliberately targeted by the Belarusian authorities in order to put pressure on their families. Former prisoner of conscience Mikhail Chigir's son, Alyaksandr Chigir, was arrested on 10 February, accused of dealing in stolen motor vehicle parts. Members of Belarus' opposition have stated that the arrest was to put pressure on Mikhail Chigir, who had planned to stand as a candidate in the 2001 presidential elections. Since his arrest he has been held in pre-trial detention, reportedly sharing his cell with 26-year-old Sergei Vinnikov, son of the former Chairperson of the Belarusian National Bank, Tamara Vinnikova, who escaped to Britain from under KGB house arrest in April 1999. Her son was reportedly charged with the possession of drugs on 21 March and remains in pre-trial detention in Minsk.

#### **Freedom of the media**

AI continued to receive reports about the harassment and intimidation of Belarus' community of independent journalists. The offices of several independent newspapers were raided by the tax

He also claimed that, on board the plane, officers exerted heavy pressure on his body and carotid artery and used their legs and a cushion to press down heavily on his thoracic cage. He said that, after the deportation operation was abandoned, he was assaulted again while being transported away from the plane.

A medical report issued on 3 May, by a privately-hired doctor who had examined Ibrahim Bah in Saint-

officials, including *Borisovskie Novosti* on 16 March and *Nasha Svaboda* on 19 June. The home of the *Den* and *Belarusky Chas* journalist, Sergei Anisko, were also raided by police on 20 June. Individual newspaper vendors selling the independent press reportedly suffered newspaper confiscations. In the first six months of 2001 particular concern was also expressed about the draft law, Law on Information Security, which - if adopted in its draft format - would confer on the Belarusian authorities a range of powers by which to censor the media and stifle media freedom.

## BELGIUM

#### **Alleged ill-treatment of asylum-seekers during deportation operations and in detention facilities**

There were further claims of asylum-seekers being subjected to excessive force and assault during deportation operations and in detention facilities. Criminal investigations opened into such complaints in previous years were often subject to long delays and complainants were often at risk of deportation while investigations were still under way.

In June AI wrote to the Minister of Interior to express concern about allegations that federal police officers had subjected Ibrahim Bah, an asylum-seeker from Sierra Leone, to excessive force and physical assault during several unsuccessful attempts to deport him to Côte d'Ivoire. Between his arrival and detention on 31 December 2000 and the end of May there had been five separate attempts to deport him. The allegations were made by Ibrahim Bah himself, by members of Belgian non-governmental organizations (NGOs) and members of parliament (MPs) who visited him during his detention in Saint-Gilles prison between 10 April and 11 June.

According to these reports, on the fourth deportation attempt on 20 April, police officers who were escorting him by van to his flight kicked and beat him, after tying his hands and feet together according to the so-called *méthode du saucisson*. The descriptions of this method of restraint indicate individuals being placed face down on the floor in restraints, with their hands and ankles bound together from behind - sometimes for prolonged periods. AI has noted with concern that these descriptions are reminiscent of dangerous restraint techniques which can lead to death from positional asphyxia. Ibrahim Bah alleged that officers hit him in the face and ribs and subjected him to threats and verbal abuse.

Gilles prison the previous day, concluded that his symptoms and injuries were consistent with his allegations.

On 16 May the Ministry of Interior stated that the procedures followed in each attempt to deport Ibrahim Bah to date had been according to regulations, without indicating the nature of the official steps taken to investigate the allegations of ill-treatment or the content of any relevant medical reports.

Following a fifth unsuccessful deportation attempt on 24 May, it was alleged that:

- during Ibrahim Bah's transfer to the airport escorting officers kicked him and struck his face while he lay face down, bound hand and foot, on the floor of the van;
  - in an airport isolation cell further restraints were secured so tightly and painfully that his circulation was affected and his hands became numb;
  - in the cell officers hit him, including in the genital area, tried to put a foam mattress on him, impeding his respiration, until another officer intervened to stop them;
  - en route to the plane escorting officers punched and kicked him and laughed at him while doing so;
  - around six officers took him by force on board Flight SN689 to Abidjan and punched him when he began shouting and screaming in protest against his deportation;
  - in violation of a 1999 Royal Decree issued by the Minister for Transport and internal gendarmerie guidelines explicitly banning methods of restraint involving the full or partial obstruction of the airways of a deportee, officers forced a handkerchief in his mouth and applied heavy pressure to his thorax, using a cushion to press down on his chest;
  - passengers on board the flight protested about the deportation and, following their intervention, he was taken off the plane but ill-treated again in the transport van which took him back to the isolation cell. There he was seen briefly by a doctor who apparently did not, however, provide any medical assistance;
  - after about an hour he was returned to the prison and during the transfer again assaulted in the transport van;
  - during the deportation operation officers also subjected him to threats and racist abuse. He claimed that, after he had gone without food or drink for a number of hours and asked the officers for a drink, an officer told him to open his mouth so that he could urinate into it; officers told him that Belgium was for Belgians and Africa for Africans, that they did not want to pay taxes for
- In its letter to the Minister AI sought clarification about the steps being taken to investigate the allegations of ill-treatment and medical neglect and urged that an independent investigation should include questioning of Ibrahim Bah himself, the identification and interviewing of possible eye-witnesses to his treatment on board Flight SN689 of 24 May to Abidjan, the interviewing of MPs and domestic NGOs who saw him in prison following the deportation attempts, as well as the examination of all available medical evidence. AI also urged that Ibrahim Bah should not be deported before the completion of a full and independent investigation.

In a letter of 26 June the Minister confirmed that he had sent three doctors to examine Ibrahim Bah and asked the General Inspectorate of Police for a report

him to be fed in a Belgian prison and that he was going to be deported - dead or alive.

A medical report by his private doctor who examined him on 25 May recorded, among other things, injuries to his mouth, injuries consistent with restraints kept in place for several hours, paraesthesia in his arms, blood issuing from his penis, and his poor psychological state. It also recorded the doctor's request for an X-ray to be carried out as soon as possible and the agreement of the prison nurse that it should be carried out on 28 May, as well as the prison's agreement to the doctor's request for a urologist to examine Ibrahim Bah. The doctor also prescribed medication. The medical report concluded that the overall symptoms and injuries recorded were consistent with the allegations.

At a 30 May meeting between the Ministry of Interior, several MPs and representatives of domestic NGOs, the Ministry apparently promised that Ibrahim Bah would be examined by a doctor and psychologist before midday on 30 May - however, these examinations had not taken place by the afternoon of 31 May.

On the evening of 31 May, a week after the deportation attempt, Ibrahim Bah was visited in Saint-Gilles prison by a team of three doctors appointed by the Ministry of Interior and composed of one doctor apparently attached to the Aliens Bureau falling under the auspices of that Ministry, and two doctors apparently attached to the offices of the Minister of Health.

A Brussels MP, after visiting Ibrahim Bah on 4 June, reported publicly that he had still not received any of the treatment prescribed by his private doctor on 25 May or promised by the Ministry of Interior on 30 May. According to Ibrahim Bah he received none of this treatment until some two weeks after the attempted deportation of 24 May.

On 5 June 17 MPs drew the allegations of ill-treatment and subsequent medical neglect to the attention of the Brussels Prosecutor's Office and to the Permanent Monitoring Committee of Police Services.

Ibrahim Bah was released from prison on 11 June after a Brussels court ruled that his continued imprisonment was illegal, in view of the length of time he had already spent in administrative detention. He was then ordered to leave the country within five days. on the 24 May operation. He said that, after questioning the escorting officers, executives of the airport security detachment, the relevant airline pilot, the duty doctor at the airport and a member of the airline security staff, the General Inspectorate of Police, in a 30 May report, had concluded that the allegations could not be proven: the prescribed procedures had been scrupulously respected, all the statements were unanimous and there had been no use of a pillow or any other covering of the mouth.

On 1 June the three doctors had submitted a written report, two pictures and an additional report relating to an urology examination. The Minister said that their reports showed that no particular injuries had been observed and that Ibrahim Bah was receiving all the medication prescribed by his private doctor, apart



from sleeping pills. He acknowledged that the requested urology examination, the results of which were negative, had been postponed but that this was due to "social actions in the prison." He confirmed that Ibrahim Bah was subject to an order to leave the country and could be removed if intercepted on Belgian territory.

Ibrahim Bah indicated his intention of lodging a criminal complaint about his treatment with the public prosecutor's office.

**Death during forcible deportation -  
the case of Semira Adamu**

(update to AI Index: EUR 01/001/2001)

Semira Adamu died as a result of asphyxiation following a deportation attempt of September 1998 during which gendarmes pressed a cushion over her face while on board an aircraft at Brussels Zaventem airport. The so-called "cushion technique" - a dangerous but authorized method of restraint at that time - allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee.

In 1998 three of the escorting gendarmes were put under criminal investigation in connection with possible manslaughter charges. In December 2000 the Brussels Public Prosecutor's office submitted the dossier to the relevant Brussels court (*chambre du conseil*), requesting that the three gendarmes be charged with manslaughter but not with violating the Belgian Law on Racism, as had been requested by civil parties to the proceedings.

In April 2001 the court heard part of the submissions of the various parties to the criminal proceedings and further proceedings were scheduled for 18 May. However, by then lawyers representing Semira Adamu's relatives had lodged a new complaint with the Public Prosecutor's office against another four gendarmierie officers, including the colonel in charge of the airport deportation unit and a gendarme who filmed the deportation operation without intervening. When the court convened in May it decided to postpone further proceedings on the case until September.

**Universal jurisdiction over war crimes,  
genocide and crimes against humanity**

(update to AI Index: EUR 01/03/00)

In June Brussels Court of Assizes convicted four Rwandese nationals of war crimes committed in the

AI understands that since 1998, in the context of this legislation, a number of criminal complaints have been lodged with the Belgian courts against several leaders and prominent members of past and present administrations of various foreign states. As of June 2001 the officials named in the complaints declared admissible or pending declarations of admissibility reportedly included:

- former Chilean Head of State General Augusto Pinochet;
- former Head of State Khieu Samphan, former Prime Minister Nuon Chea and former Foreign Minister Ieng Sary of the 1975-1979 Democratic

context of the 1994 genocide in Rwanda. Alphonse Higaniro, Sister Gertrude Mukangango and Sister Julienne Kizito were convicted of all charges and sentenced to 20, 15 and 12 years' imprisonment respectively. Vincent Ntezimana was convicted on some of the charges but acquitted on others and sentenced to 12 years' imprisonment. AI publicly welcomed the judgment as a great step in the fight against impunity.

Although several individuals believed to have played a leading role in the 1994 genocide in Rwanda were known to be living in various countries in Europe, North America and Africa, by the end of June 2001 only one other country - Switzerland - had tried and sentenced a Rwandese national for war crimes under its national jurisdiction. Other trials of those accused of participating in the genocide have taken place either in the national courts in Rwanda or at the International Criminal Tribunal for Rwanda (ICTR), set up by the UN in Arusha, Tanzania.

AI calls on states to ensure prompt, thorough, impartial and independent investigations in accordance with international standards, wherever allegations of crimes under international law are made. If such an investigation shows that there is sufficient admissible evidence for a prosecution, then, in accordance with international law which allows the national courts of any state to try people accused of such crimes, regardless of the nationality of the alleged perpetrators or victims and regardless of where the crimes were committed, AI calls on states to bring the accused to trial or extradite them to another country for trial, provided certain safeguards are met. No one should be extradited to a country which cannot assure that any trial on such charges meets international standards for fairness and does not result in the imposition of the death penalty or other cruel, inhuman or degrading treatment.

Belgian legislation enacted in 1993 and 1999 makes specific provision for Belgian courts to exercise universal jurisdiction over war crimes in international and non-international armed conflict, genocide and crimes against humanity, including torture. The day before the judgment in the Rwanda case, the Foreign Minister called for the legislation to be revised in a way which would seriously limit its effectiveness. AI called for Belgium not to weaken its universal jurisdiction legislation in any way.

Kampuchea (Khmer Rouge) government in Cambodia;

- former Speaker of Parliament and President of the Islamic Republic of Iran Hojjatoleslam Ali Akbar Rafsanjani;
- former Moroccan Minister of Interior Driss Basri;
- the late President Laurent-Désiré Kabila and acting Foreign Minister Abdoulaye Yerodia Ndombasi and several other government ministers of the Democratic Republic of the Congo;
- President Paul Kagame of Rwanda;
- Former President Hisssein Habré of Chad;

- Former Minister of Defence General Anibal Guevara and former Minister of the Interior Donaldo Alvarez Ruiz of Guatemala;
- Prime Minister Ariel Sharon of Israel;
- President Laurent Gbagbo, former President General Robert Gueï, Minister of Interior Emile Boga Doudou and Minister of Defence Moïse Lida Kouassi of Côte d'Ivoire;
- President Saddam Hussein of Iraq.

## BOSNIA - HERZEGOVINA

### **General political background**

Following the general elections of November 2000, a new government was formed in Republika Srpska (RS) in January 2001, headed by Mladen Ivanić. In the Federation, Karlo Filipović was elected President in February and a new government led by Prime Minister Alija Behmen was sworn in in March. Also in February a new state government was formed by Prime Minister Božidar Matić, a member of the Alliance for Change (a coalition representing ten non-nationalist political parties which had been formed in January). However Prime Minister Matić resigned on 22 June after the state parliament failed to pass a new election law. In June, Joško Križanović took over the function of state President from Ivo Radošić.

In both entities multi-ethnic Constitutional Commissions were formed in order to implement decisions issued by the Constitutional Court in 2000, in particular its ruling granting equal constitutional rights to Bosniacs (Bosnian Muslim), Croats and Serbs throughout the country. Until full implementation is achieved the Commissions' role is to safeguard the interests of all ethnic groups in each of the entities, and to prevent ethnic discrimination in

Also in April, a bomb was planted in a car in front of the house of the family of two Bosnian Croat brothers, Mladen and Jerko Ivanković, in Široki Brijeg near Mostar. Both men are politicians representing the non-nationalist Alliance for Change as well as influential local businessmen, and had several days previously refused to pay taxes to the Croatian National Assembly. In the same month the High Representative issued a decision authorizing the Sarajevo Cantonal judiciary to investigate and prosecute incidents of violence and intimidation that had taken place in the Cantons in which Croat self-administration had been effectively established. No criminal prosecutions had been launched by the end of June.

In May, the political crisis was partially resolved when Bosnian Croat army units, who had left their barracks after the declaration of self-administration, returned to the Federation Army.

### **Political violence**

the legislative process. However, by the end of June neither entity had yet amended its constitution in line with the Constitutional Court decisions.

On 7 March the High Representative removed Bosnian Croat Presidency member Ante Jelavić and three other officials of the Bosnian HDZ (*Hrvatska demokratska zajednica* - Croatian Democratic Union) from their positions in reaction to their role in a declaration of self-administration for Croat-controlled Cantons in the Federation several days earlier. The declaration was apparently motivated by the dissatisfaction of HDZ-led politicians with newly imposed amendments on electoral procedures and constitutional changes, which they feared might adversely affect the position and rights of Bosnian Croats. In March and April, in the wake of these events, several thousand Bosnian Croat members of the police and armed forces reportedly refused to recognize the newly appointed Federation authorities and pledged loyalty to the Croatian National Assembly - a self-styled body of Bosnian Croat representatives, which had issued the declaration of self-administration - although there were indications that many of them did so under pressure.

In April, violence erupted in Mostar and some other predominantly Croat towns in southern Herzegovina when Stabilization Forces (SFOR) led by the North Atlantic Treaty Organization (NATO) conducted a number of raids on branches of the *Hercegovačka banka*, which was suspected of having conducted substantial illegal money transfers on behalf of the Bosnian Croat armed forces (*Hrvatsko vijeće obrane* - HVO). Protestors, who threw stones at SFOR troops and attacked staff of the local Office of the High Representative, reportedly included Bosnian Croat police officers who had left the Federation police forces earlier in the year. The Cantonal Interior Minister, Dragan Mandić, who was present at these demonstrations and apparently condoned the violence, was removed from his position by the High Representative in late April.

Throughout the period of review, AI expressed concerns about the high incidence of politically and ethnically motivated violence, particularly that which targeted minority returnees in various parts of the country. In many cases the authorities failed to adequately investigate and prosecute the perpetrators of such attacks. In the majority of cases in the RS impunity for return-related violence was the norm, especially in the eastern part of the entity. In Bratunac and Bijeljina (RS), the United Nations International Police Task Force (IPTF) Commissioner removed several police chiefs from their positions in respectively February and March, primarily for their failure to adequately respond to and investigate repeated incidents of ethnically-motivated violence.

There were some prosecutions related to ethnically motivated violence in the Federation. In January, two Bosnian Croats were found guilty by the Sarajevo Cantonal Court of attacking an IPTF unit which was attempting to inspect the local police station in Stola in December 1998, in the context of endemic return-related violence in that area. They

were sentenced to up to three years' imprisonment. These were the first criminal proceedings conducted to date into the many incidents of ethnic violence in the Stola area, where the local Bosnian Croat authorities have notably failed to respect the right to return of the pre-war Bosniac population.

In February, the Municipal Court in Drvar in the Federation found five Bosnian Croats guilty of inciting violence against Serb returnees and international organizations in that town in April 1998, in the wake of the killing of an elderly Serb returnee couple, a crime which remains unresolved (see also AI Index: EUR 01/02/98). The men, who were charged in 1999, received sentences of up to nine months' imprisonment, but are currently at liberty pending appeal.

In two separate incidents in May, the laying of foundation stones for the rebuilding of mosques in Trebinje and Banja Luka (RS) were disrupted by the outbreak of organized violence. On 5 May, several hundred Bosnian Serb protestors threw rocks and bottles at Bosniac worshippers and members of the international community attending the ceremony in Trebinje; local police reportedly failed to take adequate measures to protect people from violence. An international staff member of the High Representative's office and a Bosniac television reporter were severely beaten and had to undergo hospital treatment.

Two days later, in Banja Luka, a crowd of over 2,000 Serb protestors broke up a similar ceremony marking the start of the rebuilding of the famous 16<sup>th</sup> century Ferhad Paša mosque in the centre of Banja Luka. Some 200 people, including Bosniac pre-war inhabitants of Banja Luka, Bosnian Government officials and members of the international community, were forced to abandon the ceremony and seek refuge in the nearby Islamic Community building, where they were trapped for several hours. Scores of persons were injured by the demonstrators, including some Bosnian Serb police officers, who were present in insufficient numbers and failed to halt the violence. Statistics compiled by international organizations again indicated a substantial rise in the return of private property and socially-owned apartments to their pre-war owners and occupants. Over 30,000 houses and flats were returned in the period under review, nearly two thirds of them in the Federation and the remainder in the RS and the autonomous Brčko district. In spite of this progress, many cases of violations of the right to return and disregard of property laws persisted. This was particularly true in respect of the so-called "floaters", people who were evicted from their property but stayed in their municipality throughout the war, of which reportedly some 400 remain in the larger RS towns of Banja Luka and Bijeljina.

There was concern that donor funding for reconstruction did not keep pace with the increased interest in and speed of returns. The United Nations High Commission for Refugees (UNHCR) estimated in January that there was an urgent need for funding to reconstruct some 15,000 housing units belonging to

In addition, SFOR troops who were monitoring events in Banja Luka refused to engage in protecting people and property from being attacked, contrary to their mandate under the Dayton Peace Agreement.

The violence triggered revenge attacks against Bosnian Serbs in the Federation. In Sanski Most two Bosniac men reportedly threw a hand grenade at an Orthodox church. In Ključ, a car driven by a Serb man was stopped and destroyed, and some Serb returnees were attacked and injured by Bosniac men protesting against the violence in Banja Luka. Local police had reportedly issued criminal complaints against some 20 persons in connection with these incidents by the end of May.

The worst casualty of the Banja Luka riot, a 60-year-old Bosniac man who had lapsed into a coma as a result of his injuries, died in late May. In reaction to the violence in Banja Luka and Trebinje, the RS Minister for the Interior and three senior police officers resigned.

There was widespread concern that RS police investigations into the violence were not carried out in a thorough and professional manner, in spite of the availability of large amounts of evidence, including video-taped footage. In June, the IPTF Commissioner dismissed the head of the crime department of Trebinje for failing to conduct thorough investigations. Only a small number of people were reportedly brought before a court for petty offences in connection with the violence. Similarly, by the end of June, Banja Luka police had reportedly brought criminal complaints against only 11 persons for their role in the violence.

A second attempt at laying the foundation stone of the Ferhad Paša mosque in Banja Luka succeeded on 18 June, policed by some 2,200 RS police officers who used tear gas and water cannons to keep a 1,000-strong crowd of hostile demonstrators at bay.

### **Minority returns**

returnees; by the end of June this number had risen to 22,000. A large part of reconstruction aid was also needed for people who had already returned to their pre-war communities on the principle of "funding follows return", and who were living in tent settlements or temporary accommodation awaiting the rebuilding of their destroyed homes.

It remains difficult to assess how many of the reported returns proved to be sustainable, and how many returnees have succeeded in reintegrating in their pre-war communities. Discrimination on grounds of ethnicity in regaining employment and the enjoyment of other social and economical rights was a common occurrence throughout the country, impacting heavily on the feasibility of sustainable return and on the decisions of those still displaced whether to leave areas where members of their nationality held political and economic control.

On 24 April, a final and binding decision was taken on the location of the Inter Entity Boundary Line (IEBL) in the Sarajevo suburb of Dobrinja. Dobrinja

had been divided between the two entities by the Dayton peace negotiations in 1995, and the IEBL ran partly through some residential buildings. According to the decision, issued by an international judge appointed by the High Representative in February, the majority of the suburb became part of the Federation, and property now occupied by Bosnian Serb displaced persons should be vacated to allow the pre-war inhabitants to return.

### **Administration of justice**

Reforms of the domestic judicial system continued. In March the High Representative established the International Judicial Commission (IJC), a temporary body of international experts, mandated to oversee and coordinate the reform of the judiciary and prosecutorial system. The IJC's tasks include the provision of guidance to the entity commissions and councils in appointing and assessing judges and prosecutors in order to ensure greater impartiality and independence of the judiciary, as well as to enhance their professional skills.

In both entities criminal legislation continued to be reviewed with the aim of ensuring compliance with international standards; in the RS a new draft Criminal Procedure Code was returned to the entity's working group for their consideration after having been assessed by Council of Europe experts. In March the High Representative amended the Federation Law on Special Witness Protection in Criminal Proceedings, issued by his predecessor in July 1999, in that some of its wording was clarified. The Law provides for special proceedings to be conducted by the Federation Supreme Court in hearing the testimony of witnesses who fear attacks against themselves or their family. However, it does not include clear provisions on protection measures to be taken by court police officers; such details are equally lacking in the Criminal Procedure Code.

Renewed war crimes trials were ongoing in cases of two Bosnian Serbs, Goran Vasi\_ and Sretko Damjanovi\_. Sretko Damjanovi\_ had been sentenced to death in 1993, following a conviction for war crimes; this sentence was overturned by a ruling of the Human Rights Chamber in 1997. A request for a retrial made by Sretko Damjanovi\_, on grounds that two of the persons he was alleged to have killed were found to be still alive, was subsequently rejected by the Federation Supreme Court. In February 2000, the Human Rights Chamber held that Mr Damjanovi\_'s right to a fair trial had been violated and ordered a retrial, which commenced in September 2000.

Information received by AI in the case of Edin Garaplija raises concern that his right to a fair trial was violated in renewed appeal proceedings conducted before the Federation Supreme Court in October 2000 (see also AI Index: EUR 01/001/2001). Mr Garaplija had been convicted in 1997 of kidnapping and attempted murder and sentenced to 13 years' imprisonment. He had detained and interrogated a person, suspected of having committed war crimes, in

### *Domestic trials*

Several trials of people charged with war crimes took place in the Federation, all of which had been initiated after the Office of the Prosecutor at the International Criminal Tribunal for the former Yugoslavia (Tribunal) had reviewed the investigation files and authorized the prosecution to take place. In March Bosnian Serb Miroslav Pandurevi\_ was acquitted by the Sarajevo Cantonal Court in connection with the killing of a Bosniac family in Sarajevo.

Some war crimes trials before domestic courts highlighted AI's concerns that these proceedings were not conducted thoroughly and impartially. For example in mid-April five Bosnian Croats (former members of the HVO) suspected of being responsible for the "disappearance" of some 12 Bosniac soldiers in 1993, were acquitted by the Mostar Cantonal Court of charges of war crimes. The prosecution case against the accused was weakened early on in the proceedings, and subsequently collapsed as their witnesses retracted testimonies given to the investigative judge, reportedly as a result of intimidation by associates of the accused.

At the end of April the Mostar Cantonal court acquitted another group of five Bosniac men who had been accused of war crimes against HVO prisoners of war.

In June Bosniac war-time army commander Hanefija Priji\_ was convicted by the Travnik Cantonal Court for war crimes against the civilian population, notably the murder of three Italian aid workers in May 1993 in central Bosnia.

Several other proceedings for war crimes and other crimes committed during the war continued in the Federation. For example, two Bosniac former police officers are currently on trial in the Sarajevo Cantonal Court for the murder of a Serb family of six in the Sarajevo suburb of Veleš\_i in 1992, allegedly on an order from the then Sarajevo police commander.

his capacity as investigating officer in the Federation intelligence agency AID (*Agencija za istragu i dokumentaciju*) in 1996. The suspect was under investigation for criminal activities conducted during the war as part of a paramilitary group, known as the *Seve*. The crimes included the unlawful killings of civilians and prisoners of war.

It is alleged that Edin Garaplija had been ordered by his superiors to present a false alibi during his trial, in order not to reveal the nature of the investigation he had been ordered to carry out. The Federation Supreme Court refused to allow him to be present during the appeal hearing on his case before that court in May 1998, despite his request to provide new evidence to the court on the investigation. Subsequently his lawyer filed a complaint with the Human Rights Chamber which ruled in July 2000 that he should be allowed to attend renewed appeal proceedings to be held before the Supreme Court where he might present new facts to the court.

Renewed appeal proceedings were held on two separate days in October 2000. On the second day Edin Garaplija presented the Supreme Court with a

lengthy account of the circumstances under which he had detained the suspect under investigation, and revealed some of the findings of the investigation against the *Seve*. Edin Garaplija requested that the court summon for questioning several additional witnesses, notably his superior officer in AID, two other officers involved in the detention of the alleged victim, and several high-ranking former and serving government officials. He advised that all of these people could clarify the events surrounding the investigation of the *Seve* members and their activities, which he had been ordered to carry out. However the court refused to call these witnesses or inquire further about the case. A judgment which was issued on the same day found Edin Garaplija guilty of attempted murder and ill-treatment in the course of duty, rather than kidnapping, and sentenced him to seven years' imprisonment. The request by Mr Garaplija's lawyer to renew criminal proceedings against his client entirely was rejected.

AI has noted that nowhere in the judgment was the new testimony provided by Edin Garaplija addressed. Rather the court concluded that the version of events had been correctly established at the original trial. AI is concerned that Mr Garaplija's right to a fair trial as guaranteed under internationally recognized standards was violated during the proceedings in the Supreme Court. In particular the organization believes that his right to be presumed innocent was violated and that the court hearing his appeal cannot be considered an impartial tribunal. The Supreme Court panel reportedly consisted of the same judges who had heard Mr Garaplija's original appeal in 1998. In addition, the defence alleged that one of the Supreme Court judges had had contacts with AID officials shortly before the first appeal hearing; the defence request that he be recused from the proceedings was rejected, reportedly without a thorough examination of the allegations. Similarly, the appeal court's refusal

In April, SFOR troops arrested Bosnian Serb Dragan Obrenović in Zvornik, on the basis of a sealed indictment which accused him of complicity in genocide, crimes against humanity and war crimes. According to the indictment, Dragan Obrenović had been in command of a Bosnian Serb Army brigade which had participated in the siege of the formerly UN protected enclave of Srebrenica, and in the subsequent mass summary executions of Bosniac men and boys. His brigade came under the direct command of Generals Ratko Mladić and Radislav Krstić. Radislav Krstić is currently on trial before the Tribunal on charges of genocide, crimes against humanity and war crimes.

In January, former RS President Biljana Plavšić surrendered herself to the Tribunal after learning that she had been secretly indicted for genocide, crimes against humanity and war crimes. She was co-indicted with Momčilo Krajišnik, a former member of the post-war Bosnian State Presidency, who was arrested in April 2000. Biljana Plavšić is expected to stand trial together with Momčilo Krajišnik. The former Bosnian Serb leader, Radovan Karadžić, who remains at

to hear witnesses proposed by the defence was in violation of the accused's right to examine, and have examined, witnesses in his defence.

AI also remains concerned that the Federal Prosecutor does not appear to have initiated investigations into the war time criminal offences reported by Edin Garaplija, despite his statements during the appeal hearings that he would do so. The newly appointed Federation Interior Minister stated in June that he had not received any requests for information from the Federal Prosecutor and that he had discovered that most of the documentation that had been collected on the *Seve* formation had gone missing.

### *Trials before the Tribunal*

In February the Tribunal convicted three Bosnian Serbs of sexual crimes against women and girls in Foča in eastern Bosnia-Herzegovina, in a landmark judgment which concluded that rape and sexual enslavement were crimes against humanity. The three men were sentenced to imprisonment for up to 28 years. Two of the men were found guilty of holding Bosniac women and girls in captivity in a number of detention centres in and around Foča, where they were subjected to physical and sexual assaults. The fate and whereabouts of many of the victims remain unknown.

Also in February two Bosnian Croats were found guilty of crimes against humanity and war crimes after a trial which had lasted almost two years and received sentences of up to 25 years. The trial chamber concluded that Dario Kordić, a high-ranking politician in the Bosnian HDZ and Mario Perčević, an HVO commander, helped organize and participated in a campaign of extreme and systematic persecution of the Bosniac population in central Bosnia.

liberty, is indicted on similar charges in one of the two indictments issued against him, and, should he come into the Tribunal's custody, his case will likely be joined with that of Biljana Plavšić and Momčilo Krajišnik.

In March Bosnian Serb Blagoje Simić surrendered himself to the Tribunal. He had been indicted for war crimes and crimes against humanity against the Bosniac population in Bosanski Šamac, and had been living in the Federal Republic of Yugoslavia (FRY). He will be tried jointly with three other suspects in the case who came into the Tribunal's custody earlier.

Also in March, the FRY authorities arrested and transferred to the Tribunal's custody Bosnian Serb Milomir Stakić, who had been secretly indicted for genocide against Bosniac prisoners in detention camps around Prijedor.

### *Persecution of journalists*

AI received many reports of persecution of independent journalists in both entities. For example, in January unknown assailants beat Kristijan Ivelić, a

journalist for the Sarajevo *Start BiH* magazine; he sustained head injuries as a result. The attack was apparently connected with his reports on crimes committed in Sarajevo during the war by the Bosnian Government army; the magazine had started receiving threats immediately after his reports on this issue.

In May, journalists working for the Banja Luka-based independent radio station *Radio Kontakt* were threatened following their reports on the violence which had broken out during the laying of the foundation stone for the Ferhadija mosque (see above). Aleksandar Trifunoviċ, editor-in-chief of the youth magazine *Buka*, received threats after he wrote an editorial on the need to bring to justice those who had committed war crimes, irrespective of their nationality. Similar threats were received by reporters working for the TV station *Alternativna televizija* which had broadcasted several reports on the arrest and transfer of former FRY President Slobodan Miloševiċ. AI fears that these attacks, and the fact that perpetrators have not been identified and brought to justice for them, have a chilling effect on journalists and jeopardize the right to freedom of expression in the country.

#### ***Investigations into ill-treatment by law enforcement officials***

There were several allegations of police ill-treatment throughout the country. In addition, police reportedly failed to react adequately to violent attacks on citizens. For example the Helsinki Committee for Human Rights. On 23 April, Pleven County Court convicted Aleksander Kandjov for aggravated hooliganism under Article 325, paragraph 2, point 2, of the Penal Code, and sentenced him to four months' imprisonment suspended for three years. On 10 July 2000 Aleksander Kandjov had organized the signing of a petition calling for the resignation of the Minister of Justice, who was described as "the top idiot of the judiciary". He was arrested and held in custody for four days. In its April judgement the court found that Aleksander Kandjov had expressed his political views "in a manner which is not compatible with the generally accepted norms of conduct", and described Aleksander Kandjov's peaceful protest as "a flagrant breach of public order. The perpetrator manifested a brutal demonstration against the constitutional order, as his actions had intentionally been public". Furthermore, the court found that Aleksander Kandjov's conduct was considered as an aggravated form of hooliganism "perpetrated with particular cynicism and impudence", noting that "hooliganism committed with impudence...consists of a violation of the established public order by conduct which results in a significant damage to the public order. In this case the accused Kandjov publicly displayed posters which described a government representative, entrusted by the society to carry out certain authority, as a 'top idiot'". Kandjov's conduct was also considered as an act of "particular impudence, [because] the accused, in spite of being told more than once that his conduct is not legal, publicly and in the face of law enforcement officials, stated that he intended to carry

Rights reported that in February, in the Una-Sana Canton, a member of the Federation Army and three others attacked and seriously injured the wife and children of a former supporter of Fikret Abdiċ (the war time *de facto* leader of that region), an attack apparently condoned by the local police.

In February, criminal proceedings started against six former RS police officers before the Sokolac Basic Court, in connection with their alleged ill-treatment and torture of persons suspected of murdering the Pale deputy police chief, Srdjan Kneċeviċ, in August 1998. The murder of Srdjan Kneċeviċ - allegedly ordered by former RS government officials and their associates opposed to his investigations into corrupt business transactions in the entity - remains unresolved.

Mostar Southwest police reportedly refused to initiate criminal investigations into the serious ill-treatment of Bosnian Croat businessman Andrija Beljo, which had taken place during his arbitrary detention in Mostar in August 1999 (see AI Index: EUR 01/01/00). The head of police claimed that disciplinary measures had already been taken against the officers involved.

## BULGARIA

#### ***Imprisonment in violation of the right to freedom of expression***

(update to AI Index: EUR 01/001/2001)

out his activity, which he then proceeded to do until he was stopped by the police officers". Aleksander Kandjov appealed his conviction.

In January four men and a minor were detained in Sofia for peacefully exercising their right to freedom of expression. In the morning of 6 January, in *Borisova gradina* park in Sofia, a group of members of the "Che Guevara" Youth Movement and The Socialist Youth Union attended a public ceremony on the occasion of 153rd anniversary of the birth of Hristo Botev, a poet and national hero. Stefan Stefanov Stoyanov, aged 16, brought a banner with the inscription "Out NATO supporters!". The letter O of the NATO (North Atlantic Treaty Organization) logo had been altered to resemble a swastika.

During the official ceremony to mark the poet's birth, attended by the President of Bulgaria Peter Stoyanov and other high state officials, the banner was held up by Iliyan Obretenov and Milen Iliev. Iliyan Obretenov refused to put the banner away after he was approached by two police officers, explaining that he was not doing anything illegal.

After the ceremony President Stoyanov reportedly stated to the journalists: "This is blasphemy! It is high time that we take decisive measures against such ruffians, who not only violate the memory of Botev but of the Bulgarian national identity." Subsequently the police arrested Iliyan Obretenov, Milen Iliev, Stefan Stefanov Stoyanov, who held up the Bulgarian national flag, Iliya Zlatev, who held a flag depicting Che Guevara, and Vilyam Ignatov. They were taken to a police station where the

officer on duty informed them that they would be held in custody for 24 hours. At 7pm Stefan Stefanov Stoyanov was released following an intervention by his parents. The other four detainees were released the following day at 10.30.am after the prosecutor on duty rejected the police request for an investigation on the grounds that no offence had been committed. However, on 9 January, under instructions of the Prosecutor before the Supreme Court of Cassation Mario Stoyanov, an investigation was initiated against Iliyan Obretenov and Milen Iliev for hooliganism, under Article 324, paragraph 1, of the Penal Code. On 25 January the charge was requalified as hooliganism committed under aggravated circumstances, under Article 325, paragraph 2. In the course of the investigation all the evidence proposed by the defence counsel was rejected and Obretenov and Iliev were indicted. On 23 April the court acquitted the defendants of all charges. The court reportedly established that the offence of hooliganism could not be committed by the lawful exercise of the right to freedom of expression, which is guaranteed by the Bulgarian Constitution. This decision was appealed by the Sofia District Prosecutor. The case was still pending at the end of the period under review.

In the meantime, on 19 February, in front of Vasil Levski monument in Sofia, the police arrested Iliyan Obretenov and 72-year-old Manol Krumov for holding a banner "No to NATO! No to slavery!". They

On 14 February at around 7.30pm in Tserovo, a village on the outskirts of Sofia, a man named Iliya Georgiev was stopped while driving in the centre of the village by three men in plainclothes who brandished guns and shouted that they were police officers. Earlier the officers reportedly stopped a driver of a BMW, took him out of the car and beat him. Then they reportedly stopped four other young men driving through the village square, ordered them to stand with their arms against the cars and conducted body searches in a violent manner. One driver was made to crawl on the ground. Later, one of the police officers hit Yordan Lyubenov, another young driver, on the head with the butt of the gun he was holding. This resulted in the reportedly inadvertent firing of the gun, and the bullet hit the wall of the mayor's office. At the time the square held between 20 to 30 people who had apparently gathered there to observe the conduct of the police officers who appeared to be under the influence of alcohol. Shortly after the shooting, a police patrol from Svoga arrived and took statements from all involved in the incident. On 19 February the Sofia Regional Department of Internal Affairs reportedly issued a statement that the three officers involved in the ill-treatment would be suspended after an internal inquiry established that the officers "seriously violated professional ethics". However, no information was available whether the officers would be subjected to any criminal proceedings.

On 17 March *Trud*, a daily newspaper, reported that a sergeant employed in the "Investigative Detention" unit had beaten a taxi driver in Sofia. The

were held in a police station for several hours before being issued with a warning.

### ***Deaths in custody in suspicious circumstances and police ill-treatment***

According to information received from the Bulgarian Helsinki Committee (BHC), a local human rights organization, on 11 January police searching for a murder suspect entered the "Pavlovo" restaurant in Sofia. Mehmed Mumun (also known as Milotin Mironov), a 46-year-old man who reportedly tried to avoid the police check by attempting to leave the premises through a bathroom window, was apprehended. The Ministry of the Interior spokesman later claimed that the man, who was not the suspect wanted, resisted arrest and had to be handcuffed. Mehmed Mumun then complained that he was not feeling well and fainted. He reportedly died before he could receive emergency medical treatment. However, witnesses interviewed by BHC representatives stated that the officers kicked Mehmed Mumun all over his body after he was brought down to the ground. An autopsy reportedly established that Mehmed Mumun had suffered fractures to three ribs and that he had previously had a heart attack. At the time the Forensic Medical Department could not establish the cause of death pending additional tests. An investigation into Mehmed Mumun's death is reportedly under way.

incident was said to have taken place on 15 March when the officer hailed a taxi in Brock 26 of "Krasna polyana" district. During the journey he behaved arrogantly and the driver Zhivko Ivanov asked him to leave the vehicle. The sergeant then hit Zhivko Ivanov, left the car and got into another car. Colleagues of the beaten driver followed this car and stopped it close to the British Embassy, taking the officer to the Sredets police station.

A small number of the reported cases of police torture and ill-treatment are effectively investigated. Even then, such investigations are usually protracted and it may take many years for the authorities to bring to justice those responsible. On 4 January it was reported in *Trud* that former sergeants from Nikopol, Yanko Tsvetanov and Tihomir Ferdinandov, were sentenced to five and six years' imprisonment respectively for ill-treating of a detainee who as a result died from injuries suffered. The court reportedly established that on 15 November 1994 the two officers brought Hristo Nikolov to the police station for questioning about a theft. The officers then beat him in order to make him confess. This was witnessed by Aleksander Karailiev, who was meant to testify against Hristo Nikolov. The detainee fainted and was taken to a hospital where he died shortly afterwards. Karailiev kept silent for a year about the incident because he was threatened by the police officers, but subsequently wrote about it to the Chief Prosecutor.

### ***New reports of unlawful use of firearms by police officers***

During the period under review numerous new cases were reported of police shootings in circumstances which were at variance with internationally recognized principles. At least two people were killed in such incidents. The shooting of 16-year-old Eleonora Dimitrova on 30 January, in the centre of Sofia, is a tragic illustration of a pernicious human rights problem which the Bulgarian authorities, over many years, have failed adequately to address. An officer who was reportedly not on duty fired his gun outside a restaurant while allegedly aiming at men with whom he had quarrelled earlier that evening. The bullet hit Eleonora Dimitrova who was standing on the opposite side of the street, killing her. The following day the police officer was arrested and subsequently charged with murder. On 1 February it was reported that Emanuil Yordanov, then Minister of the Interior, stated that he would re-examine all provisions concerning the use of firearms by both police officers and civilians. However, the public debate which was sparked off by this incident appeared to be focussed mostly on the police inability to deal with rising criminality rather than on the inadequate legal provisions regulating the police use of firearms and the insufficient police training in human rights standards. On 6 February it was reported that Minister Yordanov had ordered all police officers to undergo psychological examinations within a three month period, as well as stricter internal inspections within the Ministry of the Interior. There were no indications that these measures were taking effect. Similar public outcry followed the shooting of another 16-year-old girl, Staniela Bugova, in October 1998. She was killed with an assault rifle after the car she had been

- that alternative civilian service in Bulgaria is performed under a purely civilian administration and the military authority is not involved in civilian service and such service shall be similar in duration to that required for military service;
- that conscientious objectors have the same rights as all Bulgarian citizens to manifest their beliefs whether alone or in union with others, after hours and on days off, during the term of performing said civilian service, without prejudice, sanction or another disability or impediment.

AI has repeatedly urged the Bulgarian authorities to adopt legislation concerning alternative service which would comply with international standards on conscientious objection, to stop prosecutions of objectors for evading military service, and to release all those who were imprisoned as a result. Certain provisions of the Law on Alternative Service, which came into force on 1 January 1999, are at variance with internationally recognized principles in this field. These include the grounds for seeking alternative service, the length of the alternative service - which is twice the length of armed military service - and time limits imposed on the submission of applications for alternative service. In view of the friendly settlement before the European Court of Human Rights, which requires amending the legislation in force, AI reiterated its appeal to the Bulgarian government to ensure that the new regulations are not at variance

travelling in was stopped for a routine traffic check near Sliven (see AI Index: EUR 15/19/98). The officer responsible for the killing was subsequently convicted to two and a half years' imprisonment. Bolomil Bonev, then Minister of the Interior, promised to improve the functioning and the organization of the police force. However, the government failed to amend the 1997 Law on the National Police which allows law enforcement officials to use firearms in circumstances far wider than those allowed by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These permits the use of firearms only in self-defence or the defence of others against the imminent threat of death or serious injury.

#### ***Rehabilitation of, and amnesty for, conscientious objectors to military service***

In May the European Court of Human Rights announced that the Bulgarian government had concluded a friendly settlement with Ivailo Stefanov, who had been convicted, as a conscientious objector, for failing to perform military service. This agreement, *inter alia*, states:

- that all criminal proceedings and judicial sentences for refusing military service (on grounds of conscience) since 1991 shall be dismissed and all penalties imposed eliminated as if there was never a conviction for a violation of the law; the Council of Ministers of the Republic of Bulgaria shall introduce draft legislation before the National Assembly for a total amnesty for these cases;
- with the internationally recognized principles on conscientious objection.

## CROATIA

### ***General political background***

Municipal elections were held in May, with the opposition HDZ (Croatian Democratic Union-*Hrvatska demokratska zajednica*) gaining considerable popular support, although the six-party governing coalition received the majority of votes in two thirds of country's counties.

In March, the Chamber of Deputies, the lower house of the Croatian *Sabor* (parliament) adopted constitutional amendments which abolished its upper house, the Chamber of Counties. The changes also extended constitutional rights, previously guaranteed to Croatian citizens only, to all individuals within the jurisdiction of Croatia.

### ***Croatia before the Human Rights Committee***

On 28 and 29 March the United Nations Human Rights Committee examined Croatia's initial report on compliance with the International Covenant on Civil and Political Rights (ICCPR). AI had previously briefed the Committee on its concerns on various articles of the ICCPR which the organization believed



had been either breached or not fully implemented by Croatia. These concerns included, in particular, impunity for past human rights violations, the issue of unresolved "disappearances", violations of internationally-recognized standards for fair trials, ill-treatment in police custody and in prison, and continuing obstacles to the return of Croatian Serb refugees. In its concluding observations, adopted on 4 April, the Committee expressed concern that many cases of unlawful killings and torture and ill-treatment following the 1995 offensives Flash (*Bljesak*) and Storm (*Oluja*) had not been adequately investigated. They noted that the government delegation was unable to provide detailed information on the number of prosecutions launched into these violations as well as the outcome of trials. The Committee then recommended that the Croatian authorities establish specialized trial chambers within each major county court, as well as specialized investigative departments and a separate department within the Public Prosecutors Office to deal with war crimes prosecutions. In addition the Committee raised concerns about the scope of the Amnesty Law, which it feared could grant immunity to persons who were suspected of committing human rights violations. Again, no information was provided by the government delegation on how Croatian courts had interpreted and applied the Amnesty Law.

Further matters of concern to the Committee were, *inter alia*, the lack of information on how long

The ECPT, a non-judicial mechanism whose main aim is to prevent ill-treatment by law enforcement officials as prohibited under the European Convention for the Prevention of Torture and Inhuman and Degrading Punishment, carries out periodical investigations in state parties to the Convention. The ECPT found evidence of several cases of ill-treatment which had taken place in police custody, notably at the time of arrest or interrogation. Furthermore, persons deprived of their liberty were reportedly inadequately informed of their right to have legal counsel available during initial police questioning. Legal provisions for notifying a detainee's family during this period were vague, allowing the police considerable freedom in delaying this right. The ECPT requested that these provisions be amended in law and practice in order to ensure that persons in detention were given adequate access to them. The ECPT also recommended that persons who made allegations of ill-treatment, when they were brought before an investigative judge, should always be medically examined, whether these persons bore visible injuries or not. Even in the absence of such allegations, they recommended that the investigative judge should seek a forensic medical examination and inform the relevant public prosecutor whenever he had reason to believe that a person could have been ill-treated.

### ***Allegations of ill-treatment in custody***

AI expressed concerns in the case of Tomica Bajšić, who fell into a coma in the night of 10 June in Karlovac County Prison, where he was being held in

persons were held in pre-trial detention; reported ill-treatment in prison; the wide scope of slander and defamation legislation; and restrictions in the Law on Association which in part violated the right to freedom of association as guaranteed by the ICCPR.

The Croatian authorities were requested to provide the Committee with information on the implementation of the Committee's recommendations regarding the most serious of its concerns within a period of twelve months.

### ***European Committee for the Prevention of Torture publishes its report on Croatia***

In April the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT) published the findings of its fact finding mission to Croatia in September 1998. The ECPT's visit took place two weeks after the death in custody of an Italian citizen, Riccardo Cettina, who had reportedly been severely ill-treated by police officers in Šibenik. In the wake of this incident, the Croatian Interior Minister had issued an official instruction to the head of the Split-Dalmatia police administration on the use of means of coercion, setting out a number of measures aimed at educating and training police officers as well as establishing recording and reporting procedures and medical controls.

investigative detention. Tomica Bajšić reportedly lost consciousness around 11.30pm that night, but was not transported to a local hospital until several hours later. He only regained consciousness at the end of the morning of 11 June and was almost immediately afterwards taken to the Zagreb Prison Hospital, which refused to admit him as it was not equipped to deal with patients in such a serious condition. He was subsequently taken - reportedly back in a coma - to Dubrava general hospital in Zagreb. Tomica Bajšić's family were only given permission to see him on 13 June, by which time he had regained consciousness again. However, he was unable to tell them what had happened prior to his collapse as he was suffering from memory loss, a state from which he has not recovered since. His family claim that they saw several bruises on his neck, forehead, chest, and arms. When his wife photographed these injuries on 14 June, she was reportedly ordered to hand the film over to a court police officer. A medical investigation of Tomica Bajšić by a team of three forensic experts found that he had suffered a cerebral coma but failed to establish the cause. Meanwhile, a separate investigation was reportedly initiated by the Office for the Execution of Sanctions of the Justice Ministry with the aim of establishing the course of events which led to Tomica Bajšić's coma. Given the possibility that Tomica Bajšić's injuries may have been the result of ill-treatment by police officers or by his cell mate, AI has urged the Justice Minister to ensure that this investigation is conducted in a prompt and impartial manner in accordance with international standards on human rights, and that its results will be made public.

The organization has also asked to be informed about the reasons of Tomica Bajšić's subsequent transfer from the Dubrava Hospital back to the Zagreb Prison Hospital and whether he continues to receive neurological investigation and care.

### **Refugee returns**

Returns of Croatian Serbs continued, although in June the Organization for Security and Co-Operation in Europe (OSCE), the largest international organization still present in the country, stated that of the 300,000 Croatian Serbs who fled or were displaced within Croatia as a result of the armed conflict only some 80,000 had been registered as returned. Major problems persisted in the repossession of private property, which has been inadequately regulated by the 1998 Return Programme which apparently violates several Constitutional provisions. The return of socially-owned flats to their pre-war owners remained unresolved, even though both the OSCE and the Council of Europe have urged the authorities to provide a comprehensive solution to this issue which obstructs the return of Croatian Serbs in particular. The Croatian Ombudsman, in a report issued in April, On 7 February an arrest warrant was issued by the Rijeka County Court against retired Croatian Army General Mirko Norac. He was suspected of having ordered and participated in the mass executions of Serb civilians in the town of Gospić at the beginning of armed conflict in Croatia in 1991. Three days later massive protests were organized in several Croatian towns. In Split, the crowd was estimated at over 100,000 people - many of whom had come from neighbouring Bosnia-Herzegovina. The crowd included local politicians and government officials who reportedly openly criticized the arrest warrant and the impending trial proceedings, implying that this was an attack on the legality of the Croatian state. Mirko Norac was subsequently arrested at the end of February and charged with war crimes against the civilian population in March. At the end of June, trial proceedings opened against him and four other Croatian Army and police officers before the Rijeka County Court.

Renewed trial proceedings for war crimes continued before the Karlovac County Court against former Croatian police officer Mihajlo Hrastov. He stands accused of the murder of 13 reservists and officers of the Yugoslav People's Army (JNA) in September 1991 in that town. The JNA soldiers had reportedly surrendered and laid down their arms before they were shot or otherwise killed by members of a special unit of the local police forces. He had already been tried and acquitted of the killings in September 1992, when the court found that he had acted in self-defence. In 1993 the Supreme Court quashed this verdict and ordered a retrial. So far only two hearings have taken place in the retrial which opened in May 2000.

In March the Croatian Constitutional Court issued a ruling that trial proceedings should be renewed in the case of the murder of Josip Reihl-Kir, the police commander in Osijek, who was shot dead on the eve

recommended that this Programme is abolished and that Parliament adopt a law establishing a comprehensive legislative and administrative framework for property repossession. However, no such legislation had been introduced to Parliament by the end of June.

At the end of May, some violent incidents were reported in southern Croatia in which Serb returnees were targeted. On 29 May the house of a Serb returnee in Benkovac was set on fire, an attack which reportedly followed several other incidents of harassment. On 31 May a large number of bullets were fired at a house in the village of Kakma near Benkovac, which belonged to a Serb returnee. He is also the head of the local Serb Democratic Forum and works for the Jesuit committee for refugees, which provides humanitarian aid for returnees. On 5 June a Serb man living near the town of Sinj was attacked by a local retired police officer, and had to be hospitalized as a result. Investigations were reportedly opened into all incidents.

### **Criminal prosecutions for human rights violations committed during the armed conflict**

of the armed conflict in July 1991. He had been a driving force behind negotiations between the Croat and Serb communities in that part of eastern Slavonia and was killed while travelling by car with three other local officials, two of whom were also killed when automatic gunfire was opened on them. The primary suspect for the killing, a Croatian reserve police officer, was allowed to leave the country shortly afterwards, though an investigation against him was ongoing. He was convicted *in absentia* of the killings in 1994 and, when he returned to the country in 1996 criminal proceedings against him were renewed. However these proceedings were halted in 1997 when the presiding judge in the case requested that the Supreme Court apply the 1996 Amnesty Law to the accused. He was subsequently amnestied and in response a lawyer representing Josip Reihl-Kir's widow filed a constitutional complaint asking the Constitutional Court to order a retrial, which was finally granted in March 2001.

Trials for war crimes continued against many Croatian Serbs, some of which were conducted *in absentia*. Though several of these appeared to be conducted in accordance with internationally-recognized standards for fairness, there was concern that some of the charges were poorly and arbitrarily formulated and that arrests of some accused might be politically motivated.

One such case was the arrest and detention of Nataša Janković in January, on the basis of her *in absentia* conviction for war crimes in 1996. In February 2001 a request for retrial was granted and her case was sent back for renewed investigation. In the course of this investigation it became clear that the prosecution had insufficient evidence against Nataša Janković. Witnesses who had testified previously altered their statements saying that they were not sure they had ever heard of her or seen her at the scene of

the crime. Other prosecution witnesses were unable to recognize her in an identification line-up, even though one of them claimed that local police officers had shown him a recent photograph of her previously, in contravention of Croatian criminal procedure. AI expressed concern to the Croatian authorities that Nataša Janković's detention appeared to be unjustified and urged them to review the reasonableness of the suspicion against her, as they are obliged to under Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Nataša Janković was released in mid-June after all charges against her had been dropped.

In February the Supreme Court rejected the appeal by Mirko Graorac, a Bosnian Serb who had been convicted in renewed trial proceedings for war crimes against prisoners of war and the civilian population in June 2000. He is currently serving a 15-year sentence. AI was concerned that Mirko Graorac's original trial before the Split County Court in 1996 did not comply with internationally-recognized standards of fair trial. The organization also believes that renewed trial proceedings before the same court failed to address the irregularities which took place during the first trial.

In May AI wrote to the Croatian Minister of Justice, recommending that the Croatian authorities

In March AI published a report *Czech Republic: Arbitrary detention and police ill-treatment following September 2000 protests* (AI Index: EUR 71/001/2001) which described a number of human rights violations, including arbitrary detention, police ill-treatment and violation of detainees' rights, which affected hundreds of people who had been detained following protests organized in Prague on 26 and 27 September 2000. The organization was particularly concerned that the investigations into complaints against police conduct could not be considered prompt and impartial as required by the provisions of Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. AI recommended, *inter alia*, that the Czech Government should reform the mechanism of investigations for offences committed by law enforcement officials, and entrust the proceedings in such matters to judicial bodies which can safeguard thoroughness and independence of investigations and accountability and transparency of decision-making (i.e. on whether to prosecute the suspected law enforcement officials).

In March Stanislav Gross, Minister of the Interior, declined AI's invitation to discuss the organizations concerns and recommendations, and on 4 May he stated: "It is beyond a doubt that the police did well...But it goes without saying that minor errors can occur in such major police operations"<sup>12</sup>. At the time of writing AI had still not received any official response from the Czech authorities concerning its report and recommendations.

establish a procedure similar to the Rules of the Road procedure which is in force in neighbouring Bosnia-Herzegovina. This procedure - which expands on provisions for war crimes prosecutions laid down in the Dayton Peace Agreement - requires the Bosnian authorities to refer arrest warrants or indictments against alleged war crimes suspects to the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (Tribunal) to decide whether the presented material is consistent with international legal standards. Domestic criminal trials on war crimes charges may only proceed after the Tribunal Prosecutor has approved the case material. Although the Tribunal has reportedly offered the setting up of a similar system for Croatia several times, the Croatian government has not taken up this offer. The Justice Ministry did not respond to this suggestion by the end of June.

## CZECH REPUBLIC

### **Failure to investigate torture and ill-treatment reports**

Twenty seven criminal complaints were filed by the Environmental Law Service (EPS), a non-governmental human rights organization based in Brno, on behalf of alleged victims of human rights abuses during the protests. However, the EPS reports that the Inspectorate of the Ministry of the Interior decided to investigate only three cases of police ill-treatment. All other complaints were referred to the Department of Inspection and Complaints of the Police Presidium, which is competent to investigate only those officers who are suspected of misdemeanours and are subject to disciplinary measures. The Inspectorate's investigations reportedly confirmed that police abuse may have been committed in two Prague police stations. In one of the investigations forensic experts established that a tooth and two of the ten bloodstains found in the police station belonged to a Polish national, on whose behalf EPS lodged a complaint. He was one of the very few victims questioned in the course of the investigation. After he was shown passport photographs of the suspected police officers he was said to have recognized one of the officers responsible for the ill-treatment. However, the Inspectorate was unable to establish the identity of any of the perpetrators. Similarly, the investigations carried out by the Department of Inspection and Complaints of the Police Presidium failed to establish that any police officer was responsible for a misdemeanour. These failures have added to a perceived atmosphere of impunity around the Prague police force, as illustrated by the following incident. During the September protests a plainclothes police officer was

<sup>12</sup>"Gross dismisses AI report" published in the Prague Post on 9 May 2001

photographed hitting a Czech protester on the head with a wooden pole by the weekly news magazine *Týden*. The same officer was observed at a peaceful assembly held on 1 May, and reportedly threatened journalists of *Týden*, saying that "they would see [what is going to happen] once he got his hands on them".

*The conclusions and recommendations of the United Nations Committee Against Torture*

On 14 May the United Nations Committee Against Torture, after considering the second report of the Czech Republic, recommended that the Czech authorities:

- ensure the independence and thoroughness of investigations of all allegations of ill-treatment in general, and in connection with the IMF/World Bank meeting in September 2001 in particular, and to provide the Committee in its next periodic report with information on the findings and
- continuing incidents of discrimination against Roma, including by local officials, and particularly about reports of degrading treatment by the police of members of minority groups, continuing reports of violent attacks against Roma and the alleged failure on the part of police and judicial authorities to provide adequate protection, and to investigate and prosecute such crimes, as well as the lenient treatment of offenders;
- the lack of legal regulation of external inspections of the prison system, in particular the rescinding of the legal provisions on civil inspection without replacement during the period under review, as well as the lack of effective mechanism for processing prisoners' complaints;
- inter-prisoner violence and bullying in various institutions, including prisons, the military and educational institutions, as well as the presence of male guards in prisons for women where it may lead to an abuse of their authority.

AI called on the Czech authorities to implement as a matter of urgency the Committee's recommendations.

## FINLAND

### **Update on Prisoners of Conscience - Imprisonment of conscientious objectors continues**

In December 2000 parliament rejected, by a slim majority, proposals to reduce the length of alternative civilian service. AI members have continued writing to government ministers expressing the organization's concern over the discriminatory and punitive length of alternative civilian service for conscientious objectors to military service. Letters were received by AI from the Minister of Defence and the Minister for Foreign Trade, both in favour of maintaining the status quo.

measures taken, including prosecutions and compensation to victims, as appropriate;

- take appropriate measures to ensure the independence of investigations of offences committed by law enforcement officials by introducing a mechanism of external control;
- ensure that all persons deprived of their liberty should be guaranteed the rights to notify a close relative or third party of their choice, the right to have access to a lawyer of their choice, as from the very outset of their custody, and the right to have access to a doctor of their choice in addition to any medical examination carried out by the police authorities;

The Committee further expressed concern, *inter alia*, about:

- instances of racism and xenophobia in society, including the increase in racially motivated violence against minority groups, as well as the increase in groups advocating such conduct;

However, the Minister for Foreign Affairs and several Finnish embassies informed AI that the Ministry for Foreign Affairs will continue to work for a shortened period of non-military service. As conscientious objectors are still being imprisoned for refusing to perform alternative service, AI has continued to urge the authorities for their release.

During the first half of 2001 AI adopted six conscientious objectors as prisoners of conscience. They were all convicted of a "non-military service crime" and sentenced to imprisonment.

In April AI took up the case of Sampsa Oinaala who was imprisoned on 12 March 2001 for 77 days after being convicted of "a crime against civilian service" for refusing to finish his civilian service. Valo Ilmari Samuel Saarilehto was imprisoned on 2 October 2000 for 196 days following his conviction for committing "a non-military service crime" - he had refused to carry out any kind of service. In both cases the discriminatory length of civilian service compared to military service played an important part in the men's decision.

In June AI adopted Ikka Forsblom, who on 26 March started his 197-day prison sentence for refusing to perform alternative service because he considers the current system in Finland inadequate and unfair due to its punitive length. Aleksii Sutinen has been imprisoned since June after being sentenced to 197 days' imprisonment. Esa Juhani Saranpää is currently serving a prison sentence of 92 days for refusing to finish his civilian service. He is a pacifist. Lauri Pekka Kostainen was sentenced to 197 days' imprisonment in January for refusing to perform alternative service due to, *inter alia*, its length.

Some of these prisoners of conscience are total objectors whom AI has adopted in view of the failure by the government to provide a system that can be considered fair. As long as the duration for conscientious objectors is twice as long as for more than 50 per cent of recruits (395 days compared to 180 days), AI will adopt anyone refusing to carry out alternative service.

## FRANCE

### **Call to review plight of "Action Directe" prisoners**

In January AI called on the French Government to take urgent steps to resolve the situation of members of the former armed group *Action directe*. AI stated that there was "evidence that the treatment of the *Action directe* prisoners has fallen short of international standards that seek to minimise the detrimental effects of imprisonment".

Joëlle Aubron, Nathalie Ménigon, Jean-Marc Rouillan and Georges Cipriani were arrested in February 1987 and sentenced in 1994 to multiple terms of life imprisonment for acts of violence, including murder. For most of the 14 years they have spent in prison they have been held under varying degrees of solitary confinement and isolation. The reported breakdown in the physical and mental health of at least two of the prisoners has been widely

Jean-Marc Rouillan and Joëlle Aubron went on hunger strike in December and January to draw attention, among other things, to the plight of Georges Cipriani and Nathalie Ménigon. The hunger strike was broken off after a number of assurances were given, including appropriate health care for Nathalie Ménigon and Georges Cipriani.

### **France/Algeria: Call to bring torturers to justice**

On 3 May a book was published by General Paul Aussaresses, who, as a high-ranking French military officer during the Algerian war of independence, admitted that he personally took part in torture and summary executions and has since justified them. In "*Services spéciaux: Algérie 1955-1957*", the general claimed that the then French government was regularly informed about, and tolerated, the use of torture, summary executions and forced displacement of populations. In November 2000 AI had called on the government to bring to justice those responsible for war crimes and crimes against humanity during the war (AI Index: EUR 01/001/2001). In a new press statement, issued on 3 May, AI reiterated its demand and called for a full and prompt investigation into the general's claims. AI noted that, despite the fact that the government had welcomed the arrest of General Pinochet in Britain, the French authorities had, since that time, refused to contemplate the opening of legal proceedings against French torturers and war criminals of the Algerian war. AI stated: "Given these new and serious claims and revelations by General Aussaresses, there can be no possible justification for the authorities to fail to seek a judicial resolution".

<sup>13</sup> *Zone d'attente des personnes en instance*

<sup>14</sup> "J'ai remarqué immédiatement la présence sur ses jambes de multiples plaies sanguinolentes manifestement

attributed to the years of isolation to which they have been subjected. Joëlle Aubron and Nathalie Ménigon were originally held under a specially restrictive high security category, but were transferred in 1999 to a prison where conditions were expected to be normalised. However, their means of social communication, correspondence and visits reportedly remained subject to special restrictions and they were not able to visit the common areas of the prison.

Nathalie Ménigon married Jean-Marc Rouillan in 1999 but was reportedly unable to see him. She was suffering from serious cardio-vascular problems and depression, and was reported to have recently had two heart attacks and to be partially paralysed on her left side, but to have been refused a comprehensive medical examination. Georges Cipriani, held at Ensisheim (Haut-Rhin) and for a time at a psychiatric hospital, was reported to have gradually lost his sanity and to no longer be aware that he was being held in prison. Prison guards have expressed concern about his condition.

In May and June a number of legal proceedings against Paul Aussaresses and others were initiated. In May complaints for "apology for war crimes" and "crimes against humanity" were filed with the Paris prosecutor by the *Fédération internationale des droits de l'homme* (FIDH). On 17 May the prosecutor ordered a preliminary inquiry into the first of these complaints and General Aussaresses was summoned to appear before a judge in July. On 22 June Louisette Ighilahriz, whose recently published testimony sparked the current debate in France on torture in the Algerian war (see AI Index: EUR 01/001/2001) filed a complaint for "crimes against humanity" with an investigating magistrate attached to a Paris court. On 27 June the family of Larbi Ben M'hidi, who was killed by General Aussaresses in 1957 - according to the general's own admission - also filed a complaint for "crimes against humanity" with a Paris court. Other complaints were also being filed.

### **New reports of ill-treatment at Roissy-Charles de Gaulle**

In March a preliminary judicial inquiry was opened into alleged police ill-treatment of asylum-seekers at a new holding area at Roissy-Charles de Gaulle airport. The inquiry opened after a report was sent to the prosecutor of Bobigny by a Ministry of Foreign Affairs (MAE) official, stationed at the holding area, Zapi 3.<sup>13</sup> The official claimed that, while on duty there, he saw a woman from Democratic Republic of the Congo (DRC), called Blandine Tundidi Maloza, lying on the waiting room floor. Her legs were covered with "wounds tinged with blood that were clearly recent".<sup>14</sup> She told him that she had arrived at Roissy

*récentes*". [Quote from the report sent to the Bobigny prosecutor, extracts of which were published in the French newspaper *Libération* of 28 March 2001]

on 8 March and had tried, unsuccessfully, to submit an asylum request. She claimed that, on 10 March, an attempt was made to embark her on a Cameroon Airlines flight to Douala and that when she resisted force was used against her. One police officer allegedly pulled her backwards, after which he dragged her over the ground by her hair while insulting her. He also kicked her several times, before stamping on her legs. There were reportedly seven witnesses. Blandine Tundidi Maloza saw a doctor, but owing to continuing pains in her back and legs, asked

There were many other allegations of police ill-treatment at the holding area. In May a non-governmental organization that specialises in helping foreigners at border zones, the *Association nationale d'assistance aux frontières pour les étrangers* (Anafé), published a report that dealt with the specific situation at Roissy and referred to the cases of several individuals of Nigerian, Sierra Leonian, Congolese and Pakistani origin who, while handcuffed, had allegedly been slapped, beaten with truncheons or dragged along the ground when resisting police attempts to place them on flights out of France. Anafé noted that it was difficult to confirm some of the allegations, but during three visits in January and March, visitors had seen injuries consistent with allegations of beatings on foreigners being held there. A Paris Appeal Court decision of 7 February confirmed a judge's order three days before, releasing Nigerian citizen John Abonayl Ejike from the holding area owing to allegations of ill-treatment. John Ejike maintained that he had been ill-treated during a failed attempt to deport him on 1 February. The judge had himself noted marks on his body. The Appeal Court considered that there was no evidence to suggest that John Ejike had been ill-treated or injured prior to arrest.

Concern was also expressed, among other things, about the placing of unaccompanied minors in holding areas. On 2 May, the Court of Cassation judged that to hold children in these areas was not an infringement of children's rights. Its judgment was contrary to some decisions taken by lower courts. In June a three-year-old and a five-year-old child were reportedly held at Roissy for four days, separated from their parents, and a 14-year-old girl of Congolese origin was held at Zapi 3 at Roissy for 10 days, separated from her mother, and in the presence of male as well as female adults.

#### ***Malian national alleges serious ill-treatment***

Baba Traoré, a Malian national resident in the Canary Islands, Spain, alleged that, on 21 February, he was arrested by uniformed PAF officers while on a train at Hendaye railway station, close to the border, and taken by car to the police station. Baba Traoré stated that he was travelling to Paris to renew his passport, because it was not possible to do this in Spain. He had a valid return train ticket and his Spanish residence and work permits. He claimed that he was seriously ill-treated while at Hendaye police station. He could not speak French but attempted several times to ask why he had been arrested. He was reportedly punched hard in the left eye while sitting in a chair. About half

to be able to see the doctor a second time. Her request was reportedly refused. Her application for asylum was finally accepted and she was admitted onto French territory on 15 March. According to the frontier police (*Police aux frontières* - PAF), Blandine Tundidi Maloza did not make a request for asylum until 11 March. The previous day she had refused to get on the aircraft, fought with police officers, stripped naked and ran, with eight others, along the runway. The officers had acted to restrain her for reasons of security.

An hour later he was escorted by two officers to Biriattou police station and handed over to Spanish police officers, who released him, reportedly calling a taxi so that he could receive treatment at the local hospital of Bidasoa. Shortly afterwards he was transferred by ambulance to the hospital of Nuestra Señora de Aranzazu in San Sebastian (Guipúzcoa). On the same day he underwent surgery on the left eyeball, which, according to medical reports, was severely damaged by a "direct blow". He remained in hospital for another six days, with further surgery a possibility. Baba Traoré lodged a judicial complaint with the public prosecutor of Bayonne. The prefect of Pyrénées-Atlantiques was reported as saying that the Malian had violently opposed readmission to Spain and therefore had to be handcuffed and brought under control.

#### ***Death in custody: police and doctor convicted***

On 20 March, 10 years after the death of 18-year-old Aïssa Ihich at the police station of Mantes-la-Jolie (Yvelines) - and eight years after debate about the case had led to a reform of rules governing police custody - the correctional court of Versailles sentenced two officers of the local *brigade urbaine* to a suspended 10-month prison sentence and a doctor to a suspended one-year prison sentence. A third officer was acquitted. Aïssa Ihich died from an asthma attack on 27 May 1991. The doctor on duty at the police station, who had judged the detainee's state of health to be compatible with an extension of police custody, was found guilty of involuntary homicide from "negligence". The police officers were found guilty of acts of violence, inflicted during and immediately after arrest and found to have had an indirect link with the death. Officers of another police force, the *Compagnie républicaine de sécurité* (CRS), testified that Aïssa Ihich had been beaten with a truncheon on his head, body and hands while he was lying, immobilised, on the ground. The police officers had originally benefited from an order excluding them from the inquiry (*ordonnance de non-lieu*). However, in June 1997 the *chambre d'accusation* of the court of Versailles annulled the *non-lieu* order of the investigating magistrate and sent the officers and doctor to trial. Throughout the extremely long judicial proceedings the prosecutor did not accept that there was enough evidence against the police officers, and at the trial requested that they be found not guilty. The two convicted officers and the doctor have appealed against their convictions. (For further details, see AI Index: EUR 01/02/99, EUR 01/03/92 and EUR

01/02/91).

## GEORGIA

### ***Allegations of torture and ill-treatment by police***

In the period under review, AI continued to receive allegations of torture and ill-treatment. The organization is unaware of any successful prosecutions following investigations into the reported violations.

#### *Alleged beating of four men in Bolnisi*

On 23 June, police from Kolagiri police station in Bolnisi District in the south of Georgia reportedly beat and tortured four men whom they had arrested on 21 October last year. Reports emerged during the period under review that around 10 police officers from Tbilisi's city police department were involved in the beating and torture of Bachuki Sharvashidze, Dato Sokhadze, Zviad Tavkhelidze and Gia Portchkhidze in police custody in October last year. The torture and ill-treatment was reportedly aimed at forcing the four men to confess to involvement in a group carrying out robberies. On 21 October, Dato Sokhadze and Zviad Tavkhelidze were detained in Tbilisi and brought to the Tbilisi city police department. Bachuki Sharvashidze and Gia Portchkhidze were detained on 30 October - Bachuki Sharvashidze in Kutaisi, from where he was transferred to the Tbilisi city police department the same day.

On the evening of 31 October while in custody, Bachuki Sharvashidze, who is a registered invalid as he is missing his right leg, was reportedly seated on a chair and beaten with fists and truncheons on his back, neck and shoulders by five or six men. The beatings were reportedly so severe that Bachuki Sharvashidze's artificial leg became detached from his body. In addition, wires were reportedly attached to his fingers and he was given electric shocks. The torture and ill-treatment is reported to have lasted from 31 October until 3 November. An independent medical examination conducted on 9 November established that he had sustained massive bruising, caused by a long, blunt, hard object, on the front and back of his torso, on his neck and on his shoulders.

Dato Sokhadze, a 38-year-old artist, is reported to have been beaten with truncheons, given electric shocks, and drugged in the Tbilisi city police department, over the course of seven days, starting on 21 October. His lawyer stated that the traces of where the electric shocks were said to have been administered were visible on his hand when visiting her client in custody. Zviad Tavkhelidze was also reportedly beaten over seven days, from 21 October. Gia Portchkhidze was reportedly beaten in police custody from 31 October until 3 November.

On being transferred to pre-trial detention facilities in Tbilisi (well after the 72 hour limit prescribed by Georgian law), all four renounced their

charges of theft. The men, one ethnic Greek, Roman Amanatov, two Azerbaijani men, Mahir Abbasov and Vuqar Alirzayev, and a fourth man, name not known, were reportedly subsequently hospitalised. There were allegations that at least one of the men had had his feet punctured with a hand drill, that the men's bodies had been burnt with cigarettes, and that one of the men had sustained a fractured skull while in detention. Allegedly, police officers have explained the injuries by saying that the men had assaulted each other. The office of the Bolnisi District procurator reportedly opened a criminal investigation into the allegations of torture and ill-treatment on 25 June.

#### *Alleged torture and ill-treatment of Bachuki Sharvashidze, Dato Sokhadze, Zviad Tavkhelidze and Gia Portchkhidze*

earlier confessions. A special inspectorate of the Ministry of Internal Affairs is reported to have studied the allegations of torture and ill-treatment in November. However, the investigation was closed within the space of two months, officially due to a lack of evidence. A petition against the head of Tbilisi police regarding the alleged incident has been lodged with the Tbilisi City Procuracy by the four men's lawyer.

#### ***Attacks on members of religious minorities*** (update to AI Index: EUR 01/03/00 and EUR 01/001/2001)

A Supreme Court decision on 22 February upheld a lower court's decision to revoke the registration of the two Jehovah's Witness entities with the Georgian Ministry of Justice. Both the court and the Jehovah's Witnesses have emphasised that the ruling does not amount to a ban on the Jehovah's Witnesses, since religious organizations do not require registration in Georgia, and that the organization is still entitled to hold religious services and import literature. However, the lawyer for the Jehovah's Witnesses expressed concern that the decision might be misinterpreted. Minister of Justice Mikael Saakashvili was quoted as saying: 'From a legal standpoint the decision is very doubtful... I don't think it's the most successful page in the history of the Supreme Court.'

The court decision has been attributed by local non-governmental organizations as encouraging subsequent attacks on Jehovah's Witnesses. In one such attack, the mayor and local police reportedly refused to intervene when alerted to a series of attacks on Jehovah's Witnesses by a group of about 150 men on 6 March in the town of Sachkhere, western Georgia. Four Orthodox priests are reported to have led the group of men, who are said to have invaded the home of Alexi Ichkitidze, a Jehovah's Witness, and assaulted him and his wife Nana, as well as a visiting friend, Savle Gotsadze. The group of men then reportedly looted an adjacent apartment, where religious meetings are held, and burnt the religious literature there. They are also reported to have then

beaten another Jehovah's Witness at his work place, and damaged and looted a car belonging to Jehovah's Witnesses. The day before, a smaller group of about 20 men is reported to have physically assaulted four Jehovah's Witnesses in Sachkhere.

In a further attack, in Tbilisi, Jehovah's Witnesses report that at 11.45 on Sunday 17 June, a group of around 50 or 60 men and women, apparently supporters of the defrocked priest Basil Mkalavishvili, attacked the 86-strong Ortachala congregation of men, women and children. The group reportedly gained entry to the private home where the religious meeting was held by smashing down the front door and breaking windows. Several items of furniture, personal belongings, and hundreds of pieces of religious literature were reportedly seized and burned.

Other minority religions such as Baptists and Pentecostals were also targets of violence. For example, on 10 March, Basil Mkalavishvili and a group of his supporters are reported to have attacked three members of a Baptist Church and to have seized their literature near Mtskheta. The literature was allegedly subsequently confiscated by the police at Mtskheta police station on the request of Basil Mkalavishvili. Basil Mkalavishvili is said to have repeatedly and publicly stated that after 'having dealt' with the Jehovah's Witnesses he would move on to other minority faiths. Despite targeting of Baptists, Pentecostals and other Protestant groups, it has been alleged that fear of repercussions have made several Protestant leaders reluctant to publicise incidents of harassment, given the apparent impunity that the attackers enjoy.

On 16 March 2001 the Procurator General of Georgia reportedly issued an instruction for an investigation to be carried out by Tbilisi City Procuracy into allegations of violence of Basil Mkalavishvili and his followers. However, to our knowledge there have yet to be any successful prosecutions of those alleged to be responsible for the catalogue of assaults, in spite of extensive eye-witness and video evidence. For example, Fati Tabagari told an AI representative in March that since lodging a complaint on 17 October 1999 with the authorities regarding the attack on Jehovah's Witnesses the same day in Tbilisi, she still had not received any response. Fati Tabagari was beaten during the attack, including being struck in the area of her eyebrow causing the skin to split and damaging her eye. She suffered concussion, and her eyesight has been seriously affected. There were worrying indications that police would continue to fail in their duty to protect minority religious congregations - for example, the deputy head of Tbilisi police, Ushangi Geladze, was reported to have refused three times to confirm that his police force would protect the Jehovah's Witnesses from further attacks in an interview with a journalist on 8 February. A positive development was a resolution passed by the Georgian parliament on 30 March by a large majority, expressing concern at the dramatic increase in violent attacks by religious extremist groups, and at the response of Georgian law enforcement officials to the attacks. Parliament requested the Ombudsperson to focus her attention on

outside. According to reports, men were beaten with wooden clubs, and one woman had her dress ripped by an attacker who then threatened to strip her and parade her naked in the street. Giorgi Kiknavelidze, along with a number of others, reportedly required medical treatment for bleeding and bruising after being severely beaten. According to eyewitnesses Ilo Robakidze and Giorgi Kiknavelidze, two police officers on arriving at the scene of the attack stated: "If we had known that this was an attack on you people we would not have bothered to come." Members of the congregation reportedly identified known followers of Basil Mkalavishvili, who have participated in several such attacks in the past, as being part of the group.

detecting such incidences, and on the protection of the constitutional right to freedom of conscience and religion.

### **Deaths in custody**

#### *The case of Gia Chichaqua*

Georgian television reported on 28 January that 39-year-old Gia Chichaqua, suspected of being involved in theft of goods, had died after police beat him with truncheons during interrogation in Ozurgeti, western Georgia. The television report stated that according to Gia Chichaqua's wife, four drunken policemen, who said they were acting on the orders of their superiors, took Gia Chichaqua for questioning at 7am on the morning of 27 January. Police allegedly did not inform Gia Chichaqua's family about his death until 12 hours later, despite the fact that he was already dead by 1pm the same day. The report stated that an urgent post-mortem examination was performed on Gia Chichaqua without the permission of his family, and that when Gia Chichaqua's wife went to the police station and demanded a meeting with the police chief, she was told that he could not receive members of the public on that day. The television report quoted the police chief as saying that Gia Chichaqua died suddenly and that there were no traces of violence on his body. The report quotes an unidentified official as saying: "As he was giving evidence, he suddenly felt unwell and died." No independent post-mortem has reportedly been performed. Gia Chichaqua had reportedly also been questioned by police earlier this year on 3 January, when he had also been severely beaten. A police officer (whose name is known to AI) was reportedly detained in connection with the death in Ozurgeti on 28 January, on the orders of the Ministry of Internal Affairs. He was transferred to Imereti regional police's remand centre.

#### *The case of David Vashaqmadze* (update to AI Index: EUR 01/001/2001)

Revaz Bzishvili, the traffic police inspector who was sentenced on 24 July 2000 to two years' imprisonment for 'exceeding his authority' in connection with the death of David Vashaqmadze (see EUR 01/001/2001) was released nine months early. The decision of



Krtsanisi-Mtatsminda district court of Tbilisi of 9 February 2001 was on grounds of "exemplary behaviour when in detention" (his sentence was due to run from November 1999, when he was first taken into custody). David Vashaqmadze had reportedly been beaten so severely by traffic police officers on the

Mamuka Rizhamadze was found hanged in his cell in preliminary detention facilities in Kutaisi on 31 May 2000. AI received reports that police had forced a prisoner, who claimed to have seen how Mamuka Rizhamadze died, to testify that the death was suicide. Mr Tavgeshivili (first name not known), reportedly wrote to Elene Tevdoradze, Chair of the parliamentary Human Rights Committee, claiming "I can tell you how they killed him and how they hanged him", and stated that the police had threatened him, after which he agreed to become their 'agent'. Elene Tevdoradze is said to have publicised this new information in a December edition of the "60 minutes" program on independent television channel Rustavi-2 which featured the case of Mamuka Rizhamadze. Following the broadcast, the procurator of Kutaisi reportedly contacted Elene Tevdoradze and stated he would open a new investigation into the death of Mamuka Rizhamadze. However, no new investigation had in fact been opened by the end of the period under review, and nor had a fourth post mortem been carried out, which had reportedly been requested by the Kutaisi procuracy.

#### ***Human rights defender Nana Kakabadze threatened***

On 4 May the head of Isolation Prison No. 5 in Tbilisi threatened to "physically annihilate" a member of a leading non-governmental human rights organization who had criticized conditions in pre-trial detention. Nana Kakabadze, of the organization Former Political Prisoners for Human Rights, had given an interview to the newspaper *Alia* after visiting the prison on 2 May. She was commenting on her general observations from such visits that, while most cells in isolation prisons were overcrowded, there were some which were completely empty. The head of the prison telephoned her at her organization's office, apparently incensed at what he believed was an implication that empty cells are kept for rich prisoners who bribe officials for the privilege of avoiding extreme overcrowding. The threat was heard by six other people in the office: four members of non-government organizations, a journalist from Radio Liberty, and a member of the Ministry of Justice dealing with penitentiary issues. The Minister of Justice is reported to have verbally reprimanded the head of the prison within hours of the threat.

#### ***Prison conditions and police ill-treatment***

In February, the Ombudsperson released a report on human rights in Georgia, covering the period 1 January to 1 November 2000. Her report highlighted

evening of 13 November 1999 that he suffered multiple fractures and other serious injuries, and died in Tbilisi's neurological hospital two days later.

#### ***The case of Mamuka Rizhamadze*** (update to AI Index: EUR 01/001/2001)

the gravity of the problem of torture at pre-trial detention stage. She attributed the frequency of torture to many factors, including an entrenched culture of impunity among law enforcement officials committing illegal actions, a low level of police training, and a concomitant over-emphasis on confessions, rather than gathering of evidence, as a way of 'solving' crimes. She points out that the number of incidents of torture is higher than reported, since often victims of torture will come to an unofficial agreement with the police after the event, for example involving their release in exchange for non-disclosure of the torture to which they were subjected. Moreover, some victims of torture and ill-treatment have withdrawn their complaints from the Ombudsperson's office, fearing negative repercussions against them or their families should they pursue their complaint.

Overcrowding remains a severe problem in pre-trial detention facilities, with prisoners, sometimes up to 40 in one cell, sleeping in shifts. Conditions in prisons are also reported to be unbearable, with malnutrition and infectious diseases as serious concerns. Alternative non-custodial punishments, such as probation, fines and social work bail, are rarely applied by the courts. A draft law on non-custodial punishments and probation, aimed at reducing prison numbers, was reported in May to be due for consideration by the Georgian authorities. Meanwhile, other initiatives, such as taking judges on visits to prisons so they could see conditions there for themselves, were instituted in an effort to encourage more use of existing non-custodial measures.

#### ***Conclusions and recommendations of the UN Committee against Torture***

The United Nations Committee against Torture issued its conclusions in Geneva on 7 May, after considering Georgia's second periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee noted some positive aspects since it considered Georgia's initial report in 1996, including ongoing efforts to reform the legal system, and the transfer of the prison service from the control of the Ministry of the Interior to the Ministry of Justice.

However, the Committee also expressed a number of serious concerns. It considers, for example, that the failure to launch in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders, results in a state of impunity. It regards certain powers of the procuracy, and the way this institution functions, as giving rise to serious doubts about its objectivity and the existence of an

independent mechanism to hear complaints. It considers prison conditions unacceptable, and regards as inadequate detainees' access to a lawyer, a doctor of their own choice and to family members. The Committee also expressed its concern about the instances of mob violence against religious minorities, and the failure of the police to intervene and take appropriate action in punishing the perpetrators. AI urged the Georgian authorities to implement the recommendations of the Committee and to take forward the verbal commitments of the Georgian. The overall situation in the conflict zone, in particular in the Gali region, remained volatile, with reports of sporadic outbreaks of hostilities, sometimes resulting in the deaths of civilians. In a meeting in Yalta in March, both sides formally restated their commitment to creating the necessary conditions for the safe and voluntary return of refugees and internally displaced people to the disputed region.

#### *Visit by AI delegate to Abkhazia*

In April an AI delegate visited Abkhazia, meeting with representatives of the *de facto* authorities. The delegate sought further information on the investigation into the death of Zurab Achba (see below), as well as reiterating concerns about the continued application of the death penalty, and about the reported imprisonment of conscientious objectors to compulsory military service (see AI Index: EUR 01/001/2001). The delegate also met with various non-governmental organizations during the visit.

#### *Reported arbitrary detentions by the de facto Abkhaz authorities*

AI is concerned at reports that the Abkhaz authorities had again apparently arbitrarily detained Georgian fishermen in the capacity of hostages, in retaliation for the actions of Georgian irregular armed forces. Anyone held without formal charge and with their release conditional on the release of others, is effectively being arbitrarily detained in the capacity of a hostage. International standards prohibit the taking or holding of hostages in all circumstances.

The sequence of events began in April, when a serious deterioration of relations between the parties to the conflict was triggered by the killing of two local residents in an ambush near Gali, reportedly by an irregular Georgian armed group. On 8 April, the Abkhaz authorities reportedly killed two members of a Georgian irregular armed group and took a further three into custody in an operation to apprehend the alleged perpetrators of the ambush. The Georgian armed group then apparently retaliated on 12 April by abducting five Abkhaz soldiers (two ethnic Abkhaz, one Georgian, one Russian and one Turk) from their observation posts. The Abkhaz apparently responded further on 14 April by intercepting and impounding a Georgian fishing boat and taking five fishermen into

delegation at the session to make declarations recognizing the competence of the Committee under Articles 21 and 22 of the Convention. This would enable the Committee to receive and consider communications from another state party, and from individuals who claim they have been tortured or ill-treated by state agents.

#### *Concerns in the disputed region of Abkhazia*

custody in Sukhumi. The Abkhaz authorities claimed the fishing boat had trespassed in Abkhaz territorial waters. They reportedly offered to release the five fishermen in exchange for the five Abkhaz soldiers abducted by the Georgian group, despite statements by the armed group leader Dato Shengelaia that he would only release the soldiers in exchange for the three members of his group who were detained on 8 April. Then on 7 May, the Georgian armed group reportedly abducted a senior Abkhaz customs official. Following a negotiated agreement, on 11 May the Abkhaz authorities released the five Georgian fishermen and three members of the Georgian armed group, and the Georgian side released the five Abkhaz soldiers and the Abkhaz customs official.

Following these events, the UN Secretary-General also reminded the Georgian authorities of their commitment to take effective measures to put a stop to the activities of illegal armed groups crossing into the Gali district from the Georgian-controlled side of the cease-fire line.<sup>15</sup>

#### *The murder of human rights defender Zurab Achba (update to information in AI Index: EUR 01/001/2001)*

According to reports, Abri Dzhergeniya, then Abkhaz Procurator General, stated on 15 May that a Georgian currently living in Bryansk in the Russian Federation had been identified as the main suspect in the murder of Zurab Achba. Abri Dzhergeniya stated that this man was now wanted by the Russian police, and added that two other suspects had been detained in connection with Zurab Achba's death but have not been charged with murder. Zurab Achba, a legal assistant to the UN Human Rights Office in Abkhazia, was shot and killed in Sukhumi on 15 August 2000. AI is concerned about allegations that some official structures were implicated in the killing, and urged the Abkhaz authorities to ensure the investigation into Zurab Achba's death is thorough and impartial. There was one report that journalist Valya Emkhvari who had apparently been investigating the death of Zurab Achba, was killed on the night of 20 to 21 June in Sukhumi. A spokesman for the Revival Party, which Zurab Achba had previously headed, was reported to allege that the journalist had been killed by the same people who killed Zurab Achba.

<sup>15</sup>See Report of the Secretary-General concerning the situation in Abkhazia, Georgia, UN Document S/2001/401, 24 April

## GERMANY

In March Germany came before the UN Committee for the Elimination of Racial Discrimination (CERD) in Geneva, as part of its four-yearly review. AI took the opportunity to brief CERD with its concerns about continuing allegations of police ill-treatment of foreign nationals in Germany. In its Concluding observations the Committee expressed concern about "... repeated reports of racist incidents in police stations as well as ill-treatment inflicted by law enforcement officials on foreigners, including asylum seekers, and German nationals of foreign origin".<sup>16</sup> CERD urged Germany to "... strengthen existing educational measures for civil servants who deal with issues involving foreigners, including asylum seekers, and German nationals of foreign origin".

### ***UN Convention against Torture***

On 26 June, the United Nations Day of Remembrance for Victims of Torture, the German Foreign Office official, Dr Ludger Volmer, declared Germany's intention to accede to Articles 21 and 22 of the UN Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), which allow both individuals and states to make complaints directly to the Committee against Torture, the body of experts which monitors states implementation of the Convention. He also reportedly declared his country's commitment to the drawing-up of an additional protocol to the Convention against Torture, which would provide for a system of visits of the Committee to states parties.

### ***Allegations of police ill-treatment***

In the period under review AI learned of the sentencing of police officers who had been convicted of ill-treating detainees in several separate incidents. Munich's District Court (*Landgericht München I*) reportedly convicted a 34-year-old police officer during an appeals trial on 17 May of ill-treating and wrongfully depriving two detainees of their liberty. The court gave the police officer a suspended 18-month prison sentence. The police officer was also reportedly dismissed from the police force. A second, more junior, police officer was reportedly given a suspended prison sentence of 10 months, while two other police officers were acquitted of ill-treating the detainees. The convictions related to incidents which occurred during Munich's October Festival in 1998, during which a handcuffed detainee was beaten by police officers, resulting in him sustaining serious damage to an eardrum. In another incident, a second detainee was reportedly hit across the head and punched in the stomach by police officers. In 2000 a court had originally sentenced the 34-year-old senior

### ***UN Committee for the Elimination of Racial Discrimination***

police officer to two years nine months' imprisonment, while his three subordinates were given suspended prison sentences of 14 months.

In April Rottweil District Court (*Landgericht Rottweil*), Baden-Württemberg, reportedly upheld the convictions of two police officers who were accused of ill-treating a 28-year-old man, who they had mistaken for a criminal suspect they were pursuing. The police officers had reportedly originally been convicted in October 2000 and were suspended from duty. The police officers violently detained the man as he left his house during a police chase in February 1999 in the town of Rottweil after reportedly misreading footprints in the snow. One of the police officers allegedly grabbed hold of the man, while the other police officer repeatedly hit him with his torch, resulting in the detainee's hospitalization. The police officer, who held the detainee, was given a suspended prison sentence of nine months, while his colleague accused of striking the detainee received a 14-month suspended sentence and was dismissed from the police force.

### ***Police counter-complaints***

AI was informed of a case in which police lodged counter-complaints against a Nigerian national who had alleged police ill-treatment in relation to an identity check in May 1999. Julius Osadolor, then 28, alleged that he had been physically and verbally abused by police officers after being detained at Bochum railway station on 4 May 1999. He alleged that, while being strip-searched at a police station on Umlandstraße, a police officer hit him to the ground, after he verbally protested against a police officer searching through the memory of his mobile telephone. Julius Osadolor provided AI with medical documentation stating he suffered multiple bruising as a result of the incident. He was also deemed by a doctor to be unfit for work for seven days.

AI wrote to the German authorities in July 1999 expressing concern that Julius Osadolor may have been treated in a cruel, inhuman or degrading manner by the police officers in Bochum, urging them to investigate Julius Osadolor's allegations. AI received a response from the Ministry of the Interior of North Rhine-Westphalia in November 1999, stating that Julius Osadolor had allegedly refused to provide the two police officers with identification upon request, and so was detained. The Ministry of the Interior denied that Julius Osadolor was ill-treated in custody, but stated that, pending the conclusion of the investigation of the state prosecutor it could not take any further position in relation to the case. Moreover, the Ministry of the Interior stated that Julius Osadolor's German wife, Eva-Maria Osadolor, who witnessed the police officers detain her husband, had

<sup>16</sup>UN Doc CERD/C/58/Misc.21/Rev.4, 22 March 2001 -

paragraph 11

allegedly attempted to prevent the police officers handcuffing her husband by imposing herself between the police officers and her husband and hitting out at one of the police officers, a charge which she denied. She informed AI that she and her husband had been summonsed to court on the charges of resisting the police officers. However, Bochum District Court AI learned about the intention of the authorities in Lower Saxony to use metal cages to detain anti-nuclear demonstrators who were expected to protest against the transportation of nuclear waste from Le Hague to Gorleben in Lower-Saxony towards the end of March. According to media reports arrested demonstrators would be held in metal cages approximately six metres by four metres in length and width and over two and a quarter metres high. In the past the transportation of nuclear waste through the territory of Lower Saxony to the Gorleben depository site had resulted in significant protest activity in past years, frequently resulting in large-scale arrests. AI wrote to the authorities seeking clarification about the conditions of detention in the metal cages and about their intended overall use. AI was concerned that the use of such cages to hold detainees may have amounted to cruel, inhuman or degrading treatment.

The organization received a response from the Lower Saxony authorities in May, providing AI with the requested information and stating that the mobile custody cells (*mobile Gewahrsamzellen*) or mobile prisoner assembly points (*mobile Gefangenensammelstellen*) had not been employed during the recent transportation as "a sign of the willingness of the police to engage in dialogue and avoid conflict". However, in future the mobile custody cells would only be used if it was envisaged that large numbers of people would be detained, exceeding the capacities of existing holding facilities, and would only be used as a last resort. AI was informed that the mobile custody cells would be placed out of view of the public in empty buildings, such as gyms and garages, and would meet international minimum standards of conditions of detention relating to space, heating, ventilation, and drinking and eating facilities.

### **Abusive restraints**

In March AI wrote to the Berlin authorities expressing about concern a 46-year-old Somalian prisoner in Tegel prison (*Justizvollzugsanstalt Tegel*) who had reportedly been attached by his ankles to a fixed point in his cell by a rein for several weeks at the start of the year. The prisoner, who was sentenced to 10 months' imprisonment in October 2000 for violating the conditions of his probation, began to repeatedly kick the door of his prison cell over extended periods of time from 22 November 2000, creating a considerable disturbance and resulting in him being restrained. AI was concerned that the practice of attaching a prisoner to a fixed point in a cell, such as a cell wall or a bed, by means of a short rein may have constituted cruel, inhuman or degrading treatment.

In late March, AI received a response from the Berlin authorities, confirming that the prisoner had been attached by one of his ankles to a fixed point on

(*Bochum Amtsgericht*) eventually rejected the police counter-complaints in late October 2000, finding Eva-Maria Osadolor not guilty and dropping the charges against her husband.

### **Conditions of detention**

the floor of his cell by a one-metre-long leather strap. The authorities stated that this measure had been unavoidable due to his disruptive behaviour, whereby he "had struck the door of his cell for hours on end, day and night, thereby causing an unbearable and unreasonable noise in the area of his accommodation for staff and prisoners". The authorities added that "all attempts to dissuade the prisoner from his way of behaviour and to integrate him into the prison had failed". The prisoner had reportedly been transferred to several different cells, one of which had been specially modified to reduce the risk of noise being caused as a result of his behaviour, but there was no reported change in the prisoner's behaviour. However, the prisoner was transferred to a psychiatric clinic in Berlin in late February on the basis of expert medical opinion, which ruled that he was unfit to be held in prison.

### **Update**

(update to AI Index: EUR 01/001/2001)

In June 2001 AI received a response from Düsseldorf District Administration (*Bezirksregierung Düsseldorf*) relating to allegations the organization had previously raised concerning the treatment of a 20-year-old Togolese woman in June 2000. She had alleged that she was arrested after she reportedly refused to leave a baby-care shop in the town of Geldern in North Rhine-Westphalia after a dispute with the shop's management about a returned pushchair. The woman, who was 17 weeks pregnant at the time, and her husband also alleged that during the arrest the police officers ill-treated her and while on the ground rolled her onto her front, even though she was obviously pregnant, in order to handcuff her. The detainee also alleged that she was still handcuffed when she was sent to hospital where she was to undergo a gynaecological examination to ensure that her unborn baby had not been injured. A gynaecologist at the hospital reportedly initially refused to conduct an examination of the detainee due to her handcuffed state.

Düsseldorf District Administration informed AI that an investigation into the incident had revealed that the woman had refused to leave the shop and had acted aggressively towards the police officers, which resulted in her immediate arrest and a subsequent fine. The authorities stated that the police officers had acted with faultless judgement and correctly according to the situation, and that the detainee herself was to blame for any injuries she incurred. However, the authorities omitted to comment on AI's concern that the police officers had allegedly refused or neglected to remove the handcuffs of the pregnant detainee who was to undergo a gynaecological examination.

### **International Court of Justice**

(update to AI Index: EUR 01/001/2001)

On 27 June the International Court of Justice (ICJ) in the Hague ruled in favour of Germany against the USA in the *LaGrand Case*, declaring that the USA was in breach of its obligation under the 1963 Vienna Convention on Consular Relations to Germany and two German nationals by failing to inform them of their right to seek consular assistance upon their arrest. Two German citizens, brothers Karl and Walter LaGrand, were convicted of committing a murder during a robbery in Arizona in 1982 and were executed in Florence prison, Arizona, in February and March 1999. Germany was only informed of their conviction in 1992 by the brothers themselves. The ICJ also ruled with an overwhelming majority that, by failing to take all measures at its disposal to ensure that Walter LaGrand was not executed pending the final decision of the ICJ in the case, the USA had breached an Order of the Court of 3 March 1999. The USA executed Walter LaGrand on the same day the interim injunction was issued.

## G R E E C E

### **The United Nations Committee against Torture meets to consider Greece's third period report**

In May the United Nations Committee against Torture considered Greece's third periodic report submitted under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. In its conclusions, the Committee noted that the report was submitted with two years' delay, and did not fully conform with the Committee guidelines for the preparation of state party periodic reports, by failing to include new relevant case law, or details of complaints regarding alleged acts of torture and other cruel, inhuman or degrading treatment or punishment. The Committee expressed concern on a number of points, including the following: "*evidence that the police sometimes use excessive or unjustifiable force in carrying out their duties particularly when dealing with ethnic and national minorities and foreigners*", "*the harsh conditions of detention in general and, in particular, the long-term detention of undocumented migrants and/or asylum-seekers awaiting deportation in police stations without adequate facilities*" and the "*severe overcrowding in prisons which aggravates the already sub-standard material conditions*". The Committee made several recommendations to the Greek authorities, among them: that urgent measures be taken to improve conditions of detention in police stations and prisons; that measures, including training, be taken to ensure that in the treatment of vulnerable groups, in particular foreigners, ethnic and national minorities, law enforcement officers do not resort to discriminatory practices; and that steps be taken to prevent and punish trafficking of women and other

forms of violence against women.

### **Constitutional changes relating to the death penalty and conscientious objection**

Under amendments to the constitution adopted in April, the death penalty was abolished except for "offences committed in time of war and related to it". (Greece has commuted death sentences to life imprisonment since 1974.) An interpretative note was added to the constitution, relating to clause 6 of Article 4 (dealing with the duty of Greek citizens to bear arms in defence of their country), which states: "[This clause] does not exclude the provision by law of the obligation to offer other services, within or without the armed forces (alternative service) by those who have proven conscientious objection to performing armed or general military service" (see also the section on conscientious objectors, below).

### **New cases of alleged torture and ill-treatment**

Andreas Kalamiotis, a Rom who is a Greek citizen, alleged that on 14 June police arrested and beat him outside his home in Pevkakia in Aghia Paraskevi, a suburb of Athens. At the local police station police officers allegedly racially abused him and threatened to plant drugs on him. He was released the following day after being accused of resisting police officers and threatening them. He subsequently brought charges against the police officers he alleged had ill-treated him.

There were also reports that migrants from Albania had been ill-treated by police in the course of periodic "sweep operations" in which police rounded up and expelled migrant workers lacking official permission to reside and work in Greece. In February a 16-year-old Albanian migrant worker, Refat Tafili, was arrested in the Athens area during one such operation, when police carried out a raid in the house where he was staying. Police allegedly pushed him to the ground and kicked him. He was later released after losing consciousness in a police cell. Relatives brought him to hospital where he was found to have a ruptured spleen, and was operated on. A week later police came to the hospital and arrested him in order to expel him from Greece. Despite his poor health, he was detained for five days, before being urgently re-admitted to hospital - where he spent a further 10 days - with an infection and internal bleeding. Following intervention by the Ombudsperson his appeal against expulsion was granted. An internal police investigation into this incident was started, but by the end of June had not reached any conclusion.

In March a police officer on Lesbos island was reportedly charged with torture and attacks on human dignity after he beat and severely injured Arian Hodi, a legal migrant worker from Albania. Arian Hodi had previously made a complaint against a police officer after being denied access to a shopping centre in the town of Mytilene because of his Albanian origin.

In June AI wrote to the Greek authorities to express concern about reports that some 20 asylum seekers who arrived in Crete on 5 June had been ill-treated by members of the coastal guard forces during their first days of detention at the premises of the Navy School in Vlite area. Subsequent medical examinations were said to have found injuries consistent with these allegations. They were part of a larger group of 164 asylum seekers, many of them of Kurdish origin. The group, including 45 women and children, were transferred to premises at Chania airport where they were reportedly held in severely overcrowded conditions, in a space of some 100 to 150 square metres, with access to only three toilets, and little or no exercise and access to fresh air. Extremely hot weather further aggravated these conditions, which in AI's view may have amounted to cruel, inhuman and degrading treatment. By 14 June, following the intervention of the Greek Section of Medecins du Monde, families and children had been transferred to better accommodation in Athens.

### ***Freedom of expression and religion***

In February AI wrote to the Greek Minister of Justice to express its concern about the conviction of Sotiris Bletsas, a member of the Society for Aromanian (Vlach) Culture. In 1995 he had distributed at a Vlach festival in Greece a publication of the Brussels-based European Bureau for Lesser Used Languages (EBLUL), which listed minority languages in European Union states, including Aromanian and several other languages in Greece. On 2 February a court in Athens found him guilty under Article 191 of the Criminal Code, dealing with the distribution of false information liable to cause public alarm. He was sentenced to 15 months' imprisonment suspended for three years, and a fine. AI called for a review of the case and urged that the charges against him be dropped and that Article 191 be annulled or amended to ensure that it is never used to punish someone for the non-violent exercise of their right to freedom of expression.

In March Mehmet Emin Aga (see AI Index: EUR 01/01/00), a member of the Turkish minority, was acquitted on one of the 14 charges brought against him of "usurping [the function] of a religious Minister" by the Court in Larissa. AI is calling for all the other 13 charges still pending against him to be similarly dropped.

### ***Conscientious objection to military service***

In June AI sent a delegate to observe the appeal hearing of conscientious objector Lazaros Petromelidhis, but the hearing was postponed pending a decision by the Council of State concerning a request he had submitted to the Council, and because a witness failed to appear in court. In 1999 Lazaros Petromelidhis was sentenced to four years' imprisonment on charges of "insubordination in time of general mobilisation", after failing to respond to

Speaking about the motive for the police raid, György Papp, Gödöllü Chief of Police, reportedly

call-up. He had previously been deprived of his right to conscientious objector status after refusing alternative civilian service on the grounds of its punitive length (30 months instead of the four months military service required of a man of his age and circumstances). He had been adopted by AI as a prisoner of conscience following his imprisonment between April and June 1999. AI has called on the Greek authorities to amend legislation relating to conscientious objection and alternative civilian service so as to bring it into line with international standards and recommendations. In particular, AI urged that alternative civilian service should not be of discriminatory and punitive length, that conscientious objectors should have the right to claim conscientious objector status at any time, both up to and after entering the armed forces, and that the right to perform alternative civilian service never be derogated from, including in time of war.

## HUNGARY

### ***New reports of ill-treatment of Roma***

AI is concerned about two recent reports of police ill-treatment of Roma. The organization is also concerned about a reported incident in which the police apparently failed adequately to protect Romani victims from racist violence. After this incident the police repeatedly failed to act upon the victims' complaint.

#### ***The reported ill-treatment of Roma in Bag***

According to information received by AI, on 9 February 2001, at around 2am, in Bag, Pest County, around 80 police officers raided a funeral wake in the Romani settlement and indiscriminately assaulted the mourners and other people attending this function, as well as other people whose houses were reportedly searched in an aggressive manner. According to one report eight people, who were arrested during the raid, were released after four hours of custody without being questioned or charged with any criminal offence.

The Roma of Bag had organized a wake in memory of a 30-year-old man, a father of five children, who died in a traffic accident. At around 2am the police surrounded the Romani settlement. One group of police officers was said to have assaulted the people standing by the fire, another group searched the houses and the third inspected automobiles belonging to the residents of the Romani settlement. Representatives of the *Roma Polgárjogi Alapítvány* (Roma Civil Rights Foundation, a local human rights organization), who interviewed the reported victims of police ill-treatment, and other witnesses, recorded a number of police ill-treatment incidents.

stated that because of the rising crime in the area, the police had increased the surveillance of certain

individuals in the settlement. In fact, the raid was apparently organized in order to arrest László Vidák who had previously been arrested and charged for theft and similar offences. In October 1999, during an interrogation, he had been severely beaten by police officers. Following his ill-treatment complaint the public prosecutor had brought charges against Major István Nemesi, Aszód Police Chief, and three of his officers. The case against the four officers had been scheduled for a trial on 10 April.

Major István Nemesi took part in the 9 February raid during which, according to several people who were interviewed by the local human rights activists, his conduct was amongst the most brutal of the officers involved. In the course of the police raid László Vidák was arrested and it was reported that, although did not resist their action, the police officers severely beat him. László Vidák subsequently spent four days in the State Emergency Hospital for treatment of injuries which he suffered as a result of the beating.

An article published on 20 February by the Roma Press Centre, a news agency with a focus on Romani issues, stated that the Pest County Investigation Bureau, in the year 2000, carried out investigations into 79 cases where evidence corroborated complaints of police ill-treatment. Speaking about the police raid of the Romani settlement in Bag, Dr Birtalan Örkény, Pest County Public Prosecutor, reportedly stated that there were sufficient grounds for an investigation as it appeared that the conduct of the police was disproportionate to the objectives of the police action.

On 10 April, Budapest Regional Court convicted Major István Nemesi and three of his officers for intimidation and assault of László Vidák, offences which had been "committed out of base motives". At the hearing, the victim testified about the incident of 1 October 1999. During the interrogation in the police station, although László Vidák was handcuffed, a cord had been wound around his neck and he was tied down to a chair in the police station. A plastic bag was pulled over his head and the police officers hit him on the head, back and legs with a stick and a plastic pipe, ordering him to confess to a theft. The officers denied the charges and stated that they would appeal their conviction. Major István Nemesi was sentenced to two years' imprisonment suspended for a period of four years. Officer László Soltész was sentenced to one year's imprisonment, suspended for three years; Ferenc Drégelyvári, to a suspended sentence of six months' and György Nagy to a fine.

In an interview after the trial, György Papp, the Gödöllő Chief of Police, confirmed that all four officers had taken part in the raid on the Romani settlement in Bag. Following that incident he reportedly stated that he did not suspect that the officers had acted abusively, although he had been aware of the pending case. He did not comment on their conviction, and would not say whether the officers would remain on duty, declaring that he

would have to study the judgment before making any decisions. However, he reportedly stated that the convicted officers would not remain in their present posts. In a television program broadcast on Hungarian TV2 (satellite service) the chief of police stated the following: "These colleagues were doing their job; it happened in the course of work. We are not talking about corruption, or policemen committing acts of crime. They have exceeded their powers."

An article published on 13 April in *Magyar Hírlap*, a national daily newspaper, stated that over 2000 people in Bag signed a petition in defence of the convicted officers. László Jamrik, the Bag mayor, claimed that the people, who "spontaneously started the petition", were not racist and that their only wish was to live without fear of rising criminality.

#### *The reported ill-treatment of Kálmán F.*

Another reported incident of police ill-treatment of Roma took place in Tiszabura, in the Jász-Nagykun-Szolnok County. According to a report of the Roma Press Centre<sup>17</sup> on 14 April 2001, on the outskirts of Tiszabura, two police officers and two fishing wardens who were on patrol for illegal fishing in the Tisza, apprehended Kálmán F. His name is known to AI, but withheld to protect his identity., a 14-year-old boy. One of the police officers reportedly pushed the boy making him fall to the ground, then pulled his ears and forced him into the cold river. Kálmán F. later stated that he had not been fishing and that he did not have any fishing gear with him at the time of the incident. His parents have subsequently filed a complaint about the ill-treatment with the Szolnok Police. The case was then referred to Jász-Nagykun-Szolnok County Bureau of Investigation, which is reportedly conducting an investigation into allegations of ill-treatment and unlawful apprehension against unknown perpetrators. A spokesperson for the Szolnok Police refused to comment on the complaint, and stated that the inhabitants of Tiszabura, many of whom live in poverty, often fish without a permit, and, therefore, police officers and fishing wardens often patrol together.

László Farkas, the head of the local Romani self-government, stated that the victim, whose parents like many other Roma in this region have been unemployed for many years, would be provided with a lawyer. There have been several incidents in the past when fishing wardens, and persons guarding forests or farmland, resorted to excessive force when dealing with Roma who had allegedly engaged in illicit activity.

*The reported failure of the police adequately to protect Pál Sztojka, József Lakatos, József Sárközi, Miklós Rostás, and János Kolompár from racist violence*

<sup>17</sup>Roma sajtóközpont: *Rend\_rök és hal\_rök zavartak a*

*Tiszába egy a roma fiút*, published on 25 April 2001

On 5 May 2001, Pál Sztojka, József Lakatos, József Sárközi, Miklós Rostás, and János Kolompár, all of whom are residents of Kalocsa, aged between 18 and 23 and of Romani origin, went to collect scrap metal and plastic waste in the local area. Close to the village of Fiserbócsa, on the side of the road, Pál Sztojka's car got stuck in the sand. An older man driving a tractor offered his assistance to tow the car onto the road. At this point a police officer, accompanied by a guard, drove up and asked the Roma for their identity cards. Then a third vehicle, a jeep, stopped and its driver, who was later identified as a farm-guard, began to shout insults and threats at the Roma. He reportedly said "Dig gypsies, dig your grave. You will die today!" This man then drove off, followed by the police patrol car. The Roma also continued their car journey in the same direction. As they approached a bar on the road between Soltvadkert and Jakabszállás, they discovered that the road was blocked-off by the farm guard's, while the police patrol car was parked some distance away, by the side of the road. Pál Sztojka reversed the car and turned back while the farm guard pursued the Romani men. When Pál Sztojka's car got stuck in the sand for the second time, the farm guard reportedly fired several times (apparently from a shotgun) at the Roma who ran and hid in the forest.

Later, on the same day, Pál Sztojka, József Lakatos, József Sárközi, Miklós Rostás, and János Kolompár tried to report the incident to the police. They went to the nearest police station in Soltvadkert where they were referred to the station in Kiskőrös, the nearest larger town. However, there they were instructed to file their complaint in Kalocsa, from where they were sent to the station in Kecskemét. None of the officers they spoke to at these stations accepted their complaint or took other appropriate action to protect them from further racist violence. On 10 May Pál Sztojka once again went to the Soltvadkert police station, wearing a hidden camera and an audio recorder provided by *RTL-Klub*, a commercial television station. The following exchange between Pál Sztojka and an unidentified police officer was subsequently broadcast in an *RTL-Klub* program:

Pál Sztojka: "I would like to make a complaint."

Police officer: "What the hell for?"

Pál Sztojka: "There was a shooting."

Police officer: "And you have not been shot dead? That is too bad."

(...)

Pál Sztojka "There was a police officer there too."

Police officer: "There was a police officer there and he didn't shoot you?"

The police officer is then heard threatening to hit In April the UN Human Rights Committee made its first decision against Ireland in an individual case brought under the Optional Protocol to the International Covenant on Civil and Political Rights. The Committee found that Ireland had violated the right to equality before the law of a person, who had been deprived of a trial by jury and referred to a three-

Pál Sztojka on the head. On 14 May, during an on-camera interview with an *RTL-Klub* journalists, Antal Csábi, a Kiskőrösi police official, denied that there had been any attempt at filing a complaint in this case. Officer Csábi also stated on camera that the Romani men had not attempted to file a complaint (*feljelentés*) in connection with the incident, but had only been reporting a shooting incident to the police (*bejelentés*).

AI has learned that the police officers who initially refused to take the victims' complaint are currently participating in the investigation of the shooting incident. Some of the Romani victims have subsequently been harassed by officers who allegedly intimidated them by threatening to have them investigated on suspicion of theft. Pál Sztojka's car, which was damaged in the shooting, is not currently in use. However, the Kalocsa county court, which is conducting the investigation into the shooting, has asked Pál Sztojka to have the car towed, at his own expense, for a forensic examination. Pál Sztojka was told that should he fail to do so the case would be closed because of lack of evidence. At the same time Pál Sztojka is not aware that there is any investigation into the police conduct before and following the shooting incident, when police officers apparently failed adequately to protect the victims from racist verbal abuse and violence.

AI has asked the Hungarian authorities for reports on investigations into all reported incidents. The organization also called on the authorities to ensure that the Romani men from Kalocsa are protected from further harassment by the police; to provide information on all measures undertaken to ensure that the officers suspected of failing to protect the victims of racist violence in this incident are excluded from the conduct of the investigation into the reported shooting; and to take steps to ensure that a thorough and an impartial investigation into Pál Sztojka's complaint is carried out irrespective of the complainant's financial inability to participate in this process by making his car available for a forensic examination at a designated site.

AI also asked for information about any legal provisions regulating the status and/or duties of police officers who have been indicted for offences committed in the service, as well as for information concerning the current status on the police force of Major István Nemesi, and officers László Soltész, Ferenc Drégelyvári, and György Nagy, who were convicted for the ill-treatment of László Vidák.

## IRELAND

### **The UN Human Rights Committee**

judge Special Criminal Court, without the Director of Public Prosecutions giving reasons for the referral. The Committee was reported to have stated that Ireland should not try people before the Special Criminal Court unless it can show reasonable and objective criteria for the decision. The Committee also stated that Ireland must provide an "effective remedy"



for the person whose right is violated.

On the occasion of the examination of Ireland's second periodic report in July 2000, the Committee had expressed concerns about the continued operation of the Special Criminal Court (see AI Index: EUR 01/001/2001 and EUR 29/01/00).

### **Death penalty**

In June, following a referendum, the death penalty was removed from the Irish Constitution. The death penalty had been removed from the statute books and effectively abolished in the Republic of Ireland in July 1990. No execution had taken place since 1954. According to the amendment which was passed by the referendum, and which will be the Twenty-first Amendment of the Irish Constitution, "The *Oireachtas* [the Irish Parliament] shall not enact any law providing for the imposition of the death penalty".

About 62 percent of voters voted for the removal of the death penalty from the Irish Constitution, although the turnout at the referendum (which included two other proposed amendments, one on the acceptance of the jurisdiction of the International Criminal Court, and one on the ratification of the Treaty of Nice) was about 34 percent.

### **The International Criminal Court**

During the above-mentioned referendum, the proposed amendment of the Irish Constitution regarding Ireland's acceptance of the jurisdiction of the International Criminal Court was also passed.

### **Human rights aspects of the Multi-Party Agreement**

(update to AI Index: EUR 01/001/2001)

By the end of June the Irish Government had still failed to produce legislation which would bring into effect its commitment under the Multi-Party Agreement 1998 to incorporate the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR) into domestic law, and to "ensure at least equivalent level of protection of human rights as will pertain in Northern Ireland". The European Convention on Human Rights bill was deferred until October/November to allow for further consultation. AI was concerned that in favouring an "interpretative" incorporation at a sub-constitutional level of the ECHR the Irish Government would fall

In the course of its hearings the sub-committee heard representations from the lawyer of the 25 named police officers allegedly involved in the incident and from the lawyer representing the family of John Carthy. The family's lawyer criticized the police report into the incident, including because it presented a picture of the deceased which was unrecognisable to the family. He also referred to a number of issues of concern to the family which were raised in their submission, including the exclusion of the State Pathologist's report from the Garda (Police) report and the failure to give John Carthy access to a

short of meeting its requirements under the agreement, as it would not provide people with full access to the ECHR rights.

A separate bill was about to be introduced, aimed at placing the Human Rights Commission - whose establishment also flows out of the government's undertakings in the Multi-Party Agreement - on a statutory basis. The controversy over the process of appointment of the members of the Human Rights Commission, which had delayed its establishment in 2000, was solved through an expansion of its membership.

### **Shootings by the security forces: Updates**

*John Carthy*

In April a sub-committee of the Parliamentary Joint Committee on Justice, Equality, Defence and Women's Rights began an inquiry into the killing of John Carthy. The inquiry was, however, soon suspended pending the examination of an application to the secretary-general to the government by police officers involved in the siege in which John Carthy died, seeking an exemption from giving evidence, and a judicial review challenge brought by police officers involved in the siege. John Carthy was shot by the police Emergency Response Unit (ERU) in April 2000 after being barricaded for 24 hours in his home in Abbeylara, Co. Longford (see AI Index: EUR 01/03/00 and EUR 01/001/2001).

The sub-committee was formed to examine in public the internal police report into the shooting and the submissions on the police report made by interested parties, including the family of John Carthy and the Irish Council for Civil Liberties. The sub-committee was given powers to compel witnesses to appear under oath and to order the discovery of documents. Four parties were reportedly granted legal representation: senior members of the police; 25 named police officers, including the members of the ERU who fired the shots which killed John Carthy; the deceased and his family; and a consultant psychiatrist. The members of the United States of America Federal Bureau of Investigation, who conducted a report into the incident, were initially excluded from the list of persons called to give evidence.

Members of the sub-committee visited the area of the incident. However, the house where the shooting occurred had been demolished by Longford County Council within weeks of the event.

The sub-committee also heard evidence from the Garda Commissioner, the senior police officer responsible for calling in the ERU, the senior police officer who conducted the internal police investigation, and the police press officer in charge of relations with the media while John Carthy was barricaded in his home.

At the end of April, nine members of the ERU, including the two who shot John Carthy, sought exemptions from giving evidence from the secretary-general to the government. They argued that their giving evidence at public hearings might affect the

prevention, detection or investigation of offences or the apprehension or prosecution of offenders in the future. Their counsel also argued that if the application for exemption was upheld, while evidence continued to be heard from other witnesses, his clients would not have an opportunity to respond to allegations against them. The inquiry by the sub-committee was then adjourned.

In May 36 police officers were also given leave by the High Court for judicial review to challenge the inquiry by the sub-committee, arguing that the sub-committee was undertaking an inquiry into the shooting incident, whereas its terms of reference entitled it only to inquire into the police commissioner's report of the incident. They disputed also the power of the sub-committee to compel the attendance of witnesses and to direct the production of documents. The police officers were also given permission to apply on notice to the state for a stay on the activities of the sub-committee, pending the outcome of the judicial review challenge.

At the opening of the hearings of the sub-committee, two police representative bodies joined the family of John Carthy and civil liberties campaigners in the call for an independent public judicial inquiry as the only means of establishing the full facts to the satisfaction of all parties involved.

#### *John Morris*

At the inquest into the death of John Morris, at the end of June, the jury returned a finding, rather than a verdict, that John Morris was fatally injured during a shooting in 1997, and died the following day from a single bullet wound to the head (he had also been shot once in the lower abdomen) (see EUR 01/02/98 and EUR 01/03/00).

Reportedly, the police officers who fired the shots stated at the inquest that they were in the area where the shooting took place on unrelated work, when they saw a man acting suspiciously and holding something under his jumper. They followed him into an estate and saw two men wearing balaclavas, one carrying a handgun and one carrying a knife. One of the police officers stated that he opened fire when John Morris came out of a fire door, turned and pointed the gun at him. The police officer said that he had feared for his life. Two other police officers said that they shot at John Morris when they saw him pointing his gun at their colleague.

The police officers gave evidence from behind screens and were named by letters of the alphabet to protect their identities, following alleged threats made after the death of John Morris, who was a member of a republican armed group, the Irish National

- in some cases prisoners have no access to toilets and have to use slopping-out buckets kept inside the isolation cell, which, as a consequence, can be very fetid;
- some prisoners are kept naked while in solitary confinement;
- prisoners are not permitted to keep books, radios, or any personal belongings in isolation cells.

Liberation Army.

The family of John Morris and their counsel had withdrawn from the proceedings some days earlier claiming that important documents had not been disclosed to them.

#### **Prisons**

AI was concerned about allegations that some aspects of the treatment of persons who suffer from mental illness and who are detained in Irish prisons may be cruel, inhuman and degrading. The organization's concerns increased following the publication, in April, of a report by the Irish Penal Reform Trust (IPRT), entitled *Report on the treatment of offenders who have mental illness*. The report, based on visits carried out by IPRT experts to Mountjoy, Cork and Limerick prisons between 20 February and 20 March 2001, focuses on the imposition of solitary confinement in isolation cells. Concerns emerging from the report are threefold:

- The decisions regarding the detention of individuals in isolation cells do not appear to be based on explicitly set criteria. As a result, the purpose to be served by the imposition of solitary confinement often seems unclear, which makes it impossible to assess whether detention in solitary confinement is needed in all the cases in which it is imposed. The very high percentage of detention in isolation cells of people mentally disturbed indicates that the use of solitary confinement appears to serve as a substitute for medical/psychological care. This is especially worrying because of the particular vulnerability of the persons that were found to be more likely to be detained in an isolation cell. The IPRT also estimates that almost 40 percent of the prison population in Ireland may be suffering from some level of mental illness or disturbance.
- The conditions in which prisoners are detained in isolation cells - as reported by the IPRT - may amount to cruel, inhuman or degrading treatment. For example, the report found that:
  - isolation cells are single cells furnished only with a thin mattress on the ground and a blanket. Some have padded walls to protect the prisoner from self-harm;
  - some cells do not have a call-button;
  - prisoners in isolation cells are locked up for 23 hours a day;
  - windows are always sealed; many of the padded cells are dark and dank;
- Some prisoners are reported to spend very extensive periods in solitary confinement. Furthermore, records about placement in and exit from isolation cells are not accurately kept, and were often missing.

AI is concerned - including on the basis of the opinion of numerous medical experts - that prolonged

isolation may have serious effects on the physical and mental health of fit prisoners, and is therefore likely to aggravate the condition of persons who are already suffering from mental illness and who should be receiving medical/psychological treatment. Prolonged isolation may constitute cruel, inhuman or degrading treatment. AI believes that the allegations described above regarding the placement of some people with mental illness in solitary confinement for prolonged periods in Irish prisons, and the conditions of the isolation cells, may violate Ireland's obligations under international human rights treaties, including those enshrined in Articles 7 and 10 of the International Covenant on Civil and Political Rights.

## ITALY

### ***Alleged human rights violations by law enforcement officers***

There were numerous further allegations of gratuitous and deliberate violence inflicted on detainees by law enforcement officers.

In February five youths - two Italian nationals and three Albanian immigrants - lodged a criminal complaint against Pistoia police officers and a discotheque bouncer, accusing them of assaulting them on 23 February. They alleged that, after a verbal argument with the bouncer outside a discotheque in the early hours of the morning, they proceeded by car to a bar where four police officers subsequently detained them, after asking one of them - an Albanian national - to show his identity papers. The police apparently assumed that all five were immigrants and escorted them to the police station. There they alleged they were assaulted by at least five officers, while others looked on without intervening, as well as by the bouncer who had apparently been called in to identify them. He had contacted the police, complaining that the youths had insulted him and passed on their car registration number. The youths alleged that they were slapped, punched and kicked until they were bleeding, that their heads were knocked together and banged against a wall, that they were thrown to the floor - one of them landing against a glass door which shattered, injuring him, but that he was kicked as he lay on the floor groaning. He eventually required hospitalization for treatment to a broken nose, a burst ear-drum and a damaged testicle.

They alleged that during the assault one of the officers shouted phrases such as: "Here, I am the law,

On 2 March an anti-racism demonstration took place in Brescia protesting, among other things, against certain statements made the previous month by Umberto Bossi, leader of the federalist parliamentary party, the *Lega Nord* (Northern League) and since June a minister in the new coalition government. The statements included a call for the construction of a 260 kilometre wall along Italy's Slovenian border in order to keep out illegal immigrants. The demonstration was timed to coincide with a demonstration against illegal immigration, among other things, which the *Lega*

there is no democracy, this is a dictatorship". In an attempt to stop the assault, one of the youths, Marco Chiti, who was not carrying his identity card but whose father was at that time an Under-Secretary of State in the office of the Prime Minister of the day, told the officers his father's name. It appears that a doctor was then called to examine the most seriously injured detainee but the youths remained in detention for around two further hours: none of them were allowed to call their relatives or have them informed of their whereabouts.

The police officers claimed to have detained the youths inside the discotheque and to have later tried to stop a brawl between the youths and the bouncer inside the police station. Within two days of the incidents, the police had lodged a complaint accusing the youths of causing bodily harm and insulting them.

In March the five officers were suspended from duty and on 21 March, while the criminal investigation continued, the judicial authorities placed three of them under house arrest on suspicion of causing grievous bodily harm, falsifying evidence and calumny. The other two officers, who had apparently by then largely confirmed the youths' version of events, remained suspended from duty and a criminal investigation was under way against the bouncer.

Following the discovery on 15 March of the corpse of a Tunisian national, Edine Imed Bouabid, near the motorway running between Rome and Civitavecchia, two carabinieri officers from the nearby coastal town of Ladispoli were placed under investigation for possible failure to provide assistance and for abandoning an incapacitated person. Edine Imed Bouabid was living in Italy illegally and was known to local law enforcement officers because of alleged involvement in drug-dealing and pimping. On the evening of his death he had been seen visibly drunk in the centre of Ladispoli, annoying passers-by, some of whom called in the carabinieri. At around 10pm eye-witnesses saw him getting into a carabinieri vehicle and he was not seen again until his body was discovered some 30 minutes later. It was initially thought that the carabinieri had abandoned him near the motorway and that he had then been knocked over by a car. However, autopsy and forensic examinations apparently established that he had died after receiving three blows inflicted by a heavy object which fractured his skull. In April the Civitavecchia Public Prosecutor's office placed three carabinieri officers under criminal investigation in connection with a possible murder charge.

*Nord* was holding in Brescia.

Demonstrators accused police and carabinieri officers of subjecting peaceful demonstrators to gratuitous violence, assaulting them with truncheons and rifle butts, applied in particular to their backs, and continuing to beat people who were lying on the ground bleeding. Dozens of people were reportedly injured, around eight of them so badly that they required urgent hospital treatment. Some 15 youths were arrested and put under investigation in connection with possible offences of resisting state

officers and injuring them.

On 1 June it was announced that seven of the injured demonstrators - who had suffered injuries with prognoses ranging between 15 and 40 days and whose cases were presented as emblematic - had lodged criminal complaints against the Brescia police. Their complaints were reportedly supported by video and eye-witness testimony.

A demonstration which took place in Naples on 17 March, on the occasion of the *Third Global Forum* devoted to the stated theme of *Fostering Democracy and Development through e-Government*, degenerated into violent clashes between certain groups of demonstrators and law enforcement officials, and resulted in injuries to both officers and demonstrators, as well as damage to property. However, at the same time, numerous reports from various sources, including witness and victim accounts and photographic evidence, presented a disturbing picture of widespread abuses and violations of international human rights standards perpetrated against non-violent demonstrators and others by members of the State Police, *Carabinieri* and *Guardia di Finanza*. In a letter addressed to the former Minister of Interior in April, AI expressed its deep concern about the allegations against law enforcement officials. These included:

- non-violent protestors, including minors, trapped in a square sealed off by the police, being subjected to indiscriminate assaults by officers using rifle butts and truncheons, kicks, punches and stones, even though in many cases the protestors approached officers with their hands in the air as an indication of peaceful intent;
- the beating of individuals, including journalists, taking photographs or videotaping scenes of use of excessive force by police and the subsequent destruction of their cameras and film;
- failure to provide some injured detainees with prompt and adequate medical care;
- detainees being denied access to a lawyer and not allowed to have a member of the family or third person informed of their whereabouts;
- the ill-treatment of detainees, including minors, in police stations. Some of them were reportedly made to kneel on the floor of police stations with their faces to the wall for lengthy periods and subjected to random and deliberate beatings with

In February the Public Prosecutor's office placed 10 members of the staff of Potenza District Prison, including prison officers and medical personnel, under criminal investigation in connection with the alleged ill-treatment of Taina Ama, a Tunisian prisoner. A criminal investigation had opened in August 2000, after Taina Ama climbed onto the prison roof to protest against a beating he alleged prison staff had inflicted on him the previous day. A forensic examination carried out at the Public Prosecutor's request concluded that the injuries displayed by the prisoner were consistent with his allegations. The prison staff faced possible charges of causing actual and grievous bodily harm and falsifying medical certificates.

truncheons, slaps, kicks, punches and verbal insults frequently of an obscene, sexual nature. Many detainees were given intimate body searches and in a number of instances the conduct of officers during body searches appeared deliberately aimed at humiliating and degrading the detainees.

AI called on the government to establish an independent commission of inquiry to investigate fully and impartially police tactics and behaviour during the Naples demonstration, and sought information on the status of the internal administrative investigation opened in connection with the March demonstration.

In its call for such a commission, AI pointed out that prompt, thorough and impartial investigations, with the methods and findings made public, serve to protect the reputations of law enforcement officers who may be the subject of unfounded accusations of ill-treatment, as well as to safeguard the interests of genuine victims of ill-treatment.

The organization was most disappointed, therefore, by the response of the Minister of Interior who, on 5 June confirmed that he had ordered the opening of an internal administrative investigation into alleged inappropriate use of force or any improper deployment of the police, and indicated that with regard to the individual instances of alleged human rights violations described in AI's letter - cited only as illustrative examples - the judicial authorities would investigate those instances where individual complaints had been lodged with the courts or had otherwise come to light.

In AI's view the scope of the investigations indicated was insufficient and an inadequate response to the call for a comprehensive investigation carried out by a commission of inquiry, consisting of people of acknowledged independence and probity.

#### ***Alleged torture and cruel, inhuman and degrading treatment by prison personnel***

A large number of criminal proceedings were under way in connection with alleged ill-treatment, in some cases amounting to torture, by prison personnel.

The trial of three prison officers attached to Sassari Prison, Sardinia, and accused of ill-treating a Moroccan inmate, Abdelaziz Ziad, in November 1997 (see AI Index: EUR 01/03/00), opened in April. Abdelaziz Ziad was imprisoned in connection with alleged sexual offences against a Moroccan minor, a young boy. He alleged that the officers had beaten him in an isolation cell where he was being held to protect him from possible attacks by fellow inmates. A doctor who examined him a few days after the alleged assault found injuries taking an estimated 30 days to heal, including a perforated ear-drum and a damaged septum. During the April court hearings a prison officer stated that one of the accused had told him he had participated in the beating "because he was a

paedophile". The trial of the officers on charges of grievous bodily harm and abuse of their authority was still under way in June.

In June it was announced that in October the relevant magistrate (preliminary hearing judge) would start examining the prosecutor's requests for 95 people to stand trial, following a criminal investigation into allegations that on 3 April 2000 over 40 inmates of Sassari prison were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by dozens of prison officers employed in various Sardinian penal institutions (see AI Index EUR 01/03/00). In addition to prison officers, the accused included the former director of Sassari district prison, the former regional director of Sardinian prisons, certain doctors employed in Sassari and two other Sardinian prisons - Macomer and Oristano - as well as the directors of these two prisons: a number of the Sassari inmates were transferred to these prisons immediately after the incidents of 3 April but the relevant officials did not report their physical state on arrival.

***Human rights violations by members of the armed forces in Somalia in 1993 and 1994***

(Update to AI Index: EUR 01/03/00)

In May, following up on information given in a letter sent to AI in January 2000, the Ministry of Justice stated that the relevant judge of preliminary investigation, endorsing the request of the Milan Public Prosecutor's office, had ordered that criminal investigations concerning the alleged rape and murder of a Somali boy in March 1994 should be closed without further action.

During the period under review it was also reported that Florence Appeal Court had declared that a crime of abuse of authority - for which a Livorno court had sentenced a former Italian paratrooper to 18 months' suspended imprisonment in April 2000 - was covered by a statute of limitations. He had been sentenced in connection with the treatment of a Somali man, Aden Abukar Ali, photographed while Italian soldiers, including the paratrooper in question, were in the process of attaching electrodes to his body.

***Universal jurisdiction over crimes against humanity***

(update to AI Index: EUR 01/001/2001)

## KAZAKHSTAN

***UN Committee against Torture reviews Kazakhstan's first report***

On 9, 10 and 17 May the UN Committee against Torture reviewed Kazakhstan's first report on steps the country had taken to implement the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee noted several positive aspects, and the difficulties associated with problems of transition.

In February the Supreme Court of Cassation annulled a Rome Appeal Court ruling of September 2000 ordering the release of former Argentine military officer Jorge Olivera.

He had been arrested in Rome in August 2000 on the basis of an international warrant issued by France for the abduction, followed by torture, of French citizen, Marie Anne Erize Tisseau, in Argentina in 1976. The French statute of limitations did not apply because the unresolved "disappearance" was seen as a continuing crime. While full examination of the relevant French extradition request was still pending, Rome Appeal Court considered an application by Jorge Olivera for provisional release or house arrest. The court, noting that Jorge Olivera's defence lawyers had presented a death certificate for the victim, recording her death in 1976, said that the crime could not, therefore, still be continuing and stated also that the crime of which he was accused was covered by a statute of limitations, indicating that under Italian law, the statute of limitations normally applied to the crime of abduction after 15 years (or under certain circumstances up to a possible maximum of 22 years and six months). On this basis, the court ruled that there were no grounds to detain Jorge Olivera who was released and who immediately returned to Argentina.

The Procurator General appealed against the court's decision, the Minister of Justice announced an internal disciplinary investigation into the conduct of the appeal court judges and the Public Prosecutor opened an investigation into an apparently false death certificate presented to the court.

AI expressed extreme concern at the court's decision, pointing out that, under international law, the scale and magnitude of human rights violations committed under military rule in Argentina constitute crimes against humanity and, therefore, cannot be subject to statutes of limitation.

The Court of Cassation ruled not only that the appeal court had released Jorge Olivera on the basis of a false death certificate, but given the Argentine context, it should have considered the alleged abduction as one aimed at subverting democratic order, a discrete crime to which the statute of limitations did not yet apply. It returned the dossier to Rome appeal court for examination of the extradition request.

However, it expressed concern about a number of points including the absence of a definition of torture as provided for by Article 1 of the Convention in penal legislation; the numerous and continuing allegations of torture and other cruel, inhuman or degrading treatment by law enforcement personnel (including beatings of members of the political opposition); an apparent pattern of failure of officials generally, including the procuracy, to provide a prompt, impartial and full investigation into allegations of torture and ill-treatment, as well as the failure generally to prosecute, where appropriate, the alleged perpetrators; and the allegations that judges refuse to

take into account evidence of torture and ill treatment provided by the accused with regard to his/her treatment by law enforcement officials.

The Committee's recommendations included amending penal legislation to include the crime of torture, which would be consistent with the convention's definition; taking all necessary steps to ensure prompt and impartial investigations into allegations of torture and ill-treatment by law enforcement officials and to ensure the prosecution and punishment of alleged perpetrators; taking urgent and effective steps to establish a fully independent complaints mechanism; expanding the powers of the Presidential Human Rights Commission into an independent and impartial governmental and non-governmental national human rights commission with effective powers to investigate all complaints of human rights violations; ensuring in practice absolute respect for the principle of the inadmissibility of evidence obtained by torture; taking urgent steps to ensure the independence of the judiciary; taking measures to improve prison conditions; and making relevant declarations under the convention to allow the Committee to examine complaints by individuals or other states parties.

### ***The death penalty***

AI was concerned that Kazakhstan's initial report on steps the country had taken to implement the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment failed to mention the death penalty under Article 16. To the best of AI's knowledge no comprehensive official statistics on the application of the death penalty in Kazakhstan have been published since 1998. According to official records, in the first eight months of 1998, 24 cases of people sentenced to death came before the presidential Clemency Commission, and three received clemency. The same statistics recorded that eight applications out of 56 in 1997 received clemency. No executions were reported.

The organisation remained concerned, however, that death sentences continue to be passed and that executions continue to be carried out. AI learned of at least two death sentences in 1999 and one in 2000, but believed that the number of death sentences passed

The government informed the Special Rapporteur that Irina Cherkasova was convicted by South Kazakhstan Regional Court on 20 October 1999 on charges of leading an organized criminal band, illegal acquisition of firearms and armed robbery, and that the Supreme Court upheld the verdict. The government admitted that Irina Cherkasova had stated in both her initial trial and during her appeal hearing at the Supreme Court that she had been tortured in detention, but claimed that her allegations had been carefully investigated. According to the government she was interrogated in accordance with the law and in the presence of her lawyer.

The government informed the Special Rapporteur that Kairat Seidahmetov, Kuat Saparbaev and Nurzhan Isakhanov had been found guilty of

was much higher. According to a report by Kazak Commercial Television of 8 November 2000, between 40 to 60 executions were being carried out in the country every year. Seventeen people had reportedly been executed in Kazakhstan in the first 10 months of 2000. The report also quoted official statistics from 1996 which stated that 63 people had been executed that year.

AI also remained concerned that the way in which relatives of prisoners condemned to death are treated by the Kazak authorities may cause unnecessary distress and itself constitutes cruel, inhuman and degrading treatment. The family is usually not informed of the date of execution and does not have the right to receive the body of the executed man, which is buried in an unmarked grave in an undisclosed location. In the past the organization has received reports that the family had not been notified of the death of the prisoner until months after the execution had taken place.

In the light of Kazakhstan's admission of the widespread use of torture and cruel, inhuman or degrading treatment by law enforcement agencies in order to obtain confessions, both in its initial report to the Committee against Torture and in public statements by Kazakhstan's President, and reports that courts, including the Supreme Court, have continued to admit evidence reportedly based on coerced confessions and to convict people and pass sentence mostly based on such evidence, there was particular concern that people may have been sentenced to death and executed on the basis of confessions made as a result of torture.

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

(update to AI Index: EUR 01/03/00)

In March AI learnt that the government had replied to the UN Special Rapporteur on torture who had transmitted information on the cases of Irina Cherkasova, who alleged that she was tortured in police custody in order to force her to confess to a murder charge, and of 11 young men aged between 17 and 20 detained in Zhanatas in February 2000 on suspicion of having participated in a fight during which a police officer was injured. All alleged ill-treatment.

malicious delinquency and robbery by Sarysu District Court in Zhanatas, and sentenced to six, four and three and a half years' imprisonment respectively. The other young men detained were found guilty of delinquency but were amnestied on 13 July 1999. Regarding the allegations that some defendants cut their throat in protest when the verdict was announced, the government confirmed that they had used sharp unidentified objects to inflict upon themselves minor injuries, but that they had been given immediate medical attention and that no one had died as a result of this action. Kairat Seidahmetov was in fact serving his sentence at the ordinary-regime penal colony in Tara. The government refuted claims that Kurmangazay Bogubaev's neck and Zhandos Zhandarbekov's arm were broken during the judicial

proceedings and stated that these allegations were unfounded. According to the government, medical investigations had been carried out after parents complained that their sons were subjected to physical pressure during interrogation, but no bodily injuries were discovered. An investigation launched by the Zhambul regional procurator's office into allegations of ill-treatment was closed by the office of Internal Affairs of South Kazakhstan Region, reportedly because of lack of evidence. The office of the Procurator General upheld the decision to close the investigation. The Supreme Court suspended the custodial sentences of two of the young men, Isakhanov and Saparbaev (first names not known), after it concluded that their punishment was exceptionally severe in view of their age at the time they reportedly committed the offence.

### ***Harassment of members of the ethnic Uighur community***

Uighurs are Turkic people who are predominantly Muslim. They are the largest indigenous group living in the Xinjiang Uighur Autonomous Region (XUAR), northwest China; a smaller number live in Central Asia. The ethnic Uighur population in Central Asia finds itself increasingly accused of sympathizing with, and even supporting, the banned Islamic opposition movements in Central Asia, and therefore its members often become targets of persecution, including arbitrary arrest, forcible deportation and ill-treatment, by the authorities.

China has also been putting increasing political

Nurpolat Abdullah was reportedly arrested at his home in Almaty by a large group of officers from the Almaty department of the KNB on 2 October 2000. The officers searched the house but reportedly found nothing. However, the KNB later claimed to have discovered hand grenades, as well as literature calling for the overthrow of the state, in the house. Nurpolat Abdullah's arrest followed a police operation on 28 September 2000 reportedly against a banned underground Uighur organization called *East Turkestan*, in which four ethnic Uighurs from XUAR, allegedly wanted for the murder of two Kazak policemen, were shot dead by the police when reportedly resisting arrest. Before and after this operation police were reported to have searched the homes of numerous local Uighurs. Several independent sources accused the police of having used excessive force - over 200 police officers were reportedly involved in the operation. The police claimed that Nurpolat Abdullah was responsible for the organization of the criminal group of which the four men killed were members. He was charged with four articles of the Kazak Criminal Code: formation of a criminal organization with the purpose of committing serious and grave crimes and leadership of such an organization (Article 235, part 2); terrorism (Article 233 part 3); illegal storage of ammunition, explosives or explosive devices by an organized group (Article 251 part 3); and concealment of a serious or grave crime (Article 363).

and economic pressure on some Central Asian republics, such as Kazakhstan, and has sought assurances from them that they would help to arrest alleged "ethnic separatists" (originally from XUAR who seek independence from China) that live on their territory and deport them back to China. AI was concerned that if extradited to China, these ethnic Uighurs would be at risk of torture and execution. In January 1999 Kazakhstan forcibly deported three ethnic Uighurs from XUAR to China. According to latest information Hemit Memet, Kasim Mapir and Ilyas Zordun were kept in secret detention in XUAR and sentenced to death in a closed trial in April 2001. There were fears that all three had been tortured in detention.

### ***Political prisoner***

AI was concerned at reports that Nurpolat Abdullah, a 30-year-old ethnic Uighur citizen of Australia, may have been detained by the Kazak Committee for National Security (KNB) for political reasons, because of his suspected contacts with alleged Uighur "separatists" from XUAR in Kazakhstan.

Nurpolat Abdullah is an ethnic Uighur originally from the XUAR, who became an Australian citizen in the 1980s. He returned to Central Asia in the late 1990s and was involved in trade and was mainly based in Kazakhstan, though he travelled from time to time to neighbouring countries for business purposes. He is married with two children - the youngest was born while he was in pre-trial detention.

Supporters of Nurpolat Abdullah maintained that he was innocent and that the criminal case against him was fabricated because of his ethnic origin, which made him susceptible, in the eyes of Kazak law enforcement authorities, of having contacts with alleged Uighur "separatists" from XUAR, wanted by China.

At the time of writing Nurpolat Abdullah's trial was still ongoing. Two co-defendants, Abdusattar Muhamedzhan and Aziz Tursuntai, were facing similar charges.

### ***Death in suspicious circumstances***

On 9 June the body of Dilbirim Samsakova, a prominent Uighur activist, was discovered near the Kapchagay water reservoir, some 60 kilometres outside Almaty. She had been reported missing since 24 May. She had reportedly been hit on the head with a blunt object. The circumstances of her death were unclear. On 24 May she had apparently received a phone call from an acquaintance asking her to meet him urgently. Her family alerted the police after she failed to return home that night. AI was concerned at allegations that Dilbirim Samsakova's murder was politically motivated, and that she was killed because of her ethnic origin and to punish her for her related high-profile activities in support and defence of ethnic Uighurs.

44-year-old Dilbirim Samsakova was the

chairwoman of Nuzugum Foundation which she set up to provide assistance to ethnic Uighur women and children from XUAR and Central Asia. She was also a member of the Germany-based Permanent Committee of the East Turkestan National Congress, an organization campaigning for the independence of XUAR. She played an active role in defending the rights of ethnic Uighurs: following the September 2000 police operation in Almaty, she provided care and assistance to the wife and children of one of the men killed, after China requested the wife's extradition. More recently Dilbirim Samsakova travelled to Osh in Kyrgyzstan to assist four ethnic Uighur men from XUAR who had been charged with terrorism and murder in relation to a 1998 bomb explosion in Osh which killed four people. She acted as translator and legal adviser for the accused during a retrial in March (see entry on Kyrgyzstan for further information).

## KYRGYZSTAN

### **Prisoner of Conscience Topchubek Turgunaliyev** (update to AI Index: EUR 01/001/2001)

On 20 March the Supreme Court turned down Topchubek Turgunaliyev's appeal against his September 2000 conviction, and upheld the November 2000 decision by Bishkek City Court to reduce his 16-year prison sentence to six years on appeal.

In January Topchubek Turgunaliyev was moved from the custody of the Ministry of National Security (MNS) to the prison hospital in colony number 47 outside Bishkek, reportedly to receive treatment for a deteriorating heart condition. He continued to serve his sentence in labour colony number 36 in Novo-Pokrovka outside Bishkek.

In September 2000 Topchubek Turgunaliyev, a former prisoner of conscience, leader of the opposition *Erkindik (Liberty)* party and chairman of the independent human rights organization *Guild of The chairman of the Kyrgyz Committee for Human Rights (KCHR)*, Ramazan Dyrlydayev, was forced into exile in July 2000 following repeated attempts by local district officials in Bishkek to open a criminal case against him. The KCHR had its registration revoked by the Justice Ministry in September 1998, but following international protests and an intervention by the Organization for Security and Cooperation in Europe (OSCE) it was finally re-registered in August 1999. Since then the KCHR has faced harassment from local officials, mostly over administrative issues, with the intention of preventing the KCHR from investigating and publicizing human rights violations.

In March the KCHR's property was confiscated from their office in Bishkek.

In January Albert Korgoldoev, the KCHR coordinator for Jalal-Abad region, was forced to go into hiding and later secretly leave Kyrgyzstan after the authorities issued a warrant for his arrest in relation to a criminal case opened against him in November 2000. He was charged with hooliganism

*Prisoners of Conscience*, was sentenced to 16 years' imprisonment with confiscation of property. He was convicted and sentenced on charges alleging that he intended to plot an attempt on the president's life in 1999 together with seven other people. He was arrested in the courtroom. Topchubek Turgunaliyev consistently denied the charges, and alleged that the case against him was fabricated by the Ministry of National Security (MNS) in order to punish him for his peaceful opposition political activities. On 30 November 2000 President Askar Akayev signed a decree of amnesty for five of Topchubek Turgunaliyev's co-accused, reportedly because they had admitted their guilt and asked for pardon. Topchubek Turgunaliyev did not qualify for the amnesty because he refused to admit any guilt.

### **Harassment of Human Rights Defenders**

The authorities continued to harass a number of independent human rights organizations and several individual human rights defenders.

### **Coalition of NGOs for Democracy and Civil Society**

The Coalition of NGOs for Democracy and Civil Society and its leader, Tolekan Ismailova, have suffered continued harassment at the hands of the authorities, especially for their activities as independent election monitors during the parliamentary and presidential elections. On 13 March Tolekan Ismailova was attacked by an unknown assailant as she left her home. She was hit over the head and lost consciousness. Human rights sources alleged that she had been deliberately targeted by authorities to frighten her into stopping her activities to promote and monitor human rights.

### **The Kyrgyz Committee for Human Rights** (update to AI Index: EUR 01/001/2001)

and accused of having assaulted a member of the Coalition of Non-Governmental and Non-Commercial Organizations (CNNO) during the monitoring of the October 2000 presidential elections. Albert Korgoldoev denied the charges and claimed that the case was fabricated in order to punish him for his monitoring activities during the presidential elections. In February Albert Korgoldoev applied for asylum in Austria.

In May plainclothes police officers reportedly visited the home of Albert Korgoldoev's mother and threatened her and her family with eviction. Also in May Eden Korgoldoev, Albert's brother, who took over as KCHR coordinator for Jalal-Abad region, was accused by the Jalal-Abad authorities, together with four other KCHR members, of "violating the established order for organizing and conducting gatherings, meetings, street processions and demonstrations" for their participation in a peaceful demonstration on 1 May. They were tried by Jalal-Abad Court on 17 and 18 May, and sentenced to pay large fines.



On 27 June the KCHR office in Osh was sealed by the Osh branch of the National Security Ministry (MNS). Noomagan Arkabaev, the KCHR coordinator for Osh region, was reportedly detained on 20 June also by officers of the MNS. During the search of the KCHR office MNS officers claimed to have discovered leaflets which called for the overthrow of the President of Kyrgyzstan. The KCHR alleged that the real reason for the arrest of Noomagan Arkabaev was the fact that he had prepared articles for publication accusing the director of the MNS of Osh region of corruption.

### **Political prisoner Felix Kulov**

(update to AI Index: EUR 01/001/2001)

On 22 January Bishkek Military Court sentenced Felix Kulov, the chairman of the opposition *Ar-Namys* party, to seven years' imprisonment with confiscation of property. The court also stripped him of his military rank of lieutenant-general. He was arrested in the court room and taken into the custody of the MNS.

On 27 January the European Union expressed its grave concern at the circumstances surrounding the retrial of Felix Kulov and stated that "unfortunately, the handling of the case by the Kyrgyz authorities nourished the suspicion that the case may be politically motivated". Supporters of Felix Kulov claimed that the verdict had been political and that the judge had acted on the orders of the executive authorities.

In August 2000 Bishkek Military Court had cleared Felix Kulov of reportedly fabricated and politically-motivated charges of abuse of authority while serving as a Minister of National Security in 1997 and 1998. He was released from the court room. In September 2000, after the prosecution lodged a protest against his acquittal, the Board of the Kyrgyz Military Court ruled that the verdict should be reconsidered, and ordered a re-trial in Bishkek Military Court under a new presiding judge. His supporters had alleged that his arrest and the criminal

Chinese citizens Askar Tokhti, Bakhramzhan Elimov and Ali Mansumu, Turkish citizen Akhmet Gyunan and citizen of the Russian Federation, Nazar Chotchayev, were arrested on 25 August 1998 in the city of Almaty in Kazakhstan on charges of "illegal possession of firearms". Kyrgyzstan authorities suspected the detained men of involvement in the Osh bombings and demanded their extradition. In February 1999 they were sent to Kyrgyzstan.

On 3 May 2000 the men stood trial at Osh City Court. The court sentenced them to long prison terms ranging from 16 to 22 years. The five were accused of "premeditated, aggravated murder", "setting up a criminal organization" and "terrorism". The men reportedly proclaimed their innocence and alleged that they had been beaten by law enforcement officers while in pre-trial detention in order to extract a confession. On 3 August 2000, Osh Regional Court, considering their appeal against their conviction, annulled the verdict by the court of first instance for lack of evidence. The criminal case was ordered to be

case brought against him had been intended to disqualify him from running in the October 2000 presidential elections.

### **Fear of forcible deportations of ethnic Uighurs**

Uighurs are Turkic people who are predominantly Muslim. They are the largest indigenous group living in the Xinjiang Uighur Autonomous Region (XUAR), northwest China; a smaller number live in Central Asia. The ethnic Uighur population in Central Asia finds itself increasingly accused of sympathizing with, and even supporting, the banned Islamic opposition movements in Central Asia and therefore its members often become targets of persecution, including arbitrary arrest, forcible deportation and ill-treatment, by the authorities.

China has been putting increasing political and economic pressure on some Central Asian republics, such as Kyrgyzstan, and has sought assurances from them that they would help to arrest alleged "ethnic separatists" (originally from XUAR who seek independence from China) that live on their territory and deport them back to China. AI was concerned that if extradited to China, these ethnic Uighurs would be at risk of torture and execution. In January 2001 China and Kyrgyzstan signed an agreement of cooperation, including on mutual extradition of "criminals hiding on their territories". According to unofficial sources Kyrgyzstan has been actively cooperating with China in tracing suspected ethnic Uighur separatists from XUAR; Chinese Special Security officers are reported to visit Bishkek, on a regular basis to detain ethnic Uighurs.

Ethnic Uighurs Askar Tokhti, Bakhramzhan Elimov, Ali Mansumu, Akhmet Gyunan, and ethnic Karachai, Nazar Chotchayev, were detained after four people died on 30 May and 1 June 1998 as a result of explosions in Osh near the border of Kyrgyzstan and Uzbekistan. The devices for the explosives had allegedly been planted in the interior of a minibus.

further investigated.

In January 2001 the Supreme Court of Kyrgyzstan reportedly annulled the decisions of both courts and ordered Osh Regional Court to review the case. Following a retrial Osh Regional Court sentenced Askar Tokhti, Bakhramzhan Elimov, Akhmet Gyunan and Nazar Chotchayev to death on 12 March. Ali Mansumu was sentenced to 25 years' imprisonment. In view of the moratorium on executions in place in Kyrgyzstan the men are not in immediate danger of being executed. However, there is a danger that China might request the extradition of the Chinese nationals. If extradited to China, they would be at risk of torture and execution.

On 22 March their lawyer reportedly appealed against the verdicts to the Supreme Court of Kyrgyzstan. By the end of June the appeals were still pending with the Supreme Court.

Supporters of the men claimed that they had been targeted and prosecuted because of their ethnic origin, and that they had nothing to do with the bombings in Osh.

### **Arrests of supporters of banned Islamic groups**

AI remained concerned about the growing number of arrests of suspected members of *Hizb-ut-Tahrir* and other illegal Islamic organizations in the first half of the year. Kyrgyz authorities clamped down on supporters of banned Islamist opposition parties following armed incursions into Kyrgyzstan in August 1999 and 2000 by members of the banned Islamic Movement of Uzbekistan (IMU). According to unofficial sources at least 40 members of *Hizb-ut-Tahrir* were reportedly convicted and given prison terms in 2000 on charges of distributing leaflets and inciting national, racial or religious intolerance. At least the same number of *Hizb-ut-Tahrir* supporters have reportedly been arrested and convicted during the first six months of 2001. The majority of the arrests were reported to have taken place in the Osh and Jalal-Abad regions and the majority of those detained to have been ethnic Uzbeks. Relatives of those arrested have alleged that they were targeted by the Kyrgyz authorities because of their ethnic origin.

### **Death penalty**

On 22 June the military court of Batken garrison sentenced two members of the IMU to death. 21-year-old Ruslan Abdulin, an ethnic Bashkir from Kurgan Region in the Russian Federation, and 23-year-old Ravshan Sharipov, from Sogd Region (formerly Leninabad) in Tajikistan, were captured by Kyrgyz

AI was informed that on 10 August 2000 the Latvian Ministry of Defence announced that it was prepared to exempt conscientious objectors from military service, reportedly recognizing the fact that the right to conscientious objection is guaranteed by the Latvian constitution. By a decree of the Prime Minister, Andris Berzins, on 18 October 2000 a working group was reportedly established to prepare the draft law required to introduce an alternative civilian service. The working group reportedly initiated discussions with various affected parties. The beginning of May 2001 was set as a deadline for the working group and for Minister of Defence Grits Kristovskis to submit the draft law to the Latvian government, the Cabinet of Ministers, who would ultimately accept or reject the draft law. AI learned that it was submitted by the Minister of Defence, Grits Kristovskis, on 12 June, only to be temporarily returned due to the non-observance of certain procedural regulations. If the Cabinet of Ministers accepts the draft law it will be submitted to the Latvian parliament, the *Saeima*, for approval later in August.

While AI has welcomed the decision to take definite steps to introduce a civilian service to military service, the organization has also learned that in its present form the draft law is reportedly punitive in length. Conscientious objectors to military service would be forced to undertake an alternative service of two years in length, which is twice as long as military service. Conscientious objectors with graduate qualifications would serve 18 months. In order for any alternative service to be genuine it must be of purely

troops during military operations against IMU detachments in Batken Region in August 2000. They were accused of being mercenaries and were charged among other offences with terrorism, hostage taking, banditry and premeditated murder, the only charge to carry a potential death sentence. Unofficial sources reported that although the prosecution had failed to provide evidence that Ruslan Abdulin and Ravshan Sharipov had themselves killed any Kyrgyz soldiers, as members of the IMU they were nevertheless held responsible for murders committed by their organization. They were also accused of having taken four mountain climbers from the United States of America hostage in August 2000. The climbers escaped their captors after reportedly pushing one of their guards over a cliff.

## L A T V I A

### **Conscientious objection**

(update to AI Index: EUR 01/01/00, EUR 01/03/00 and EUR 01/001/2001)

AI learned of a decision of the Latvian authorities to take steps to introduce a civilian alternative to military service in Latvia. In the past AI has repeatedly expressed concern about the absence of a genuinely civilian alternative to military service and about a number of conscientious objectors who have faced possible prosecution for their refusal to serve in the Latvian army.

civilian character, under civilian control and non-punitive in length. AI would consider anyone imprisoned for refusing to undertake an alternative service punitive in length for reasons of conscience as a prisoner of conscience.

### **National human rights institutions**

In February the Latvian National Human Rights Office published its annual report for year 2000, which highlighted a number of concerns relating to the protection and promotion of human rights in the country. The officially stated functions of this state sponsored ombudsman-type body are to review individual complaints of human rights violations, analyse existing legislation and promote human rights education in Latvian society. Two recurring concerns expressed in the report, which had been documented in past reports, included conditions in short-term police detention centres, which frequently fell below the standards of the Council of Europe and amounted to "inhumane treatment" and were "degrading for human dignity". In addition, the office believed that prolonged periods in pre-trial detention violated the right to a trial within a reasonable time and had resulted in a number of individual complaints being made to the European Court of Human Rights.

## M A C E D O N I A, FORMER YUGOSLAV

## REPUBLIC OF (FYROM)

### **Background**

The situation in Macedonia deteriorated into open conflict from the beginning of the year. On 22 January an ethnic Albanian armed opposition group, the National Liberation Army (NLA/UÇK), claimed responsibility for a grenade attack on the Tearce police station, near Tetovo, in which a policeman was killed, and two others were wounded.

The NLA's stated platform, shared with legitimate ethnic Albanian political parties, seeks to achieve political, economic, social and cultural rights for ethnic Albanians, estimated at comprising a quarter to a third of Macedonia's population. Specific demands include changes to the preamble of the constitution to remove the reference to Macedonia as the state of the Macedonian people, and the corresponding description of Albanians as a "nationality", in favour of the inclusion of both groups as a "constituent nation"; the use of Albanian as an official language, in government, education and the media; an increase in the numbers of ethnic Albanians employed in the public sector, particularly in the police forces, and the decentralisation of power and budgets to local authorities.

After the first NLA attack, fighting broke out between the Macedonian security forces and the NLA in the north and northwest of the country, in areas with ethnic Albanian majorities. The clashes intensified in the first week in March after three Macedonian soldiers were killed near the village of Tanusevci on

A government of national unity was formed on 8 May, including both Macedonian and Albanian political parties, and government and opposition coalitions, but could not prevent more fighting between the NLA and the security forces, nor the alleged arming of Macedonian civilians by the Interior Minister Ljube Boskovski. Events came to a head in early June when the NLA took Aracinovo, a village in the suburbs of Skopje, near Skopje airport, and threatened to shell either the capital or the airport. North Atlantic Treaty Organization (NATO) troops agreed to escort the NLA out of Aracinovo under a deal brokered by European Union (EU) peace envoy Javier Solana. The fact that the NLA were allowed to take their weapons sparked riots by Macedonian Slavs in Skopje. By the end of June special envoys of the EU and the USA were trying to put together a peace package involving a cease fire, peace talks between Macedonian and ethnic Albanian parties, and a NATO mission to disarm the rebels once a political agreement was reached.

These events were accompanied by a substantial increase in the number of reported human rights abuses but, as the media has become increasingly ethnically polarised, it has proved extremely difficult to investigate and confirm many reports.

### **Allegations of ill-treatment by police**

the Kosovo border, and the NLA took over the villages of Selce and Gajre in the Tetovo area. Macedonian army and police reservists were mobilised in mid-March in a major offensive to regain control over these villages. The Macedonian government declared the offensive successfully completed by the end of March. In areas affected by the skirmishes, most of the civilian population left their homes. Macedonians mainly sought shelter with friends and families within Macedonia, though some also fled to Bulgaria. Many displaced ethnic Albanians crossed the border into Kosovo.

Civilian violence erupted in the southern town of Bitola on 30 April after the bodies of five ethnic Macedonian soldiers and policemen killed in ambushes were returned to the town for burial. Following the funerals, riots broke out in Bitola in which business premises and the houses of ethnic Albanians and other Muslims were destroyed. A second incident occurred under similar circumstances on 6 June when the bodies of three further policemen were returned to Bitola for burial. On this occasion the non-governmental organization Human Rights Watch reported that police were present on the streets and did not intervene, in some cases even joining the rioters. A mosque was also vandalized, and set on fire, and grave markers broken by the rioters. Approximately 100 further homes were targeted on this occasion, of which 14 were gutted by fire. Macedonian security forces started another offensive in May to recover the villages, including Vaksince and Slupcan, taken by the NLA in the Kumanovo area. The flow of refugees and internally displaced people increased as more areas were affected by the clashes.

During a mission to Macedonia in June AI interviewed several victims of police ill-treatment. Concerns about the use of excessive force by the police had already been raised in a report issued in June 2000 (*After the Aracinovo murders: Torture, ill-treatment and possible extrajudicial execution*, AI Index: EUR 65/03/00). The mission confirmed that police ill-treatment remains one of the major concerns in the country. For example, on the morning of 10 June police visited the homes of two high-ranking officers of the Macedonian army, M.B. and N.S. (the names of these officers are known to AI), both ethnic Albanians, in Skopje. In both cases several dozen officers were said to be involved, including police in civilian clothes, special police and masked police officers. M.B. was told he was being arrested. The police searched his house for about an hour without finding anything. M.B. was handcuffed and taken to a police station in Skopje. He alleges that while he was there a bag was put over his head, and he was repeatedly beaten with metal bars and baseball bats. He was then taken to another place by car, and interrogated about his alleged connections to the NLA, and accused of passing the flight plans of the Macedonian air force to the NLA. The ill-treatment is said to have continued during the whole day of 10 June, and during this time M.B. was not given any water. The next morning he was taken to a third place, where he reports that was tied up to a radiator and

beaten with sticks and metal pipes again. Police allegedly told him that he was going to be killed, and threatened to dress him in a Macedonian army uniform and take him to a place controlled by the NLA. A machine gun was put to his head. M.B. was kicked and beaten again until he lost consciousness. The whole incident lasted for about 48 hours. During this time his family was not informed of his whereabouts.

Ill-treatment by police was also reported by villagers from Poroj and Germa, village suburbs of Tetovo. A total of 28 men, all ethnic Albanians, were stopped at checkpoints or taken from their houses by police on 6 April, at about 6.30am. They were all handcuffed and forced to enter a lorry. According to their accounts, there were about 10 policemen inside, some of them wearing masks, armed with wooden bars and metal pipes. Those detained had to lie down, and were then reportedly beaten and insulted before being transported to Tetovo police station. There, on the way from the lorry to the entrance of the building, they had to walk between two lines of police officers, who again beat and kicked the men. At the police station they were interrogated about their alleged contacts with the NLA. When they were allowed to leave the building after the interrogation, a group of policemen, many of them again masked, and some of them reservists and allegedly drunk, are said to have waited for the released villagers in order to beat them again. One victim reports that he was even followed to the hospital by police, who were present during his medical treatment.

AI collected further reports of police ill-treatment in several police stations in Skopje and Tetovo, where

The Albanian Ombudsman requested his Macedonian counterpart to investigate this incident. In a letter dated 22 August the Macedonian Ombudsman replied that he had asked the Ministry of Internal Affairs for a full report, which confirmed that 27 Albanian citizens had been detained on 20 June for questioning and that they were planning to cross the border illegally into Greece. He concluded: "...I can tell you that the officers of the Ministry of Internal Affairs...acted within their legal powers and did not use physical force".

#### ***Allegations of ill-treatment by the NLA***

AI has also received reports of ill-treatment by the NLA. However, as most of the areas under the control of the NLA were difficult to reach for security reasons, reports of human rights abuses by NLA members were extremely hard to confirm. In one reported incident, the NLA held two groups totalling 21 ethnic Serbian men in the village of Matejce, west of Kumanovo, from 24 to 28 May and abused eight of them physically. The elderly Serbs, some of them fathers of police officers, reported that they had been beaten and kicked while detained over a period of four days. The NLA also allegedly threatened to kill them. The injuries suffered by some of those detained are said to have required hospital treatment.

#### ***Extrajudicial executions***

Albanians suspected of collaboration with the NLA were allegedly beaten. Police were also said to have beaten up persons they suspected of being NLA supporters on the streets of Skopje.

#### ***Ill-treatment of Albanian citizens***

In May and June the press in Albania reported that Albanian citizens on several occasions had been arrested and ill-treated by police in Macedonia. On 20 June Macedonian state television (MTV1) reported that the Ministry of the Interior had carried out "another successful operation": a group of 30 "illegal immigrants from Albania travelling in five stolen cars" had been arrested in Skopje, and police were investigating possible links between these men and the NLA. Two days later, the Macedonian authorities returned the men to Albania, after banning their re-entry to the Macedonia for five years. At the border crossing the men informed the Albanian police that they had been severely beaten during their detention, and at least five of them were reportedly sent for medical treatment to Pogradec hospital. According to their accounts, they had entered Macedonia with regular visas, and hired taxis to drive to Skopje, and were planning to cross into Greece illegally for work. In signed statements which several (Hajri Enver Zebi, Lirim Sula and Mevlud Derti) subsequently made to the Albanian Ombudsman's Office, they stated that Macedonian police officers had accused them of having been sent by the Albanian state authorities to fight with the NLA, had kicked and beaten them with truncheons, metal bars and rifle butts, and had seized money and valuables from them.

According to information received from local Albanian journalists, the body of Metush Ajeti was found on the street in Skopje on 9 June. They claimed that prior to this he and his son Xhelal Ajeti had reportedly been arrested and beaten by a police station in Skopje. However, the spokesperson of the Ministry of Interior, Stevo Pendarovski, denied that Metush Ajeti had ever been arrested by the police.

According to a report by the Macedonian Helsinki Committee, on 2 April a 16-year-old boy, was shot by security forces close to Tetovo (and apparently died later of his injuries). The Albanian language newspaper, *Kosovapress*, reported that the boy, Omer Shabani, had just returned to his home village of Selce with a large group of villagers after the Macedonian offensive at the end of March and was with two other young boys retrieving his animals from the pastures above the village when shot. The Macedonian Ministry of Defence claimed they were members of the NLA trying to infiltrate the village again.

On 12 June an ethnic Albanian politician, Naser Hani, was shot in the street and killed outside the police station in Struga. The perpetrators have not been found and there were allegations that either the Macedonian security forces or Albanian political opponents were responsible.

#### ***Refugees and internally displaced persons***

The fighting between the NLA and the Macedonian security forces led to a flow of refugees and internally displaced persons, who fled in fear of human rights violations. Exact numbers were extremely difficult to quantify because people moved away for short periods and returned when the fighting diminished, but UNHCR estimated at the end of June that about 100,000 people had been displaced, with 65,000 refugees fleeing to Kosovo, 6,000 to Serbia and 32,000 persons who were internally displaced. The majority of the refugees were women and children. Men often accompanied their families to Kosovo, but returned to protect their homes.

AI has concerns about the treatment of refugees by the Macedonian border authorities. UNHCR spokesman Kris Janowski, on 12 June said the Macedonian border authorities had on occasions arbitrarily prevented people from crossing the border into Kosovo. According to the findings of their field teams, on some days the Macedonian border police would refuse to allow persons without documents to leave the country. Sometimes women, children and boys under 16 were allowed to cross the border even without documents, whereas men without documents were held back. At other times, all refugees were able to leave the country, regardless of whether they had a passport, and it was reported that people who had no travel documents were allowed to leave after paying a sum of money to border guards.

A return agreement which was signed by UNHCR During the period under review there were a number of reports of police harassment and ill-treatment of journalists, possibly because they were suspected of contradicting the Macedonian government version of events. According to reports, a Romanian journalist for the *AFP* agency and his Kosovo Albanian interpreter were arrested in Skopje on 9 June. The interpreter was allegedly handcuffed to a table overnight in a police station, had a bag placed over his head and was repeatedly slapped. Veton Latifi, an ethnic Albanian journalist, was detained by the police at a checkpoint between Skopje and Kumanovo on the same day. He was taken to a police station in Skopje, and also reportedly threatened and verbally abused. Some of his computer discs were confiscated by the police. Veton Latifi was not informed about the reasons for his detention, and released after about two hours. Police are also said to have searched the homes of journalists of the Albanian language newspaper *Fakti* in Skopje in May. In March the Macedonian State Security banned the distribution of the international edition of the Albanian-language newspaper *Fakti* and independent stations carrying BBC and CNN reports were blacked out.

On 30 April, Ljupco Jakimovski, who heads MTV, the state-run television, announced that he had "suspended" the evening Albanian-language news program because he was "unable to control the program...that has incited ethnic intolerance and encouraged Albanian militant extremists since the crisis began." Critics of the suspension argued that it was a response to a broadcast which, ignoring the virtual news blackout in Macedonia - promoted as

and the Macedonian government in April was meant to facilitate the return of people without proper documents. After initial positive results, however, more and more returnees without documents were reported in the media to have been refused entry to Macedonia.

### ***Civilians in areas of hostility***

Fighting between the state security forces and the NLA spread across many villages. Many of the civilian population left, but International Committee of the Red Cross (ICRC) reports indicated that large numbers of civilians remained inside the villages, often living in unsanitary conditions in basements with little or no access to medical care, food and water. AI is concerned by Macedonian government statements that the NLA used civilians as human shields, and also by reports that Albanian civilians remained in conflict zones due to poor evacuation arrangements which required them to leave the villages and travel towards the state security forces. Human Rights Watch reported in May that male civilians who left NLA held villages were frequently separated from the women and children, accused of being NLA sympathisers and beaten in order to extract information about the NLA from them.

### ***Freedom of expression***

being in the interests of national security - reported on the fighting around Tetovo. The suspension and the laying off of a broadcaster involved in the programme resulted in other staff of the Albanian section of MTV taking industrial action. For short periods of time during June the broadcasting of evening Albanian language news on MTV was also interrupted due to 'disputes over editorial control'.

### ***Conscientious Objectors***

The Macedonian law on military service does not provide for a civilian alternative to compulsory military service. In March, reservists of the army were mobilized, and during the period under review the Macedonian government twice announced its intention to declare a state of war, and to order a general mobilization. The organization was concerned that should such a mobilisation occur, as well as those objecting to military service for reasons of conscience, many ethnic Albanians liable to conscription would seek to evade military service. On both occasions, mobilization was prevented by international pressure.

Concerns that the NLA would implement an enforced enrollment policy similar to that employed by the KLA in Kosovo - where it has been reported that conscripts were shot for refusing to join the KLA or for desertion - were heightened by reports that many senior NLA figures were veterans of the Kosovo conflict. Some allegations have been reported, but AI has not been able to confirm their veracity.

## POLAND

### **Reports of police failure to protect the victims and to investigate incidents of racist violence**

In September AI wrote to the Minister of Justice, Stanisław Iwanicki, expressing concern about reports of racist harassment and violence in which the police authorities apparently failed in their duty adequately to protect the victims. The organization was also concerned that the reported incidents have not been investigated thoroughly and impartially as required by international human rights standards, and that those allegedly responsible for racist violence had not been brought to justice.

According to the information received from the European Roma Rights Center (ERRC), a regional non-governmental human rights organization, on 29 September 2000, in Warsaw, Nicolae Gheorghe, advisor on Roma and Sinti issues for the Organisation

Another ERRC report described repeated racist harassment of Romani residents of Brzeg in early December 2000. Members of extremist right-wing groups sprayed racist graffiti on Romani houses in three streets, breaking windows and in several instances attempting to break down the entrance doors. The police were reportedly called, but failed to arrive in time to apprehend the perpetrators of the racist violence. The commander of the local police, Officer S.<sup>18</sup>, reportedly dismissed the attacks as false allegations and stated that the Roma had painted the racist graffiti themselves. According to the representatives of Never Again, a non-governmental organization based in Warsaw, Officer S. accused the Roma of paying each other to make false witness statements, and that the Roma only pretend to be persecuted in order to claim political asylum abroad.

AI also received reports indicating that people who are of obvious non-European origin have also been subjected to racist violence. On 9 May, at around 2pm, Florence Balagiza, an 18-year-old orphan from Rwanda who is seeking asylum in Poland, was walking alone through a forest close to the refugee camp at D\_bak. Suddenly she was approached by three men, who started to hit her on her head, back and legs and pulled her to the ground, calling her "czarna" (black). They also took her bag containing some documents and money. Florence Balagiza then went back to the refugee camp and called the police but was told that they were busy and would only be able to come to speak to her the following day. On 10 May the police came and interviewed her. As a result of the assault she suffered several bruises but she did not go to be examined by a forensic medical expert, and have the minor injuries properly documented, as she was unable to pay for this service. When she mentioned this to the officers who questioned her, Florence Balagiza was told that the police could not offer her any assistance "because it was not their business".

for Security and Co-operation in Europe, and four other people, all of whom are of Romani origin, were refused service in the Guinness Pub, on Koszykowa Street. The waitress and then the manager asked Nicolae Gheorghe and his companions to leave. Shortly after they refused to do so, five guards of a private security company arrived and manhandled and dragged Nicolae Gheorghe, Salome Hirvaskoski and Gabriel Babus out of the restaurant. Nicolae Gheorghe, whose jacket had been ripped by the guards, then called the police from outside the restaurant to complain about the ill-treatment and the denial of access to a public service on the basis of his ethnic background. Police officers who arrived promptly took statements from the complainants. However, an investigation into the incident subsequently initiated by the District Public Prosecutor was reportedly closed on 20 December 2000, as the conduct of the security guards involved was not considered to be a criminal offence.

Florence Balagiza was not sure if her complaint had been registered officially as she was given no reports nor was she asked to sign any document. Several weeks later when she called the police to inquire about any progress in the investigation of her complaint the officers said they had nothing to report.

On 2 June 2001 at a bus stop in Bankowy Square in Warsaw, Simon Moleke Njie, who is from Cameroon and has been granted asylum in Poland, and Dr Issa Amadou Tall, who is a Senegalese national visiting Poland as a guest of the Institute of Mathematics of the Polish Academy of Sciences, were approached by four men. One of the men told Dr Tall that they were going to meet the Polish football team, returning from a match in Norway. As one of the football players on the national team is of African origin, they assumed that they were being engaged in a friendly conversation. Suddenly one of the men hit Dr Issa Amadou Tall. Then the four men, one of whom had a wooden bat, surrounded Simon Moleke Njie and punched him while shouting: "Bamboo! Black whore!". Following one of the punches on the head Simon Moleke Njie briefly lost consciousness. As a result of the blow his left eye was injured, impairing his vision. Simon Moleke Njie managed to stop a taxi, whose driver had witnessed some of the incident, and he and Dr Issa Amadou Tall went to the police station at Nowolipie 2, approximately 200 metres away from the bus stop where the assault took place. In front of the station there were three officers, none of whom wore any identification badge. One police officer reportedly laughed when he saw Simon Moleke Njie's head injury. Another officer to whom Simon Moleke Njie complained about the attack, indicating that the perpetrators might still be at the bus stop, asked him for his passport and reportedly stated that Poles were also victims of aggression. They refused to call an ambulance or to take contact details for the taxi driver, as a witness of the assault, who waited in front of the

<sup>18</sup>The officer's identity is known to AI

station for about 10 minutes. Finally Simon Moleke Njie told the officers that he wanted to speak to their superior and entered the station. The officer on duty to whom he reported the attack, refused to give him his name. After about 25 minutes a patrol car arrived. A further 10-minute-long exchange took place concerning his passport before Simon Moleke Njie was taken to the scene of the attack. Afterwards he was taken to a hospital for treatment. Simon Moleke Njie was assaulted again on 14 June 2001, at around 8.30pm, in front of his apartment house on Grzybowska street no. 30, by three young men and a woman who came running after him. After one of the men attempted to punch him in the face he managed to run back to his apartment. Simon Moleke Njie then waited for two friends before they then proceeded to the police station. He had to wait for over 45 minutes for a police patrol which was to take him back to the area where the assault took place, in order to identify if possible any of the perpetrators. At the time of writing no progress has been reported in the investigations of these two incidents of alleged racist violence.

AI urged the Polish authorities to ensure equal treatment and protection to all people on its territory.

AI also referred to allegations it had received about poor conditions at the prison, such as lack of cleanliness, infestations of cockroaches and mice and unsatisfactory access to medical care. Such access was reportedly filtered by the prison officer in charge of the relevant wing, who had no medical knowledge that would allow for an assessment of the urgency of a problem. Some inmates were said to be concerned about the presence in the wings of other inmates suffering from contagious diseases, and who had not fully recovered from their illness before being sent back to their cells. AI raised, as one example of its concern, the case of Carlos Miguel Figueiredo Ferreira, who allegedly became blind following an eye infection that had not been properly and promptly dealt with by medical staff at the prison, although he had told nurses he had been suffering from headaches for about a month and a half.

AI recalled that it had, for some time, been concerned about reports originating from Linhó Prison (see *AI Report 2000*). The European Committee for the Prevention of Torture (CPT), which visited Linhó in 1992 and again in 1995, had also expressed its concern about, among other things, the number of prisoners being held in isolation in the security unit and inadequate sanitary facilities.

On 29 March the Director General of Prison Services (DGSP) responded with information about each of the nine cases of alleged ill-treatment raised by AI. In many cases the Director General stated that the prisoner had been subjected to disciplinary measures for violent or disruptive acts, but that little or no information had been received by the DGSP alleging violence by guards. However, in one case, that of Nélio Henrique de Sá, reportedly assaulted by a guard in April 2000 during an incident in the refectory, AI was told that an investigation into the use of physical force by a guard concluded that his

The organization also urged the authorities to thoroughly and impartially investigate the reported incidents, including the conduct of the police officers involved.

## PORTUGAL

### *Situation at Linhó Prison*

On 12 March AI wrote to the Minister of Justice about recent allegations that prison guards were physically ill-treating inmates at Linhó Prison (Sintra) and that material conditions at the prison were inhuman and degrading.

AI brought the minister's attention to reports that prison guards in the security unit were beating inmates there with batons. It also referred to nine specific cases in which physical assaults by prison officers were alleged to have taken place - one in January 1999 and the remainder between February and May 2000. AI asked whether complaints had been lodged by the individual prisoners in any of these cases, whether investigations had been carried out and, if so, what the results of the investigations had been.

conduct had been inappropriate and that he had been issued with a written reprimand. In another case, the use of physical force was found to have been proportional to the circumstances.

The Director General also informed AI that Linhó Prison was being totally renovated. This involved, among other things, the introduction of improved sanitary facilities. A health unit, with beds for 18 patients and availability of specialist consultants, was opened at the end of 1998. With regard to the case of Carlos Miguel Figueiredo Ferreira, an investigation was continuing into a complaint of medical neglect that had been brought by his brother.

### *Effective impunity: case of Rui Matias Oliveira*

Rui Matias Oliveira was shot dead by an officer of the Traffic Division of the Public Security Police (PSP) on 1 May 1990, during a car pursuit in the Olivais area of Lisbon. The 24-year-old, suspected of theft, was unarmed. There was contradictory testimony as to whether the officers had identified themselves by using their siren or lights. The police officers allegedly shot at the car at least three times. One of the shots pierced Rui Oliveira's skull. However, according to reports, the bullet which entered his head, together with a part of the head itself, disappeared from within the interior of the car and neither was ever recovered. The car had allegedly been emptied of contents and cleaned by officers of the same traffic division. As long as 11 years later, on 6 March 2001, the officer who fired the fatal shot was sentenced, by the Court of Boa Hora, to a suspended two-year prison term for negligent homicide (*homicídio negligente*), a form of manslaughter. In 1993 the same officer had been sentenced, by the Court of Cascais, to a suspended prison term of four years and six months after shooting several times at a "suspicious" car containing five

people in August 1989. Again, the shooting took place during a pursuit. (The driver of the police car was sentenced to five years' imprisonment).

According to newspaper reports, no lawyer defended the case brought by the family of Rui Oliveira. A relative was quoted as saying that two lawyers had withdrawn from the case and others had shown no interest or were too busy.

AI has, for a long time, been concerned about the failure of the judicial system to deal effectively with cases of torture, ill-treatment and excessive use of force. It has expressed concern repeatedly at the length of time judicial, administrative or disciplinary proceedings may last, and at the fact that, when public officials are brought to justice - and if they are convicted - the sentences passed are in general so light as to contribute to an atmosphere of relative impunity.

## ROMANIA

### **Revision of the Penal Code - a small step in the right direction**

The prolonged and mostly unsuccessful revision of the penal code concerns discriminatory provisions regarding homosexuality, as well as provisions which impose excessive restrictions on the rights to freedom of expression, assembly and association. AI has campaigned on the issue of the penal reform in Romania since 1993. Most recently, AI stated its concerns in a report *Romania: Penal Code reform - a step back* (AI Index: EUR 39/008/2001) published on 29 May 2001.

### **Persecution of conscientious objectors to military service**

In September 2000 AI wrote to then President Emil Constantinescu about the prosecution of 29 Jehovah's Witnesses whose religious convictions forbid them to carry arms and perform military service (see *Romania: Conscientious objectors face imprisonment* (AI Index: EUR 39/06/00)). Recent reports indicate a great degree of inconsistency in the appeal rulings. Two conscientious objectors who were initially acquitted of the charge of evading military service by the Iași Military Court were subsequently tried on appeal by the Bucharest Military Tribunal. Iulian Ciolacu whose case was heard on 11 January was acquitted. However the same court which tried Liviu Antonov on 18 January sentenced him to two years' imprisonment. On 8 March, the Military Court of Appeal, ruling as the final judicial instance, acquitted 12 of the other conscientious objectors. In the period under review AI continued to appeal to the Romanian authorities to review all outstanding convictions of conscientious objectors.

### **New reports of police ill-treatment and unlawful use of firearms**

AI received numerous reports of police ill-treatment during the period under review. One case resulted in death and another apparently led to the suicide of the

On 21 June the Romanian government adopted an emergency ordinance abolishing Article 200 of the Penal Code, which, *inter alia*, penalized homosexual consensual relations "if the act was committed in public or provoked public scandal". Paragraph 5 of this article made it an offence, punishable by a sentence of one to five years' imprisonment, "to entice or seduce a person to practise same-sex acts, as well as to form propaganda associations, or to engage in other forms of proselytizing with the same aim". Although Article 200 is no longer in force a lasting change in the legislation can only be enacted by the Romanian Parliament, which on its agenda has several draft bills for amendments to the Penal Code. One of these draft bills was already adopted by the Chamber of Deputies in June 2000, and is pending in the Senate. However, on 7 June 2001 the Romanian Government adopted a new proposal to amend the Penal Code which, in some respect is in contradiction with the draft bill previously considered by the Chamber of Deputies.

victim. In a few reported cases the severity of the force used by the police officers involved, and the pain and injuries which had been suffered by the victims, may amount to torture. Some of the victims were minors. A death in detention in suspicious circumstances may have resulted from the failure of the police authorities to provide the detainee with adequate medical treatment. Similarly to the reports received in the past, police officers suspected of ill-treatment frequently harassed the victims and witnesses following their complaints. As a result one of the reported victims withdrew his complaint.

On the morning of 13 December 2000 in Vicovul de Jos, Suceava county, the police arrested Mircea Chifan and took him to the Radau\_i police lockup for assaulting his wife. Following his arrest he was tried for a misdemeanour and sentenced to 30 days' imprisonment. At some point during the court proceedings Mircea Chifan tried to escape and was subsequently restrained by police officers who allegedly used excessive force. On 15 December 2000 he was taken to the Suceava county police lockup where he was found dead in the morning of 26 December 2000. Dr Nicoleta T\_nase, who carried out the autopsy, established that the deceased had three broken ribs and injuries on the head. These injuries were less than a week old and would therefore have been suffered by Mircea Chifan while he was held in custody. When interviewed by representatives of a local human rights organization, *Asocia\_ia pentru apararea drepturilor omului în România - Comitetul Helsinki* (APADOR-CH, Romanian Helsinki Committee) Dr T\_nase stated that Mircea Chifan apparently had not received any medical assistance while in detention, prior to his death, and that she did not receive from the police authorities any of the detainee's medical documents. According to Romanian law anyone held in detention should be examined by a doctor within 24 hours following the arrest, and a medical form should be completed.



Mircea Chifan's children and brothers attempted on several occasions to visit him in the police lockup but were refused each time under the pretext that the detainee was violent. However, the family believed that they were not allowed to see Mircea Chifan because of the visible injuries that he may have suffered as a result of ill-treatment by police officers. The B\_c\_u Military Prosecutor is reportedly conducting an investigation into the death of Mircea Chifan.

On 14 December 2000 in Bucharest, at around 4pm 30-year-old N.M.<sup>19</sup> was returning home from work on tram number 34. Suddenly the tram came to a halt in front of a police patrol and two masked

On 19 January 2001 in Doroban\_i, a village in Ia\_i county, at around 5.40am two police officers came to the house of Acsinie family presenting a paper which they claimed to be a search warrant. They were followed by an unspecified number of masked police officers who entered the room where brothers Dinu, Petru and Mih\_i a Acsinie were sleeping. The police officers reportedly hit Dinu Acsinie in the chest with a truncheon and then handcuffed the three men. Ten other men in the village were also arrested during the police operation, which reportedly had been organized to apprehend several men suspected of having committed various offences. All the detained men were taken to the Ia\_i municipal police station. The Acsinie brothers and Anton Florin were intermittently questioned about a theft of hens. They were reportedly subjected to beatings, including with a crowbar on the finger tips, and were ordered to perform push-ups and squats. At around 6pm, 20-year-old Mih\_i\_, the youngest of the Acsinie brothers, wrote under duress a 'confession' which had been dictated to him by Sergeant E.G.<sup>20</sup> Afterwards Mih\_i\_ told Anton Florin: "I could not take this any longer. I gave them a statement admitting my guilt. I shall kill myself." All four men were released at around 8pm.

Six days later, tefan Acsinie, the father of the three brothers, was told by Sergeant E.G. that his sons should report to the police station the following day. That night Mih\_i\_ Acsinie committed suicide by hanging, reportedly because he feared further police torture.

The following two cases of ill-treatment of minors were reported by APADOR-CH. On 14 March 2001, at around 10am in Vi\_de\_ti, 14-year-old Vasile D\_nu\_, who was working in the field with his mother, was taken by police officers S.H. and G.B., and a farmer whose cow had allegedly been stolen, to the local station for questioning. Vasile D\_nu\_ Moise later described how the police officers beat him on the palms of his hands and on the back with a "shepherd's staff" (a wooden rod about one metre long) and with a truncheon. A third officer hit him with a file case on the head making him fall against a stove and injuring

officers ordered N.M. to get off, searched him, handcuffed him and took him to a police car where he was reportedly punched on the head and threatened with a gun by one of the officers. After he was brought to the Bucharest central police station he was photographed and fingerprinted, and the police reportedly still refused to give any explanation for his arrest. Afterwards he was released without being charged with any offence. On the same day N.M. was examined by a doctor who established lesions on both hands and bruises on his face, injuries which are consistent with the ill-treatment allegations.

himself. The police officers then drove Vasile D\_nu\_ Moise to another village where they wanted him to identify the house where the stolen cow was allegedly hidden. When they returned to the police station, they found Vasile's mother and a neighbour waiting. Vasile D\_nu\_ Moise was crying and appeared very frightened, but his mother was reportedly not allowed to accompany him inside. He wrote a statement which had been dictated to him by the police officers. That evening Vasile D\_nu\_ Moise was taken to the Pite\_ti Pediatric Hospital. The hospital records note that he had an acute head injury, an eye edema and was suffering from "the Silvermann syndrome" (Battered Child Syndrome). The doctor who treated the boy stated that the boy had weals on his back which apparently resulted from beating with a truncheon (see AI Index: EUR 39/005/2001).

On 5 April at around 9pm in Oradea Ioana Silaghi, who is 15, and Teodora Stanciu, who is 16, were returning home from the railway station when a man, who appeared to be under the influence of alcohol, came up to Teodora Stanciu and addressed her with rude words and gestures. The girls began to shout for help but the man held on to Ioana Silaghi. When another man, who witnessed the incident, tried to help the girls the person who had attacked them took out a police identification card and presented himself as Major M. He then took Ioana Silaghi to the police office in the railway station where, accusing her of stealing his mobile phone, he reportedly knocked Ioana Silaghi's head against the wall and the table top and then several times hit and kicked her all over her body. Another police officer was in the room but he reportedly failed to take any action to protect the minor. After the parents of Ioana Silaghi and Teodora Stanciu arrived at the station, Major M. initially refused to allow them into the office where Ioana was detained. The situation was resolved when an officer of the County Police Inspectorate arrived at the scene. The following day Ioana Silaghi was examined by a forensic medical expert who issued a certificate which described contusions and bruises on the arms, legs and her body, and a haematoma on the left side of the face (see AI Index: EUR 39/009/2001).

<sup>19</sup>The victim's name is known to AI but is withheld to protect his identity

<sup>20</sup> The names of all police officers whose identity has

been protected in this report are known to AI

On 25 April at around 10pm, Paul Surdu, a 22 year old man detained in Rahova prison in Bucharest, was taken to the dentist's surgery for treatment of a toothache. After the medical assistant on duty reportedly stated that she did not have any pain-killers, Paul Surdu insisted that he should be taken to a hospital providing emergency services. Ten prison guards then came to the surgery, put him in handcuffs and took him to the isolation cell. Between 2am and 3am the officer on duty and four other guards came into the cell and reportedly punched and kicked him

An article published in *Ziua*, a Bucharest daily newspaper, on 2 February 2001 reported on the death of 20-year-old Valentin Carolin Stanciu who had been in detention in a Bucharest police station following arrest on 29 January on suspicion of having committed a theft from a car. On 1 February at 4am, because he was reportedly experiencing respiratory problems, he was taken to *Sf. Pantelimon* hospital where he died shortly afterwards. Hospital sources reportedly revealed that Valentin Carolin Stanciu had been suffering from drug dependency. AI is concerned that the death of Valentin Carolin Stanciu might have resulted from lack of adequate medical treatment following his arrest and has asked the Romanian authorities for a full report of the investigation which is currently under way. The organization also urged the authorities to ensure that this investigation determines whether Valentin Carolin Stanciu had been examined by a doctor following his arrest, and if so what medical treatment had been prescribed for his drug dependency; and whether the conditions in the police station were adequate for the administration of the prescribed treatment.

#### **Reports of use of firearms by police officers in violation of international principles**

There were several new reports of police shooting in circumstances which are at variance with international principles. In one case the victim died as a result of the shooting. In the afternoon of 26 April 2001, Alexandru Mihai Dombi, accompanied by two other men, was driving a car on the outskirts of Oradea. When they were stopped by a traffic police patrol Alexandru Mihai Dombi failed to present his driving licence and was asked to leave with the officers his identity card, which he could later collect from the police station. The men then continued the journey into town but after the car engine stalled they proceeded on foot to the nearby railway station where they arrived at around 7.30pm. Among the crowd at the station, they saw a large number of police officers. Alexandru Mihai Dombi started to run along the railway tracks. A police officer who was later identified as Lieutenant S. reportedly shouted: "Stop or I will shoot". He and another officer then shot Alexandru Mihai Dombi, hitting him in the head. Other police officers on the crowded platform reportedly also fired shots. At the time of the incident the railway station was reportedly surrounded by the police and the tracks along which Dombi had been running terminated at a very tall wall. According to the police version of the incident the officers who

on the head and the abdomen, spat at him, insulted him and stuffed the bed sheet in his mouth to make him stop screaming. In the morning, following a visit from the medical assistant, Paul Surdu was taken to a hospital. He has subsequently complained to the Rahova prison management and to the Military prosecutor. As a result he has reportedly been harassed by prison guards and the prison authorities have reportedly failed to take any measures to ensure his safety.

stopped the car driven by Alexandru Mihai Domba subsequently realized that he was a wanted person, in order to serve the remainder of a suspended sentence for fraud.

On 28 June the Chamber of Deputies adopted a draft law on the organization and functioning of the Romanian police. This draft which will be considered by the Senate later in the year failed to bring the provision on the use of firearms into line with UN Basic Principles on the Use of Force and Firearms.

## RUSSIAN FEDERATION

### **Prisoners of conscience**

#### *The case of Grigory Pasko* (update to AI Index: EUR 01/01/2001)

The re-trial of Grigory Pasko began on 11 July in the Military Court of the Pacific Fleet. Public access to the courtroom was only allowed for the first few minutes, on the grounds of national security. The trial had been scheduled to start on 22 March, but on that day Pasko and his lawyers waited for 40 minutes before finding out that their request to postpone the trial had been accepted. The trial was postponed to 4 June, then 20 June (because of the procurator's "family obligations"), then 11 July (no explanation was given).

The new trial is a result of the November 2000 decision of the Military Collegium of Russia's Supreme Court to order the Military Court of the Pacific Fleet to reconsider Grigory Pasko's case. The decision was taken after a treason charge against him was dismissed and he was released, under an amnesty, from a three-year sentence handed down for the lesser offence of abuse of office. Grigory Pasko's appeal against the latter sentence was turned down.

#### *The case of Dik Altemirov*

Russian federal forces detained Dik Altemirov, former Minister for Tourism and Sport in the Chechen government, and a former Vice-President of the Chechen Republic, in Grozny on 24 May and held him for about two days. The official reason for his arrest was suspected involvement in the activities of Chechen armed groups. However, AI believed that Dik Altemirov was being held solely for the peaceful

exercise of his right to freedom of expression, and his involvement in human rights activities on behalf of victims of the armed conflict in Chechnya, and adopted him as a prisoner of conscience. The organization called on the Russian authorities to immediately release him from detention and to provide information about his whereabouts.

Russian President Vladimir Putin's spokesperson claimed on 19 June that Dik Altemirov had never been detained and that he was at his home in Grozny. Owing to the difficulty of gaining access to the Chechen capital, Dik Altemirov's fate remained unknown until early July, when a member of the Russian human rights organisation *Memorial* managed to speak to him and learnt that he had been released approximately two days after his detention. He had first been taken to a military unit in Grozny and then moved to a place of detention run by Ministry

### **Possible Prisoner of Conscience**

#### *The case of Olga Kitova Ill-treatment and persecution of an independent journalist.*

At the end of June Olga Kitova, an investigative journalist on the newspaper *Belgorodskaya Pravda*, faced detention and possible imprisonment, apparently because of newspaper articles in which she alleged official corruption.

Olga Kitova was first detained on 21 March, when she was reportedly beaten by the ten officers who came to take her from her home to the local procurator's office. At City Hospital No.1, where she was treated later that day for high blood pressure, bruises and other injuries to the head and arms were noted. She remained in hospital until 24 March. The police said she had been detained because she had failed to respond to a summons for questioning under articles of the criminal code which relate to interference in a criminal investigation or prosecution, slander, and defamation. The summons related to a series of pieces Olga Kitova had written about the handling of a rape case. Olga Kitova says that she had sent a written explanation that she was protected by immunity as a member of the Belgorod regional parliament.

On 22 May Olga Kitova was again arrested at her apartment. While in a temporary holding isolator (IVS) in the district police station, despite reportedly suffering a heart attack, she was pronounced fit for transfer to the pre-trial detention centre (SIZO). When she arrived at the SIZO, however, the duty doctor refused to accept her and she was taken to City Hospital No.1. On 24 May, while still in hospital, Olga Kitova was charged with the original alleged offences, and with further offences of insulting and using force against, or threatening, an official. On 28 May the Western District Court in Belgorod ruled that the arrest of Olga Kitova was unlawful on procedural grounds, and the guards left her bedside. She remained in hospital until 8 June.

An appeal by the procurator's office against the

of Interior troops. Dik Altemirov said he had been treated well, and that he believed this was because of the inquiries and letters of support which were sent to the Russian authorities after he was detained.

During the previous armed conflict in Chechnya in 1994-1996, Dik Altemirov was the chairman of the *Assembly of Public Political Parties and Organizations of the Chechen Republic*, a non-governmental organization campaigning for the preservation of the independent status of Chechnya through peaceful means, and for an end to the armed conflict. More recently he had supported the work of the Organization for Security and Cooperation in Europe (OSCE) assistance group in Grozny, and provided information and support to members of the human rights group *Memorial*. Dik Altemirov is also known to oppose the violence used by armed Chechen groups.

Western District Court's decision was heard in Belgorod Regional Court on 27 June and was successful. In July Belgorod Regional parliament voted in favour of lifting Olga Kitova's parliamentary immunity in relation to the five charges brought against her. Olga Kitova thus faced the possibility of further detention and imprisonment, apparently for legitimately exercising her fundamental right to freedom of expression.

### **Alleged politically motivated killings**

#### *The case of Galina Starovoitova (Update to AI Index: EUR 01/03/00)*

In May law enforcement officials in the Ukrainian city of Dnepropetrovsk detained five people suspected of carrying out murders in Russia, Belarus and Ukraine, including the murder of leading human rights defender and politician Galina Starovoitova and the Russian journalist Vladislav Listyev. All the suspects were reported to be local residents, who officially worked at private security firms and received their orders through the Internet. The criminal group allegedly began work in 1996 in Russia, with businessmen as their main victims. However, there appeared to be insufficient evidence to connect the suspects to the murders of Vladislav Listyev and Galina Starovoitova.

### **Conditions of detention**

Conditions in penitentiaries and pre-trial detention centres, which held up to a million people, did not improve and continued to amount to cruel, inhuman or degrading treatment. Hundreds of thousands of people awaiting trial continued to be held in grossly overcrowded conditions. It was reported that nearly five million people enter and leave the prison system annually; over 10,000 inmates die annually; and over 100,000 have tuberculosis.

In April the Russian human rights commissioner, Oleg Mironov stated in his annual report on the human rights situation in the country that the prison situation was "horrible". He noted that pre-trial detention

centres had become "hotbeds of epidemics" and that some judges "continue to be guided by the categories of the past", which fuelled overcrowding and exacerbated the conditions of detention in Russia's prisons. Oleg Mironov cited as an example a case where a man was sentenced to four years' imprisonment for stealing two chickens.

There is no separate juvenile justice system in Russia, and the situation of juvenile detainees remained particularly bad. In June officials from the Main Directorate for Execution of Punishment (GUIN) at the Ministry of Justice stated that over 17,000 sentenced juveniles were currently imprisoned in 64 special colonies for adolescents. According to official information, 10 colonies had recently opened in former army and Interior Troops barracks which

#### ***Torture and ill-treatment in police custody***

##### *Reported rape of a lesbian by the police*

Though Russian law does not penalize gay identity or behaviour, the actions of police officers often do. Prejudice - whether in the form of racism, sexism or homophobia - means that certain people are particularly vulnerable to discrimination and ill-treatment in custody. Lesbian and gay detainees and prisoners in Russia are at heightened risk of sexual violence in custody. Many are subjected to persistent sexual harassment. The failure of the authorities to tackle issues such as sexism and homophobia in the police force creates a climate in which such violations can easily proliferate.

During the period under review, AI learnt of the case of 'Katya Ivanova',<sup>21</sup> a lesbian living in Moscow, who claimed she had been raped by the police. In 1997 she went to the local police station to lodge a complaint against neighbours who had assaulted and threatened her. She showed the officer dealing with her complaint the notes her neighbours had pushed under her door, which contained threats and homophobic abuse. When the officer began to sexually harass her 'Katya Ivanova' left.

Several months later the officer summoned her to his office. According to 'Katya Ivanova', he offered to protect her from her neighbours on condition that she had a sexual relation with him. When she resisted him, he reportedly beat her in the face and raped her. Further assaults occurred on other occasions when 'Katya Ivanova', fearing arrest and detention for failing to respond to summonses in relation to her original complaint, appeared at his office and other locations.

In May 2001 Katya Ivanova was granted asylum in the United States. Speaking to an AI representative in March 2001 she had said, 'I pray that I am granted asylum so that my nightmare can finally end.'

##### *Alleged ill-treatment of a woman by the police in the Republic of Kalmykia*

had been transferred to the Ministry of Justice's jurisdiction. Officials also stated that 55 per cent of juveniles in the prison system had been convicted of theft and 10 per cent of robbery, which under Russian law is punishable by five to six years' imprisonment.

During the period in question AI was alarmed by President Vladimir Putin's refusal to grant clemency to prisoners in Russia and, in this way, help alleviate the harsh conditions of detention in Russia's overcrowded prisons. AI was aware of up to 3000 cases in which petitions for clemency had been returned by the President without consideration - the majority of these cases referred to minor crimes and first-time offenders, including women and children.

On 10 April Nadezhda Ubushaeva, a former school teacher, was allegedly ill-treated by police in Elista, the capital of the Russian Republic of Kalmykia. She told an AI representative that the same morning she and her family of five, including her pregnant daughter, had been forcibly evicted from their home on the orders of the Elista City Court. Having nowhere else to go to, the family went to the main square to peacefully protest in front of the seat of the republic's government.

Nadezhda Ubushaeva alleges that at 4pm that day more than five police officers, led by a police colonel, appeared and dragged her, in front of witnesses, to a police car, beating her with what she describes as a hard instrument. According to a medical certificate issued on 13 April, Nadezhda Ubushaeva suffered injuries to her hips, shoulders and face consistent with these allegations. She was held in the police station for about two hours.

Nadezhda Ubushaeva and her family are among 300 families who lost their homes in a 1995 flood in the town of Lagan. In 1999, following a decision of the Chairman of the Kalmykian Government, Nadezhda Ubushaeva's family were given housing in an apartment building in the capital.

On 4 July Nadezhda Ubushaeva, along with two other women conducting a hunger strike on the central square, was reportedly again ill-treated, this time by a group of men who emerged from a nearby unmarked car and dragged them to a minibus. The three women claimed that the men were law enforcement officials who acted on orders of the local authorities. Nadezhda Ubushaeva has complained about her ill-treatment to the Office of the Procurator of the Republic of Kalmykia. However, AI is not aware of any official investigation into these allegations.

#### ***The Death Penalty***

AI welcomed President Vladimir Putin's statement in July in favour of abolition of the death penalty in the Russian Federation. He was reported as saying that Russia should uphold its five-year-old moratorium on the death penalty, despite widespread calls to reinstate

<sup>21</sup> Not her real name

executions. "The state should not assume the right which only the Almighty has - to take a human life," he said. "That is why I can say firmly - I am against Russia reinstating the death penalty." AI urged President Putin to use his authority to encourage ratification of Protocol No. 6 to the European Convention on Human Rights, which provides for full abolition of the death penalty.

### **Refoulement**

It is frequently reported that asylum seekers arriving

The asylum seeker had applied for refugee status at the immigration control point in Sheremetyevo II upon arrival in Russia. On 15 March the immigration control point denied him admittance to the Russian asylum procedure, preventing his claim from being examined on its merits, a decision which was appealed in court on 28 March. The Ministry of Foreign Affairs, as the state agency responsible for ensuring compliance with international obligations, reportedly tried to prevent the deportation but failed.

In another case, journalist Dodojon Atovulloyev, an outspoken critic of the Tajik government, was detained by Russian police on 5 July while transiting Moscow on a flight from Germany to Uzbekistan. He was reportedly arrested at the request of the Tajik authorities, and there were fears that he might be forcibly returned to Tajikistan, where he would be at grave risk of torture. However, on 11 July Dodojon Atovulloyev was released after the Russian Procurator General, to whose Extraditions Unit Dodojon Atovulloyev's case had been referred, rejected the Tajik authorities' request for extradition.

Dodojon Atovulloyev's lawyer told AI: "Dodojon is free. It is brilliant. He was released because of the great political pressure from the German government, the OSCE, and public pressure from human rights organizations."

### ***The Chechen conflict: impunity and continuing crimes against civilians***

Both parties to the conflict in Chechnya continued to commit serious abuses of human rights and breaches of international humanitarian law. Russian forces were responsible for the overwhelming majority of physical harm and material damage suffered by civilians. AI and other international and Russian human rights organizations active in the region continued to document violations by Russian forces, including: arbitrary detention, torture and ill-treatment, "disappearance" and extrajudicial and summary execution of detainees, and the use of unofficial and secret detention sites. Chechen fighters violated humanitarian law by failing to protect civilian immunity during attacks on Russian positions, by attacking civilians who work in the local administration in Chechnya, and by ill-treating and extrajudicially executing Russian soldiers they have captured.

During "cleansing operations" (in Russian, *zachistka*) in towns and villages, Russian forces

at Moscow's international airport, Sheremetyevo II, are forcibly returned to their country of origin before their asylum claims have been considered.

For example, on 29 March an Iranian asylum seeker who had been arrested on 21 February at Moscow international airport Sheremetyevo II was forcible returned to Iran, where it was believed he faced imprisonment and ill-treatment. The deportation was carried out despite the fact that his application to be admitted to the Russian asylum procedure was pending before the courts.

continued to arbitrarily arrest and use disproportionate force against civilians. Most people who were detained during such operations are reportedly beaten or subjected to torture while held in incommunicado detention; bribes are almost always extorted from relatives in exchange for their release. Hundreds of others simply "disappear" in custody. The mutilated corpses of some of the "disappeared" and of many other, unidentified individuals have been discovered in more than a dozen dumping grounds throughout Chechnya.

Federal authorities in Russia are not committed to a meaningful accountability process. Criminal investigations into abuses by military and police forces in Chechnya have been shoddy, ineffective, and incomplete. The federal government has not committed the necessary resources to investigations, nor are they empowering the relevant agencies to conduct them. Nowhere is the failure to investigate more obvious than in the case of Dachny village, where at least 51 bodies were found since January. No autopsies were performed on the corpses, and the authorities have rushed to bury, rather than preserve for the purposes of further investigations, those corpses that have not yet been identified.

Non-governmental organizations and independent journalists continued to face significant obstacles to gaining access to Chechnya and to carrying out their work there.

### ***The case of Anna Politkovskaya***

On 20 February, while investigating reports of violations by the Russian forces, journalist Anna Politkovskaya was detained in the Vedeno district in southern Chechnya by Russian federal forces, on the grounds that she did not have official permission to exercise her profession in Chechnya and was thus "violating the accreditation procedures and regulations imposed by the military command". Anna Politkovskaya travelled to Chechnya to investigate reports of torture, including rape, and that Russian forces stationed on the outskirts of the village of Khottuni were using pits in the ground as secret detention facilities. While in detention, Anna Politkovskaya was questioned about her journalistic investigation by Federal Security Services (FSB) officials, and she claimed officers threatened they would kill her. She was released without a charge on 22 February, following wide international publicity on the circumstances surrounding her detention.

On 10 July in London, the UK section of AI presented its "Global Award for Human Rights Journalism" to Anna Politkovskaya, as part of the annual Media Awards. Anna Politkovskaya received the award for an article which she wrote in the Russian newspaper *Novaya Gazeta* about human rights abuses in Chechnya.

*Alleged violations against Chechen civilians during "cleansing operations" by Russian forces.*

**Reports from Kurchaloy district**

According to witness reports given to members of the Russian human rights group, *Memorial*, on 16 June about 120 men were detained in Kurchaloy by Russian troops. On 21 June local inhabitants found the bodies of five of the men detained on 16 June, on the outskirts of the village. The local people reportedly identified all five men as: Khasan Chimaev, Vakha Magomadov (who worked in the district administration), Khanpasha Khisriev, Ibragim Magomed-Salikh Dokhtukaev and Magomed-Emin Dokhtukaev.

According to reports, on 1 June between 20 and 30 men were detained by Russian forces in the village of Mayrtup in Kurchaloy District. Reportedly eight men were taken to the outskirts of the village and beaten by the military, who also ordered trained dogs to attack the detainees. Four of these men were then taken to the military base of the Russian troops. Five days later two of them were released, while the whereabouts of two others named as Said-Khasan Salamov and Said Magomed Bakhaev, remained unknown. Said Magomed Bakhaev reportedly lost consciousness as a result of the beatings and was taken to the Russian military base in critical condition. He was later allegedly transferred to an unknown place of detention.

**Reports from the village of Chernorechye**

Reportedly during a "cleansing operation" Russian soldiers surrounded the village of Chernorechye on 28 June and began entering the houses. The Russian federal forces allegedly detained about 200 males including boys as young as 14, and took them by car to a disused medical center near the water reservoir of the capital Grozny. On the way to the medical center the soldiers pulled the shirts of the detainees over their heads as makeshift blindfolds, and allegedly beat them. Witnesses told members of *Memorial*, that the soldiers threatened to kill the detainees.

The detainees allegedly suffered beatings, electric shocks and cigarette burns on their bodies. Among those alleging ill-treatment were "Magomed"<sup>22</sup> and his cousin "Ruslan"<sup>22</sup> from the village of Chernorechye. "Magomed" claimed that they were kept in a very small room and from there taken to another room for interrogations. He also claimed that he saw his cousin return from such interrogations with

It was reported that following several attacks on members of the Russian federal forces, on several occasions in May and June, Russian soldiers arbitrarily arrested civilians in the Kurchaloy District in Chechnya. It was reported that on the morning of 12 May members of the Russian federal forces went into the house of Khamdi Gerikhanov and shot him and his 19-year old son dead. The soldiers also allegedly detained three other Chechen men, Khamzat Gerikhanov, Ilyas Gerikhanov and Abubakar Umarov, forced them out of the house and severely beat them. His face bruised black from the beatings. "Magomed" described how electric wires were tied to his right hand and his left thumb. He was then subjected to electric shocks. The Russian officers allegedly wanted him to provide them with information about Chechen fighters. "Magomed" claimed that he was interrogated three times. His cousin spent the night in a room with 12 other people. Allegedly one of the men in this room, who spoke up against the soldiers, was shot in his leg. He reportedly lost consciousness and was taken out of the room and his name and fate remained unknown. "Magomed" also claimed that he saw two young women detainees at the medical center during his detention. One of them was pregnant but miscarried.

***Russia's progress on human rights in Chechnya reviewed at the Parliamentary Assembly of the Council of Europe and at the UN Commission on Human Rights***

In January AI called upon the Parliamentary Assembly of the Council of Europe (PACE) to take urgent action to prevent human rights violations in Chechnya, as the Assembly met to evaluate Russia's progress on human rights in Chechnya. AI called upon the Parliamentary Assembly to support the call for an international investigation into human rights abuses in Chechnya, and to pressure the Russian government to account for crimes committed inside Chechnya and for the persecution of Chechens elsewhere in the Russian Federation.

Members of the Assembly noted what they regarded as progress made by the Russian government in improving the human rights situation in Chechnya and, in spite of continuing allegations of violations voted to restore the voting rights of the Russian parliamentary delegation to the Assembly. These rights had been suspended last year due to concern about the massive human rights violations in the context of the conflict in Chechnya.

In March AI called on the UN Commission on Human Rights to demand accountability by the Russian government for the grave and persistent human rights violations committed in the region. The organization continued to urge the Commission to establish without delay an international investigation into violations of human rights and humanitarian law

<sup>22</sup> Not their real names

in Chechnya as the only effective answer to impunity.

In April the Commission adopted a resolution in which it condemned the continuing human rights violations in Chechnya and demanded accountability from the Russian authorities. Although the Commission did not call for an international investigation into the violations in Chechnya, its resolution was a serious reminder to the Russian authorities of their obligations as a member of the UN and its Security Council. Russian officials rejected the resolution, terming it "biased", and accused the United

#### **Conclusions and Recommendations of the United Nations Committee Against Torture**

On 11 May the United Nations Committee Against Torture considered Slovakia's initial report concerning the implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee recommended, *inter alia*, that the Slovak authorities:

- adopt measures to initiate an effective, reliable and independent complaints system to undertake prompt, impartial and effective investigations into allegations of ill-treatment or torture by police and other public officials, and where the findings are warranted, to prosecute and punish alleged perpetrators;
- make adequate provisions for compensation and rehabilitation of victims of torture and ill-treatment;
- continue to provide human rights training for law enforcement, military and other officials and provide clear guidelines on the prohibition against torture and ill-treatment and the prohibition on returning persons to countries where they would face a probable risk of torture.

The Committee further expressed concern, *inter alia*, about:

- Allegations of instances of police participation in attacks on Roma and other members of the population, as well as allegations of inaction by police and law enforcement officials who fail to provide adequate protection against racially motivated attacks when such groups have been threatened by 'skinheads' or other extremist groups;
- Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such actions or to prosecute and punish those responsible;
- Allegations that law enforcement officials have ill-treated detainees during detention and in police custody, particularly in lock-ups and police cells;
- Allegations of harassment of human rights

States of America of blocking a compromise text. Russian officials of the Ministry of Foreign Affairs also stated that the Russian government did not feel obliged to implement the recommendations which the commission made in its resolution.

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defenders as well as threats, reportedly to deter submission of complaints, which are allegedly not adequately investigated;

- The lack of adequate guarantees of the rights of persons deprived of liberty to have access to counsel and a doctor of his or her choice as well as prompt medical exams.<sup>23</sup>

AI called on the Slovak authorities to implement, as a matter of urgency, the Committee's recommendations.

## SPAIN

### **ETA killings**

AI's campaign against killings by the Basque armed group *Euskadi Ta Askatasuna* (ETA), begun in October 2000, continued. Focusing on ETA's murder of civilians, AI has repeatedly called on ETA to respect fundamental human rights and international humanitarian law. The organization has received no reply to its appeals from the three designated representatives of ETA who were approached by AI groups. Eight people were killed by ETA between January and May, mostly in the Basque Country. Many others were injured.

On 26 January a car bomb in San Sebastián (Guipúzcoa) killed Ramón Díaz García, who worked as a cook at a navy base. José Ángel Santos Larrañaga and Josi Leones Azkona, who worked for the electricity company Electra, were killed in the city by a car bomb on 22 February. The bomb was thought to have been destined for a Socialist Party councillor. On 9 March Iñaki Totorika Vega, an officer of the Basque autonomous police force, the *Ertzaintza*, was killed by a car bomb in Hernani (Guipúzcoa). On 17 March Santos Santamaría Avedaño, an officer of the Catalan autonomous police force, the *Mossos d'Esquadra*, was killed in a car bomb explosion when trying to clear people from an area in Roses, Cataluña. On 20 March Froilán Elespe Inciarte, a Socialist Party (PSE) official and councillor, was killed by a gun shot to the head in Lasarte (Guipúzcoa). On 6 May a regional president of the *Partido Popular* (PP - ruling centre-right party), Manuel Giménez Abad, was fatally shot in the head and stomach in the centre of Zaragoza

<sup>23</sup>UN document: CAT/C/XXVI/Concl.4/Rev.1,

11 May 2001

(Aragón). On 24 May a newspaper executive, Santiago Oleaga Elejabarrieta, was shot dead in San Sebastián while parking his car. He was financial director of the *Diario Vasco*.

A number of other journalists were killed or injured by ETA in 2000, and journalist Gorka In January 11 National Police officers and three Civil Guards who had been convicted of torture were included in a mass award of pardons to mark the millennium. Shortly afterwards a posthumous medal was awarded to Melitón Manzanás, former head of a political intelligence police unit in San Sebastián during the Francoist dictatorship. The police chief was responsible for the torture of hundreds of Basques during that time and was a known Gestapo collaborator. He was the first targeted victim of an ETA commando in August 1968. The award is made to victims of politically-motivated violence.

On 29 January AI issued a statement warning that "The award of pardons and honours for torturers sends out a clear message - that violations of human rights will not be effectively punished in Spain". AI also stated that the continuing failure to prosecute those guilty of crimes during the 1980s' "dirty war" against ETA was sending torturers a similar message. AI pointed out that it was not the first time that pardons or honours for torturers had been granted or awarded by the Spanish authorities, and reiterated its warning that there was a climate of impunity in Spain, to which nominal sentencing, lax enforcement of sentences, poor standards of forensic medical reporting and the perpetuation of incommunicado detention all contributed. In 1998 AI had criticised the frequency of pardons for convicted torturers and pointed out that, in that year, 10 of the 12 convicted of the kidnapping and illegal detention of French businessman Segundo Marey - part of the "dirty war" - were almost immediately granted a partial pardon - despite the gravity of the crimes committed. By this means their 10-year sentences were immediately cut by two thirds, while the remainder of their sentences was suspended pending appeal to the Constitutional Court.

On 16 March the Constitutional Court rejected the appeal made by 11 of the 12 - including a former interior minister, José Barrionuevo, and a former secretary of state for security, Rafael Vera - against the judgment of the Supreme Court. This meant that, theoretically, the latter two still faced outstanding prison sentences of three years and four months. However, on 30 May they, and three other high-ranking officials of the Interior Minister, were allowed to leave prison after only nine hours and are not expected to serve any further time there.<sup>24</sup>

### **Court judgments on torture**

Recent court judgments have focused attention on problems related to the identification or responsibility of torturers. In March the Supreme Court annulled, for the second time, the decision of the Court of Barcelona

Landaburu was injured in the hands and face when opening a parcel bomb, thought to have been sent by ETA, on 15 May.

### **Pardons and awards for torturers and abductors**

to acquit two Civil Guards of the death of a detainee who died in August 1994, after a brutal beating, during which a fellow detainee was also beaten. The Supreme Court concluded that both officers were guilty - one of beating the man and the other of permitting it. The officers were first acquitted in 1996 of charges that included homicide and torture. The Supreme Court reportedly described the decision of the first instance court as "obscure, ambiguous and imprecise" and asked the Barcelona court to review its judgment. However, in 1998 the court again acquitted the officers. While recognizing that the detainee had been beaten, the court felt there was not enough evidence to establish how and why the death had occurred, and it could not, therefore, apportion responsibility. The Supreme Court responded that it was beyond question that the detainee had died as a result of ill-treatment and that insufficient account had been taken of an autopsy report that had established this. It again asked the court to review its verdict.

In April, in a reverse proceeding, the Supreme Court annulled the conviction of two Civil Guards in 1999 for failing to prevent the torture of ETA suspects Juan Ramón Rojo, Xabier Arriaga and Francisco Palacios after their arrest in 1992. The Vizcaya court concluded that, although it could not determine who had actually committed the torture, the two officers must have known that the detainees were being subjected to torture or ill-treatment. The court held that torture "cannot take place in silence" and the marks of torture on the bodies of the detainees must have been noticed. However, the Supreme Court argued that it could not be certain that the officers would have heard sounds of torture, or that they would necessarily have noticed any marks.

A complementary factor presenting a danger of impunity is the sheer length of time that may elapse before torture trials are held. On 18 June, over 20 years after 10 Civil Guards were first accused of torturing seven Basque detainees, arrested in Zornotza (Vizcaya) in November and December 1980, a trial opened before the Court of Vizcaya. Some of the alleged torture victims had already been convicted and imprisoned for ETA-related crimes. Some of the accused officers (who had not been subjected to disciplinary measures during this time) had already been convicted of other crimes of torture. The extraordinary delay in bringing the case to court was attributed to a variety of factors, including arguments over judicial competence (such as whether a military tribunal should try the officers) and a five-year postponement of an identity parade. The prosecutor had requested dismissal of the proceedings (*sobreseimiento*) on the grounds that the identity of

substitute nights in prison with periodic appearances at the prison.

<sup>24</sup>With unusual speed, the prisons service of the Interior Ministry granted them a special permit which allows some prisoners in the third (open) category, who have displayed good conduct, to



the torturers could not be established, but was reported to have recently changed his mind in respect of two officers and brought charges against them. He has continued to argue that there was no proof that the remaining eight had inflicted torture or known who had done so. Most of the defendants were reported to AI noted that the number of new allegations that ETA suspects were being tortured by Civil Guards or police officers while being held *incommunicado* was rising.<sup>25</sup> Iratxe Sorzabel Díaz, who had been expelled from France to Spain in October 1999 after spending three years in a French prison, was arrested in Hernani (Guipúzcoa) on 30 March, on her way to work, and taken to Civil Guard headquarters in Madrid. She is currently under investigation in connection with a number of crimes, including belonging to an armed band and assassination. She was held *incommunicado* for five days. She claimed that, from the moment of arrest and throughout the following two days, she was subjected to torture, and that for 16 hours this was intensive. During the remaining three days she was subjected to physical ill-treatment on only one occasion. She alleged that she was beaten during the journey to Madrid and subjected to electric shocks within the vehicle; that, after arriving in Madrid, she was subjected by six or seven officers to a brutal but short beating of about 20 seconds; that she was subsequently continually beaten around the head with hands or a telephone directory and rolled-up magazine; that she was asphyxiated with one plastic bag, and another was pushed into her mouth as far as her throat while her nose was covered, and induced vomiting; that she was made to undress, stand in the middle of a circle and continually bend up and down or raise and lower her arms while being beaten; that she was touched on her breast, bottom and pubis and threatened, among other things, with rape and with a torture method known as the "bath" ("*bañera*") and "well" ("*potro*"); that she was made to kneel on all fours on a blanket and punched, and that foam rubber or blankets were used to prevent marking. Iratxe Sorzabel was seen daily by a doctor and on 31 March was taken to San Carlos Hospital in Madrid for examination. Photographs of her injuries were also taken and a number of medical reports referred to the existence of injuries. A formal complaint about torture was lodged with an investigating magistrate of the National Court.

#### **Reported ill-treatment at CETI and Moroccan border**

Kingsley Ozazuwa, a Nigerian citizen who had been staying since December 2000 at a reception centre for undocumented immigrants and asylum-seekers, the *Centro de Estancia Temporal de Inmigrantes* (CETI) in Ceuta, was involved, on 21 April, in an altercation with a private security guard in the centre's dining

have told the court that, so long after the event, they could not remember anything about the arrests in Zornotza.

#### **Reports of torture in *incommunicado* detention**

room. Kingsley Ozazuwa told AI delegates, who visited Ceuta in May, that the guard kicked him hard in the stomach. The guard apologised. However, when Kingsley Ozazuwa insisted that the police be called, he was again beaten, this time by two guards. While other Nigerians protested by throwing their food on the floor, he was dragged outside and lay unconscious while police were called. He was driven to hospital after police called for an ambulance. He then spent four days in the CETI's medical centre. He was subsequently taken to the National Police station of Las Rosales, where he reportedly tried, without success, to file a complaint for ill-treatment. He was held there for 24 hours before being taken before a judge and charged with an offence of theft and inflicting injury ("*lesiones y hurto*"). Kingsley Ozazuwa, who did not speak Spanish, told the AI delegates that, although an interpreter and court-appointed lawyer were present, he did not realise that he had been charged with this offence and the charge sheet he had been given had not been translated. He had not been given a copy of the medical report issued by the hospital, describing his injuries, which would have helped to reinforce his own complaint. Kingsley Ozazuwa was expelled from the CETI and spent several days sleeping in the streets before being offered shelter by a church organization, the *Cruz Blanca* (White Cross). Five other Nigerians were also temporarily expelled as a result of the incident.

The CETI director told the delegates, who visited the centre in May, that he did not know whether there were medical reports or judicial complaints in respect either of Kingsley Ozazuwa, or of a Nigerian woman who had reportedly been beaten on the legs by a security guard three months earlier and had required hospital treatment.<sup>26</sup> He was, however, aware that the security guards had medical reports testifying to their own injuries. The director denied the suggestion made by newspaper reports that a subsequent change in the guards, who are contracted to the CETI by private security company PROSESA, was connected to incidents of ill-treatment at the centre.

The Ceuta CETI was opened in 2000 to replace the much-criticized camp of Calamocarro and to provide improved facilities for asylum-seekers or undocumented immigrants. The great material improvement in facilities was indisputable. However, for reasons mainly unrelated to the CETI itself, a climate of tension prevailed at the centre, with some foreign nationals expressing genuine desperation at the length of time they had been awaiting a response to their applications for residence and work permits,

<sup>25</sup>Common to many of the allegations were descriptions of beatings around the head with hands or telephone directories, beatings on the testicles or punches in the stomach, asphyxiation with plastic bags, hair-pulling, or methods leading to physical exhaustion such as standing facing the wall, squatting or bending up and down or for

long periods, and threats.

<sup>26</sup>The name of the woman has not been given

without being able either to reach the Spanish mainland or to return home without police permission. In some cases they had been waiting 11 months by the

Several Nigerian nationals told AI delegates that they, and others, had been ill-treated by Civil Guards during previous attempts to reach Ceuta from Morocco by climbing or otherwise entering the border fence. "More than three" migrants had reportedly been injured by rubber bullets, fired in attempts to deter them from crossing the border. Civil Guards had also allegedly beaten and stripped some of the Nigerians, burned their clothes in front of them and hosed them with cold water in attempts to prevent them entering Ceuta.

#### **Costa Rican woman alleges police ill-treatment**

A Costa Rican student of anthropology, Marta Elena Arce Salazar, claimed that on Monday, 2 April, after being arrested in the Plaça de Catalunya in Barcelona, she was beaten and insulted by five or six National Police officers. Following her arrest, and at her request, Elena Arce was taken from the police station in the Rambla Nova to the Hospital del Mar in Drassanes, where she received medical treatment. A medical report issued by the hospital identified a number of haematoma and bruises on her body. She was then returned to the police station and held there overnight, sleeping on a mattress on the floor, without a blanket. She was reportedly refused permission to make a telephone call either to her lawyer or her tutor. On the Tuesday she was told that four police officers had accused her of attacking one of them with a little spray - which she claimed was in one of her jacket pockets and had been set off when she was thrown to the ground - and with attempting to resist arrest. At about 11pm she was taken to the prison of Verneda. On Wednesday morning she was taken before the judge of Court No. 3 in Barcelona. She was attended by a court doctor and taken back before the judge in the afternoon. At 8pm she was released, without bail, after being notified of a charge against her of "disobedience".

Elena Arce noted that she was arrested a few days after taking part in an immigrant occupation of the church of Santa María del Pi to demand rights for immigrants and changes to the new law on foreigners (generally referred to as the *Ley de Extranjería*). The arrest apparently took place after police officers, to whom the theft of a mobile telephone had been reported, had approached a group of immigrants who habitually gathered in the Plaça de Catalunya and asked them to produce all their mobile phones. Elena Arce had apparently entered into an argument with the officers.

Other reports of ill-treatment in police custody were also received.

On 28 March the Prosecutor General decided to reopen the preliminary investigation into the death of Peter Andersson, since the cause of death had not been sufficiently investigated. Peter Andersson died on 3 Nov 2000. He was arrested by two policemen and restrained and handcuffed, after reportedly resisting

time of AI's visit. It was highly probable that the climate of tension had contributed to outbursts of violence at the CETI.

#### **Death in custody of António Fonseca**

On 30 March the judge investigating the death in custody in Arrecife, Lanzarote (Canarias), on 20 May 2000, of António Augusto Fonseca Mendes closed the case, concluding that António Fonseca, a native of Guinea-Bissau, died of natural causes (update to AI Index: EUR 01/03/00 and EUR 01/001/2001). No charges were brought against the two National Police officers who had arrested him and taken him to the police station. The judge reportedly rejected as incomplete the findings of a well-known forensic expert who had been appointed by the Fonseca family to conduct a second autopsy, and who had concluded unequivocally that a fatal injury was dealt to the right side of the neck by a "blow with a blunt instrument". The judge also rejected as unreliable the testimony of a man who claimed he had seen police officers beating António Fonseca at the police station. The judge's decision appeared to leave open a number of questions relating to numerous contradictions in testimony. An appeal against the judge's decision was filed by the lawyer for the Fonseca family.

## S W E D E N

#### **Deaths in custody**

##### *Osmo Vallo*

(update to AI Index: EUR 01/03/00 and EUR 01/001/2001)

The commission of inquiry, which was instituted by the government, into the procedures used during the criminal investigation following the controversial death of Osmo Vallo, began its work in January. Osmo Vallo died shortly after his arrest in Karlstad on 30 May 1995. He had been ill-treated by police officers (see AI Index: EUR 01/03/00 and EUR 01/001/2001). According to the terms of reference, the commission should complete its inquiry by the end of the year. AI representatives met in January with the Special Commissioner, Mats Svegfors and the Secretary of the Commission, Judge Katarina Persson, and briefed them on the organization's concerns.

In March the Supreme Court rejected the appeal by Osmo Vallo's mother for a new trial, stating that there was no new evidence to justify it. The family's lawyer was considering what further legal action could be taken.

##### *Peter Andersson*

(update to AI Index: EUR 01/001/2001)

arrest. The policemen were said to have called for more reinforcements. While Peter Andersson was being restrained, his brother reportedly noticed that he was becoming unconscious. He was taken by an ambulance to the hospital in Örebro, where he was examined by a doctor and then transported, lying on

his stomach, strapped down on a trolley and handcuffed, from the emergency ward to the psychiatric clinic. A doctor, a nurse, and four policemen were with him while he was transported. It was reported that during this transport, one of the officers knelt on his back. On the journey Peter Andersson became lifeless and resuscitation attempts were ineffective. Although the report of the initial post-mortem examination did not find any obvious cause of death, it said that the testimonies of eyewitnesses and some of the physical evidence strongly indicated that the cause of death was suffocation through chest compression. The post-mortem report also stated that Peter Andersson's intake of amphetamines may have caused physical and mental exhaustion which affected the heart and blood circulation.

#### *The shooting of Idris Demir*

Idris Demir, a 27-year-old asylum-seeker from Kurdistan, was shot dead by a policeman in Jönköping on 9 March. Two versions of the events have been reported. The police stated that during a routine check, two police officers stopped two men driving a car. Only the driver spoke English, and the policemen asked for the driving licence. The driver said he had the driving licence in a flat in Råslätt, outside Jönköping. The police car followed the two men to the flat. When in the flat, the driver admitted that he had no driving licence, grabbed a carving knife, held it to his own throat, and threatened to kill himself. At this time the policemen did not know that the driver, Idris Demir, had been ordered to leave Sweden after his asylum claim was rejected. Idris Demir ran out of the apartment and into the elevator. The police stated that Idris Demir, when confronted by one policeman, attacked the officer with a knife. The second policeman then fired his gun, which hit Idris Demir in the chest. Idris Demir then reportedly stumbled down the stairs and died where he landed. The police authorities said that the police fired in self-defence.

A different version of the incident was given by Idris Demir's friend, who witnessed the killing. According to him, Idris Demir did not attack the police, but was shot in the back on his way down the stairs trying to run away from the policemen. The witness stated that Idris Demir was afraid of being sent back to Turkey if he was caught by police.

In May, it was reported that the Chief Prosecutor in charge of the investigation had decided to start a prosecution against the police officer who shot Idris Demir. The police officer is charged with two counts: gross assault and gross causing of another person's death. The trial is set to start in October.

The organization was concerned about allegations that police used excessive force against demonstrators who were not involved in violent protest, including beatings with batons. The organization was also concerned about reports that police officers kicked or beat people with batons after they had been detained and, in some instances, restrained with their hands tied

#### ***Police shootings and allegations of ill-treatment during the EU summit in Gothenburg***

AI received reports that during the European Union summit in Gothenburg on 14 to 16 June 2001 the police used excessive force during the anti-globalization demonstrations, some of which degenerated into violence and caused injuries to people and significant damage to property. It was reported in the media that 118 people were injured, including 56 police officers; among them 43 people were hospitalized including a policeman with a serious head injury caused by a rock hurled by a protester. Although AI does not condone violent attacks on the police, the police, as law enforcement officials, are obliged to act at all times in accordance with national law and international treaties which have been ratified by Sweden, as well as other well-established international standards.

In particular, AI was concerned that the police used live ammunition, and that as a consequence, three people suffered gunshot wounds on Friday evening, 15 June. It was alleged that the firing of shots at demonstrators was not preceded by warning shots. The use by police of firearms in these circumstances may have violated international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which protect the right to life and prescribe the circumstances in which firearms may be used. According to these principles, which have been accepted internationally, law enforcement officials shall only use firearms if other means remain ineffective or without any promise of achieving the intended result. Firearms may be used against people only after giving warning, in order to prevent death or serious injuries, where less extreme means are insufficient to achieve such objectives. In doing so, law enforcement officials must respect and preserve human life, and minimize damage and injury. Firearms may only be used in the dispersal of violent assemblies when less dangerous means are not practicable, and only to the minimum extent necessary. The principles underscore that intentional lethal use of firearms may be made only when it is strictly unavoidable in order to protect life.

AI urged the government to initiate an independent investigation into the full circumstances of the shootings. The investigation should be prompt, thorough, and impartial, and its scope, methods and findings should be made public. The organization also urged the government to take all necessary measures to ensure that the police are adequately equipped and trained to employ legitimate non-lethal methods of crowd control, and that they are subject to strict regulations regarding the use of such methods, and to a strict system of accountability.

behind their back, lying down on the ground. Furthermore, it was reported that people were detained arbitrarily without charge, in some instances for many hours, during police actions at two schools. Up to 100 people have made complaints against the police, including for ill-treatment or illegal detention. The complaints of illegal detention appeared to stem

from police actions in Hvitfeldska and Schillerska schools, where many of the people participating in the events surrounding the summit were attending meetings or sleeping on floors. Allegations of ill-treatment were also made in connection with the police actions.

AI received the following accounts of what allegedly occurred in the two schools.

- Hvitfeldska *Gymnasiet* (school) was apparently roped off in the late morning on 14 June by the police who were reportedly searching for weapons. All the people inside were detained and not allowed to leave. People outside were not allowed to enter; instead many of those who tried to enter were reportedly searched (including female protesters being searched by male officers), put on buses, driven away from the area and told not to return to the school. There was apparently no explanation given and people began to get angry about the police action and to protest. That same evening, those people who were at Hvitfeldska school, who refused to show their identity cards or to allow themselves to be searched were arrested and transferred to buses where they were held in detention until the next morning. About 240 people were held on the buses. Some people claimed that they had been detained for about 19 hours, at the school and then in the buses.

- AI also received reports that on Saturday evening, 16 June, armed police entered Schillerska *Gymnasiet* (school) and shouted at those present to lie down on the floor. After about 20 minutes the police led the people out of the school and ordered them to lie down on the ground, which apparently was wet because it had rained. People lay on the wet ground, some of them crying and shaking, for about an hour. Some people claimed that if they tried to look up, they were told to keep quiet and look down. Eye-witnesses claimed that some people were beaten with batons as they lay, with their hands tied behind their back, on the ground. One person claimed he was kicked because he did not hold his hands behind his neck properly. A Greek journalist told AI that although he twice informed police that he was a journalist and in the school to interview people, he was also arrested and forced to lie face down on the wet ground with his hands tied behind his back for an hour; he alleged that, while lying down, when he tried to talk to a policeman he was hit with a baton on the head and on the arms. The beating resulted in the journalist suffering from concussion.

In a letter sent to the Valais authorities following the death, AI welcomed the prompt opening of a judicial inquiry into the death under the direction of an investigating magistrate, as well as the news that an initial autopsy had been ordered and entrusted to the Lausanne Institute of Forensic Medicine. The initial autopsy was unable to establish the exact cause of death: therefore, further forensic tests were ordered. AI also welcomed reports that the investigating magistrate had proceeded promptly to the questioning

Around 70 to 75 people were detained, identified, filmed and released a few hours later. Newspaper reports afterwards stated that the police had searched the school and everyone present because they were looking for three people who were said to be heavily armed.

According to reports received by the organization, over 500 people were detained or arrested by police, the majority of whom were subsequently released. AI has received reports that among those still detained pending investigation or trial some people were kept in isolation, and that they were denied their mail or books sent from their families. AI asked to be informed by the government of the nature of the investigations into allegations of police use of ill-treatment and excessive force towards demonstrators, and of arbitrary detention.

## SWITZERLAND

### **Deaths and dangerous methods of restraint during forcible deportation operations** (Update to AI Index: EUR 01/001/2001)

#### *The death of Samson Chukwu*

Samson Chukwu, a 27-year-old Nigerian asylum-seeker, died in a detention centre attached to Crêtelongue penitentiary, Granges (Valais Canton) in the early hours of 1 May 2001, at the start of a forcible deportation operation. A first attempt to deport him in March 2001 was abandoned after he refused to board a regular passenger flight departing from Zürich-Kloten airport.

Two police officers of the Valais Canton's special intervention squad entered his cell to carry out the deportation by force and a struggle ensued. The police officers, with the assistance of a prison officer, eventually brought him to the floor where he lay face-down, with one hand pulled behind his back in a handcuff and with an officer on top of him, pressing down on his thorax and trying to handcuff his other hand. After he had been fully handcuffed the officers observed that he had stopped moving and - after wetting his face and trying to drag him upright - realized that he had lost consciousness and stopped breathing. They attempted artificial respiration and heart massage and called for emergency medical assistance which arrived some 20 minutes later. However, further efforts to revive Samson Chukwu were unsuccessful.

of the police officers involved in the deportation operation, of relevant prison personnel and of Samson Chukwu's cell-mate. AI sought the cooperation of the Valais authorities in informing the organization of the eventual findings of the forensic tests and judicial investigation and of any further criminal or disciplinary proceedings arising from them.

AI's letter recalled that since 1993 the organization had been aware of the deaths of six other individuals during or immediately following forcible

deportations from Western Europe, including that of Khaled Abuzarifa during an attempted deportation from Switzerland in 1999 (see below). All the cases were accompanied by the use, shortly before death, of dangerous methods of restraint impeding the respiration of the deportee.

AI urged that in their investigations the relevant Valais authorities pay special heed to international standards relating to the use of force by law enforcement officials, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials. These standards stipulate, amongst other things, that force should be used only as a last resort, in proportion to the threat posed and should be designed to minimize damage and injury.

AI also expressed the firm hope that the investigation into the death of Samson Chukwu would take into account the risks posed by the use of dangerous restraint techniques which can lead to death from positional asphyxia.

AI pointed out that, according to experts, positional asphyxia arises “from use of neck-holds which restrict breathing or when a person is laid on their stomach during restraint and/or transportation: this position compromises a person’s ability to breathe. Additionally handcuffing a person behind their back also restricts a person’s ability to breathe. Any weight applied to the back in this position (such as pressure by a law enforcement officer, including an attempt to keep a person still) increases breathing difficulty further. A ‘natural reaction’ to oxygen deficiency is increased physical struggle. In the face of such a struggle a law enforcement official is likely to apply additional pressure/compression to subdue the restrained person, yet further compromising the restrained person’s ability to breathe.”

AI drew attention to a number of recommendations and safeguards, applicable to all cantons, relating to forcible deportation (see below). AI said that it would welcome receiving assurances that regulations and guidelines for police and medical personnel in the Canton of Valais already incorporated the safeguards indicated in its recommendations, as well as copies of the relevant directives. In the event of no such safeguards being in place, then AI urged an immediate review and appropriate amendments.

In response, the Head of the Valais Canton’s Department for the Economy, Institutions and Security, in addition to expressing regret about Samson Chukwu’s “tragic death”, stated that there was nothing to lead to “the conclusion that the police officers in charge of the escort of M. Chukwu

AI recognized the establishment of a working group on deportations in December 2000, involving relevant cantonal and federal authorities and aiming, among other things, to establish common guidelines on the execution of deportation operations and a common pool of specifically-trained officers. The organization understands that its recommendations are being taken into account by the working group.

AI said that cantonal and federal authorities

overstepped the bounds of their power or made a disproportional use of force.” He thanked AI for the guidelines indicated in its letter and stated his intention of transmitting them to the different services concerned “in order to make them more aware of the risks inherent in the execution of these deportation operations.”

In July a final autopsy report concluded that the Samson Chukwu’s death could be attributed to positional asphyxia. The judicial investigation continued.

The above exchange of correspondence was copied to the Federal Department for Justice and Police and to the Federal Office for Refugees and made public at the end of May (see *Switzerland - Death during forcible deportation: an exchange of correspondence following the death of Samson Chukwu*, AI Index: EUR 43/005/2001).

#### *AI’s public call for urgent reform*

In June, in view of deaths occurring during forcible deportation operations in recent years and in view of persistent allegations of use of excessive force and degrading treatment by police officers acting as escorts during deportation operations from Switzerland, AI called on all cantonal governments to review police restraint techniques and the relevant guidelines and training for police and medical personnel involved in deportation operations. AI stated that cantonal authorities needed to ensure that:

- escorting officers have clear instructions that no more force should be used deporting a person that is reasonably necessary, in line with international standards on the use of force by law enforcement officials;
- methods of restraint impeding respiration and involving a significant risk for life are banned and that the appropriate guidelines are in place to minimize risk of positional asphyxia;
- any administration of sedative drugs is in accordance with purely medical criteria in line with Principle 5 of the UN Principles of Medical Ethics;
- any use of irritant sprays aimed at temporarily disabling an individual is subject to strict guidelines and limitations on its use;
- during deportation operations all deportees are provided regularly with food and drink, have ready access to toilets and are treated with respect for their human dignity.

should press forward with the review and reform of deportation operations as an urgent priority.

#### *Criminal proceedings relating to the death of Khaled Abuzarifa*

(Update to AI Index: EUR 01/001/2001)

In June Bülach District Court tried three police officers and a doctor employed by the Canton of Bern

who were charged with the manslaughter of Khaled Abuzarifa, a Palestinian who died in March 1999, during a forcible deportation operation via Zurich-Kloten airport. The prosecution sought sentences of five months' suspended imprisonment for all four accused.

Khaled Abuzarifa was given a sedative tablet, had his mouth sealed with adhesive tape, was bound hand and foot, and strapped into a wheelchair in preparation for deportation. He was only able to breathe through one nostril. A post-mortem report indicated that he died of asphyxia as a result of the restraining measures. It also criticized the escorting police officers for losing valuable time in removing the adhesive tape after observing he was unwell and noted that they had not received relevant training. The doctor, who had witnessed the taping of the mouth and approved it as safe, was criticized for failing to provide relevant instructions to the officers. (The use of adhesive tape to cover deportees' mouths and prevent them shouting ceased to be an officially-sanctioned method of restraint at Zurich airport in August 1999).

The court issued its verdict on 3 July. The doctor was found guilty and ordered to pay 50,000 Swiss francs to Khaled Abuzarifa's family. The judge said that he had shown negligence in his misdiagnosis of Khaled Abuzarifa's breathing problems, which he had dismissed as a pretence, and failed in his professional obligations by agreeing to the taping of the prisoner's mouth but refusing to accompany him and the police officers to the plane. The court acquitted two of the police officers but in the case of the third officer, who was in charge of the deportation and who had ordered the application of the adhesive tape, the court returned the file back to the prosecutor's office for further investigation.

### ***Policing of World Economic Forum (WEF), Davos***

Hundreds of would-be demonstrators against the WEF taking place in Davos (Grisons Canton) in January and participants in parallel meetings organized in Davos by non-governmental organizations (NGOs), were prevented from entering the country and others were prevented from reaching Davos where demonstrations were banned. A large number of people travelling towards Davos were turned back at the village of Landquart and violent clashes took place between some demonstrators and police, both there and in

In February the President replied stating that "The Swiss government too regrets that freedom of movement and assembly in and around Davos had to be restricted, and that participants in the "Public Eye on Davos" Seminar were apparently hindered on their way to Davos. Nevertheless, we are still of the opinion that security measures were necessary. Not only was the safety of the Forum participants threatened by the planned demonstration; so was their freedom to assemble and to express their opinions. Of course, the principle of appropriateness must be taken into consideration. Swiss courts will now determine what extent the measure taken by the authorities and

Zurich, where many then proceeded. The Zurich clashes, which resulted in injuries to both demonstrators and police as well as damage to property, were followed by a number of arrests, some reportedly arbitrary, and deportations, together with bans on re-entry into Switzerland for specified periods. There were also allegations that international human rights standards relating to the rights of people deprived of their liberty were violated in some instances.

On 29 January 16 NGOs, including AI, Greenpeace and Oxfam, wrote to the President of Switzerland on behalf of a wide constituency of international NGOs taking part in the WEF 2001. The letter, signed by AI's Secretary General, expressed the deep concern of the civil society participants in the WEF about severe restrictions placed on the rights of peaceful assembly and freedom of expression, guaranteed both by the Swiss Constitution and international human rights standards.

The letter pointed out that even people seeking to attend or participate in an NGO seminar hosted by "Public Eye on Davos" were detained. NGOs present in Davos also reported that several people handing out brochures about this seminar to passers-by on Davos streets were detained. Adam Ma'anit, an NGO researcher who entered Switzerland and was travelling to Davos to speak at the NGO seminar, was stopped by police at a train station in Landquart during a check of all trains travelling towards Davos. He was searched, questioned and photographed before being taken back to the border at Basel.

The NGO letter acknowledged that the Swiss authorities had a responsibility to ensure the safety and security of participants in the WEF but emphasized that it was also their duty to ensure that protestors were allowed the rights of peaceful assembly and freedom of expression.

The NGOs stated that, by simply banning demonstrations in Davos during the WEF and turning it into a "fortress", the Swiss government had set an ominous precedent for future world gatherings. The letter pointed out that, if debate was stifled, the credibility of the Davos meeting was threatened. The NGOs called on the government to review its policing strategy for the WEF 2001 and to develop a new strategy ensuring the rights of freedom of expression and assembly in future years.

security forces infringed constitutional rights. It is equally apparent to us that all those involved must learn from the events, so that in future the critics of the WEF will also be able to exercise their rights without restriction, as long as they demonstrate peacefully."

Official analyses of the policing operation and incidents surrounding the WEF 2001 were initiated at the federal and cantonal level.

### ***Universal jurisdiction over war crimes: the case of Rwandese national Fulgence Niyonteze***

(Update to AI Index: EUR 01/03/00)

In April the Supreme Military Court (*Tribunal militaire de cassation*) examined the appeal which Fulgence Niyonteze, a former local government official in Rwanda, had lodged against a sentence issued by a military appeal court in May 2000.

In April 1999, in the first trial of its kind in the national jurisdiction of a foreign country, a military court in Lausanne had found Fulgence Niyonteze guilty of murder, incitement to murder and war crimes during the 1994 genocide in Rwanda. It sentenced him to life imprisonment and expulsion from Switzerland for 15 years.

In May 2000 a military appeal court found him guilty of committing war crimes and sentenced him to 14 years' imprisonment for violation of the Geneva Conventions. However, it set aside the charges of murder and incitement to murder, declaring that a military tribunal was not competent to examine such offences when committed abroad by a civilian.

The Supreme Military Court confirmed the appeal court's sentence.

## TAJIKISTAN

### **Death penalty**

At least 22 death sentences were handed down and two executions were carried out in the period under review. However, as information on the practice of the death penalty is regarded a state secret, the figure may be much higher. In a number of cases AI received reports that trials were unfair and that defendants underwent torture or ill-treatment while in pre-trial detention.

### **Death sentences following an assassination attempt on the mayor of Dushanbe**

On 11 May Dovud Nazriev and his elder brother Sherali were sentenced to death by the military board of the Supreme Court of Tajikistan. They were convicted for attempting to assassinate Makhmadsaid Ubaydullayev, the mayor of Dushanbe and chair of the upper chamber of parliament, on 16 February 2000. Gaybullojon Saidov was reportedly executed on 4 April despite a communication under the individual complaint procedure by the HRC to the government of Tajikistan on 12 January requesting the authorities not to execute him while his case was under examination by the Committee. Gaybullojon Saidov's co-defendant, Mr Rebrikov (first name not known to AI), was also reportedly executed the same day. The families of the men were reportedly not notified of the date of the execution in advance. Both men had been sentenced to death by the military board of the Supreme Court of Tajikistan on 24 December 1999. They were accused of having supported the opposition figure and warlord Makhmud Khudoyberdiyev, who was allegedly intending to seize power in the northern Leninabad Region in November 1998. AI is concerned at reports stating that Gaybullojon Saidov did not have free choice of legal counsel; he was not

when a bomb exploded in the car that he and Deputy Security Minister Shamsullo Jabirov were traveling in. Shamsullo Jabirov, who was allegedly not the target of the attack, was killed; Makhmadsaid Ubaydullayev had slight injuries. According to unofficial sources, there are conflicting explanations of the bomb attack. Some say it was in fact an attempt to kill Makhmadsaid Ubaydullayev, organized either by President Rakhmonov and his supporters, who wanted him dead because he had become a serious competitor for power, or by relatives of people allegedly killed on Makhmadsaid Ubaydullayev's orders and who wanted revenge.

Exiled Tajik journalist Dodojon Atovulloyev told AI: "Especially in high-profile cases like this one the authorities have to arrest someone to show that they are doing their job. I think these two men have nothing to do with the assassination attempt. Those who actually organized the incident have not been found. Makhmadsaid Ubaydullayev is so powerful that no lawyer would dare to challenge him." Dovud Nazriev's wife believes that the charges against the men were political, fabricated to punish them because they fought against pro-government forces during the Tajik civil war of 1992-97. Dovud Nazriev's wife told AI: "Dovud was lying at home with 'flu [on the day of the explosion]. If he had gone to the bazaar or somewhere that day, I wouldn't be so convinced that he didn't do it, but he was in the house all the time. Our neighbors can confirm that he was at home, but they were not called as witnesses."

There are reports that the men were ill-treated in custody awaiting trial. Dovud Nazriev's wife told AI that when she visited Dovud and Sherali Nazriev several days after the trial her husband had cuts on his arm and bruises on the chest reportedly resulting from beatings before the trial; Sherali Nazriev had bruises on his legs, and cuts to his back. She also claims that Dovud had been drugged and that he did not receive appropriate medical treatment for his epilepsy.

### **Executions went ahead regardless of an intervention by United Nations Human Rights Committee (HRC)**

able to meet his lawyer regularly; and the lawyer was not able to attend a number of important court hearings. It is also alleged that shortly after his detention on 25 November 1998, Gaybullojon Saidov was ill-treated by police in order to force him to confess; as a result he had bruises all over his body, and he could not stand up because his feet were too swollen.

### **Afghan refugees in Tajikistan**

#### *Harassment and ill-treatment*

AI has taken testimonies from Afghan refugees in Tajikistan who allege that they were beaten by the police.

In June one such victim<sup>27</sup> told AI how he had been severely beaten by tax enforcement police who came to his shop in Dushanbe and who stated that his permit to stay in Tajikistan as a refugee had expired. He was detained on the spot and taken to the police station where the officers brought him to a room, locked the door, and began to beat him severely asking him to give them money. He was kept in detention for several days until somebody paid the police off.

AI is concerned that police appear to be committing these acts of ill-treatment with impunity. Although Tajikistani law guarantees refugees the right to lodge a complaint without being subjected to harassment, Afghans reportedly fear that lodging such complaints will expose them to further police harassment. AI has received several reports that Afghans have been detained and ill-treated after they have complained or have sought to complain against police brutality. Furthermore, others have told the organization that fear of police retaliation has stopped eyewitnesses from giving testimony to relevant authorities. This situation has created an atmosphere of fear and anxiety among Afghans in Dushanbe. Many Afghan men reportedly stay indoors to avoid being arrested at random, ill-treated and made to pay a bribe.

*Official orders to remove refugees from a number of areas in Tajikistan*

Presidential decree No. 325, issued on 26 July 2000, states that refugees are not permitted to live in a number of towns and regions of Tajikistan to "ensure security and public order in places of settlement of the Republic of Tajikistan." However, AI has not received any evidence to suggest that refugees in Tajikistan, including Afghan refugees, pose a security threat. The organization therefore believes that the decree, if implemented, violates the 1951 Refugee Convention, to which Tajikistan is a party and which affords a number of rights to refugees including the right to freedom of movement and the right to choose a place of residence.

Following Presidential decree No. 325, on 13 November 2000, Dushanbe's mayor Makhmadsaid Ubaydullayev ordered that those refugees whose On 11 June former UTO commanders Rakhmon Sanginov and Mansur Muakkalov reportedly captured seven Tajik policemen and servicemen of the Ministry of Defence in the village of Tepai Samarkandi, some 12 kilometres east of Dushanbe, demanding the release of several former UTO supporters who had been detained over recent months on charges including murder and illegal possession of firearms.

Rakhmon Sanginov and Mansur Muakkalov reportedly stated that criminal cases had been fabricated against those former UTO supporters whose release they were demanding. There are reports alleging torture and ill-treatment in connection with these cases. Supporters of the two commanders are

status had expired were to leave Dushanbe by 31 December 2000. The remaining refugees would have to leave the city by 31 July 2001. They were required to move to three areas: Leninsky (south of Dushanbe), Shakhrinar or Gissar (both west of Dushanbe). There are concerns that access to employment, education and housing would be difficult for refugees resettled to these places and that the government may not be able to ensure their safety in areas reported to be unsafe and rife with criminal activity. AI is concerned that forcible resettlement of refugees to the designated areas could lead to constructive *refoulement*. According to the mayor's order, those persons who would not move to one of the three areas voluntarily, would be deported out of the country.

AI is concerned that apparent impunity for law enforcement officers who ill-treat Afghan refugees, together with Presidential decree No. 325, and the resolution by the mayor of Dushanbe, may have given signals - not only to the police but to society as a whole - that Afghan refugees are unwanted. AI is concerned that this may result in them being more vulnerable to police brutality and other human rights abuses.

*Afghans still stranded on the Tajik-Afghan border*

The Tajik authorities have continued to keep their border closed for Afghan refugees fleeing fighting in Northern Afghanistan, and who are stranded in particularly harsh conditions on promontories in the Panj river, which marks the Tajik-Afghan border and is near the front line between the warring Afghan Taleban and opposition Northern Alliance forces. The area has on several occasions reportedly been shelled from Taleban positions in Northern Afghanistan.

The Taleban, who reportedly control over 90% of Afghanistan, are fighting for control of the rest of the country with the anti-Taleban alliance - the Northern Alliance - which is composed of former Mujahideen, the Islamic guerillas who fought the occupying Soviet army from 1979 to 1989.

*Hostage taking and military attack on former United Tajik Opposition (UTO) commanders*

also reported to have alleged that the arrests were manifestations of the government's non-compliance with the 1997 amnesty agreement which stipulates, for example, that no criminal charges will be brought against persons who participated in the civil war and that convictions of those already sentenced will be annulled. An exception was made regarding those convicted of violent crimes (such as, for example, terrorist acts, premeditated murder and rape in connection with the civil war) and who were reportedly given the opportunity to petition for a review of their cases if they believed they had been punished for political actions.

The hostage taking ended on 17 June, with no

<sup>27</sup> The name of the refugee and details of the case are

known to AI, but withheld to protect his identity.



reported casualties. On 22 June government forces launched a military attack against Rakhmon Sanginov's and Mansur Muakkalov's supporters in villages some 12 kilometres east of Dushanbe. On 25 June Reuters quoted an Interior Ministry official as saying: "Thirty-six armed rebels have been killed and 66 criminals arrested." Supporters of the former UTO commanders alleged that civilians were among those killed. On 27 June Sayed Abdullo Nuri, the head of the Islamic Rebirth Party (IRP), reportedly issued a statement claiming that innocent people had suffered during the attack.

The implementation of the amnesty agreement has been an ongoing issue of contention between the government and a number of supporters of former UTO commanders. Accusations and retaliations from both sides have frequently resulted in politically motivated crimes, such as killings and abductions.

## TURKEY

### Introduction

In March Turkey submitted a National Program outlining steps to be taken to meet the Copenhagen political criteria, a precondition for the start of accession negotiations with the European Union (EU). The National Program responded to short-term (2001) and medium-term objectives outlined by the EU in a memorandum adopted in December 2000. In the context of the human rights reform process, Turkey decided to give priority to a review of the Constitution adopted in 1982 under military rule, and the parliament discussed a major constitutional amendment containing a number of proposals which could lead to an improvement of Turkey's human rights record. Other legal reform processes were also promised in the National Program, and some of them were initiated. In the first half of 2001 the law on lawyers was amended, and three laws relating to the situation in the prisons were passed. Yet at the same time, there was no major improvement on the ground: with the opening of the fiercely debated high security "F-Type prisons" [see below] some thousand

Article 16 of the Anti-Terror Law – which laid down the draconian regime of intense isolation, but was rarely implemented before the opening of the F-Type prisons – was finally amended in early May so as to allow prisoners to participate in communal activities such as sport and education, and to receive unobstructed visits. Although a welcome and overdue step, the wording of the law suggests that these rights will be provided at the discretion of the prison authorities. The use of communal areas is granted only within the "framework of rehabilitation and education programs". When an ad-hoc delegation of the European Parliament visited two F-Type prisons in early June, they found that the common areas were not yet ready for use. They concluded that "isolation was almost total and therefore excessive, provocative and a form of unnecessary oppression, which can be a form of psychological torture".

prisoners were kept under a regime of prolonged isolation. The pressure on human rights defenders increased. Freedom of expression continued to be restricted. Torture remained widespread and the perpetrators were rarely brought to justice. There were numerous reports about political killings, some of which could be extrajudicial executions.

### **Regimes of isolation in the new "F-Type" Prisons**

(updates AI Index: EUR 01/001/2001, EUR 44/025/2001, EUR /44/028/2001 and EUR 44/031/2001)

After the prison operation on 19 December 2000 hundreds of male political prisoners were transferred under excessive force to three so-called "F-Type" prisons. The outdated system of large dormitories, which used to hold 60 or more prisoners, was being replaced with smaller cells, mainly in the F-Type prisons. By June four F-Type prisons were already in use, and seven more were being constructed. They have single and three-person cells with adjacent yards for three prisoners at the most.

For months the inmates of F-Type prisons were kept in solitary confinement or small group isolation. They were able to interact at most with two other prisoners, but had no opportunity to associate with other prisoners. Such prolonged isolation can cause serious physical and mental harm and amount to cruel, inhuman and degrading treatment. AI calls for it to be ended immediately. Since October, hundreds of political prisoners have protested against isolation with hunger strikes, as a result of which 26 people (21 prisoners and 5 relatives) had died by the end of June.

Upon judicial decision isolation conditions can even be increased. AI learned that in Tekirdağ F-Type prison Baki Yağcı, who had received an additional sentence of two years confinement, has been held in a small cell without windows since April. He has not been allowed to receive letters from his family, and only since June is he reportedly let into the yard for two hours a day. Only every 16th and 17th day he is allowed to see a doctor, his lawyer and relatives, and to have a full day in the yard.

In its campaigning AI has been urging the Turkish authorities to take the following measures to bring the situation in Turkish prisons into line with international standards: regimes of small-group isolation and solitary confinement in F-Type and other prisons should end immediately and prisoners should be allowed to spend at least eight hours of the day taking part in communal activities outside their living units as called for by the European Committee for the Prevention of Torture (CPT); prisoners should never be tortured or ill-treated; an independent and comprehensive investigation should be launched into the deaths and allegations of ill-treatment and torture during the December operation, the results made public and anyone identified as responsible brought to justice; prisons should be open to the scrutiny of human rights defenders, including doctors and lawyers, to ensure they are run in accordance with

Turkish law and international standards.  
**Torture still widespread**

In the first half of 2001 AI continued to receive reports on torture and ill-treatment from different parts of the country. On a mission to Turkey in June, the AI delegates interviewed torture victims and their lawyers throughout the country and obtained numerous reports and documents on torture and ill-treatment. The victims included people suspected of protests against the F-Type prisons, pro-Kurdish, Islamist or leftist activities, corruption or criminal offences. Some of the alleged victims were women and children. In Turkey, torture mainly occurs in the first days in police or gendarmerie custody, when the detainees are held without any contact to the outside world. Detainees are routinely blindfolded during interrogations, some of them throughout the police detention. Other methods of torture and ill-treatment regularly reported include heavy beating, being stripped naked, sexual abuse, death and rape threats, other psychological torture, and deprivation of sleep, food, drink and use of the toilet. Some detainees are also exposed to electric shocks, hanging by the arms, spraying with cold pressurized water and *falaka* (beating of the soles of the feet). Reports about ill-treatment in the F-Type prisons are difficult to check because of the restricted access to these prisons. In addition AI has increasingly received reports about the use of excessive force during mass arrests, torture with the aim to recruit informers and, in the case of suspected members of the Islamist armed group Hizbullah, prolonged police detention for several

Even children become victims of torture and ill-treatment. If they are arrested under suspicion of offences which fall under the jurisdiction of State Security Courts they are treated like adults and are deprived of special safeguards. In the southeastern town of Viran\_ehir in the province of Urfa twenty-nine young people, among them 24 children, were arrested on 8 January, accused of chanting slogans for the PKK. They were allegedly beaten and ill-treated, and detained in cruel, inhuman or degrading conditions. They were reportedly forced to stand for two or three hours with their faces to the wall and their hands above their heads, and were not allowed to look around or speak. They were also threatened and verbally abused. None was given access to a lawyer. The police reportedly made them sign documents, which none of them fully understood and at least some could not read. Later all but one were remanded to prison. Thirteen of them have been put on trial, and six of them remained in prison until 15 February 2001 at the end of the first trial hearing. It appears that the children may have been arrested and prosecuted solely on the basis of their ethnic identity, and that the main evidence against them are allegations and "confessions" which might have been elicited under ill-treatment or coercion.

Rape and sexual assault by members of the security forces continued to be reported. During incommunicado detention in police or gendarmerie custody women and men were routinely stripped

weeks or months. Although some legal changes were initiated, no actual measures were taken in the first half of 2001 to reinforce the fight against torture.

In Diyarbak\_r numerous people were arrested in early February, probably in relation with expected protests on the occasion of the anniversary of the arrest of Abdullah Öcalan, leader of the armed opposition group Kurdistan Workers' Party (PKK) two years ago. One of them was 28-year-old Abdulselam Bayram. His detention on 11 February was reportedly unacknowledged for several days. After a previous request was rejected, Abdulselam Bayram was visited by lawyers from the Human Rights Association (IHD) at Diyarbak\_r Police Headquarters on 17 February. The meeting was observed by security forces and lasted 10 minutes. Abdulselam Bayram reported that for seven days he was taken to the interrogation room every day; he was blindfolded, subjected to electric shocks, heavily beaten, hung by the arms, and sprayed with pressurised water. He also reported food deprivation. As a result of the torture he reported a severe pain in his chest. In addition, due to the hanging, his arms became numb. The lawyers observed that Abdulselam Bayram's body and hands were shaking, and he seemed exhausted. The wet state of his hair strengthened the impression that he was subjected to pressurised water. The lawyers also observed signs of psychological torture. In the first session of a trial in which he is charged with PKK membership, Abdulselam Bayram said that his police statements were taken under pressure. AI is not aware of any investigations into his torture allegations.

naked. Methods of sexual abuse reported included electro-shocks, beating on the genitals and women's breasts, squeezing the testicles and rape. After a 1<sup>st</sup> May demonstration several young women were taken into the custody of police headquarters in Izmir, a city on the west coast. Two of them gave similar reports to AI about the horror used to recruit them as informers on leftist circles: in the middle of the night each one of them was brought to a separate room where each was blindfolded, beaten, stripped naked and sexually abused. Subsequently both women were raped by police officers in these separate rooms. The women were released on the following day without having seen a prosecutor or a judge.

People suspected of criminal offences have also been tortured. In three villages and the small town of Sivasl\_ in the western province of U ak 11 people were arrested from their homes by gendarmerie in the night of 23 and 24 January. The arrest was based on an anonymous complaint that they had stolen sheep five years ago. In spite of this the local prosecutor gave permission to hold them in detention for four days. On 27 January they were released by a prosecutor. The men reported that they were blindfolded and handcuffed from the moment of their arrest. During transport and at the gendarmerie station they were heavily beaten and forced to sit on a very cold concrete floor having been stripped off their trousers and slippers. Two of them also reported that they had been exposed to *falaka*, one squeezing of his testicles, another one squeezing of his penis. They

were also threatened with other forms of torture. They reported that when they were brought to the state hospital in Sivas in the morning after their arrest with their eyes blindfolded and their hands chained, the doctors did not examine them properly and did not note their complaints. After their release they filed formal complaints against the gendarmerie officers and the doctors. With the support of human rights organizations, four of them were medically examined in Izmir, and the Medical Chamber in Izmir concluded in their reports that the medical and psychiatric results corroborate the torture allegations. However, seeking justice is economically difficult for the shepherds who cannot leave their sheep unattended.

**Impunity for suspected torturers**  
(updates AI Index: EUR 01/001/2001)

The authorities remained reluctant to investigate allegations of torture. Since her first arrest in March 1996, when she was only 17 years old, Gülistan Durç, the head of the women's commission of the legal pro-Kurdish party HADEP in Mardin, has been taken into custody numerous times for between two and seven days. During interrogations by officers from the Anti-Terror branch, she says she was subjected to various forms of torture including being stripped naked and blindfolded, heavily beaten, sprayed with cold pressurized water, suspended by her arms, threatened with death, burned with cigarettes and hot wires, and prevented from sleeping. After especially severe torture in April 1999 she filed a formal complaint, but withdrew it when she was arrested again two days later from her home by plainclothes police who threatened her. On 19 December 1999 Gülistan Durç

While no progress has been made in several cases of reported rape or other sexual abuse in custody, trials were opened against the victims and their intervening lawyers. The trial of police officers charged with having tortured Fatma Deniz Polatta and N.C.S. in early 1999 lingers on. The court says they are still waiting for the psychiatric reports, which certify that the two young women had been exposed to a trauma, to be officially submitted. (Update to AI Index: EUR 44/04/00 and EUR 01/03/00) Yet on 21 March 2001 a separate trial was opened in which women and men, who had denounced rape in custody at a conference held in June 2000, are charged with having insulted the security forces. Some of the defendants are also charged with separatist propaganda in a second trial. Among the defendants in the first trial are N.C.S.'s father and Fatma Deniz Polatta, although she was imprisoned at that time and could not have participated at the conference. It appears that this trial is mainly targeted at silencing and deterring women who make public the use of sexual torture and try to bring the perpetrators to justice. Another defendant in this trial is Nazl Top, who reported to have been raped with a truncheon in 1992 when she was pregnant. (see AI Index: EUR 44/52/92) At the end of 1993 seven police officers were put on trial, accused of torturing her. Five months later they were acquitted on the grounds that there was not sufficient evidence

to convict them. The acquittal was upheld by the appeal court. However, when the *Washington Post* reported in May 2001 about the women's trial and AI's campaigning against it, the Turkish Parliamentary Human Rights Commission reportedly decided to investigate Nazl Top's case. Similarly there was no progress in the investigations into the allegations that the Peace Mothers had been sexually abused in detention in early October 2000. But their lawyer, the human rights defender Eren Keskin, is now standing trial for having insulted the army because her description of the sexual torture, which the Peace Mothers had reported, had been published in the newspaper *Yeni Gundem*. On 2 May 2001, the Court of Appeal ordered another re-trial of police officers charged with having tortured 16 children in December 1995 in Manisa. The Appeal Court ordered this fourth trial after concluding that the officers' right to a defence had been improperly restricted by the local court during the third trial of the so-called Manisa case. In November 2000, the officers had been found guilty of torture by the local court, and had been sentenced to the lightest penalty available in Turkish law: terms of imprisonment of 12 months reduced to 10 months for each count of torture. The third trial had been ordered by the Appeal Court in 1999, following an appeal of an acquittal in the second trial - the first trial had also

ended in acquittal. Unless the fourth trial and any related proceedings are concluded before mid- 2003, there is a risk that the case will be closed, in accordance with the applicable statute of limitations which is seven and a half years. Earlier proceedings had been delayed by the inability of the court to locate the accused officers, who were still on active duty in other towns. Some of the victims reportedly suffer gravely from the effects of the torture they endured.

In December 2000 Turkish parliament adopted a so-called "amnesty" law (see below) which allows for the suspension of investigations and trials on ill-treatment. AI has documented that prosecutions for torture are rare and when convictions are secured they are usually for crimes classified as "ill-treatment." Under the "amnesty" law any security force members imprisoned following conviction of ill-treatment committed before 23 April 1999 are to be released and all trials and investigations in relation to charges of ill-treatment are being suspended for five years.

#### **Two HADEP politicians "disappeared"**

During the first half of 2001 AI frequently had to appeal to the Turkish authorities because of unacknowledged detentions which carry the risk of "disappearance". Two representatives of HADEP, Serdar Tan\_\_ and Ebubekir Deniz, still remain missing since 25 January when they were called to visit the gendarmerie station in Silopi in the southeastern province of \_\_rnak. Although witnesses reported seeing them go into the gendarmerie building the authorities at first claimed that the two politicians had not been detained. Later they admitted that the men had called at the gendarmerie "for half an hour", but said they had been released. Subsequently, family members were given reassurances that the men were

Hundreds of people who demonstrated against the F-Type prisons were arrested, in many cases reportedly with excessive force by the security forces. The pressure on civil society has increased enormously. Representatives of human rights organizations, political parties or trade unions, among them members of the Union of Employees in Judiciary and Enforcement Institutions *Tüm Yargı-Sen*, who criticized the F-Type prisons, have been charged with support of illegal organizations. The branches of IHD in Gaziantep, Malatya and Bursa have been closed indefinitely and the branches in Van, Konya and Izmir were closed temporarily. Other branch offices were raided and their members temporarily detained. Several trials were opened in which IHD representatives have been charged in relation to protests against the F-Type prisons. On 25 January the IHD headquarters were raided upon unfounded allegations that the association had received funding from the Greek Foreign Ministry. Many documents were confiscated and subsequently a trial opened in which the prosecution demands the closure of the IHD. AI has observed several of these trials and campaigned on behalf of the human rights defenders.

#### **Freedom of expression remains restricted**

(update to AI Index: EUR 01/001/2001)

still alive. In early March the authorities announced that a letter had been confiscated which indicated that the men had been abducted by the PKK and were held in a camp in Northern Iraq. The authenticity of this letter is doubtful and it is difficult to understand how the PKK could have abducted the men and brought them across the border immediately after they visited the gendarmerie. Before their "disappearance" Serdar Tan\_\_, HADEP head in the district of Silopi, had repeatedly been threatened and warned to give up his party activities. This is part of a pattern of repression on HADEP politicians in \_\_rnak. The provincial head Resul Sadak and 10 other men were arrested on 23 September 2000 (see AI Index: EUR 01/001/2001). Mehmet Dilsiz, the HADEP head in the district of Cizre, was arrested on 1 April. After the "disappearance" of his party colleagues and while it was still assumed that they were in gendarmerie detention he had reportedly received telephone threats by a man who said he was the "death angel of Serdar and Ebubekir".

#### **Increased pressure on human rights defenders**

Eren Keskin, head of the IHD Istanbul branch had been part of a delegation who travelled to Silopi to investigate the "disappearance" of two HADEP representatives. Immediately afterwards, the governor of \_\_rnak reportedly said on TV that "This woman from the IHD came and stirred everything up". After this, telephone death threats she had been receiving for a while increased. Osman Baydemir, IHD vice chair and head of the Diyarbakır branch, had also received death threats. Upon AI campaigning the threats ceased, at least, temporarily.

As a result of Law 4610 on conditional releases and the postponement of trials and sentences for offences committed before 23 April 1999, reportedly some 23,000 prisoners were released between 25 December 2000 and March 2001. Among them was the blind lawyer Eber Ya\_\_murdereli who had been adopted as a prisoner of conscience by AI. He was conditionally released on 18 January. Yet some of the prisoners of conscience were excluded from this law because they were sentenced under articles outside the scope of the law, for example the four former MPs of the Democracy Party (DEP), which had been banned in the meantime. Human rights defenders, writers, politicians, religious leaders, trade unionists and many others in Turkey continued to be tried and imprisoned for exercising their right to freedom of expression, particularly when they expressed opinions on the Kurdish question, the prisons or the role of Islam.

One of them is Dr Fikret Ba\_\_kaya, the founder and chairman of the Turkey and Middle East Forum Foundation. On 1 June 1999, he had published an article titled "A Question of History?" in the daily newspaper *Özgür Bak\_\_*, in which he questioned the viability of the Turkish state's approach towards the Kurdish problem following the arrest of Abdullah Öcalan. As a result, he was indicted under Article 8/1 of the Anti-Terror Law for "disseminating separatist

propaganda through the press". Istanbul State Security Court sentenced him to 16 months' imprisonment and a fine on 13 June 2000. He was remanded to prison on 29 June 2001. AI has adopted Dr Fikret Ba\_kaya as a prisoner of conscience and is campaigning for his immediate and unconditional release. (See AI Index: 44/042/2001)

The EU and the Council of Europe have called Turkey to comply with Article 10 of the European Convention. Turkey's National Program mentions a "review" of some articles which have frequently been used to restrict freedom of expression, but again links the intended reform to "basic principles of the Turkish Constitution, in particular those concerning the secular and democratic character of the Republic, national unity and the unitary state model". AI is concerned that this wording suggests that restrictions which do not comply with Article 10 will be retained. Therefore AI continues to campaign for a thorough reform of law and practice to fully ensure freedom of expression in Turkey.

## TURKMENISTAN

### *Persecution of religious believers*

*Possible prisoner of conscience Shagildy Atakov and harassment of his family*  
(update to AI Index: EUR 01/03/00  
and EUR 01/001/2001)

Concerns for the safety of Baptist Shagildy Atakov

Apparently in response to international concern about the way his health had deteriorated in detention, Shagildy Atakov was transferred from Seydi labour camp to a prison hospital in the town of Mary in mid-February. The director of the governmental National Institute for Democracy and Human Rights in Turkmenistan explained in a letter to AI's UK Section that Shagildy Atakov had been transferred for medical assistance and that "his health [was] at present in a normal state". However, he gave no details of the medical treatment given to Shagildy Atakov. He also denied that Shagildy Atakov had been ill-treated in detention, but did not provide evidence in support of this claim.

On 1 March Shagildy Atakov was reportedly returned from the prison hospital in Mary to Seydi labour camp and placed in a punishment cell for one month. Three weeks later, according to unofficial sources, he was transferred some 800 kilometres across Turkmenistan to a maximum security prison in the Caspian port of Turkmenbashi (formerly Krasnovodsk) in the west. The official reason for his transfer was not known.

In May Shagildy Atakov was reportedly unexpectedly taken to Ashgabat in a bid to persuade him and his family to agree to leave the country for the United States of America, according to reports by Keston News Service. The authorities had allegedly also brought Shagildy Atakov's wife Artygul to Ashgabat from Kaakhka where she lives in internal

were heightened in February following reports that he had been treated so harshly in prison that he was in imminent danger of dying. He had allegedly been beaten repeatedly by prison guards and had been inappropriately administered psychotropic drugs in order to punish him for his religious beliefs.

According to his wife Artygul Atakova, who visited him in Seydi labour camp on 3 and 4 February, he was reportedly hardly able to walk, he was bruised, he had abdominal pains, he frequently lost consciousness and he was suffering from jaundice. Shagildy Atakov reportedly told his wife that he was being treated with Aminazin and Prometazin, although he had been given no explanation as to why he needed to undergo this treatment. The psychotropic drug Aminazin (also known as Chlorpromazine, Largactil or Thorazine) is a major tranquilliser used in the treatment of psychoses. Prometazin or Promethazin (also known as Phenergan) is an antihistamine, which is used for a number of purposes, including the relief of allergy, nausea and vertigo, but is also be used to induce sleep. According to AI's medical advice, these drugs are not in themselves sinister. There are specific disorders for which they are prescribed, but they should be administered by qualified doctors, and their use monitored. Aminazin in particular can have powerful side-effects, including involuntary movements. In the light of previous allegations of torture and ill-treatment of Shagildy Atakov, and in the absence of evidence that he suffered from any psychiatric disorder, AI feared that the administration of such drugs might be a punitive measure.

exile, for a meeting with her husband at the offices of the National Security Committee (KNB). The two, however, reportedly told the KNB separately and jointly that they had no wish to leave Turkmenistan. The KNB reportedly warned Shagildy Atakov that if the family refused to emigrate he would have to serve his sentence in full.

In March Shagildy Atakov completed the first two years of his four-year sentence. He was charged with "swindling", but his supporters believed that the real reason was his religious affiliation. According to unofficial sources, Shagildy Atakov was to have been included in the latest presidential amnesty, issued on 23 December 2000. However, he reportedly refused to swear an oath of loyalty to the President on religious grounds, and so was not released.

Shagildy Atakov's wife Artygul and his five children continued to be harassed by the Turkmen authorities. According to the non-governmental organization *Missionswerk Friedensstimme*, the family were pressurized by the mullah, administration officials and officers of the KNB in Kaakhka to convert to Islam. Artygul Atakova was reportedly also warned that the family home would be confiscated if Baptists continued to meet there. In April the local authorities reportedly threatened to deprive Artygul Atakova of her parental rights because her children refused to take part in their daily school ceremony - the reading of the oath of allegiance to President Saparmurat Niyazov and the kissing of the Turkmen

national flag by all pupils. The authorities reportedly believed that the children were forced by Artygul Atakova to act against their own will.

Artygul Atakova and her five children were deported from the town of Mary, to the village of Kaakhka some 200 kilometres from Mary on 3 February 2000 and were put under "village arrest".

*Torture and ill-treatment of conscientious objector*  
(update to AI Index: EUR 01/01/00)

In May eighteen-year-old Baptist Dmitry Melnichenko was detained and tortured after refusing to carry arms and swear an oath of military allegiance on grounds of conscience.

Dmitry Melnichenko, who belongs to an Evangelical Baptist Church in Ashgabat, was reportedly called up for military service on 10 May. He apparently objected on conscientious grounds, and was taken to a military unit in the town of Serdar (formerly Kizyl-Arvat), some 200 kilometres northwest of Ashgabat. On 15 May he was reportedly brought to the local offices of the KNB and tortured.

According to *Missionswerk Friedensstimme*, Dmitry Melnichenko was "beaten on the knees, on the buttocks and on the head with a truncheon. He was insulted and humiliated in an attempt to force him to swear an oath [of allegiance]. When he continued to refuse to swear the oath they took a dynamo from a field telephone and forced him to hold the ends of the wires. Next they fastened the wires to his ears and sent the current through his head. His face was distorted. During the period under review little progress had been made in determining who was responsible for the apparent abduction and killing of the independent journalist, 31-year-old Georgiy Gongadze. The whereabouts of the journalist became unknown late in the evening of 16 September 2000 when he failed to return home after leaving a friend's house in the capital, Kyiv. The leader of the Socialist Party of Ukraine, Olexandr Moroz, implicated President Leonid Kuchma in the abduction in late November 2000, after he released audiotape recordings of President Kuchma allegedly discussing with other leading state officials about how to silence Georgiy Gongadze, charges which the President has vociferously denied. The alleged involvement of President Kuchma in the abduction created a political scandal in Ukraine, resulting in numerous demonstrations and pickets throughout the country, some of which ended in violence (see Freedom of assembly below).

The audiotape recordings were reportedly made by a 34-year-old former officer of the Ukrainian State Security Service, Mykola Melnychenko, who was said to have surreptitiously digitally recorded around 40 to 50 hours of conversations involving the President from under a sofa inside the President's office while working there. AI is informed that the conversations also allegedly broached another independent

and the saliva in his mouth became frothy and acrid. Then they put a hood over his head... and beat him about the face and neck. At about 8.00 pm they took him to the guardroom, where he was kept overnight...".

On 1 June Dmitry Melnichenko was reportedly transferred to a different military unit in Serdar on the orders of the Ministry of Defence. The following day he was apparently brought before the local prosecutor's office, where the Deputy Procurator told him that criminal charges would be brought against him if he did not swear the oath of military allegiance by 10 June. However, no criminal charges appeared to have been brought against Dmitry Melnichenko by the end of June.

Dmitry Melnichenko had reportedly been harassed and ill-treated for his religious beliefs previously: During a December 1999 crackdown on Protestant churches, he was apparently beaten severely and threatened with false criminal charges. KNB agents allegedly told him that when he reached 18, the age at which Turkmenistani men are called up for compulsory military service, he would be "repaid for his faith in Jesus".

## UKRAINE

**Possible "disappearance" of Georgiy Gongadze**  
(Update to AI Index: EUR 01/001/2001)

journalist, Oleh Lyashko, who has also been an object of state attention (see Freedom of expression below). Since making his allegations, Mykola Melnychenko has reportedly been charged by the Ukraine's prosecutor's office with abuse of office, divulgence of state secrets, slander of a state official and forgery and use of forged documents. In mid-April, Mykola Melnychenko, reportedly obtained asylum status in the USA, which refused to deport him to Ukraine. Georgiy Gongadze's 31-year-old wife, Miroslava Gongadze also obtained asylum in the USA around the same time.

In the light of the seriousness of the allegations against President Kuchma the authenticity of the audiotape recordings became a subject of considerable debate. On 21 December 2000 Ukraine's parliament, *Verkhovna Rada*, passed a resolution requesting that the Council of Europe carry out an independent investigation into the authenticity of the audiotape recordings. The Vienna based organization, the Independent Press Institute (IPI), and the US based organization Freedom House, after attempting to establish the tapes' authenticity, stated that, although they were unable to completely affirm authenticity, they decided it was highly unlikely that it was possible to manipulate 300 minutes of tape.<sup>28</sup>

Controversy also surrounded the efforts made to establish the identity of the decapitated corpse

<sup>28</sup>IPI Report, 2001, No. 1

believed to be that of Georgiy Gongadze, which was found in a shallow grave in woodland in the Tarashcha region, near Kyiv on 3 November 2000. According to the non-governmental organization Reporters without Borders, the results of a medical inquiry published on 11 January, during which 16 different DNA tests were supposedly carried out in Ukraine and Russia, revealed that there was a 99.64 per cent chance that the body belonged to the missing journalist.<sup>29</sup> However, a DNA test conducted in Munich, Germany, in March contradicted these original findings, finding that muscle tissue supposedly taken from the body was not compatible with a blood sample taken from the mother of Georgiy Gongadze. In contrast, the results of a joint US-Ukrainian DNA test published in May re-confirmed the identity of the body as Georgiy Gongadze. Georgiy Gongadze's 31-year-old wife, Miroslava Gongadze, and mother have refused permission to bury the body, fearing that its identity has not been correctly established. At the end of May Ukraine's prosecutor's office reportedly ordered that, against the wishes of Georgiy Gongadze's family, the body be buried. However, at the end of the period under review the body had not been buried.

The newly appointed Minister of the Interior, Yury Smirnov, created further controversy on 15 May when he stated that the criminal investigation into the "disappearance" of Georgiy Gongadze had been solved and the case was to be closed. According to the

Minsk District Court in Kyiv convicted 28-year-old Oleg Lyashko, the former editor of the now defunct newspaper, *Polityka*, on 7 June after a protracted trial. Although the criminal case against Oleg Lyashko was originally filed in July 1997, he was reportedly not formally charged until June 1998, almost a year later. He was accused of libelling two prominent government officials: the then acting Prime Minister, Vasyl Durdynets, and the head of the Ministry of the Interior of Odessa Oblast, Ivan Hryhorenko. Oleg Lyashko was reportedly accused of having libelled the officials in the course of three newspaper articles which appeared in *Polityka* in June 1997, alleging that Vasyl Durdynets and Ivan Hryhorenko were involved in corrupt business practices.

The criminal libel case was instituted against Oleg Lyashko under Article 125 (2) of the Criminal Code of Ukraine, of which he was acquitted by Judge Mykola Zamkovenko at Pechersk District Court in Kyiv on 23 December 1999. The court reportedly ruled that there was no evidence that a crime had been committed and the preliminary investigation had been biased. However, in November 2000 Kyiv City Court overruled Oleg Lyashko's acquittal, sending the case to Minsk District Court for retrial. On retrial, he was convicted of libel, resulting in a two-year suspended prison sentence. Minsk District Court additionally banned Oleg Lyashko, who now is the editor of the newspaper, *Svoboda*, from working as a journalist for a period of two years. AI is informed that Oleg

Minister of the Interior, the murder of Georgiy Gongadze had been non-politically motivated and had been committed by two criminals who themselves had been murdered by other criminals at a later date. The men accused of killing Georgiy Gongadze's killers were reportedly being held in police custody. Few people attached much credibility to the statement and the Minister of the Interior himself refuted his earlier statement as "premature" 10 days later on 25 May.

### **Freedom of expression**

AI expressed concern about the conviction of the journalist, Oleg Lyashko, of criminal libel on 7 June and the imposition of a two-year ban preventing him from practising as a journalist. The organization considered that the conviction of criminal libel under Article 125 of the Ukrainian Criminal Code and the professional ban were in violation of his right to freedom of expression and of Ukraine's international treaty obligations. Journalists convicted of libel under Articles 125 of the Ukrainian Criminal Code face possible imprisonment of up to three years. Alternatively, newspaper editors may face fines, to which there is reportedly no limit, which have resulted in the closure of a number of newspapers.

Lyashko intends to appeal the conviction and the two-year professional prohibition.

### **Freedom of assembly**

AI learned about two incidents in Kyiv on 1 and 9 March during which police officers used force to break up demonstrations against President Kuchma. The organization urged the authorities to ensure that in future the principle of proportionality of force is respected by police officers at all times, and that demonstrators are not ill-treated or arrested for exercising their right of peaceful assembly.

At around 9am on 1 March around 400 police officers surrounded a protest camp on Khreshchatyk Street in the centre of Kyiv and began dismantling approximately 50 make-shift tents located on the street. The encampment had reportedly been in place since the end of January. Although a number of the protestors left the protest camp after being ordered to do so by police officers, other protestors were reportedly threatened with up to 15 days' imprisonment if they refused to comply with the demands of the police. Approximately 40 protestors were reportedly arrested after refusing to leave. It has been reported that police officers may have used excessive degrees of force to dismantle the encampment and disperse protestors. Some protestors have reportedly complained that police officers kicked them for refusing to leave their tents. AI expressed concern that the police officers who allegedly

<sup>29</sup>Reporters sans frontières - Ukraine: Mutilation of the truth, Inquiry into the murder of journalist Georgiy Gongadze, 22

kicked protestors may have violated the principle of proportionality of force and ill-treated the detainees.

AI also expressed concern about allegations that police officers ill-treated protestors during a demonstration on 9 March 2001 in Kyiv. Several hundred protestors reportedly attempted to prevent President Kuchma from gaining access to the Talas Shevchenko monument in Kyiv in order to lay a wreath. The protest became violent after protestors reportedly threw missiles at police officers and police officers responded using force, resulting in the subsequent hospitalization of protestors and police officers. Approximately 200 demonstrators were reportedly arrested during the demonstration. A number of protestors have alleged that they had not acted violently and were ill-treated by police officers for demonstrating peacefully. AI requested to be informed whether an investigation has been initiated into the allegations and to be informed of its findings.

### **Regional intergovernmental bodies**

In the light of the overall deteriorating state of freedom of expression and assembly Ukraine came under criticism from abroad. In its report *Honoring of obligations and commitments by Ukraine* the AI expressed concern about reports that members of AI's Ukrainian Association were summonsed by the police to be interviewed in connection with a petition about alleged violations of the United Nations (UN) Convention on the Rights of the Child in Pakistan. As part of its campaigning activities, the Ukrainian Association of AI drew up a petition on the issue and collected signatures in various Ukrainian cities and towns. At a later date the various petitions were sent with letters to the Ukrainian Ministry of Foreign Affairs, highlighting AI's concerns in Pakistan in relation to violations of the UN Convention on the Rights of the Child.

The organization learned that members of the Ukrainian Association of AI in Lviv, Cherkassy Oblast (region) and Drohobych were summonsed by their local police on various dates during the second half of April, and asked to make statements about the organization's activities in relation to Pakistan. The police asked for the personal details of all the signatories of the petitions, not all of whom are members of AI, reportedly with the aim of interviewing them. The impetus for the action against the members of the Ukrainian Association of AI and the signatories of the petition is believed to have come from the Ministry of Foreign Affairs.

AI wrote to the Ukrainian authorities in May, expressing concern that its members have been called in for questioning by the police, apparently on account of their human rights related activities and stated that such activities may amount to the unwarranted

Committee on the Honoring of Obligations by Member States of the Council of Europe expressed concerns in its report "about the state of civil rights in Ukraine. They [the co-rapporteurs] "deplore the continuing reprisals, threats, and implicit threats of reprisal against those media, journalists, and other Ukrainians who dare to speak their minds openly and freely on the current crisis".<sup>30</sup> The co-rapporteurs urged "... the Ukrainian authorities to put an end to the practice of intimidation and repression of opposition politicians and the independent press, and to take all necessary measures to discourage and curb attacks and threats against journalists and other media representatives."<sup>31</sup>

In relation to the apparent "disappearance" of Georgiy Gongadze the co-rapporteurs "repeat[ed] their serious misgivings regarding the handling of the investigation by the Ukrainian authorities into the death"<sup>32</sup>, stating that "... only a credible investigation of Mr Gongadze's murder and of all the evidence that has emerged from the case can restore the country's image."<sup>33</sup>

### **Human rights defenders**

intimidation of human rights defenders in the country. AI also requested to be informed of the legal basis of such action. At the end of the period under consideration no reply had been received from the Ukrainian authorities.

UNITED  
KINGDOM

ENGLAND AND WALES

### **Update on the reform of the investigation system into serious police misconduct**

On the occasion of the second round of consultation on the Home Office document "Complaints Against the Police - Framework for a New System", issued in December 2000, AI submitted its comments on the government's proposals to the Home Secretary. While welcoming the government's decision to reform the current system for investigating allegations of police officers carrying out human rights violations, including unlawful killings, ill-treatment, and racism, AI said that the proposed investigatory body, the Independent Police Complaints Commission (IPCC), must be seen to be independent of the police force in

<sup>30</sup>Doc. 9030, Honouring obligations and commitments by Ukraine, 9 April 2001 - paragraph 39

<sup>31</sup>ibid. - paragraph 76

<sup>32</sup>ibid - paragraph 35

<sup>33</sup>ibid - paragraph 36



investigating allegations of serious police misconduct in order to gain public legitimacy and credibility. The organization urged that the proposed legislation include the following:

- there should be agreed criteria for the acceptance and recording of complaints, and they should be publicly available;
- allegations of ill-treatment, harassment and cruel, inhuman or degrading treatment should be explicitly included, regardless of the seriousness of the injury, in the list of cases to be referred directly to the proposed IPCC for investigation. In each such instance the proposed IPCC should be responsible for determining whether to submit a case to the Crown Prosecution Service (CPS);
- the proposed IPCC should have the power to initiate investigations into patterns of alleged police misconduct, whether or not complaints have been lodged;
- the complainant and his/her legal representative should have the right to be present at disciplinary hearings and not to be excluded from them by the presiding officer, as should members of the proposed IPCC;
- information obtained from investigations should be disclosed to the victim or family of the victim, subject only to the harm test;
- the proposed IPCC should comply with and uphold international human rights standards.

In May AI wrote a letter to the Home Office urging it to ensure that the inquiry be comprehensive and impartial and include the participation of coroners, doctors, academics, lawyers with experience of representation of families of the deceased at inquests, forensic scientists, human rights experts, psychiatrists, people with experience of dealing with victims' families and people with experience of the inquest systems in Northern Ireland and England and Wales. The letter was sent jointly with three other non-governmental organizations, namely Inquest, British Irish Rights Watch and the Committee on the Administration of Justice.

#### *Deaths in police custody*

James Ashley

In May all prosecutions against Sussex police officers involved in an armed raid which resulted in the death of James Ashley collapsed. James Ashley, 39, was shot dead by a police marksman with a single bullet reportedly at an 18-inch range in 1998 in Hastings, Sussex. He was in his flat with his girlfriend, naked and unarmed. The investigation into the circumstances of his death, carried out by Kent police under the supervision of the Police Complaints Authority, concluded that the police raid was based on intelligence which was "not mistaken or even merely exaggerated, it was determinably false...there was a plan to deceive and the intelligence was concocted".

At the beginning of May the Sussex's special operation unit officer who shot James Ashley was

The consultation ended on 28 February 2001. Its outcome had not been made public by the end of June.

#### *Deaths in custody/disputed killings*

##### *Review of the coroner system*

In March the Home Office announced a fundamental review of the coroner system. The review - which will cover England, Wales and Northern Ireland - will extend to legislation and to the procedures for investigation and certification of deaths, including post-mortem examinations and inquests.

The terms of reference of the review include consideration of: the most effective arrangements for identifying the deceased and for ascertaining and certifying the medical cause of death for public health and public record purposes, having regard to proposals for a system of medical examiners; the extent to which the public interest may require deaths to be subject to further independent investigation, having regard to existing criminal and other statutory and non-statutory investigative procedures; the qualifications and experience required, and the necessary supporting organizations and structures, for those appointed to undertake the duties for ascertaining, certifying and investigating deaths; arrangements for the provision of post-mortem services for the investigation of deaths.

found not guilty of murder because the prosecution could not disprove his claim that he acted in self-defence. Later in the month, the prosecution against three other Sussex officers charged with misfeasance-misuse of public office for deliberately failing to make a true assessment of the intelligence leading to the armed raid, was dropped, notwithstanding that their claims - that the raid was essential to recover a kilo of cocaine, to seize a firearm and to arrest a man wanted for attempted murder - were shown by the investigation to be untrue. The prosecution reportedly stated that although the raid should neither have been sought nor approved, it would be impossible to pursue cases against individual officers because of the depth of the corporate failure in the force. A fourth officer had been cleared of misfeasance at an earlier hearing, again because the prosecution offered no evidence.

In June the Chief Constable of the Sussex police resigned, following a call from the newly appointed Home Secretary to the Sussex Police Authority "to take whatever steps are necessary to restore public confidence", including considering whether the chief constable's employment should be terminated.

Roger Sylvester (update)

Although the family of Roger Sylvester were granted permission in April to judicially review the CPS decision not to prosecute any of the police officers allegedly involved in his restraint, in May the High Court decided to postpone the judicial review until after an inquest is held. Roger Sylvester, a black man aged 30, died a week after falling into a coma on 11

January 1999 after being detained under the Mental Health Act and restrained by eight Metropolitan Police officers. The High Court decided that the family's request for the disclosure of the findings of the police investigation, including medical evidence, would be met by holding the inquest. The High Court stated that the inquest would also allow the prosecution authorities to reconsider the decision in the light of the evidence presented at the inquest. Counsel for the family of Roger Sylvester noted that at the inquest the police officers allegedly involved, who may be prosecuted, would be allowed "to see all the evidence tested, and actually have a kind of rehearsal". The inquest into Roger Sylvester's death is unlikely to take place before October 2001.

#### Harry Stanley (update)

In March it was reported that the family of Harry Stanley was applying for judicial review of the CPS decision, taken in December 2000, not to prosecute the officers who shot him. Harry Stanley was shot dead by an armed response unit of the London Metropolitan Police on 22 September 1999 in East London, while he was walking home. He was unarmed. To date, the family of Harry Stanley has been refused access to all the information emerging Alton Manning, a 33-year-old black remand prisoner, died in December 1995 after a struggle with officers in Blakenhurst Prison in Worcestershire, England. In 1996 the CPS decided not to bring charges against any of the prison officers allegedly involved in restraining him. In March 1998 an inquest jury ruled that Alton Manning had been unlawfully killed after prison officers restrained him in a neck-lock, leading to positional asphyxia, during a violent struggle. After the inquest, seven officers were suspended. The findings of the inquest were referred to the CPS for further consideration, but in 1999 the CPS confirmed that no prosecutions would be brought for Alton Manning's death. The matter was referred back to the CPS on 17 May 2000 by the Divisional Court, after the deceased's family brought a successful judicial review of the previous CPS decision not to bring charges. On 1 June 2001 the CPS again announced that it would not be prosecuting any prison officer for the death.

#### Child soldiers

By the end of June, the UK had still not ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (see AI Index: EUR 01/001/2001).

In June a verdict of accidental death was returned at the inquest into the death of Wayne Richards, a 17-year-old Royal Marine recruit (see *United Kingdom: U-18s: Report on recruitment and deployment of child soldiers*, AI Index: EUR 45/57/00). Wayne Richard was in the ninth week of a 12-week course at the Royal Marine training centre at Lympstone, Devon. He was shot dead with live ammunition on 31 March 2000 during a night exercise during which only blank ammunition should have been used. It emerged at the

from the investigation.

#### Christopher Alder (update)

In April the CPS decided not to bring manslaughter charges against the five officers allegedly involved in the death of Christopher Alder, a black ex-paratrooper who died on 1 April 1998 in Queens Gardens Police Station, in Hull. The decision was taken despite an inquest jury's verdict in July 2000 that he was "unlawfully" killed. CCTV video evidence showed that he was left unconscious, face down on the floor of the custody suite, for over 10 minutes and that even though he had been incontinent and his rattling breathing was audible on the video, police officers speculated for several minutes that he might be faking, before calling an ambulance. The CPS is still considering whether to bring charges for "misconduct in public office amounting to wilful neglect". The family of Christopher Alder is considering whether to apply for judicial review of the CPS decision not to bring manslaughter charges.

#### Death in prison custody

##### Alton Manning

inquest that up to 13 live rounds were fired by a corporal who was unaware that the weapon was loaded with live ammunition. A troop training team member admitted at the inquest that there appeared to have been a "catalogue of errors" on the exercise regarding the use of live weapon and live rounds. The jury reportedly referred to non-compliance with orders and poor implementation of safety procedures.

Before the inquest the CPS had decided that there was insufficient evidence for a realistic prospect of conviction against anyone involved in the exercise. Following the inquest's findings, Wayne Richards' father was considering launching both a civil action and a private prosecution and said that the CPS should re-examine the case.

#### Freedom of expression: Trial of David Shayler

In April AI sent a legal observer to the preliminary hearing of the trial of David Shayler, a former MI5 (security services) agent. He faces charges under the Official Secrets Act, after making a series of allegations in 1997 and thereafter about the misconduct of security and intelligence agencies (see AI index: EUR 01/03/00 and EUR 01/001/2001). At the preliminary hearing the defence, claiming that the Official Secrets Act is inconsistent with the Human Rights Act, maintained that David Shayler should be entitled to argue at trial that the disclosures which he had made were in the public interest. The judge ruled that the defendant is not entitled to argue in court that his revelation of state secrets was in the public interest. The defence was going to appeal the judge's decision in July.

## NORTHERN IRELAND

### **Bill of Rights for Northern Ireland**

In February AI published *Northern Ireland: An inclusive Bill of Rights for All* (AI Index: EUR 45/006/2001). The document includes a paper by Gilbert Marcus, Senior Counsel, Advocate of the High Court of South Africa and England, entitled 'A Bill of Rights for Northern Ireland: Lessons from South Africa'. The document, was submitted to the Northern Ireland Human Rights Commission, which under the Multi-Party Agreement 1998 should draft proposals for a Bill of Rights for Northern Ireland. AI urged the Human Rights Commission to draft a comprehensive, effective bill of rights, guaranteeing not only the fullest protection of civil and political rights, but also of social, economic and cultural rights. In its submission, AI stated that the Bill of Rights for Northern Ireland should enshrine the highest contemporary standards of human rights protection and should enjoy a special status in law which underscores its fundamental nature. It should also contain effective mechanisms for enforcement. A representative of the organization and Gilbert Marcus went to Northern Ireland in April to submit the document to the Northern Ireland Human Rights Commission and to present their views to members of the Northern Ireland Assembly and to community

Consistent with the concerns expressed by AI, the European Court of Human Rights found in all four cases that the procedures for investigating the use of lethal force by police officers failed to meet the requirements of Article 2 of the European Convention on Human Rights, which enshrines the right to life. It criticized the lack of independence of the investigating police officers from the officers implicated; the lack of public scrutiny; and the lack of information provided to the victims' families by the prosecution authorities about decisions not to bring prosecutions. Also, the Court criticized the fact that the inquest procedure in Northern Ireland does not allow any verdict or finding which could play an effective role in securing a prosecution of any criminal offence; and that people suspected of causing the death cannot be compelled to give evidence at an inquest. The Court considered that the non-disclosure of witness statements to the victim's family prior to the witness appearing at the inquest prejudiced the families' participation in the inquest. It also was critical of delays in each case.

The landmark judgments effectively require the UK government to change the procedures by which it investigates killings in disputed circumstances, including criminal investigations, prosecution decision-making and the inquest system. They will have major repercussions not only for the families of the victims of the killings in disputed circumstances which the Court examined, but also for many other cases in Northern Ireland, as well as procedures in the rest of the UK.

The government has until the end of August to consider whether to seek review of these judgments by the Grand Chamber of the European Court of Human

activists.

### **European Court of Human Rights said UK violated the right to life in Northern Ireland**

Since the mid-1980s AI has expressed concern about the government's failure to ensure that disputed killings, including by the security forces or with their alleged collusion, were investigated promptly, impartially, independently and thoroughly. Such failure resulted in violations of international human rights. The police investigations have been flawed in many cases; the prosecution authorities have failed to bring prosecutions in most cases; and inquests in Northern Ireland have failed to provide a forum for scrutiny of the full circumstances of disputed killings and to examine the legality of law enforcement officials' actions.

The judgments delivered by the European Court of Human Rights in May highlight these concerns. The unanimous rulings were made in four cases brought by the families of 11 people killed by security forces and one person killed by an armed Loyalist group with the alleged collusion of the security forces. The European Court of Human Rights concluded that the UK had violated the right to life in Northern Ireland.

Rights.

### **The killings of Patrick Finucane and Rosemary Nelson (update)**

In April the United Nations (UN) Special Rapporteur on the independence of judges and lawyers, Param Cumaraswamy, addressing the UN Commission on Human Rights in Geneva, called once more for an independent judicial inquiry into the murders of Patrick Finucane and Rosemary Nelson. He also noted that the UK government had yet to respond to similar concerns he expressed last year.

The trial against William Stobie - so far the only person charged in connection with the murder of Patrick Finucane - had still not taken place. Neil Mulholland, a former journalist and key witness for the CPS against William Stobie, decided in April to withdraw his offer to testify, on health grounds. Neil Mulholland had interviewed William Stobie on the circumstances of the killing of Patrick Finucane over ten years ago.

Johnston Brown, a former RUC officer, alleged on 1 May during the Ulster Television (UTV) current affairs program *Insight*, that Special Branch had failed to provide the Stevens investigation with a tape recording, made in 1991, of a confession by a Loyalist regarding the killing of Patrick Finucane. He also stated that a decision to go forward with the investigation, after the taped confession, was blocked at a high level.

Colin Port continued to lead the investigation into the killing of Rosemary Nelson. Although a number of arrests were made and some people were charged

for other crimes, no one of them has yet been charged in connection with her murder. In April William Ian Thompson, a former Royal Irish Regiment soldier, who had links with the right-wing extremist group Combat 18, was sentenced to nine years' imprisonment for storing Loyalist arms. He had been arrested when detectives investigating the death of Rosemary Nelson raided his home, five miles from Armagh city. At his home detectives also uncovered Loyalist propaganda documents, some of which contained passages on Rosemary Nelson.

### **The killing of Billy Wright**

In February, David Wright, the father of the murdered Loyalist leader Billy Wright, obtained a ruling by the High Court that he should be given witness statements relating to his son's death. Billy Wright was shot dead in the Maze prison in December 1997, as he was being taken to a visit, by two Republican paramilitary prisoners. His father has claimed that Billy Wright could only have been killed as a result of collusion between prison officers and the Republican prisoners and has called for a public inquiry into the shooting.

There was an upsurge in violence, both in sectarian attacks, including shootings and petrol bomb attacks on many people's homes, and in shootings and killings by members of armed groups of people from their own communities. There was also an increase in the number of "punishment" beatings. According to police figures, 180 "punishment" attacks were carried out between January and 26 June; these included 95 shootings and 85 assaults, of which Loyalists were reportedly involved in 115 of the incidents, and Republicans in 65. Figures for "punishment" beatings also increased, with 41 beatings in Loyalist areas and 30 in Republican areas, from January to 31 May. Some of the victims included children under the age of 18.

In January, George Legge, a Loyalist paramilitary, was stabbed to death in Belfast, allegedly by other Loyalists. In March Adrian Porter was killed by two gunmen, allegedly Loyalists, at his home in Conlig, Co Down. A friend was also wounded.

In April, Jim Lismore was shot through both hands, feet and elbows allegedly by Republicans. He was reportedly given 48 hours to leave the country. In May, Stephen Manners, a former member of the Ulster Volunteer Force, was shot dead by two masked men, allegedly Loyalist, in a pub lavatory in Co Down. Also in May Paul Daly was shot dead in Belfast city centre, allegedly by Republicans. He was sitting in his car with his wife and 12-year-old daughter.

In June John McCormick, a Catholic, was shot dead in front of his pregnant girlfriend by Loyalist paramilitaries in Coleraine. It was reported that he may have been killed because he was a potential witness in a court case arising from a shooting in a Loyalist paramilitary feud, involving an 11-year-old girl.

### **The European Committee for the Prevention of Torture (CPT)**

In May the CPT published its report on its visit to Northern Ireland in late 1999. The CPT delegation had visited holding centres, prisons and juvenile justice centres. The report stated that the delegation had received allegations and reviewed evidence of ill-treatment during arrest in holding centres and in prisons. As an example, the CPT report referred to one case of a detainee held at Castlereagh holding centre in 1999, in which they had seen video evidence of two uniformed officers dragging him into the interview room and throwing him against the wall, and later detectives are seen lifting a desk and striking him with it. The government informed the CPT that the complaint had been investigated and rejected. The CPT queried why no one had requested to review the tape, some three weeks after the incident (which was when the CPT requested to see it) and since the detainee had made a complaint.

### **Abuses by armed groups**

## **UZBEKISTAN**

### **UN Human Rights Committee reviews Uzbekistan's first report**

AI submitted a briefing for consideration by the United Nations (UN) Human Rights Committee in view of its examination, on 26 and 27 March, of Uzbekistan's initial report on measures taken to implement its obligations under the International Covenant on Civil and Political Rights (ICCPR).

AI remained concerned that Uzbekistan had failed to implement its treaty obligations fully, despite legislative and judicial reforms aimed at bringing national legislation into line with international standards and numerous, wide-ranging and officially endorsed national initiatives in the fields of human rights education, and democratization.

In June AI published a report, *The Rhetoric of Human Rights Protection*, AI Index: EUR 62/006/2001, based on its briefing to the Committee. The report summarized the organization's concerns relating to the right to effective remedy, the right to life, torture and cruel, inhuman or degrading treatment or punishment, liberty and security of person, treatment of those deprived of their liberty and right to a fair trial under Articles 2, 6, 7, 9, 10 and 14 of the ICCPR. While the report did not cover all the failures to fully implement the ICCPR by the Uzbek authorities, it addressed some of the most serious breaches. AI believed that underlying the concerns highlighted in the report was a failure by the Uzbek authorities to fully guarantee genuine freedom of religion, expression and association as stipulated by the ICCPR under Articles 18, 19 and 22.

In its Concluding Observations (UN Doc. CCPR/CO/71/UZB), the Committee "expressed its appreciation for the frankness with which the State

party's report acknowledged problems encountered in the implementation of Covenant rights and commended the State party for undertaking the process of bringing its legislation into harmony with its international obligations. The Committee, however, deplored the State party's refusal to reveal the number of persons who have been executed or condemned to death, and the grounds for their conviction."

The Committee was also "gravely concerned about consistent allegations of widespread torture by law enforcement officials", in particular in order to extract confessions, and the limited number of investigations into such allegations. It recommended that "the State party should ensure that all such allegations were properly investigated and the persons responsible prosecuted. ... Free access to lawyers, doctors and family members should be guaranteed immediately after the arrest and during all stages of detention. The State party must ensure that no one is compelled to testify against himself or herself or to confess guilt." Although the Committee commended the Uzbek government for signing an agreement with the International Committee of the Red Cross granting On 4 January Mamadali Makhmudov was transferred from the hospital wing of Tashkent prison to a strict regime prison colony (KIN 64/46) in Navoy, some 500 km southwest of Tashkent in Bukhara Region, amid concern that he had not recovered sufficiently to withstand the conditions of detention in Navoy. Three months later he was back in the hospital wing of Tashkent prison, reportedly after an ICRC delegation had visited the Navoy prison colony. Mamadali Makhmudov's family were not informed of his transfer until May and were at first not granted a visit or allowed to give him parcels. On 16 June Mamadali Makhmudov was transferred to the strict regime colony (UYU 64/6) in Chirchik, some 30 km outside Tashkent. His health was reported to be still not strong: he continued to have heart problems, he had difficulty breathing and was said to be very thin. However, conditions of detention in Chirchik were said to be better than in Navoy. In a letter to President Karimov, written from his hospital bed, Mamadali Makhmudov had asked to be transferred to Chirchik because of his failing health so as to be closer to his family (and also because the climate was milder).

Mukhammad Bekzhon continued to serve his sentence in the strict regime prison colony in Navoy (KIN 64/46). Relatives who visited him were alarmed at his condition; he was reportedly walking on crutches and looked emaciated.

Komil Bekzhon was kept in a different colony in Navoy, and Rashik Bekzhon was serving his sentence in a strict regime prison colony in Kyzyltepa, also in Bukhara Region. There were reports that Rashid Bekzhon had lost vision in one eye as a result of torture. Relatives said that the three brothers had not complained about their conditions of detention because they were afraid of repercussions.

*Arbitrary arrest of Rahima Akhmadaliev  
and her daughter Odina Mahsudova*

the latter access to all detention facilities, it expressed its continued concern "about conditions in detention centres and penal institutions, particularly the extremely poor living conditions on death row...and numerous allegations of deaths in prisons and the return of marked and bruised corpses to the families of detainees." The Committee urged the State party to "ensure that all persons deprived of their liberty were treated with humanity and respect for their dignity... and to institute an independent system of monitoring and checking all places of detention and penal institutions on a regular basis with the purpose of preventing torture and other abuses of power by law enforcement officials."

**Possible prisoners of conscience**

*Detention of relatives and associates of the exiled leader of the banned opposition Erk party, Muhammad Salih*

(update to AI Index: EUR 01/01/00, EUR 01/03/00 and EUR 01/001/2001)

Officers from the Ministry of Internal Affairs (MVD) detained 39-year-old Rahima Akhmadaliev on 17 March after searching her family's Tashkent home without a warrant. They wanted to question her about the whereabouts of her husband, Ruhiddin Fahrudinov, an independent *imam*, who is wanted on allegedly fabricated charges of "Wahhabism".

On 20 March her 19-year-old daughter Odina Mahsudova came to look for her at the MVD, and was also detained. She reported that she and her mother were taken to a basement cell, where a group of officers threatened them and accused them of being "Wahhabis" and relatives of a criminal. Odina Mahsudova said her mother looked gaunt and appeared to have lost weight; she had allegedly been prevented from sleeping to force her to reveal her husband's whereabouts. Odina Mahsudova insisted that her mother did not know where Ruhiddin Fahrudinov was. The officers forcibly removed the women's *hijabs* (headscarves worn by pious Muslim women). They forced Odina Mahsudova to promise that she would stop wearing a *hijab* and stop praying. They then took her to a corridor and made her watch guards dragging a man out of a cell and beating him with rubber truncheons. She said his feet were covered in bruises, he was unable to walk and his nose appeared to have been broken. The officers apparently insulted and swore at her, and said her mother would be sent to prison because she was the mother of "Wahhabis". They threatened to take her six-year-old sister and three-year-old brother to an orphanage to prevent them from becoming "Wahhabis". They reportedly also forced her to curse her mother to her face, threatening to torture her if she did not. She believed this was intended to put further pressure on her mother. Odina Mahsudova was then released, on condition that she keep silent about what had happened, and help to find her father. For some days

she was too frightened to speak, but she finally defied the MVD's orders and appealed for help, putting herself in great danger.

Rahima Akhmadalievna was held without charge for two months in a basement cell at the MVD allegedly to force her husband to surrender to police. She was also reportedly denied regular medication which she needed for the treatment of heart problems. She was transferred to the investigation-isolation wing (SIZO) of Tashkent prison on 10 May and charged with Article 244-1, points one and two ("Production or distribution of material constituting a threat to public security and public order". Point one of the article relates to the production or possession with the aim of distribution of material advocating religious extremism, separatism and fundamentalism, or Former prisoner of conscience and head of the Kashkadarya branch of the non-governmental organization Human Rights Society of Uzbekistan (HRSU), Shovruk Ruzimuradov, was detained on 15 June by officers of the Kashkadarya Regional Department of the Ministry of Internal Affairs (OUVD). A group of 31 OUVD officers, some of them armed, reportedly searched Shovruk Ruzimuradov's home later that day without a warrant and beat his wife, daughter and sister. His elderly mother was reportedly pushed to the floor. According to his sister, officers planted leaflets from the banned Islamist party *Hizb-ut Tahrir* and cartridges in the house during their unsanctioned search. They also confiscated computer equipment, which belonged to the HRSU, a copy of the banned opposition movement *Birlik's* magazine *Karakat*, several books and documents, and cut off the telephone line. Supporters believed that Shovruk Ruzimuradov was arrested to punish him for his recent human rights activities, especially his monitoring of the forcible deportation of thousands of ethnic Tajik mountain villagers from Surkhandarynsk Region accused by the Uzbek authorities of collaborating with the IMU during their August 2000 armed incursions into Uzbekistan (see below). He was reportedly transferred to Tashkent and held incommunicado in a basement cell of the MVD, although the family was unable to confirm his exact whereabouts. There was grave concern that he was being tortured and that his life might be in danger.

Shovrik Ruzimuradov had previously been detained in April 1998, also on charges of illegal possession of firearms cartridges. Human rights activists believed the cartridges were planted by law enforcement officers in order to provide a basis for his detention. Shovrik Ruzimuradov was said to have been questioned on several occasions about his human rights activities by law enforcement officers since October 1996. He had allegedly been asked repeatedly by the authorities to stop promoting human rights activities and to resign from the HRSU. Shovrik Ruzimuradov was released after HRSU members raised his case with the chairman-in-office of the Organization for Cooperation and Security in Europe (OSCE) who was visiting Uzbekistan at the time.

#### *Forcible confinement in psychiatric hospital*

containing calls to violence, or designed to create panic among the population. Point two relates to the distribution of such materials), and Article 159 ("undermining the constitutional order"). She denied 244-1 point two and 159, but admitted possessing religious literature. Her lawyer was allowed some visits, however, her family were not able to see her. According to her lawyer, Rahima Akhmadalievna was receiving some medical treatment in the SIZO but it was not adequate and her heart problems were continuing. She was also reportedly suffering from an ulcer and was still very thin at the end of June.

#### *Arbitrary arrest of Shovruk Ruzimuradov*

Elena Urlaeva, a member of the HRSU, was detained and forcibly confined in a psychiatric hospital on 6 April. Elena Urlaeva was on her way to attend a peaceful demonstration protesting house demolitions outside the khokimiat (city administration) of Tashkent when she was stopped in the street by several law enforcement officers and forced into a waiting car. She was taken to the Mirzo Ulugbek district office of Internal Affairs (RUVD) where, according to reports, she had her documents confiscated; was questioned and beaten; and was then taken to Tashkent City Psychiatric Hospital No.1. On 7 April a medical commission ordered Elena Urlaeva to undergo compulsory treatment in a secure unit, a decision confirmed by Mirzo Ulugbek district court. The HRSU, however, challenged the court's decision, claiming that Elena Urlaeva was being punished for her human rights activities. Both the timing and the manner of Elena Urlaeva's detention raised serious questions about whether legitimate concerns for her mental health and her personal safety motivated the authorities to authorize her compulsory hospitalization. In June she was transferred to Tashkent Regional Psychiatric Hospital where she remained for observation, reportedly in an open ward. On 30 June Elena Urlaeva checked out of the open ward and returned home to await the outcome of her legal challenge against her forcible confinement.

#### *Death in custody*

*On 28 February 56-year-old Emin Usman, a well-known Uzbek writer of ethnic Uighur origin and chairman of the Uighur Cultural Centre in Tashkent, died in detention in the MVD. He had been detained on 11 February in the village of Navoy, near the capital Tashkent, where he lived with his family, and had been taken to a basement cell in the MVD in Tashkent. His lawyer was only granted*

access to Emin Usman five days after his arrest. He was reportedly charged with illegal distribution of religious materials. However, one of the investigators told his lawyer that he would also be charged with attempted overthrow of the constitutional order. On 1 March in the early morning law enforcement officers returned Emin Usman's body to his home for burial. Officers reportedly refused to let the family see his body and prepare it for burial. However, one of his relatives, who apparently managed to see the body, alleged that there was a deep bloody wound at the back of Emin Usman's head. Scores of special security officers were said to have cordoned off the streets surrounding the Usman home and to have restricted access to the area

In its briefing for the Human Rights Committee AI raised its concerns about consistent allegations that devout Muslim prisoners were not allowed to read the Koran or to pray in prison camps, and that they reportedly also had their beards forcibly shaved. The organization continued to receive reports that devout Muslim prisoners were singled out for particularly cruel, inhuman and degrading treatment in places of detention, particularly prison camps. According to relatives and former prisoners, upon arrival at a prison camp suspected Wahhabists or suspected members or supporters of *Hizb-ut-Tahrir* are separated from other prisoners and made to run the gauntlet<sup>34</sup>. They are forced to sing the national anthem and are severely beaten if they refuse to do so. They are reportedly beaten or confined to punishment cells if they are caught praying. There are also allegations that devout Muslim prisoners are subjected to beatings, humiliation, forced labour and rape by other prisoners with the complicity of prison authorities.

Hundreds of suspected members or supporters of *Hizb-ut-Tahrir* were sentenced to long terms of imprisonment on charges of membership of an illegal party, distribution of illegal religious literature and anti-state activities after trials which fell far short of international fair trial procedures during the period under review. AI also continued to receive scores of reports that defendants in these trials were tortured and ill-treated in detention in order to make them

as well as to the cemetery. During the funeral, which was conducted about two hours later, officers reportedly did not allow friends and family close to Emin Usman's grave. Although the family had been told by MVD officers on 28 February that Emin Usman committed suicide, a medical certificate delivered after the funeral gave the cause of death as brain tumour. There was concern that Emin Usman was arrested and tortured because of his ethnic origin and his religious convictions, and that he died as a result of torture.

#### **Political prisoners**

*Allegations of ill-treatment and torture in detention of suspected members or supporters of Hizb-ut-Tahrir and the Islamic Movement of Uzbekistan (IMU)*

confess.

*Trials of forcibly displaced ethnic Tajik villagers accused of complicity with the IMU*

In June 73 ethnic Tajik mountain villagers accused of supporting the IMU during the August 2000 IMU incursion into Uzbekistan were sentenced to long prison terms in four separate closed trials, despite earlier government assurances to the UN Human Rights Committee that the action to evacuate the villagers was taken in order to improve the living conditions of the people concerned and that no criminal cases would be opened against these forcibly displaced villagers.

The group trials, which opened simultaneously and without prior notice at the end of May, took place in four courts in different districts of Tashkent. The court buildings were cordoned off by armed police and there was a heavy security presence inside the court buildings. The police reportedly tried to intimidate relatives trying to gain access to the court proceedings and force them to leave Tashkent. Only one foreign observer, representing the non-governmental organization Human Rights Watch, managed to obtain access to one of the trials; the rest of the public, including foreign diplomats, local human rights monitors, and the media were barred.

All 73 defendants were found guilty of

passed.

<sup>34</sup>Former prisoners reported that they were made to run between two lines of guards who beat them with truncheons as they

collaborating with the IMU and sentenced to between three and 18 years' imprisonment after allegedly unfair trials which lasted only five days. According to the Human Rights Watch observer, the prosecution failed to provide any substantive evidence to prove that the defendants aided and abetted the IMU. All of the defendants had allegedly been held incommunicado until their trial and had not been granted the right to be represented by a lawyer of their own choice. In court the defendants reportedly withdrew their confessions and claimed that they had been tortured in order to force them to confess to fabricated charges. According to Human Rights Watch the defendants alleged that they had been forced to memorize and recite prepared confessions on film. Some of the men showed the court marks on their bodies allegedly inflicted by torture. The court, however, failed to take any of these allegations into consideration. The defence was reportedly only given 40 minutes in which to present its case.

In August 2000 the Uzbek military forcibly and without prior notice rounded up and resettled the mostly ethnic Tajik inhabitants from 11 mountain villages in the Sariasinsky district of the southern Uzbek region of Surkhandarynsk, on the border with Tajikistan, reportedly because armed units of the IMU had infiltrated these villages. Some of those resettled were said to have been arbitrarily detained. According to witness accounts, the villagers were forced into military helicopters at gunpoint, they were not allowed to take any of their belongings or their livestock, and they were not told where they were being resettled. The villages were then set on fire and bombed, destroying livestock, houses and fields. The villagers were first resettled in children's summer

AI remained seriously concerned that Uzbekistan continued to pass death sentences, and to execute those convicted. The fact that a substantial number of men sentenced to death alleged that they were tortured in pre-trial detention greatly heightened this concern.

The organization was also concerned that the way in which relatives of prisoners condemned to death were treated by the Uzbek authorities caused unnecessary distress and itself constituted cruel, inhuman and degrading treatment. The family is not informed of the date of execution and does not have the right to receive the body of the executed man, which is buried in an unmarked grave in an undisclosed location. In scores of cases, the family have not been notified of the death of the prisoner until months after the execution has taken place. In some cases the family may not even receive a death certificate.

#### *New death sentences*

Nikolay Ganiyev was sentenced to death on 29 March 2001 by Tashkent City Court for premeditated aggravated murder. The Appeals Board of Tashkent City Court turned down his appeal against the

camps and makeshift tent camps in cotton fields without proper infrastructure and sanitation some 90 km inland. In November, reportedly following complaints about their living conditions, the displaced villagers were moved a further 150 km inland to the desert in Sherobod district, where they were resettled into abandoned houses, allegedly unfit for habitation and with no drinking water. According to unofficial sources arbitrary arrests of male villagers over the age of 17 started around the time of the second resettlement. All the men were held in incommunicado detention and there were concerns that they were tortured. AI received information that ethnic Tajik men, other than those from the 11 mountain villages, were also arbitrarily detained. No reliable figure for the total number of arrests has been established, but some unofficial sources estimated that some 1000 male villagers might have been detained. According to official government figures 1,333 villagers in total were resettled, although unofficial sources believed that number to over 3,000.

#### *The death penalty*

During the period under review Uzbekistan continued to regard information on the application of the death penalty as a state secret. During its review of Uzbekistan's report (see above) the Human Rights Committee expressed regret that Uzbekistan continued to disregard its international obligations to make information on the death penalty publicly available. In its Concluding Observations the Human Rights Committee requested that the Uzbek authorities provide information on the death penalty within 12 months.

sentence on 1 June. Nikolay Ganiyev confessed to the murder, but denied that it was premeditated. He alleged that he was severely beaten by MVD officers after he was detained.

In a separate case, Nigmatullo Fayzullayev and Maksim Strakhov were sentenced to death by Tashkent City Court on 18 April for premeditated aggravated murder. The Appeals Board of Tashkent City Court upheld their death sentences on 29 May.

Maksim Strakhov's mother reported that when her son was arrested on 2 October 2000, he was severely beaten by law enforcement officers for more than three days. Maksim Strakhov wrote in a letter to his mother that he had been made to run the gauntlet<sup>35</sup>. Maksim Strakhov admitted having committed murder but insisted that "he had lost his mind and couldn't remember how it happened". He had reportedly previously received psychiatric treatment for post-traumatic stress symptoms after military service in Chechnya. According to his lawyer, he was also thought to be at risk of suicide during the pre-trial investigation, but the court of first instance and the Appeal Board failed to take either circumstances into account when reaching their verdict. However, the General Procuracy was reported to have lodged a

<sup>35</sup>He was reportedly made to run between two lines of

guards who kicked him and beat him with truncheons as he passed



protest against Maksim Strakhov's death sentence with the Supreme Court, and to have asked for psychiatric tests to be carried out to assess his mental health. The Supreme Court reportedly decided on 21 June to put the execution of Maksim Strakhov on hold for three months while psychiatric tests were carried out. The commander of Maksim Strakhov's military unit in Chechnya was said to have sent a letter to President Islam Karimov, signed by ten senior Russian army officers, urging the President to grant him clemency.

Nigmatullo Fayzullayev was still believed to be in imminent danger of execution.

#### *Executions*

AI learnt that despite international appeals to commute Gabdulrafik Akhmadullin's death sentence, he was executed on 6 June. Reportedly, his execution took place in Tashkent prison just two days before his family was due to visit him. On 29 May his wife had gone to see a presidential advisor and had reportedly been told that Gabdulrafik Akhmadullin's appeal for clemency would be considered within two or three months.

Gabdulrafik Akhmadullin was sentenced to death by Tashkent City Court on 18 October 2000 for premeditated, aggravated murder. On 15 January the Collegium of the Supreme Court upheld the death sentence. Gabdulrafik Akhmadullin was accused of having killed two elderly women, relatives of his wife,

Vazgen Arutyunyants and his co-defendant Armen Garushyants were sentenced to death by Tashkent Military Court in May 2000 on two counts of premeditated, aggravated murder. Armen Garushyants was also found guilty of deserting from his military unit in August 1998, and Vazgen Arutyunyants of possessing drugs. In October 2000 the Military Collegium of the Supreme Court rejected their appeals against their death sentences. Vazgen Arutyunyants, who maintained his innocence, had reportedly been severely beaten by police in an apparent attempt to extract a confession following his arrest in July 1999.

## YUGOSLAVIA, FEDERAL REPUBLIC (FR Y)

## SERBIA AND MONTENEGRO

### ***Political Background***

Under both Federal and Serbian governments, incidents of human rights abuses have declined substantially, and both parliaments have taken steps to address outstanding human rights concerns. In February, the Serbian Parliament passed legislation to

whom she had asked to look after the couple's flat in Tashkent while she was on holiday with their two daughters. Gabdulrafik Akhmadullin's wife claimed that her husband did not have the intention to rob and kill the two women, but that he lost his control when the women insulted him.

#### *Execution delayed*

(update to AI index: EUR 01/001/2001)

In April the mother of Vazgen Arutyunyants received a copy of a letter sent by the UN Human Rights Committee to the Uzbek authorities under the Committee's individual complaints procedure requesting them to stay Vazgen Arutyunyants's execution while the Committee examined his case. In December 2000 Vazgen Arutyunyants's mother had lodged a complaint with the Human Rights Committee expressing concern that her son's trial had not met international fair trial standards and that he had been tortured while in pre-trial detention to extract a confession. Vazgen Arutyunyants's mother was reportedly told by an official in the President's administration that her son's petition for clemency did not qualify for consideration by the President because he had not pleaded guilty. However, Vazgen Arutyunyants was still alive on death row at the end of June.

abolish the 1998 Public Information Act - used by the previous government to suppress freedom of expression, particularly that of the independent media. Following the amendment of the law on citizenship in February, refugees were able to apply for citizenship in the FRY, the Interior Ministry reporting that they had received over 300,000 requests for citizenship since 1997. The government also introduced a program to register refugees and IDPs, which in theory - although reportedly not in practice - then allowed them access to basic civil rights and services. On 4 June the Serbian Minister of Justice Vladan Bati announced that Serbia had decided to abolish the death penalty, [a draft law abolishing the DP was published in August]. Throughout the period several municipal courts decided to award compensation to *Otpor* (Resistance) activists, following the filing of 62 complaints against the police relating to cases of harassment and unlawful detention during the period up to October 2000. Other human rights concerns, many of them outstanding from the period of the previous government, remain to be addressed, including reform of the administration of justice and of the police.

The FRY was awarded special guest status at the Council of Europe on 22 January - and moves were made towards securing future entry to the European Union, and the NATO Partnership for Peace Programme. External pressure to improve human rights standards was primarily focussed on cooperation with the International Criminal Tribunal for the Former Yugoslavia (Tribunal), and in

particular, on the transfer of former president Slobodan Milošević to its custody.

Prospects for the future stability of the Federal government were fractured by questions relating to the future of the Federal Republic itself, fuelled by an increasing political rivalry between President Koštunica and Zoran Djindjić, Serbian Prime Minister. Combined with the increasing fragility of the *Demokratska Opozicija Srbije* (DOS) coalition - its majority in the Federal government only maintained by support from the Montenegrin SNP (Socialist People's Party) - real power, and the possibility of economic recovery was increasingly perceived as lying with the Serbian parliament. These political tensions took place against a background of little progress towards economic recovery in the FRY, still saddled with the effects of years of war and sanctions, servicing a large foreign debt, and awaiting foreign investment; unemployment remained high and living standards and wages for the majority of the population remained low.

The future of the Federation was further clouded by developments in Montenegro, Serbia's partner, where the government had been pursuing a path towards independence. However, the April elections in Montenegro failed to provide President Djukanović and the *Koalicije za Jugoslaviju* (Together for Yugoslavia) with the outright majority needed in order to progress towards a referendum on independence. Montenegro thus became more amenable to dialogue with President Koštunica on the possibility retaining some sort of Federation.

In Vojvodina, Serbia's last remaining province -

After 14 May, when NATO authorized the return of the VJ to the last sector of the zone, reported incidents intensified and around 5,000 civilians reportedly left their homes for Kosovo. At the end of May the UÇPMB signed an agreement to disarm and disband, and more than 400 men handed in their arms in a KFOR (Kosovo Force) brokered amnesty; a number of men thought to be members of the UÇPMB were detained by KFOR (see Kosovo). By the end of June most civilians who had fled into Kosovo were reported to have returned to their homes, some of which had allegedly been damaged by the VJ. Investigations into these allegations have reportedly been started. The situation in southern Serbia is now relatively stable, although at the end of June, several attacks by ethnic Albanians on police check points near Medvedje were reported.

### **Impunity for war crimes**

In January Carla del Ponte, the Chief Prosecutor for the Tribunal met with President Koštunica and other members of the government in Belgrade to discuss FRY's cooperation with the Tribunal and to urge the FRY authorities to transfer all indicted war criminals - including former president Slobodan Milošević - to the Tribunal. In February Momilo Gruba, Federal Minister of Justice, started to prepare a draft law on cooperation with the Tribunal, against the background of increasing international pressure for the transfer of

with a large Hungarian minority - support grew for a return to the autonomy enjoyed under the 1974 constitution, and promised to the governing Executive Council by the DOS party before the 2000 elections. On March 29, the Vojvodina Assembly passed a measure calling for regional control of the media, education, health and social services, security and minority issues, which was sent to the Serbian parliament for consideration. It seems unlikely that this constitutional reform will be addressed outside of the broader discussions on the future of the Federation itself.

In southern Serbia clashes between Serbian security forces and the armed ethnic-Albanian opposition group, the Liberation Army of Preševo, Medvedje and Bujanovac (UÇPMB), occurred regularly until the end of May, despite the presence of KFOR (Kosovo Force) troops. In February, Serbian Deputy Prime Minister Nebojša Cović, published a plan for the region, aimed at ending the low-level conflict, which was backed by NATO and the EU. The Cović plan called for the demilitarization of the UÇPMB, and the return of the VJ to the region, combined with measures to improve the local economy and minority rights, including the establishment of a multi-ethnic police force. After lengthy talks an agreement was made between the FRY and the North Atlantic Treaty Organization (NATO) for the phased return of the Yugoslav army (VJ) to the 5km wide security zone, established in 1999 to protect NATO forces in Kosovo from the VJ, and effectively held by the UÇPMB at the end of 2000.

the former president.

Mixed messages emerged from the FRY and Serbian authorities on their position on the transfer of the former President to the custody of the Tribunal. President Koštunica consistently stated his opposition to the transfer, before and after the arrest of Slobodan Milošević - and following his transfer to the Tribunal in June. Several Serbian government ministers also indicated an intent to cooperate with the Tribunal, and reportedly did not exclude the possibility of Slobodan Milošević being surrendered to the Hague. Other Federal and Serbian ministers took the position that Slobodan Milošević could be tried for war crimes in a trial in the FRY, perhaps in cooperation with the Tribunal; others have suggested that he could be transferred to the Tribunal following a domestic trial; proposals were also made for a domestic truth and reconciliation process.

Following financial pressure from the European Community and the United States - including the threatened withdrawal of US reconstruction funding in March - one indicted suspect, Bosnian Serb Blagoje Simić, was transferred to the custody of the Tribunal. On 12 March, apparently voluntarily, he announced that he was surrendering to the Tribunal, and requested the FRY government to make arrangements for his transfer. In a further bid to be seen to be cooperating with the Tribunal the Serbian Justice Minister, Vladan Batić, stated on 20 March that indicted suspects resident in the FRY - who were not

FRY citizens - would be arrested and transferred to the Hague. The first - and to date, the sole - such arrest - took place on 23 March, when Milomir Stakić, former mayor of Prijedor, was arrested and subsequently transferred to the Hague on 28 March.

On 1 April former President Slobodan Milošević was arrested by Serbian special forces at his home in Belgrade, and charged with corruption and abuse of power under applicable domestic law.

Against a background of increasing financial pressure from the EU and particularly the USA, in advance of the donors conference due to take place on 29 June - at which a \$1.25 bn aid and reconstruction package to the FRY was to be agreed - the government decided to present the bill on cooperation with the Tribunal to the Federal Parliament in the week ending 22 June 2001. It rapidly became apparent to the government that the bill would not be passed by the parliament - primarily due to opposition from the Montenegrin SNP; consequently, and by-passing the parliament, on Saturday 23 June the Federal Government adopted the bill by decree. On Monday 25 June, lawyers acting for Slobodan Milošević lodged an appeal against its constitutionality; on Thursday 28 June, the day before the donors conference was due to take place, the Constitutional Court decided to freeze the decree until they could establish whether it was constitutional or not.

Ignoring the ruling of the Constitutional Court, the Serbian authorities, lead by Prime Minister Zoran Djindjić, immediately took steps to transfer Slobodan

On 12 May, Vukadin Milojević, president of Niš Military Court confirmed that 193 military personnel - mainly reservists - had been indicted for crimes committed against the civilian population in Kosovo that "caused the death or jeopardized the lives and security of people, their dignity or morale, as well as their property" between 1 March 1998 and 26 June 1999. Six VJ reservists have also been accused of war crimes under domestic law, and their cases referred to civilian courts for trial; similar charges against an officer were reportedly dropped after investigation. In an increasingly acrimonious dispute between the military and the police, General Nebojša Pavković, commander of the VJ in Kosovo during the 1999 NATO air strikes, has repeatedly denied the involvement of the army in any abuses of human rights or war crimes.

Sreten Lukić, former commander of the Serbian police force in Kosovo, was controversially appointed as Serbia's deputy Interior Minister for public security (the head of Serbia's police force) on 20 January. In May he announced that 66 police officers and police reservists had been charged with murder, theft, arson and armed robbery committed during the Kosovo conflict in 1999, and that a further 244 police officers or reservists had been arrested and remanded for 30 days in connection with offences against ethnic Albanians.

### ***Identity-based Violations***

On 11 May 2001 the FRY acceded to the Council of

Milošević to the Hague before the 29 June deadline, and on the evening of 28 June, the former President was transferred by helicopter to the US base at Tuzla, from where he was flown to the Hague. The same evening, the FRY President Vojislav Koštunica appeared on national television where he publically denied that he had been informed of the plans to transfer the former President, describing the transfer as "neither legal nor constitutional". The following day, Zoran Đinđić, Prime Minister of the FRY - and deputy leader of the Montenegrin SNP - resigned in protest at the transfer, precipitating a crisis in the Federal Government.

AI welcomed the transfer of Slobodan Milošević to the custody of the Tribunal, but was concerned that no progress was made on the transfer of those co-indicted with the former President - Serbian President Milan Milutinović; former Serbian deputy prime minister Nikola Sainović; chief of staff of the VJ during the Kosovo conflict, Dragoljub Ojdanić, and former Serbian minister of internal affairs, Vojko Stojiljković - or other indicted suspects remaining at liberty in the FRY.

### ***Domestic trials***

Investigations and proceedings under domestic law for crimes allegedly committed by the police and the army in Kosovo were initiated by both civil and military courts.

Europe's Framework Convention for the Protection of National Minorities (FCNM); a law on national minorities - yet to be presented to the Federal Parliament - was also in the process of being drafted by Rasim Ljajić, the Federal Minister of National Minorities and Ethnic Communities throughout this period.

Reports of racist incidents occurred throughout the period: in February leaflets bearing a Nazi swastika were stuck onto the door of the Belgrade Rex cinema, where an exhibition on the history of Roma in Belgrade was being shown; similar leaflets were also posted on a synagogue and a Jewish municipal building, and in the Jewish cemetery in Belgrade. The Centre for Cultural Decontamination in Belgrade came under a similar attack. In Kikinda, Vojvodina, anonymous letters making death threats were reportedly sent to several Jewish families, and the facades of their houses sprayed with swastikas in April. In the same month racist flyers produced by a group calling themselves the Council of Serb nationalists appeared in Apatin. Antisemitic and racist graffiti were also reported to have appeared in Novi Sad in May and in Sombor in June.

Following a complaint made by the Humanitarian Law Centre (HLC), proceedings took place at Niš District Court against two skinheads - Oliver Mirković and Nataša Marković - accused of inciting racial, ethnic or religious hate in an attack on a 15-year-old Roma boy and his father on 8 April 2000 in Niš. Oliver Mirković and Nataša Marković were alleged - along with a minor against whom separate

proceedings were taken, and several other unidentified persons - to have kicked and punched the Roma boy outside a supermarket in Niš, shouting, "Gypsy - what are you doing in Serbia!" The boy's father, Nebojša Ajdarević - who came to his son's aid - was also attacked. After arrest, and in the presence of several police officers Nataša Marković is reported to have told Nebojša Ajdarević that she hated "Gypsies" and that "Gypsies have to get out of Serbia." Oliver Mirković and Nataša Marković were found guilty on 16 May 2001, and each sentenced to six months imprisonment, suspended for two years, in the first case in which an attack on members of a minority group was accepted by a court as incitement of racial, religious or national hatred.

The first Gay Pride celebration in the FRY was planned for 30 June in Belgrade. Prior to the event, the organizing group contacted the police to report both anonymous threats and public announcements by groups stating that they would prevent the celebration taking place. These included the nationalist group *Obraz* (Honour), the Saint Sava Youth (associated with the SRS - Serbian Radical Party) and the *Crvena Zvezda* (Red Star) football supporters, who published homophobic statements on their web-site. The celebration was prevented from taking place by a counter-demonstration of up to 800 people - mainly men - and including groups from known nationalist organizations. Shouting homophobic threats, the crowd made a series of violent attacks on the Gay

On 24 January 2001, Srdjan "Si ko" Knežević, coordinator of the Network for Conscientious Objection was arrested by the military police at Belgrade airport in relation to charges presented against him at Niš Military Court, relating to his alleged desertion from the Yugoslav Army (VJ) in June 1999. He was released after 24 hours - after being taken to the military court at Niš - without any further action being taken. AI is concerned that he was targeted for arrest because of his work as a human rights defender and notes that he was arrested at the airport immediately before he was due to fly to an international conference on conscientious objection in Switzerland. A TV sports journalist from Montenegro was also arrested - and later released - at Belgrade airport on 10 January 2001, apparently because of his failure to respond to the call-up during the NATO intervention in 1999.

The Federal Parliament approved the Amnesty Law on 11 January 2001 and it passed into law on 27 February. The main provisions of the amnesty applied to conscientious objectors and deserters who had refused to take part in the wars conducted by the Federal Republic of Yugoslavia in the period between April 1992 and October 2000. The law additionally provided an amnesty to those sentenced under articles of the FRY Criminal code covering "criminal acts" against the VJ and some constitutional offences, as well as providing for a 25 percent reduction in the sentences of prisoners convicted of all but the most serious of crimes.

According to reports received by AI, a number of

Pride participants, also attacking by-standers, journalists and the police using fists, bottles, stones and clubs. A planned press conference was also prevented by assaults and further threats against several gays and lesbians who tried to attend the meeting. Reportedly 40 civilians and 8 police officers were injured. AI was concerned at reports that police were heard to question why they should provide protection for lesbians and gay men, and called on the Chief of the Belgrade Police to open an investigation into the failure of the police to act with due diligence to prevent the violence against the Gay Pride celebration. The organization also called on the authorities to open a full and prompt investigation into those responsible for organizing the violence.

The organization *Obraz* was alleged to be responsible for some of the reported attacks on ethnic minorities and of involvement in the attack on the Gay Pride march in Belgrade. The organization, whose web-site contains anti-semitic and racist content, was founded four years ago, and is now estimated to have a membership of up to 30,000 in Montenegro and Republika Srpska, as well as in Serbia. The HLC has requested that the public prosecutor take steps against the organization under Article 134 of the FRY Criminal Code, which prohibits the incitement of ethnic and religious hatred.

### **Conscientious objectors and the Amnesty Law**

conscientious objectors and deserters who had fled to third countries have now returned to the FRY, though others have chosen to remain abroad as they fear that they will still be subject to arrest and harassment or discrimination by the authorities and will not be protected from future call-up.

Following government proposals to reduce the period of compulsory military service from 12 to 10 months, with provision for a period of alternative civilian service of 20 months, rather than 24 months, the Yugoslav Committee of Human Rights (YUKOM) drew up a petition proposing a further set of amendments to the law on military service. They criticized the government's proposed amendments on grounds that the length of alternative civilian service was punitive, and called for both military service and a civilian alternative to be set at seven months. The YUKOM amendment also called for the right to conscientious objection not solely on the grounds of religious belief, but also on moral, political, philosophical and other grounds; and for decisions on applications - and on the approval of civilian alternatives - to be determined by a civilian authority rather than a military body. YUKOM also called for the right to conscientious objection at any time, both up to and having entered the armed forces; the right to conscientious objection is currently only available to new recruits within 15 days of receiving a summons for mobilization. With over 30,000 signatures collected by YUKOM and other NGOs, the petition was submitted to the Federal government on 4 June. The FRY constitution provides for amendments made by public petition - and signed by more than 30,000

adult voters - to be considered by the Federal Parliament.

### ***Ethnic Albanian Prisoners in Serbia***

The Amnesty Law also applied to people suspected of or already sentenced for crimes committed during the 1999 Kosovo conflict, with the exception of those convicted of terrorism under Article 125 of the FRY criminal code. By 18 March, 173 ethnic Albanian prisoners had been released, and by the end of June, just over 200 prisoners had been released under the Amnesty Law.

The law did not cover those ethnic Albanian prisoners convicted of "association for the purposes of hostile activity in connection with terrorism" under both Articles 125 and 136 of the FRY criminal code, the majority of whom AI believed to have been convicted and sentenced in unfair trials. However, on 12 January the Federal Minister of Justice, Momilo Gruba, acknowledged that there had been irregularities in proceedings against ethnic Albanians, *inter alia*, in the definition of terrorism used. Several cases were subsequently referred to the Supreme

On 18 April 2001 the Niš District court found Luan Mazreku and Bekim Mazreku guilty of terrorism under Articles 125 and 139 of the FRY Criminal Code and sentenced them each to the maximum sentence of 20 years' imprisonment. Cousins Luan Mazreku and Bekim Mazreku were arrested in August 1998, and charged with attacks - in conjunction with 18 other members of the KLA, none of whom have been brought to trial - on four members of the VJ at Malisevu. They were also indicted for the massacre of over 40 Serbian civilians - (mainly women) - who they allegedly tortured, mutilated and then shot in Kleka, near Orahovac, between 17 and 22 June 1998. Both men were also charged with rape, including that of a minor. On 3 April 2001, the indictment had been amended, dropping a charge of conspiracy, and charges relating to the abduction, torture and murder of two alleged victims whose death certificates had been presented in evidence, as it transpired that one of them had committed suicide and that the other had died of pneumonia.

According to reports from the HLC, the proceedings which opened on 3 April 2000 - and which were adjourned three times - failed to meet international standards for fair trials. HLC reports that the accused were sentenced on the basis of forced confessions that had been extracted under torture, the men having allegedly been beaten by the police, subjected to electric shocks and cut with knives. Luan Mazreku also claims that he was drugged, and alleges that he was forced to make a statement, which he was then required to learn and repeat in front of a camera; Bekim Mazreku was also forced to make a statement, but was unaware of being filmed; extracts from both confessions were shown on RTS (Serbian Television) - violating the defendants' right to be presumed of innocent. The admissibility of statements made as a result of torture is prohibited under Article 26 of the

Court, including that of 143 men from Djakovica (Djakovë) sentenced to between seven and twelve years' imprisonment in May 2000. On 23 April, the Supreme Court ordered their release, pending a retrial, annulling the original verdicts on the grounds that the previous trial had included serious violations of criminal procedure. On 25 April, the 143 released men travelled back to Kosovo; AI does not believe that any further proceedings will take place.

By the end of June, following periodic releases under the amnesty law or for other reasons, an estimated 235 ethnic Albanian prisoners remained in custody. AI believes that the remaining prisoners include those convicted and sentenced in trials which failed to meet internationally recognized standards for fair trial, and has repeatedly called on the Serbian Supreme Court to review the evidence against these prisoners, and - should there be a case to answer - to hold a fair trial within a reasonable time. Otherwise, the organization has called for the prisoners to be immediately released and provided with appropriate compensation under national law.

### ***The Mazreku Trial***

Serbian Constitution - and by Article 15 of the Convention against Torture (CAT), to which the FRY is a signatory. A request by the defence that the unedited tapes of the men's statements be viewed by the court, and that they be subject to a medical examination to establish the state of their health, was denied.

The HLC also reported that Luan Mazreku and Bekim Mazreku were denied access to their lawyer during interrogation and certain other investigative procedures, violating Article 24 of the Serbian Constitution and Article 14 of the International Covenant on Civil and Political Rights (ICCPR). Other violations reported by the HLC were the exclusion of independent evidence provided by a Finnish team of pathologists, who had attended the site of the massacre; the lack of direct evidence to link the two men to the massacre; and the failure of the court to translate proceedings into Albanian until the third hearing of the case.

## **KOSOVO (KOSOVA)**

### ***General Political Background***

Hans Haekkerup replaced Bernard Kouchner on 15 January as the UN Special Representative of the Secretary-General in Kosovo (SRSG) and head of the United Nations Interim Mission in Kosovo (UNMIK). In March 2001, UNMIK established the Working Group on the Legal Framework of the Provisional Self-Governing Institutions of Kosovo (Working Group), comprised of international experts and representatives of domestic political parties. The Working Group, which held its first meeting on 6 March, was charged with drafting regulations to establish a framework of self-government of Kosovo, within the parameters of UN Security Council

Resolution 1244/1999, which authorized the presence of UNMIK and the Kosovo Force (KFOR) in Kosovo. On 15 May the SRSG promulgated Regulation 2001/9 which established the Constitutional Framework for Provisional Self-Government in Kosovo (Framework), and pending a final settlement on the status of Kosovo. The Framework provides for the election of a new Kosovo Assembly and sets out the procedures, powers and responsibilities to be observed and enjoyed by the new institution. *Inter alia*, the Framework makes provision for the enjoyment, "of human rights and fundamental freedoms by all persons in Kosovo" and charges the Provisional Institutions of Self-Government with both the observation of international standards, and the duty of

Two of the three ethnic Albanian members of the Interim Administrative Council (IAC) - Ibrahim Rugova of the LDK (Democratic League of Kosovo) and Ramush Haradinaj of the AAK (Alliance for the Future of Kosovo) - expressed support for the Framework. However, they - along with the third member - PDK (Democratic Party of Kosovo) President Hashim Thaçi, who refused to sign the document - criticised the document for failing to make provision for a referendum, or other mechanism to resolve the long-term status of Kosovo. Following limited participation in the working group by representatives of the Serb community in Kosovo, Rada Trajkovi, Kosovo Serb member of the IAC, while signing the Framework, declared it unacceptable, but unlike other Kosovo Serb leaders did not rule out Serb participation in the elections for the new assembly. The lack of concordance on the agreement raised concerns for the future implementation of the Framework, and in particular the provisions related to the rights of minorities and the right to return.

Throughout the period, the presence of armed opposition groups - in southern Serbia until May, and in Macedonia from February onwards - impacted on the internal security of Kosovo. Former members of the disbanded Kosovo Liberation Army (KLA) were alleged to have joined the National Liberation Army (NLA) in Macedonia, and Kosovo was believed to be used as a supply-base by the NLA.

### ***The Rule of Law and the Administration of Justice***

AI remained concerned that the rule of law and a comprehensive framework for the administration of justice which is compatible with international human rights standards had not been fully established.

With the aim of strengthening the rule of law and the administration of justice on 18 May 2001 the SRSG authorized the establishment of a new Peace and Justice "pillar" within UNMIK. The new structure, which takes over functions previously the responsibility of the Civil Administration pillar, brings together the police, security and justice functions of UNMIK. Acknowledging the potential for abuses of human rights in an organization which includes both international and domestic police forces and the Department of Judicial Affairs, UNMIK stated

ensuring their enjoyment. The Framework also makes provision for the representation of minority communities in the elected Assembly (20 of the 120 seats are allocated to minorities: 10 to the Kosovo Serbs and a further 10 divided between the Roma, Ashkali and Egyptiani, Bosniak, Turkish and Gorani communities) and for the enjoyment of social, economic and cultural rights by members of all communities. The SRSG retains certain executive powers, most notably over the international judiciary, law enforcement, defence, civil emergency and security issues, and as well as responsibility for external relations. The authority and mandate of both the SRSG and of KFOR, derived from UN SC Resolution 1244/1999 remain unchanged.

that they aimed to ensure that the independence of both police and judiciary were maintained. *Inter alia*, the new pillar aims to increase the numbers and capacity of both the Kosovo Police Service and of judges and prosecutors in the Kosovo courts, and expand both detention and penal facilities, providing international funding is available. Further measures to address weapons possession, terrorism law and to combat organized crimes were also announced.

AI had previously expressed concerns at the increase in trafficking in women into Kosovo for the purposes of prostitution, and welcomed the promulgation of Regulation 2001/4 which provides for the prosecution of those involved in the organization and activity of trafficking, and for the prosecution of those persons who knowingly used trafficked women for sexual services. AI is concerned, however, that the measures introduced for the protection of trafficked women required to appear as prosecution witnesses in proceedings against suspected traffickers appear to be inadequate, and that the policy of repatriating trafficked women as quickly as possible - in conjunction with the International Office of Migration - could lead to impunity for the perpetrators.

Despite the appointment of international prosecutors and judges to the Kosovo courts, the administration of justice in Kosovo continued to fall short of international standards. From cases of unlawful pre-trial detention and breaches of criminal procedure, the administration of justice failed to be conducted in a manner consistent with international human rights standards.

### ***War Crimes Trials***

Nine criminal proceedings were conducted against Serbs suspected of war crimes or genocide during this period in the Kosovo Courts. AI was concerned that some of the proceedings, including some presided over by international judges, failed to meet international fair trial standards.

### ***Administrative Detentions***

AI continued to express its concern that Hans Haekkerup, the SRSG, continued the practice of issuing Executive Orders to authorize the administrative detention of suspects. In February, AI

wrote to the SRSB concerning the detention under Executive Orders of Afrim Zeqiri, an ethnic Albanian from Cernica. Afrim Zeqiri was originally detained on the order of the Gjilan (Gnjilane) District Court during an investigation into the murder of two Serbs and the injury of two others. Following an order for his release, he was subsequently detained under Executive Orders from 26 July to 14 September 2000 and - following a month in which his detention was authorized by a judge - from 14 November until 12 February. During this time, for a total period of three weeks, his detention was neither authorized by a judge nor by the SRSB. Despite the organization's representations that such detentions failed to comply with international standards, *inter alia* in failing to provide any person deprived of their liberty with access to a mechanism to challenge the lawfulness of their detention, Afrim Zeqiri was held in detention under Executive Orders until 28 May 2001, when he was charged with murder and attempted murder, under the applicable law.

#### *KFOR detentions*

AI was also concerned about the continuing practice of arbitrary arrests and detentions - known as "COMKFOR holds" - which the organization had previously characterized as unlawful. COMKFOR detentions are ordered on the authority of the Commander of KFOR on the basis of UN SC Resolution 1244/1999, again in the absence of any judicial process to determine detention. Detainees are held on a thirty-day renewable basis, usually at the US KFOR base Camp Bondsteel, but can be held for shorter or longer periods before release. Like SRSB detentions, COMKFOR holds contravene Article 5 of the ECHR, as they deny people deprived of their liberty access to the means to challenge the basis of their detention.

Arrests and short-term detentions by KFOR - on a "screen and release" basis - increased following the amnesty provided at the end of May by KFOR to members of the Liberation Army of Presevo, Medvedja and Bujanovac (UCPMB). Though the majority of men who handed themselves in to KFOR were released within 24 hours, others were detained on entry into Kosovo on suspicion of being a member of an armed group or of carrying a weapon. In June, KFOR shifted their focus from the Presevo Valley to the border with FRYOM, setting out to interdict the supply of arms and passage of men suspected to be members of the NLA between Kosovo and Macedonia.

On 10 May 42 ethnic Albanians, many of them from Macedonia, who had been detained on 30 March on suspicion of membership of the NLA, were released on the order of the Kosovo Supreme Court as no decision to prosecute the arrested men had been filed by the investigating judge. A spokesperson from UNMIK also admitted that many of the detainees had not been taken before the investigating judge during their period of detention. During June, according to KFOR, 83 men attempting to enter

Other detentions under Executive Orders included that of three men suspected of involvement in the Podujevo bus bombing on 16 February (see below). Avdi Behluli, Qele Gashi and Jusuf Veliu were arrested during the period 19 to 20 March by KFOR and UNMIK police. On 28 March, following an appeal against their detention, a panel of international judges at the Pristina District Court ordered their immediate release. Despite the order of the court, Avdi Behluli, Qele Gashi and Jusuf Veliu have remained in detention at the KFOR detention facility at Camp Bondsteel until the end of this period, under successive Executive Orders, without recourse to a court to challenge the lawfulness of the deprivation of their liberty. The organization is concerned that Avdi Behluli, Qele Gashi and Jusuf Veliu were denied their rights - under Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) - to be promptly notified of the reason for their arrest, to be brought promptly before a judge, and to be tried within a reasonable time. Kosovo from Macedonia were turned back, and a further 87 were arrested for illegally crossing the border; a further 121 were arrested on suspicion of being members of the Macedonian NLA (National Liberation Army). AI was concerned at the arbitrary arrests of men crossing the border into Kosovo as refugees on suspicion of NLA membership.

#### *Missing persons*

In March, UNMIK took over responsibility for the investigations, exhumation, identification and re-burial program in Kosovo from the International Criminal Tribunal for the former Yugoslavia (Tribunal), which had conducted investigations and exhumations during 1999 and 2000. By July 2001, according to the Tribunal 4,392 bodies had been excavated from 876 graves in Kosovo, and autopsies had been carried out on 3,620 bodies.

On 10 April, the International Committee of the Red Cross (ICRC) published an updated Book of Missing Persons in Kosovo, listing 3,525 people reported missing in Kosovo between January 1998 and April 2001, and including more than 2000 ethnic Albanians, the rest being Serbs, Roma and other members of other minorities. According to figures quoted by the Serb Association of Families of Missing and Abducted Persons of Kosovo, and apparently not contested by the ICRC, the numbers of missing Serbs and Roma may be as high as 1,300, around 75 per cent of whom were alleged to have been abducted since the arrival of UNMIK and KFOR in July 1999. Members of Roma associations separately claim a figure of 800 missing in the same period. The organization was particularly concerned that the fate of Roma, believed to have been abducted by the KLA, was not being adequately investigated by the UNMIK Police Missing Persons Unit, and took steps to ensure that this was remedied.

On 26 March, the UNMIK Police Missing Persons Unit reported that by the end of their first year of operation, 376 cases of "disappearances" had been

resolved. Associations of both ethnic Albanian and Serb families of the "disappeared" and abducted complained at the slow progress made by UNMIK in resolving cases. Indeed in March some families took matters into their own hands and, according to UNMIK reports, began to conduct their own unlawful exhumations in the Mitrovica region.

In May, a mass grave was discovered in Batajnica near Belgrade in Serbia, believed to contain the bodies of Kosovo Albanian victims originally found in a refrigerator truck in April 1999 in the Danube, and subsequently buried in Batajnica by Serbian police forces or the Yugoslav army (VJ). Exhumations in Batajnica began on 31 May, and by the end of June at least 36 bodies of civilians, including children, had

Following reports of the exhumations in Serbia - which dashed many Albanian hopes that their "disappeared" relatives were still alive - at least 3,000 ethnic Albanians, led by former prisoner of conscience Flora Brovina, held a demonstration at UNMIK's headquarters in Pristina on 15 June. They protested what they perceived as the lack of progress made by the international community in resolving the fate of the "disappeared", demanding that UNMIK and the international community put pressure on Belgrade to fully investigate the fate of the "disappeared", and work to secure the release of the remaining ethnic Albanian prisoners held in Serbian jail (see FRY entry). Around 100 protesters temporarily blocked traffic outside the UNMIK headquarters, demanding to see SRSG Hans Haekkerup.

### Minorities

The security of members of minority groups in Kosovo failed to improve in the first half of the year, and only limited freedom of movement was available to them as the majority remain unable to travel without the protection provided by KFOR troops. Violent crimes against minorities continued to remain disproportionately high. According to UN CIVPOL, 13 Serbs, three Roma and seven other members of minority groups were murdered in ethnically motivated attacks, between January and the end of April; 23 ethnic Albanians were murdered in the same period. In their joint report published in March 2001, UNHCR and OSCE reported ethnically motivated attacks including a stabbing, shootings and hand grenade attacks on Serb and Roma individuals and families, the destruction by fire or by mortar and grenade attack of abandoned Serb and Roma houses, and an attack on a Serbian Orthodox Church. Ethnically motivated attacks in this period, particularly from February onwards, appeared to be more organized and targeted than in the previous period.

Other minorities subject to ethnically motivated attacks included non-Albanian Muslims: on 11 January four members of a Muslim family in Prizren were murdered; following the incident, an estimated 1,000 people, mostly non-Albanian Muslims, fled Prizren and the Gora area of southwestern Kosovo into the Muslim town of Novi Pazar, in Serbia.

been exhumed. Another grave, reported to contain 25 to 30 bodies, was discovered on 15 June in the village of Petrovo Selo in eastern Serbia. Serbian Interior Minister Dušan Mihajlović, estimated that 1,000 bodies of suspected ethnic Albanian victims of the war in Kosovo could be buried in several mass graves in the FRY, while the Humanitarian Law Centre, Belgrade, estimated that at least 800 bodies of Kosovo Albanians had been transported to Serbia - in refrigerated trucks - by Serbian police forces and the VJ between 24 March to 12 June 1999. The bodies are believed to have been removed from their initial burial sites around villages and cities in Kosovo.

AI was concerned at the virtual impunity for the perpetrators of these attacks, and observed that - in addition to security concerns - the lack of a victim and witness protection program contributed to the lack of thorough investigations into attacks perpetrated against minority communities.

On 13 February a regular twice-weekly KFOR-escorted convoy of buses between Strpce (Shterpece) and Serbia was attacked by sniper fire, as a result of which the driver was killed and a number of passengers injured. This was followed, on 16 February, by an attack on the Niš Express buses near Podujevo, carrying Kosovo Serb passengers from Serbia back to Kosovo. Despite advance warning to KFOR, who conducted a search of the route in advance of the convoy and provided a heavily armed escort for the Serb passengers, the leading bus was destroyed by a remote-controlled bomb, which resulted in the death of 10, and the injury of up to 40, Serb passengers. Following this attack, demonstrations and roadblocks occurred in almost every Serb enclave in Kosovo, often resulting in further incidents of ethnically motivated violence.

The divided town of Mitrovica continued to be a focus of both inter-ethnic and anti-UNMIK tensions. On 29 January, Gazmend Ibrahim, a 15-year old boy, was killed by a hand-grenade following clashes between Serbs and ethnic Albanians in Bosnjacka Mahala (Little Bosnia), an ethnically mixed district of Mitrovica. Five Kosovo Serbs and one Slavic Muslim working for the Organization for Security and Co-operation in Europe (OSCE) were dragged from their vehicle - which was then set alight - and, following an assault on one of the men, were rescued by KFOR troops. On 30 January KFOR troops themselves came under attack when they set up cordons to prevent ethnic Albanians crossing the bridges into the northern part of the town during a demonstration which followed the funeral of Gazmend Ibrahim. Both tear gas and stun grenades were used to control the demonstration which resulted in the injury of over 40 civilians, including a *Reuters* photographer who allegedly suffered burns and hearing loss from a stun grenade, and up to 22 KFOR troops. On 1 February British troops were brought in to reinforce French KFOR troops, and were reported to have used plastic bullets to disperse the demonstrators.

During April and May a series of demonstrations by the Serb community in Mitrovica took place



following the introduction by UNMIK of a customs duty on goods imported from Serbia. Road-blocks were erected by Serbian demonstrators on the roads leading to the administrative borders between Kosovo and Serbia.

AI is concerned at the use of excessive use of force by KFOR troops - including the use of tanks, armoured personnel carriers, stun grenades and tear-gas - in controlling the demonstrations. The organization was particularly concerned at reports of injuries sustained by civilians - and of the reported death on 19 April of 62-year old Nikoleta Vukojicic in the village of Zubin Potok following the use of tear gas. Reports suggest that the cause of death was either respiratory failure or possibly a heart attack.

At the beginning of the year more than 222,800 displaced persons from Kosovo remained in Serbia and Montenegro; in May, the Joint Committee on the Returns of Kosovo Serbs produced a document - *Framework for Return* - which detailed the conditions for a slow and incremental return of small numbers of

**Return of refugees**

The organization was concerned at the continuing forcible returns of refugees to Kosovo from countries in the European Union, and recommended that not only members of minority groups - for whom the continuing lack of security prevented any possibility of sustainable return - but also certain members of the ethnic Albanian community should be granted durable protection. These included ethnic Albanians perceived to have been loyal to the previous Serbian government, moderate politicians and those who had refused to join the KLA or had deserted from the armed opposition group.

people to mainly rural areas, where conditions for sustainable return - security, housing and freedom of movement - were deemed to be adequate. No returns due to be organized under this programme had taken place by the end of June 2001.

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WOMEN IN EUROPE

Human rights violations against women occur regularly in Europe but are only infrequently given the attention they deserve. The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of the organization's concerns, but are a reflection of the range of violations suffered by women in Europe

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## CHILDREN IN EUROPE

It is a sad fact that in Europe, as in all parts of the world, being a child is not of itself protection against gross violations of human rights. Children in Europe regularly face violations including torture and ill-treatment, unlawful detention, and arbitrary killing. Often children and juveniles are especially vulnerable to human rights violations, and at the same time they are heavily dependent on adults to protect them and to enable them to find redress for human rights violations. The following are a selection of the cases and incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of Amnesty International's concerns, but are a reflection of the range of violations suffered by children and juveniles in Europe.

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