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Europe and Central Asia

Summary of Amnesty International's Concerns in the Region

January – June 2005

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe and Central Asia between January and June 2005. Not every country in the region is reported on; only those where there were significant developments in the period covered by the bulletin, or where Amnesty International (AI) took specific action.

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

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

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ALBANIA

UN Committee against Torture

In May the UN Committee against Torture considered Albania's initial report, submitted with an eight-year delay, on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Among other recommendations, the Committee called on Albania to "ensure strict application of the provisions against torture and ill-treatment, adequately qualifying, prosecuting and punishing perpetrators in a manner proportionate to the seriousness of the crimes committed." Prior to this hearing, AI had released a report in which the organization described learning of more than 105 incidents from the beginning of 2002 to the end of November 2004 in which police in Albania were alleged to have tortured or ill-treated one or more people (see *Albania: Obligations under the UN Convention against Torture – a gap between law and practice*, AI Index: EUR 11/001/2005). AI believed the true figure for such incidents was considerably higher and that many went unreported. Most incidents took place during, or in the hours immediately following, arrest. Victims complained of punches, kicks and beatings; they sometimes suffered injuries so severe that they required medical treatment or even hospitalization.

Allegations of ill-treatment

Further allegations that police had ill-treated detainees during, or in the hours following, arrest were received during the period under review.

Rrok Pepaj was arrested in Shkodër in April and charged with trafficking explosives. He subsequently filed a complaint against a named judicial police officer whom he accused of torture, forgery and "abuse of office". He alleged that following his arrest he was repeatedly kicked and beaten with truncheons by masked police officers and that while his head was crushed between two tables he was forced to sign a document that he could not see. He suffered damage to his kidneys; in October he was reportedly still urinating blood and receiving medical treatment while in pre-trial detention.

In April police in Berat allegedly beat seven students at the Pedagogical School who were suspected of having intentionally caused electricity power cuts at their hall of residence. According to the students they were held at Berat police station for several hours where they were questioned, punched and kicked. One student reportedly alleged: "It was terrifying: when one police officer stopped, another beat you, they made you stand with your face to the wall…with your hands behind your back, and if you moved they hit you as hard as they could." He added that a police officer had deliberately kicked his legs although he had informed him that he had recently fractured his leg. Police sources denied that the students had been ill-treated.

The director and the chief of the police guards of Tirana prison 302 were dismissed in April after a number of remand prisoners made allegations of physical and psychological ill-treatment. In the same month two police officers were suspended from duty pending an investigation into allegations made by a convicted prisoner, Miti Mitro, held at Lushnjë police station, that they had beaten him. They had apparently wished to punish him for having spoken in an insulting manner to a colleague of theirs.

In January Construction Police Forces, reinforced by police officers from Tirana Police Station no.2 demolished sheds, the homes of 18 Romani families, in the vicinity of the Student City in Tirana, leaving them without shelter. The Roma claimed that the Construction Police showed them a document ordering the demolition which lacked the seal of the issuing institution and was in other ways incorrectly formulated, and that when they protested they were physically assaulted and racially abused. The Albanian Human Rights Group (AHRG), which investigated this incident, concluded

that police officers had struck Bukurie Shukriu [f], inflicting visible bruises. AHRG, emphasising the poverty and discrimination to which Roma communities are generally subjected, called on Tirana municipality to provide at least temporary housing, while acknowledging that the Roma were not legally occupying the sheds. The police authorities denied that the Roma had been ill-treated or racially abused.

Impunity

In May Tirana Appeal Court confirmed the acquittal of two police officers on a charge of "arbitrary acts" relating to a complaint made by Beqir Kaba that he had been tortured by police officers in Peshkopi in May 2004. According to a press report the prosecutor had sent the case for trial despite Beqir Kaba's having subsequently withdrawn his allegations. In 2004 the Ombudsman's Office had investigated Beqir Kaba's complaint, and recommended that criminal proceedings be started against the two police officers and three others. The Ombudsman noted that Beqir Kaba's allegations were supported by photographs and by a medical forensic report. The Ombudsman also found that Beqir Kaba had been detained beyond the relevant time-limit and that police officers had inaccurately recorded his period in detention and had searched his home without respecting legal procedures.

In June police officers arrested Ali Shabani, a taxi driver from Korçë, when he failed to stop his car as requested by traffic police. Later he was taken by police to hospital, apparently with severe head injuries. His family alleged that police officers had beaten and injured him, and that two days after the incident police were still refusing them access to him in hospital. According to the police, however, Ali Shabani was arrested for resisting police officers in the performance of their duties and had injured himself by striking his head against a wall. A local prosecutor reportedly declined to investigate a complaint filed by Ali Shabani, who subsequently brought a civil suit against the police.

Conditions of detention

Conditions in pre-trial detention premises in police stations generally continued to be harsh, with severe overcrowding, very poor diet, hygiene and sanitation and inadequate medical care. Convicted prisoners for whom there was insufficient space in prisons continued to be held in remand centres, sharing cell accommodation with remand prisoners and sometimes with children (between 14 and 17 years old), in violation of the law. These conditions led to frequent protests by detainees. Following inspections in January and February the Ombudsman confirmed overcrowding and unacceptable standards of hygiene in remand cells in Koplik and Fier police stations. In May remand cells in Pogradec police station were closed down, which reportedly led to a rise in the number of detainees and worsening conditions in Korçë police station. However, in March a new prison in Lezhë was opened as part of an EU-assisted plan to improve the infrastructure of the penitentiary system and a number of convicted and remand prisoners were transferred there, which to some extent reduced overcrowding.

Domestic violence against Women

Surveys indicated that domestic violence was common, and that up to 40 per cent of women, of all ages and social groups, had on one or more occasions suffered psychological and/or physical violence. Women rarely reported such incidents to the police, having little confidence that they would receive help. Even when victims of domestic violence did file complaints, they reportedly often withdrew them, fearing the retaliation of their partners. At least three women were arrested on charges of killing partners whom they claimed had persistently subjected them to physical and psychological violence.

The law did not adequately protect victims of domestic violence, for whom there were limited support services provided by non-governmental organizations (NGOs). The Criminal Code did not specifically

criminalize domestic violence. In January an NGO, the Citizens' Advocacy Office, initiated public debate on a draft law which it proposed to combat domestic violence.

Trafficking

According to official figures, between January and June 62 people were prosecuted for trafficking women for prostitution, and 13 people for child-trafficking. A number of traffickers were convicted at trials before district courts and the Serious Crimes Court. The latter court imposed sentences of up to 17 years' imprisonment on traffickers. However, difficulties in implementing a witness protection law, adopted in 2004, meant that many victims of trafficking were unwilling to testify against their traffickers for fear of reprisal. There were also concerns that traffickers or their families were using bribes or threats to induce relatives of those victims who did testify to persuade them to withdraw their testimony. Reception centres for victims of trafficking and refugees were opened at Shëngjin and Kakavijë border points, and several other similar reception centres were reportedly due to be opened later.

The government approved a national strategy to combat child trafficking in February. In March Astrit Shaqiri was extradited from Greece. He had been sentenced *in absentia* to 15 years' imprisonment by Elbasan district court for trafficking a boy to Greece in 2001 and forcing him to work as a beggar. In June three men were referred for trial to the Serious Crimes Court on a charge of trafficking babies to Greece.

BELARUS

International concern about human rights

In a resolution issued on 10 March and adopted by a clear majority, Members of the European Parliament strongly condemned the harassment of opposition figures in Belarus. The resolution called for the immediate release of Mikhail Marinich, Valery Levonevsky, Alexander Vasilyev, and Professor Bandazhevsky, all of whom have been adopted by AI as prisoners of conscience, and called for an independent investigation into the "disappearances" of Yuri Zakharenko, Viktor Gonchar, Anatoly Krasovsky and Dmitry Zavadsky. It also called for efforts to overcome the isolation of Belarus through the creation of alternative news sources and special scholarships for Belarusian students who wish to study in the European Union.

Freedom of expression

The Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe (OSCE), Miklos Haraszti, visited the capital, Minsk, in February and subsequently reported that the number of independent media outlets had been declining, and that they faced increasing administrative warnings and suspensions. He criticized Belarusian laws that criminalize libel and offer excessive protection to senior officials. He stated: "Belarus is the only OSCE participating State where people are serving actual prison sentences for violating the dignity of the President."

On 25 March, an estimated 2,000 demonstrators gathered on Oktyabrskaya Square in Minsk, opposite the presidential compound, to mark Freedom Day, the anniversary of the creation of the Belarusian People's Republic (BPR) in 1918. The date is not recognized by the government, but is celebrated as a symbol of national pride by opposition members. Police in riot gear dispersed peaceful demonstrators using physical force which resulted in many demonstrators being injured. In addition, several dozen people were arrested. After the initial gathering was dispersed, another group of about 100 individuals congregated and was again pushed back by police forces. On 28 March a court sentenced nearly two dozen demonstrators to jail terms ranging from three to 15 days for participating in the demonstration. On 10 June Andrei Klimov was sentenced to a year and a half of

"restricted freedom" under Article 342 of the Criminal Code for organizing the protests. This sentence requires Andrei Klimov to live in an area outside Minsk under special police surveillance and to perform "community service". Andrei Klimov was released in the courtroom pending his appeal. Investigations are still ongoing regarding another charge against Andrei Klimov for libel against the president.

On 26 April police special forces (OMON) beat and detained peaceful demonstrators who had gathered in Minsk to commemorate the 19th anniversary of the Chernobyl nuclear disaster. Opposition parties had called on individuals to post personal appeals to President Lukashenka in a special post-box near the presidential administration in Minsk. Special forces reportedly kicked and beat the peaceful demonstrators with truncheons, and dragged people into police vans. A 14-year-old boy was reportedly severely ill-treated by members of OMON; he was pulled into a police van where he was insulted and threatened. It was later established that he had torn ligaments in his hand. He had reportedly been wearing a t-shirt, with the slogan "Free Marinich" (referring to prisoner of conscience Mikhail Marinich), which apparently drew the attention of the OMON. The following day more than 30 people, including 14 Russians, five Ukrainians and 13 Belarusians, were sentenced to up to 15 days' imprisonment or heavy fines for participating in or organizing an unsanctioned meeting. According to reports the detainees were sentenced without legal representation, or, where appropriate, access to their respective consulates.

On 31 May Nikolai Statkevich and Pavel Severinets were sentenced by Minsk Central District Court to three years of corrective labour under Article 342 for organizing protests in Minsk after the referendum and elections in October 2004 (see below). As a result of an amnesty declared in connection with the 60th anniversary of the Second World War their sentences were automatically reduced to two years. Nikolai Statkevich was already in detention, being held for contempt of court because of his refusal to stand up during the trial, and Pavel Severinets remained at liberty pending an appeal. Nikolai Statkevich has refused to appeal in protest at the injustice of the legal process. Both men have been under constant pressure from the authorities for their opposition activities. Nikolai Statkevich is chair of the social-democratic opposition party, Narodnaya Gramada, and Pavel Severinets is head of the Popular Front youth movement. In the referendum held to coincide with parliamentary elections on 17 October 2004 more than 77 per cent of eligible voters voted to remove a two-term limit on the office of president, thereby supporting President Alyaksandr Lukashenka, who has held power since 1994, to run for a third consecutive term. International observers reported that the elections and the referendum fell far short of democratic standards.

Human rights defenders (update to AI Index: EUR 49/004/2005)

Human rights organizations have been decimated by a bureaucratic system of registration and a controversial set of guidelines seemingly designed to complicate and obstruct their work. In April the Belarusian Helsinki Committee (BHC), the last remaining registered national human rights organization, applied for a tax exemption for financial assistance from the International Helsinki Federation. In June the BHC was informed that the request could not be granted because the funding was not in line with a presidential decree on the acceptance of foreign aid.

Prisoners of Conscience

Mikhail Marinich (Update to AI Index: EUR 01/002/2005)

On 11 March AI called urgently for medical treatment for prisoner of conscience Mikhail Marinich, a prominent member of the opposition who had been sentenced to five years on trumped-up charges of abuse of official position and theft. Mikhail Marinich suffered a stroke on 7 March. His lawyer

and family were not informed, and only found out on 10 March, when a fellow-inmate who had just been released contacted a newspaper, which then called the family. Mikhail Marinich was transferred to a hospital in Minsk, on 15 March, from the Orsha prison colony. In an interview published in the newspaper *Komsomolskaia Pravda v Belarusii* on 16 March, the head of the Ministry of Interior Department of Execution of Punishments said that Mikhail Marinich had been officially diagnosed as having had a stroke; he had been examined by a doctor of the Belarusian Scientific and Research Institute of Neurology, who had recommended that he be transferred to Minsk for further examination. Mikhail Marinich was transferred to the national prison hospital in Minsk and remained there until 18 May.

Yury Bandazhevsky (Update to AI Index: EUR 01/002/2005)

Yury Bandazhevsky remained in detention. His request for early release in January was refused by the authorities of the penal colony where he was being held. He was reportedly told that this was because he had refused to pay the fine ordered by the court as part of his sentence. The fine was to cover the cost of the bribes he had allegedly received, but Yury Bandazhevsky refused to pay claiming that he was not guilty of accepting bribes. The government later claimed that his request for early release had been turned down because he had not informed the penal colony authorities of his whereabouts while in Minsk in October and November 2004 for medical treatment. His wife was in fact in constant communication with the prison colony administration during this time, and provided them with all necessary medical certificates. Yury Bandazhevsky was sentenced to eight years' imprisonment for alleged bribe-taking in June 2001, but AI believes that he was convicted because he had criticized official responses to the Chernobyl nuclear reactor catastrophe of 1986.

BELGIUM

Concerns over conditions of detention and mental institutions

The European Committee for the Prevention of Torture visits Belgium

A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out its fourth visit to Belgium from 18 to 27 April. The CPT's delegation followed up on a number of issues examined during previous visits, in particular the treatment of persons deprived of their liberty by law enforcement officials, prison conditions and the situation in mental health institutions, as well as the procedures and methods applied during the repatriation by air of foreign nationals. It also visited for the first time the "De Grubbe" Closed Centre for the temporary placement of minors in Everberg and the Forensic Psychiatric Departments at the Sint-Kamilius University Psychiatric Centre in Bierbeek.

Prison conditions

On 18 March a riot involving approximately 50 inmates took place in Ittre prison in the region of Walloon. The riot ended with three people injured and extensive material damage. On 27 March, the Council of State (Conseil d'Etat) nullified the disciplinary proceedings initiated against some detainees thought to be responsible. Prison officers responded to this decision by going on strike for more than a week. The lawyer acting on behalf of some of the prisoners reported that the judgement of the Council of State had been ignored, and her clients were being kept in solitary confinement. There were also allegations that the inmates in solitary confinement were not allowed to read or write and those with an 'Arab-sounding' surname were denied contact with the religious counsel.

Racism and discrimination

Many racist incidents directed against Jews, Arabs, ethnic and other minorities continued to be reported in the period

under review. On 14 June, two trials regarding antisemitic acts were opened in Antwerp. In the first case, a 22-year-old man was sentenced to six months' imprisonment and a fine of 550 euros on a charge of racism for threatening a Jewish man with a knife. The second case involved a 23-year-old man who was given a two-month suspended sentence and a fine of 330 euros after being convicted of racism for verbally abusing two Jewish youths. Both incidents had occurred in June 2004.

In March, a Muslim woman resigned from her job in a food processing firm in Ledegem, western Belgium, after her employer received seven written death threats from an previously unknown organization entitled the Nieuw Vrij Vlaanderen (New Free Flanders). The threats stated that the lives of the woman and her colleagues were in danger because she wore a headscarf to work. Two bullets were included in the seventh threatening letter. Other companies with Muslim employees had reportedly received similar threats. Her employer was actively supportive of her, and on 11 April she resumed her job at the firm.

Discrimination on the basis of sexual orientation

In March and May, the Juvenile Court (Tribunal de Jeunesse) of Louvain found three individuals guilty of a violent attack against two gay men in 2003. It was the first time a judgement by a Belgian court had referred specifically to sexual orientation and homophobia as the motivation behind a violent attack. The three men were sentenced to 100-euro fines.

On 27 April, the Court of First Instance (Tribunal de Première Instance) ordered a landlord to stop discriminating against gay tenants when letting his property. In November 2004 a gay couple had paid a month's deposit for a detached house found through an estate agency. The landlord then refused to let the couple move in on grounds that they were not a "traditional" couple. The court sentenced the landlord to pay a 100 euro fine every subsequent time he was found guilty of a similar offence.

Violence against women

The prevalence of violence in the home remained a serious concern in Belgium. According to a poll commissioned by AI and carried out within the French-speaking community, 29 per cent of Belgians knew of at least one household in which domestic violence had taken place. However, no official government statistics regarding gender-based violence in the home are currently available. The last scientific research was carried out in 1998, and revealed that 68 per cent of women had been victims of sexual or physical violence at some point in their life. The lack of official government statistics regarding gender-based violence in the home meant that the true scale of the problem was difficult to gauge.

In June, AI, together with a large number of representatives of civil society -- including women's organizations, unions, friendly societies and the largest employer's federation in Belgium, the Belgian Federation of Enterprises -- presented the Belgian authorities with a list of principles and priorities on domestic violence.

Legislation passed in 2004 in connection with the National Plan of Action (Plan National d'Action) on domestic violence had not been fully implemented by the end of the period under review. AI has repeatedly asked the Federal Government to carry out awareness and information campaigns about domestic violence, and remained concerned that national legislation on the issue was still unknown to the vast majority of the Belgian people, resulting in a very low level recourse to police and specialised services.

AI has also expressed concern about the lack of compulsory training on violence in the home in key sectors such as the judiciary, law enforcement officials, medical and social workers. Training is of key importance for these officials and staff in

understanding fully the cyclical process of this type of violence and to provide survivors of abuse with an adequate response to their needs.

Deportation of foreign nationals

Publication of the report by an independent commission re-evaluating methods used during forcible deportation of foreigners (update to AI Index: EUR 01/005/2004)

On 2 February the report of an independent commission (the so-called Vermeersch II) set up by the Minister of Interior to re-evaluate the techniques used in forcible deportation operations was made public. In September 2004, AI had submitted detailed observations on the commission's interim report pointing out, among other things, that, since the interim report had been drawn up, further serious concerns regarding various aspects of the detention and deportation of foreign nationals from Belgium had been expressed by the UN Human Rights Committee.

The Vermeersch II Commission addressed some issues of concern including the need for transparency during forced removal; for asylum-seekers denied entry into Belgian territory from a transit zone to be provided with a right of appeal; and for the need to assign legal guardians for unaccompanied minors to be investigated. However, the Commission concluded that a foreign national who resists forcible return can be detained until they abandon all resistance and can be expelled, raising concerns at the lack of a clear definition of what would constitute resistance and at the absence of a maximum period of detention. The UN Committee against Torture (CAT) had already expressed its concerns about the excessive length of the maximum period of detention for asylum seekers and "illegal" migrants, which at the time of writing was eight months. There was concern that the Commission's conclusion could effectively further extend this term.

AI has repeatedly urged the federal government to set up an effective and impartial complaint mechanism for those foreign nationals alleging police ill-treatment and for forcible deportations to be filmed. The Vermeersch II Commission did not address these issues in its conclusions and recommendations.

Detention and forcible return of foreign nationals

During the period under review, there were continuing reports of foreign nationals, including minors, being confined to the airport transit zones for extended periods, in conditions often amounting to cruel, inhuman and degrading treatment. AI has repeatedly called for the government to put an end to this practice, which is inconsistent with international human rights standards, such as the European Convention on Human Rights and Fundamental Freedoms.

AI was also concerned about reports of children being detained alongside their families in the 127 and 127 bis detention centres in Steenokkerzeel, near Brussels airport. According to the Belgian non-governmental organization (NGO) Cire, in the month of April alone there were 49 minors being detained in these two detention centres. In April, a family who had been living in Belgium for nine years and whose child was born in Belgium were released after spending five months in the 127 detention centre awaiting expulsion. Similarly, a family of seven, of whom five were minors, spent at least three months detained in the 127 bis centre. The eldest of the five children, aged 14, was also seriously disabled. A court ruled twice that the detention was illegal, however the government appealed both times against the decision.

On 27 May, a delegation of 12 members of parliament from nine different political parties, visited the 127 and the 127 bis detention centres and were reportedly "shocked" to see the number of children detained due to their parent's

administrative status. AI believes that the detention of minors over such a long period of time is inconsistent with Belgium's obligations under international human rights standards. Article 37(b) of the UN Convention on the Rights of the Child, to which Belgium is party, states for example that "the arrest, detention and imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time".

Universal jurisdiction (update to AI Index: EUR 01/001/2004)

Legislation enacted in 1993 and amended in 1999 made provision for Belgian courts to exercise universal jurisdiction over genocide, crimes against humanity and war crimes in international and non-international armed conflict, wherever the crimes were committed and whatever the nationality of the accused and victims. By 2003 criminal complaints had been lodged directly with investigating magistrates against people not only residing in Belgium but also people from over 20 countries, all residing outside Belgium. Those facing complaints included past and present heads of state and lower level officials.

Amendments were made to the law in 2003 (*Loi 5 août 2003*) which allowed victims to lodge complaints directly with an investigating magistrate only if the case had a direct connection with Belgium, through the victim or the accused; otherwise complaints were to be presented to the federal prosecutor for consideration and possible further action. It also allowed the government to refer certain cases to other countries, if those countries were deemed to offer a fair and effective avenue to justice.

On 23 March the Court of Arbitrage (Cour d'Arbitrage), following a joint action for annulment presented by the NGOs Ligue des Droits de l'Homme and the Liga voor Mensenrechten (League of Human Rights in French and Flemish respectively), issued a judgement partially annulling the current law on the matter. The Court considered that a decision on whether to pursue a case of grave breaches of international humanitarian law could only be taken by an independent and impartial judge. Hence, this ruling restricted the discretional powers of the federal prosecutor, and thus that of the executive power, to only a limited number of situations (for example those deemed manifestly unfounded).

On 29 June a court in Brussels (Court d'Assises de Bruxelles) convicted two Rwandans of war crimes and murder committed in Rwanda in 1994. Half-brothers Etienne Nzabonimana, 53, and Samuel Ndashyikirwa, 43, were sentenced to 12 and 10 years' imprisonment respectively. Their arrest had been ordered in December 2004 by a prosecutor (*juge d'instruction*). This was the second trial within the context of universal jurisdiction to take place in Belgium. In June 2001 (see AI Index: EUR 01/003/2001), a Brussels court convicted four Rwandans resident in Belgium of war crimes also committed in the context of the 1994 events.

BOSNIA-HERZEGOVINA

General and political developments

Bosnia and Herzegovina (BiH) remained divided in two semi-autonomous entities, the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH), with a special status granted to the Brčko District. The international community continued to exert significant influence over the political process in BiH, as part of the civilian implementation of the Dayton Peace Agreement, led by a High Representative whose nomination is proposed by the Peace Implementation Council and then endorsed by the UN Security Council. Approximately 7,000 troops of the European Union (EU)-led peacekeeping force EUFOR remained in BiH to ensure the implementation of the Dayton Peace Agreement and to contribute to a safe and secure environment in BiH. In addition to EUFOR, about 150 North Atlantic Treaty Organisation (NATO) troops remained in the territory of BiH, reportedly

to provide support to the International Criminal Tribunal for the former Yugoslavia (Tribunal) with regard to the detention of persons indicted for war crimes, to combat "terrorism" and to assist the BiH authorities in defence reform. The European Union Police Mission, composed of approximately 500 police officers and other personnel, remained tasked with monitoring and supervising the activities of the local police.

In January Pero Bukejlović of the Serbian Democratic Party (Srpska Demokratska Stranka, SDS), was appointed prime minister of the RS. Also in January, the police restructuring commission, which had been set up by the High Representative in July 2004 to present proposals for police reform, issued its recommendations which included the establishment of a single police structure at the state level and the creation of cross-entity police areas. However, negotiations between ruling and opposition political parties on implementing police reform collapsed in May, after representatives of the SDS withdrew their initial support for the proposed reform. On 30 May the RS National Assembly adopted a conclusion opposing the creation of cross-entity local police regions.

In May the European Commission's Consultative Task Force decided not to give the go-ahead to the start of negotiations on a Stabilization and Association Agreement with the EU, reportedly over the failure to reach an agreement on police reform and to adopt a law on the Public Broadcasting System.

The special Human Rights Commission within the BiH Constitutional Court continued to deal with the backlog of cases registered with the Human Rights Chamber before its closure in December 2003. Between January 2004 and June 2005 the Commission had resolved 4,182 applications while 4,759 remained pending.

War crimes and crimes against humanity

International investigations and prosecutions

The Tribunal continued to try alleged perpetrators of war crimes and crimes against humanity committed during the violent collapse of Yugoslavia. In June Theodor Meron, addressing the UN Security Council, noted that the Tribunal would not meet the 2008 deadline to complete all trials. Under the terms of the "completion strategy", laid down in Security Council Resolutions 1503 and 1534, the Tribunal had completed all investigations and indictments for war crimes, crimes against humanity and genocide at the end of 2004 and is expected to complete all trials by 2008 and all cases, including appeals, by 2010.

In line with the Tribunal's "completion strategy" a number of indictments, the last ones before the closing down of the Tribunal, were confirmed and unsealed between February and April. In the first months of 2005 a significant number of indictees voluntarily surrendered to the Tribunal and were transferred to the Hague.

The trial continued of former president of the Federal Republic of Yugoslavia, Slobodan Milošević, who is accused of war crimes and crimes against humanity for his alleged involvement in the wars in Croatia, BiH and Kosovo. Slobodan Milošević is also accused of having planned, instigated, ordered, committed or otherwise aided and abetted genocide, in connection with his alleged role in the war in BiH. In June the prosecution presented the court with a footage of members of a Serb paramilitary unit (the "Scorpions") executing six Bosniak prisoners from Srebrenica in July 1995. The video may be of particular significance in proving the direct involvement of the authorities in Belgrade in crimes committed in BiH during the war, as the "Scorpions" were alleged to be under the control of the Serbian authorities when the crimes were committed.

In January Savo Todović, indicted by the Tribunal for war crimes and crimes against

humanity, including the torture and killing in 1992-93 of non-Serbs detained in the Foča prison, voluntarily surrendered to the RS authorities and was subsequently transferred to the Hague. Also in January, Vidoje Blagojević and Dragan Jokić were sentenced by the Tribunal to 18 and nine years' imprisonment respectively, for their role, as Bosnian Serb Army (Vojska Republike Srpske, VRS) officers, in the killing of thousands of Bosniak men and boys in the aftermath of the fall of Srebrenica in July 1995.

In February former VRS officers Zdravko Tolimir, Radivoje Miletić and Milan Gvero were indicted by the Tribunal on charges of war crimes and crimes against humanity, including murder and deportation, committed against the Bosniak population in the Srebrenica and Žepa enclaves. The indictment alleges that the accused were part of a joint criminal enterprise, the purpose of which was to force the Bosniak population out of the Srebrenica and Žepa areas to areas outside the control of the RS from 11 March 1995 through the end of August 1995. Radivoje Miletić and Milan Gvero surrendered voluntarily and were transferred to the Hague. Zdravko Tolimir remained at large at the end of June. Also in February the Tribunal indicted Rasim Delić, former Commander of the Main Staff of the Army of Bosnia and Herzegovina (Armija Bosne i Hercegovine, ABiH), for murder, cruel treatment and rape committed in 1993 and 1995 against the non-Bosniak population. Following his indictment, the accused voluntarily surrendered to the Tribunal.

Momčilo Perišić, former Chief of Staff of the Yugoslav People's Army, was indicted by the Tribunal in February and charges were made public in March. He is accused of war crimes and crimes against humanity committed during the wars in BiH and Croatia, including his alleged role in crimes committed against the civilian population during the siege of Sarajevo and against non-Serbs after the fall of Srebrenica. Momčilo Perišić voluntarily surrendered to the Tribunal in March. The indictment against former RS interior minister Mićo Stanišić, confirmed in February, was also unsealed in March. He is accused of war crimes and crimes against humanity, including persecutions, extermination, murder and torture, committed as part of a joint criminal enterprise aimed at permanently removing non-Serbs from areas under Bosnian Serb control. Following his indictment, Mićo Stanišić voluntarily surrendered to the Tribunal.

In March former sub-commander of the RS military police Gojko Janković, indicted by the Tribunal for torture and rape committed by Bosnian Serb forces against non-Serb women detained in Foča, voluntarily surrendered to the Tribunal and was transferred to the Hague. Former VRS officers Drago Nikolić and Vinko Pandurević, accused of war crimes, crimes against humanity and genocide for their alleged role in the Srebrenica massacre, also voluntarily surrendered to the Tribunal in March. Former VRS officers Ljubomir Borovčanin, Vujadin Popović, and Milorad Trbić (whose indictment for murder as a crime against humanity was confirmed in March and unsealed in April) voluntarily surrendered to the Tribunal in April.

In May the Tribunal decided for the first time to refer one of its indictments to a national jurisdiction. Following a request of the Prosecutor, the case of former Bosnian Serb soldier Radovan Stanković was referred to the War Crimes Chamber of the BiH State Court (see below). Radovan Stanković is accused of the enslavement and rape of non-Serb women detained in Foča. In 2004 and 2005 the Tribunal Prosecutors had asked for the transfer of a number of cases involving 10 people accused of crimes committed in BiH to local courts in the former Yugoslavia, a step that appears to be dictated by the tight deadline imposed by the "completion strategy".

In June the Tribunal acquitted Naser Orić, former ABiH officer and commander of the Territorial Defence in Srebrenica, of the charge of plunder on the grounds that the prosecution had failed to adduce evidence capable of supporting a conviction. Naser Orić remains on trial for the remaining

charges of murder, cruel treatment and wanton destruction, committed in 1992-93 against Bosnian Serbs in the Srebrenica area.

Cooperation between the RS authorities and the Tribunal remained inadequate. So far not a single person indicted by the Tribunal has been arrested by the RS police. The RS authorities have pledged to improve their poor record of cooperation with the Tribunal through a policy of "voluntary surrenders". Despite its limited successes, which resulted in the first transfers of indictees from the RS, or with the assistance of the RS authorities, such a policy is in violation of the obligation of the RS to cooperate fully with the Tribunal including by arresting and transferring to the Tribunal's custody indicted suspects. A total of 10 publicly indicted suspects remained at large at the end of June, the majority of them thought to be residing in or regularly travelling between Serbia and Montenegro and the RS.

Domestic investigations and prosecutions

The War Crimes Chamber within the BiH State Court became operational in March 2005 amid continuing concerns over the lack of financial and other resources needed to meet its requirements and to ensure its long-term sustainability. The Chamber, which is partly staffed by international judges and prosecutors, is expected to employ only local judges at the end of a five-year period. The War Crimes Chamber will only try cases referred by the Tribunal and particularly sensitive cases, while a large number of cases will continue to be dealt with by courts at the entity level.

The domestic criminal justice system continued to fail to take steps to actively prosecute alleged perpetrators. A major factor in fostering this continuing impunity was the lack of political will to tackle impunity and the lack of cooperation between the FBiH and RS judiciary and police forces. Victims and witnesses, as well as courts, particularly in proceedings conducted at the entities' courts, remained without adequate protection from harassment, intimidation and threats. However, some trials for war crimes opened or continued before local courts.

In January the Sarajevo Cantonal Court sentenced Veselin Čančar to four years and six months of imprisonment for crimes committed against the civilian population detained by the Bosnian Serb forces in Foča. Also in January, former ABiH member Salem Pinjić was found guilty by the Mostar Cantonal Court of the murder in 1992 of a Bosnian Serb woman in the village of Bradina, near Konjic. Former RS policeman Boban Šimšić, suspected of having committed war crimes against the civilian population in the Višegrad area, voluntarily surrendered to EUFOR troops in January and was subsequently transferred to the custody of the FBiH authorities. In May the War Crimes Chamber, to which the case had been referred by the Goražde Cantonal Court, decided that the suspect would be tried at the BiH State Court.

In February the first war crimes trial against Bosnian Serb suspects ever held in the RS ended at the Banja Luka District Court with the acquittal of 11 former police officers from Prijedor of charges of having illegally detained Father Tomislav Matanović, a Roman Catholic priest, and his parents in 1995. Tomislav Matanović and his parents had "disappeared" in 1995 and their bodies were found in 2001 near Prijedor, with close-range gunshot wounds. The investigation into the murder of Tomislav Matanović and his parents is reportedly still ongoing.

In March Dragoje Paunović, suspected of having committed war crimes in Rogatica in 1992, voluntarily surrendered to the office of the Chief Prosecutor of the Sarajevo Canton. The RS police reportedly arrested former VRS officer Marko Samardžija, accused of having committed war crimes in the Ključ municipality. Marko Samardžija was subsequently transferred to the custody of the local authorities in Bihać, FBiH, where he is expected to stand trial.

In June Tomo Mihajlović, former member of the RS police, was sentenced to four years of imprisonment by the Zenica Cantonal

Court for crimes he had committed in summer 1992 against the non-Serb population in the Teslić area. Also in June former member of a Bosnian Serb paramilitary group Goran Vasić was sentenced to six years' imprisonment by the Sarajevo Cantonal Court for cruel and inhuman treatment of prisoners of war in 1992 detained in the Sarajevo suburb of Nedžarići. Goran Vasić was acquitted of other charges of war crimes against the civilian population. The RS police, with the support of EUFOR, arrested in June 11 persons, reportedly including serving RS police officers, suspected of having committed war crimes in Srebrenica.

Unresolved 'disappearances' and Srebrenica commission

According to the International Committee of the Red Cross, approximately 15,000 persons who went missing during the 1992-1995 armed conflict were still unaccounted for. Many of the missing were victims of "disappearances", the perpetrators of which continued to enjoy impunity. In April a protocol was agreed between the BiH and entities' governments on the establishment of a state-level BiH Institute for Missing Persons.

In June the exhumation was completed of a secondary mass grave in Liplje, near Zvornik, containing the incomplete bodies of approximately 240 people. The mortal remains are believed to be of victims of the Srebrenica massacre. Of the approximately 8,000 Bosniaks killed and "disappeared" in Srebrenica after the town fell to the VRS in July 1995, to date around 2,000 have been exhumed and identified.

In January the RS appointed a working group to investigate whether any persons named as suspected perpetrators in the final report of the commission which had been established by the RS authorities to investigate the Srebrenica massacre, still held an official position in the RS or BiH institutions. The report, which contained a list of 892 individuals suspected of having been involved in the Srebrenica massacre and who were still reportedly employed in RS and BiH institutions, was presented to the High Representative in March. The High Representative recognized that the report is a "serious piece of work" but expressed its concern at the failure of the RS Ministry of the Interior and Ministry of Defence to fully cooperate with the working group and in particular at the failure of the RS authorities to provide specific data on individuals deployed in Srebrenica in July 1995. The High Representative therefore ordered that the working group be reconvened and urged the relevant RS authorities to provide all information necessary to complete the list of suspected perpetrators of crimes in Srebrenica. In April the preliminary list of 892 suspects was forwarded to the BiH Prosecutor.

Right to return in safety and with dignity

More than one million refugees and internally displaced persons (IDPs) have returned to their homes since the end of the 1992-95 war, out of an estimated 2.2 million persons who had been displaced by the conflict. According to the UN High Commissioner for Refugees field mission in BiH, between January and May 2005 approximately 3,000 refugees and IDPs returned to their pre-war homes. Of these approximately 2,600 were registered as minority returns. In January a trilateral ministerial declaration was signed by the relevant ministers of BiH, Croatia and Serbia and Montenegro confirming the commitment of the three countries to solve all problems affecting refugee return in the region by the end of 2006.

Lack of access to employment continued to be a major factor in people's decision not to return and remain in their pre-war community. Employment opportunities were scarce in general, reflecting the weak economic situation and the difficulties of economic transition and post-war reconstruction. In addition, returnees faced discrimination on ethnic grounds when trying to find work and, in some cases,

ethnically motivated harassment and attacks.

'War on terror' (update to AI Index: EUR 01/002/2005)

The six men of Algerian origin who were illegally transferred to US custody in 2002 by the FBiH authorities and detained in Guantánamo Bay, Cuba, remained in detention. In January the US District Court for the District of Columbia dismissed their petition for a writ of *habeas corpus* brought to challenge the legality of their detention. In March the BiH authorities confirmed that the BiH Council of Ministers had requested to the US authorities the release of the six men. Reportedly, the US authorities replied in April that the six men of Algerian origin will remain detained in Guantánamo Bay, allegedly because they constitute a "threat to the security" of the US and other countries.

Also in April, one of the men, Mustafa Ait Idir, filed a lawsuit in US court alleging that he had been tortured and ill-treated at Guantánamo including by slamming his body and head into a steel bed and floor; stuffing his face into the toilet and repeatedly pressing the flush button; and forcing him to lie on the floor while men jumped on his back. He stated that he was denied medical treatment after having been subjected to torture and ill-treatment and that as a result of one of the assaults, he suffered a stroke, leaving one side of his face paralysed.

Accountability of peacekeeping forces

In January 2005 members of the Starovlah family received a reply from the NATO Headquarters in Sarajevo rejecting their claim for compensation. Orthodox priest Jeremija Starovlah and his son Aleksandar Starovlah had been seriously wounded on the night of 31 March to 1 April 2004 when approximately 40 US, United Kingdom (UK) and Multinational Specialised Troops of the NATO-led Stabilisation Force (SFOR) conducted a raid in Pale in a Serbian Orthodox church and in the nearby priest's residence, reportedly in an attempt to apprehend Radovan Karadžić.

In April AI wrote to the NATO Headquarters in Sarajevo outlining the organization's concerns at the failure of NATO to provide reparations, including compensation, to the victims as well as to ensure that the circumstances of the incident in which Jeremija and Aleksandar Starovlah had been seriously wounded are promptly, thoroughly and impartially investigated. At the end of June AI had received no reply from NATO addressing the concerns raised in the letter.

BULGARIA

Political developments

The general election of 25 June was won by the Socialist party, which nevertheless failed to gather the majority requisite to form a government. A coalition was eventually formed in August. The far-right party Ataka (Attack) saw a rapid rise in support, coming fourth in the poll.

Alleged police ill-treatment

On 16 April a 38-year-old homeless man named Julian Krastev was reportedly beaten to death by a police sergeant in the town of Varna. Julian Krastev had been living in a cupboard in an apartment block where the officer lived. Reportedly, the officer had been drinking alcohol, and two police colleagues witnessed the assault. The officer was dismissed from the police and charged before the Varna Regional Military Court.

Social care homes for people with mental disabilities (update to AI Index: EUR 01/002/2005)

People with mental disabilities living in social care homes were not effectively protected from physical and mental abuse. The services they received did not meet

international human rights standards or conform to best professional practice.

In February, AI published a report on the situation of former residents of Dragash Voyvoda, a social care home in north-eastern Bulgaria which was closed in 2003 following widespread publicity concerning the inadequate medical treatment and care, and poor living conditions it provided (see *Bulgaria: Failings in the provision of care – The fate of the men of Dragash Voyvoda*, AI Index: EUR 15/002/2005). Its residents were redistributed among different social care homes across Bulgaria. Although their material provision had in most cases improved slightly, some still lived in conditions that amounted to inhuman and degrading treatment. There was still no independent mechanism to ensure prompt, thorough and impartial investigation of reported abuses against residents of mental health institutions.

In April, the International Helsinki Federation (IHF), a non-governmental organization, released a report on places of detention in Bulgaria (see below). According to this report, psychiatric hospitals and social care homes lacked the facilities to provide adequate treatment and care to people with mental and developmental disabilities. Despite some improvements, the food was insufficient, and the methods of treatment were not compatible with international obligations to provide the highest attainable level of health and life in dignity for people with disabilities. The IHF also reported that children in institutions under the Ministry of Education and Science are not protected from physical abuse and are deprived of meaningful activities, making their rehabilitation and reintegration process more difficult.

In May, the District Court of Plovdiv acquitted three members of staff from a social care home in Dzhurkovo who had been charged in connection with the deaths of 13 children from hypothermia, malnutrition and lung diseases between December 1996 and March 1997. The court was unable to establish a causal link between the deaths and negligence by staff, and found that neglect on the part of the state had left the home without the means to pay for food and heating, resulting in living conditions that were cruel, inhuman and degrading.

In June, Ivailo Vakarevski, aged 24, was found dead in the State Psychiatric Hospital in Karlukovo, to which he had been admitted three days earlier. According to reports, his body showed extensive bruising. Hospital staff were said to have told his parents that an autopsy could only be performed if they paid for one, even though the hospital was obliged to perform an autopsy under the Health Care Act. The hospital also failed to report the death to the police and the prosecutor's office, as required. At the time of writing the case has been referred to the prosecutor.

Conditions in detention facilities

In April the IHF released the report on places of detention in Bulgaria referred to above. The IHF delegation had visited detention facilities for people sentenced for criminal offences or those awaiting trial (under the authority of the Ministry of Justice), psychiatric hospitals for the involuntary placement of people with mental illnesses (under the authority of the Ministry of Health), institutions for the involuntary placement of juvenile delinquents (under the authority of the Ministry of Education and Science), and social homes for the involuntary placement of people with developmental disabilities (under the authority of the Ministry of Labour and Social Policy).

The IHF reported that the conditions of detention were inhuman in several detention facilities under the Ministry of Justice, especially in Plovdiv and Nova Zagora. According to the IHF, there were no effective mechanisms to deal with complaints of ill-treatment and inter-prisoner violence in Bulgaria. The quality of medical care, which was not integrated with the national healthcare system, was low. In several facilities, prisoners were not offered

any activities and were *de facto* cut off from the outside world.

Discrimination against Roma

On 27 June, a court in Blagoevgrad pronounced its judgment against a restaurant for refusing to serve a group of Romani customers in March 2004, while serving non-Romani people who had arrived later. The Romani group brought a complaint of discrimination after waiting for service for an hour, and the restaurant owner was unable to show that he had not treated them differently from others, as required under Bulgaria's anti-discrimination legislation.

CROATIA

General and political developments

In February the Stabilization and Association Agreement between Croatia and the European Union (EU) entered into force. However, in March the EU Council decided not to begin accession talks on 17 March, as originally scheduled. These will be opened only after it is established that Croatia is fully cooperating with the International Criminal Tribunal for the former Yugoslavia (Tribunal). In June the EU Council encouraged Croatia to continue to step up efforts towards full cooperation with the Tribunal and decided to review Croatia's progress in July.

War crimes and crimes against humanity (update to AI Index: EUR 01/002/2005)

International prosecutions

Despite their pledge to fully cooperate with the Tribunal, the Croatian authorities failed to arrest and transfer to the Tribunal's custody Ante Gotovina, charged with crimes against humanity and war crimes, including the murder of at least 150 Croatian Serbs in 1995. In her address to the UN Security Council in June 2005, the Tribunal Prosecutor stated that "in the first part of this year, the efforts made by the authorities [to arrest Ante Gotovina] were neither pro-active, nor focused, and several incidents occurred where sensitive information was manipulated so as to obstruct the investigation against Gotovina and his protective networks". The Tribunal Prosecutor also noted that there were indications that Ante Gotovina could still count on active support networks, including within state institutions.

In January former Yugoslav People's Army (Jugoslovenska narodna armija – JNA) Lieutenant-General Pavle Strugar was sentenced to eight years' imprisonment for his role in attacks on civilians and the destruction of cultural property during the shelling of Dubrovnik's Old Town in December 1991.

In February the Tribunal indicted Momčilo Perišić, former JNA Chief of Staff, for war crimes and crimes against humanity committed during the wars in Croatia and Bosnia and Herzegovina (BiH), including for his alleged role in the shelling of Zagreb in 1995.

In June the Tribunal Prosecutor withdrew her application to refer the "Vukovar Three" case to a domestic jurisdiction in the former Yugoslavia, citing its highly sensitive nature and the fact that "any decision by the Chambers to transfer it would provoke deep resentment in one or the other country considered for the transfer, Serbia and Montenegro or Croatia" as reasons behind her decision. The accused, Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin, who remain in custody at the Tribunal, are all former JNA officers indicted for their alleged involvement in the removal of more than 250 non-Serbs from the Vukovar hospital and their execution at the Ovčara farm, after Vukovar fell to the JNA and Serbian forces in 1991.

Also in connection with the Ovčara massacre in 1991, the trial of six Croatian Serb defendants continued at the special War Crimes Panel within the Belgrade District Court for war crimes.

Domestic prosecutions

Trials for war crimes and crimes against humanity continued or started before local courts, often *in absentia*. In some cases these trials did not meet internationally recognized standards of fairness. In general, ethnic bias continued to affect the investigation and prosecution by the Croatian judiciary of wartime human rights violations. There continued to be widespread impunity for crimes allegedly committed by members of the Croatian Army and police forces and no new prosecutions were initiated for such crimes between January and June. Moreover, steps taken to guarantee the security and privacy of witnesses and to meet their psychological and welfare needs continued to remain insufficient.

In February three former Croatian police officers and one serving police officer, accused of having killed six captured JNA reservists in 1991, were acquitted by the Varaždin County Court. In May 2004 the Croatian Supreme Court had quashed a previous acquittal in this case by the Bjelovar County Court and ordered a retrial.

In April proceedings against 27 Croatian Serbs, Roma and Ruthenians, 16 of whom are being tried *in absentia*, reopened at the Vukovar County Court, in what is reportedly the biggest war crimes trial ever held in Croatia. The defendants, who *inter alia* are accused of having committed genocide, are suspected of having committed in 1991 and 1992 crimes against the civilian population of the village of Mikluševci, near Vukovar. The trial had initially started in 2004 on the basis of an indictment issued in 1996 against 35 suspects and was suspended upon request of the prosecutor, after it was ascertained that eight of the accused named in the indictment had meanwhile died.

In May proceedings started at the Zagreb County Court against five former members of a Croatian Ministry of the Interior unit suspected of having killed in 1991 a member of the Croatian Army and of having abducted and detained three Croatian Serbs resident in Zagreb who were later killed by unknown perpetrators in Pakračka poljana.

The trial continued at the Karlovac County Court of a former member of the Croatian special police on charges of having killed 13 disarmed JNA reservists in 1991, by firing bursts from his machine gun. His earlier acquittal by the Karlovac County Court had been overturned by the Croatian Supreme Court in 2004.

In May Croatian President Stjepan Mesić reduced by one year the prison sentence of Nikola Dragušin, former member of the Croatian Serb Army, who had been sentenced in 1996 to 20 years' imprisonment for war crimes against the civilian population committed in Western Slavonia. In June President Mesić reduced the prison sentence of former Croatian Army officer Stjepan Grandić from 10 to eight years. Stjepan Grandić, alongside Tihomir Orešković and Mirko Norac, had been found guilty in 2003 by the Rijeka County Court of the killing of Croatian Serbs in the Gospić area in one of the first trials for war crimes held in Croatia of relatively high-level ethnic Croat perpetrators. Also in June the Croatian President reduced by three and two years respectively the prison sentences against former members of the Croatian Serb forces Damjan Vukmirović and Slobodan Bosanac. They had both been sentenced to 20 years' imprisonment for war crimes committed against the non-Serb population.

Unresolved 'disappearances' (update to AI Index: EUR 01/002/2005)

The Croatian Government Bureau for Detained and Missing Persons was still searching for approximately 1,200 missing persons, mostly from the first phase of the 1991-95 war. This figure did not include people, mostly Croatian Serbs, who went missing during operations "Storm" and "Flash" in 1995 and who in many cases were victims of "disappearances" allegedly committed by members of the Croatian Army and police forces. The perpetrators of

these crimes largely continued to enjoy impunity.

Right to return (update to AI Index: EUR 01/002/2005)

Approximately 300,000 Croatian Serbs left Croatia during the 1991-95 conflict, of whom only approximately 115,000 are officially registered as having returned. According to the UN High Commissioner for Refugees, some 200,000 Croatian refugees, mostly Croatian Serbs, are still displaced in neighbouring countries and beyond. In January a trilateral ministerial declaration was signed by the relevant ministers of Croatia, BiH and Serbia and Montenegro confirming the commitment of the three countries to solve all problems affecting refugee return in the region by the end of 2006.

Many Croatian Serbs, especially those who formerly lived in urban areas, could not return because they had lost their tenancy rights to socially-owned apartments. Lengthy and in some cases unfair proceedings, particularly in lower level courts, remained a major problem for returnees pursuing their rights in court. Croatian Serbs continue to be the victim of discrimination in access to employment and in realising other economic and social rights. Some cases of violence and harassment against Croatian Serbs continued to be reported.

UN Committee on the Elimination of Discrimination against Women

In February the UN Committee on the Elimination of Discrimination against Women (henceforth, the Committee) issued its concluding comments after considering Croatia's second and third reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The Committee *inter alia* expressed its concern over the high incidence of domestic violence, the limited number of shelters available for women victims of violence, and the lack of clear procedures, or protocols, for law enforcement and health-care personnel who respond to cases of domestic violence. Moreover, the Committee was concerned at the high incidence of trafficking in women and at the fact that Croatia "has become a country of origin, transit and destination of trafficked women and girls".

The Committee urged the Croatian authorities to ensure that violence against women is prosecuted and punished, and to facilitate women's access to legal aid. The Committee urged the authorities to ensure that enough shelters are made available to women victims of violence. It called on Croatia to ensure that public officials, especially law enforcement personnel, the judiciary, health-care providers and social workers, are fully familiar with applicable legal provisions, are sensitized to all forms of violence against women and adequately respond to them. The Committee also urged Croatia to step up its efforts to combat trafficking in women and girls, including through the finalization and implementation of its Operative Plan for the Prevention of Trafficking.

CZECH REPUBLIC

Roma

Housing

On 30 June, the European Roma Rights Centre, a regional non-governmental organisation, wrote to the Czech Prime Minister highlighting the issue of a hostel for low-income people in the northern town of Bohumin. The municipality had decided to convert the hostel into more expensive flats, setting conditions for residence which would exclude many of the current, predominantly Romani residents. The municipality issued eviction orders asking residents to vacate the accommodation by 1 July. The municipality offered no feasible plan to provide the low-income inhabitants of the hostel with alternative accommodation. Instead, it proposed a plan of segregated Roma accommodation, where men would be separated from women and children.

Segregation of Roma children in schools

In May, the European Court of Human Rights in Strasbourg decided to admit a complaint filed by 18 schoolchildren of Romani origin against the Czech Republic. The complaint alleged racial discrimination in education. The applicants claimed that their placement in "special schools" for children with mental disabilities on the basis of their ethnic origin constituted racial discrimination and contravened international human rights principles.

Police ill-treatment of Roma

Allegations of police ill-treatment of Roma continued. The non-governmental League of Human Rights, for example, reported that on 1 February an 18-year-old Roma man known as R.B.[1] was assaulted by the police in the city of Krupka. The young man is said to have had an argument with his mother in a local bar, and allegedly broke the glass in the entrance door when leaving. The municipal police was notified but R.B. was not prevented from leaving the bar. Later that day, R.B was stopped on the street by the police, put in the patrol car and brought back to the bar. While he was being searched by one of the officers, R.B. was allegedly suddenly hit by the officer carrying out the search, after which other police officers started kicking the youngster on various parts of his body and in the head, observed by several witnesses. As a result of the attack R.B suffered injuries which required medical treatment. The League of Human Rights filed a complaint on behalf of R.B. with the state police, but despite witness testimonies, the case was closed.

On 31 January the regional court in Jicin sentenced two former police officers to imprisonment for physically and verbally abusing two Roma women (one of whom was pregnant) and a boy after they entered an apartment owned by a Roma family in Popovice u Jicina on 12 May 2003. Marek Vrastil was sentenced to 20 months' imprisonment, and Karel Berousek to 12 months' imprisonment.

Allegations of illegal sterilization of Romani women (update to AI Index: EUR 01/002/2005)

In late 2004, the Ministry of Health established a panel to review files of alleged victims of coercive sterilizations of Romani women in the Czech Republic, to facilitate investigation into this issue and to respond to queries from the Ombudsman. The Ombudsman was conducting an independent investigation into approximately 80 complaints against hospitals that allegedly sterilized women without their informed consent. A number of these cases were transferred to the state attorney and the police for investigation. The Group of Women Harmed by Sterilization, a non-governmental organization created in the Czech Republic by 25 sterilized Romani women to press the authorities for justice for victims of coerced sterilization, has lodged formal complaints concerning sterilization incidents of Romani women. On 4 March, the first civil claim was filed with an Ostrava Court by Helena Ferencikova, who was sterilized in an Ostrava hospital in 2001.

Police ill-treatment

Reports of ill-treatment by the police continued, particularly of Roma (see above), but also of other groups, such as homeless people, people with substance abuse problem and foreigners.

On 20 April, for example, brothers Jan M. and Jozef M., both minors, were reportedly ill-treated after being taken into custody by police in a Prague street on suspicion of illegally pasting posters on street lamps. In the car, Jan M. was hit by a policeman. At the police station in Prague 3 (Žižkov), the boys were made to strip naked and do push-ups in the presence of three policemen. During the interrogation, Jan M. was reportedly hit in the head so hard that his ear and nose bled and he suffered concussion. Relying on the testimony of the

[1] Initials have been used to protect identities

three policemen, and despite a medical report on one of the boys, the case was not taken forward by the Inspectorate of the Ministry of the Interior. The League of Human Rights appealed against the decision of the inspectorate, and as of the time of writing the case was being investigated by the state attorney.

Mental health issues (update to AI Index: EUR 01/002/2005)

Despite the banning of cage beds in psychiatric institutions under the Ministry of Health, their use was still permitted in social care centres under the Ministry of Labour and Social Affairs. These centres house children and adults with mental disabilities and people with substance abuse problems.

In May, parliament adopted an amendment to the law on social care, on the use of restraint in all social care institutions, including cage beds. Regularization of restraint use was cited as the objective of the law, although in fact it legalized the use of restraints. The amendment allowed employees of social care homes who are not qualified physicians to make decisions regarding restraint use. Moreover, the amendment does not provide for supervision of the restraint order, time limits on restraint, or a complaint mechanism for victims.

ESTONIA

Ethnic minorities

In February, the Council of Europe's Advisory Committee on the Framework Convention for the Protection of National Minorities noted that Estonia had taken certain legal and administrative steps to make the naturalization process more accessible and streamlined, and that the rate of naturalization had recently increased. However, it also noted that 150,536 people were living in Estonia without citizenship at the end of 2004, a figure which the Committee described as disconcertingly high. The Committee recommended, among other things, that Estonia introduce anti-discrimination laws which include adequate safeguards for non-citizens; that naturalization be made more accessible; that the teaching of Estonian in secondary schools should be pursued in a way that did not harm the quality of education provided to members of national minorities or limit their access to higher education; that steps be taken to ensure national minorities were not subjected to direct or indirect discrimination in the labour market; and that the suitability of existing language proficiency requirements in all sectors of employment be reviewed to ensure that they were realistic and proportionate and did not have a discriminatory effect.

Torture and ill-treatment

In April, the Council of Europe's Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) published a report based on findings from a visit to Estonia in 2003. The report was generally positive but did raise several areas of concern.

During its September 2003 visit, the CPT delegation received very few reports of ill-treatment from persons in detention. However, they did receive allegations of ill-treatment at the time of apprehension. The allegations primarily regarded being punched, kicked or struck with batons. The CPT recommended that "no more force than is reasonably necessary" should be used during apprehension.

The CPT expressed concern that the cumulative effect of the poor material conditions and the unsatisfactory regime at the Kohtla-Järve and Narva detention centres could be described as inhuman and degrading. The delegation described how detainees were locked up for 24 hours a day in cells that were generally dirty, badly lit and overcrowded. Detainees were reportedly forced to relieve themselves in lavatories in poorly ventilated cells in front of their cell mates.

The CPT report further noted that there were no special provisions for juveniles in

detention, and that juveniles were often placed in the same cells as adults. Concern was also expressed regarding the fact that Estonian law does not explicitly give detainees a legal right to notify a third party of their custody. The CPT also remarked that those in detention centres did not receive medical screening promptly after their arrival.

Regarding prisons, the delegation received several consistent reports from Tartu prison regarding "alleged beatings by masked members of a special squad during an intervention in the block for sentenced prisoners in May 2003". The CPT recommended that if special intervention squads were to be used again in prisons, they should be monitored by an independent authority.

The CPT delegation further expressed concern that remand prisoners in Estonia were not offered any out-of-cell activities. During its visit in 2003, the delegation noted that remand prisoners were held for 23 hours a day in their cells. The CPT also noted that in Tartu prison human contact was reduced to a bare minimum. Prisoners were reportedly held in cells either alone or with one other person in the cell, and inmates from different cells could apparently never associate.

FRANCE

Effective impunity for law enforcement officers

In April AI published a major report *France: the Search of Justice - The effective impunity of law enforcement officers in cases of shootings, deaths in custody or torture and ill-treatment*, (AI Index: EUR 21/001/2005). In its report, through 10 years of documenting and exposing cases, AI uncovered evidence of the widespread failure of the judicial system to prosecute and punish human rights violations. This includes a "two-speed justice" -- which prosecutes cases brought by police officers far more quickly than those brought by their victims. Two cases detailed in the report, that of Youssef Khaïf (police killing) and Aïssa Ihich (death in custody), for example, both took 10 years to come to court. This pattern of impunity contributes to a lack of public confidence that law enforcement officials operate under the rule of law and are held accountable for their actions.

AI found that a large number of cases never reach the courtroom. When they do, convictions are rare, and sentences often nominal. AI expressed concern at what seems to be situation of effective impunity caused by the widespread failure of the judicial system to effectively investigate, prosecute and punish human rights violations in law enforcement affairs.

In addition, AI was concerned at the continuing lack of respect for internal guidelines or codes of conduct, as well as for international norms. Such concerns detailed in the report included the reluctance of public prosecutors to pursue cases against police officers; mistreatment and lack of safeguards in police custody; unnecessarily lengthy delays in judicial proceedings; and the lack of a full definition of torture in the Penal Code.

The report noted that the number of fatal shootings by police officers or gendarmes in disputed circumstances has declined in recent years, but complaints of ill-treatment have increased. Complaints about police conduct increased by 18.5 per cent in 2004. Furthermore, the excessive and sometimes lethal force used against suspects appears to be racially biased. Almost all of the cases which have come to AI's attention have involved people of non-European ethnic origin, often people of North African or sub-Saharan extraction or from France's overseas departments or territories (DOM-TOM).

AI urged the French authorities to create an independent mechanism to investigate all allegations of serious human rights violations; bring those responsible to justice after prompt and thorough investigations; ensure that all detainees are granted access to a lawyer from the outset of police

custody; and ensure that the victims receive redress.

Responding to the report, the General Director of the National Gendarmerie promised to consider the recommendations it contained. The Minister of Interior, in a letter dated 30 May 2005, considered that AI had based its comments and recommendations "on a certain cases presented in a unilateral fashion". The Minister further noted "the manifest erroneous character of the conclusion of the study".

Racism and discrimination

CERD considers the fifteenth and sixteenth periodic reports of France

In February and March, the UN Committee on the Elimination of Racial Discrimination (CERD) considered the fifteenth and sixteenth periodic reports of France regarding the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination. The Committee noted some positive developments, including the many legislative measures to combat racial discrimination, such as the Act of 30 December 2004 setting up the High Authority against Discrimination and for Equality and the Act of June 2004 to ban the spread of racist messages on the internet, and welcomed the role played by the National Consultative Commission on Human Rights in efforts to combat discrimination, urging the French authorities to take the Commission's views more into account.

However, the Committee remained concerned at the "persistent discriminatory behaviour towards the members of certain ethnic groups" on the part of security forces and other public officials. The Committee recommended that France take the necessary preventive measures to halt racist incidents involving members of the security forces and also ensure that impartial investigations are carried out into all these complaints, and that any punishments imposed are proportionate to the gravity of the acts committed. It also recommended that France "widely distribute information on available domestic remedies against acts of racial discrimination, the legal means available for obtaining compensation in the event of discrimination, and the procedure governing individual complaints" as provided in article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination.

ECRI publishes its third report on France

In a report in February the Council of Europe's European Commission against Racism and Intolerance (ECRI) acknowledged that France had taken steps to combat racism and intolerance. These included the establishment of a free telephone help line for reporting racial discrimination and schemes to facilitate the integration of newly arrived immigrants; improvements in immigrant children's access to education; and the creation of an independent police and prison oversight body, the National Commission on Ethics and Security.

However, ECRI also noted that several other important recommendations were either not implemented or implemented only in part. ECRI noted that "law enforcement officials and members of the judicial service were not always sufficiently alert to the racist aspect of offences, and the victims were not always adequately informed or assisted with the formalities." It recommended that: "the French authorities duly implement the provisions stipulating that racist motivation constitutes an aggravating circumstance in the case of the specified offences, and take the necessary steps to monitor the implementation of these new provisions".

ECRI further noted "with anxiety" that complaints persist concerning ill-treatment inflicted by law enforcement officials on members of minority groups, saying: "The complaints implicate police and gendarmerie officers, prison staff and personnel working in the ZAPI ('*zones d'attente des personnes en instance*'; zones

specially designated for persons awaiting clarification of their legal status). They allege acts of physical violence, humiliation, racist verbal abuse and racial discrimination." ECRI recommended the adoption of measures to "put a stop to all police misconduct including ill-treatment of minority groups".

Reports by domestic bodies

AI's concerns about the often discriminatory aspect of human rights violations in law enforcement affairs and the perceived sense of impunity were echoed in the annual report of the National Commission for a Security Code of Conduct (Commission Nationale de Déontologie de la Sécurité, CNDS), also published in April. The CNDS, an independent police and prison oversight body, described a 38 per cent rise in complaints of police violence (94 in 2004, compared to 70 in 2003). In a third of cases, the violence was said to be manifestly racist in character. A chapter of the CNDS report was devoted to a study on the role of discrimination in the failures of the policing system.

ECRI had also expressed concern about identity checks with a racial bias, noting that the complaints about discriminatory identity checks were persisting. ECRI was especially concerned "about information from non-governmental organizations to the effect that when someone lodges a complaint against a law enforcement official, the latter almost invariably retaliates with a charge of insulting an officer of the law or malicious accusation, which weakens the position of the civil plaintiff".

In March, the National Consultative Commission on Human Rights (Commission Nationale Consultative des Droits de l'Homme, CNCDH) published its annual report, according to which the number of racist and antisemitic attacks had almost doubled in 2004 compared with the previous year. The CNCDH expressed its concern that antisemitism had become "rooted" in society.

The case of Karim Latifi (update to AI Index: EUR 21/001/2005)

On 22 February 2002, Karim Latifi, a computer consultant, was involved in an altercation with police officers in Paris, in which he was severely assaulted and racially abused by police officers (details of his case are given in the AI report mentioned above). On 17 May 2005, two police officers were given suspended three- and four-month prison sentences after the 17th Chamber of the High Court (Tribunal de Grande Instance) in Paris convicted them of assault and racial abuse. The court acquitted two other law enforcement officers. At the time of writing, a civil lawsuit for damages was still pending.

The case had previously been closed (*classé sans suite*) by the public prosecutor on 10 July 2002. In a letter to AI dated 24 July 2002, the prosecutor attached to the court of Paris stated that the case had been investigated by the Services General Inspectorate (Inspection générale des services, IGS) [2], as a result of which his predecessor had decided to close the case. Judicial proceedings were pursued only because Karim Latifi initiated a private prosecution.

Concerns about new legislation on asylum

In April a three-year process of increasing restriction on asylum, included under a new asylum law on 10 December 2003, concluded with the implementation of administrative measures. The new law had been followed by the implementation decrees (*décrets d'application*) in August 2004. New regulations allowed less time for submitting asylum applications: asylum-seekers were to be issued temporary

[2] Criminal and disciplinary investigations into police conduct are carried out by a specialist unit within the National Police force, the Inspection Générale de la Police Nationale (IGPN), created in October 1986. This covers the whole of French territory apart from Paris, where the corresponding body is the Inspection Générale des Services (IGS).

residence permits from the competent authority (*préfecture*) but had to complete their applications and submit them in French within 21 days (previously within a month) to the French Office for the Protection of Refugees and Stateless Persons (Office Français de Protection de Réfugiés et Apatrides, OFPRA).

A new list of 12 "safe" countries was adopted in June. Under the new regulations the claims of people from these countries are examined under a fast-track procedure that lacks basic elements of protection. Asylum-seekers are not granted a residence permit, do not receive any support from the state, and have only two weeks to submit their application in French. OFPRA has two weeks to examine the applications, and any appeal to the Appeal Commission (Commission des Recours) does not have a suspensive effect -- meaning that they may be deported before any appeal is heard.

Under the new regulations, individuals held in a detention centre and awaiting expulsion have only five days to make an asylum application (previously they had 12 days). The European Court of Human Rights had condemned Turkey for a similar procedure in 2000, on the grounds that such a short time-limit denied the possibility of adequate scrutiny of the asylum-seeker's case.

A decree in May legalized the practice -- already implemented in certain prefectures from the beginning of 2005 -- of denying language interpretation free of charge to asylum applicants in detention centres. Several administrative courts subsequently ruled that it was essential to provide interpreters, given that asylum applications had to be submitted in French. One judgement stated: "given the fact that applications for asylum have to imperatively be submitted in French, it is essential to provide them [the asylum-seekers] with an interpreter" [3].

This issue is of particular concern given the reduced period of time in which asylum-seekers must complete their applications. Domestic asylum law requires that applicants be given the means to support their claim and that decisions and information are communicated in a language the applicant understands, whether in writing or through an interpreter.

Concerns over effectiveness of domestic remedies

On 27 January, the European Court of Human Rights ruled on the case of Ilich Ramírez Sánchez (often known as "Carlos the Jackal"). He was held in solitary confinement at the prison of Paris-La Santé since his arrest in 1994 and was sentenced to life imprisonment for murder in 1997, but remained under investigation for other alleged crimes. He had lodged an application with the Court on 20 July 2004. The Court was unanimous that the prisoner had been unable to challenge his prolonged solitary confinement because of the lack of any remedy in domestic law, although it held that this did not violate the prohibition of torture.

In November 1998 AI had requested information from the Minister of Justice about the prolonged isolation of Ilich Ramírez Sánchez and expressed its belief that prolonged isolation can have a detrimental effect on the physical and mental health of prisoners, in some cases amounting to cruel, inhuman or degrading treatment or punishment (see AI Index: EUR 01/01/99).

GEORGIA

Torture and ill-treatment

In the period under review the authorities undertook a number of steps to address the problem of torture and ill-treatment in Georgia.

[3] *Tribunal Administratif de Toulouse*, 31 January 2005, *Cheng*. All the administrative courts (*tribunaux administratifs*) that dealt with this question have issued similar judgments, none of which had been overturned at the time of writing.

Several legal amendments relevant to the issue of torture and ill-treatment were adopted. For example, according to amendments to the Criminal Procedure Code that were adopted in March, testimonies given by the defendant in pre-trial detention should only be used in court if they are confirmed by the defendant in court. In addition, testimonies given by witnesses during the pre-trial investigation can only be read out in court if the witness agrees. Exceptions can only be made in particular circumstances such as in case the witness has died, is abroad or his/her whereabouts are unknown. AI will continue to monitor closely the implementation of these legal amendments in order to assess their effectiveness in combating torture and ill-treatment.

In January the Main Department for Human Rights and Monitoring was set up at the Ministry of Internal Affairs. The Department instructed heads of preliminary detention facilities across Georgia to inform them immediately when a detainee is brought to their detention facility with visible bodily injuries who may have been subjected to torture or ill-treatment. Giorgi Kiknadze, Deputy Head of the Department, told an AI representative on 25 April that when such instances occur within Tbilisi, the capital, staff of his Department promptly go to the respective detention facility, interview the victims, consult medical records and, if the detainee has complaints about treatment by police, forward the case information for investigation to the General Inspection in the Ministry of Internal Affairs and to the General Procuracy. Giorgi Kiknadze informed AI that his Department passed on 25 cases for further investigation between 1 January and 4 May. The Department was unable to conduct similar work outside Tbilisi, reportedly due to lack of resources.

In June, in another positive move, the Human Rights Protection Unit at the office of the General Procuracy began to issue a monthly newsletter providing information about investigations and prosecutions regarding cases involving allegations of torture or ill-treatment. According to information provided on 28 June by Lasha Magradze, head of the Unit, 18 police officers had been charged in connection with allegations involving torture or ill-treatment since the beginning of the year and 12 police officers had been found guilty by the courts. Two of them were released on probation and 10 officers were sentenced to terms of imprisonment ranging from three to seven years.

In the period under review Sozar Subari, the Public Defender of Georgia (Ombudsman), conducted extensive monitoring of preliminary detention facilities. Sozar Subari told AI on 5 May that his office had conducted around-the-clock monitoring in Tbilisi and the Shida-Kartli region for about nine weeks beginning in January and since then had monitored detention facilities under the jurisdiction of the Ministry of Internal Affairs, the Ministry of Justice, and the Ministry of Defence for eight hours every day and twice a week for 24 hours. As a result the Ombudsman published several cases alleging torture and ill-treatment that came to his attention and several human rights activists interviewed by AI believed the monitoring had had a deterrent effect on police in those detention facilities covered by the monitoring.

Although -- as described above -- substantial efforts were made to bring cases of torture and ill-treatment to light, many cases were still believed to go unrecorded. There were strong indications that police continued to hide many cases, and that detainees were often afraid to complain about torture or ill-treatment and preferred not to identify the perpetrators for fear of repercussions.

AI welcomed that President Mikheil Saakashvili publicly addressed the issue of torture and ill-treatment in the period under review and spoke about the need to prosecute the perpetrators. On 21 June during a meeting with the Supreme Court Chairman and newly selected judges, which was broadcast on the First Channel of Georgian state television, President Saakashvili stated that "there have already been the first convictions for beatings. Two people died in pre-trial detention last year.

In one case there was a conviction while the other one is still underway. Recently, in 2005, 50 [police] officials have been dismissed and several dozen are being prosecuted."

However, in the same speech he stated that "since [Merab] Baghaturia became the new chief of police in Tbilisi, not a single person has been beaten in police custody". Merab Baghaturia became chief of Tbilisi city police in January 2005. According to data provided to AI by the Ministry of Internal Affairs, between January and April more than 20 detainees complained to officials of the Main Department for Human Rights and Monitoring at the Ministry of Internal Affairs that they had been tortured or ill-treated in police custody. The investigations into most if not all of these cases had not been concluded when President Saakashvili gave this speech.

Continuing allegations of torture and ill-treatment

In spite of positive moves outlined above, however, AI continued to receive allegations of torture and ill-treatment by police in the period under review.

For example, it was alleged that in the evening of 24 February, when David-ogly Jafarov left his house in the village of Ponichala in Gardabani district near Tbilisi, a white car stopped and six men in plainclothes jumped out and pushed him inside the car without any explanation. The men reportedly started beating him while pushing him to the car. David-ogly Jafarov was believed to have been taken to Gardabani district police where he said he was beaten and kicked in the face and on the back. After that, his lawyer reported, he was taken to the Ministry of Internal Affairs where he was hit on the hand with a gun; a plastic bag was placed on his head to make it harder for him to breathe; and one police officer reportedly put a gun into his mouth shouting at him to "confess" he was a drug dealer. Later that day David-ogly Jafarov was transferred to the preliminary detention facility in Dighomi, Tbilisi. According to his lawyer, David-ogly Jafarov told the police and the doctor on duty in Dighomi that he had been beaten but when the medical doctor recorded the injuries he wrote that they were sustained prior to the arrest. On 27 February David-ogly Jafarov was taken to the investigation-isolation prison no. 1 in Tbilisi for pre-trial detention. The medical examination upon arrival there established that he had bruises near his right eye, near his spine on his left shoulder-blade and cuts on his right hand. In addition, he had abrasions between his eyebrows and on his back near the spine. The independent forensic expert Maia Nikoleishvili examined David-ogly Jafarov in the investigation-isolation prison on 4 May and confirmed the findings of the prison doctors with the exception that she concluded the wounds on his hand were caused by a blunt heavy object. To AI's knowledge, by the end of the period under review, no investigation had been opened into the allegation that David-ogly Jafarov was tortured and ill-treated by police.

In another case, Eldar Konenishvili, who was serving a six-year prison sentence for "theft" and "hiding from the investigation" and worked as a cook in the investigation-isolation prison no. 1 in Tbilisi, was taken to a court in Gurjaani in eastern Georgia on 8 April. According to him, he had been told that he should testify at a trial as a witness. However, after he had spent a short amount of time in a cell in the court building he was transferred to a police station in Gurjaani. There he was reportedly taken to an office on the first floor and interrogated for four hours until 7pm. Eldar Konenishvili reported that he was beaten by police: that police hit him on his head and in his face and used the leg of a chair to hit him on the fingers of his left hand. Reportedly, police threatened to beat his wife, mother and children unless he "confessed" to a murder the police accused him of having committed. One police officer reportedly took him to the balcony and threatened to throw him off the balcony. He told AI on 13 April that he was able to identify the perpetrator/s. Eldar Konenishvili reported that he lost consciousness several times, that blood was

coming from his mouth and that he was unable to see clearly. When Eldar Konenishvili was returned to the investigation-isolation prison no. 1 in Tbilisi in the evening he did not ask for a doctor because he was afraid to talk about the ill-treatment. However, back in his cell he started coughing blood and vomiting and the cell mates and a prison guard called a doctor. He was reportedly unable to walk unaided for several days; he had a severe headache and could not keep his food down. An investigation into the allegations was opened by the procuracy; however, by the end of the period under review, no charges had been brought against the alleged perpetrators.

In another case, Vakhtang Guchua and Zaali Akobia were reportedly ill-treated by a special police unit after their arrest on 18 April. According to Vakhtang Guchua, approximately 15 officers detained him in his house early on 18 April. He reported that the men took him to the building of the special police unit in Kedia street in the town of Zugdidi and ill-treated him for some four hours until approximately 8am. They reportedly beat and kicked him and hit him with the butts of their guns. According to him, the officers wanted him to sign a "confession" stating that he participated in the June 2002 killing of Jamal Narmania, the former security police head in Zugdidi. He also told AI that law enforcement officers again beat him in the building of Zugdidi district court on 21 April in the presence of the judge and his lawyer. According to Tandila Jologua, the lawyer who started working on Vakhtang Guchua's case on 23 April, the duty officer who registered Vakhtang Guchua's admission to the investigation-isolation prison no. 4 in Zugdidi on 21 April did not record his injuries although Vakhtang Guchua reportedly showed him several bruises. Zaali Akobia was also detained at his house early on 18 April and taken to the offices of the special police unit in Kedia street. According to Zaali Akobia, he was beaten and kicked during his detention, on the way to Kedia street as well as inside the office. While he was ill-treated in the office on Kedia street, officers reportedly put a piece of cloth into his mouth so he would not be able to shout. After they removed the piece a cloth, an officer reportedly placed the barrel of a gun into his mouth threatening to kill him unless he signed a "confession". He reportedly saw his lawyer for the first time on 19 April. The state forensic medical expert Roin Petelava examined Vakhtang Guchua and Zaali Akobia on 27 April and found bruises and abrasions on their bodies. According to his assessment, the injuries, which he classified as light injuries, were caused by a blunt object. To AI's knowledge, no investigation had been opened into the allegations and the two men remained in detention at the end of the period under review.

Givi Janiashvili was arrested by some 40 to 50 masked special unit police officers at his house in the town of Rustavi on 12 May. According to his lawyer Zurab Rostiashvili, police planted drugs on his client. Givi Janiashvili alleged that police beat him, including with butts of their guns. According to his lawyer, Givi Janiashvili was unarmed and did not put up resistance to the police. His wife, his 11-year-old child and several neighbours reportedly witnessed the excessive force used by police. When examining him on 16 May, the independent forensic expert Maia Nikoleishvili found bruises around his eyes and on his forehead and he was hardly able to walk due to pain in his right leg. According to the expert, the injuries were caused by repeated hitting with a blunt object. To AI's knowledge, on 29 June Tbilisi city procuracy opened an investigation into the allegations that police used excessive force when detaining Givi Janiashvili. He remained in detention at the end of the period under review.

Expulsion of Chechen asylum-seekers

On 7 March the ethnic Kists and Russian citizens Shengeli Tsatiashvili (aged 20 or 21) and his brothers Suleiman (aged 18) and Sosran (aged 14) applied to the Ministry of Refugees and Accommodation in Tbilisi for asylum for the two younger brothers. Shengeli Tsatiashvili had already registered

his asylum claim in December 2004 and was waiting for a decision regarding his application by the Ministry. At the Ministry they were told that the relevant official was not present at that time and that they should return later. Shortly afterwards the three young men were reportedly detained by officers of the Interior Ministry's anti-terrorism group in the staircase of the Ministry of Refugees and Accommodation in Tbilisi. There were strong indications that an official at the Ministry of Refugees and Accommodation had informed the anti-terrorism unit of their presence in the building. After their detention, the three were believed to have been taken to the offices of the anti-terrorism group for questioning. The same day they were taken to the Red Bridge on the border with Azerbaijan and left in the territory between Georgia and Azerbaijan. However, the brothers managed to find their way back to Georgia. On 24 March they again turned to the Ministry of Refugees and Accommodation and the Ministry registered Suleiman and Sosran Tsatiashvili's asylum claim. However, officers of the anti-terrorism group were again present in the building and were reportedly only prevented from detaining them because the young men were accompanied by representatives of the Ombudsman's office and a representative of the United Nations Association of Georgia. The young men were reportedly told they would be under surveillance until a decision was taken regarding their asylum application.

To AI's knowledge, there was no extradition request for the three brothers and the organization was highly concerned that the men were expelled although the authorities had not yet considered their asylum applications. To AI's knowledge, by the end of the period under review, no investigation had been opened into the detention and deportation of the three brothers and nobody was brought to justice for facilitating and carrying out their detention and initial attempted deportation.

Kurd at risk of extradition to Turkey

On 1 February Dursun Ali Küçük, a citizen of Turkey, who was on his way to Germany, was detained following his arrival at the airport in Tbilisi. He was charged with illegal border crossing and possessing a false passport and placed in a detention facility in Tbilisi. Shortly afterwards the Turkish authorities requested Dursun Ali Küçük's extradition.

AI believed that, if extradited, he would be at serious risk of human rights violations including torture and ill-treatment because of his alleged membership of the Kurdistan Workers' Party (PKK). AI considered that the extradition of Dursun Ali Küçük to Turkey would be in contravention of the principle of *non-refoulement*, and thus in breach of Georgia's obligations under international human rights and refugee law, including Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

According to the testimony of Dursun Ali Küçük, he was imprisoned in Turkey from 1977 until 1993, convicted of membership of the PKK and subjected to torture during his imprisonment. After his release from prison he fled Turkey and applied for asylum in Germany. He was granted refugee status in 1994. He reportedly left Germany the same year in order to join the PKK in Iraqi Kurdistan, and only recently left the organization. In December 2003 the German authorities cancelled his refugee status on the basis of new legislation that was implemented in Germany that year, which stated that asylum would not be granted to those who were members of or linked to "terrorist" groups or organizations. The PKK was classed as one such group. By the end of the period under review an appeal was in progress against that decision, on the basis that Dursun Ali Küçük did not pose a threat to German security. Dursun Ali Küçük remained in detention in investigation-isolation prison no. 1 in Tbilisi awaiting trial.

Religious minorities

There were several instances where members of religious minorities were reportedly beaten and harassed by radical supporters of the Georgian Orthodox Church. In some cases, it was alleged that the attacks were incited by Georgian Orthodox priests.

Basil Mkalavishvili and several of his supporters convicted (update to AI Index: EUR 01/005/2004 and AI Index: EUR 01/002/2005)

On 31 January Vake-Saburtalo district court in Tbilisi sentenced Basil Mkalavishvili, Petre Ivanidze and Merab Korashinidze to six, four and one years' of imprisonment respectively. Four other supporters of Basil Mkalavishvili -- Avtandil Donadze, Avtandil Gabunia, Merab Korashinidze, Akaki Mosashvili, and Mikheil Nikolozashvili -- were given suspended prison sentences of three years each. AI welcomed the conviction of some of the key perpetrators of a series of attacks on religious minorities in recent years. However, some of those convicted at this trial were only convicted for a fraction of the attacks they were reportedly involved in and hundreds of perpetrators of attacks on religious minorities remained unpunished by the end of the period under review. Basil Mkalavishvili and Petre Ivanidze appealed their sentences to Tbilisi regional court. The court had not issued a ruling by the time of writing.

Concerns in the disputed region of South Ossetia

Alik Kozaev released

Alik Kozaev was released on 20 May. The young man was detained by South Ossetian police near Tskhinvali in July 2004. According to a senior investigator dealing with Alik Kozaev's case, police found a hand grenade on him and on 6 July he was charged with illegal possession of a hand grenade. Reportedly, a court in Tskhinvali sentenced him to 21 months' imprisonment in March 2005. The clemency commission turned down his appeal on 22 April. In May David Sanakoev, the Plenipotentiary for Human Rights at the President's office in South Ossetia, reportedly petitioned the President to release Alik Kozaev.

Alik Kozaev's case was highly politicized. The conflict between the Georgian central authorities and South Ossetia over the status of South Ossetia escalated in June 2004 for several weeks, with frequent shoot-outs which led to casualties, including civilians, on both sides. At the same time the Georgian authorities were pursuing a policy aimed at winning sympathy among citizens of South Ossetia to achieve one of the key goals of the current government -- the restoration of Georgia's territorial integrity. One element of this policy was to invite children from South Ossetia to spend their holidays in holiday camps in Georgia free of charge. Alik Kozaev had been hired for this project and it was his task to find and enlist children who would take part in the programme. There were strong indications that Alik Kozaev was targeted by the South Ossetian authorities to punish him for what they regarded as his "collaboration" with the Georgian authorities and that the hand grenade was planted on him.

The South Ossetian authorities repeatedly denied such accusations. Murat Jioev, Foreign Minister of South Ossetia, told an AI delegate during a visit to Tskhinvali on 26 April that "Alik Kozaev is a criminal and is in prison for illegal possession of ammunition. This is an artificial politicization of an ordinary criminal case."

GERMANY

Court ruling breaches international human rights law

On 14 June, the Hamburg Supreme Court (Hanseatisches Oberlandsgericht) ruled that evidence possibly obtained under torture or other ill-treatment was admissible in legal proceedings, in flagrant violation of its obligations under international law to

investigate complaints of torture and to exclude any statement made as the result of torture or other ill-treatment (see AI Index: EUR 23/001/2005).

The court accepted as evidence statements provided by USA authorities in the retrial of Mounir al-Motassadeq, accused of membership of a terrorist group and of assisting the hijackers of the aeroplanes used in the attack on the USA on 11 September 2001. The statements had been given by USA intelligence officials to German authorities in the form of summaries of interrogations of three persons suspected of terrorist activities held at unknown locations by USA authorities. These three individuals were reported to be Ramzi Binalshibh, Mohamed Ould Slahi and Khalid Sheikh Mohammed.

The court argued that it could not be proven that the statements were obtained through torture or other ill-treatment. Although human rights organisations such as AI and Human Rights Watch, as well as journalists and almost all released detainees, have repeatedly reported numerous allegations of torture and other ill-treatment reported from detention centres in Afghanistan, Iraq, Guantánamo and other locations where detainees suspected of belonging to terrorist networks are held by USA authorities, the court claimed that it could not be proven that the three individuals whose statements are at stake made them as a result of torture or other ill-treatment.

Despite requests by the Hamburg Supreme Court, the USA authorities have refused to allow cross-examination of the persons who have made the relevant statements. The USA authorities have refused to give any information about the whereabouts of these persons or the circumstances of the interrogations at hand. They have also refused to acknowledge whether one of the three persons was indeed in the custody of the USA or not. Similarly, the German authorities have resisted requests by the court to make available the information handed to them by the USA authorities, on the basis that this would lead to the "disruption of international diplomatic and secret service relations".

The court claimed, apparently without itself having conducted a prompt, thorough, impartial and independent investigation of the reports, without questioning the persons who made the statements and without defence counsel being able to cross-examine the persons, to have evaluated the information publicly available on the treatment of detainees suspected to belong to terrorist networks by the USA authorities. The court considered that the statements seemed fairly balanced, that is contained both incriminating and exculpatory elements, and concluded that the allegations of torture and other ill-treatment contained in public reports, including those published, inter alia, by AI and Human Rights Watch, were not verifiable as the confidential sources of such information were not named. It concluded that it could not be proven that the statements given of the said persons were extracted under torture or other ill-treatment.

If the statements used in the trial were obtained through torture, they would not be admissible as evidence in legal proceedings according to Article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Germany is a party. Furthermore, Germany would be in breach of Article 7 of the International Covenant on Civil and Political Rights, as well as Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms which both include the absolute prohibition on torture and other cruel, inhuman or degrading treatment or punishment.

Mounir al-Motassadeq is the only person anywhere in the world to have been convicted in connection with the 11 September attacks, having been convicted on 19 February 2003 of abetting the murder of more than 3,000 people and of belonging to a domestic terrorist group. However, Germany's Supreme Court ordered a retrial a year after his conviction, ruling that he had been denied a fair trial.

This was based on the fact that the USA refused to allow his defence access to a person held by the USA authorities on suspicion of terrorist activities whose statements had been used in that trial.

GREECE

Denial of refugee protection

AI wrote to the Minister of Public Order on 5 May expressing concerns about reports received that 106 persons, who had arrived on the island of Crete on 1 April, were expelled to Egypt 12 days later without being given the right to file asylum applications. The group arrived in the area of Palaiochora, Crete, after the boat they were on sank close to the coast, and were then directed to a hotel in Chania, where they arrived early the next day. While refusing requests by representatives of local authorities, lawyers and NGOs, including AI, to meet the people in question and offer assistance, the Deputy Minister of Public Order, Christos Markoyiannakis, was alleged to have stated that the group would in fact be immediately expelled. At the same time the Chania Police Chief, Antonis Proestakis, allegedly announced the introduction of a new administrative policy of immediate expulsion of all undocumented migrants arriving on Crete, effective immediately.

However, the people in question lodged at the hotel for the next few days and on 7 April, one local authority representative, one lawyer and two NGO representatives were able to meet them. They reportedly stated to the lawyer, Demetrios Fourakis, that they were Palestinians and that they intended to seek asylum in Greece. On the evening of 10 April they were escorted by the police onto a ship, bound for Athens, which arrived at the capital on the morning of 11 April. They were then transported to the detention centre of the Attica Aliens Department and other police stations in the area of Attica, where they were detained until the following day.

On 12 April, representatives of AI were allowed to speak with detainees in the Attica Alien's Department. They reported that only two of the approximately 30 people held there could speak English and that no interpreter was available. They also reported poor conditions of detention due to overcrowding in the single cell where these individuals were held, and allegations by the detainees that they had been ill-treated by police officers. The detainees had not been informed of their rights or of the reasons for their detention, including in a language which they understood. When representatives of other NGOs and lawyers subsequently requested to meet the detainees in order to provide information about their rights, the police officers in charge refused to allow them access to the detention area, claiming they had received orders from their superiors to block such access. Instead, all 106 detainees from the group who had arrived on Crete were escorted onto a ship the same afternoon and expelled to Egypt. In its correspondence with the government, AI expressed concern that the rights of those detained from 1 to 12 April had been systematically violated.

Conditions of detention of irregular migrants

In April, AI received reports that a number of people who had arrived on the island of Chios in previous days had been detained in conditions that amounted to cruel, inhuman and degrading treatment, including through detention in a metal container. On 19 April human rights activists on the island staged a demonstration calling for an end to the detention of irregular migrants by authorities in this metal container close to the main Chios harbour. AI wrote to the authorities pointing out that detention in such containers amounted to cruel, inhuman and degrading treatment, and expressing serious concern about allegations by the local activists that detention in the container had been practised by the authorities on Chios for some time. AI urged the government to provide assurances that the practice of

detaining people under such conditions would be stopped; that investigations be carried out to establish the circumstances in which this incident occurred; and that the whereabouts of the individuals detained in the container on the specified dates be established. AI also urged the authorities to pay reparation to the detainees. No reply had been received by the end of June, while information was received that people had been detained in the container on one other occasion.

Evictions of Roma

On 23 and 24 June a "cleaning operation" was completed by the Patras local municipality, which resulted in the demolition of 11 out of about 20 homes belonging to Albanian Roma legally residing in Greece, one of which still contained the family's belongings. AI expressed concern that such forced evictions contravened the principle laid out in the International Covenant on Economic, Social and Cultural Rights, which requires that "states parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force" (Article 13 of General Comment No.7 of the UN Committee on Economic, Social and Cultural Rights). AI also expressed concerns that a pattern was emerging of particular targeting of Albanian Romani homes for demolition. The organization received reports that on 17 August 2004, 35 Romani families had been forcibly evicted from their homes in the Riganokampos area of Patras. AI noted that such evictions against Albanian and other Romani communities in Greece also contravened international anti-discrimination law, and called for an end to the evictions and for a review of the government's policy towards the Roma. AI urged the government to include Romani representatives in the decision-making process regarding their future.

The organization was further concerned about reports that arson attacks against the Romani settlement in Patras were attempted on 21, 23 and 24 June. The first two were officially confirmed by the authorities, but no investigation had been opened at the end of the period under review. AI called on the authorities to ensure a thorough, prompt and impartial investigation into the allegations.

Conscientious objection (update to AI Index: EUR 01/002/2005)

In May AI published a report outlining its concerns about the violations of the rights of conscientious objectors (see *Greece: Punished for their beliefs: how conscientious objectors continue to be deprived of their rights*, AI Index: EUR 25/007/2005). Such concerns included the repeated convictions of Lazaros Petromelidis, the failure to recognize the right to develop a conscientious objection after serving as a professional soldier (illustrated by the case of Giorgios Monastiriotis), and violations of the right to conscientious objection of Jehovah's Witnesses who have adopted this faith after serving in the military. AI called on the Greek authorities to immediately stop the prosecution of conscientious objectors and to revise its legislation so as to comply with international law.

Disputed killings of migrants

Vullnet Bytyci (update to AI Index: EUR 25/012/2004)

On 5 June the trial of the police officer charged with fatally wounding the 18-year-old Albanian national Vullnet Bytyci in September 2003 ended. The police officer was found guilty of manslaughter and received a suspended prison sentence of two years and three months. The court also sentenced *in absentia* one of the persons who had crossed the border with Vullnet Bytyci to three months' imprisonment, suspended for three years, for illegal entry and fined him €1500.

Treatment of minorities

On 7 February the Supreme Court upheld the decision to ban the Xanthi Turkish Union, which had been dissolved in 1984, and so resolving 20 years of domestic litigation proceedings on the issue. The Court ruled that the association had an illegal aim and constituted a threat to public order because it made reference to "Turks" in Greece, whose existence the authorities deny, claiming the minority to be "Muslim".

UN HRC considers Greece's initial periodic report

The UN Human Rights Committee considered in March Greece's initial periodic report on the country's observance of provisions set out in the International Covenant on Civil and Political Rights. AI attended the session and submitted documents to the Committee for consideration. The Committee's concerns focussed on the Greek authorities' treatment of migrants and minorities, as well as the rights to freedom of conscience, expression and association. The Committee's recommendations covered issues of domestic violence, minority protection, police violence, trafficking, discrimination, conditions of detention of undocumented migrants, prison overcrowding, and conscientious objection. The Committee urged the State Party to revise national legislation in a number of these fields, while in others, it urged a revision of practice and thorough, prompt and impartial investigations into allegations of human rights violations.

ITALY

Asylum and immigration (update to AI Index: EUR 01/002/2005)

During the period under review issues of immigration, refugees and asylum continued to be of concern. The detention conditions at 'temporary stay and assistance centres' (usually referred to as CPTAs, Centro di Permanenza Temporanea e Assistenza) continued to be unsatisfactory. Mass deportations and a lack of access to a fair asylum procedure in line with international standards were other areas of concern. On 18 March, the UN High Commissioner for Refugees (UNHCR) expressed concern that, if there were any Libyan asylum-seekers in the centre during the visits by Libyan officials, such visits would have contravened basic refugee protection principles. On 14 April, the European Parliament expressed concern at the expulsion of migrants from Lampedusa between October 2004 and March 2005.

Despite having been party to the 1951 Geneva Refugee Convention since 1954, Italy still lacks a specific and comprehensive law on asylum. In practice, asylum is regulated by law 40/98, usually referred to as the "Turco-Napoliano" law, from 1998, and law 189/02 from 2002, also known as the "Bossi-Fini" law. AI is concerned that the Bossi-Fini law impedes the effective exercise of the right to asylum and allows many asylum-seekers to be detained or restricted in their liberty in a way which does not comply with relevant international legislation.

In June AI issued a report expressing particular concern about the continued existence of, and conditions in, CPTAs (see *Italy: Temorary stay, permanent rights – The treatment of foreign nationals detained in "temporary stay and assistance centres"*, AI Index: EUR 30/004/2005). In May representatives of four Italian police unions made public statements expressing concern about various aspects of the situation in the CPTAs.

Allegations of ill-treatment during attempted deportations

On 19 March a delegation of 12 people, including a lawyer and a journalist, was able to access a CPTA in a street called via Corelli in Milan. The delegation was able to speak to four detainees in private for about an hour and, with their agreement, made tape recordings of their accounts of their experiences during recent failed attempts to deport them from Italy, via Milan Malpensa airport.

One, an Ecuadorian man, said that two days before the meeting took place law enforcement officers attached to the via Corelli CPTA transferred him to the airport. He described how his hands had been bound behind his back during the transfer operation and he alleged that, when he refused to board the plane, officers seized him, dragged him on board and then beat him, while he was still handcuffed. He said that when they punched him in the face he started to bleed very heavily.

A Brazilian woman said that in February she was handcuffed and she and her friend, another Brazilian woman, were escorted on board an aeroplane on which they would be deported to Brazil. She said that once on board the police officers started putting adhesive tape across her nose and mouth when she protested against the deportation. She alleged that her head was forced down and her neck gripped with such force that it was badly bruised. However, she claimed passengers travelling on the same Alitalia flight intervened and told the police to stop hurting her. She said that there were a number of witnesses to the incidents which allegedly took place on a scheduled 9pm flight to Sao Paolo, Brazil on 15 February.

Identification/reception centre at Sant'Anna military airport (Calabria), March 2005

In mid-March hundreds of migrants, of various nationalities, were transferred from Lampedusa to an identification/reception centre at Sant'Anna military airport. Numerous people participated in escape attempts from the centre during the remainder of the month, many of them successfully.

Members of the Italian parliament and lawyers who gained access to the identification/reception centre on 24 and 25 March 2005 subsequently reported that many of the detainees were being held without any judge having authorized their detention. A number of the detainees appeared to be under the age of 18, including a disabled child accompanied by its parents. In addition they reported the allegations of detainees that, during the escape attempt about a week earlier, police officers had repeatedly beaten detainees (including women and young boys, apparently minors) and had aimed at their heads as well as other parts of their bodies. In addition they had allegedly subjected detainees to blows with what the detainees described as "sticks which have got electricity".

In support of their claims the detainees displayed what appeared to be burn marks on their backs and on their hands consistent with such instruments. The visitors also observed six detainees, each with a leg in plaster or heavily bandaged. The police denied using the kind of weapons alleged by the detainees and stated that electric shock truncheons did not form part of the equipment of the Italian police. However, the police provided no clear explanation of the incidents and how the detainees might have incurred their injuries.

Lampedusa Airport zone CPTA (Sicily), 2004-05

This centre is located on the island of Lampedusa, Italy's southernmost territory, lying some 205 kilometres off the coast of the main island of Sicily and some 300 kilometres away from Libya. Lampedusa receives high numbers of migrants and asylum-seekers every year, and AI has repeatedly expressed its concerns regarding the practices of the island's CPTA.

During the period under review AI expressed fears that the Italian government's attempts to deal with arrivals by sea were seriously compromising the fundamental right to seek asylum and the principle of non-refoulement, which prohibits the forcible return of anyone to a territory where they would be at risk of serious human rights violations. International standards such as Protocol 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms also prohibit the Italian government from expelling entire

groups of people without properly considering each individual's situation, yet this is precisely what appears to have been done on several occasions in removing people from the Lampedusa centre. AI urged the Italian government to stop mass deportations and to ensure that all asylum-seekers had access to a fair asylum procedure in line with international standards.

Between 13 and 21 March, a total of 1,235 foreign nationals -- believed to be of various nationalities -- reached the island. On the evening of 14 March officials from the office of the UNHCR reportedly requested access to the Lampedusa centre, but this was denied on security grounds. However, subsequently there were reports of Libyan officials being allowed into the centre.

In the first weeks of May over 1,000 people reached Lampedusa, either directly or after first arriving on the island of Linosa (another island off mainland Sicily) and being transferred to Lampedusa. On 16 May the Italian media reported that some 50 people had apparently been returned to Libya from Lampedusa about two days earlier. A flight departed from Lampedusa on 14 May but at the time the Italian authorities indicated that its destination was Crotone Sant'Anna military airport (Foggia - Calabria Region), the site of an identification/reception centre and a CPTA (see above). On 21 May the Italian media reported that a flight carrying an estimated 60 people had departed from Lampedusa earlier that day and that its destination was believed to be Libya. On 22 June, AI received reports that Italy forcibly returned at least 45 people to Libya.

Policing of the mass demonstrations that took place in Genoa during the G8 Summit in July 2001 (see EUR 01/002/2005)

In March 2005, a 500-page report prepared by Genoa public prosecutors for a preliminary hearing regarding the events which took place in the Bolzaneto detention facility described in detail the ill-treatment suffered by the demonstrators who were detained there. These included beatings, verbal abuse, threats of rape, humiliating body searches, and deprivation of food, water and sleep. In May, the judges of the preliminary hearing decided to charge 45 police officers and other staff involved in the ill-treatment cases of the Bolzaneto detention facility.

Trials of police officers continued in relation to policing operations around the mass demonstrations in Naples in March 2001 and during the G8 Summit in Genoa in July 2001.

The trial of 31 police officers on charges ranging from abduction to bodily harm and coercion in connection with the Naples demonstration, which began in December 2004, continued in 2005.

Women's rights

Concluding remarks of the Committee on the Elimination of Discrimination against Women

In January, the UN Committee on the Elimination of Discrimination against Women (henceforth, the Committee) released its concluding remarks on the situation in Italy. While the Committee commended Italy on the introduction of laws such as 66/1996 on sexual violence, 53/2000 on parental leave and 154/2001 on, *inter alia*, protection measures to improve the protection of victims of trafficking, it also highlighted several areas where more work needed to be done.

The Committee recommended that a definition of discrimination against women be included either in the Constitution or in other relevant legislation in order to comply with Article 1 of the Convention on the Elimination of all forms of Discrimination against Women (henceforth, the Convention). Concern regarding the effects of differing levels of authority and competencies in various regions of Italy was also expressed. The Committee

recommended that Italy actively seek to implement the Convention uniformly in all parts of the country despite these regional differences.

The Committee pointed out that inadequate measures have been taken to address the low participation of women in public life. It recommended Italy to consider temporary measures in accordance with Article 4, paragraph 1, of the Convention in order to deal with these problems. It further urged Italy to pass legislation under Article 51 of the Italian constitution to increase the number of women in political and public positions. The Committee also encouraged Italy to accelerate its work on equal opportunities and equal pay for work of equal value for men and women in the labour market.

The Committee also stressed its concern regarding the portrayal of women in the media and in advertising as sex objects and in stereotypical roles. It urged Italy to "ensure the elimination of stereotypes associated with men's and women's traditional roles in the family and in society at large, in accordance with articles 2(f) and 5(a) of the Convention."

Concern was also expressed about the effects of law 189/2002, the so called 'Bossi-Fini law' (see above), on the rights of trafficked women and their right to remain in Italy. The Committee further encouraged Italy to adopt laws and policies "which recognise gender-related forms of persecution in the determination of refugee status'" and to look more closely at the de facto position of Romani and migrant women in the areas of education, employment, health and participation in public and political life to ensure that their rights are being fulfilled and protected.

Racist incidents

During the first half of 2005, there were concerns regarding attacks on persons of Romani origin by non-state actors as well as harassment of persons of Romani origin by law enforcement officials. AI is concerned by the persistence of anti-Roma sentiments in Italian society and by the state's failure to actively counteract these sentiments.

In the early hours of 29 January 2005, 10 youths (aged between 17 and 25) poured 30 litres of petrol on the shack where 27 Romani persons of Romanian origin (including 6 children and a new-born baby) were sleeping, in a camp located on Via Aveto, in Ercolano (near Napoli). After that, the attackers used Molotov cocktails to set fire to the camp. Fortunately, one of the travellers woke up and alerted a police patrol which happened to be in the area at the time and which called the firefighters. The *carabinieri* managed to arrest the suspects almost immediately. Only one of them had been previously involved in criminal activities; the others were students, who reportedly justified their action as "Saturday night fun". They were charged with attempted murder, illegal possesion of guns and arson.

On the night of 5 April 2005, the *carabinieri* of Porto Torres (in Sardinia), managed to stop a gang of two youths (aged 16 and 23), who were trying to set a local Roma camp on fire. They were charged with possesion of explosives

On 29 April 2005, in Padova railway station, the *carabinieri* stopped and searched a group of Romani people of Romanian origin, suspected of being in possession of cocaine. The *carabinieri* reportedly violently hit two Romani young women, who were also stripped and searched by the police officers in the middle of the street, in front of many eye-witnesses, some of whom took photos of the incident and forwarded them to the media and anti-racist associations. One of the victims filed a complaint with the prosecutor's office, while one of the *carabinieri* involved accused her of having assaulted him. In spite of the supporting eye-witness testimonies, the judge of the hearings held on 12 and 25 May sentenced the victim to six months in prison for resistance in front of a law-enforcement officer [*resistenza a pubblico ufficiale*]; however, the victim has decided to pursue

her complaint regarding her ill-treatment, which will be examined in court.

KYRGYZSTAN

Imprisoned opposition politician Feliks Kulov released (update to AI Index: EUR 01/001/2004)

In February controversial elections to a new unicameral parliament sparked widespread protests, amid allegations of fraud and vote-rigging, and ultimately led to the downfall of President Askar Akaev's government.

Opposition supporters stormed the government buildings in the capital, Bishkek, on 24 March, and a loose coalition of opposition activists took over power that same evening. President Askar Akaev and his family fled the country to Moscow, Russian Federation. Violence broke out between opposition supporters, mostly young men armed with sticks and stones, supporters of President Akaev and some police officers protecting the government buildings, but the police appeared mostly to stand by and watch, or to join the ranks of the opposition supporters. Serious looting took place on the night of 24 March in Bishkek, with shopping centres and cars vandalized and set on fire.

Feliks Kulov, leader of the opposition Ar-Namys party and former Minister of National Security, was released from prison -- he was serving a 17-year-sentence on charges of abuse of office and embezzlement which were allegedly politically motivated -- and was tasked by parliament to take charge of national security and restore order. Kurmanbek Bakiev, one of the leaders of the opposition coalition and a former Prime Minister, was named acting Prime Minister and acting President by the outgoing bicameral parliament. He was later named Prime Minister by the newly-elected unicameral parliament so that he could assume the functions of acting President as per the Kyrgyz constitution. The old parliament decided on 28 March to disband and to recognize the legitimacy of the newly-elected parliament.

President Akaev formally resigned from the post of President of Kyrgyzstan on 4 April after talks in Moscow with a parliamentary delegation from Kyrgyzstan.

On 11 April parliament set 10 July as the date for the next presidential elections. Parliament also voted to strip the former president of certain privileges granted to him while still in office. However, as a former president Askar Akaev himself retains immunity from prosecution, as guaranteed by the constitution. Non-governmental organizations have been running a campaign for parliament to impeach Askar Akaev, so that he could be prosecuted and held accountable for the corruption, abuse of office and human rights violations they accuse him of having committed during his time in office.

On 11 April the Supreme Court also overturned the conviction on charges of corruption of Feliks Kulov. This meant that all criminal charges against him were quashed and he was free to run as a candidate for the presidency. A week earlier the Supreme Court had overturned his conviction for embezzlement.

On 12 May Feliks Kulov signed an agreement with Kurmanbek Bakiev under which he undertook not to run for President and to be part of Kurmanbek Bakiev's campaign team. On that same day Feliks Kulov was appointed interim first deputy prime minister. The two men reportedly decided on this power-sharing agreement in the interest of national stability given that they represent two different parts of the country: Feliks Kulov the north and Kurmanbek Bakiev the south.

Refugees in need of a safe haven

AI was deeply concerned for the safety of many hundreds of refugees from Uzbekistan who fled to Kyrgyzstan after security forces reportedly fired on thousands of mainly unarmed and peaceful

demonstrators in the city of Andizhan on 13 May 2005 (see entry on Uzbekistan).

Around 541 men, women and children, who had crossed into Kyrgyzstan -- most across the bridge in Teshik Tosh, others through the river -- in the early morning of 14 May were settled by the Kyrgyz military as one group into a makeshift camp on so-called no-man's land in a gully just metres above the border with Uzbekistan. Eleven of the refugees were taken to Suzak Hospital, three with gunshot wounds. Because of serious concerns that the physical security of the refugees could not be guaranteed, the Office of the UN High Commissioner for Refugees (UNHCR) negotiated with local authorities to find a safer location for the camp away from the border; two suitable locations were turned down because of opposition by local officials, who claimed that the local population did not want the camp in their vicinity. On 4 June the refugees finally arrived at a new camp location at Besh-Kana some 15 km outside Jalalabad on the main road to Bishkek.

AI delegates visited Kyrgyzstan at the end of May to investigate reports that the government was failing in its obligations adequately to ensure the rights of these refugees to international protection and safety. In particular, AI was concerned that the authorities in Kyrgyzstan were under great pressure from the Uzbekistani authorities to extradite a large number of refugees to Uzbekistan. Despite official guarantees given to the UNHCR by the acting President of Kyrgyzstan of temporary protection to the initial group of 541 refugees, on 9 June the authorities forcibly returned four asylum-seekers to Uzbekistan. Moreover, on 16 June the Uzbekistan Prosecutor General's Office stated that it was seeking the extradition of 131 of the refugees whom it had "identified as direct participants of the acts of terrorism [in Andizhan]"and on 24 June the Prosecutor General of Kyrgyzstan reportedly asked that 103 refugees be removed from the camp and placed in detention.

AI urged the authorities in Kyrgyzstan not to return any of the refugees to Uzbekistan because it feared they would face serious human rights violations there. Sending people back to a country or territory where they may face such violations would breach Kyrgyzstan's obligations under customary international law, and under other international treaties to which Kyrgyzstan is party.

Based on AI's monitoring of the past and current situation in Uzbekistan, the organization considered that there were well founded reasons to believe that anyone who fled Andizhan following the 13 May events risked being subjected to grave human rights violations and flagrant denial of justice, including cruel, inhuman and degrading treatment, incommunicado detention, torture and other ill-treatment, and unfair trials, if returned to Uzbekistan. Some of the men may also face the death penalty. AI has documented in the past many cases of people who have been executed after unfair trials in Uzbekistan, and whose convictions have been based on "confessions" allegedly extracted under torture.

AI expressed particular concern about the threat of forcible return by the authorities of Kyrgyzstan of 29 refugees -- including some of the entrepreneurs on trial in Andizhan -- who were transferred from the camp into detention. On 21 June the UNHCR was apparently asked by Kyrgyzstan authorities to conduct refugee determination procedures for the 29 detained people in order to assess their situation. Yet on the following day the Prosecutor General of Kyrgyzstan reportedly described the 29 asylum-seekers as "criminals" and indicated that they would be returned to Uzbekistan within a week. Following pressure from human rights activists and the international community, he reportedly later declared that Kyrgyzstan would abide by its international obligations and that the 29 refugees would not be sent back to Uzbekistan until their refugee determination had been completed.

AI also expressed grave concern that the principle of confidentiality in registration and asylum proceedings had not been

respected, and that the identities of those seeking protection were known to the authorities in Uzbekistan, thus endangering the safety of those in the camp and their family members in Uzbekistan. Although in accordance with this principle the names of the persons in the camp should be kept confidential, disturbingly, lists of such persons, including their addresses in Uzbekistan, were believed to have been handed over to the Uzbekistani security services by Kyrgyz officials who had access to them. The lists have reportedly been used to put pressure on families in Andizhan of individual refugees.

AI was further concerned about the undue pressure that the Uzbekistani authorities had been applying indirectly on the asylum-seekers to return "voluntarily". There were harrowing scenes of asylum-seekers being put under pressure from their relatives, bussed in by the Uzbekistani authorities, to "voluntarily" return to Uzbekistan.

Uzbekistani media reports, which are one of the main sources of information in the border regions of Kyrgyzstan, described the camp as a "terrorist" camp run by "dangerous criminals". Armed local people reportedly entered the camp and threatened to force the refugees out of the camp if they did not return to Uzbekistan voluntarily. Concerns were also expressed about the presence of Uzbekistani security forces outside the camp; and the infiltration of the camp by plainclothes Uzbekistani officers.

AI remained deeply concerned for the safety of those asylum-seekers sought for extradition by Uzbekistan and called on the international community to ensure as a matter of urgency that all persons recognized as refugees as well as those who would be at risk of serious violations of their human rights were provided with a durable solution to their plight, including resettlement in a third country.

AI was also concerned at the lack of access to asylum procedures for individuals or families who crossed the border in other places and/or at other times after 13-14 May in search of international protection. Local human rights activists estimated that hundreds of people who fled Andizhan were hiding in Kyrgyzstan, either staying with relatives or acquaintances or living under assumed names with no proper registration, thus increasing their vulnerability.

According to reports, some Uzbekistani nationals seeking asylum and protection -- outside of the initial group of over 500 -- had been denied entry to Kyrgyzstan or had been returned to Uzbekistan. At least 15 refugees were reportedly refused entry to Kyrgyzstan on 18 May and were returned to Uzbekistan, where they were handed over to Uzbekistani Ministry of National Security officers. It has not been possible to establish whether these 15 were subsequently released or detained. Officials from the Border Guards of Kyrgyzstan reportedly stated that 86 refugees had been returned to Uzbekistan by 25 May. They arrived after 14 May and sought to join relatives already given refuge in the camp. Officials cited overcrowding and poor sanitation at the camp as the main reason for refusing entry to more Uzbekistani nationals seeking asylum.

AI representatives interviewed Uzbekistani nationals in Osh who had fled Andizhan after 13 May but had not crossed into Kyrgyzstan as part of the initial group of over 500. Several had tried to join the first refugee camp but had been turned away by Kyrgyz Interior Ministry troops. It was clear that they did not know how to access asylum procedures and that there was little or no information publicly available to explain the rights of asylum-seekers and how to lodge a claim in Osh or Jalalabad. Some were hoping that they could be admitted to the second camp as soon as it moved to its new location. All those interviewed, however, were afraid to approach Kyrgyz authorities outside the camp for fear of being detained and returned to Uzbekistan. Most of them had either participated in or witnessed the demonstrations in Andizhan and some had been wounded when government troops opened fire on the crowd in the centre of the city. They feared they would be

tortured or otherwise ill-treated if returned to Andizhan.

For more information see the report: *Kyrgyzstan: Refugees in need of a safe haven* (AI Index: EUR 58/008/2005) issued by AI in June 2005.

LATVIA

Torture and ill-treatment

In May, the Council of Europe's Committee for the Prevention of Torture and Inhuman and Degrading Treatment (CPT) published a report based on findings from a visit to Latvia in 2002. The report highlighted several worrying practices and made recommendations for improvement.

The report notes that during its visit the CPT delegation received a considerable number of credible allegations of physical ill-treatment by law enforcement agencies throughout Latvia. Most of the allegations of ill-treatment related to events at the time of apprehension. However, many of the allegations also regarded ill-treatment during police questioning. The forms of ill-treatment reported to the CPT included "asphyxiation with a plastic bag, strangulation, very severe beating, infliction of electric shocks, submerging the head of the suspect in the water of a lake." Some of this ill-treatment was so severe, notes the report, that it could be considered as constituting torture.

The CPT also remarked on the poor conditions of detention in police establishments. It stated that "the situation was particularly bad at Daugavpils, Liepaja and Ventspils Headquarters, where persons were being held 24 hours per day in overcrowded cells, which were humid, dirty, poorly lit and ventilated." The CPT further recommended that all those who were deprived of their liberty by law enforcement authorities, regardless of the circumstance, should from the very outset of their deprivation of liberty be granted the right to notify a close relative or third party of their choice of their situation. Concern was also expressed about the fact that some people in police custody needed urgent medical attention, but that this had not been provided.

Regarding the conditions in Latvian prisons, the CPT expressed concerns that hardly any out-of-cell activities were offered to sentenced prisoners at the Daugavpils prison. At Jelgava prison, the CPT reported that prisoners serving life sentences were not offered any work, educational/vocational or sports activities, and that they were locked up in their cells for 23 hours a day. On a positive note, the CPT commended Latvia on its efforts to combat overcrowding in prisons. Latvia was also commended for screening for and treating tuberculosis, with the number of tuberculosis patients in Latvian prisons having decreased considerably in recent years.

MALTA

Asylum and immigration (update to EUR 01/002/2005)

The policy of mandatory detention for up to 18 months of those who have arrived in Malta without authorization, including those applying for refugee status, continued in the first half of 2005. A government policy paper issued in January confirmed the government's commitment to this practice. The UN High Commissioner for Refugees (UNHCR) has repeatedly stated that regardless of a country's legitimate concerns regarding irregular migration, no country is allowed to justify detention as a form of deterrence.

Concerns persisted about conditions in the Safi Detention Centre for aliens, originally an army barracks constructed in the 1960s, as no improvements to the running of the centre have been made. The UNHCR has restated its concern that as many as 450 occupants of the Safi centre are at times housed in tents that provide little protection from the winter cold and the summer heat.

Protests at Safi Detention Centre and elsewhere

According to reports received by AI, on 13 January over 90 individuals held at the Safi detention centre conducted a peaceful protest, refusing to re-enter the centre at the end of an exercise period. They were protesting about the length of their detention, the lack of information about the progress of their applications for refugee status or humanitarian protection, and the lack of information regarding the fate of those whose asylum applications had already been rejected.

Eye witnesses have reported that at around 10am, after the protestors refused an order to re-enter their barracks, soldiers attacked the peaceful protestors and subjected them to deliberate and gratuitous violence. Many were injured and 26 were taken to hospital. One person reportedly needed 15 stitches to his head, while another one required six. A third person had three broken bones in one of his legs.

The Maltese Prime Minister immediately requested that a Board of Inquiry, consisting of a retired magistrate, carry out an inquiry into the January incident. The findings of the inquiry were still pending at the end of the period under review.

This incident has been followed by several other protests by irregular migrants. At the end of February, a group of approximately 90 irregular migrants held at Hal Far Detention Centre protested against being transferred to the Police Depot in Floriana. The protest lasted for about three hours. No confrontations with law enforcement authorities were reported. In May, 27 irregular migrants held at the Floriana police headquarters went on a hunger strike as a protest against their living conditions and the length of their detention.

Domestic violence

At the end of May, the Maltese government published the draft Domestic Violence bill, which was immediately opened for debate in parliament. The bill was largely considered not to be as far-reaching as its first version, an initial draft which was published in 1998. The bill defines domestic violence as "any act of violence, even if only verbal, perpetrated by a household member upon another household member". The main points of the bill as published at the time of writing are:

* reports on domestic violence can be lodged by anyone, not only by the victim. Once a report has been filed, the police have to carry out their investigation and take court action. However, the victim of violence can ask the magistrate to stop procedures against the perpetrator;
* the bill introduces the concept of protection orders, through which the Court can restrict or ban the accused from accessing the premises where the victim lives or works;
* harassment is recognised as a form of domestic violence;
* the bill provides for the setting up of supporting structures such as the Family Court or the Commission for Domestic Violence.

MOLDOVA

Ill-treatment and torture in custody

Although the criminal code passed in July 2003 did not include an article criminalizing torture, two draft articles addressing torture were subsequently under consideration by the Ministry of Justice. In this context, AI wrote in June to the Moldovan parliament with recommendations on revision to national legislation. These included the introduction into the criminal code of an article criminalizing torture, the establishment in the criminal code of criminal responsibility not just for torture but also for other cruel, inhuman and degrading treatment, and the introduction of independent (non-state) forensic medical examinations for victims. On 30 June parliament amended the Criminal Code to make torture a criminal offence.

Case of Stela Dragich

In June AI wrote to the Appeal Court of the city of Chişinău regarding the conditions of detention of Stela Dragich, a blind woman awaiting trial. At that time Stela Dragich had recently been transferred from the temporary detention centre of the Department for Combating Organised Crime in Chişinău to a detention centre in Beltsy, a town in the north of the country. AI was concerned at reports that no allowances had been made to accommodate Stela Dragich's disability in either Chişinău or Beltsy, and repeated appeals by lawyers for an improvement to the conditions of her detention had been ignored. Article 24 of the United Nations Standard Minimum Rules for the Treatment of Prisoners states that "a medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures." AI urged that Stela Dragich's rights be protected in accordance with international standards and the human rights treaties to which Moldova is a state party.

Case of Vasilii Lisinkov

Vasilii Lisinkov was detained by police officers from Buyukan district in Chişinău on 3 June on suspicion of theft. Despite the original case being closed on 13 June, Vasilii Lisinkov was moved between police stations from 6 – 23 June, during which time he was allegedly beaten and subjected to other humiliating treatment in order to force him to "confess" to further thefts. Vasilii Lisinkov has a learning disability and has been registered with a psychiatrist for 18 years. AI wrote to the Procurator General in June urging a prompt, thorough and impartial investigation into the allegations of ill-treatment. AI also expressed concern that the conditions of Vasilii Lisinkov's detention may have a serious impact on his psychological state. In his most recent communication with his family, he threatened to commit suicide.

Violence against women

In June the Minister of Foreign Affairs responded to an approach by AI in connection with the Council of Europe's Third Summit of Heads of State and Government (held in Warsaw, Poland, on 16-17 May). The minister reported that Moldova had signed the summit's Warsaw Declaration which committed states parties to fight violence against women and children, including domestic violence. The minister also confirmed that Moldova had signed and was preparing to ratify the Council of Europe's Convention on Action against Trafficking in Human Beings.

Self-proclaimed Dnestr Moldovian Republic (DMR)

In March, AI wrote to President Igor Smirnov, expressing concerns regarding arbitrary detention, lack of provisions for conscientious objection to compulsory military service and the death penalty. There had been no response at the end of the period under review.

While welcoming the release of Alexandru Leşco in June last year, AI raised concerns regarding the remaining two members of the "Tiraspol Six", Andrei Ivanţoc and Tudor Petrov-Popa, still being arbitrarily detained (see AI Index: EUR 01/005/2004). AI urged President Smirnov to cooperate with the governments of Moldova and the Russian Federation following the decision by the European Court of Human Rights in July 2004, which stated that both countries were responsible for the unlawful detention, torture and ill-treatment suffered by members of the group. The European Court of Human Rights also obliged Moldova and the Russian Federation to pay the members of the group moral and material damages, as well as to cover the costs of the legal assistance they received during their original trial in December 1992.

AI expressed concern for the lack of a civilian alternative to compulsory military service in the DMR, in accordance with international standards on the right to freedom of thought, conscience and religion. AI referred specifically to the case of

potential prisoner of conscience, Sergei Golubenko, who has been in and out of prison in Tiraspol since November 2003, for refusing to carry out compulsory military service due to his beliefs as a Jehovah's Witness. Although currently not in prison, a new criminal case was still pending against him at the end of the period under review.

Finally, AI urged the DMR to build on the moratorium on executions currently in place and to promptly and fully abolish the death penalty. AI called for the publication of annual statistics on the passing of death sentences and commutations, for the commutation of the sentences of all prisoners currently on death row, and for the DMR to ensure that relatives of anyone executed before the moratorium have access to information on the dates and places of execution and burial, and be allowed to collect the prisoner's remains and any personal effects.

POLAND

Racism and antisemitism

In its third report on Poland, released in June, the European Commission against Racism and Intolerance (ECRI) expressed concern that the authorities in Poland rarely investigated and prosecuted cases of racial hatred, and allowed antisemitic material to circulate freely on the market. ECRI pointed out that in investigating violent attacks against ethnic minorities, such as Roma or migrants, the police often did not take into account the racist motivation of crimes, which resulted in a lighter sentence for the perpetrator, if convicted. There was also no comprehensive body of legislation prohibiting racial discrimination in all fields of life.

Identity-based discrimination

Members of sexual minorities continued to face discrimination and restrictions on their right to freedom of expression and assembly. In May, for the second year running, the then mayor of Warsaw, Lech Kaczyńzki, refused to authorize the Equality Parade, holding that such an event would be "sexually obscene" and offensive to other people's religious feelings. An improvised parade, organized by the lesbian, gay, bisexual and transgender (LGBT) community, still took place on 10 June, gathering more than 2,500 participants. Less than a week later the mayor authorized the so-called Normality Parade, allowing a homophobic grouping known as All Polish Youth (Młodzież Wszechpolska) to mobilize on the streets of Warsaw.

PORTUGAL

Policing concerns

Ill-treatment by police officers continued to be reported, including one case in which a man subsequently died in police custody. Further deaths were reported as a result of police use of firearms.

Death in custody of José Reis

On the night between 5 and 6 March, José Reis, 30, was arrested for allegedly causing a public disturbance in a bar in the city of Lagos. A witness present at the scene reported seeing six or seven policemen beating him at the time of arrest. José Reis was taken to the local police station at about 4am and called his sister to ask for help and a lawyer. He was locked in a cell where he was subsequently found hanging dead at 5.20 am. Although the post-mortem concluded José Reis had hung himself with his trousers, both the Judiciary Police (Policia Judiciaria) and the General Inspectorate of the Internal Administration (Inspeccao Geral da Administracao Interna) opened an investigation into his death.

Deaths as a result of police shootings

In March an unnamed 48-year-old man was shot dead by an officer of the Republican National Guard (Guarda Nacional Republicana, GNR). An officer reportedly fired shots at the man's vehicle after he allegedly stole petrol, tried to get away, and hit an officer with his car, causing him minor injuries. An investigation into the

killing was opened, but the officer concerned was not suspended from duty.
Also in March, 17-year-old Joao Martins was shot dead in a car by a GNR officer during a police chase after an alleged robbery at a chemists. According to reports, during the chase the GNR officers fired at the car: a bullet passed through the car and hit Joao Martins in the chest. At the time of writing no official investigation was known to have been undertaken into the killing.

ROMANIA

Roma and racism

Discrimination against Roma continued, despite Romania's commitment to the Decade of Roma Inclusion, a campaign to eliminate marginalization of Roma that began in 2005.

During the period under review the mayor of the southern city of Craiova was fined twice by the National Board for Combating Discrimination for expressing racist views in public. The second time he was fined 15 million lei (approximately $500) for racist comments made about the Roma in a newspaper interview. Although forced to resign from his position as the vice-president of the Social Democrats (a national political party) following the incidents, he remained the mayor of Craiova.

The European Roma Information Office reported an increase in racist remarks made against the Roma in the Romanian media in the first half of 2005. Neutral terms for Roma were reportedly only used in articles addressed to a wider audience in the pan-European context, whilst pejorative terms were used increasingly in contexts such as crime.

Identity-based discrimination

The lesbian, gay, bisexual and transgender (LGBT) community in Romania continued to suffer identity-based discrimination. The Orthodox Church and the local authorities opposed the holding of a gay pride parade known as GayFest, which was planned for 28 May in the capital, Bucharest. The municipal authorities of Bucharest, who initially agreed to provide logistical support for the march, later withdrew their support, citing an inability to provide enough coverage to keep people safe and claiming that the chosen march time was not appropriate. Authorization was finally granted after the President of Romania, Traian Basescu, intervened in an emergency meeting with the mayor of Bucharest, Adrieau Videanu. The parade was held on the date planned, and passed without incident.

In February, the Romanian non-governmental organizations (NGOs) Accept and the Centre for Legal Resources won a case against state-owned airline TAROM which illegally excluded homosexual couples from a Valentine's Day sale. The National Board for Fighting Against Discrimination (CNCD) declared that TAROM had been "restricting free access, under equal conditions, to public services and places" and ordered TAROM to pay a fine of 5 million lei (approximately $180). Following the decision, the NGOs filed an administrative complaint against the fine, which they believed was nominal and not sufficient to have a dissuasive effect against any such actions in future. Having lost the administrative appeal, at the time of writing the NGOs were preparing a court appeal.

Concerns about mental health care (update to AI Index: EUR 01/002/2005)

In February the UN Special Rapporteur on the rights of everyone to the enjoyment of the highest attainable standard of physical and mental health released a report on Romania. He stressed that "the enjoyment of the right to mental health care remains more of an aspiration rather than a reality for many people with mental disabilities in Romania." The Rapporteur recommended that an independent mental health commissioner be established urgently.

Following the tragic events in Poiana Mare psychiatric hospital where 17 patients died of malnutrition and hypothermia in January and February 2004 (see AI Index: EUR 39/002/2004), the prosecutor initiated criminal investigations. However, having found "no causal link" between the deaths and the involvement of staff, the prosecutor closed the investigations in February.

RUSSIAN FEDERATION

Council of Europe scrutinizes Russia's record

In June, the Parliamentary Assembly of the Council of Europe (PACE) examined a report by the assembly's Monitoring Committee on the progress in the honouring of obligations and commitments Russia undertook on joining the Council of Europe in 1996. PACE passed a resolution which stated, in relation to human rights, that while Russia had made progress in some areas, there had been very little progress in others, including those related to the formal abolition of the death penalty, the withdrawal of Russian troops from Moldova and the obligation to bring to justice those found responsible for human rights violations, notably in relation to events in Chechnya. The resolution also called on the Russian authorities to "take effective action to put an immediate end to the ongoing 'disappearances', torture, arbitrary detentions, incommunicado detention in illegal and secret detention facilities, and unlawful killings". PACE's recommendation to the Committee of Ministers called on them to ensure that monitoring of the human rights situation in and around Chechnya continues.

The Chechen conflict

Clashes between Russian and Chechen security forces and armed opposition groups continued in Chechnya. Russian federal forces and Chechen security forces, including those under the control of First Deputy Prime Minister Ramzan Kadyrov, conducted targeted raids in towns and villages across Chechnya, during which serious human rights violations, in particular "disappearances", were reported. Extrajudicial killings, and torture, including rape, and ill-treatment were also reported to take place on a regular basis in Chechnya. Chechen armed opposition groups were also responsible for abuses. Some high-ranking Russian and Chechen officials made statements acknowledging that "disappearances" had been taking place in Chechnya. Also, a Chechen official stated in June that there were 52 registered sites of mass graves in Chechnya. For further information, see *Russian Federation: Violations continue, no justice in sight. A briefing paper on human rights violations in the context of the armed conflict in the Chechen Republic* (AI Index: EUR 46/029/2005). Human rights violations such as arbitrary detention, "disappearances", abductions and torture in detention were also reported to have taken place other regions of the North Caucasus, including Ingushetia and North Ossetia. Clashes between armed groups and law enforcement officials, resulting in deaths on both sides, were reported in Dagestan and Kabardino-Balkaria.

The death of Aslan Maskhadov

Chechen separatist leader Aslan Maskhadov was killed in the village of Tolstoi-Yurt in Chechnya, during an operation by federal security forces on 8 March. According to official information, the federal security forces had attempted to detain him but he had refused to surrender. Footage of his dead body was shown extensively on Russian television. The Russian authorities, citing legislation which provides that the bodies of "terrorists" cannot be returned to their families, did not hand his body to his relatives for burial in Chechnya. According to a statement by the General Procurator, Aslan Maskhadov was buried in a secret location in April.

Investigation of abuses by armed opposition groups (update to AI Index: EUR 01/002/2005)

In May the Supreme Court of North Ossetia, in Vladikavkaz, started hearing the case

against Nurpashi Kulaev, charged with murder, banditry and "terrorism" in relation to the hostage-taking at the Beslan school in September 2004. Nurpashi Kulaev was the only person to face criminal charges in connection with the events.

European Court of Human Rights rules Russia responsible for serious human rights violations in Chechnya (see AI Index: EUR 46/006/2005)

On 24 February the European Court of Human Rights released three judgments on six cases from the Chechen Republic. The six cases, brought by the European Human Rights Advocacy Centre in partnership with the Memorial Human Rights Centre, concerned three incidents. The first was the indiscriminate aerial bombing by the Russian federal forces of a civilian convoy of refugees fleeing Grozny in October 1999 (*Isayeva v. Russia* (no. 57947/00), *Yusupova v. Russia* (no. 57948/00) and *Bazayeva v. Russia* (no. 57949/00)). The second was the "disappearance" and subsequent extrajudicial execution of five individuals in Grozny in January 2000 (*Khashiyev v. Russia* (no. 57942/00) and *Akayeva v. Russia* (no. 57945/00)). The third was the indiscriminate aerial and artillery bombing of the village of Katyr-Yurt on 4 February 2000, resulting in the killing of the applicant's son and three nieces (*Isayeva v Russia* (no. 57950/00)).

The European Court of Human Rights ruled that in these cases there had been violations of the right to life and the prohibition of torture as well as the rights to an effective remedy and the peaceful enjoyment of possessions (Articles 2, 3 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and Article 1 of Protocol 1 to the ECHR). The European Court ruled in all six cases that the failure of the Russian authorities to carry out effective investigations into the incidents amounted to a violation of the right to life (Article 2) and to an effective remedy (Article 13). The Court awarded financial compensation to the applicants in all six cases. The Russian government subsequently requested a referral of the judgment to a grand chamber, which meant that, by the end of the period under review, the court's decisions were yet to become final.

Conviction for torture in the Zelimkhan Murdalov "disappearance" case (update to AI Index: EUR 46/027/2002, EUR 01/005/2004 and EUR 01/002/2005)

In March a court in Grozny found that Sergei Lapin, a member of a special federal riot police unit (OMON) from the Khanty-Mansiisk region in the Russian Federation, had tortured Zelimkhan Murdalov. Zelimkhan Murdalov, aged 26, had been detained by police officers in the Oktiabrskii district police station of Grozny, Chechnya, in January 2001, on suspicion of possession of illegal drugs, and subsequently "disappeared" (see also AI Index: EUR 46/011/2005).

On 29 March the Oktiabrskii District Court in Grozny ruled that Sergei Lapin had punched, kicked and beaten Zelimkhan Murdalov with a rubber baton over the course of several hours. Sergei Lapin was found guilty of intentional infliction of serious harm to health under aggravating circumstances, exceeding official authority under aggravating circumstances and forgery by an official. The court sentenced him to 11 years' imprisonment in a strict regime prison colony, and banned him from working for agencies under the Ministry of Internal Affairs for three years following his release. In addition, the court sent a special finding to the head of the Khanty-Mansiisk OMON, reportedly criticizing the conduct of the OMON unit serving in Chechnya in broader terms. However, the court failed to convict Sergei Lapin for crimes relating to the "disappearance" of Zelimkhan Murdalov. Moreover, those other individuals reasonably suspected of responsibility for the torture and "disappearance" of Zelimkhan Murdalov, including the "unidentified police officers from the Oktiabrskii district police station" mentioned in the verdict, have yet to be identified and

prosecuted in a court of law in accordance with international standards.

Killing of six civilians: four soldiers acquitted (update to AI Index: EUR 01/005/2004, EUR 46/027/2004 and EUR 01/002/2005) (see also AI Index: EUR 46/029/2005)

Said Alaskhanov, Abdul-Wakhab Satabaev, Shakhban Bakhaev, Khamzat Tuburov, Zainap Dzhavatkhanova and Dzhamlail Musaev, six civilians from Chechnya, died on 11 January 2002 after being shot by members of a special unit of the Russian Military Intelligence (GRU). On 19 May, Captain Eduard Ulman, Lieutenant Aleksander Kalaganskii, Sergeant Vladimir Voevodin and Major Aleksei Perelevskii were found not guilty of any crime by a jury in a retrial in Rostov-on-Don, despite having admitted to killing the civilians. The defence of all four soldiers that they had been following orders was accepted by the jury, and they were acquitted of charges of ordering and carrying out premeditated aggravated murder, premeditated destruction of property, and exceeding official authority.

The families of the victims appealed against the decision to the Military Collegiate of the Russian Supreme Court. The appeal highlighted procedural failings, including the composition of the jury, whose members had all been ethnic Russian. Chechen President Alu Alkhanov reportedly expressed great dismay about the jury's decision, and in June was reported to be intending to request a retrial to be held in Chechnya, without a jury.

Hostage-taking – response of the authorities (update to AI Index: EUR 01/002/2005)

In January, the State Duma (parliament) rejected a draft law providing for the family members of "terrorists" to be held accountable for the actions of their relations. The majority of Duma deputies, as well as the Duma security committee and government, were against any moves to make blood ties grounds for responsibility for crimes committed by another person. Nevertheless, in Chechnya there appeared to be a growing trend in the number of arbitrary detentions, "disappearances" and abductions of relatives of suspected members of armed opposition groups. The purported motivation for these crimes was to force the alleged members of the armed opposition group to give themselves up to the authorities in Chechnya.

Reported abductions and "disappearances" of Aslan Maskhadov's relatives (update to AI Index: EUR 46/004/2005 and EUR 01/002/2005)

Seven relatives of the Chechen separatist leader Aslan Maskhadov reportedly returned home on 31 May, having "disappeared" five months earlier. On their arrival home law enforcement officials visited them and took statements. A criminal case had been opened on 27 January by the Procurator of Chechnya into the cases, under Article 126 of the Criminal Code ("abduction"). Officials in Chechnya have denied that they were responsible for the detention of the seven individuals.

The eighth relative who was reported to have "disappeared" on 28 December 2004, Movladi Aguev, 35, has reportedly been charged with participation in an armed group. There were reports in February that Movladi Aguev was being held in a temporary holding cell at the Nozhai-Yurt district police station in Chechnya.

The detention and death of Adam Gorchkhanov (see AI Index: EUR 46/029/2005)

Adam Alambekovich Gorchkhanov, born 1968, was reportedly detained at his home in the Republic of Ingushetia on 23 May by unidentified security services and taken away to an unknown destination. A lawyer for the family of Adam Gorchkhanov found out on 26 May that Adam Gorchkhanov was reportedly being detained in a pre-trial detention centre in Vladikavkaz, the capital of North Ossetia. He was then subsequently

transferred to the Regional Department for the Fight against Organized Crime (RUBOP) under the Ministry of the Interior for the North Caucasus, also in Vladikavkaz. On 28 May, relatives learned that Adam Gorchkhanov was in a hospital in Vladikavkaz, with a serious head injury. He died in hospital on 30 May 2005.

The raid on the village of Borozdinovskaia (see AI Index: EUR 46/029/2005)

On 4 June, security forces, allegedly from the Vostok (East) battalion of the Russian federal Ministry of Defence's 42nd Motorized Infantry Division, carried out a 'special operation' in the village of Borozdinovskaia, Chechnya. During the raid 11 men were "disappeared" and at least one other man, 77-year-old Magomaz Magomazov, was reportedly killed. The raid prompted a mass exodus over the border to neighbouring Dagestan of around 1,000 villagers, who initially refused to return until the fate of the 11 men was made known. However, by the end of June most villagers reportedly had returned to Borozdinovskaia, despite no clear outcome from the investigation into the events.

Threats against human rights defenders, including applicants to the European Court of Human Rights

In the period under review, AI continued to receive reports of new incidents of serious reprisals against applicants to the European Court of Human Rights. The reprisals included intimidation, death threats, killing and "disappearance". Due to fears for the security of the individuals concerned, it is not possible to make public the names or other details that would identify those individuals (see AI Index: EUR 46/029/2005).

Russian-Chechen Friendship Society (update to AI Index: EUR 01/002/2005 and EUR 46/059/2004)

The Russian-Chechen Friendship Society reported experiencing an apparently unusually high degree of official scrutiny by the Russian authorities. The scrutiny, which arguably amounted to concerted interference with the work of the organization, consisted of a criminal investigation into the publishing activity of the organization, together with simultaneous checks by the tax authorities and the Ministry of Justice. There was also reportedly negative media coverage in Nizhnii Novgorod of the organization's activities. At the same time, one staff member, Oksana Chelysheva, was the subject of threatening leaflets, which were distributed in Nizhnii Novgorod (see AI Index: EUR 46/029/2005).

Threats and attacks against anti-racism activists

Death threats against human rights defender Dmitrii Kraiukhin (update to AI Index: EUR 01/002/2005)

Human rights defender Dmitrii Kraiukhin continued to receive death threats which apparently were made in connection with his participation in the trial of a neo-Nazi organization in Orel, western Russia. Dmitrii Kraiukhin, head of the non-governmental organization (NGO) "United Europe" in Orel, western Russia, was working to combat racism through opposing the activities of extreme nationalist organizations, including through appearing as chief witness in a court case against two members of the Russian National Unity (RNU) organization, in connection with alleged acts of vandalism and the distribution of antisemitic material. The court case ended in June with the conviction of the two members under Article 282. The court sentenced them to suspended sentences.

One of the death threats, received in January, stated "Are you still alive, filth? Then know that one day we will come for you, we will knock on your door and we will take you to where we will put you on trial, and I personally will cut off your head and send it to your relatives. We will force you to live like the lowest 'untermensch' that you are." Dmitrii Kraiukhin also received a

threatening letter posted to his home address in March. He repeatedly requested that the Zavodskii district court provide him with witness protection due to serious fears for his safety, but according to United Europe, his requests were denied. According to Dmitrii Kraiukhin, there has not yet been any effective investigation into the threats against him. The Sovietskii district police department (ROVD) opened an investigation in June into another threatening letter posted in May to Dmitrii Kraiukhin at the United Europe address, but, according to Dmitrii Kraiukhin, the police suspended the investigation almost immediately without taken any steps to investigate the threat.

Investigation into the murder of human rights defender Nikolai Girenko (see AI Index: EUR 01/002/2005)

AI was not aware of any significant progress in the investigation into the murder of Nikolai Girenko. Nikolai Girenko was a well-known expert on racism and discrimination in the Russian Federation who was shot dead in June 2004 in his home in St Petersburg. Human rights organizations and former colleagues were convinced that the murder was because of his human rights activity and anti-racism campaigning. According to NGOs, while initially a large investigation team from the police and procurator's office had been formed to investigate the murder, during the period under review the investigation had become routine and a smaller team was conducting the investigation.

Alleged harassment and beating of independent journalists in Mari-El Republic

AI learnt of two cases in which independent journalists in the Mari-El Republic were severely beaten, reportedly in connection with their professional activities. On 4 February at about 9.40am, unknown assailants attacked Vladimir Kozlov as he walked to work in Ioshkar-Ola, capital of the Mari-El Republic. Vladimir Kozlov is an opposition journalist and activist promoting the culture and language of the Maris, a Finno-Ugric ethnic group which has settled in the Mari-El Republic. According to Vladimir Kozlov, he was struck on the head with a heavy blunt instrument, punched and kicked all over his torso. His attackers did not say anything during the assault and according to Vladimir Kozlov did not steal any of his possessions. Following the attack Vladimir Kozlov was hospitalized for three weeks, having sustained three head injuries, severe contusions to his arms and shoulders, liver complications and a very painful ribcage. The procuracy opened a criminal investigation into the attack, at first classifying it under "hooliganism" charges, and then reclassifying to Article 111 of the Russian Criminal Code ("intentional infliction of serious bodily harm"). No one has yet been arrested in connection with the attack.

Vladimir Kozlov told AI that he believed the assault was intended, if not to kill him, then to seriously injure him, as a message to anyone thinking of speaking out against the Mari-El authorities. Reportedly, the policy of the local authorities in Mari-El is to discourage the culture and language of the Maris, as well as to clamp down on any political opposition. Human rights groups, local media and international organizations have reported a pattern of assaults and harassment against independent journalists and opposition politicians. The European Parliament passed a resolution in May, *inter alia* condemning the harassment of and assaults on independent journalists in Mari-El, calling on the government to stop political retribution against dissenting public servants, and calling on the local and federal authorities to respect their obligations under international law regarding the maintenance and development of minority languages and cultures.

Racism

Reports of racially-motivated attacks continued throughout Russia. Groups particularly vulnerable to such attacks included ethnic groups from the North Caucasus and Central Asia, Roma and

students and asylum-seekers from Africa, Asia and the Middle East. While there was a small increase in the number of prosecutions of violent assault or murder which included racial hatred as a motive, many police and procuracy officials appeared to prefer to prosecute attacks on members of ethnic minorities under "hooliganism"-related charges. There were reports of discriminatory policing, including racially selective document checks. St Petersburg, Moscow, Voronezh and Krasnodar were some of the cities where there was a high level of reported racist violence.

During a mission to Moscow and St Petersburg in March, an AI delegate met with members of ethnic communities including ethnic Tajiks, African students, Roma and ethnic minorities from the North Caucasus, some of whom had been the victims of alleged racist assaults. Most of the victims of alleged racist assaults told the AI delegate that they did not file complaints with the police following the assault. Some explained that they were afraid of the possible repercussions, citing the experience of other people who had filed a complaint and who allegedly were subsequently accused by the police of being the attacker. Others simply did not believe that the police would take action to investigate the incident.

Alleged racially-motivated killings – the case of Khursheda Sultanova (update to AI Index: EUR 01/005/2004)

On 31 March 2005 the St Petersburg procuracy reportedly announced that eight people, aged 14-21 when the crime was committed, had been charged in connection with the February 2004 murder of nine-year-old Khursheda Sultanova. Seven individuals have been charged with hooliganism (Article 213 of the Criminal Code, carrying a possible sentence of seven years' imprisonment), and one, aged 14 when the crime was committed, has been charged with the murder of a person in a helpless state, motivated by racial hatred (Article 105 part 2), hooliganism (Article 213) and robbery (Article 161).

Torture and ill-treatment

Reported torture and racial abuse of Senyo Adzokpa, Ghanaian national, in pre-trial detention (see AI Index: EUR 46/024/2005)

Senyo Adzokpa, a Ghanaian living in Moscow, was arrested in Moscow on 28 April on charges of preparing or selling forged official documents (Article 327 of the Russian Criminal Code), and taken to a pre-trial detention centre in the city of Ivanovo. There he was reportedly tortured, including by being beaten repeatedly, pressured to sign a confession by being placed in a punishment cell and threatened with rape, and subjected to racist abuse, including being called names such as "black monkey" by some of the guards. When he asked them why they spoke to him this way, they allegedly answered, "How else should we talk to a nigger?"

Police brutality in the Republic of Bashkortostan (update to AI Index: EUR 01/001/2005)

Investigations into the allegations of arbitrary detention, torture and ill-treatment, including severe beatings, by police of hundreds of people in December 2004 in Blagoveshchensk, Bashkortostan, have so far been inadequate. Only 10 police officers have been identified as suspected of responsibility for crimes, and no charges have been brought against the higher-ranking officials responsible for ordering the operation. In particular, the Minister of Internal Affairs of the Republic of Bashkortostan, Rafail Divaev, who signed the order for the deployment of the OMON officers, has not been charged and remains in post, despite a finding by the Office of the Republic's Procurator that he bears legal responsibility for the operation. The 10 law enforcement officers who have been charged are from the OMON special police unit and local police officers. The charges are under Part 3a of Article 286 of the

Criminal Code ("exceeding official authority… with the use of violence or the threat of violence"). All 10 officers remained at liberty, having signed an undertaking not to leave the town pending trial, and remained in their posts. One of the 10, a low-ranking local police officer, had been taken into custody to await trial, but was released from pre-trial detention at the end of June when the term for his detention sanctioned by the court expired.

The official investigations have allegedly been obstructed by the local authorities in Bashkortostan. The local district procuracy allegedly refused to organize medical examinations of victims for over two months, and created obstacles for people trying to get an independent medical examination in Bashkortostan. There have also been allegations of pressure being put on victims to withdraw their complaints, including reportedly being visited at home or place of work by unidentified people, sometimes introducing themselves as members of a local youth organization loyal to the president of the Republic, and by turns being offered inducements and being threatened. A local newspaper, *Zerkalo*, which was instrumental in reporting on the events, was reportedly closed down in May after the editorial team refused to accept the owner's demands to stop writing about the events. The father of a 16-year-old boy, who was pursuing a claim against the authorities in relation to alleged arbitrary detention and ill-treatment resulting in head injuries, was reportedly sacked in June by the Mayor of Bashkortostan. The lawyer for the family told AI that the Mayor made it clear that the father was losing his job due to the family's efforts to seek redress.

During the investigation an unpublished directive of the Ministry of Internal Affairs of the Russian Federation (MVD), dating from September 2002, came to light which sets out instructions for action for law enforcement agencies in cases of emergency. The document is entitled "Instructions for planning and preparing the forces and measures of agencies and internal forces of the Ministry of Internal Affairs for actions in public emergencies." While the MVD was yet to formally confirm that it is an official document, reportedly there was unofficial confirmation from Ministry officials. The directive gave instructions that appeared to violate principles of Russian and international law and give rise to serious human rights concerns, including relating to the right to life, prohibition of arbitrary detention, prohibition of torture and ill-treatment, presumption of innocence, and standards relating to the use of force.

Police operations involving large-scale arbitrary arrests and ill-treatment, including severe beatings, were also reported to have taken place in the village of Rozhdestvo and the town of Bezhetsk, both in Tver region, and in Ivanovskii village in Stavropol Territory.

Lgov prison colony protest

On 27 June over 500 prisoners reportedly conducted a self-harm protest in a prison colony in Lgov, Kursk region, in protest at conditions of detention and ill-treatment including beatings by the prison guards. Reportedly the prisoners used razor blades to slash their arms, stomachs, necks, and swallowed metal items or drove them into their bodies. Reportedly, some of the prisoners who had previously attempted to submit complaints about ill-treatment had been singled out for especially severe beatings with rubber batons and wooden bats and had been placed in the prison colony's punishment cell. By the end of the period under review, relatives of the prisoners had reportedly gathered outside the prison colony entrance, and the office of the Kursk regional procurator was investigating the events.

Possible prisoners of conscience

The Sakharov Centre case (see AI Index: EUR 46/007/2005 and EUR 46/010/2005)

On 28 March, Yuri Samodurov, director of the Andrei Sakharov Museum and Public Centre in Moscow, and Ludmila Vasilovskaia,

curator at the centre, were found guilty by a Moscow court of "carrying out actions aimed at inciting enmity, and humiliating the dignity of a group of people due to their nationality and their religious affiliation, carried out in public, and with the use of their official positions" under Article 282 part 2b of the Russian Criminal Code. The charges arose from their role in an exhibition that used religious symbols, called "Caution, Religion!", which had been held at the Sakharov Centre in January 2003. The court found that the exhibition was blasphemous and insulting to Christian believers, in particular members of the Russian Orthodox Church, and that the exhibition had had socially dangerous consequences. Each was fined 100,000 roubles (about US$3600). The Taganskaia Inter-district Court found a third defendant in the trial, artist Anna Mikhalchuk, not guilty of similar charges.

AI considered the prosecution of all three individuals, and the conviction of Yuri Samodurov and Ludmila Vasilovskaia under the article of the Criminal Code used, for the peaceful exercise of their right to freedom of expression, to be wholly disproportionate. If imprisoned, AI would have considered the defendants to be prisoners of conscience.

The case of Olga Kitova (update to AI Index: EUR 01/002/2003, EUR 46/061/2002)

In February a court in the Belgorod region formally overturned its conviction of Olga Kitova, journalist and former member of the regional parliament, and ruled that she was fully rehabilitated. This followed a ruling in July 2004 by the Presidium of the Russian Supreme Court that she had not violated any laws of the Russian Federation. Olga Kitova, who had been considered a possible prisoner of conscience by AI, had been convicted of charges relating to obstruction of the administration of justice, criminal slander and insult, and resisting and insulting representatives of the state in December 2001. She was sentenced to a two-and-a-half-year suspended prison term, given a fine and banned from seeking public office. The Supreme Court of the Russian Federation later cleared her of two of the five charges against her, and reduced her sentence to two years suspended. The charges related to the publication of articles she had written in which she alleged official corruption in connection with a rape case. In the articles, she had alleged that law enforcement officials had falsified a rape charge against six students.

However, Olga Kitova told AI that the Belgorod regional court had refused several of her requests relating to her rehabilitation, including: making a ruling that the procurator's office should publicly apologize for her wrongful prosecution both via regional media, and in person at a session of the regional parliament; making a separate ruling concerning the individuals at the procurator's office responsible for falsifying the criminal case against her; making a separate ruling concerning the group of judges who made unlawful rulings in her case; making a separate ruling against the court staff member who falsified the court hearing records in her case; and making a separate ruling against the police officers who beat her. Olga Kitova therefore appealed to the Supreme Court. Olga Kitova continued to campaign for a review of the sentences of the six students, who she continued to believe had been wrongly imprisoned.

Convictions for the murder of Galina Starovoitova (update to AI Index: EUR 01/01/00, EUR 01/002/2003)

On 30 June, the St Petersburg City Court convicted two men for the murder of Duma Deputy Galina Starovoitova and the attempted murder of her assistant, Ruslan Linkov. Vitaliy Akishin was sentenced to 23-and-a-half-years' imprisonment for shooting Galina Starovoitova in 1999 outside her apartment in St Petersburg. Yury Kochin was sentenced to 20 years' imprisonment for organizing the murder. Four other men facing related charges were set free by the court. The trial of another two suspects on related charges was

pending. The verdict stated that the murder had been a contract killing, designed to halt Galina Starovoitova's political and public activities. However, the person who ordered the murder has yet to be identified and prosecuted, and concerns were raised that the release of four of the suspects might make identifying this individual more difficult.

Galina Starovoitova was the leader of the Democratic Russia party. AI has maintained that the reason for Galina Starovoitova's murder was her outspoken criticism of corruption among the political elite, and to prevent her from continuing her work as an advocate and defender of human rights.

YUKOS case (update to AI Index: EUR 01/002/2005)

On 31 May, former YUKOS associates Mikhail Khodorkovskii and Platon Lebedev were found guilty of charges including tax evasion and fraud and sentenced to nine years' imprisonment. The verdicts were appealed. The convictions of Mikhail Khodorkovskii and Platon Lebedev followed an investigation and trial that reportedly included violations of fair trial standards (see AI Index: EUR 46/020/2005 and EUR 46/012/2005). During the trial, on 16 May police allegedly arbitrarily detained supporters of Mikhail Khodorkovskii who had complied with police instructions to stop demonstrating outside the court building in Moscow at 2pm by taking down their placards, but had remained in the area. Police allegedly roughly dragged demonstrators to a police bus, and used fists and batons to hit those individuals who resisted arrest.

In a resolution passed in January the Parliamentary Assembly of the Council of Europe expressed concern at the shortcomings of the judicial process revealed by the cases of former YUKOS executives and urged the Russian authorities to take steps to address systemic problems as well as guarantee the full independence of the judicial proceedings in the individual cases in question.

SERBIA AND MONTENEGRO (INCLUDING KOSOVO)

Serbia and Montenegro

Background

Serbia and Montenegro (SCG) continued to aspire towards membership of the European Union (EU) and on 25 April, as former General Nebojša Pavković was transferred to the International Criminal Tribunal for the former Yugoslavia (Tribunal), SCG received confirmation of the opening of the first steps towards the negotiation of a Stability and Association Agreement from the EU. In May, SCG signed the Council of Europe (CoE) Convention against Trafficking in Human Beings.

In Serbia slow progress was made towards promised reforms: long-awaited legislation on the ombudsperson was finally approved by the government at the end of May; a national strategy on the reform of the judiciary was completed and submitted to the CoE at the end of June, but measures to assert democratic civilian control over the military – who were allegedly protecting suspects indicted by the Tribunal, including General Ratko Mladić – were not taken.

In Montenegro, laws on the Police and National Security, including provisions for witness protection, were adopted on 26 April.

War crimes (Update to AI Index: EUR 01/002/2005)

In violation of SCG's international obligations as a UN member state, the Serbian authorities failed to seek out and arrest suspects indicted by the Tribunal, but continued a policy of "encouraging" their voluntarily surrender, apparently fearing a

public backlash and loss of electoral support. Under political pressure from the EU and facing the withdrawal of $10m of financial aid from the US government, in January government officials announced they were nearing "a serious breakthrough in negotiations" with suspects indicted by the Tribunal. Those who surrendered voluntarily were afforded official support in bail applications and governmental guarantees to the Tribunal. On 28 January, after intense international pressure, former commander of Priština Corps Vladimir Lazarević, indicted for war crimes and violations of the laws and customs of war in Kosovo in 1999, along with Sreten Lukić and Nebojša Pavković, surrendered to the Serbian authorities and was transferred to the Hague on 3 February. On 21 February former Bosnian Serb General Milan Gvero surrendered to the Serbian authorities and was transferred to the custody of the Tribunal on 24 February, and on 25 February, former Bosnian Serb general Radivoje Miletić surrendered and was transferred to the Hague on 28 February. Both had been indicted for murder, persecutions, inhumane acts and deportations, constituting crimes against humanity, and murder as a violation of the laws or customs of war in connection with Srebrenica and Žepa in 1995. On 2 March, former Yugoslav Army Chief of General Staff Momčilo Perišić, indicted by the Tribunal for crimes against humanity and war crimes in Bosnia and Herzegovina (BiH), agreed to surrender and was transferred to the Tribunal on 7 March. On 10 March, former Bosnian Serb Minister of Internal Affairs of the Republika Srpska in BiH, Mico Stanišić, indicted for crimes against humanity and war crimes in connection with the war in BiH, surrendered to the Serbian authorities and was transferred on 11 March. On 15 March, Bosnian Serb Drago Nikolić surrendered to the Serb authorities and was transferred to the Hague on 17 March; he had been indicted by the Tribunal in September 2002 in connection with Srebrenica for genocide or complicity in genocide, murder, persecutions and inhuman acts as crimes against humanity and murder as war crimes. He was followed to the Tribunal by General Vinko Pandurević, indicted for Srebrenica, who announced his intention to surrender on 20 March.

On 1 April, Ljubomir Borovčanin, a Bosnian Serb indicted for genocide at Srebrenica, surrendered to the Tribunal; Serbian police general and former Interior Minister Sreten Lukić, indicted for Kosovo (see above), apparently surrendered voluntarily from his hospital bed on 4 April; on 14 April, Vujadin Popović, indicted for genocide or complicity in genocide and crimes against humanity, flew to the Hague; former general Nebojša Pavković, also indicted for Kosovo (see above), voluntarily surrendered on 24 May. On 27 April, the Humanitarian Law Centre (HLC) published allegations that indicted suspects Jovica Stanišić and Frenki Simatović, on provisional release from the Tribunal, were involved in the intimidation of former members of the *Scorpions*, apparently in connection with a video used in evidence at the Tribunal (see below).

On 1 June a video of the killing of six Bosniak civilians captured in Srebrenica and killed on mount Treskavica in BiH on 15 or 16 June 1995 by members of the former Special Anti-Terrorist Unit known as the *Scorpions* was shown during proceedings against former president Slobodan Milošević at the Tribunal. Some 10 former members of the *Scorpions* were subsequently arrested, including one man detained by the Croatian authorities. The video, subsequently shown on Serbian television, revealed the involvement of Serbian forces in violations of international humanitarian law in BiH and provoked both public and political reaction. Although a coalition of non-governmental organizations (NGOs) called on the Serbian National Assembly to make a statement respecting the rights of the victims of Srebrenica, in June the Serbian Assembly was unable to pass a resolution condemning the massacre at Srebrenica, although the Council of Ministers of the Union of Serbia and Montenegro did so, deciding to send a state delegation to the 10th anniversary ceremony.

The trial continued before the special War Crimes Panel within the District Court of

Belgrade of six Croatian Serbs indicted by Serbia's special war crimes prosecutor in connection with the Ovčara massacre near Vukovar in Croatia in 1991. However, a procedure to transfer proceedings against three former Yugoslav National Army officers, from the Tribunal to local courts in either Serbia or Croatia, was stopped after the Prosecutor's Office withdrew their application. On 18 February five suspects were arrested for the detention and torture of at least 174 Bosniak civilians and the murder of at least 15 men at Čelopek in BiH; another suspect surrendered in June, but three remained at large. The case, which also includes indictments for the deportation to Hungary of 1,822 Bosnian Muslims, had been investigated by the Tribunal and subsequently transferred in 2004 to Serbia for prosecution.

Investigations were opened in January into the alleged mass cremation of the bodies of ethnic Albanians at the Mačkatica factory in Surdulica in 1999; the HLC suggested that the leadership of the Serbian Ministry of Interior and the Security Intelligence Agency (Bezbednosno-Informativna Agencija) were attempting to prevent the facts about the case from emerging, and that witnesses had reportedly been intimidated by local police officers. In May, indictments for war crimes in connection with the transfer of the bodies of Albanians killed in Kosovo to Serbia in refrigerated trucks were again promised by the end of the year; investigations had opened in 2000.

On 14 May, former police officer Goran Veselinović was convicted at Kraljevo District Court of war crimes and sentenced to 40 years' imprisonment for the murder of two Serb and two Albanian civilians in Mitrovica in 1999. On 17 May, Saša Cvetjan, another member of the *Scorpions*, was sentenced to 20 years' imprisonment at Belgrade District court for the killing of 14 Albanian civilians in Podujevo, after a retrial was ordered on 12 January by the Supreme Court. On 23 May, the Montenegro Supreme Court confirmed the conviction and sentencing of Nebojša Ranisavljevič for the abduction of 20 mainly Muslim civilians from a train at Štrpci railway station in February 1993; the retrial – ordered by the Supreme Court – of two suspects believed responsible for the abduction of 16 passengers from Sjeverin from a bus in Mioče continued; two suspects previously sentenced *in absentia* remained at large.

Political killings and organized crime (Update to AI Index: EUR 01/02/2005)

The trial continued of Milorad 'Legija' Ulemik-Lukovic for the murder of Prime Minister Zoran Đinđić in 2003; in June Milorad 'Legija' Ulemik-Lukovic was also convicted and sentenced to 12 years' imprisonment for his part in the murder of four party officials on the Ibar highway in 1999 in what was thought to be an attempt to murder Vuk Drašković, now SCG Minister of Foreign Affairs. Former head of the secret police, Radomir Marković, (also on trial for the "disappearance" in 2000 of former Premier Ivan Stambolić) was also sentenced to 10 years' imprisonment; eight others, including former members of the police Special Operations Unit, were sentenced to between one and 15 years' imprisonment.

Torture and ill-treatment (Update to AI Index: EUR 01/02/2005)

Despite official admission of police torture during "Operation Sabre" in Serbia in 2003, no proceedings are known to have been initiated against those responsible who remain in the police force. In May, Inspector General Vladimir Božović of the Ministry of the Interior once again reported that only six cases had been confirmed following investigations, despite credible allegations of the widespread use of torture and ill-treatment. D.L. [name known to AI], who had reportedly suffered several days of repeated beatings, alleged that since his release he had been followed and intimidated by persons he believed to be police officers, and had been picked up on several occasions for "informative talks". The lawyer for three men who had been convicted and sentenced following "Operation Sabre" informed AI that an appeal had been lodged with the Supreme

Court on 1 January 2005, on the grounds that confessions which led to their conviction had been extracted from them, and from witnesses, by torture.

No progress was reported in investigations lead by Vladimir Božović into the circumstances surrounding the death of Petar Šutović in January 2004. (See AI Index: EUR 70/005/2005).

The UN Committee against Torture in May found SCG (as the successor to the Federal Republic of Yugoslavia, FRY) to be in violation of Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the case of Jovica Dimitrov, a Romani man, who was allegedly tortured at Novi Sad Police station in 1996, in a case brought by the European Roma Rights Centre and the Humanitarian Law Centre (HLC) in August 2000. The Committee also found violations of Article 12 and 13 in the authorities' failure to carry out a prompt and impartial criminal investigation and to ensure the applicant's right to complain and have his allegations promptly examined by competent authorities. In violation of Article 14 Jovica Dimitrov was also prevented from filing a civil suit for compensation. SCG was urged to conduct a proper investigation and to inform the Committee with 90 days of their decision of the next steps to be taken.

Freedom of conscience

Amendments introduced on 3 February 2005 to legislation allowing for conscientious objection (CO) to military service limited applications for CO status to within eight days of receiving the summons to serve military duty; this breached CoE standards allowing for application for CO status at any time.

Minorities

The UN Special Rapporteur on Freedom of Expression in his February report on SCG noted that the prevalence of hate speech and the systematic use of defamation contributed to a legacy of intolerance and the persistence of discrimination.

On 13 May the UN Committee on Economic, Social and Cultural Rights, in their Concluding Observations, expressed deep concern over the lack of anti-discrimination legislation in SCG and reported incidents of inter-ethnic violence, and widespread discrimination against Roma with regard to employment, social security, housing, health care and education. The Committee urged SCG to take special measures to alleviate poverty among Roma, and to ensure that Roma had access to adequate and affordable housing, with security of tenure, to adequate sanitation and safe drinking water, and to affordable primary health care. The Committee also expressed deep concern at the continuing uncertain residence status experienced by refugees, returnees and internally displaced people (IDPs) including Roma, and their limited access to personal documents required to access basic rights under the UN Convention on Social, Economic and Cultural Rights, including education, employment and social security benefits.

Kosovo

The United Nations Interim Mission in Kosovo (UNMIK) continued to administer Kosovo, with the Special Representative of the UN Secretary-General (SRSG) holding executive powers. Some progress was made towards implementation of the Kosovo Standards Implementation Plan (KSIP), and on 3 May the SRSG suggested that talks on the final status of Kosovo would begin by October. On 27 May the UN Security Council met to review Kosovo's progress in meeting the standards set out in the KSIP, on which talks on final status were conditioned; subsequently, on 13 June, Kai Eide, appointed on 4 June as Special Rapporteur to the UN SG, made his first visit to Kosovo. On 20 April, the Kosovo Police Service (KPS) took over the protection of President Ibrahim Rugova, replacing his private security force.

On 15 May UNMIK confirmed that they had requested the transfer of further

competencies to the Provisional Institutions of Self-Government (PISG), including the creation of ministries of the interior and of justice. Police stations were transferred from UNMIK police to the KPS and a new law on the police was expected by the end of June. In Mitrovica/ë, despite attempts in June to open up the bridge over the Ibar, Serbs blocked access across the bridge for some 20 days.

Politically motivated crimes continued: Umar Ali Karya, a Nigerian UNMIK police officer, was killed in a car bomb on 13 January in Prizren; Sadik Musa, former protected witness in the Daut Haradinaj case, was shot on 31 January in Pec/Peja, and died on 1 February. Bomb attacks were made on the vehicles of Oliver Ivanović, a moderate Serb leader, on 8 February, and on President Ibrahim Rugova on 15 March. On 15 April, Enver Haradinaj, brother of former prime minister Ramush Haradinaj was killed in what was believed to be a revenge attack; his brother was temporarily released from the Tribunal to attend the funeral. On 17 April an explosion was reported at the Pristina offices of the moderate ORA (Hour) party; three children were reportedly injured. Abdhyl Ayeti, a journalist associated with the ruling Democratic League of Kosovo (LDK) party, was wounded by a single gun-shot on 4 June; he remained in a coma when a suspect was arrested on 15 June, and died of his injuries on 25 June.

War crimes (Update to AI Index: EUR 01/002/2005)

The then Prime Minister and former Kosova Liberation Army (KLA) commander Ramush Haradinaj resigned and surrendered to the Tribunal on 9 March, having been indicted, with his cousin Lahi Brahimaj, a high colonel in the Kosovo Protection Corps, and Idriz Balaj, then serving a 15 year sentence for murder, for 37 counts for crimes against humanity and war crimes against the Serb and Roma, Ashkali and Egyptiani (RAE) populations, including abduction, torture and ill-treatment, murder and rape. Despite local and international concerns, the surrender did not trigger the anticipated violent reaction within Kosovo. Ramush Haradinaj returned to Kosovo on provisional release from the Tribunal on 9 June.

Proceedings continued at the Tribunal in the case of Fatmir Limaj, Haradin Bala and Isak Musliu, former members of the KLA indicted for war crimes including the abduction, torture and killing of Serbs and Albanians suspected of collaborating with the Serbian authorities at the Lapusnik camp in 1998. On 5 May, Beqim (Beqa) Beqaj, the first person indicted for contempt of the Tribunal, was convicted and sentenced to four months' imprisonment on one of three charges related to the intimidation of witnesses in the Limaj case.

In Kosovo, on 12 May, three of the five "Kacanik" group accused of committing war crimes against the civilian population were convicted by an international panel at Pristina District Court, and sentenced to between eight and six years imprisonment.

Impunity for ethnically motivated crimes (Update to AI Index: EUR 01/002/2005)

Attacks on minorities continued in the period leading up to the anniversary of the ethnically motivated riots in March 2004. On 23 March some 20 Serbian families in Obilić/Obliq were attacked with tear gas, and on 28 March, two elderly Serbs were badly beaten in Crkolez village. On 1 April, a house in the Serbian *mahala* in Orahovac/Rahovec was reportedly set on fire, and reports were received of shooting at house in Kos in Istog/Istok municipality inhabited by 12 Serb returnees. Further attacks on Serbian lives and property took place in May; a bomb was thrown at the Mitrovica-Lipljan/Lipjan train on 7 May, and on 9 May a car in which three Serbian youths were travelling was shot at in Donja Brnjica; a suspect was arrested by the end of May.

On 19 May, six Albanians were sentenced to a total of 38 years' imprisonment by an international panel in Gjilane/Gnilane District Court for the murder of Slobodan

Perić, and his mother Anka Perić, during the March 2004 riots; Nexhat Ramadani, 21, and Xheladin Salihu, 33, were sentenced to 16 and 11 years respectively.

Reportedly, by May some 348 people had appeared in court in trials related to the March 2004 violence. AI expressed concerns to UNMIK about the lack of accountability for KFOR contingents who had failed to prevent human rights abuses including the forced displacement of Serbs and Ashkali, and the apparent impunity for Kosovo Police Service (KPS) officers suspected of participation or complicity in human rights violations, despite credible evidence received by the organization. Five KPS officers were suspended on 8 February, but reinstated later in the year; investigations into some 69 allegations against KPS officers were inconclusive.

Progress was seen in some long-standing investigations. On 7 April, 12 ethnic Albanians were sentenced to up to 30 years' imprisonment for the revenge murder of former police officer Hamez Hajra, his wife and their three children in 2001, four of them receiving 30-year sentences. On 13 April, Florim Ejupi, who had been arrested in Albania, was charged with the bombing of the Niš Express bus in March 2001; he was indicted for the murder of 12 Serbs and severe injuries to others, the illegal termination of a pregnancy, terrorist offences, causing a danger to the public, racial discrimination and the unlawful possession of explosives; he was also charged with the murder of UNMIK and KPS officers in February 2004.

In April, a mass grave reportedly containing the remains of non-Albanians killed in 1998 was found in Klina, but despite the resumption of talks on the missing, little progress was made in bringing those responsible for the abduction of Serbs, Roma and other minorities to justice.

Minorities

In April a Memorandum of Understanding was concluded between the German Government and UNMIK, allowing the forcible return of Ashkali and Egyptiani from Germany, as well as the return of Roma serving sentences in excess of two years in German gaols. The number of voluntary returnees remained low.

AI expressed strong concern in June at the failure of UNMIK and the PISG to respect and fulfil the right to health of a group of 531 RAE living near the former Trepča Mines lead-smelting site in Zvečan municipality, who had been found by the World Health Organization in 2004 to have dangerous levels of lead in their blood. Calls for their relocation had been ignored by the authorities, despite previous epidemiological and environmental studies carried out by UNMIK in 2000.

On 2 June, UNMIK submitted a report to the CoE on measures taken to implement the Framework Convention for the Protection of National Minorities. The report noted an agreement made on 18 April for the rebuilding of the Roma *mahala* in southern Mitrovica from which internally displaced RAE living in Zvečan had fled, but failed to report on the violation of their right to health.

Trafficking in human beings (Update to AI Index: EUR 01/002/2005)

The Kosovo action plan on trafficking was published on 17 May, but failed to meet recommendations made by AI in May 2004, which sought to protect the human rights of trafficked women and girls; the Administrative Directive implementing the 2001 trafficking regulation was finally promulgated on 11 February, but similarly failed to guarantee trafficked women and girls an automatic right to protection and assistance.

13 suspected traffickers were arrested on 2 March, with further arrests on 9 and 12 May, and a significant number of bars on the "off-limits" list were closed. On 26 May, a senior staff member of the UN High Commission for Refugees, arrested in February, was indicted for trafficking and the sexual exploitation of minors under 16

years of age, in the knowledge that they had been trafficked.

SLOVAK REPUBLIC

Discrimination against Roma

Discrimination against Roma in the fields of social and economic rights remained a serious problem.

In January, the Slovak government produced its comments on the Concluding Observations of the UN Human Rights Committee, which had been published in 2003 and which expressed concern, *inter alia*, about discrimination against Slovakia's 500,000 Roma in the fields of education, employment, housing, health, social care and access to services (see AI Index: EUR 01/001/2003). Among other issues the government addressed the placement in special schools of Roma children. In the context of Roma children often failing school entry tests, the government stated that they "come to school without pre-school education and sufficient knowledge of Slovak, lack basic hygiene and cultural and working skills, have limited concentration, patience and perseverance, and have underdeveloped fine motor coordination, different experience and knowledge of the world, and different interests and felt needs." The government reported that it would prepare differential school tests for Roma children from a socially disadvantaged environment by the end of 2005. In April, the senior official in charge of Roma affairs, Klará Orgovánová, announced the adoption of a National Action Plan for a "Decade of Roma Inclusion 2005-2015". The main areas of discrimination targeted in the National Action Plan are to be education, employment, health and housing.

Housing rights

In March, the UN Committee on the Elimination of Racial Discrimination found that the Slovak Republic had discriminated against a group of Roma with regard to housing rights. The case was brought by 27 Slovak citizens of Roma origin from Dobšiná, and followed a decision not to proceed with a previously announced project to set up low-cost housing for the Roma population in Dobšina, after an anti-Roma petition was received from certain politicians with nationalist agendas. The Committee stated that once a policy towards realization of the right to housing had been adopted by the authorities, its revocation and replacement with a weaker measure amounted to a violation of the Convention on the Elimination of All Forms of Racial Discrimination.

Ill-treatment of Roma

The Záhorská Ves incident (update to AI Index: EUR 01/002/2005)

In 2004 the Roma family of Štefan and Olga Šarkozi were reportedly ordered by the mayor of Záhorská Ves to leave their land and the village, after their house had been burned down by a racist mob in December 2003. The mayor was also reported to have confronted the Šarkozi family with private security guards, who assaulted Štefan and other members of the family with baseball bats. In the period under review Klára Orgovánová, the senior official for Roma affairs, was told by the mayor that the Šarkozi family had been offered compensation to leave the village, which it had initially accepted and later declined. AI was unable to confirm this.

AI wins case against Slovak police

In June, the Supreme Court announced that the Slovak police had not acted in line with the law when, in June 2004, they prevented 30 AI activists from gathering in front of the Belarus embassy in Bratislava to protest against the detention of prisoner of conscience Professor Yury Bandazhevsky. Although AI notified the authorities of the demonstration in accordance with existing regulations, the police prevented demonstrators from entering Kuzmányi street, where the Belarusian embassy is located. The Supreme Court decided that only the municipality, not the police, had

the legal power to prevent people exercising the right to assembly. The court ruled that the police can intervene only if public order is disturbed or other illegal acts are linked to the event.

Forced sterilizations (update to AI Index: EUR 01/002/2005)

A new comprehensive Public Health Law, including provisions on sterilizations, informed consent and access to medical records, entered into force on 1 January. The law had been drafted as a response to public highlighting by civil society organizations of substantial gaps in previous Slovak legislation on sterilization, which did not accord sufficient protection against forced sterilizations of women.

During the period under review a case against Slovakia brought by three alleged victims of forced sterilization was heard by the European Court of Human Rights in Strasbourg. As of June 2005 the decision was pending.

SLOVENIA

The 'erased'

The Slovenian authorities failed to resolve the status of the so-called "erased" and to ensure that they have full access to economic and social rights, including their right to employment, pension, and health care. In 1992 some 18,305 individuals were unlawfully removed from the Slovenian registry of permanent residents. They were mainly people from other former Yugoslav republics, who had been living in Slovenia and had not acquired Slovenian citizenship, after Slovenia became independent. Of a total of approximately 18,000 individuals "erased" in 1992, some 12,000 had their permanent residence status restored, but only with effect from 1999 or later. Some 6,000 people remain without Slovenian citizenship or a permanent residence permit. Many of them live "illegally" as foreigners or stateless persons in Slovenia; others were forced to leave the country as a result of the "erasure".

Ali Berisha, a member of a Romani/Ashkali/Egyptiani community born in 1969 on the territory of today's Kosovo (Serbia and Montenegro), was registered as a permanent resident in Maribor, in today's Slovenia, between 1987 and 1992. Ali Berisha was "erased" in 1992 from the registry of permanent residents and, following the "erasure", in 1993 he was deported from Slovenia, for no apparent reason, to Albania. He was then sent back to Slovenia by the Albanian authorities and, from Slovenia, he subsequently moved to Germany, where he remained at the end of June. Following the rejection by the German authorities of his asylum application, Ali Berisha was informed in May by them that he would be forcibly returned to his birthplace in Kosovo. As a member of a Romani/Ashkali/Egyptiani community, in Kosovo Ali Berisha would be at risk of serious human rights abuses.

In 1999 and again in April 2003 the Slovenian Constitutional Court had recognized the unlawfulness of the removal from the registry of permanent residents of the individuals concerned and ordered the Slovenian authorities to retroactively restore their permanent resident status. The Slovenian Constitutional Court had recognized that this measure constituted a violation of the principle of equality and, in those cases where the individuals concerned had to leave Slovenia, it gave rise to a violation of their rights to a family life and to freedom of movement.

Following the 2003 Constitutional Court decision, the Slovenian Ministry of Interior had initially issued approximately 4,100 decrees retroactively restoring the status of permanent residents of the individuals concerned. However, the Slovenian authorities had stopped issuing such decrees in July 2004 and no new steps have been taken to implement the Constitutional Court decision and to restore the rights of the "erased". Moreover, those affected by the "erasure" continue to be denied access to full reparation, including compensation.

Segregation of Romani children in primary schools

The Slovenian authorities failed to fully integrate Romani children in the Slovenian educational system and tolerated or promoted in certain primary schools the creation of special classes for Romani children only, where in some cases a reduced or simplified curriculum is taught. AI received reports of segregation of Romani children in nursery schools as well.

In March, after protests by parents of non-Romani children against the "large share" of Romani pupils attending the Bršljin primary school, the Slovenian Ministry of Education and Sport decided to create at that school special separated classes in certain subjects for Romani children only. Following protests by parents of Romani pupils and NGOs, including AI (see below), the Minister of Education later retracted its initial proposal and reportedly suggested that different classes could be created on the basis of the pupils' knowledge and performance in school. In April AI expressed its concerns relating to the segregation of Romani children in the Slovenian educational system in an open letter to Prime Minister Janez Janša. At the end of June the authorities had not replied addressing the concerns raised in the open letter.

SPAIN

Violence against women

In January a law on gender-based violence, adopted in December 2004, came into force. The law sought to bring together, in a single instrument, measures to prevent, assist and protect victims of violence with measures to prosecute, investigate and punish any offence committed. The law ensured the right of victims who lodge formal complaints to receive comprehensive assistance, including legal aid and access to health services and housing. For the first time, the law recognized that there are certain groups of women who are at greater risk of suffering gender-based violence.

In May AI published a report entitled *Spain: More than words. Making protection and justice a reality for women who suffer gender-based violence in the home* (AI Index No: EUR 41/005/2005). The report, which was based on the testimonies of women who have survived gender-based violence in the home and which took into account the views of various women's organizations, civil servants and officials, showed the obstacles which prevent such women from obtaining care, protection and justice in Spain. Of particular concern was the lack of protection afforded to women from vulnerable groups, such as undocumented immigrant women, Romani women, women with disabilities and women with mental disorders or addictions. AI reminded the Spanish government of its responsibility to prevent violence, investigate abuses, punish those responsible and compensate the victims.

The day after the report was published, the Ministry of Labour and Social Affairs contacted AI to organize a joint meeting with the Secretary for Equality and the Government Special Delegate on Domestic Violence. At the meeting, which took place on 24 May, AI raised concerns over the lack of coordination between the various ministries of the central government resulting in insufficient protection for the victims of domestic violence. To address these concerns and other recommendations by AI, the Deputy Prime Minister agreed to hold regular meetings between the organization and the Government Special Delegate on Domestic Violence.

The AI delegation also met with the Minister of Justice, and there raised a series of concerns regarding the implementation of the new law on gender-based violence (*Ley Orgánica de Medidas de Protección Integral contra la Violencia de Genero*) and the difficulties still faced by women in obtaining effective protection. While welcoming the approval of the new law in December 2004, AI expressed its concerns that the onus for setting protection measures in motion would continue to fall on the victims, and comprehensive help would only be available to those who lodge official complaints.

While strengthening protections against violence in the family, implementation of the new law was also not as effective as had been hoped, resulting in an additional burden placed on the victim to actively pursue their formal complaint and demand formal measures for their own protection to be set in motion.

In June, 17 courts dedicated solely to cases of gender-based violence began hearing cases, with an additional 433 courts empowered to hear domestic abuse cases. Their role will be to assist the victims and ensure proper criminal investigation in accordance with the new law. The specialized courts are located in Madrid (three), Barcelona (two), Valencia, Granada, Malaga, Sevillla, Murcia, Las Palmas de Fran Canaria, Palama de Mallorca, Santa Cruz de Tenerife, Alicante, Vitoria, Bilbao and San Sebastian. The specialized courts are also competent to hear cases of female genital mutilation, even if the act was carried out outside of Spain.

Asylum seekers and refugees

On 7 February a programme was launched by the government to grant amnesty to up to 800,000 undocumented migrants. Under new regulations introduced in December 2004, migrants who could prove they were in Spain before August 2004, and who had a job contract and no criminal record, had three months to sign up as taxpayers and obtain rights of residence.

In June, Amnesty International published a report entitled *Spain: The Southern Border -The State turns its back on the human rights of refugees and immigrants* (AI Index: EUR 41/008/2005). This report described the barriers blocking the way of many people who are fleeing persecution and serious abuses in their country of origin, and the situation which refugees, asylum-seekers and immigrants encounter when they arrive at Spain's southern border (Melilla, Ceuta, the Canary Islands, and the Andalusian coast), one of the European borders with the highest influx of migrants. AI was especially concerned with the response from the public, the government and the media that refugees receive in Spain. These individuals are regarded as "illegal", clandestine or economic migrants.

Regretably, in spite of recommendations by a range of experts including the UN Special Rapporteur on the human rights of migrants, the delegation of the UN High Commissioner for Refugees (UNHCR) to Spain and the European Commission against Racism and Intolerance (ECRI), Spain continues to fail adequately to identify individuals fleeing human rights violations. AI is concerned that there may be instances where people at risk of torture in their countries of origin are being returned, in violation of the principle of non-*refoulement* enshrined in international law. For example on one occasion, on 28 December 2004, several people were illegally expelled, including asylum-seekers who had already entered Spain, one of whom was a 15-year-old minor from Guinea, who suffered abuse. In May 2005 the Interior Ministry admitted that the minor had been summarily expelled because he was found between the two fences in the Spanish enclave of Ceuta.

Conditions of detention of minors

In April the Ombudsperson for the Autonomous Community of the Canary Islands condemned "institutional ill-treatment" of minors in the Canary Islands. He listed six detention centres which required urgent intervention. In June the first assistant to the national Ombudsperson requested the immediate closure of the detention centre in Gáldar on Gran Canaria, where conditions were particularly unsanitary. The same recommendation was made by the Council of Europe's Commissioner for Human Rights.

Same-sex marriages

On 30 June the Spanish parliament approved a new law allowing same-sex marriages. The new law also gives married same-sex couples the rights of inheritance previously allowed only to married men and women, and the right to adopt children.

This new law is in line with recommendations of the Committee on Citizens' Freedoms and Rights of the European Parliament, which has called on EU member states "to abolish all forms of discrimination, whether legislative or *de facto*, which are still suffered by homosexuals, in particular as regards the right to marry and adopt children" [4] and to "confer the same rights on partners in these relationships as on those who are married" [5].

Spain signs Optional Protocol to the Convention against Torture

On 13 April, Spain signed the Optional Protocol of the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. The Protocol, for which AI had long campaigned, allows independent international experts to conduct regular visits to places of detention within states parties. The purpose of these visits is to assess conditions of detention and treatment of detainees and to respond with recommendations to states parties for improvements. As reported in the press, the Minister of Foreign Affairs declared that Spain would ratify the Protocol later in the year, adding its ratification to those of 10 other countries, including the UK and Denmark. In order to be implemented, the Protocol needs to be ratified by 14 countries.

Universal jurisdiction

Adolfo Scilingo, an Argentine former naval officer who had admitted to being aboard planes carrying detainees who were drugged, stripped naked and thrown into the sea during the military governments in Argentina, was convicted in Spain in April on charges that included crimes against humanity. He was sentenced to 640 years' imprisonment.

[4] Chapter III, n. 81. *Report on the situation as regards fundamental rights in the European Union* (2002), (2002/2013(INI)), Committee on Citizens' Freedoms and Rights, Justice and Home Affaire, Rapporteur: Fodé Sylla.
[5] Ibid., Chapter III, n. 85.

Attacks by ETA

At least 42 people were injured when a car bomb exploded in the morning of 9 February near the Juan Carlos I Convention Centre in Madrid, hours before a scheduled visit by King Juan Carlos I and Queen Sofia. Police in Spain reported that someone representing the Basque armed group Euzkadi ta Askatasuna (ETA) warned a newspaper 30 minutes prior to the explosion of the group's intention to explode a device in the vicinity. The police proceeded to seal off the area yet scores of people were injured, including five police officers. In another attack on 25 May 2005, ETA planted a car bomb in a Madrid street, causing damage to more than 20 buildings and leaving another 52 people with minor injuries. AI unequivocally condemns the targeting of civilians by armed groups, and has done so repeatedly in the context of Spain. On 17 May the lower chamber of parliament authorized the government to open talks with ETA if it abandoned its armed struggle.

TURKEY

New legislation (update to AI Index: EUR 01/01/2005)

The pace of reform in the first half of 2005 appeared to slow. Some legislation which had been drafted in the previous year and which the European Union (EU) required was brought into force, albeit with significant difficulties. However, few other vital reforms were introduced.

Central amongst the legislation required by the EU which was introduced were the new Turkish Penal Code (TPC), the new Criminal Procedure Code (CPC) and the Law on the Execution of Sentences (LES). These laws had been passed by parliament in 2004 and were scheduled to enter into force on 1 April. However, following vocal objections by journalists' groups (who raised concerns about provisions in the new TPC which envisaged restrictions to the right to freedom of expression and the possibility of higher sentences for crimes committed

through the press), as well as by representatives of the police force (who claimed that their ability to fight crime would be restricted by aspects of the TPC and CPC), the entry into force of these laws was delayed until 1 June so that amendments could be made to the draft (see AI Index: EUR 44/011/2005 and AI Index: EUR 44/016/2005).

Disappointingly, while some of the provisions which allowed for higher sentencing for crimes committed through the press were amended, the concerns in relation to freedom of expression largely went unaddressed. Moreover, several changes were made to the draft of the CPC which cancelled proposed safeguards for individuals detained by the police, apparently in response to the objections of the police force.

These laws also all contain positive aspects; the TPC in particular contains numerous provisions that should, if implemented, afford greater protection to women in Turkey from violence. However, all the laws also contain provisions that gave rise to fears that they would be used in a way contrary to international human rights standards. The TPC in particular appears to include numerous unnecessary restrictions to the right to freedom of expression while human rights defenders in Turkey raised vocal objections to the punishment regime for prison inmates envisaged by the LES.

Freedom of expression

There were concerns about the unnecessary restrictions to the right to freedom of expression in the new TPC, given the large number of cases in which individuals have in the past been prosecuted or received monetary fines or custodial sentences for the peaceful expression of non-violent opinion. While courts have handed down some landmark judgments which have cited international standards, there were examples of important cases where the decisions of the Court of Appeals appeared to be in contravention of international standards.

An example was the prosecution of the education workers' trade union Eğitim Sen for stating in its statute that it would work for the right to "mother-tongue education". The trial began in June 2004 with the prosecutor alleging that such an aim was contrary to Articles 3 and 42 of the Turkish Constitution, which declare respectively that "The state of Turkey with its country and nation is an indivisible whole. Its language is Turkish" and "No other language than Turkish may be taught in educational and teaching facilities to Turkish citizens as their mother tongue." The court rejected the request for Eğitim Sen's closure in September 2004. However, the Court of Appeals overturned this decision in November, stating that this was necessary "to prevent activities contrary to the unitary structure of the country as a compulsory precaution with the aim of protecting national and public security, and protecting public order". The case was returned to the lower court which on 21 February 2005 again rejected the request for the union's closure, stating that "it is natural that language is an element of the differences within a state rather than an element of division. Education in native languages is not against the law. On the contrary, it is an indication that the state is looking after its citizens. This situation will be a bridge uniting our citizens and strengthening our national wholeness." The Ankara State Prosecutor again appealed against the court's decision, and on 25 May the Court of Appeals made the final decision that the union should be closed (see AI Index: EUR 44/002/2005).

The opening of cases against those who articulated peaceful, albeit controversial, opinions appeared to derive from a resistance by prosecutors and members of the judiciary to the reforms. In January, the UN Special Representative on Human Rights Defenders drew attention in the report of her visit to Turkey to the fact that "prosecutors have not actively engaged in the implementation of the reform" and that "some judges have also shown reluctance to implement the reforms", concluding that attitudes on the part of "some within the

judiciary is hampering concrete change at the local level".

Therefore, the continued existence -- and even introduction -- of unnecessarily restrictive provisions in the new TPC suggested that freedom of expression in Turkey would remain under serious threat.

Of particular concern was Article 305 of the new TPC which criminalizes "acts against the fundamental national interest", especially in the light of the written explanation attached to the draft when the law passed through Parliament. The explanation provided as examples of crimes such acts as "making propaganda for the withdrawal of Turkish soldiers from Cyprus or for the acceptance of a settlement on this issue detrimental to Turkey…or, contrary to historical truths, that the Armenians suffered a genocide after the First World War". Disconcertingly, despite the widespread calls for this article to be reviewed after the entry into force of the TPC was delayed, the only change made to it was the addition of a sentence to explicitly allow for the prosecution of "foreigners" as well as Turkish citizens who engage in such acts.

Also of great concern was Article 301 of the new TPC which criminalized anyone "denigrating Turkishness, the Republic, Parliament, the government, the judiciary [or] the military and security forces". This law carried over aspects of Article 159 of the previous TPC, which criminalized insults against or denigration of various state institutions. In light of the way that this provision has been used to unnecessarily restrict the right to freedom of expression, AI called for it to be repealed.

Examples of the use of this provision to open cases against those who criticized state policies and actions were numerous. For example, a trial began in May at a court in Istanbul against publisher Ragip Zarakolu for his publication of a book by Dora Sakayan entitled *Experiences of an Armenian Doctor*. Ragip Zarakolu had been charged under Article 159 of the TPC for "insulting Turkishness and the security forces", and then under Article 301 after the new TPC came into effect. Another case was opened against him in March, in which Ragip Zarakolu was charged with "insulting the state and the republic" under Article 159 (also converted to Article 301) and "insulting Atatürk's memory" under Law No 5816 for publishing a book by George Jerjian entitled *The Truth Will Liberate Us*.

On 28 April, a court in Urfa started to hear a case against Şeyhmus Ülek, Vice-President of the human rights group Mazlum-Der, and Hrant Dink, editor-in-chief of the daily *Agos*, opened under Article 159 of the TPC. The case was launched in connection with speeches they had made during a conference organized by Mazlum-Der on 14 December 2002 on "Global Security, Terror and Human Rights, Multi-culturalism, Minorities and Human Rights".

Armed conflict

In April, the armed group Kongra Gel announced that it was reverting to its previous name of the Kurdistan Workers' Party (PKK). There were numerous armed clashes between Turkish security forces and members of the PKK in the south-eastern and eastern provinces of the country and attacks by the PKK and a supposedly unrelated group, the Kurdistan Freedom Falcons, on military and civilian targets. There were allegations that both the PKK and Turkish security forces committed acts contrary to international human rights and humanitarian law.

The Headquarters of the Gendarmerie Forces (members of the army who carry out policing functions in rural areas) in Şırnak announced that its forces had detained a member of the PKK known as "Dijyar" [presumed to be Abdulkadir Bartan] following an armed clash. Rather than being brought promptly before a prosecutor as Turkish law requires, he was instead taken to show locations where other members of the PKK were sheltering. The Gendarmerie stated that during this time they came under fire from the PKK and "Dijyar" was killed. They also stated that it was impossible to retrieve his body or those of

20 other members of the PKK who were killed during the first operation in which "Dijyar" had been captured. The failure to adhere to safeguards designed to prevent serious human rights violations and the failure to carry out an autopsy on those killed was of serious concern (see EUR 44/017/2005 and AI Index: EUR 44/020/2005).

Meanwhile, there were continuing allegations that the PKK had targeted for reprisal former members of the organization who had left the organization and had joined the Patriotic Democratic Party of Kurdistan (PWD) in Northern Iraq. On 17 February, Kemal Şahin (also known as Saleh Nuri or Kemale Sor) was killed in an attack which was alleged to have been carried out by members of the PKK near Sulaimaniya in Northern Iraq. Kemal Şahin was a former member of the PKK who split from the organization and founded Rekeftin, an organization allied with the PWD. Eight reported PKK members were subsequently detained by the local Iraqi authorities in connection with the attack.

Flag protest

The outbreak of renewed violence between the PKK and the Turkish security forces also appeared to result in an outbreak of nationalist activity in which those expressing opposition views were targeted as being "traitors to the state".

On 21 March, two children aged 14 and 12 and an 18-year-old were detained by police officers in Mersin in southeast Turkey accused of attempting to burn a Turkish flag during Newroz celebrations (Newroz (Kurdish)/ Nevruz (Turkish) is the traditional festival of New Year in the Persian calendar which celebrates the arrival of spring at the March 21 equinox and which is celebrated especially by the Kurdish community in Turkey). While the children and several others were charged with "insulting the Turkish flag", "organizing an illegal demonstration" and "resisting police", the incident resulted in a wave of denunciation expressed in extreme nationalistic terms (most forcibly in a statement by the Chief of the General Staff). After statements from officials, including the President, in which they called on the public to "show solidarity with the flag", there were demonstrations across the nation "in defence of the flag" with all television channels displaying the flag during broadcasts.

In this tense atmosphere oppositionists were tarred as 'flag burners' and some ultranationalist groups felt encouraged to take reprisals against those they perceived to be "enemies of the state". On April 7 a crowd attempted to attack members of a prisoners' solidarity group, TAYAD, who were handing out leaflets protesting prison conditions in Trabzon, in the north of Turkey, after false rumours spread that they were trying to burn a flag and were connected to the PKK (in fact, there was no connection). Police officers detained the protestors while the crowd which reportedly swelled to some 2,000 people marched on the police station carrying Turkish flags. A case was launched against five TAYAD members who had been distributing leaflets for "assault", "resisting officers on duties" and "staging an illegal demonstration"; another case was opened against 15 individuals accused of attacking them for "aggravated assault" and "using violence and force to resist officers on duty".

Pressures on human rights defenders resulting from Turkey's "war on terror"

In this environment, those working against human rights violations perpetrated during the conflict with the PKK - and even, as above, those working on unrelated areas - were accused by state officials and political groups of supporting the PKK and apparently targeted for reprisal.

For example, on 19 April four members of the Istanbul branch of the Human Rights Association (Insan Hakları Derneği – IHD) received threatening letters at their home and work addresses from a group calling itself the Turkish Revenge Brigade. An illegal ultranationalist group by that name

had claimed responsibility for an armed attack in 1998 on the then IHD president, Akin Birdal, in which he was critically wounded. The letters headed "Our final warnings to the separatists hostile to the fatherland!" referred to the incident in Mersin using similar language as that used by the Chief of the General Staff and threatened them with death (See EUR 44/014/2005 and EUR 44/028/2005).

On 18 May General Hurşit Tolon is reported to have made the following comments which were widely reported in the press at the funeral of a soldier killed by a mine: "If there is not terrorism in this country, then why are we standing by the grave of this martyr of ours? But have a look - do you see any human rights defenders here?"

Such a statement, which appeared to question the impartiality of human rights defenders and implied their support for the PKK, appeared to resemble those articulated by members of the security forces who attended the scene of a taxi which hit a mine near Tunceli, in southeast Turkey on 24 June. The security forces investigating the scene put up notices on the wreckage of the taxi, some of which stated: "Human rights defenders, have you seen this car? Tunceli Bar Association, why are you silent? Those that make press statements about even the birds in the mountains, will they make a press statement about this? We are waiting with interest." Tunceli Bar Association lodged a complaint about these notices with the State Prosecutor, who ordered them to be taken down.

This incident appeared to be part of a pattern of pressure on human rights defenders in Tunceli. In February, human rights lawyer Hüseyin Aygün reportedly received a series of verbal threats from the Commander of Gendarmerie Forces in Tünceli province. In the same month, Hüseyin Aygün lodged a complaint about the threats with the State Prosecutor, who began an investigation. However, shortly afterwards, while the investigation was in progress, legal proceedings were swiftly launched against Hüseyin Aygün in relation to the complaint he had lodged. As a result, three cases were opened against him for charges of defamation and damaging the reputation of the Gendarmerie Commander (see AI Index: EUR 44/006/2005 and AI Index: EUR 44/025/2005).

Other types of pressure were brought against human rights defenders who investigated violations perpetrated by members of the security forces in the course of their operations against the PKK. On 21 November 2004 police officers shot dead Mehmet Kaymaz and his 12-year-old son Uğur Kaymaz outside their house in Kızıltepe, southeast Turkey. The authorities claimed that they were armed members of Kongra Gel and that they had shot at police officers who returned fire. Witnesses alleged that it was an extrajudicial execution and that weapons were planted on the two victims after they were killed. Two days after the incident took place, the IHD carried out a fact-finding investigation to Kiziltepe, which included Selahattin Demirtaş and Mihdi Perinçek and three other members of the organization. On 25 November they issued a report documenting their findings and concerns about the case. However, on 31 March, the State Prosecutor launched a case against Selahattin Demirtaş and Mihdi Perinçek for this report in which he accused them of having "disseminated news which gives incorrect or misleading information to the public that will affect the conduct of the investigation" and thus violated the Turkish Press Law. They faced a fine of up to 50 thousand million old Turkish lira (around $37,000).

"Alternative charges"

"Alternative charges" have apparently been used by prosecutors to open cases against individuals in connection with acts which previously may have been criminalized under other laws which have since been abolished or amended. The prosecution of Selahattin Demirtaş and Mihdi Perinçek under the Press Law for issuing a report on human rights, above, is one example of how prosecutors have found new ways to

maintain the pressure on human rights defenders.

Another example of the determination of prosecutors to bring charges against those engaged in the defence of human rights was the case opened against lawyer Mustafa Çinkiliç and Dr Mehmet Antmen, who work at the Adana branch of the Turkish Human Rights Foundation (Türkiye Insan Hakları Vakfı – TIHV), an independent human rights organization which provides medical and psychiatric treatment for the survivors of torture and ill-treatment. They were charged after a former prisoner complained that he had been tortured and ill-treated whilst in prison and submitted a copy of his medical examination by TIHV as evidence of this. The Adana State Prosecutor then had Mustafa Çinkiliç and Dr Mehmet Antmen detained by police on 16 September 2004 and demanded a copy of the original report. After the two human rights defenders explained that such documents could only be released by the headquarters of TIHV, the prosecutor sought to open a case against them for "obstructing an investigation" and requested their imprisonment. However, a court in Adana rejected this request on the basis that a copy of the report was available on file. Despite this, the Adana State Prosecutor then opened a case in April against Mustafa Çinkiliç and Dr Mehmet Antmen for "concealing evidence of a crime" and for "fraudulently altering a private document". The first session of the case was due to open on 11 July 2005. It was reported that, in contrast to the repeated attempts to punish the two human rights defenders, the investigation into the original complaint of torture has been suspended.

Report by the UN Special Representative on Human Rights Defenders

On 18 January the UN Special Representative on Human Rights Defenders issued the report of her visit to Turkey in October 2004. She recognized and welcomed the legal and constitutional reforms in Turkey introduced by the government but noted many areas of continuing problems. Among these were the numerous obstacles that human rights defenders continued to face in carrying out their work, and specifically the high number of prosecutions and heavy fines.

On 7 February Chairman Professor İbrahim Kaboğlu and three other members of its leadership council resigned from the Human Rights Advisory Board, a body established under the structure of the Prime Ministry in order to independently issue regular reports and make recommendations for the improvement of human rights in Turkey, and made up of representatives from the government ministries as well as civil society organizations. In his resignation İbrahim Kaboğlu complained of serious obstruction to the work of the Board. Human rights organizations alleged that the government had failed to respond to any of the reports of the Board, and that the State Minister for Human Rights had not attended any of its meetings. Furthermore, after the Board issued a report on minority rights in Turkey, the government swiftly disowned the report, and its authors and Professor İbrahim Kaboğlu were subjected to huge pressure, including threats and investigations by prosecutors. It was alleged that the government subsequently attempted to make the board ineffective by appointing to it representatives of organizations whose commitment to human rights values was questionable (see AI Index: EUR 01/002/2005). The Human Rights Advisory Board consequently became inactive.

Despite these widely publicized problems, the Turkish government cited the Human Rights Advisory Board in its response to criticisms by the UN Special Representative on Human Rights Defenders claiming that:

"…the Special Representative unfortunately overlooks the existing collaboration between the Government and the human rights defenders. We believe that the functions of the Human Rights Advisory Council as well as its composition are proofs against this oversight."

Need for effective monitoring mechanisms

The failings of the National Human Rights Advisory Board contributed to the overall absence of independent human rights institutions that would monitor patterns of human rights violations. The lack of bodies established in accordance with the Paris Principles, the UN guidelines on the development of National Human Rights Institutions (NHRIs), was a significant obstacle to the successful implementation of reforms.

Another body, the Provincial and Regional Human Rights Boards attached to the Prime Ministry, was presented by the government as an example of such NHRIs. However, AI and Turkish and international human rights non-governmental organizations shared serious concerns about the operations of these Boards. While they were involved in positive initiatives in terms of raising awareness of human rights at a local level, their inadequacies were inevitable given their lack of independence, composition, limited powers, apparent reluctance to investigate adequately serious reports of human rights violations and otherwise failure to comply with the Paris Principles.

The UN Special Representative on Human Rights Defenders in her report on her visit to Turkey commented extensively on the shortcomings of these Boards, recommending that:

"…the Government review the effectiveness and functionality of human rights boards and constructively include human rights NGOs in the assessment of the most effective mechanisms to address human rights violations at the local level."

AI noted reports that the government planned to re-examine this system and to develop legislation on NHRIs such as a Human Rights Ombudsperson and Human Rights Commissions. However, no concrete steps had been taken as of the end of June.

Human rights violations by police officers

Changes to detention regulations, introduced by the government and its predecessor, which provided for enhanced safeguards against torture and ill-treatment resulted in the reduction in reports of the use of certain techniques (especially those that result in visible marks). However, there were continued and frequent reports of incidents of torture and ill-treatment perpetrated by police officers. On 18 March the IHD issued its figures for 2004 stating that it had received reports of 843 cases of torture and ill-treatment in that year.

Although the changes to detention regulations -- such as allowing detainees access to legal counsel -- were not always respected, these more stringent safeguards led to a greater proportion of complaints of ill-treatment taking place outside of places of detention and during apprehension of suspects by police officers. Often those alleging ill-treatment were accused of resisting arrest and charges were brought against them while their injuries were explained away as having occurred as police tried to restrain them.

Scenes of the use of excessive force by police officers were broadcast around the world as police officers attempted to disperse a crowd who had gathered peacefully in Istanbul on 6 March to celebrate International Women's Day early. Police used truncheons and pepper gas to disperse some 500 people who had gathered in the Sarachane and Beyazit quarters of Istanbul, which resulted in 63 individuals being detained and at least three people being reportedly hospitalized (see AI Index: EUR 44/008/2005).

The police reportedly intervened on the basis that the demonstration had not been authorized. AI welcomed the opening of an investigation by the Ministry of the Interior into allegations that police officers had used disproportionate force against demonstrators and the subsequent disciplinary sanctions against six police

officers and two commanding officers. However, criminal proceedings were opened against those detained for violation of the Law on Meetings and Demonstrations. While images of the ill-treatment received wide press coverage internationally because of the EU Ministerial Troika that was taking place in Ankara that week, such scenes were part of a pattern in which police appeared to particularly target demonstrators from opposition groups for brutal treatment.

Impunity

The use of "counter charges" was one way that those responsible for human rights violations attempted to avoid punishment. Investigations and any consequent court cases opened into complaints of torture and ill-treatment were usually insufficient with many prosecutors appearing to be unwilling to fulfil their duty to bring perpetrators to justice. The result was an apparently overwhelming climate of impunity.

According to statistics for 2004 from the Turkish Police Headquarters, published in *Radikal* newspaper on 1 February, cases were opened against 234 police officers accused of ill-treatment while 13 were opened against those accused of torture.

In trials of those accused of ill-treatment that were concluded in 2004, some six ended in acquittal, 72 with a dismissal of charges, and one with imprisonment. Of trials of those accused of torture that were concluded in 2004, three ended in acquittal, and four with a dismissal of charges. One hundred and fifty five trials for ill-treatment and six trials for torture continued. Internal disciplinary investigations were carried out by the Police Headquarters into some 141 police officers in relation to complaints of ill-treatment and five police officers in relation to complaints of torture in 2004. Of the former, the investigations concluded in 129 cases that it was "inappropriate to designate a punishment", that 10 officers should be suspended from service temporarily, while two officers should be suspended for a longer period. All the investigations into police officers in relation to the complaints of torture concluded that it was "inappropriate to designate a punishment".

One particularly shocking example of this pattern of impunity was the acquittal of four police officers accused of the torture and rape of two teenagers, Nazime Ceren Salmanoglu and Fatma Deniz Polattaş, in 1999 (see AI Index: EUR 44/015/2005 and AI Index: EUR 44/018/2005). More than six years after the judicial process first began and after the case had been delayed more than 30 times, a court in Iskenderun acquitted the officers on 22 April because of "insufficient evidence".

Nazime Ceren Salmanoglu, then 16 years old, and Fatma Deniz Polattaş, then 19 years old, were detained by police officers and taken to the Anti-Terror Branch of Police Headquarters in Iskenderun in early March 1999. They say they were subjected to horrific torture including rape, beatings, suspension by the arms as well as forced "virginity tests" by doctors. The "confessions" obtained under this torture provided the basis for sentencing the women to long prison terms.

The lawyers of Nazime Ceren Salmanoglu and Fatma Deniz Polattaş announced that they would appeal this decision. However, it seemed almost certain that the case would reach the statute of limitations - in this case seven-and-a-half years. AI had called on the Turkish government to remove the statute of limitations in cases of serious human rights violations such as torture and killings by the security forces but it was retained in the new TPC.

Alleged beating of conscientious objector

Conscientious objector Mehmet Tarhan, who was detained in Izmir on 8 April, was reportedly subjected to death threats and beatings by other prisoners after he was imprisoned at a military prison in Sivas on 11 April. When Mehmet Tarhan informed prison authorities of the abuse no immediate action was taken to ensure his

safety and the beatings reportedly continued. After his lawyer learned about the abuse, she raised her concerns for his safety with the prison administration. An investigation into the alleged abuse was opened and some action was then taken by the prison authorities to protect him.

Mehmet Tarhan was charged with charged with "insubordination" under Article 88 of the Turkish Military Penal Code because of his refusal to carry out his compulsory military service. AI considered Mehmet Tarhan to be a prisoner of conscience, prosecuted for his conscientiously-held beliefs, and called for his immediate release. The organization also urged the Turkish authorities to introduce an alternative civilian service for conscientious objectors which is not discriminatory or punitive (see AI Index: EUR 44/022/2005).

Refugees

The Turkish authorities failed to comply with their obligations under international refugee law by returning some asylum seekers and refugees to countries where they were at risk of serious human rights violations.

Ahmet Muhammed Ibrahim, a 21-year-old Syrian Kurd, had reportedly fled the Syrian army early in 2004 following the widespread violation of human rights perpetrated against Kurds in Qamishli, north-eastern Syria in March 2004 (see *Kurds in the Syrian Arab Republic one year after the March 2004 events*, AI Index: MDE 24/002/2005). He went to Turkey where he was detained by security forces on 22 August close to the Syrian border and was remanded to prison in Diyarbakir on charges of being a member of Kongra Gel. The lawyer of Ahmet Muhammed Ibrahim alleged a systematic violation of his client's rights while he was in detention - including that he was tortured and ill-treated and forced to sign a statement. A court acquitted him of all charges on 24 March.

However, Ahmet Muhammed Ibrahim was then transferred to the Foreign Nationals' Department of Diyarbakir Police Headquarters. On 25 March he was taken to the border gate at Nusaybin where he was handed over to the Syrian authorities. AI later learnt that he was held in various detention centres in Syria where he reportedly has been tortured, including with electrical wires, by being beaten, and by the "tyre" (dullab), which involves hanging the victim from a suspended tyre and beating him or her with sticks and cables (see AI Index: EUR 44/012/2005).

TURKMENISTAN

The clampdown on dissent and religious freedom continues

In its 3 May report *Turkmenistan: The clampdown on dissent and religious freedom continues* (AI Index: EUR 61/003/2005) AI documented that the human rights situation in Turkmenistan remained of grave concern; that the abuse of civil, political, social, economic and cultural rights was widespread; and that "small steps taken by the Turkmen authorities to fend off criticism of the country's human rights record failed to adequately address concerns raised by human rights groups and intergovernmental bodies including the Organization for Security and Co-operation in Europe (OSCE), the UN Commission on Human Rights, and the UN General Assembly in recent years". At the same time the measures taken by the authorities demonstrated that the Turkmen authorities were far from immune to international pressure.

The report documented that civil society activists, political dissidents and members of religious minority groups, as well as their families, were subjected to and continued to be at risk of human rights violations including harassment, arbitrary detention, torture and ill-treatment, and imprisonment after unfair trials.

In addition, AI raised concern that failed asylum-seekers forcibly returned to Turkmenistan might be at risk of being regarded as "traitors" under the February

2003 decree by the People's Council entitled "On the declaration of different illegal acts as high treason and about measures of punishment for traitors". The concern was heightened by several public statements made and orders issued to government officials by the President since then. As a result failed asylum-seekers would be at risk of being subjected to arbitrary detention, torture, ill-treatment and imprisonment following unfair trials, to punish them for their actual or imputed political opinions.

Government response to international pressure

The authorities continued to deny that any human rights were violated in the country. For example, on 23 March, while Ukraine's President Viktor Yushchenko was visiting Turkmenistan, President Saparmurad Niyazov was reported by *Interfax* as saying that in Turkmenistan "nobody is arrested on political grounds. There is a group of several people, wanted criminals, who live abroad under the guise of refugees spreading dirty rumours."

In order to avoid being classified as a "country of particular concern" under the USA's International Religious Freedom Act, which can lead to the USA taking measures ranging from diplomatic protest to targeted trade sanctions, the Turkmen authorities released four conscientious objectors on 16 April, introduced a *de jure* loosening of previously imposed restrictions on registering religious communities, and registered five religious minority congregations. The four conscientious objectors who were released included one man who had been imprisoned during the period under review. On 10 February, 26-year-old Jehovah's Witness Begench Shakhmuradov from Ashgabat was sentenced to one year of imprisonment by Azatlyk district court in Ashgabat for "evading regular call-up to active military service".

AI welcomed the release of the conscientious objectors. However, the organization was concerned that these steps did not indicate a policy change with regard to conscientious objection. Conscientious objection remains a criminal offence and conscientious objectors continued to be at risk of imprisonment. Harassment and intimidation of registered and unregistered religious minorities also continued.

Failure of the UN Commission on Human Rights to follow-up on previous resolutions

AI was dismayed that the UN Commission on Human Rights did not review the human rights situation in Turkmenistan at its 61st session in March and April. The organization was concerned that the failure to adopt another resolution to follow-up on its resolutions in 2003 and 2004 where it had raised grave concern about a long list of human rights violations in the country sent the wrong signal to the Turkmen authorities. It remained crucial that the international community press for implementation of its previous resolutions and recommendations in a consistent and principled way, including through the UN General Assembly, which had adopted resolutions on the human rights situation in Turkmenistan in 2003 and 2004.

Another secret trial in relation to the November 2002 armed attack on the President

Major Begench Beknazarov, who had gone into hiding following the 25 November 2002 alleged assassination attempt on President Saparmurat Niyazov, was detained in Ashgabat on 17 May. He and several other men were convicted for their roles in the November 2002 events and sentenced to prison terms in a closed trial in the first half of June. Begench Beknazarov was reportedly given life imprisonment. The relatives of the men have reportedly not been able to obtain any official trial documents and have been denied access to the prisoners.

An armed attack on President Niyazov's motorcade in Ashgabat in November 2002, which was regarded by the authorities as a failed assassination and coup attempt, triggered a fresh wave of repression in Turkmenistan. Scores of men, women and children faced detention, harassment, house eviction and confiscation of property. Many of them were reportedly targeted solely because of their family relations with the regime's opponents. Many of the detainees were reportedly tortured and ill-treated.

There were allegations that Begench Beknazarov's parents Raisa and Amandurdy Beknazarov, and Dzheren Beknazarova, one of his sisters, were held in the building of the Ministry of National Security (MNS) for about 20 days after the November 2002 events, reportedly to put pressure on Begench Beknazarov to turn himself in. Reportedly, MNS officers ill-treated them to obtain information about his whereabouts. Following their release their passports were reportedly confiscated and they were not allowed to leave the country. Raisa Beknazarova was dismissed from her work and Dzheren Beknazarova was expelled from university, where she was completing her final year. AI also received allegations that Ayna Shikhmuradova, the sister-in-law of prominent opposition leader Boris Shikhmuradov, who is serving life imprisonment for his involvement in the coup attempt, was reportedly verbally abused and threatened by police at Ashgabat city police station on 21 February 2003 that she would be beaten if she did not disclose the whereabouts of her nephew Begench Beknazarov.

In December 2002 and January 2003 at least 59 people were convicted in unfair trials to sentences ranging between five years' imprisonment and life imprisonment for their alleged involvement in the November 2002 events; three of them were sentenced *in absentia*. AI received credible reports that many of the defendants were tortured and ill-treated in pre-trial detention. There are strong indications that at least two prisoners died in custody in 2003 as a result of torture, ill-treatment and harsh prison conditions. There have been allegations of further deaths. However, in the absence of any response by the government to any allegations of deaths in custody it has been impossible to verify such reports. The prisoners continued to be held incommunicado, without access to families, lawyers, or independent bodies such as the International Committee of the Red Cross.

Brother of exiled civil society activist targeted

Ruslan Tukhbatullin, aged 41, who had been working in the military in Turkmenistan since 1993, including in senior positions in the military administration of Dashoguz region, was forced to hand in his resignation at the end of March. As the flat where he, his wife, their two children and their baby lived belongs to the military, the family was requested to vacate it in due course.

AI believed that Ruslan Tukhbatullin was targeted because of his family relationship with Farid Tukhbatullin, an exiled human rights activist and director of the non-governmental group Turkmen Initiative for Human Rights, and in order to put pressure on Farid Tukhbatullin to force him to stop his human rights work.

On 28 March a senior official at the military administration of Dashoguz region requested that Ruslan Tukhbatullin hand in a "voluntary" resignation. AI received reliable information that the official had acted on instructions by the Secret Service who had requested the military administration to dismiss Ruslan Tukhbatullin because his brother Farid Tukhbatullin "attacks Turkmenistan too much".

Shortly afterwards Ruslan Tukhbatullin applied for another position in the military. However, the next day the head of that department told him he would not be able to employ Ruslan Tukhbatullin despite his good qualifications and that "if he was able to find work at all, it would be somewhere

outside this region in some village far away".

Since Farid Tukhbatullin was forced to emigrate in June 2003 the Turkmen Secret Service has several times attempted to obtain information about Farid Tukhbatullin's activities and whereabouts through his brother Ruslan Tukhbatullin. Ruslan Tukhbatullin had in the past been warned that unless Farid Tukhbatullin "kept his head down" Ruslan Tukhbatullin would be dismissed from his work.

Writer and journalist Rakhim Esenov, aged 78, not allowed to leave the country for specialized medical treatment (update to AI Index: EUR 01/005/2004)

Rakhim Esenov was held in the MNS for about two weeks in February and March 2004, until he was released following international pressure. However, he was placed under travel restrictions and the charges against him were not dropped. The authorities did not carry out any further investigation into the case after his release. AI believed that Rakhim Esenov was targeted solely to punish him for exercising his right to freedom of expression.

Since his release he has repeatedly urged the General Procuracy and the Ministry of National Security to close the criminal case and allow him to travel to Moscow for specialized medical treatment in a cardiology hospital. Rakhim Esenov never received a reply and in March police or MNS officials confiscated a flight ticket to Moscow that he had bought, threatening to arrest him if he did not hand it in.

UKRAINE

New Government

The inauguration of President Viktor Yushchenko took place in Kyiv on 23 January. In his opening speech to an estimated half a million people in Kyiv's Independence Square, he urged national unity and promised "a democratic government, a free press and an independent judiciary where every citizen could defend their rights in a law-based State." AI wrote to the new president on the occasion of his inauguration to bring to his attention a number of human rights concerns that the organization believed required his immediate attention. The letter raised the issues of torture and ill-treatment in police custody, the curtailment of freedom of expression, the rights of refugees and violence against women. AI urged the new administration to bring relevant legislation in line with the Constitution of Ukraine as well as with international human rights law and standards, and to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Rome Statute of the International Criminal Court.

The new administration began its work with a programme to eradicate corruption in local government and key ministries. The new Minister of Internal Affairs, Yuryi Lutsenko, announced an anti-corruption drive in February and by May 253 criminal cases had been opened against police officers in relation to corruption. The Minister announced that 127 regional heads of the Ministry of Internal Affairs had been dismissed, along with the entire leadership of the ministry.

Torture and Ill-treatment

AI continued to receive reports of torture and ill-treatment in police custody, and in May wrote to the Minister of Justice concerning two such cases. In the first case, six individuals, including one child, were detained and ill-treated by police in Simferopol in connection with the investigation of an assault. Gennadii Vladimirov and Valerii Vladimirov were detained for three days as suspects in January and February 2004, and were reportedly beaten to make them sign confessions. Gennadii required hospital treatment for injuries to his back and kidneys as a result of the alleged beating. Tatiana Doroshenko was detained, along

with her 18-month old son, as a witness. Police separated her from her child once they arrived at the police station despite the fact that the child was ill with a temperature at the time, and told Tatiana Doroshenko that she would be reunited with her child only if she gave testimony against three suspects in the case. The child reportedly remained in the police station, separated from his mother and was not fed or given anything to drink until 6pm when he and his mother were allowed to go home. A further two other individuals were also ill-treated by police in connection with the same investigation. At the time of writing, none of the police officers had yet been charged. AI continued to ask for information about prosecutions of police officers responsible for the ill-treatment.

AI also raised the case of Mikhailo Koval and his son, who were ill-treated by police in Chernihiv in August 2001, to force them to hand over a drill which belonged to Mikhailo Koval's son, Dmitrii Brik. They were allegedly beaten by police officers at the entrance to their flat and then detained in the Chernihiv police station where they were subjected to further beating. Dmitrii Brik suffered a burst eardrum and permanent loss of hearing as a result. Despite numerous complaints, at the time of writing no action had been taken in either case to prosecute the police officers concerned or to compensate the victims.

"Disappearance" of Georgiy Gongadze (update to AI Index: EUR 01/001/2004)

In January, speaking at a meeting of the Parliamentary Assembly of the Council of Europe, President Yushchenko vowed to bring to justice those responsible for the "disappearance" of investigative journalist Georgiy Gongadze in September 2000, stating that the case would come to court in one to two months. During a state visit to Germany in March, President Yushchenko promised that not only the killers, but those who gave the orders would also be arrested. On 2 March, the Prosecutor General announced that the murder had been solved and that two suspects had been detained, and a third was released on bail. He announced that "colonels and generals" in the police and intelligence service were behind the murder. However, progress was slow. On 5 March former Minister of Internal Affairs, Yuryi Kravchenko, committed suicide. He was due to be interrogated in connection with the investigation that same day. By 4 April the two suspects had allegedly confessed. On 19 April Parliament was not presented with a report as expected by a commission investigating the murder, allegedly on the order of President Yushchenko. A further delay was reportedly caused by the fact that Mykola Melnychenko, a former head of presidential security, who revealed tape recordings of senior government officials plotting the murder, was refusing to return to Ukraine from the USA to testify. Investigators refused to accept the "Melnychenko Tapes" as evidence without his presence.

Racist -- including antisemitic -- attacks

At a meeting in Krakow, Poland, prior to the main ceremony to mark the 60th anniversary of the liberation of the Nazi death camp at Auschwitz, President Yushchenko made a solemn pledge to end antisemitism in Ukraine: "I promise that there will no longer be a Jewish question in my country, Ukraine, I swear." He repeated this pledge again on April 6 in a speech to the joint session of the US Congress. However, in the period under review there were reports of racist -- including antisemitic -- attacks.

On 26 February an African-American diplomat was attacked by a group of so-called "skinheads" near the tourist street of Andriivskyi Uzviz in the centre of Kyiv. Robert Simmons, who works with the US Agency for International Development in Uzbekistan, was attacked by more than a dozen men with shaved heads and combat boots while walking along the street with friends. He reportedly said: "I was attacked because I am African-American. They did

not touch my friends who were there with me, but were not black." A formal complaint was made two days after the attack and the Ukrainian authorities have formed a task force to investigate the attack. In the past Ukrainian officials have always denied the existence of so-called "skinheads" in the country, but officials have stated that they believe the attack was carried out by local "skinheads".

The Union for Councils for Jews in the former Soviet Union recorded at least six reported incidents of attacks against Jews and defacement of synagogues in Ukraine. On 7 January, 10 Orthodox Jewish youths (all aged around 13) and three adults (including the local rabbi's wife) were reportedly assaulted in Simferopol by a group of around 20 so-called "skinheads". Synagogues and Jewish community centres were vandalized in Ivano-Frankivsk, Izmail, Zhitomyr, Kyiv, and Vinnytsya, and an Armenian church was daubed with antisemitic and anti-Armenian graffiti in Lviv.

UNITED KINGDOM

"Counter-terrorism" measures in the UK

Serious human rights violations continued, including the persecution of men the government had labelled as "suspected international terrorists" -- mostly on the basis of secret intelligence -- with devastating consequences for them and their families. AI expressed concern that the measures enacted by the government involved punishment of people who the authorities had decided were a threat but against whom the executive stated there was insufficient evidence to present to a court.

In January, the Royal College of Psychiatrists issued a statement expressing concern about the mental health of detainees held under the Anti-Terrorism, Crime and Security Act 2001 (ATCSA). The statement endorsed the findings of 12 senior doctors who, in October 2004, had concluded that all of the ATCSA internees they had examined had suffered serious damage to their health. The doctors stated that the indefinite nature of their detention had been a major factor in the deterioration of their mental health and that of their spouses. The College also stated:

"the eight detainees examined do suffer from significant mental health problems. On balance, evidence points to the particular circumstances of this group's detention contributing significantly to those health problems. Our best estimate is that indeterminate detention, lack of normal due legal process and the resultant sense of powerlessness, are likely to cause significant deterioration in detainees' mental health…

we consider it unlikely that psychiatric treatment, however sophisticated it may be, can neutralize the impact of:

- separation from family, friends and supports;
- indefinite detention without knowledge of the allegations upon which that detention is founded;
- imprisonment on those who have pre-existing vulnerabilities arising from trauma or abuse in their home countries." [6]

Prevention of Terrorism Act 2005

In the aftermath of the December 2004 ruling of the Appellate Committee of the House of Lords (the Law Lords) holding that detention under Part 4 of ATCSA was discriminatory and incompatible with the right to liberty, the government failed to promptly release the internees. Instead, it waited until March 2005 for the legislative

[6] *Statement by the Royal College of Psychiatrists in respect of the psychiatric problems of detainees held under the 2001 Anti-Terrorism Crime & Security Act, January 2005*: http://www.rcpsych.ac.uk/press/parliament/StatementAntiTerror_01.pdf.

provision to lapse. However, even then, it did not respect their human rights.

On 28 February AI issued a document (AI index: EUR 45/005/2005), *The Prevention of Terrorism Bill: A grave threat to human rights and the rule of law in the UK*, which called for the withdrawal of the Bill.

Despite the fact that the government had had months to consider what to do in the event that it lost its court battle to continue to intern non-deportable foreign nationals under the ATCSA, it convinced Parliament that it needed to enact another piece of "anti-terrorism" legislation; the Prevention of Terrorism Act 2005 (PTA 2005) was rapidly adopted and entered into force on 11 March 2005. This legislative measure was rushed through Parliament, thereby effectively curtailing the chances of adequate scrutiny of its provisions.

This legislation too is fundamentally antithetical to human rights, the rule of law and the independence of the judiciary. AI considers that the PTA 2005 also contravenes the spirit, if not the letter, of the Law Lords' judgment, replacing detention without trial under ATCSA with a regime of "control orders".

The PTA 2005 gives a government Minister unprecedented powers to issue "control orders" to restrict the liberty, movement and activities of people purportedly suspected of terrorism-related activity, whether they are UK nationals or not.

There are two forms of "control orders", derogating and non-derogating. The restrictions that can be imposed under them range from "house arrest" to tagging, curfews, controlling access to telephones and the internet, and restricting whom someone can meet or communicate with. "Control orders" are limited to a year's duration. However, they can be renewed at the end of each twelve-month period so that, effectively, they can be imposed indefinitely. Any "breach" of the restrictions imposed under a "control order" without reasonable excuse is a criminal offence, punishable by up to five years in prison.

Normally, a government Minister must apply to the courts to impose a "control order". If the "control order" is allowed, there will automatically be a judicial review of the decision of the Minister to impose it. The "control orders" themselves and any restriction imposed under them can be challenged and the court will apply the principles of judicial review -- namely that the order remains in place unless the decision to issue it was "obviously flawed".

The Minister can also impose the first type of "control order" -- so-called "non-derogating control orders" in "emergency cases" -- when he or she has "reasonable grounds" to suspect that someone is or has been involved in terrorism-related activities, and considers it necessary to do so "for purposes connected with protecting members of the public from a risk of terrorism". This imposition must be reviewed by the courts within seven days. Individuals subject to these orders can appeal against them on the principles of judicial review.

The second type of "control order" -- so-called "derogating control orders" -- can be imposed on application to a judge where there is a belief that it is more likely than not that someone is or has been involved in terrorism-related activities. These orders involve "house arrest" and amount to deprivation of liberty. They are known as "derogating control orders", because such deprivation of liberty breaches the European Convention on Human Rights (ECHR) and requires prior derogation from Article 5 of the ECHR.

Thus under the PTA 2005, the UK authorities have, in effect, retained the power to order indefinite deprivation of liberty without charge or trial on the basis of secret intelligence -- only now this power applies to UK and foreign nationals alike.

Furthermore, the restrictions violate a wide range of human rights, including the right to respect for private and family life, freedom of expression, freedom of assembly and association, freedom of movement, the right to a fair trial, and the

right to liberty and security of person. The cumulative effects of these restrictions may also breach people's right to be free from torture or other ill-treatment. The restrictions under "control orders" may in addition infringe the right to private and family life of the relatives of the people on whom they are imposed.

The judicial review allowed after the imposition of a "control order" does not alter the arbitrary nature of the powers granted to the executive under this law. The government is allowed to present -- and the judiciary is bound to consider -- secret intelligence to deprive people of their liberty, potentially indefinitely. Since the person concerned can neither see nor hear the "evidence" used against them, the proceedings are devoid of the most basic safeguards and the person concerned is denied the right to a fair trial.

The judicial scrutiny fails in other areas too:

- The law empowers a government Minister to impose "control orders" without any prior involvement of the judiciary and not for the purpose of having the individuals concerned charged or tried with a recognizably criminal offence.
- The judiciary is empowered merely to review the Minister's decision, rather than to make its own independent and impartial decision.
- The standard of proof required for the court's approval of the imposition of "control orders" is significantly lower than the criminal standard of "beyond reasonable doubt".

The Commissioner for Human Rights of the Council of Europe confirmed AI's concerns (see below). He said that the judicial review proceedings allowed are:

"inherently one-sided, with the judge obliged to consider the reasonableness of suspicions based, at least in part, on secret evidence, the veracity or relevance of which he has no possibility of confirming in the light of the suspect's response to them. Quite apart from the obvious flouting of the presumption of innocence, the review proceedings described can only be considered to be fair, independent and impartial with some difficulty". [7]

AI is concerned that the UK government may attempt to introduce information gleaned from places such as Bagram Airbase in Afghanistan, Guantánamo Bay in Cuba and unnamed secret detention centres where people have been held without any legal basis in US custody and allegedly subjected to torture or other ill-treatment. "Control orders" can be based on secret intelligence not disclosed to the people concerned or to their legal counsel of choice. If the court agrees with the Home Secretary that in the interest of "national security" the "evidence" should not be disclosed to the person concerned or to their legal counsel of choice, then a Special Advocate is appointed who is able to participate in the secret closed proceedings. However, as was the case in the ATCSA proceedings, the Special Advocate is not allowed to tell the person concerned what the secret intelligence is, nor receive instructions from them. The cumulative effect of this is to deny those subjected to "control orders" the right to a defence.

The PTA 2005 allows the stripping of a person's right to a fair trial, including:

- the right to be informed promptly and in detail, of the nature and cause of the accusations against oneself;
- the right to trial within a reasonable time or to release pending trial;
- the right to the presumption of innocence which applies to all persons charged with a criminal offence, including during times of emergency, and requires the state to prove the charge "beyond reasonable doubt";

[7] *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the United Kingdom, 4-12 November 2004*, CommDH (2005)6, 8 June 2005, p.11.

- the right to equality before the law and equal protection of the law without any discrimination;
- the right to have a criminal charge against oneself determined by an independent tribunal which has the quality of finality and determinativeness; and
- the right to defend oneself in person or through legal assistance of one's own choosing.

AI considers that the imposition of "control orders" is tantamount to a government Minister "charging", "trying" and "sentencing" a person without the fair trial guarantees required in criminal cases. Like the ATCSA, the PTA 2005 is an assault on human rights protection, the independence of the judiciary and the rule of law. It allows for the imposition of a punishment of a criminal nature without guaranteeing the right to a fair trial. Its implementation has given rise to serious human rights violations. AI continues to call for the PTA's repeal.

In relation to "non-derogating control orders", the Commissioner for Human Rights of the Council of Europe expressed his "concern over the introduction of orders obviating the need to prosecute and circumventing the essential guarantees that criminal proceedings provide."[8] He added that, "control orders raise not only general points of constitutional principle concerning the rule of law and the separation of powers, but also a number of specific concerns regarding their compatibility with the rights guaranteed by the ECHR."

On 11 March 2005, on the same day that the power to intern people under the ATCSA lapsed, and within hours of the PTA 2005 being rushed through parliament and entering into force, "control orders" were imposed on 10 people who had previously been detained without trial under the ATCSA. The former internees were subjected to severe restrictions which violated their human rights. The "control orders" included bans on use of specific items (e.g. mobile phones, computers); restrictions on association; restrictions on liberty, movement and activities; and monitoring requirements.

Bail and "control orders" proceedings

In January an AI delegate observed bail proceedings before the Special Immigration Appeals Commission (SIAC) brought by individuals who were subject to detention under the ATCSA.

In March an AI delegate observed "control orders" proceedings before the High Court of England and Wales but sitting and constituted as the SIAC.

AI remained concerned that the "releases" under "control orders" of people who had been detained -- some for more than three years -- under the ATCSA did nothing to remedy the harm and injustice already suffered by the detainees and their families.

Special Immigration Appeals Commission (SIAC)

In April, the Constitutional Affairs Committee of the House of Commons published a highly critical report on the operation of the SIAC and the use of "Special Advocates" (SAs), i.e. security-cleared lawyers, in cases involving security-classified materials. Under the PTA, SAs will appear before the High Court for "control orders" hearings.

Among other things, the Constitutional Affairs Committee concluded that there were a number of defects with the SA system, particularly with respect to the disclosure of exculpatory material.

In particular, the Committee recommended that the government should ensure that:

"It moves from a judicial review on non-derogating control orders [under the PTA] to an objective appeal considering whether

[8] *ibid.*, p.9.

or not there is a 'reasonable suspicion' that an appellant is involved in terrorist related activities;

Steps are taken to make it easier for Special Advocates to communicate with appellants and their legal advisers after they have seen closed material, on a basis which does not compromise national security. This is for two reasons: first, to ensure that the Special Advocate is in a position to establish whether the charges or evidence can be challenged by evidence not available to the appellant; and second, so that the Special Advocate is able to form a coherent legal strategy with the appellant's legal team." [9]

An AI representative gave evidence to the committee, and AI has been repeatedly critical of the SA system. In the report *UK - Justice perverted: appeals under the Anti-terrorism, Crime and Security Act 2001*, published in December 2003 (AI index: EUR 45/029/2003) AI said that "Special Advocates are no substitute for legal counsel of one's choice...Their operation cannot substitute fundamental fair trial safeguards as far as the representation of the interests of the appellants...is concerned".

The case of Mahmoud Abu Rideh (update to AI Index: EUR 45/013/2005)

Mahmoud Abu Rideh is a 33-year-old stateless Palestinian refugee and a torture survivor. He is married with five children. He has lived in the UK since 1997. He was originally arrested and detained under the ATCSA in December 2001, and held initially at Belmarsh high security prison in south London. Mahmoud Abu Rideh suffers from a severe form of post-traumatic stress disorder. The harsh detention conditions, when he was locked up for up to 22 hours each day, triggered frequent flashbacks of his torture; he started to self-harm, and attempted to take his own life on at least four separate occasions. He also suffers from sciatica, which had worsened during his confinement at Belmarsh, forcing him to use a wheelchair at the time.

In the past the SIAC commented that imprisonment in Belmarsh had seriously affected Mahmoud Abu Rideh's mental health. After having been held in detention for more than three years, Mahmoud Abu Rideh was "released" under a "control order" under the PTA 2005 in March 2005. He remained seriously ill. Under this legislation, he had been obliged, among other things, to wear an electronic tag. In April, the UK authorities agreed to allow him to remove the electronic tag while he received treatment at a hospital in London for his deteriorating mental health. After two weeks of hospital treatment Mahmoud Abu Rideh's health had improved, but he apparently feared that he would not be able to cope with being forced again to wear the electronic tag. He voluntarily went to a police station in London and announced that he would refuse to have the tag put back on. Shortly afterwards, he was arrested and charged with breaching the conditions of his PTA "control order", and remanded into custody to Brixton Prison in south London, where he has since been held in the hospital wing.

Mahmoud Abu Rideh appeared in court to face the charge against him on 4 May. An AI delegate was in court to observe the hearing. The court heard that doctors who had been treating him recommended he should be released on bail, on condition that he be subject to a curfew between 7pm and 7am, during which time he should reside at the London hospital where he had been receiving treatment, and that he attend a programme of therapeutic activities at the hospital between 9am and 5pm every day. Mahmoud Abu Rideh's lawyer pleaded that her client should not be sent back to prison as she feared that he may attempt to take his life (his last attempt had been at the end of April). However, the authorities initially refused to grant bail to Mahmoud Abu Rideh, and he

[9] *The operation of the Special Immigration Appeals Commission (SIAC) and the use of Special Advocates; Seventh Report of Session 2004–05; Volume I (HC 323-I)*, House of Commons Constitutional Affairs Committee, 22 March 2005, pp.47-48.

was ordered to remain in Brixton Prison pending a further hearing.

On 4 May AI made an urgent intervention (AI Index: EUR 45/012/2005) on his behalf, expressing concern for his mental health after the UK authorities refused to grant him bail in order that he could receive appropriate treatment at a hospital in central London. AI urged the UK authorities to grant Mahmoud Abu Rideh's lawyer's request that he be given bail immediately in order that he receive appropriate medical treatment.

On 5 May the High Court of England and Wales agreed, with the Home Office's consent, to vary temporarily the PTA "control order" to which Mahmoud Abu Rideh was subjected, so that he could be returned to hospital. The High Court also indicated that at a bail application should be made so that bail could be granted to him under the varied order. Such a bail application was made at an emergency hearing on 6 May, as a result of which Mahmoud Abu Rideh was transferred back to hospital shortly afterwards.

International scrutiny

The report of the Commissioner for Human Rights of the Council of Europe

In June the Commissioner for Human Rights of the Council of Europe published a report of his November 2004 visit to the UK. In his report, the Commissioner expressed concern that the UK had shown a tendency to "consider human rights as excessively restricting the effective administration of justice and the protection of the public interest", and added "it is perhaps worth emphasising that human rights are not a pick and mix assortment of luxury entitlements", and that "their violation affects not just the individual concerned, but society as a whole; we exclude one person from their enjoyment at the risk of excluding all of us." [10] Among other things, in his report, the Commissioner expressed concern about the PTA; the admission, as evidence, of information obtained through torture in judicial proceedings; prison conditions; the treatment of asylum-seekers; the low age of criminal responsibility; discrimination; and the need to set up public inquiries capable of establishing the full circumstances surrounding cases of alleged state collusion in killings in Northern Ireland.

The report of the European Committee for the Prevention of Torture (CPT)

After its second visit to the ATCSA detainees in March 2004, in a report published in June 2005, the CPT expressed detailed concerns about some of the detainees. For example, it mentioned the circumstances of a 39-year-old Algerian man, referred to only as "P" for legal reasons, who is disabled and who at the time of the visit was interned in Belmarsh prison. He has had both forearms amputated, so he needs help with going to the toilet and other tasks. The CPT, reporting on his detention in Belmarsh prison, stated that "he did not always receive the necessary assistance. Moreover, his mental state had deteriorated seriously as a result of his detention, leading to both severe depression and post-traumatic stress disorder." The CPT also noted:

"Detention had caused mental disorders in the majority of persons detained under the ATCSA and for those who had been subjected to traumatic experiences or even torture in the past, it had clearly reawakened the experience and even led to the serious recurrence of former disorders. The trauma of detention had become even more detrimental to their health since it was combined with an absence of control resulting from the indefinite character of their detention… **For some of them, their situation at the time of the [CPT] visit could be considered as amounting to**

[10] *Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the United Kingdom, 4-12 November 2004*, CommDH (2005)6, 8 June 2005, p.6.

inhuman and degrading treatment." [11] [emphasis added]

Guantánamo detainees returned to UK (update to AI Index: EUR 45/001/2005)

In January Moazzam Begg, Martin Mubanga, Richard Belmar and Feroz Abbasi, the last four remaining UK nationals in US detention in Guantánamo Bay, Cuba, were released. They had spent up to three years in Guantánamo Bay without charge or trial, labelled as "enemy combatants" by the US government. Upon their arrival in the UK, they were arrested by UK anti-terrorism police and held for questioning for over a day. All four were subsequently released without charge and taken to be reunited with their families.

However, nine UK residents continued to be held in Guantánamo Bay, including Bisher al-Rawi, an Iraqi national legally resident in the UK, and Jamil al-Banna, a Jordanian national with refugee status in the UK. AI continued to be concerned about the role that the UK authorities, and in particular the UK Security Service, commonly known as MI5, may have played in the unlawful rendering to US custody of a number of individuals, some of whom were eventually transferred to Guantánamo Bay -- via Afghanistan -- and about UK's subsequent refusal to make representations on behalf of these individuals to the US authorities. AI called for a prompt, thorough, independent, impartial and effective investigation into the duplicitous role that the UK authorities had played and continue to play in the detention -- without any legal basis -- of UK residents and nationals and possibly many others at Guantánamo Bay in US custody. AI also continued to express concern that UK agents had taken advantage of the legal limbo in which detainees at Guantánamo Bay had been and continued to be held to interrogate UK nationals, residents and possibly others in the absence of any safeguard, thereby circumventing both domestic and international human rights law. AI noted that anyone arrested in the UK and questioned in connection with al-Qa'ida activities would have the right to legal assistance, including having a lawyer present during questioning.

The Inquiries Act (2005)

In March AI issued a joint statement with other human rights non-governmental organizations (NGOs), expressing concern about the Inquiries Bill (see AI Index: EUR 45/003/2005). AI, British Irish Rights Watch and the Committee on the Administration of Justice, in particular, called for the withdrawal of the Inquiries Bill, the legislative precursor of the Inquiries Act 2005, while it was being rushed through parliament. During the parliamentary debates which preceded the adoption of this legislation, AI and many others expressed concern that the UK government was attempting to eliminate independent scrutiny of its agents' actions by provisions which dictate that inquiries conducted under this law would largely be controlled by government Ministers.[12]

AI called repeatedly for the withdrawal of this draft legislation, and for the government to engage in a serious consultation process about any future changes in the running of public inquiries. Notwithstanding the strong criticism and opposition expressed, Parliament voted to

[11] *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 14 to 19 March 2004*, CPT/Inf(2005) 10, 9 June 2005, p.15.

[12] See for example *UK: The Inquiries Bill - the Wrong Answer*, a joint statement by Amnesty International, British Irish Rights Watch, The Committee on the Administration of Justice, Human Rights First, The Human Rights Institute of the International Bar Association, Inquest, Justice, Lawyers' Rights Watch Canada, The Law Society of England and Wales, Pat Finucane Centre and Scottish Human Rights Centre, issued on 22 March 2005, AI Index: EUR 45/008/2005.

adopt the Bill on 7 April 2005, the last possible day before it was dissolved pending the general election. The Inquiries Act 2005 entered into force in June 2005. It enables the executive to control inquiries initiated under it, effectively blocking public scrutiny of state actions. In AI's view this legislation fundamentally compromises the role of judges in upholding the rule of law and human rights for all by undermining the proper separation of powers between the judiciary and the executive in the UK.
AI and others have expressed concern that a public judicial inquiry held under the Act would be one in which the executive has the power to:

- decide upon the inquiry and its terms of reference. No independent parliamentary scrutiny of these decisions is contemplated;
- appoint each member of an inquiry panel, including the chair of the inquiry. The executive is in addition empowered with extensive discretion to dismiss members of the inquiry;
- impose restrictions on public access to the inquiry, including on whether the inquiry, or any individual hearings, are held in public or private. The executive can also impose restrictions on attendance by witnesses at the inquiry, on production of any evidence or documents, and on the public disclosure of this evidence or documents. Indeed, the executive can impose all of the above-mentioned restrictions irrespective of views and/or rulings to the contrary expressed or made by the inquiry panel on these matters; and
- decide whether the final report of the inquiry will be published, and whether any evidence will be omitted from the report "in the public interest", though this term is nowhere clearly and unambiguously defined.

In light of the above, AI considered that the Inquiries Act 2005, which governs the conduct of any public judicial inquiry, fails to comply with relevant international standards. Most importantly, a judicial inquiry held under the Inquiries Act would fail to comply with the requirements identified by the European Court of Human Rights in its case-law under Articles 2 and 3 of the ECHR. AI further considered that a judicial inquiry held under the Act may not comply with the requirement of "an independent and impartial tribunal" under Article 6 of the ECHR.

Lord Saville of Newdigate, the chair of the Bloody Sunday Tribunal of Inquiry, expressed the view that the Inquiries Act 2005 "makes a very serious inroad into the independence of any inquiry; and is likely to damage or destroy public confidence in the inquiry and its findings". Lord Saville also said: "As a Judge, I must tell you that I would not be prepared to be appointed as a member of an inquiry that was subject to a provision of this kind." [13] Other senior judges and the parliamentary Joint Committee on Human Rights of the UK Parliament have expressed concern about the Act.

Since the enactment of the Inquiries Act 2005, AI and others have called for its repeal. Given that the Act does not provide the foundation for effective, independent, impartial or thorough public judicial inquiries into allegations of serious human rights violations, AI has opposed the government's stated intention to hold an inquiry under the Act into the murder in Northern Ireland of Patrick Finucane.

Detention of asylum-seekers and refugees

On World Refugee Day, 20 June, AI published a report entitled *United Kingdom: Seeking asylum is not a crime. Detention of people who have sought asylum* (AI Index: EUR 45/015/2005), accompanied by an executive summary (AI Index: EUR 45/019/2005).
The purpose of this report was to shed light on the hidden plight of a vulnerable group

[13] "Finucane widow urges judges to shun inquiry", *The Guardian*, 14 April 2005.

of people in the UK: those who had sought asylum at some stage and who were detained solely under Immigration Act powers. Detention is an extreme sanction for people who have not committed a criminal offence.

The report highlighted the fact that notwithstanding the decline in the number of asylum claims in the UK in recent years, the number of those detained solely under Immigration Act powers who have claimed asylum at some stage, including families with children, had increased. Capacity in immigration detention facilities was triple the number of available places when the Labour government came to power in 1997.

AI examined the increased use of detention both at the beginning and at the end of the asylum process, and whether the UK was meeting its obligations with respect to the right to liberty and the right of people to be treated with dignity and humanity under international refugee and human rights law and standards.

AI's report highlighted the denial of justice suffered by many people as a result of the fact that their detention was in many cases inappropriate, unnecessary, disproportionate and, therefore, unlawful. AI found that, whether at the beginning or the end of the asylum-determination process, the individuals concerned may be taken into detention on the basis that a bed was available within the detention estate, rather than on considerations of necessity, proportionality and appropriateness to detain them.

In contrast to the UK authorities' oft-repeated claim that detention would only be used as a last resort, AI found that many people who have sought asylum at some stage were detained at different points of the asylum process, and were detained even though the chances of effecting their forcible removal within a reasonable time were slim.

AI examined the cases of asylum-seekers who were detained for the duration of the asylum process whose claims were considered under accelerated asylum-determination procedures predicated on detention. Among asylum-seekers detained were those whose claims had been fast-tracked under the so-called non-suspensive appeals procedure (NSA). The NSA procedure was premised on a list of so-called "safe countries" -- known as the "white list" -- compiled and updated by the UK authorities. Asylum claims from countries featured on this list were presumed to be "unfounded" and once refused, as the vast majority were, asylum-seekers could be, and in most cases were, automatically denied the right to appeal from within the UK against the refusal of asylum. At this point the applicants could be returned to their country of origin.

AI expressed concern about the quality of decisions and procedural safeguards within these "detained accelerated procedures". Speeding up the decision-making process is beneficial only if it is not at the expense of fairness and quality. In addition, AI considers that the expeditious processing of asylum claims should not be premised on detention.

AI expressed concern at the inadequacy of the statistics concerning the number of those who had sought asylum and were detained, and the length of their detention. Despite requests, the UK authorities failed to make an accurate picture of this phenomenon publicly available. AI expressed concern that at least 27,000 people in 2003, and 25,000 in 2004, who had sought asylum at some stage were detained for some period of time.

The UK authorities argued that detention was necessary to prevent people from absconding at the end of the asylum process. But AI was concerned that the authorities used the risk of absconding as justification for detention without a detailed and meaningful assessment of the risk posed by each individual, if any.

No prior judicial authorization of detention is required and there is no prompt and automatic judicial oversight of the decision to detain, nor are there automatic judicial reviews of the continuance of detention. In

addition, there are no maximum time limits on the length of detention. In light of all of this, AI was seriously concerned that detention of people who have at some stage sought asylum can continue indefinitely without any automatic judicial intervention.

The report also examined the ability of detainees to challenge their detention, an area where AI concluded that the UK policy and practice were leading to further injustice.

AI was further concerned that the difficulties that those who had sought asylum faced in accessing justice while in detention had been compounded by the restrictions to publicly-funded immigration and asylum work. At all stages of the asylum process many were left with little or no access to effective legal advice and representation.

Finally, the report looked at the human cost of the increased use of detention in the UK which inflicted untold misery on the individuals concerned and their families.

AI found that some asylum-seekers were detained for the duration of the asylum process. Many people who had sought asylum were detained far away from their families, in often remote locations and in grim, prison-like establishments, including cases of individuals who languished in detention. AI found particularly unacceptable the detention of families, including mothers with children, at times very young ones, victims of torture and other vulnerable individuals. AI concluded that that detention was not being carried out according to international standards, was arbitrary and served little if any purpose at all in the majority of cases where measures short of detention would suffice.

Army training practices called into question

In March the Parliamentary Defence Select Committee issued a highly critical report on the army and its training practices, particularly in connection with young recruits. Especially encouraging were two recommendations made by the Committee: that an independent complaints mechanism for people in the army should be established, and that the consequences of raising the age of recruitment from 16 to 18 should be looked at. AI had raised concerns in 2003 over the high incidence of deaths of UK soldiers in non-combat situations (see AI Index: EUR 45/004/2003), and the lack of independent investigations into their deaths.

Northern Ireland

Collusion and political killings

Three separate public judicial inquiries into allegations of state collusion in the killings of Robert Hamill, Billy Wright and Rosemary Nelson began under Northern Ireland legislation (see AI Index: EUR 01/002/2005).

However, the government continued to fail to establish an inquiry into the 1989 killing of human rights lawyer Patrick Finucane. In February, on the eve of the 16th anniversary of his murder, AI called on the UK government to fulfil its promise and hold a public judicial inquiry into the case. AI reiterated that only an independent public judicial inquiry could shed light on allegations of state collusion in the killing of Patrick Finucane; on allegations that his killing was the result of an official policy; and on the role that different government authorities played in the subsequent cover-up of collusion in his killing.

AI expressed concern that the UK government had reneged on its promise to act on the recommendation of Justice Cory, a former Canadian Supreme Court judge, that a public inquiry be held in the case of Patrick Finucane. Instead the government stated that Patrick Finucane's case would be the subject of an inquiry under the Inquiries Act 2005 (see above).

In April Patrick Finucane's widow, Geraldine Finucane, called on senior judges in

England, Wales and Scotland not to serve on an inquiry into her husband's case under the Inquiries Act. AI supported her call. The organization urged those members of the judiciary who may be approached by the UK authorities to sit on an inquiry into the Finucane case held under the Inquiries Act 2005 to decline to do so.

In June AI denounced the prospect of an inquiry in relation to the murder of Patrick Finucane under the Inquiries Act as a sham (see AI Index: EUR 45/016/2005).

In March the then Secretary of State for Northern Ireland, Paul Murphy, announced an amendment to the terms of reference for the inquiry into the death of human rights lawyer Rosemary Nelson, which brought the actions of the Army and the security and intelligence agencies within the scope of the inquiry's terms of reference (see AI Index: EUR 45/025/2004). AI has campaigned for a genuinely independent inquiry into the killing of Rosemary Nelson since 1999.

On 30 June AI wrote to the chairman of the inquiry set up to examine the circumstances around the killing of Billy Wright, a Loyalist leader shot dead while serving a sentence in the Maze prison in December 1997 (see AI Index: EUR 45/025/2005). The letter expressed AI's deep concern at the proposal made in the course of the chairman's opening statement to ask the Secretary of State for Northern Ireland to "convert" the Billy Wright Inquiry "to one held under the Inquiries Act 2005".

Legacy of the past

In April the authorities took an initiative described as a move to address the legacy of past human rights abuses. A Historical Enquiries Team was set up by the Police Service of Northern Ireland with a view to investigating unresolved conflict-related deaths within six years. This gave rise to concern about a lack of independence in the investigation.

Abuses by non-state actors

Abuses by members of paramilitary groups, including killings, shootings and beatings, continued.

In January, Robert McCartney, a 33-year-old Catholic, was killed, and another man was seriously injured in the same attack. According to the police, the attack was carried out by members of the Provisional Irish Republican Army, although not sanctioned by the organization. In their search for justice, the McCartney family and their supporters were intimidated and threatened.

AI expressed support for calls from the family and fiancée of Robert McCartney for the perpetrators of his killing to be brought to justice. AI unreservedly condemned any intimidation of witnesses who wished to provide information to the authorities in connection with the killing of Robert McCartney. AI wrote to the authorities to express concern about the threats that the sisters of Robert McCartney were receiving as a result of their quest for justice for their brother's murder.

In June the Secretary General of AI and the Director of AI UK met three of the sisters of Robert McCartney, Catherine, Paula and Gemma. At the meeting, AI expressed again its full support for the McCartney family's call for justice and not revenge for the murder of Robert McCartney (see AI Index: EUR 45/018/2005).

Also in June, having received reports that witnesses had felt intimidated from making statements to the relevant authorities, and that Sinn Féin has been involved in attempting to cover up the killing, AI wrote to Gerry Adams, the President of Sinn Féin, urging him to do his utmost to ensure that any intimidation of witnesses be stopped.

During the same month one man was charged with the murder of Robert McCartney, and another with the attempted murder of his friend Brendan Devine during the same attack. However, AI was concerned at reports that a number of

other people had also been involved in the attack, as well as, and including, those responsible for a cover-up operation which apparently took place in the immediate aftermath of the attack. The date for trial has been set for 2006.

In March Stephen Nelson, a 55-year-old man, died as a result of injuries he had sustained during a vicious assault in September 2004. The Independent Monitoring Commission attributed his death to members of the Ulster Defence Association, a Loyalist paramilitary organization.

UZBEKISTAN

Detention of journalist – possible prisoner of conscience

Sabirzhon Yakubov, a 22-year-old journalist with the independent weekly newspaper *Hurriat* (Freedom) was detained in Tashkent on 11 April on charges of attempting to overthrow the constitutional order and being a member of an illegal "fundamentalist" or "extremist" religious organization. He was detained at Tashkent Prison and there were fears that he was at risk of being ill-treated or tortured. Supporters denied that Sabirzhon Yakubov had any connection to banned Islamic groups or parties, such as Hizb-ut-Tahrir for example, and claimed that the real reason for his detention was his journalism, and in particular an article he wrote on the murder of the Ukrainian journalist Georgi Gongadze in 2000, which was published in *Hurriat* on 16 March. In the article Sabirzhon Yakubov reportedly alluded to claims that the alleged participation of senior officials in the murder of Georgi Gongadze was one of the causes which contributed to the success of Ukraine's "orange revolution" in November 2004. He also blamed the USA for reportedly being less critical of Uzbekistan's human rights record since September 2001 when US troops were stationed at Kharshi airbase. According to colleagues the journalist, writing for *Hurriat* since 2001, had previously written numerous articles warning against the dangers of Islamic "fundamentalism" and was considered moderate in his views on Islam.

Sabirzhon Yakubov's detention occurred just weeks after letters from a source claiming to have insider knowledge of secret action plans by the Ministry of Internal Affairs (MVD) to eliminate dissent within the next two years were posted on opposition websites based in Russia. The source disclosed that the MVD had allegedly drawn up so-called blacklists of dissidents perceived to be unduly critical of the authorities in Uzbekistan and gave the names of scores of well-known independent journalists, political opposition and human rights activists, who were reportedly to be silenced. Although the MVD denied the existence of any such plans, the lists nevertheless heightened the concerns of many civil society activists, who had reported an increase in harassment by security forces since the beginning of 2005. Many believed that the authorities were trying to pre-empt a so-called "colour revolution" after such "colour revolutions" had toppled existing regimes in Georgia, Ukraine and Kyrgyzstan.

Violent dispersal of demonstration in Tashkent

At the beginning of May law enforcement officers used excessive force to break up a largely peaceful demonstration in the centre of the capital Tashkent.

At about 11.20pm on 3 May as many as 100 mainly plainclothes law enforcement officers attacked some 70 demonstrators as they were asleep or resting in makeshift tents they had erected on a central square opposite the US embassy in central Tashkent. The majority of the demonstrators were women and young children from a small farming community in the Kashkadaria Region, who had come to Tashkent to protest against the reportedly unlawful seizure of their property by the regional authorities.

The security forces, who had arrived on the scene just minutes earlier in two buses,

reportedly tore down the tents and beat their occupants -- the women as well as the men and some children -- with truncheons. Journalists who witnessed the attack reported that the demonstrators held their hands up to indicate that they were not armed and would offer no resistance. But according to the journalists the officers attacked the demonstrators -- and the watching journalists -- indiscriminately and with excessive force. The demonstrators were forcibly put into buses and driven back to their community in Kashkadaria Region. Eleven of the men were reportedly held in incommunicado detention for three days in the regional capital.

The protesters were members and supporters of the extended family of Bahodir Choriev, a farmer, who had bought the shares of a local agricultural enterprise comprising 4,000 head of cattle and 13,000 pigs in 1999 and had set up his own limited company which was confiscated by local authorities in 2001. They explained that they were driven to this desperate step because all previous attempts at recovering their property through legal channels had failed and that their appeals to the Uzbekistani authorities had been ignored. They chose to demonstrate in the vicinity of the US embassy in the hope of drawing the attention of the USA and the international community to their plight. Bahodir Choriev was granted political asylum in the USA in 2004 after spending several years fighting through the courts in Uzbekistan for the ownership of his limited company despite continued harassment by local authorities. He had been sentenced to a term in prison on allegedly fabricated criminal charges after the farm was confiscated by local authorities in 2001.

The authorities later denied that the security forces had used excessive force, saying that the demonstrators had attacked plainclothes police officers earlier in the day, beating them and throwing stones at them. However, the demonstrators insisted that they had acted in self-defence when a young man, whom they believed to be a plainclothes police officer, tried to take a nine-month-old baby from one of the tents.

The May events in Andizhan

On 12-13 May armed men attacked a number of military barracks and government buildings in the city of Andizhan, prompting a government response which unofficial sources claim cost hundreds of lives, with hundreds more fleeing across the border to seek asylum in neighbouring Kyrgyzstan. It is believed that the events in Andizhan were triggered in part by the trial of 23 local entrepreneurs who were arrested between June and August 2004.

Detentions and trials of alleged members of Akramia

On 11 February 23 entrepreneurs from Andizhan went on trial at the Altinkul District Court on the outskirts of Andizhan. Rasulzhon Adzhikhalilov, Abdumazhit Ibragimov, Abdulboki Ibragimov, Tursunbek Nazarov, Makhammadshokir Artikov, Odil Makhsdaliyev, Dadakhon Nodirov, Shamsitdin Atamatov, Ortikboy Akbarov, Rasul Akbarov, Shavkat Shokirov, Abdurauf Khamidov, Muzzafar Kodirov, Mukhammadziz Mamdiev, Nasibillo Maksudov, Adkhamdzhon Babodzhonov, Khakimzhon Zakirov, Gulomzhon Nadirov, Musozhon Mirzaboev, Dilshchodbek Mamadiev, Abdulvosid Igamov, Shokurzhon Shakirov and Ravshanbek Mazimdzhonov had been arrested between June and August 2004 and were accused of being members of a group known as Akramia. According to the authorities Akramia is an extremist religious group, which has the ultimate aim of creating an Islamic state in Uzbekistan. The authorities also claimed that the group has links to the banned Islamic opposition party Hizb-ut-Tahrir, which is categorized as a terrorist organization in Uzbekistan. The prosecution argued that the men had joined Akramia in 1994 and that all were acquainted with Akram Yuldashev, the alleged founder of the group, who is serving an 17-year-prison sentence on terrorism and anti-state charges.

The 23 men were being tried on a number of criminal charges under the criminal code including organization of a criminal

conspiracy, attempt to overthrow the constitutional order, membership of an illegal religious organization and the possession or distribution of literature containing a threat to public safety. They consistently denied being members of any group or organization and have proclaimed their innocence.

A number of serious human rights violations allegedly took place while the 23 men were in pre-trial detention. The men claimed that they did not have regular access to their lawyers or to their relatives. They also alleged that they were held in incommunicado detention and were subjected to torture and ill-treatment. In particular, they said that they were subjected to repeated threats of abuse and actual physical, sexual and mental torture and ill-treatment while they were in pre-trial detention. The men also claimed that they were forced to sign confessions under duress.

A large number of the men's employees, relatives and acquaintances were called as witnesses and were reportedly forced to sign incriminating statements against the defendants. However, many of them reportedly retracted their statements in court and informed the court that they had been forced to make the statements under duress. Saidzhakhon Zainabitdinov, a prominent local human rights activist and head of the independent human rights organization Appelatsia (Appeal), who was acting as a public defender for one of the entrepreneurs, refused to continue to participate in the proceedings on the basis that he was being prevented from providing his client with an effective defence.

In response to a question in court about the specific crimes that the accused were supposed to have committed, the Chief Prosecutor, Ulugbek Bakirov, reportedly answered, "They have not committed any crimes - but they might commit them". The verdict in the trial was expected to be delivered on 12 May; however, on 11 May the trial judge announced that the verdict would be deferred indefinitely. It was believed that this was in response to the unprecedented public reaction to the trial. In the months leading up to 11 May dozens of relatives and supporters of the 23 men held peaceful sit-down vigils outside the court building to protest the men's innocence and denounce the torture they allegedly suffered. In the last week, these numbers reportedly grew to about 1,000 protesters.

The true nature of Akramia, and the extent to which the 23 men were involved in it, remained somewhat unclear, although they all denied any involvement in religious extremism. They claimed that they were inspired by some of the writings of Akram Yuldash which encourage Muslims to live according to Islamic principles and to donate portions of their income to help other Muslims in need. The entrepreneurs were successful and very popular within the local community. They had created thousands of jobs in the area and had a reputation for treating their employees well and for not being corrupt. In particular, they were said to have established a minimum wage that was well above the average monthly wage in Andizhan. The entrepreneurs were also known for regularly donating money to good causes including schools, hospitals and orphanages.

The detentions of the 23 entrepreneurs in August 2004 were by no means an isolated event. In September 2004, the security services arrested 20 employees of a furniture company in Tashkent. The company was owned by one of the 23 entrepreneurs. The 20 employees were reportedly forced to sign confessions stating that they were the leaders of Akramia in Tashkent. In February, nine of them were charged with serious crimes including an attempt to overthrow the constitutional order and membership of an illegal religious organization.

It was also reported that another group of 13 entrepreneurs were arrested in Andizhan on 23 and 24 January. They were also accused of being members of Akramia and charged with the same offences that had been brought against the original 23 entrepreneurs.

Summary of the Andizhan Events

During the night of 12 to 13 May, a group of unidentified armed men broke into the prison of the city of Andizhan, reportedly freeing hundreds of remand and convicted prisoners, including the 23 entrepreneurs on trial (see above). The group then went on to occupy other buildings, including the regional administration building in the centre of Andizhan. The armed men took a number of people hostage, who were kept in the regional administration building and some were later used as human shields. A number of security force members were killed. Throughout the day thousands of people gathered in the city's main square; many reportedly spoke out to demand justice and an end to poverty. There were sporadic incidents of security forces reportedly firing indiscriminately into the crowds, killing and wounding demonstrators, most of whom were unarmed and peaceful. Gunfire was also allegedly exchanged between armed men and soldiers. Despite this, the demonstrators continued to stay in the square, reportedly because initially they thought the governor of Andizhan was coming to address them, and then because they thought that President Islam Karimov would come. In the early evening, security forces were reported to have surrounded the crowd of thousands of protestors, hemming them in with buses, armed personnel carriers and other barriers. According to eyewitnesses interviewed by AI, the security forces then allegedly opened fire indiscriminately and without warning into the crowd, killing and wounding many people. Survivors who fled from Andizhan to neighbouring Kyrgyzstan told journalists and AI representatives that security forces continued to shoot at people indiscriminately even as they were running for safety.

AI was gravely concerned at reports that hundreds of unarmed people -- men, women and children -- were killed and many more were injured. Reportedly the wounded in hospitals were not allowed to be visited by their relatives. It was also reported that many of the wounded did not go to hospital for treatment out of fear of being detained for questioning.

The Uzbekistani authorities denied that government troops used excessive force and that they killed civilians, including women and children. According to the General Prosecutor's Office on 20 June, 176 people were killed during armed clashes between troops and rebels in Andizhan, including 31 law enforcement officers and 79 alleged "terrorists", as well as passers-by shot reportedly by the insurgents. These official reports were in stark contrast to allegations by eye-witnesses that troops fired indiscriminately and without warning at the crowd of demonstrators gathered in the centre of Andizhan, and afterwards at fleeing demonstrators. There were also allegations that some people were extrajudicially executed. Human rights and opposition political activists tried to carry out house-to-house inquiries to establish the true number of people killed; however, the authorities attempted to prevent them from doing this by arresting, harassing and threatening them.

AI deplored the government's refusal to carry out an independent, international investigation into the events of 13 May, with the results made public and those responsible brought to justice. Although the Uzbekistani authorities established a Parliamentary Commission of Inquiry, the members of this commission are all from pro-presidential parties or closely allied with the President. Furthermore, the Parliamentary Commission is reported not to be carrying out its own investigation, but to be in fact reviewing the findings of the criminal investigation presented by the Prosecutor General. In light of the above, AI does not consider this investigation to meet the necessary standards of actual and perceived independence and impartiality. The involvement of some foreign diplomatic personnel in the monitoring of this inquiry does not fulfil the obligation of the government to establish an independent, impartial and thorough investigation into the incidents both leading up to and on 13 May.

Hundreds of people fled Andizhan in the aftermath of the violence and tried to make their way to Kyrgyzstan on foot, reportedly walking in several large groups throughout the night to reach the border. The Uzbekistani authorities repeatedly claimed that the majority of those who went to Kyrgyzstan did not do so of their own accord but that they were used as human shields by armed insurgents who forced groups of women and children and young men at gunpoint to follow them out of Andizhan. However, the refugees, including several women, who had crossed the border into Kyrgyzstan and were interviewed by AI representatives insisted that they had not been coerced, but were following people whom they thought were leading them away from danger to safety

According to Akylbek Sharipov, the Head of the Suzak District National Security Service (Sluzhba Natsionalnoi Bezopasnosti, SNB) in Kyrgyzstan, who was interviewed by AI representatives, the Uzbekistani authorities had notified Kyrgyz border guards on 13 May that 500 armed convicts had broken out of prison in Andizhan and were heading for the Kyrgyz border. Akylbek Sharipov said that the border guards made preparations, but when the crowd arrived in the early morning they saw that these people were not armed prisoners. According to him, the border guards checked each person for weapons as they entered the country, and found none at point of entry.

Even though Kyrgyz border guards did not resort to force to stop those fleeing Andizhan from entering Kyrgyzstan, AI was gravely concerned at reports that Uzbekistani government forces shot at people as they were trying to cross the border. Refugees told AI representatives that troops opened fire without warning as they were approaching the border in the village of Teshik Tosh. According to eyewitness accounts, at least eight people were killed and many more were wounded, including women (see also entry on Kyrgyzstan).

Arbitrary detentions in Andizhan following the events of 13 May

Arbitrary detention and fear of torture or ill-treatment of human rights defender Saidzhakhon Zainabitdinov

AI was concerned for the safety of Saidzhakhon Zainabitdinov, the chairperson of the Andizhan independent human rights group Apelliatsia (Appeal), who was reportedly arbitrarily detained by law enforcement officers on 21 May. He was believed to be held in police custody in Andizhan, and there were fears that he was at risk of torture or other ill-treatment. His arrest was believed to be linked to his role as a human rights defender monitoring the events in Andizhan on 13 May. International media coverage had cited Saidzhakhon Zainabitdinov's account of these events, providing a stark contrast to the official account provided by the Uzbekistani authorities. He had also monitored the trial of the 23 local entrepreneurs charged under various articles of the Uzbekistani Criminal Code in connection with their alleged involvement with Akramia and had acted as public defender for one the accused. AI considered him to be a prisoner of conscience, detained solely for carrying out his human rights work. The organization called for his immediate and unconditional release.

Saidzhakhon Zainabitdinov was reportedly held incommunicado for two days before being permitted to telephone a relative on 23 May. A lawyer, who visited his family on 23 May, confirmed to the family that Saidzhakhon Zainabitdinov was being held in police custody in the Andizhan Regional Department of Internal Affairs. (The basis of the lawyer's confirmation is not known to AI). During further telephone calls to his family on 29 and 30 May he reportedly confirmed that he had been charged with slander (Article 139 of the Criminal Code), which carries a possible three-year prison sentence. The charge was reportedly in relation to an open letter on the case of the 23 local entrepreneurs which was published on the internet in April. As of 30 June he

had not been released from detention and there were reports that he had also been charged with "terrorism" -- a capital offence -- and "spreading information with the aim of causing panic".

Arrests of dozens of other men and women detained in Andizhan

On 17 May Uzbekistan's Prosecutor General stated that 81 people had been detained and a criminal case opened against them on charges of attempting to overthrow the constitutional order, organizing mass disturbances and committing murder. However, new official figures at the end of May stated that 98 people had been detained, six of whom were released on bail: of those detained, 52 were charged with "terrorism" (Article 155 part 3 of the Criminal Code), "premeditated, aggravated murder" (Article 97 part 2 of the Criminal Code) and "attempt to overthrow the constitutional order" (Article 159 of the Criminal Code) for their alleged participation in the Andizhan events. Articles 155 and 97 carry the death penalty, but it is not mandatory for these crimes. In June the Prosecutor General announced that in total 102 individuals had been detained in Andizhan and that 50 of those had been released on bail.

It was not clear whether those detained had access to a lawyer, to their relatives or to medical assistance, or whether they were being held incommunicado. There was also concern at reports that those injured suspected of involvement in the Andizhan events did not have access to legal advice and proper medical care and that relatives were prevented from visiting them in hospital. It was not clear whether those injured described by the authorities as "terrorists" were still in hospital nor whether they had been charged with criminal offences. In June the International Committee of the Red Cross issued a public statement appealing to the Uzbekistani authorities to grant its representatives access to detention facilities and hospitals in Andizhan. AI was concerned for the safety of those detained and those "terrorist" suspects injured being treated in hospital (men and women). Based on its own assessment, that of international experts and of other NGOs, AI was concerned that those detained were at risk of torture and other ill-treatment, violations of their right to fair trial, and, with respect to the 52 charged with capital offences violation of their right to life as a result of imposition of the death penalty following unfair trial.

Attacks against human rights defenders and journalists in the wake of the Andizhan events

AI was concerned that recent unrest in Uzbekistan, in particular the events of 13 May in Andizhan, was being used by the authorities to justify a further clampdown on dissent and freedom of expression, association and assembly in the name of "national security" and the "war on terror". In the aftermath of 13 May scores of independent civil society activists, including human rights activists and journalists, were targeted and harassed by the authorities. They were subjected to physical assaults, beatings, threats, arbitrary arrests and being forcibly confined to their houses, with phone lines being cut off. AI was concerned that they were being subjected to abuse and harassment because of their human rights activities. Such activities involved trying, at personal risk, to document and publicize the reported indiscriminate and excessive use of force by government troops against mainly unarmed civilian demonstrators in Andizhan on 13 May.

AI was concerned that the authorities tried to control the flow of information about events in Andizhan, by both censoring any reports by Uzbekistani media outlets that did not follow the official line and blocking access to foreign media in Uzbekistan. Restrictions were placed on websites affiliated to the Uzbekistani opposition in exile and those presumed to carry information critical of the authorities of Uzbekistan or providing an account at odds with the official version of the Andizhan events. Several Russian television stations, perceived to be independent or biased

against Uzbekistan, were unable to broadcast into Uzbekistan. The authorities, taking their lead from President Islam Karimov, who accused foreign media -- mostly Western and independent Russian and Kazakstani media -- of conducting an "information war" against Uzbekistan, launched their own retaliatory campaign in print and in the broadcasting media. Article upon article by alleged experts or concerned citizens in national newspapers denounced those who expressed doubt about the official version of events as "traitors" and "hypocrites", accusing them of complicity with "terrorists" and attempting to destabilize the country and undermine its democratic progress.

On the 25 May for instance, an article was published in the main national, governmental newspaper *Pravda Vostoka*, under the title "In defence of the sovereignty of the Uzbekistani people". The article accused Galima Bukharbaeva, the Uzbekistan country director of the international non-governmental organization Institute of War and Peace Reporting (IWPR) and one of the few journalists present in Andizhan on 13 May, of taking an active role in provoking the Andizhan events; called IWPR an "Institute for Triggering War" and accused IWPR staff of conducting an informational war against the state. The article recommended that IWPR staff should be sent out of the country and that their pictures and names should be shown on national TV to warn citizens against them. Galima Bukharbaeva was forced to flee the country. Tulkin Karaev, a regular contributor to IWPR and a human rights activist with the Human Rights Society of Uzbekistan (HRSU) in Karshi, was repeatedly detained for questioning by law enforcement officers following 13 May and was sentenced to administrative detention for 10 days on 4 June allegedly for hooliganism. Numerous other human rights defenders and political opposition activists complained that they had also been confined to their homes by law enforcement officers, often to prevent them from attending protest demonstrations. Surat Ikramov, the chairman of the unregistered Initiative Group of Independent Human Rights Activists of Uzbekistan (IGNPU) and Rahmatulla Aliboev, an IGNPU activist, were both said to have been confined to their homes for nine days.

Rahmatulla Aliboev was reportedly detained in the early morning of 27 June in Tashkent in the apartment of Elena Urlaeva, a fellow human rights activist and member of the unregistered secular opposition political party Ozod Dekhonlar (Free Peasants), as they were preparing posters for a demonstration to be held later that day outside the National Television Centre. According to Elena Urlaeva, three police officers broke into her apartment and reportedly ill-treated Rahmatulla Aliboev and detained him. They ordered Elena Urlaeva not to leave her apartment for the rest of the day. She was reportedly ill-treated and detained on 28 June as she was protesting the detention of Rahmatulla Aliboev outside the building of the Ministry of Internal Affairs (MVD) in Tashkent. She said that she was holding a poster asking for the release of Rahmatulla Aliboev and an orange flag and that she was distributing leaflets of Ozod Dekhonlar to passers-by. Three plainclothes MVD officers reportedly pushed her into a waiting car, where they shouted abuse at her, kicked her in the legs, pulled her hair, punched her in the head and pushed a piece of paper in her mouth. She was taken to a district police station where she was questioned about holding and participating in protest demonstrations. She was then reportedly taken to a district criminal court where she was summarily sentenced to a fine for disseminating harmful information and for disobeying orders. The judge reportedly disregarded her request for a lawyer and an interpreter, to interpret from Uzbek to Russian, to be present at the hearing.

On 30 May Vasila Inoiatova, chairwoman of the independent human rights group Ezgulik and secretary general of the banned secular opposition party Birlik, was reportedly detained for several hours in order to prevent Ezgulik activists from staging a protest near the Ministry of Justice in Tashkent. She was threatened that if the protest went ahead, the

registration of Ezgulik would be annulled. Twelve members of Ezgulik and 26 members of Birlik were reportedly also detained and threatened with being accused of "assisting Islamic terrorists" if they attended the protest demonstrations.

On 2 June a pro-government demonstration took place outside the mayor's office in Dzhizzakh, where, according to a BBC report, "many protesters waved portraits of President Karimov and shouted slogans against those who oppose him or question the government line". Reportedly, the protesters carried banners that read "Traitors – out!", "Human rights activists – out of Uzbekistan!". They also reportedly "travelled round the city, attacking human rights activists with sticks and vilifying them as traitors." The Dzhizzakh governor and Member of Parliament Ubaidulla Yamankulov said during the demonstration that all local human rights activists and "Internet-journalists" were "enemies of the Motherland" and that soon they would have to leave the country. AI believed that such statements made by government representatives violated provisions of Article 17 of the International Covenant on Civil and Political Rights (ICCPR) and constituted an unlawful attack on human rights defenders. (for further information see *Uzbekistan: Human Rights Defenders and Freedom of Expression at risk*, AI Index: EUR 62/013/2005)

The death penalty

Government statements about the death penalty

In an address to the upper and lower houses of Parliament on 28 January, broadcast by Uzbek Radio, President Islam Karimov stated that he was against the introduction of a moratorium and that Uzbekistan needed to "resolve [the issue] of abolition of the death penalty in our country's system of punishment". He added: "We think we need at least two to three years for that."

The Russian news agency *Itar-tass* reported that Jean Asselborn, President-in-office of the Council of the European Union (EU), stated at a news conference following the meeting of the EU-Uzbekistan Cooperation Council in Brussels on 1 February that Sodik Safoev, Foreign Minister of Uzbekistan, had given assurances to him that Uzbekistan would abolish the death penalty.

International scrutiny

In a press release on the meeting of the EU-Uzbekistan Cooperation Council on 1 February the EU "expressed its opposition to the death penalty", "took note of the recent statements made by President Karimov expressing his own belief in the need to abolish the death penalty" and "strongly encouraged Uzbekistan to take quickly the necessary steps to translate this belief into action".

When considering Uzbekistan's second periodic report on the country's observance of provisions set out in the International Covenant on Civil and Political Rights (ICCPR) in March, the UN Human Rights Committee paid special attention to concerns relating to the death penalty. For example, in its concluding observations issued on 26 April the Committee deplored the fact that Uzbekistan had executed death row prisoners although their cases were pending before the Committee under the Optional Protocol to the ICCPR and stated that Uzbekistan "should adhere to its obligations under the Covenant and the Optional Protocol […] and take the necessary measures to avoid similar violations in future". The Committee also voiced concern about the continued refusal of Uzbekistan to disclose statistical data on the application of the death penalty and urged the authorities to "provide information on the number of prisoners sentenced to death and executed since the commencement of the period covered by the present report" and to make such data accessible to the public in the future. The Committee deplored the fact that "the authorities systematically fail to inform the relatives of the execution, defer issuance of

a death certificate, and do not reveal the burial place of the executed persons." This practice amounts to a violation of Article 7 of the ICCPR that stipulates that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment", the Committee said.

On 13 April the UN Human Rights Committee concluded its consideration of the case of Vazgen Arutyunyants, sentenced to death by the Military court in Tashkent in May 2000, under the individual complaints procedure established under the Optional Protocol of the ICCPR. Vazgen Arutyunyants' mother Irina Arutyunyants had turned to the Committee in December 2000 alleging that a series of provisions of the ICCPR had been violated in his case. In April 2001 the Committee requested the Uzbekistani authorities to stay his execution while it was considering his case.

On 28 December 2001 the death sentences of Vazgen Arutyunyants and his co-defendant Armen Garushyants were reduced to 20 years' imprisonment by the Supreme Court of Uzbekistan. Vazgen Arutyunyants' prison term was further reduced to just under nine years and five months as a result of three presidential amnesties.

In April 2005 the UN Human Rights Committee ruled that Vazgen Arutyunyants' trial "did not respect the principle of presumption of innocence, in violation of article 14(2)". It requested the authorities to give Vazgen Arutyunyants an appropriate remedy, "including compensation and either his re-trial or his release". At the end of the period under review Vazgen Arutyunyants was held in Andizhan prison and no retrial had been scheduled.

Another execution despite an intervention by the UN Human Rights Committee (see AI Indexes: EUR 62/011/2003 and EUR 02/002/2004)

On 21 March the Uzbekistani authorities assured the UN Human Rights Committee that death row prisoner Akhrorkhuzha Tolipkhuzhaev was still alive. However, AI obtained evidence that he had been executed at the beginning of March. In May 2004 the Committee had requested the Uzbekistani authorities to stay the execution of Akhrokhuzha Tolipkhuzhaev while the Committee considered allegations that there were serious violations of the ICCPR in this case. As a party to the Optional Protocol to the ICCPR, the Uzbekistani authorities are obliged to respect such requests. The execution of Akhrorkhuzha Tolipkhuzhaev brought the number of cases in which executions were carried out despite interventions by the Committee to at least 15.

As is usual practice in Uzbekistan, Akhrorkhuzha Tolipkhuzhaev was executed in secret. On 14 March Akhrorkhuzha Tolipkhuzhaev's father came to visit his son but the prison guards refused to let him in, without giving any reason. The following day, prison guards refused to allow Akhrorkhuzha Tolipkhuzhaev's lawyer to meet him, saying that his client was no longer registered on death row in their prison. On 6 April Akhrorkhuzha Tolipkhuzhaev's father received a death certificate confirming that his son had been executed five weeks earlier, on 1 March.

In a press release on 14 April the UN Human Rights Committee addressed Akhrorkhuzha Tolipkhuzhaev's case and stated that "non respect by a State party of requests for interim measures of protection constitute a grave breach of the State party's obligations under the Optional Protocol to the Covenant."

Akhrorkhuzha Tolipkhuzhaev had been sentenced to death by the Military Court of Uzbekistan on 19 February 2004, convicted of killing two minors in July 2001. He was arrested in Kazakstan, where he was working at the time, and handed over to the Uzbekistani authorities on 13 September 2002. There are strong indications that he was tortured while in the custody of Tashkent city police. During the trial, the court reportedly ignored his allegations of torture by police.

More death sentences handed down amid serious violations of fair trial standards (see AI Indexes: EUR 62/011/2003 and EUR 02/002/2004)

Uzbekistan continued to sentence people to death in trials accompanied by allegations of serious violations of international fair trial standards including torture and ill-treatment to extract "confessions".

Yuldash Kasymov was sentenced to death by Tashkent city court on 3 March, convicted of killing his parents. The sentence was confirmed by the Supreme Court on 10 June. There were allegations that he was brutally beaten during the interrogations. Reportedly, his brother Mansur Kasymov was also beaten. The purpose was believed to have been to force either one of the brothers to plead guilty. Yuldash Kasymov's girlfriend was reportedly beaten to punish her for insisting that he was innocent, and he was told she would be raped in front of him if he did not "confess". Reportedly, as a result of the pressure, Yuldash Kasymov signed the confession. In court a video was reportedly shown of the investigators taking Yuldash Kasymov to the crime scene and it was visible that his face was covered in bruises.

The lawyer who was hired by the family was only able to get access to Yuldash Kasymov after at least 10 days, when he had already signed the statement. Yuldash Kasymov immediately retracted his "confession" in a letter to the relevant procurator and insisted he was innocent. According to Tamara Chikunova from the human rights group Mothers against the Death Penalty and Torture, the police did not conduct a thorough and impartial investigation into the death of Yuldash and Mansur Kasymov's parents and did not follow up on evidence found during the examination of the crime scene, such as 23 fingerprints in the bedroom where the parents were killed that did not belong to the Kasymov brothers.

In a separate case, Alisher Khatamov was sentenced to death by Tashkent regional court on 16 March for murdering two people, and the sentence was confirmed by the Supreme Court on 14 June. Reportedly, officers of Bukinsky district police and the regional police of Tashkent beat Alisher Khatamov's mother and father, his sister and his brother. Both Alisher Khatamov and his father were reportedly threatened that the women in the family would be raped unless Alisher Khatamov "confessed" to having committed the crime. As a result of the ill-treatment, the father's face was reportedly covered in bruises. The father reported that he could hear Alisher Khatamov's cries of pain in the next room. Reportedly, Alisher Khatamov's lawyer only got access to him two weeks after he was detained. The family complained about the beatings during the trial, but their allegations were reportedly ignored by the court.

In April and May the UN Human Rights Committee lodged separate requests with the Uzbekistani authorities on behalf of Yuldash Kasymov and Alisher Khatamov respectively, to stay their executions while it establishes whether provisions of the ICCPR were violated in their cases.