

**EXTERNAL**

AI INDEX : EUR 21/03/95  
17 August 1995

**£FRANCE:  
@THE FATAL SHOOTING OF MOURAD TCHIER BY POLICE AT  
SAINT-FONS (RHONE)**

Amnesty International is concerned at the shooting by a police officer, and at the subsequent death of Mourad Tchier in the area of Saint-Fons on the outskirts of Lyons at around 10 pm on 27 December 1993. The organization believes that the case falls into a pattern of shootings and killings in which law enforcement officers are using excessive and, indeed, lethal force in violation of the minimum standards of international law. It also believes the case is contrary to French law. Amnesty International is also concerned at the time it is taking to complete the judicial inquiries and urges that these be completed without further delay.

According to press accounts, at around 9pm on 27 December 1993 two police officers, in a car patrolling the Minguettes area of a Lyons suburb, saw four young men showing off a white Renault 21 in a car park, watched by around twenty other youths. When they noticed the arrival of the patrol car they dispersed and the Renault drove away. The police gave chase in the direction of Saint-Fons, having apparently checked that the car had been stolen earlier that day. They found the car abandoned on a dark and narrow road between a railway line and a rocky cliff leading up to a place known as the 'mushroom bed' (*champignonnière*). To escape the police, three of the four young men - one of whom was Mourad Tchier, who was wearing a bright mustard yellow jacket - scrambled up the cliff, while the fourth was seen running away on the side of the railway line.

One of the police officers followed the three youths up the steep hillside. He was later reported to have told the preliminary internal inquiry opened by the *Inspection générale de la police nationale* (IGPN), the internal police investigation authority, that he saw one of them standing on a boulder, holding an object that looked like a weapon. He was at a distance of only four or five metres. He took out his gun and maintains he fired just one shot. He told the IPGN inquiry: 'I felt threatened' (*je me suis senti menacé*'). Later investigators were reported to have found part of a curved bed leg at the foot of the escarpment, possibly the object the police officer said he seen in the hand of the victim.

The body of Mourad Tchier was taken to the *Institut medico-légal*. An autopsy was reported to have found that the gunshot had penetrated upwards

*from the back*, under the left shoulder-blade, piercing the lung.

A companion of Mourad Tchier's was treated in hospital after falling from the rocks. He disputed the police version that only one shot had been fired. He and his two surviving companions were detained under investigation in connection with theft of a car.

In a move described by Amnesty International as 'surprising' the Lyons prosecutor requested an investigation under Article 74 of the Code of Penal Procedure, and the inquiry duly opened on 29 December 1993. Under Article 74 the investigation is limited to identifying the cause of death (*recherche des causes de la mort*). It excludes the civil party - in this case Mourad Tchier's family - who were not allowed access to the details and developments of the inquiry.

In this case resort to Article 74 was widely interpreted as a move by the authorities to protect the police officer. He was not placed under judicial control or placed in detention and was not examined until 20 May 1994, four months after a separate action had been brought by the family of Mourad Tchier as a civil party on 2 February 1994. When establishing themselves as a civil party, the family brought a charge of voluntary homicide or murder (*homicide volontaire*). By their action the Prosecutor was obliged to request a (second) investigation under an examining magistrate to which the civil party had a legal right of access. However, by law the civil party was not allowed access to crucial material in the first investigation established under Article 74. This exclusion will last until the first investigation has been concluded. As Amnesty International noted in its October 1994 report, *France: Shootings, killings and alleged ill-treatment by law enforcement officers* (AI Index: EUR 21/02/94): 'The wilful and unnecessary exclusion from the investigation of the victim's family by the Prosecutor is frequently a cause of great concern to them and to the cause of equity before the law.'

In conclusion, to quote again from the Amnesty International report of October 1994: 'All the facts of the killing will not be known until the closure of the case and at the time of writing the investigation was protected by rules designed to guarantee the secrecy of the instruction. However, on the basis of what is known, it is difficult to believe that the police officer's life was in danger or that he used his firearm as an extreme measure of last resort, as required by the law. [See Note below]. The principle of proportionality between the act of defence and the gravity of the attack also appeared to be violated. The action of the judicial authorities to investigate the circumstances of the killing was not prompt due to the use of Article 74. The procedure used initially was also clearly in violation of international standards stipulating that the family of the deceased and their legal counsel should have access to all information relevant to the investigation.'