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Europe and Central Asia

Summary of Amnesty International's Concerns in the Region January - June 2004

FOREWORD

This bulletin contains information about AI's main concerns in Europe between January and June 2004. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin, or where 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 Amnesty International.

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

AI Index EUR 01/01/98	Concerns in Europe: July - December 1997
AI Index EUR 01/02/98	Concerns in Europe: January - June 1998
AI Index EUR 01/01/99	Concerns in Europe: July - December 1998
AI Index EUR 01/02/99	Concerns in Europe: January - June 1999
AI Index EUR 01/01/00	Concerns in Europe: July - December 1999
AI Index EUR 01/03/00	Concerns in Europe: January - June 2000
AI Index EUR 01/001/2001	Concerns in Europe: July - December 2000
AI Index EUR 01/003/2001	Concerns in Europe: January-June 2001
AI Index EUR 01/002/2002	Concerns in Europe: July - December 2001
AI Index EUR 01/007/2002	Concerns in Europe: January - June 2002
AI Index EUR 01/002/2003	Concerns in Europe and Central Asia: July - December 2002
AI Index EUR 01/016/2003	Concerns in Europe and Central Asia: January - June 2003

AI Index EUR 01/001/2004 Concerns in Europe and Central Asia: July – December 2003

ALBANIA

Torture and ill-treatment

There continued to be allegations that detainees had been tortured or ill-treated by police officers during arrest and in police custody. In at least one case the detainee sustained injuries requiring hospitalisation. A press report in March quoted an anonymous police officer as saying: "We may have good evidence that someone has committed a crime, but we are often obliged to use force for the good purpose of getting [him] to admit to the accusation". In March AI wrote to the authorities about three cases in which it had been alleged that police officers had tortured or ill-treated people in order to force them to provide testimony or other information about a defendant or a crime. AI called for prompt, thorough and impartial investigations into these the allegations, and for any police officer responsible for torture or ill-treatment to be brought to justice. The organization also urged that any statement established to have been made under duress should not be used as evidence in court, except against the police officer accused of torture or ill-treatment, as evidence that the statement was made.

The practice of torture or ill-treatment by police officers was facilitated by violations of legal provisions designed to protect people following arrest. In June lawyers in Shkodër went on a one-day protest strike. They reportedly claimed that police, prosecutors and judges systematically violated their legal and procedural rights, including the right of access to clients from the moment of arrest, and the right to free, confidential communication with clients.

According to a press report in June, complaints about police ill-treatment were among the most frequent received by a recently opened "complaints office" in the Prosecutor General's Office. Nonetheless,

Albanian human rights activists in June indicated to AI that they were receiving fewer such complaints, and according to the CRCA (Albanian Centre for the Rights of Children), in Tirana the ill-treatment of children by police, formerly commonplace, was now rare.

Torture and "any other degrading or inhuman treatment" are offences under Article 86 of the Albanian Criminal Code, but this article does not define what constitutes an act of torture or degrading or inhuman treatment. In practice, prosecutors very rarely charge state officials with torture, unless the victim is permanently injured or dies, in which case Article 87 (aggravated forms of torture and degrading or inhuman treatment) is applied. Instead, if charges are brought at all, they are usually brought under Article 250 dealing with "arbitrary acts", a lesser offence punishable by a fine or up to seven years' imprisonment.

For example, in May two police officers were charged with "arbitrary acts", although the alleged ill-treatment appears to conform closely to the definition of torture as given in Article 1 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (ratified by Albania in 1994), which specifies that torture is severe physical or mental pain inflicted on a person by a public official with the purpose of obtaining a confession or information, or to punish, intimidate or coerce. On 13 May Beqir Kaba, aged 19, was reportedly arrested and taken to Peshkopi police station after he was wrongly accused of stealing a mobile phone and a small amount of money. He later alleged that when he denied the charge police officers beat him with rubber truncheons on his back, shoulders, legs and hands, twisted and pulled at his beard and his ears with pliers, and threatened to kill him. He was released the following day. Photographs, taken five days after the incident, reportedly clearly show severe bruising on

various parts of his body, and a forensic medical examination later confirmed injuries inflicted by a "heavy instrument". Beqir Kaba filed a complaint against five police officers with the Prosecutor General's Office. Local police at first denied that he had been ill-treated, but an internal police investigation found that two police officers had beaten him, and referred their cases to the prosecutor.

Investigation of complaints and trial proceedings against police officers

The press reported several cases in which police officers received disciplinary punishments after being accused of ill-treatment. In a number of cases criminal proceedings were started against police officers alleged to have ill-treated detainees. Police officers were not always suspended from duty pending investigation and investigations tended to be slow and inconclusive. AI did not learn of any case in which a police officer was sent to trial on a charge of torture or ill-treatment. Alleged victims sometimes withdrew complaints, possibly as a result of inducements or coercion, although investigations were not necessarily stopped. In two such cases a prosecutor in Durrës decided to continue investigations against police officers, despite the withdrawal of complaints.

In May two former secret police officers, who had been under arrest and investigation since May 2003 in connection with the "disappearance" of Remzi Hoxha, an Albanian from Macedonia, and the torture of Ziso Kristopulli from Saranda district in 1995, were released after the court ruled that the prosecution had not provided evidence strong enough to justify their continued detention. An initial investigation started in 1995 appeared to have been blocked by the authorities, and despite the subsequent re-opening of the investigation, the fate and whereabouts of Remzi Hoxha remained unknown.

Conditions of detention continue to cause concern

Detention conditions in police stations where most remand prisoners are held – sometimes for up to two years or even more – continued to give rise to extreme concern. They were almost universally severely overcrowded and detainees further suffered from very poor sanitation, hygiene, lighting and diet as well as cold in winter (cells lacked heating) and high temperatures in summer. Cells did not have beds or other basic furniture or toilets. With few exceptions, detainees had no access to reading or writing materials. In violation of the law, children (aged 14 to 17) sometimes shared cells with adult detainees, and convicted prisoners, for whom there was not sufficient accommodation in prisons, were held together with remand prisoners. Medical care was inadequate and there was almost no provision for mentally ill detainees. These conditions and the detention of convicted prisoners in police stations, gave rise to protests by detainees, most notably in Laç in May and in Vlora in June.

In February AI published a report *Albania: inhuman and degrading detention conditions in police stations – steps towards reform*, AI Index: EUR 11/001/2004, which documented these conditions and urged that measures be urgently taken to deal with overcrowding and to ensure at least minimal conditions for detainees pending the construction of new detention centres. In March the Organization for Security and Co-operation in Europe (OSCE) Presence in Albania published a report based on a survey of all 25 pre-detention sites, which raised similar concerns; it noted delays in the transfer of responsibility for pre-trial detention from the Ministry of Public Order to the Ministry of Justice and urged that this handover go ahead. In June the non-governmental Albanian Helsinki Committee once again stressed that conditions of pre-trial detention were unacceptable and violated both international standards and national law.

Although conditions for convicted prisoners held in prisons were relatively better, prisons were also over-crowded. The

authorities were aware of these problems: a project funded by the European Commission, supported by logistical aid and expertise from the Austrian Prison Service, worked on drafting a strategy and action plan for remand detention, which was due to be ready by the end of August.

Violence against women and children, including trafficking for forced prostitution, begging and cheap labour

The Criminal Code did not specifically criminalize domestic violence. In March the Women's Advocacy Centre, noting an increase in domestic violence, called on the government to take immediate measures to combat this phenomenon, to punish such crimes more severely, and to provide special protection for children, pregnant women and young mothers. The Centre recalled that measures against domestic violence provided for in the Family Code adopted in 2003 could not be applied by courts, for lack of supporting legislation.

The authorities increased efforts to crack down on the trafficking of women and children for forced prostitution, begging and cheap labour. There were almost daily reports of arrests, but the available information indicated that few, if any, leaders of organized criminal networks involved in international trafficking had been arrested. Most defendants appeared to have operated on their own or as middlemen; in February Emiliano Kaso was sentenced to 11 years' imprisonment by Vlora district court for having tricked a young woman into going abroad with him and then forcing her into prostitution.

Two Roma were sentenced in February by Korça district court to 17 and 15 years' imprisonment respectively on a charge of trafficking a 12-year-old boy to Greece to work as a beggar. Their lawyer reportedly called for their acquittal on the grounds that at the time the trafficking of children for material gain had not been criminalized (this offence was introduced to the Albanian

Criminal Code in 2001). In March Gjergj Bedulla, an "Egyptian" (a minority sometimes described as assimilated Roma) was sentenced to 12 years' imprisonment for trafficking three children. At the trial, the court refused to admit as evidence a video filmed by the Albanian Human Rights Group (AHRG), in which the boys withdrew their testimony against Gjergj Bedulla, claiming that they had given it as a result of physical and psychological pressure by the police. AHRG expressed concern that in this case a member of a minority was being treated in a discriminatory manner by the police and judiciary. In June Korça Appeal Court overturned the conviction and sent the case for re-trial, after Gjergj Bedulla produced evidence to show that he had not been in Greece at the time in question. He was released from custody.

Most victims of trafficking were unwilling to report their traffickers to police, for fear of reprisals. In March a law on witness protection was adopted, although it could not be immediately implemented, again for lack of secondary legislation and funding. According to a shelter in Vlora for repatriated trafficked women, in the first ten weeks of 2004 only four out of 45 repatriated women filed complaints against their traffickers. In February one alleged victim who claimed that she had been trafficked for forced prostitution at the age of 14, withdrew her previous testimony after being confronted with the defendant at his trial by Shkodër district court. She was immediately arrested on a charge of perjury. The defendant had reportedly previously openly threatened her, and press reports indicated that these threats, or possibly payments, might have induced her to withdraw her testimony.

Restrictions on freedom of the press

In May Tirana district court imposed a fine of 2 million lekë (approx. 20,000 USD, more than 100 times the average monthly wage in Albania) on Nikollë Lesi, leader of an opposition party and owner and editor of the newspaper, Koha Jonë, in a civil defamation case brought by Prime Minister

Fatos Nano and two of his employees. The charges related to an article which criticized a government decision by which, as head of the government, the Prime Minister had awarded himself and two employees five months' salary for work on the privatisation of Albania's National Savings Bank. In June Mero Baze, the editor of the newspaper Tema, was sentenced to a 1,500 lekë fine, convertible to imprisonment, in a penal case arising out of a complaint for defamation filed by the Prime Minister.

ARMENIA

Allegations of ill-treatment and excessive use of force

Scores of people were injured and forcibly detained when special police units reportedly armed with truncheons used water cannons and stun grenades to break up a peaceful opposition demonstration in the capital Yerevan in the early hours of 13 April. Four journalists who were covering the demonstration were reportedly severely beaten by police officers. Dozens more opposition activists and supporters, including women, were reportedly beaten and ill-treated during unsanctioned armed police raids on the head offices of the main opposition parties launched that same night. According to reports most of the activists present on the opposition party premises were forcibly detained and kept in police cells for up to 48 hours. According to human rights groups and opposition parties, beatings and ill-treatment of both those detained at the opposition demonstration and the party offices continued in detention: detainees, including women, allegedly complained about police officers slapping them in the face, as well as kicking, kneeling and punching them while shouting and swearing at them.

On 26 May Edgar Arakelian, a 24-year-old opposition activist from a small town outside Yerevan, was sentenced to 18 months' imprisonment for "attacking a state official performing their duties" during the

13 April demonstration. He had admitted to hitting a police officer with a plastic water bottle during the demonstration but claimed he had acted in self-defence after the police officer had hit him, breaking his front teeth. He alleged in court that he had been tortured in pre-trial detention in order to force him to admit that the violence had been instigated by the political opposition. On 30 June the Appeals Court upheld his sentence.

Opposition demonstrations in April were part of a two-month campaign of mass public protests launched by opposition political parties demanding the resignation of President Robert Kocharian. The authorities described the opposition campaign as a coup attempt and opened a criminal investigation into the activities of the opposition Artarutyun (Justice) alliance. The opposition rejected charges that they were calling for the violent overthrow of the constitutional order. During their campaign hundreds of opposition supporters, including prominent opposition party members, were reportedly arbitrarily detained throughout the country and dozens were sentenced to 15 days' administrative detention after trials that were said to have fallen far short of international fair trial standards. Vagharshak Harutiunian, for example, a prominent member of the opposition (Republic) party and a former Defence Minister, was held in pre-trial detention for two months on charges of calling for the "violent overthrow of the constitutional order" and for "publicly insulting senior government officials". He was released following international pressure; however, the charges against him were not dropped.

On 28 April the Parliamentary Assembly of the Council of Europe (PACE) held an emergency debate on the situation in Armenia and issued a strongly-worded resolution, condemning the use of force by police during the opposition protests as "against the letter and spirit of its values" and calling on the authorities to investigate any alleged human rights violations and to release those opposition members still in detention. PACE warned the government

that it could withdraw the credentials of the Armenian delegation to PACE if no progress was made by the authorities by September. In an address to PACE on 23 June President Kocharian defended the use of force by police against opposition activists during the 13 April demonstration. He was quoted as saying: "The organizers of the action were demonstratively calling for civil disobedience. The police had no alternative."

Other assaults on activists

At an opposition rally on 5 April police reportedly refused to intervene when around two dozen men, described as athletically-built with shaven heads, tried to disrupt the peaceful protest meeting and physically attacked journalists covering the event, kicking and beating them and breaking their equipment. In June a Yerevan court ordered two men to pay a small fine for their participation in the beating of the journalists. Three men of a similar description allegedly physically assaulted and critically injured opposition politician Ashot Manucharian in Yerevan on 22 April. In June police reportedly announced that they had suspended their investigation into the assault because they had failed to identify the perpetrators.

Previously human rights activist Mikael Danielyan and opposition deputy Victor Dallakian had also been physically assaulted by unknown assailants. In an affidavit Mikael Danielyan described how he was badly beaten by four unknown men who attacked him in the street outside his home in Yerevan in the morning of 30 March when he returned from walking his dog. He was reportedly repeatedly punched in the head and kicked after he fell to the ground and needed hospital treatment. He believed that the attack was related to his human rights work and was meant to intimidate him and prevent him from monitoring the authorities' policing of the opposition campaign. President Kocharian reportedly personally ordered an investigation into the attack on Mikael Danielyan but during the period under

review no one had been charged with assaulting the human rights activist.

Conscientious objection (update to AI Index: EUR 01/004/2002 and 01/002/2002)

Conscientious objectors continued to be sentenced to prison. This was despite parliament's adoption in December 2003 of a law providing for unarmed military service or alternative civilian service for young men objecting to compulsory armed military service on the grounds of their religious beliefs or convictions, and despite Council of Europe requirements to free all those so imprisoned. The law was due to enter into legal force in July 2004.

As of the end of May prison sentences of between one and two years had been imposed on 11 men, all Jehovah's Witnesses, as a result of their conscientious objection. One had received a fine. A further eight had been released on parole during the first half of the year. Altogether 15 men were reportedly serving prison sentences for their conscientious objection and four were awaiting trial at the end of June.

In a further development, however, passports as well as identification and registration documents were reportedly not returned to those conscientious objectors released from prison. The local military commissariat was said to have refused to return passports or to issue certificates to those who have no passport until the men had served their time in the army.

AUSTRIA

Allegations of police ill-treatment

Death in custody (update to AI Index: EUR 01/001/2004)

On 29 January the Independent Administrative Tribunal (Tribunal) reached its conclusions concerning the death of the

Mauretanian, Cheibani Wague, during a police operation in Vienna City Park on the night of 15 to 16 July 2003. The Tribunal established that the methods used to immobilise Cheibani Wague were dangerous and capable of causing death. The Tribunal further classified the method used to immobilise Cheibani Wague on the ground as disproportional use of force. It found that a medical examination should have been carried out urgently, but was not carried out either by police authorities or ambulance personnel. The Tribunal also ruled that the restraint methods (holding down the feet and pressing the person to the ground while punching them on the head, neck and upper back region), and the duration of the restraint were illegal. AI is concerned that the police officers involved in the operation during which Cheibani Wague died gave comprehensive statements during the internal investigation by the Ministry of Interior but refused to give any statements in front of the Tribunal, citing the right not to incriminate themselves, even in regard to apparently non self-incriminating details. AI has urged that clear guidelines be issued to law enforcement officers on their obligations to comply with such bodies.

AI has urged a comprehensive, prompt and impartial investigation into the circumstances surrounding Cheibani Wague's death, and for anyone reasonably suspected of unlawful acts to be brought to justice in line with international standards. The police officers involved in the incident should be suspended pending the outcome of such an investigation

Visit by the CPT

A 10-person delegation carried out the fourth visit by the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 14 to 24 April. The CPT re-examined issues it had looked into during previous visits, in particular the rights of persons in police custody, and detained foreigners, and it also looked into conditions in custody for minors and for

persons who have been placed in forced psychiatric care.

Asylum procedures (update to AI Index: EUR 01/001/2004)

On 1 May the new Asylum Act came into effect, and by the end of the period under review several problematic issues in its implementation had already emerged. Asylum-seekers' luggage and clothing is routinely searched as part of the application procedures (with the exception of children), a procedure which was been criticised by the office of the United Nations High Commissioner for Refugees (UNHCR) at the end of May. UNHCR also expressed concern that legal advisers were not sufficiently independent of the Ministry of the Interior, describing them as the "weakest link" in the admissibility procedure and highlighting their lack of experience in asylum law and interview techniques. Medical examinations usually take place after the second interview, despite the fact that the identification of possible trauma can be important factor in the asylum-seekers' application. Doctors working in the reception centres have voiced concern that they are not qualified to diagnose trauma and do not have interpreters at their disposal.

Extradition to Russia

On 24 February Akhmet A.¹, a Russian citizen, was extradited to Russia despite pending asylum procedures, after the Russian Procurator General applied for his extradition on charges of the abduction of two members of the Russian military, and the illegal acquisition and possession of weapons. The Regional Appeal Court granted the extradition request after receiving assurances from the Procurator General regarding respect for human rights. According to the interpretation of the Ministry of Justice, the Asylum Law bans termination of residence, and while this prevents deportation it does not apply to

¹ His full name is known to AI but withheld to protect his identity

extradition. According to available information, following his extradition, further criminal charges were brought against Akhment A. which did not relate to the request for extradition.

AI is concerned that there is insufficient verification of the offences alleged in requests of this kind for extradition; that there is inadequate monitoring of adherence to human rights guarantees given by the governments requesting extradition; and that the right to asylum may be eroded if extradition takes place before completion of the asylum procedures.

Legal developments

Reform of the military and alternative civilian service for conscientious objectors

In the context of a reform of the army, in June it was announced that the length of compulsory military service would be decreased eight to six months: possible revision of the alternative civilian service has also been discussed. In this context AI is concerned that the decrease in the length of military service may not be matched by an equivalent and adequate reduction in the length of the alternative civilian service in a way that is non-discriminatory.

Also as a result of the reform, the size of the army will be reduced and will therefore result in a surplus of weapons. AI urges the Austrian government to ensure that by preference any arms deemed surplus to security needs are destroyed. Where such destruction is not possible, surplus arms should be securely stockpiled. Any transfer of surplus arms should be subject to stringent licensing and end-use certification, and rigorously monitored and reported.

AZERBAIJAN

Fair Trial Concerns

On 7 May seven leading members of the political opposition in Azerbaijan went on trial at the Court for Grave Crimes in Baku for their alleged participation in violent clashes between opposition supporters and law enforcement officers in the wake of the presidential elections in October 2003. Rauf Arifoglu, a deputy chairman of the Musavat (Equality) party and editor-in-chief of the *Yeni Musavat* opposition newspaper, Arif Hajili and Ibrahim Ibrahimli, also deputy chairmen of Musavat, Panah Huseynov, chairman of the Khalq (People) party, Etimad Asadov, chairman of the Karabakh's Invalids Association, Sardar Jalologlu, the executive secretary of the Azerbaijan Democratic Party and Igbal Agazade, the chairman of the Umid (Hope) party, were reportedly accused of having masterminded the post-election violence and charged with organizing mass disturbances (Article 220 part one of the Azerbaijani Criminal Code) and endangering the life or health of representatives of the authorities by means of force (Article 315 part two) - charges which they have consistently denied since their pre-trial arrests in October 2003.

AI called on the Azerbaijani authorities to ensure that the seven opposition politicians received a fair trial in line with international standards. The organization was concerned about allegations that, after they were reportedly arbitrarily detained, some of the seven opposition politicians were tortured by members of the Ministry of Internal Affairs (MVD) Organized Crime Unit (OCU) to force them to confess. Reportedly they were forced to confess to having organized or participated in the post-election violence and to denounce the opposition electoral bloc Bedim Azerbaijan (Our Azerbaijan) and its presidential candidate, Isa Gambar, the chairman of Musavat and runner-up in the election, who had been placed under house arrest (see also AI Index: EUR 01/004/2004).

Others were reportedly detained in cruel, inhuman and degrading conditions. Rauf Arifoglu told members of the international press freedom organization Reporters without Borders, who visited him in pre-trial detention in Bailov prison in Baku, that he

had been held in solitary confinement for 32 days and forced to sleep on the floor of an unheated cell for 18 days. He went on hunger strike in December 2003 and again in February together with dozens of opposition detainees to protest their arrests, which they believe were politically motivated.

AI was further concerned about reports from earlier trials of opposition activists, accused of having taken part in the post-election violence, that evidence based on confessions allegedly extracted under torture was admitted in court. The organization reminded the Azerbaijani authorities of their obligations under international fair trial standards not to admit such evidence in court and to promptly and impartially investigate all allegations of torture and ill-treatment and bring the perpetrators to justice.

By the end of April 119 opposition activists had been tried in separate court cases for their alleged participation in the post-election violence. Thirty-three men received prison sentences of between three and six years while the rest received suspended sentences. Among those who received a conditional sentence was human rights activist and imam of the independent Juma mosque, Ilgar Ibrahimoglu. He was released on 2 April. (See also AI Index: EUR 01/004/2004).

At the end of May the seven opposition politicians refused to attend further preliminary court hearings at the Court of Grave Crimes. In an open letter to international organizations published on 27 May they explained that they were protesting what they believed to be the court's failure to conduct a fair and open trial according to international standards. The seven defendants objected in particular to the court not presenting the defence with written copies of the court's decisions on rejecting petitions lodged by the defendants and of not allowing television cameras into the court room. They had earlier complained that the court had deliberately chosen a small court room so as to restrict public access to the preliminary hearings

and the trial. The defendants had also objected to the appointed panel of judges, alleging that they were biased in the government's favour. The defendants' lawyers resigned following their clients' protest action and the court appointed new defence lawyers who attended the court session in the absence of the defendants. Following appeals from supporters and human rights groups the seven opposition leaders stopped their protest action and resumed attending court hearings on 22 June.

**Amnesty for political prisoners
(update to AI Index: EUR
01/004/2004 and EUR 01/007/2002)**

In March and in May President Ilham Aliyev signed decrees pardoning a total of almost 500 prisoners. Among those subsequently released were a number of prisoners whom the Council of Europe considered political prisoners and had required Azerbaijan to release or retry as one of its obligations on joining the organization. They included Former Prime Minister Suret Huseynov. AI had previously raised concerns regarding allegations of ill-treatment, unfair trial, and conditions of detention in his case.

BELARUS

International concern about human rights

During this period Belarus came under increasing pressure from intergovernmental organizations to improve human rights. In January the Parliamentary Assembly of the Council of Europe (PACE) rejected Belarus' request for reinstatement of its special guest status with the PACE, stating that the original reasons for revoking the status still held. Belarus' status had been revoked in 1997 because of President Lukashenko's unconstitutional actions in lengthening his term of office and unfair elections in 1996. For the second year in a row, in April at its 60th session, the UN Human Rights Commission adopted a resolution

expressing deep concern about human rights violations in Belarus. The resolution expressed concern about a number of issues including harassment and closure of non-governmental organizations, and harassment of individuals engaged in democratic activities. It asked the government of Belarus to bring the actions of its police and security forces into conformity with its obligations under the International Covenant on Civil and Political Rights (ICCPR); to establish the independence of the judiciary; to end impunity for persons responsible for killing or injuring individuals; and to release scientists and other individuals detained for politically motivated reasons. The resolution also appointed a Special Rapporteur to examine human rights in Belarus.

Death penalty (update to AI Index: EUR 01/001/2004)

On 11 March the Constitutional Court concluded its assessment of the compliance of death penalty provisions in the Belarusian Criminal Code with the Belarusian Constitution and international standards. The Court found that a number of articles of the current Criminal Code are inconsistent with the Constitution, and that in the current circumstances the abolition of the death penalty, or -- as a first step -- the introduction of a moratorium, may be enacted by the Head of State and by Parliament. It empowered them to overturn a 1996 referendum when 80 per cent of the Belarusian population voted against the abolition of the death penalty. In its ruling the Constitutional Court stated that the preventative role of the death penalty against serious crime could not be proved.

"Disappearances" (update to AI Index: EUR 01/001/2004 and EUR 49/012/2002)

In the period under review no progress was made in investigating the "disappearances" of two opposition politicians, a journalist and a businessman, in the period 1999 to 2000. Yury Zakharenko, a former Minister of the Interior and leading opposition figure,

"disappeared" on 7 May 1999. The Deputy Chairman of the dissolved Belarusian parliament, Viktor Gonchar, and his companion, the businessman, Anatoly Krasovsky "disappeared" on the evening of 16 September that year. On 7 July 2000 Russian Public Television (ORT) cameraman Dmitry Zavadsky "disappeared" after he drove to Minsk airport to meet his former ORT colleague Pavel Sheremet. On 31 March the department for organized crime and corruption of the Procuracy of Belarus announced that the investigation into the case of Dmitry Zavadsky had been stopped "because of the failure to discover the disappeared person". On 28 April on the basis of the report on the "disappearances" by Christos Pourgourides, rapporteur appointed by its Committee on Legal Affairs and Human Rights, PACE adopted a resolution on the "disappearances" in Belarus. This called on the Belarusian authorities to carry out an independent investigation into the "disappearances", and to launch criminal investigations into the alleged involvement of high-ranking officials in the events and their cover-up. AI issued a press release supporting the resolution and further calling on the authorities to ensure that the methods, scope and findings of the investigation be made public. Furthermore, officials suspected of responsibility for the "disappearances" should be suspended from active service during the investigation; complainants, witnesses, lawyers and others involved in the investigation should be protected from intimidation, harassment and reprisals; and any criminal investigations should be carried out in accordance with international standards of fair trial.

Prisoners of conscience

During this period the Central District Court of the City of Minsk eased Yury Bandazhevsky's conditions of detention from "a second division custody" to a "corrective labour settlement" in Grodno Region. He is to remain in the area he has been transferred to, but is allowed to receive visitors and can request leave for up to three to four days for family visits.

Professor 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 (see AI Index: EUR 01/001/2004).

In June Aksana Novikava was sentenced to two and a half years' imprisonment at a corrective labour facility for 'libel against the President of Belarus'. She was arrested while distributing leaflets in the form a "wanted" poster with a portrait of President Lukashenka and a list of alleged unlawful acts including the "disappearances". In January she had told an AI representative that she would continue to demonstrate peacefully for human rights in Belarus, regardless of the consequences (see also AI Index: EUR 49/005/2004).

Human rights activists

Human rights activists and oppositionists continued to be subjected to harassment and intimidation. In March AI launched a report highlighting the deliberate pattern of obstruction, harassment and intimidation faced by human rights defenders in Belarus (see *Belarus: Stifling the promotion of human rights*, AI Index: EUR 49/004/2004).

In May Maxim Gromov (aged 16) and Ekaterina Klimko (aged 17), both members of the youth opposition movement ZUBR, were detained by police in the centre of Minsk where they had been spray painting political slogans. Maxim Gromov was allegedly beaten by the police and both were subsequently detained for two days. Neither was given access to their families, a guardian or a lawyer. Both were charged with damage to state property and were subsequently threatened with exclusion from their places of study. AI wrote to the General Procurator of Belarus calling for an impartial investigation into the treatment they received while in police custody and asking for information about legal provisions which provide safeguards to detained minors in Belarus. ZUBR recorded 189 instances of harassment of its

members in the period from January to the end of June.

**Violation of trade union rights
(update to AI Index: EUR
01/001/2004)**

The independent trade union movement in Belarus continued to be under pressure to conform to government policies - its members were under constant harassment, while its unions struggled to survive in a repressive atmosphere. In January the European Commission started a six-month formal inquiry into labour rights in Belarus. The inquiry was to examine limitations in trade union activities, the refusal to register free trade unions and repression of trade union leaders.

On 1 May Valeri Levonevsky, leader of the national strike committee, was sentenced to 14 days' administrative detention for distributing leaflets calling for participation in May day demonstrations. On 14 May his detention was extended for three days "for further investigation". Since 18 May he has been held in pre-trial detention charged with "publicly insulting the President of Belarus".

Press freedom

In April PACE passed a resolution on press freedom in Belarus calling on the government to respect Articles 19 and 22 of the ICCPR; to ensure free, equal and fair access to airtime for the opposition before the parliamentary elections set for October 2004; and to revise laws to allow political criticism of the president.

The Belarusian authorities continued their campaign of harassment and intimidation against the independent media (see AI Index: EUR 01/001/2004). In January the Belarus post office and the state newspaper distributor, Belsayuzdruk, cancelled their 2004 contracts with the independent paper *Belorusskaya Delovaya Gazeta*, effectively preventing the distribution of the newspaper. The independent weekly newspaper *Den* which is edited by Mikolai Markevich, a former prisoner of conscience, and other journalists who had worked on the independent newspaper *Pagonya* which

was shut down in 2001, faced confiscations of print runs and the threat of eviction from its offices in Grodno.

BELGIUM

Racism and xenophobia

European Commission against Racism and Intolerance publishes report on Belgium

In January the European Commission against Racism and Intolerance (ECRI) published its third report on Belgium², covering the situation as of June 2003. ECRI recognized that Belgium had made progress in a number of fields highlighted in its previous report issued in 2000. It pointed, in particular, to two laws adopted in 2003 which "strengthen the protection provided by criminal law against acts inspired by racism and xenophobia" and "establish civil remedies against discrimination in different areas and on a wide range of grounds." ECRI stressed "the need to keep the new legislation under review and ensure its effective implementation". It also reported that a number of its recommendations had "not, or not fully, been implemented" and recommended further action in a number of areas. This included a call for "a more determined institutional reaction against the use of racist or xenophobic discourse in politics."

ECRI was also concerned by the reported increase in "manifestations of antisemitism and islamophobia" and noted that these had included "verbal abuse and harassment of individuals but also public oral and written expressions.... Attacks to property ... Physical attacks against individuals ... sometimes with deadly consequences."

² CRI (2004) 1

ECRI concluded that these phenomena had "followed closely contemporary world developments, notably the events of 11 September 2001 - and the subsequent strengthened efforts in the fight against terrorism - and the situation in the Middle East. In this respect, it has been noted that there is a tendency, both at the grass root level and in public debates, to import into Belgian society conflicting situations resulting from such events at world level. In particular, there appears to be a strong tendency to read current manifestations of antisemitism and islamophobia exclusively or predominantly as intercommunity problems, notably opposing Arabs and Jews or Muslims and Christians". However, ECRI said that the increase in such manifestations needed to be addressed as problems affecting Belgian society as a whole and not only some of its communities. It called for "concerted efforts of all relevant actors composing Belgian society, including the representatives of different communities, civil society organizations and movements, and key institutional actors, such as the persons responsible for the administration of justice." At the same time, ECRI welcomed various relevant and positive initiatives which had already been launched by the federal government.

In addition, ECRI called for "further efforts to prevent racist or discriminatory behaviour" by the police. Among other things, it urged that the authorities ensure that all such behaviour "be thoroughly investigated, brought before the relevant judicial and non-judicial control mechanisms, and sanctioned". It reiterated "the need to raise the awareness of the key actors of the criminal justice system" regarding the implementation of existing domestic legislation against racism and racial discrimination so as to ensure that the legislation be applied also to police officers responsible for any such acts. ECRI also encouraged the authorities to "consider ways for monitoring the frequency of police checks on individuals, in order to uncover any possible pattern of disproportionate checks on certain groups of the population of Belgium".

ECRI further expressed concern about a number of issues relating to the reception and status of foreigners in Belgium, in particular "the continuing widespread use of detention of asylum-seekers". It formulated a number of detailed recommendations "aimed at ensuring that the rights of asylum seekers and persons without legal status in Belgium are thoroughly respected".

*Continuing racist and xenophobic attacks
(Update to AI Index: EUR 01/007/2002)*

Despite a number of initiatives taken by federal, regional and community authorities to combat racism and promote inter-cultural dialogue, racist incidents directed against Jewish, Arab and Muslim communities continued to be reported during the period under review.

There were numerous accounts of Jews, including children, suffering verbal insults, harassment and violent attacks. They included the following incidents.

■ In February a member of Antwerp's large Jewish community, described as a teacher of the Jewish religion, lodged a criminal complaint stating that, during his daily train journey between Antwerp and the town of Charleroi, a young man of around 20 approached him while he was in the act of praying. He said the man put a knife to his throat, demanded to know if he was Jewish, called him a "Dirty Jew" and threatened to kill him the next time he saw him on the train.

■ In June four teenage students at a Jewish rabbinical school in Wilrijk (an Antwerp suburb), all minors, said that, while walking home on a Friday evening, they were confronted by a group of youngsters of North African appearance who were armed with knives and blunt instruments. Three of the boys managed to run away but the fourth, a 16-year-old boy, was stabbed in the back and suffered a punctured lung. The authorities said that every step would be taken to safeguard the pupils' school and a criminal investigation was opened to track down their attackers.

The government and relevant authorities condemned, and announced zero-tolerance of anti-Semitic acts. An increase in police presence in and around Jewish communities, in particular Antwerp with its large Jewish population, was announced, along with further initiatives designed to combat attacks and to ensure and monitor official follow-up on complaints of anti-Semitic acts.

There were also racist incidents directed against Arabs and Muslims, including asylum-seekers. In the early hours of 3 July several masked men, armed with batons and a knife, broke into Broechem open centre for asylum-seekers, near Antwerp, and entered the rooms of the residents, terrorizing them and selecting three men for physical attack. According to the Antwerp Public Prosecutor's office, the aggressors spoke in Dutch and asked their victims questions of a racist nature: they wanted to know, in particular, if the three asylum-seekers were Muslims and if they were seeking work in Belgium. A positive response to the questions resulted in physical assault: the victims were told that the work was only intended for Belgians. It later emerged that the victims were of Russian, Israeli and Serbian origin: one of them had to be taken to hospital to receive treatment for the injuries he suffered.

The police and the Federal Agency for the Reception of Asylum-Seekers (Fedasil) announced additional security measures to protect the residents of the Broechem and other similar centres for asylum-seekers. Fedasil also announced that it was lodging a criminal complaint against persons unknown and a criminal investigation was opened. Antwerp Public Prosecutor's office commented that the attack appeared to have been motivated by "hatred of foreigners". The Centre for Equal Opportunities and Opposition to Racism, a national body reporting to the Prime Minister and parliament, stated that there was no doubt whatsoever that racism had motivated the attack. Three minors and an 18-year-old thought responsible for the attack were arrested within days: the minors were sent to a closed institution for young offenders while the 18-year-old,

after several weeks detention, was provisionally released to await trial.

Deportation of foreigners

Confinement to Brussels airport transit zone

Some foreigners, including rejected asylum-seekers, who were denied access to Belgian territory on arrival at the airport and then held in detention centres for aliens by administrative order awaiting deportation, were released on the orders of the court mandated to rule on the legality of their continued detention (*chambre du conseil*). However, there were persistent reports that in some cases, individuals were transferred directly to the transit zone of the national airport under police escort, on the orders of the Aliens Bureau (within the Ministry of Interior). Their documents were often handed to the airport police and they were then left for days or weeks, and occasionally months, effectively confined, without access to legal advice and without some of the basic means of survival, such as beds or fresh air, without proper washing facilities, and frequently forced to rely on the charity of passengers and airport staff.

In May 2003 the UN Committee against Torture had expressed concern about such reports and recommended that the Belgian authorities ensure the follow-up treatment of asylum-seekers when they were released from detention (For further information, see *Belgium before the UN Committee against Torture*, AI Index: EUR/14/001/2003).

The Belgian authorities maintained that, although released by court order, the foreigners in question still had no right of residence in Belgium and were subject to deportation orders issued by the Aliens Bureau. They argued that, by being placed in the transit zone, the foreigners were not being detained, but simply escorted to Belgium's border and were free to leave by catching a flight to their country of origin or a third country, with the costs being borne

by the airline which had carried them to Belgium.

In March, in view of continuing reports of foreigners, including minors, being confined to the airport transit zone for extended periods, in inhumane and degrading conditions, AI joined a number of domestic NGOs in public and direct appeals addressed to the government, calling for an end to the practice. The appeals pointed out, amongst other things, that a European Court of Human Rights ruling of November 2003³ had found that detaining someone in an airport transit zone for an indefinite and unforeseeable period, when it was neither in accordance with a procedure prescribed by law nor lawful, was in violation of Article 5.1 of the European Convention on Human Rights and Fundamental Freedoms, relating to the individual's right to liberty and security.

However, reports of confinement to the transit zone continued. In May three men and one woman returned to the Democratic Republic of the Congo, after spending some four months in the zone.

Independent commission re-evaluating methods used during forcible deportations of foreigners (Update to AI Index: EUR 01/001/2004)

An independent commission, which the Minister of Interior had asked to carry out a re-evaluation of the techniques used in forcible deportation operations, began its work in January. The Minister had approached the Commission, led by Professor Vermeersch, a moral philosopher, following the verdict issued by a Brussels court in December 2003 finding four law enforcement officers guilty of unconsciously causing grievous bodily harm, which had resulted unintentionally in the death of Semira Adamu, a rejected asylum-seeker from Nigeria, in the context of a forcible deportation attempt in 1998. She had died after escorting officers employed the so-called "cushion technique", a restraint

method authorized by the Ministry of the Interior at the time but subsequently banned, which allowed officers, practising caution, to press a cushion against the mouth, but not the nose, of a recalcitrant deportee to prevent biting and shouting. In its judgment the court also severely criticized the guidelines which the Ministry of Interior had issued to officers carrying out repatriations at the time; the superficial work of a Ministry of Interior working group which had endorsed the use of the cushion technique, despite specialist medical literature warning of the associated risks of positional asphyxia, and totally inadequate training of escorting officers. In response, many police officers engaged in deportation operations demanded clarification of admissible deportation methods and of their role.

The Vermeersch commission had first been mandated to evaluate instructions and techniques relating to forcible deportations immediately after Semira Adamu's death. Many of its subsequent recommendations, including a ban on the use of certain dangerous restraint methods during forcible deportations, such as the cushion technique, were largely reflected in new guidelines then issued to escorting offices.

In March AI wrote to the Commission, welcoming the re-evaluation exercise. It set out the organization's continuing concerns about the treatment of people at various stages of the deportation process, as well as relevant recommendations which it had drawn to the attention of the Belgian government in 2003. AI also pointed out the concern which the UN Committee against Torture had expressed in May 2003 about various aspects of the expulsion and deportation process and recalled the Committee's relevant recommendations. AI also drew attention to various relevant international standards, in particular the Recommendation of the Council of Europe Commissioner for Human Rights "concerning the rights of aliens wishing to enter and Council of Europe member states and the enforcement of expulsion orders (Comm DH/Rec(2001)1; Recommendation 1547 on "expulsion procedures in

³ Shamsa v. Poland

conformity with human rights and enforced with respect for safety and dignity, adopted by the Parliamentary Assembly of the Council of Europe in January 2002, together with the reply adopted by the Committee of Ministers in January 2003, and the guidelines on "Deportation of Foreign Nationals by air" set out in the 13th *General Report on the activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, published in September 2003.

In June, following the issuing of an interim report by the Commission, and at the Commission's invitation, AI participated in an open dialogue on relevant issues and concerns, together with a number of prominent domestic non-governmental organizations, the Centre for Equal Opportunities and Opposition to Racism, a national body reporting to the Prime Minister and parliament, and representatives of the police. The Commission's final report and recommendations were not expected until September 2004.

BOSNIA-HERZEGOVINA

General and political developments

Bosnia-Herzegovina (BiH) remained divided in two semi-autonomous entities, the Republika Srpska (RS) and the Federation of Bosnia-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 (PIC) and then endorsed by the UN Security Council. As of June 2004 approximately 7,000 peacekeeping troops of the Stabilisation Force (SFOR) led by the North Atlantic Treaty Organisation (NATO) were stationed in the territory of BiH. At the Istanbul NATO summit in June it was formally decided that SFOR would be replaced by a peacekeeping

force led by the European Union (EU) by the end of the year. NATO would maintain a reduced presence in the country with the principal task of providing advice on defence reform, and also undertake certain operational supporting tasks, such as "counter-terrorism", arrest of persons indicted for war crimes and intelligence sharing with the EU. The European Union Police Mission (EUPM), composed of approximately 500 police officers and a small number of civilian personnel, remained tasked with monitoring and supervising the activities of the local police.

In January the High Representative adopted a decision enacting the Statute of the City of Mostar. The statute transformed Mostar's six separate Bosniak and Bosnian Croat municipalities into a single city administration. The first phase of the implementation of the new statute was completed on 15 March, when the city's six municipalities were officially merged.

In March the first Minister of Defence at the state level was appointed. The defence reform being implemented has resulted in a reduction in armed forces numbers in both the FBiH and the RS. It is foreseen that the two armies will remain ethnically distinct, while having a common general staff and the same uniform and flag.

A special Human Rights Commission within the BiH Constitutional Court was established in January, with the task of dealing with the backlog of cases registered with the Human Rights Chamber before its closure in December 2003. As of May 2004, the Commission had resolved 1,170 cases while 7,875 applications remained pending, making it appear highly unrealistic that the Human Rights Commission would be able to complete its work by the deadline originally set for 31 December 2004.

Despite hopes of being admitted to NATO's Partnership for Peace at its Istanbul summit in June, BiH was not invited to join the organization as a result of the failure of the RS authorities to fully cooperate with the International Criminal Tribunal for the former Yugoslavia (Tribunal) and to arrest

and transfer to the Hague those indicted for war crimes and crimes against humanity. Following NATO's negative decision, the High Representative dismissed 59 RS officials, including the RS Interior Minister, the RS Minister of Economy, Energy and Development and the Chairman of the RS National Assembly.

War-time human rights violations

International prosecutions

The Tribunal continued to try alleged perpetrators of serious violations of international humanitarian law, but faced increasing financial difficulties caused by the failure of several UN member states to pay their assessed contribution to its budget.

In March the Tribunal issued an indictment against Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, who held command positions in the Croatian Defence Council (*Hrvatsko vijeće obrane* - HVO, the Bosnian Croat Armed Forces). The indicted are accused of several counts of crimes against humanity, of grave breaches of the Geneva Conventions of 1949 and of violations of the laws or customs of war committed against the non-Croat population. The indictment alleges that the accused, together with other former Bosnian Croat and Croatian officials including former Croatian President Franjo Tuđman, participated in a joint criminal enterprise to "politically and militarily subjugate, permanently remove and ethnically cleanse Bosnian Muslims and other non-Croats who lived in areas on the territory of the Republic of Bosnia and Herzegovina which were claimed to be part of the Croatian Community (and later Republic) of Herceg-Bosna, and to join these areas as part of a 'Greater Croatia'". Moreover, the indictment mentions in the statement of the case events surrounding the "disappearance" in 1993 of soldiers from the Army of Bosnia-Herzegovina (ABiH) in Mostar, during the conflict between the

ABiH and the HVO. All the accused surrendered voluntarily to the Tribunal.

In March Ranko Češić, a former member of the Bosnian Serb Territorial Defence and of the "Intervention Platoon" of the Bosnian Serb Police Reserve Corps in Brčko, was sentenced to 18 years' imprisonment after having pleaded guilty to 12 counts of crimes against humanity and violations of the laws and customs of war. Miroslav Deronjić, former President of the Bratunac Municipal Board of the Serbian Democratic Party, was sentenced to 10 years' imprisonment for crimes against the non-Serbian population in the village of Glogova, after having pleaded guilty. Darko Mrđa, a former member of the Prijedor Police, was sentenced by the Tribunal to 17 years' imprisonment after having pleaded guilty of murder and inhumane acts for his role in the shooting in 1992 of over 200 non-Serbian civilians.

In April the Tribunal's Appeals Chamber found that genocide was committed in Srebrenica in 1995 and sentenced Radislav Krstić, former general in the Bosnian Serb Army, to 35 years' imprisonment for aiding and abetting genocide.

In June judges presiding over the trial against former president of the Federal Republic of Yugoslavia Slobodan Milošević rejected a motion presented by the defendant's *amici curiae* for genocide and other charges to be dropped. Slobodan Milošević was being tried on over 60 charges of war crimes and crimes against humanity for his alleged involvement in the conflicts in Croatia, Bosnia-Herzegovina and Kosovo.

Cooperation between the RS authorities and the Tribunal remained inadequate with the RS police failing to arrest those indicted by the Tribunal and believed to be within their jurisdiction. A total of 20 publicly indicted suspects remained at large at the end June, the majority of them Bosnian Serbs thought to be residing in the RS or in neighbouring Serbia and Montenegro. In April the RS police raided the family home of Milan Lukić and Sredoje Lukić, indicted by the Tribunal

on charges of crimes against humanity and war crimes committed against the non-Serbian population near the town of Višegrad. While the raid did not result in any arrest, Milan Lukić's brother Novica was killed in the operation.

Domestic prosecutions

The War Crimes Chamber within the BiH State Court was expected to become operational in early 2005, amid continuing concerns over the lack of financial and other resources needed to meet its requirements. In June the Parliamentary Assembly of the Council of Europe issued a recommendation asking its member states to consider assistance by way of human, material and financial resources to support the functioning of the War Crimes Chamber.

The domestic criminal justice system persistently failed to take steps to actively prosecute alleged perpetrators. A major factor in fostering this continuing impunity was the lack of co-operation between FBiH and RS judiciary and police forces, in particular in enforcing arrest warrants. Moreover victims, witnesses, as well as courts, remained without adequate protection from harassment, intimidation and threats in the absence of an effective witness protection program.

However, some trials for war crimes opened or continued before local courts, mainly in the FBiH. In January the Mostar Cantonal Court acquitted Željko Džidić, Mate Aničić, Ivan Škutor and Erhard Poznić of war crimes charges, reportedly on the grounds that the prosecutor had failed to "submit sound and firm evidence" against the accused. The defendants were *inter alia* suspected of being responsible for the detention and subsequent "disappearance" of 13 ABiH soldiers (see above). Reportedly, in June the Mostar Cantonal Court was still conducting an investigation into the 13 "disappearance" cases.

In February Ratko Gašović, a former member of a Serbian paramilitary group, was sentenced to 10 years' imprisonment by the Sarajevo Cantonal Court for war

crimes against the civilian population, including the rape of one non-Serbian woman.

In March the Sarajevo Cantonal Court acquitted Jovo Torbica of charges of war crimes against the non-Serb civilian population in the villages of Ahatovići and Dobroševići near Sarajevo. Duško Tadić was acquitted by the Sarajevo Cantonal court of charges of war crimes against the non-Serb population in the village of Čajniče.

In April the Livno Cantonal Court sentenced former HVO soldier Ivan Baković to 15 years' imprisonment for the murder in 1993 of nine non-Croat civilians in the village of Mokronoge, near Tomislavgrad.

In May the trial against 11 former police officers from Prijedor opened at the Banja Luka District Court. The defendants are accused of the abduction and murder of Father Tomislav Matanović and his parents in 1995.

In June the former head of the Konjić police and six former soldiers of the Konjić Territorial Defense were acquitted of charges of war crimes against the Serbian population by the Mostar Cantonal Court. Reportedly, the cantonal prosecutor planned to appeal the sentence. Proceedings resumed at the Zenica Cantonal Court against Dominik Ilijašević, former Bosnian Croat military commander accused of war crimes committed against Bosniak civilians in Stupni Do in central Bosnia. Reportedly, the trial had to be restarted, after a suspension of the proceeding which exceeded 30 days.

Unresolved "disappearances"

Thousands of "disappearances" remained unresolved amid continuing impunity for the perpetrators.

In January the commission established by the RS authorities to investigate the events which took place in and around Srebrenica between 10 and 19 July 1995 began its work. The commission was established after

the Human Rights Chamber in 2003 had ordered the RS authorities to conduct a full, meaningful, thorough and detailed investigation into the human rights violations which took place after the fall of Srebrenica. The commission's preliminary report in April highlighted systematic obstruction of the commission's activities in particular on the part of the RS military, police and intelligence authorities. After having received the preliminary report, the High Representative ordered a number of measures to support the work of the commission, including the dismissal of the RS liaison officer with the Tribunal and the Chief of General Staff of the RS Army, and the replacement of the commission's chairman Marko Arsović.

In June the commission issued a report which presented information about the participation of the RS police and armed forces in the massive human rights violations which took place in Srebrenica, acknowledging that thousands of non-Serbs were executed after the fall of Srebrenica. Moreover, the report identified the location of 32 mass grave sites, 11 of which were previously unknown. The exhumation of these graves began at the end of June. The commission is continuing its work, following the discovery in June of new documents at the RS Ministry of the Interior, which reportedly contain new information on the events in Srebrenica between 10 and 19 July 1995.

Right to return in safety and with dignity

According to the UN High Commissioner for Refugees field mission in Bosnia-Herzegovina, some 7,400 people returned to their pre-war homes between January and April. In total, nearly a million people have returned to their homes since the end of the conflict.

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.

Accountability of peacekeeping forces

SFOR continued to arbitrarily detain members of "support networks of persons indicted for war crimes", in some cases for several weeks. To AI's knowledge, in no case was an arrest warrant issued against those detained by SFOR, who were not charged with any recognizable criminal offence.

In April 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, indicted by the Tribunal for genocide, crimes against humanity, violations of the laws and customs of war and grave breaches of the Geneva Conventions of 1949. In the operation, which did not result in an arrest, the priest and his son were seriously wounded, reportedly as a result of an explosive charge used in the forced entry into the priest's residence.

Post 11 September human rights incidents

In February 2004 Amgad Fath Allah Yusuf 'Amir was released from extradition detention. In July 2003 he had been taken into custody in the FBiH on the grounds that he was carrying forged documents. Following his arrest, the Egyptian authorities requested his extradition claiming that he was a member of an armed Islamist group. AI was concerned that he faced the death penalty if extradited.

In April the BiH Parliamentary Commission for Human Rights, Immigration, Refugees and Asylum requested all relevant BiH and FBiH authorities to urgently submit an appeal to the US authorities asking to release from detention six Algerian

nationals illegally transferred from BiH to US custody and detained at that point in Guantánamo Bay, Cuba. In May the wife of one of the six detainees was beaten by unknown assailants in her flat. Reportedly, she was verbally abused and physically attacked by three men, one of whom spoke English. A criminal investigation has been opened.

Human trafficking

In March the BiH State Court imposed sentences of up to nine years' imprisonment for convictions including organized crime and human trafficking against members of an organized criminal network involved in trafficking women and girls who had been forced to engage in prostitution in a chain of nightclubs in Prijedor.

BULGARIA

Social care homes for people with mental disabilities

Some progress was reported in the period under review in several institutions for children and adults with mental disabilities but most of AI's concerns regarding their placement and care in social care homes were outstanding. The home for children in Fakia was closed down in December 2003. Thirty-one children were transferred to an institution in Mezdra, where they were provided with considerably improved living conditions and care, particularly medical care. However, the staffing level in this institution, as in the rest of the system of social care homes, remained inadequate in number and in training. This particularly affected children with more complex needs considered by the staff as unsuitable for any educational programme. Another matter of concern to AI's delegate who visited Mezdra in June was the nutrition of children. He observed that all children, regardless of age and/or appetite, received the same portions with no possibilities for any additional food, other than what may be left behind by other children. The home

director explained that all meals, in terms of nutritional value and quantity, were prepared according to regulations issued by the Ministry of Labour and Social Policy. Food may be donated, but such donations must be prepared and distributed in the same manner, and the allocated state budget for food is accordingly reduced by the value of the donation.

In October 2003 an institution in Dragash Voyvoda was closed down and 64 men were transferred to a refurbished facility in Govezhda, a mountain village 25 kilometres west of Montana. The situation in the old institution and the fate of men who had been transferred to other homes earlier has been described in several AI reports (see *Bulgaria: Where are the men of Dragash Voyvoda?* AI Index: EUR 15/005/2003). The new facility provided improved living quarters in small bungalows each accommodating six men in two rooms, sharing a bathroom. However, there was no space for any social activities except in the dining room. Lack of activities is not as acute in warmer months when many residents are engaged in gardening and farming. Although improved, medical care still appeared to be elemental. The problem of staffing, particularly on night shifts in institutions for adults, remained acute and posed great risk to residents. For example on 24 February, in the early morning, Yoncho Filipov Lazarov, a resident, died after he was reportedly pushed by an agitated resident who had previously spent two hours in the medical ward and was then returned to his dormitory. Apparently there was no internal inquiry to establish what factors in the provision of the services may have influenced this incident.

Before the residents of Dragash Voyvoda were moved to Govezhda AI had expressed its concern to the Bulgarian authorities about the location of the refurbished institution. As with most other social care homes, Govezhda is very remote and provides few opportunities for reintegration. The residents are only allowed to leave the institution and visit the village if accompanied by a staff member.

In May the UN Committee Against Torture expressed concern about poor conditions in homes for persons with mental disabilities and the insufficient measures taken by the authorities to address the situation, "including the failure to amend the legislation relating to involuntary placement in such institutions... and the lack of judicial appeal and review procedures". Similar concerns were expressed by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in a report published in June. The provisions concerning placement procedure were inadequately revised in 2003 when Regulations for the implementation of the Social Support Act came into force. AI continues to appeal to the Bulgarian authorities for a thorough revision of these regulations.



Day room in Tvarditsa social care home, June 2004

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The UN Committee also recommended that the authorities take all necessary measures to ensure "that living conditions, therapy and rehabilitation provided are not in violation of the requirements of the Convention", as well as to ensure that the placement of children in institutions is regularly reviewed.

In June the CPT published two reports on their visits to Bulgaria in April 2002 and December 2003. Both reports contained extensive observations and recommendations with regard to the

psychiatric hospital in Karlukovo, and the social care homes in Razdol and Pastra.

Reports of torture and ill-treatment

New reports of torture and ill-treatment were received in the period under review. On 22 March, Boris Daskalov, aged 22, was summoned for questioning to the Second Police Station in Plovdiv. He arrived together with his lawyer but was told by an officer that the questioning would take only a couple of minutes and he should come into the office alone. After the lawyer left the building, Boris Daskalov was reportedly questioned about a theft of a cassette-player from a car belonging to an officer, but refused to make any statements without his lawyer being present. Boris Daskalov was then reportedly handcuffed with his arms around his legs, a wooden stick was inserted between his arms and knees and he was suspended between two chairs. Boris Daskalov was then reportedly beaten on the soles of his feet with rubber truncheons and a piece of cloth placed in his mouth to silence him. Later he was beaten on the back and he signed a statement that had been written by the police. He was released the following day and threatened with re-arrest and beatings if he should complain about the treatment he had been subjected to. Boris Daskalov obtained a forensic medical certificate for the injuries he had suffered and filed a complaint with the military prosecutor. In April it was reported that the Ministry of Interior Inspectorate had initiated disciplinary proceedings against four police officers involved in the reported torture of Boris Daskalov.

The case of Girgina Toteva (update to AI Index: EUR 15/18/96)

Investigations into most complaints did not appear to be thorough and impartial. For some of the victims redress from the European Court of Human Rights came too late. In May the Court adopted a ruling in the case of Girgina Toteva, who had complained that in 1995 she had been beaten in a police station in Sevlievo, where

she had been called after a dispute with a neighbour. She was 67 at the time. Following her complaint about the ill-treatment she was charged with causing a police officer a moderate bodily injury and sentenced her to six months' suspended imprisonment. Over the years, AI had repeatedly called on the Bulgarian authorities to thoroughly and impartially investigate the reported beating of Girgina Toteva, who died in August 2003 of an illness unrelated to the alleged ill-treatment. The Court found that there had been a violation of Article 3 (prohibition of torture) of the European Convention on Human Rights in that Girgina Toteva had been subjected to inhuman and degrading treatment by police officers and that the investigation into her allegations of ill-treatment had been ineffective. The Court noted that the same prosecutor who dealt with the criminal case against Girgina Toteva failed to undertake an independent verification of her allegations of ill-treatment, stating: "He entrusted the verification to the same police officer who had dealt with the inquiry against the applicant, had testified in the criminal case against her, and was the hierarchical superior of the officers who had allegedly beaten [Girgina Toteva]".

Police ill-treatment of Roma

According to reports received from the Romani Baht Foundation and the European Roma Rights Center, both non-governmental organizations, on 16 January at about 4.30pm two police officers approached Assen Zarev, a Romani man who was playing with his five children, in front of his house in the *Fakulteta* neighbourhood in the capital, Sofia. The officers, who had a dog, asked Assen Zarev about the whereabouts of some men suspected of cutting down a tree in the near-by woods. When Assen Zarev told the officers that he did not know anything about such men the officers reportedly unleashed their dog and set him to attack Assen Zarev, who as a result was bitten twice in the right buttock and left thigh. The officers then reportedly hit Assen Zarev all over the body, threatened to shoot him,

and took him to the woods where the ill-treatment continued. A group of people from the neighbourhood, mostly women, followed the police to protest about Assen Zarev's treatment. The officers reported fired warning shots from their guns in order to disperse the crowd and subsequently released Assen Zarev. Subsequently the police officers stated that some of the Roma had assaulted them. Assen Zarev later obtained a forensic medical certificate, describing injuries consistent with the allegations of ill-treatment.

A second incident in this neighbourhood of Sofia took place on 20 January, at around 6am, when 16 officers carried out a search of some houses and reportedly indiscriminately arrested 17 men who were taken to the Third Police Station for questioning, whilst being subjected to verbal abuse. They were released later that day. In the course of their action the police reportedly forced their way into three houses which were unoccupied at the time and broke windows and damaged the furniture and household appliances. The operation was reportedly carried out to detain men who had allegedly assaulted the officers who arrested Assen Zarev on 16 January. The Sofia Regional Prosecutor has reportedly initiated an investigation into the ill-treatment complaint of Assen Zarev and the police action of 20 January.

Other assaults on, and discrimination against, Roma

The Romani Baht Foundation also reported an increased number of racist assaults on Roma in Sofia in the period under review. The assaults were usually perpetrated by youths belonging to skinhead groups, aged between 16 and 23. In one such incident which took place on 30 April, Georgi Angelov, a Romani man, was reportedly brutally beaten by two men who cut off his ear with a razor blade. This and similar incidents were reportedly not effectively investigated. Local human rights organizations have called for better policing in Romani neighbourhoods and known meeting-places of skinheads.

In January the European Commission against Racism and Intolerance (ECRI) published its third report examining racism, xenophobia, anti-Semitism and intolerance in Bulgaria. The Commission concluded that there were still stereotypes, prejudices and discrimination against minority groups, particularly Roma, as well as against immigrants, refugees and asylum-seekers. ECRI was also concerned about the excessive use of firearms and force by the police against Roma (see below). In the report ECRI also highlighted the problem of segregation of Roma children in schools. During the period under review other international bodies also expressed concern about discrimination against Roma, including the European Court of Human Rights and the UN Committee against Torture (see below).

Excessive use of firearms

According to information received from the Human Rights Project (HRP), a local non-governmental organization, on 27 March in Plovdiv at around 3am K.S.,⁴ a 25-year-old Romani man, was shot in the head by a police officer from the Sixth District Police Station. Earlier the police had reportedly begun an operation to apprehend drug traffickers. After a police patrol observed K.S., who reportedly refused to stop for an identity check, an officer pursued him. According to a police statement the officer fired a warning shot but K.S. refused to stop running. When the officer caught up with K.S., the latter reportedly threatened him with a kitchen knife and so the officer shot K.S. in the head, killing him. A newspaper account alleged that two police officers were involved in the incident.

The Ministry of the Interior initiated an investigation into the incident and temporarily suspended two officers from duty reportedly "because of the stress that they had suffered." A police statement referred to K.S. as a known drugs dealer with a criminal record. However, K.S.'s family told HRP activists that the young

Romani man had been arrested only once four years earlier for possession of 11 marijuana cigarettes. His dependency on drugs was known to the family and on the night of the incident he had been given some money to purchase a small quantity for his own consumption. K.S. had never been involved in any violence and was not known to carry a knife or any other arms.

On 26 February the European Court of Human Rights (Court) published its ruling in the case of *Nachova vs. Bulgaria*. It concerns an incident which occurred in July 1996 in the village of Lesura, when a major of the military police shot and killed Kancho Angelov and Kiril Petkov, two unarmed Romani men who had left their army unit without permission (see *Bulgaria: Growing incidence of unlawful use of firearms by law enforcement officials*, AI Index: EUR 15/12/97). The official investigation by the Bulgarian authorities found that the use of firearms had been lawful. The Court unanimously found the Bulgarian state responsible for the deaths of the two men as well as the failure to conduct an effective official investigation, in violation of Article 2 (the right to life) of the European Convention on Human Rights. For the first time in its history, the Court found a violation of the provision of Article 14 (prohibition of racial discrimination) in conjunction with Article 2, stating that the Bulgarian authorities "failed in their duty ... to take all possible steps to establish whether or not discriminatory attitudes may have played a role" in shooting of the two Romani men.

Concluding observations of the UN Committee Against Torture

In May the UN Committee Against Torture considered Bulgaria's third periodic report under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee, among others things, expressed concern about "numerous allegations of ill-treatment of persons in custody that may amount to torture, in particular during police interviews, which disproportionately

⁴ His full name is known to AI but withheld to protect his identity

affect the Roma and the lack of an independent system to investigate complaints, and that allegations of ill-treatment are not always investigated promptly and impartially..." The Committee was also concerned about the poor conditions in detention facilities "in particular in investigative detention facilities, some of which are still underground or lack basic facilities for outdoor activities, where persons can be held up to two years, and the lack of independent inspections of such places". In extensive recommendations addressed to the government the committee advised that legal safeguard against ill-treatment should be strengthened and greater efforts directed to reducing incidents of ill-treatment by law enforcement officials. The authorities should also establish "an effective, reliable and independent complaint system to initiate and undertake prompt and impartial investigations into all allegations of ill-treatment or torture and to punish those found responsible". The Committee requested to be provided within a year detailed information on a number of issues, including statistical data regarding reported cases of ill-treatment, and the results of the investigations.

CPT publishes two reports

As noted above, in June the CPT published two reports on their visits to Bulgaria in April 2002 and December 2003. In the course of the first visit the CPT received a considerable number of allegations that detainees had been ill-treated by the police. "Most of the alleged ill-treatment related to the time of initial questioning by operational police officers and inquiry officers, and was reportedly aimed at the obtaining of confessions and/or information. Some allegations were also heard of the disproportionate use of force at the time of apprehension." A striking number of allegations of severe ill-treatment concerned the Third District Police Directorate in Sofia. A subsequent inquiry by the Bulgarian authorities into the interrogation methods used in this establishment brought to light a number of

violations, which led to some disciplinary sanctions and recommendations.

The CPT found that conditions of detention in the police stations visited remained inadequate. Although some improvements were observed in the investigation detention facilities, under the authority of the Ministry of Justice, the CPT was concerned that most detainees continued to spend months on end locked up in overcrowded cells 24 hours a day.

With regard to prisons, the CPT remained concerned about overcrowding and the shortage of work and other activities for the prisoners. The CPT called for immediate steps to improve conditions of detention of prisoners with life sentences at Pleven Prison.

CROATIA

General and political developments

In April the European Commission issued a positive opinion (*avis*) on Croatia's candidacy to join the European Union (EU), noting however that further progress was needed in the areas of minority rights, refugee returns, judiciary reform, regional cooperation and the fight against corruption. In June Croatia was officially granted EU candidate status at the European Council summit in Brussels. While no target date for accession was set, negotiations are expected to begin in early 2005.

A new Foreigners Act entered into force in January, regulating the position of foreign citizens in Croatia, and a new law defining the procedures to apply for asylum in Croatia, already adopted by the Croatian Parliament, was expected to enter into force in July 2004.

UN Committee against Torture

In May the UN Committee against Torture (Committee) considered Croatia's third periodic report on measures to give effect to the rights enshrined in the Convention

against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Prior to this examination AI had submitted a written briefing to the Committee, detailing its concerns about issues related to torture and other forms of cruel, inhuman or degrading treatment or punishment (see AI Index: EUR 64/001/2004).

In its conclusions and recommendations, the Committee called on the Croatian authorities to take effective measures to ensure impartial, full and prompt investigations into all allegations of torture and other cruel, inhuman or degrading treatment; the prosecution and punishment of the perpetrators as appropriate and irrespective of their ethnic origin; the provision of fair and adequate compensation for the victims. It also called on the authorities to fully cooperate with the International Criminal Tribunal for the former Yugoslavia (Tribunal), ensuring that all indicted persons present on Croatian territory were arrested and transferred to the Tribunal's custody.

The authorities were also requested to ensure the protection of ethnic and other minorities, *inter alia*, by undertaking all effective measures to prosecute and punish all violent acts against these individuals, establishing programmes to increase awareness raising, preventing and combating this form of violence, including in the training of law-enforcement officials and other relevant professional groups.

The Committee called on the authorities to refrain from detaining asylum-seekers and undocumented migrants for prolonged periods; to adopt all necessary measures to improve the material conditions of reception centres for asylum-seekers and immigrants; and to ensure the physical and psychological integrity of all individuals accommodated in these centres.

Moreover, the Committee recommended that the authorities increase the protection of children and young adults placed in social care institutions, *inter alia*, by ensuring that violent acts are reported and investigated;

providing support and treatment for children and young adults with psychological problems; and ensuring that these institutions employ trained personnel, such as social workers, psychologists and teachers.

War-time human rights violations

International prosecutions

In February Ivan Čermak, former Commander of the Knin Garrison of the Croatian Army and Mladen Markač, former Commander of the Special Police of the Ministry of the Interior of the Republic of Croatia, were indicted by the Tribunal for crimes against humanity and violations of the laws or customs of war committed in 1995 against the non-Croat population during Operation "Storm". The suspects voluntarily surrendered to the Tribunal in March.

In May the Tribunal indicted former Croatian Army General Mirko Norac for his alleged individual and superior criminal responsibility for crimes against humanity and violations of the laws or customs of war committed in 1993 against the non-Croat population in the Medak Pocket. Mirko Norac is currently in detention in Croatia after having being convicted in 2003 by the Rijeka County Court for war crimes against non-Croat civilians committed in 1991 in the Gospić area.

In March the Tribunal sentenced former Yugoslav Navy Admiral Miodrag Jokić to seven years' imprisonment for his role in the shelling of Dubrovnik's old town. In 2003 Miodrag Jokić had pleaded guilty to all counts of war crimes he was charged with.

In June Milan Babić, former President of the self-proclaimed autonomous Republic of the Serbian Krajina (*Republika Srpska Krajina*), was sentenced by the Tribunal to 13 years' imprisonment for crimes against humanity committed against the non-Serbian population in 1991-1992, after having entered a guilty plea to the charge of persecutions.

Former Croatian General Ante Gotovina, charged with crimes against humanity and war crimes committed against the Krajina Croatian Serb population in 1995, continued to remain at large.

A trial started in March at the Special War Crimes Court in the Serbian capital of Belgrade against six defendants charged for war crimes against the Croat population committed in 1991 in Vukovar, Croatia. In May the Special Court indicted 12 new suspects in connection with war crimes committed at the Ovčara farm after the fall of Vukovar.

Domestic prosecutions and compensation to victims of war-related human rights violations

Several trials for war crimes continued or started before local courts, mostly against Croatian Serbs. Between January and June, according to data provided by the Organization for Security and Co-operation in Europe's Mission to Croatia, 19 of 20 people arrested, 137 of 148 under investigation, three of three indicted, 83 of 102 on trial, and 10 of 12 people convicted were Serbs. Some proceedings, particularly those against Croatian Serb suspects, which in some cases were conducted *in absentia*, did not meet internationally recognized standards of fairness.

In January an investigation begun in 2003 of three suspects arrested on suspicion of involvement, as former members of the Croatian Army, in human rights violations against the non-Croat population in Sisak was terminated for lack of evidence at the request of the County Prosecutor's Office in Sisak.

In April the Osijek County Court sentenced former member of the Croatian Army Nikola Ivanković to 12 years' imprisonment for war crimes against Croatian Serb civilians in Paulin Dvor near Osijek in December 1991. A second defendant was acquitted.

In May the Croatian Supreme Court quashed a ruling by the Bjelovar County

Court which had acquitted three former Croatian police officers and one police officer still in service of charges of killing six captured Yugoslav Army reservists in 1991. Reportedly the Supreme Court requested that the suspects should be retried and additional witnesses heard during the proceedings.

Also in May the Croatian police arrested a Bosnian Croat on suspicion that in 1993 he committed war crimes against the Bosniak (Bosnian Muslim) population in the village of Ahmići, in central Bosnia-Herzegovina.

In April the Croatian authorities agreed to pay approximately 73,000 Euros in compensation to the family of former Croatian policeman Milan Levar for failing to provide adequate police protection. Milan Levar was killed in 2000 as a result of a bomb explosion in the garden of his house in Gospić. The bomb was apparently planted in retaliation for his widely publicized statements implicating local Croatian military and police officers in the killings of Croatian Serbs in Gospić in 1991, and his open cooperation with Tribunal investigators. To date, the perpetrators of his murder have not been identified.

In April the Croatian government stated that it would pay compensation amounting to approximately 198,000 Euros to the two surviving members of the Zec family. Croatian Serbs Mihajlo Zec, his wife Marija and his daughter Aleksandra were killed in Zagreb allegedly by members of the Croatian police in 1991, at the beginning of the conflict. In 1992 the suspected perpetrators of the murder were acquitted by the Zagreb County Court reportedly because their confession was not considered to be admissible in court since it was given to the investigative judge in the absence of their legal representatives.

Unresolved "disappearances"

The Croatian Government Office for Missing and Detained Persons was still searching for over 1,200 people who "disappeared" during the first phase of the 1991-95 conflict. This figure does not include people,

mostly Croatian Serbs, who "disappeared" during operations "Storm" and "Flash" in 1995. The perpetrators of such "disappearances" largely continued to enjoy impunity.

Right to return

Approximately 320,000 Croatian Serbs left Croatia during the 1991-95 conflict. According to data provided by the United Nations High Commissioner for Refugees (UNHCR), at the end of April 2004, a total of approximately 125,000 refugees had returned to Croatia (this figure includes also ethnic Croats who had fled to third countries). UNHCR figures put the number of refugees and internally displaced persons who returned to their homes in the first four months of the year at approximately 3,200. However, tens of thousands of Croatian Serbs could not return and many returns were not sustainable.

While the Croatian authorities had pledged to return illegally occupied property by the end of June 2004 and other occupied property by the end of 2004, the repossession rate continued to remain slow. 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, continued to remain a major problem for returnees pursuing their rights in court. Moreover, Croatian Serbs continued to face discrimination in employment and access to other economic and social rights.

CYPRUS

EU accession

AI wrote to the president of the Republic of Cyprus on the occasion of the country's entry into the European Union (EU) in May. It was noted that EU membership would entail challenges for the government in the areas of human rights protection, in

particular in the area of immigration and refugees. In this respect, AI also noted the concerns expressed by the Council of Europe's Commissioner for Human Rights in the report published on 12 February following his visit to Cyprus, especially as regards penal institutions, migration and anti-discrimination policies.

Pre-trial detention

AI wrote to the authorities seeking further information on the death in custody, which was subsequently clarified as suicide, of Ionis Ambrosiades, aged 29, on 12 May, while he was in custody at the Limassol police offices. The organization urged the authorities to conduct a thorough, prompt and impartial investigation to determine the full circumstances surrounding his death in custody, and to prevent future similar incidents.

During the period under review legislation was before parliament on safeguarding the rights of people under arrest, including their right to contact immediately -- by phone, in person and in private -- a lawyer of their own choice and any other person they may wish, to be medically examined in private by a doctor of their choice, and to be informed of their rights in a language they understand. AI welcomed the legislation as an improvement in terms of securing rights that previously had been lacking and asked the government to keep it informed regarding the progress of approval and implementation of this legislation.

Racism, discrimination and xenophobia

AI remained concerned about the treatment of migrants and asylum-seekers. The organization has in the past received reports of ill-treatment of migrants by police and urged the authorities to take all measures to ensure that migrants are protected from ill-treatment and discrimination and from any other form of xenophobic or racist attack.

AI noted the passing of new legislation on combating xenophobia and intolerance, and asked the government for information about its provisions. In a letter dated 14 July, the Deputy Minister to the President replied that that "The Combating of Racism and Other Discrimination (Commissioner) Law" (Law No 42(I) of 19 March 2004) entered into force on 1 May and that this law vests the Ombudsman with special competencies, duties and powers for combating discrimination. In addition, the deputy minister noted the entry into force of "The Commissioner of Administration (Amendment) Law" (Law No 36(I)/04) on 19 March which adjusts the Ombudsman's mandate to widen their ability to deal with issues of discrimination. No statistical or other information about complaints of discrimination received have been forwarded to the Ombudswoman as yet, but the government ensured AI that monitoring and reporting mechanisms to deal with discrimination complaints have been set up through these laws.

AI also enquired into the structure of the recently established refugee authority, which since January 2002 has taken over responsibility from the United Nations High Commissioner for Refugees for processing asylum applications. AI raised concerns regarding the criminalization of foreigners' entry into and residence in the territory of the Republic, and the lack of a clear plan of action against trafficking in human beings.

AI received reports that on 20, 22 and 24 April and on 18 May Greek-Cypriot policemen stripped and searched Turkish-Cypriots trying to cross the Ledra Palace checkpoint on the Green Line in Nicosia and that on two of these occasions, Turkish-Cypriots were beaten and in one case the belongings of the individual in question were confiscated, even though on none of those occasions were charges pressed. The organization has also learnt that when questioned about these practices, the policemen at the checkpoint said that the stop and search procedures were carried out on the basis of instructions received by officials higher up in the hierarchy. The organization expressed its concern that

these incidents may have constituted a policy to intimidate and discriminate against Turkish-Cypriots. Should the allegations that a policy of harassing Turkish-Cypriots at the checkpoints with a view to deliberately humiliating them prove correct, such a policy would constitute cruel and degrading behaviour and would be in violation of Article 16(1) of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, under which states are required to such acts when committed "by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity".

Due diligence

AI expressed concern that during April, following the president of the Republic's endorsement of a 'no' vote in the referendum to support the plan proposed on 31 March by the UN Secretary General for a comprehensive settlement to the Cyprus problem, the government and state authorities had failed to act in a way that showed due diligence in carrying out its duty to respect, protect, and defend the right to freedom of expression. For example, the organization received a series of allegations that during the week prior to the Greek-Cypriot referendum there was an escalation in attempts to intimidate individuals into voting 'no': civil servants and policemen were said to have been given memoranda falsely claiming that the salaries and pensions of those working in federal state institutions could not be guaranteed and that some civil servants received phone calls threatening them that they would lose their jobs if they supported a 'yes' position. AI was concerned that the government's failure to address perpetrators of such activities with sufficient vigour and due diligence resulted in human rights abuses outlined below.

AI was informed that while several acts of violence took place against supporters of the 'yes' campaign (including the smashing of car windows, vandalization of property, and physical attacks) the police departments responsible made no arrests

during this period, except in the case of a 'yes' supporter reportedly arrested for placing 'yes' stickers in public places. In particular, the organization has received reports that children of individuals prominent in the 'yes' campaign have been targeted for abuse. Symeon Matsis, a Cypriot national resident in Nicosia, reported that his son, Stefanos, aged 18, received threats against his life after it was made known that Symeon Matsis was an active campaigner in south Cyprus for the acceptance of the plan. Symeon Matsis reported that on 21 April Stefanos Matsis arrived at school to find the message "Matsi The Seventh [of the seventh form], NO will be written in your blood" (Μάτση 'Εβδοµε το ΟΧΙ θα γραφτεί µε το αίµα σου) scrawled on the wall of the school. On the following day a journalist who publicized the incident in the Greek Cypriot daily *Politis* (Citizen) received a threatening phone call by a group referring to themselves as 24 April: English School Section (24^η Απριλίου: Οµάδα του English School, who claimed that Stefanos Matsis would be "the first victim after the referendum". Following these complaints an investigation has been initiated.

Given that the threatening graffiti also appeared alongside the phrase "A good Turk is a dead Turk", AI considered these activities to be examples of advocacy of national hatred and to be inciting violence. AI received additional reports of physical abuse of individuals, related to prominent 'yes' supporters, by both state agents and non-state actors. In this respect, the organization drew the authorities' attention to Article 20(2) of the International Covenant on Civil and Political Rights, which states: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." The organization asked the government to detail how the Republic of Cyprus has implemented the provisions of this article, given that it has signed and ratified the Covenant.

The organization called on the police authorities of the Republic of Cyprus to carry out thorough, prompt and impartial

investigations into all the cases mentioned above, and to ensure that perpetrators of human rights violations and abuses are brought to justice and that police authorities receive proper training in order to eradicate discriminatory and cruel or degrading behaviour, including towards Turkish-Cypriots.

CZECH REPUBLIC

Racist violence

A number of incidents of racist assaults on members of the Romani minority have been reported in the period under review. Some had reportedly been perpetrated by extremist youth who had previously been convicted for similar offences and sentenced to apparently inappropriately light punishment.

In January, Petr Blajze, Martin Jaš and Martin Stiskala were convicted by the court in Jeseník to a suspended sentence of three years' imprisonment for assaulting a Romani couple in their home on 28 June 2003. The three youths came to the home of the Ziga family and ordered them to open the door, saying that they were police officers. When Lýdie Zigová, who was 21 and pregnant, opened the door she was hit in the face with a cobblestone, and, as a result, permanently lost sight in the injured eye. Jan Ziga was assaulted with a broken bottle and suffered cuts to his face and chest.

According to information received from the European Roma Rights Centre, a regional non-governmental organization, two weeks after this conviction, Martin Stiskala and a several other extremist youths, shouting racist insults, reportedly pursued Jan and Lýdie Ziga, whom they met on the street. The Romani couple managed to escape the gang by taking refuge in a shop.

In yet another incident involving the convicted youths, on 3 March Petr Blajze and Martin Jaš assaulted Lukas Tokar, a young Romani man with a mental disability,

at a bus station. Blajze and Jaš called Tokar "a black monkey". Jaš then reportedly punched Tokar in the face causing him to fall to the ground, and proceeded to kick him in the chest and threatened to kill him if he should report the incident to the police. Tokar was later taken to a hospital where he received treatment for broken nose. Police subsequently detained Blajze and Jaš, who were reportedly charged in connection with the assault.

On 14 April Martin Stiskala assaulted a 19-year-old Romani man in front of a restaurant in Jeseník. Stiskala began by shouting racist insults and spitting on the ground. He then reportedly pushed to the ground and kicked the Romani youth who managed to hold Stiskala until the police arrived and detained him. The Jeseník district court reportedly sentenced Stiskala on 8 June to a two-year suspended sentence for a racially motivated assault.

ECRI report

In June the European Commission against Racism and Intolerance (ECRI) published its third report on the Czech Republic and welcomed the government efforts to fight against racial discrimination, specifically noting the national plan for the integration of Roma into society. However, ECRI was concerned that a number of recommendations made in its second report had not been implemented, particularly in combating discrimination and inequality at the local level. ECRI stated: "There have been few detectable improvements in the situation of Roma whose marginalisation from mainstream society continues to take physical form through their ghettoisation into substandard housing complexes on the outskirts of cities. Many Roma children also continue to be sent to special schools for the mentally disabled and a disproportionately high number are removed from their families and placed in state institutions or foster care. Racially motivated violence and ill-treatment of Roma by police, including of children, continue to be problems of concern. Furthermore, ECRI raises a number of issues as regards asylum seekers and

migrants, such as the concerning issue of the detention of children."

ECRI recommended, among other things, "urgent measures to prevent further evictions in the sphere of housing and to re-integrate Roma communities into mainstream society, including measures aimed at placing Roma children into regular schools". ECRI also appealed on the authorities to more effectively combat racially motivated violence, including measures to more effectively implement criminal law provisions. ECRI furthermore urged the authorities to take firm action to counter the problem of police ill-treatment of members of minority groups and issued recommendations aimed at ensuring the rights of asylum seekers and migrants.

UN CAT concluding recommendations

In May, the United Nations Committee against Torture, after considering the Czech Republic's third report, expressed concern about "the persistent occurrence of acts of violence against Roma and the alleged reluctance on the part of the Police to provide adequate protection and to investigate such crimes, despite efforts made by the State party to counter such acts".

The Committee also expressed concern about "the findings of the investigations into the excessive use of force by the police following the demonstrations in Prague during the September 2000 International Monetary Fund (IMF)/World Bank (WB) Meeting, according to which only one case qualified as a criminal offence" (see *Concerns in Europe: July to December 2000*, AI Index EUR 01/001/2001, and *Concerns in Europe: January to June 2001*, AI Index: EUR 01/003/2001).

The Committee recommended that the Czech authorities make greater efforts to combat racial intolerance and xenophobia, as well as to reduce occurrences of ill-treatment by police and other law enforcement officials. The Committee also reiterated recommendations made in May

2001 urging the authorities to do the following:

"strengthen safeguards provided in the Code of Criminal Procedure against ill-treatment and torture, and ensure that, in law as well as in practice, all persons deprived of their liberty be guaranteed and systematically informed of the right to a lawyer and to notify next of kin;"

"review the independence and effectiveness of the investigations into complaints of excessive use of force related to the International Monetary Fund/World Bank Meeting demonstrations of September 2000, with a view to bringing those responsible to justice and providing compensation to the victims".

FINLAND

Prisoners of conscience: imprisonment of conscientious objector to military service

In the period under review, AI called for the immediate and unconditional release of conscientious objector Eero Herman Salomo Laitinen. In February 2003, 20-year-old Eero Herman Salomo Laitinen had been charged with a civilian service offence as a result of his refusal to undertake the mandatory 395 days' alternative civilian service, citing the length of service as a reason for his objection. He entered prison in January after having been sentenced to 197 days' imprisonment.

New legislation, in force since 1998, considerably reduced the length of military service. The length of alternative civilian service, however, remained more than double the length of military service performed by over 50 per cent of army conscripts. AI considered such a length as punitive and discriminatory, and continued to urge a review of existing legislation, aimed at reducing the length of alternative civilian service, thereby bringing it into line with internationally-recognized standards and recommendations.

Report of the Council of Europe's Committee for the Prevention of Torture

In June the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published a report⁵ on its September 2003 visit to Finland. The government had previously authorized publication, in October 2003, of the CPT's preliminary observations of its third periodic visit (see AI Index: EUR 01/001/2004).

Deportation of foreign nationals

The CPT report provided more detailed information about a case involving a Ukrainian family, a married couple and their two children aged 11 and 12, who in 2002 were the subjects of a deportation operation which lasted three days and involved three attempts to send the family back to Ukraine. Prior to deportation, family members were taken to a custody unit for aliens in Helsinki where they were administered sedating and neuroleptic medication without proper examination by a doctor. The CPT further established that no information about the deportation operation was available from the unit's register. Describing the approach taken in this case as unacceptable, the CPT requested that it be informed about the results of the inquiries conducted by the Finnish authorities. It also emphasized that the administration of medication to persons subject to a deportation order must always be carried out on the basis of a medical decision taken in respect of each particular case; this implies that the persons concerned must be physically seen and examined by a medical doctor.

On a more general note, the CPT found that there was no coherent set of regulations or instructions relating to the manner in which deportation orders concerning foreign nationals are enforced, and heard claims from various sources of "highly

⁵ CPT/Inf (2004) 20

questionable" practices. The CPT recommended that detailed instructions on the procedure to be followed and, more particularly, on the use of force and/or means of restraint authorised in the context of deportation operations, be issued without delay, drawing upon the principles set out in the CPT's 13th General Report ⁶ concerning the deportation of foreign nationals by air.

FRANCE

Proposed new measures banning religious symbols in schools

In March the French parliament adopted a civil law banning "conspicuous" religious symbols in state schools.⁷ The law bans "the wearing of signs or uniforms by means of which students conspicuously display their religious affiliation". Under the law, those who persisted in displaying such signs or "uniforms" could be banned from state schools in the event of a preceding process of dialogue breaking down.

Directed against conspicuous religious display of any kind, the new law is a reinforcement of already existing constitutional law, as well as a series of preceding laws and measures which, from the nineteenth century, have established and protected the secularity of primary state education. For many years there has been a ban on "conspicuous religious signs" in state schools, including the wearing of large crucifixes, or display of crucifixes.

However, discussion about the new law has created much controversy. While the large majority in favour of the ban include teachers, various feminist, and anti-racist groups, and a number of Muslim groups, including Muslim women, it has been widely understood by others as a measure

specifically targeted at marginalising Muslims and at the growing practice of wearing the Muslim hijab, and as being, therefore, discriminatory in effect, if not in theory.

AI is concerned that the law could have negative implications for the exercise of freedom of religion, expression and other basic rights, such as the right to education. The organization believes that concern for the protection of the secular nature of the French Republic should not override the fundamental rights of women and girls to express their conscientiously held beliefs or identity; and that the new law could have a disproportionate impact on Muslim girls who wear the hijab if schools decided to apply the law strictly. The Education Minister announced in March that he would meet leaders of all concerned religious groups to see if compromises could be worked out within the new law.

Racist or race-related attacks

Racist or race-related attacks continued to take place. In January the Union of Jewish Students of France (UEJF) condemned recent acts of racism against Jews and highlighted three recent attacks: one on a teenage boy at an ice rink in Paris; a fire at a Jewish school and the throwing of stones at a synagogue in Strasbourg. Since then there have been acts of racist vandalism in both Jewish and Muslim cemeteries. There were also fresh allegations of ill-treatment of asylum seekers by state agents.

In April an asylum seeker called Sukhwinder Singh was reportedly beaten brutally by a police officer in the 18th arrondissement, or Goutte d'Or area, of Paris as the result of an argument. A woman, who was accompanied by a child and had witnessed the incident, was reportedly thrown to the ground by police when she tried to intervene and was taken to hospital with a knee injury. Sukhwinder Singh's head was reportedly banged three times against the edge of the bonnet of a red Peugeot car, which was dented as a result. He was then handcuffed and taken to the police station, where he was

⁶ CPT/Inf (2003) 35

⁷ Loi no. 2004-228 du 15 mars 2004 encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics

reportedly punched on the face, stomach, over the abdomen and liver. Then he was told to leave. Once outside he collapsed on the pavement. A chemist called the paramedics and he was taken to the Bichât hospital, where tests were carried out and medical certificates were issued.

According to reports, Sukhwinder Singh had earlier been ill-treated by the same police officer, who was demanding money from certain asylum-seekers who worked as unauthorised street vendors (*vendeurs à la sauvette*), but were not always able, or refused, to give it to him. Sukhwinder Singh submitted a complaint about ill-treatment to the *Inspection générale des services* (IGS) in April.

In May an independent police and prison oversight body, the *Commission nationale de déontologie de la sécurité* (CNDS), published its annual report for 2003. The report noted a steep rise in complaints of police abuse and violence (it investigated 70, compared to 40, and less in previous years, and urged major structural reforms in the police response.⁸ The trend was borne out by a recorded rise, for the sixth consecutive year, of 9.10 per cent in complaints both to the "police's police" for Paris and its inner suburbs, the IGS, and to the *Inspection générale de la police nationale* (IGPN), which covers France as a whole. Among the cases were some involving the frontier police (*police aux frontières* - PAF). Pierre Truche, former president of the Court of Cassation and current president of the CNDS stated that, as regards victims of police violence, he was struck by the "statistical frequency" (*"fréquence statistique"*) of cases of police violence involving foreigners, or of people with foreign names, although the Commission warned that, while it was premature to conclude that there was a problem of racism in the police force, it

would return to the problem in its next report.

Among the cases of concern to the CNDS was that of two brothers, Samir and Mounir Hammoudi, both students of Moroccan origin, who were severely beaten by police officers in July 2002, both before, and while being held at the police station of Saint-Denis (Seine-Saint-Denis). While being held in police custody they had to be taken to three different hospitals for treatment to their injuries. The IGS confirmed that police officers had wrongfully inflicted violence on them. A judicial inquiry was opened at the court of Bobigny, and the CNDS transmitted documentary evidence both to the public prosecution and the Minister of the Interior. In a response to the CNDS in 2002, the Minister of the Interior stated that it would be "premature" to consider disciplinary measures, because no definite personal responsibility had been established, given the number of officers involved in the attacks - a response which illustrated concerns about effective impunity. The CNDS also expressed concern (as has AI) about the case of a lawyer, Daniel François, who was held for several hours in police custody after visiting a police station to attend to a client (see *Amnesty International Report 2003*). The CNDS recommended that measures be taken to reinforce protection of lawyers while acting in the course of their professional duties.

The CNDS report additionally expressed concern about cases of violence and harassment in prisons.

CPT report

The "recent and alarming" rise in the French prison population - and the related serious overcrowding, inhuman and degrading environment and high rate of suicides in prisons - is not only, or even mainly, caused by lack of infrastructure, but originates in a more repressive penal policy; and humane prison conditions can only come about as the result of a strategy aimed at a prompt and radical reduction in overcrowding. This was the message of a report published in March by the Council of

⁸ The cases ranged from allegations of physical ill-treatment by police to allegations of arbitrary police checks and controls, and arbitrary arrest and use of detention in police custody, or alleged illegal and excessively violent intrusions by police officers into private homes.

Europe's Committee for the Prevention of Torture and Cruel, Inhuman or Degrading Treatment or Punishment (CPT). The report was concerned in particular with visits carried out in June 2003 to the prisons of Loos (Nord Pas-de-Calais), Toulon (Provences-Alpes-Côte d'Azur) and Clairvaux (Aube).

The CPT was concerned, among other things, about insalubrious and unsafe conditions, lack of activity for a large number of prisoners, growing tensions between staff and prisoners, a sense of exhaustion and frustration among prison officers, and the lack of a real and effective policy of suicide prevention. It believed that the building of new prisons was not a panacea and that there had to be prompt and radical action to cut overcrowding and obtain humane conditions for prisoners.

The CPT also revisited its concerns on supervision of police custody. It reiterated its disagreement with the French authorities about the law denying access to a lawyer for the first 35 hours in police custody, stressing that all detainees should have access to a lawyer from the outset of custody; and also for the right of a lawyer to be present during police questioning, which is not currently permitted.

Suspension of prison terms for seriously ill prisoners

In June Joëlle Aubron, a member of the former armed group *Action Directe*, was released from prison when her life sentence was suspended under a law of March 2002 on the rights of ill people (commonly called the "Kouchner law"). Under the law, prisoners' sentences can be suspended if they are critically ill or suffering from a chronic condition incompatible with their detention. AI has repeatedly expressed concern about the serious health condition of other imprisoned members of the group, such as Nathalie Ménigon, Georges Cipriani and Jean-Marc Rouillan, whose serious state of health is linked, in AI's view, to long periods previously spent in strict isolation. AI had also expressed concern

about the health of Alain Solé, who was arrested in 1999 in connection with illegal activities by a Breton nationalist group, and who was released under the same law in July.

GEORGIA

Torture and ill-treatment in police custody

AI continued to receive reports about torture and ill-treatment in Georgia. In one such case the defendant died in custody. For example, according to several non-governmental sources, former Deputy Defence Minister Giorgi Vashakidze and his associates Eldar Gogberashvili and Benjamin Saneblidze were taken to Saburtalo cemetery following their detention on 10 January and Giorgi Vashakidze's associates were reportedly beaten in front of him. The three were accused of involvement in the 5 December 2003 kidnapping of Tamaz Maglakelidze, a co-chairman of the supervisory board of the United Bank of Georgia. On the morning of 11 January the men were taken to Tbilisi City police station where Eldar Gogberashvili and Benjamin Saneblidze reportedly continued to be beaten and Benjamin Saneblidze was said to have been given electric shocks to his head and hands. Following their bail hearings on 12 January in Vake-Saburtalo district court, Eldar Gogberashvili and Benjamin Saneblidze were returned to the police station in contravention of domestic law (Article 85 of the Law on Imprisonment) and Eldar Gogberashvili reportedly signed a confession statement following physical and psychological pressure.

As a result of the ill-treatment, Benjamin Saneblidze was reportedly unable to sit up, had difficulties breathing, and there were strong indications that his nose and some of his ribs may have been broken. The lawyer who defended Eldar Gogberashvili at the time told AI that he saw abrasions on his hands which, according to his client, were traces from the torture with electric

shocks. The lawyer also saw burns that he thought could have been inflicted by a cigarette on his client's legs. On 10 and 11 January respectively, the lawyers of Eldar Gogberashvili and Benjamin Saneblidze asked for a medical examination of their clients. However, the examinations were reportedly only conducted more than two weeks later.

AI is also concerned about the death in custody of Khvicha Kvirikashvili, who died on 23 May shortly after he had been taken home by police officers following questioning in the police station of Gldani-Nadzaladevi district in Tbilisi. He had been accused of committing a burglary on 22 May. An investigation into his death was opened and, according to a councillor at the Tbilisi City procuracy as reported by *Black Sea Press* on 25 June, has established that Khvicha Kvirikashvili was beaten in the police station. In June Vake-Saburtalo district court sanctioned the preliminary detention for three months of Mr Minadze (first name not known to AI), an officer Gldani-Nadzaladevi district police, in connection with Khvicha Kvirikashvili's death. The investigation was believed to be ongoing at the end of the period under review.

Excessive use of force by police and prison officers

AI was also concerned about the excessive use of force by police in several operations conducted in the period under review. The concern was heightened by statements made by President Mikhail Saakashvili and other senior government officials apparently encouraging the disproportionate use of force by police or prison personnel, or endorsing police operations where excessive force had taken place.

For example, at a news briefing on 12 January broadcast by *Imedi TV* the President advised the then Justice Minister "to use force when dealing with any attempt to stage prison riots, and to open fire, shoot to kill and destroy any criminal

who attempts to cause turmoil. We will not spare bullets against these people."

On 11 January police armed with truncheons used excessive force while breaking up an unauthorized demonstration of some 200 demonstrators blocking a main road in Terdzhola district in Imereti region. The demonstrators were peacefully protesting against the recent detention of Zaza Ambroladze, a resident of the region charged with illegal possession of firearms. AI viewed footage showing dozens of people being kicked and beaten by police. One man, for example, who was already on the ground putting up no defence, was kicked by four law enforcement officers. Another man, while being detained, was hit by several police officers with truncheons.

The following day *Imedi TV* broadcast a statement by President Mikhail Saakashvili "welcom[ing then Interior Minister] Gia Baramidze's fighting spirit and his brave steps" in the conduct of the police operation against "a certain group of local hooligans". He added that "everyone who is defending crime bosses ... will be dealt a very hard blow in their teeth."

Excessive force was also used by a number of police officers in the course of an operation conducted by some 100 law enforcement officers early on 12 March which resulted in the detention of defrocked Georgian Orthodox priest Basil Mkalavishvili and seven of his supporters. While AI has long urged that those involved in attacks on religious minorities in Georgia be brought to justice (see below), and does not oppose the reasonable use of force by police in order to maintain public order (video footage of the operation seen by AI indicates that many of Basil Mkalavishvili's followers put up violent resistance to the police), the organization was seriously concerned about the way in which police conducted the operation, including by beating up several people not putting up any resistance. For example, *Imedi TV* footage showed four police officers in helmets hitting one man repeatedly on his head and neck with truncheons while he was holding both his hands around his head

to protect himself. *Ajaria TV* and *Imedi TV* showed how a man named Avtandil Gabunia was beaten by two masked law enforcement officers in camouflage fatigues or uniform while he was lying on the ground in a defenceless position. *Rustavi-2* filmed one man being hit in his neck by a masked law enforcement officer and a man in civilian clothes (possibly a police officer in plainclothes).

AI noted that in all police operations mentioned above many of the officers were masked and no name tags and/or identification numbers were visible. The police officers who were unmasked reportedly did not wear any clearly visible name tags and/or identification numbers either. In addition, in both cases men in civilian clothes who may have been police officers but had no visible sign of identification joined the law enforcement officers in the beatings. Masked special police without clear name tags and/or identification numbers also played a key role in dispersing other demonstrations in recent months.

An important safeguard against the use of excessive force by law enforcement officials and to help ensure that such officials who act in violation of international standards do not enjoy impunity, is that officers should be clearly identifiable at all times, including while carrying out police operations such as the dispersal of demonstrations as well as the arrest and detention of suspects. This requires, for example, that law enforcement officers should wear clear name tags and/or identification numbers and there should be a clear method of tracking identification numbers, so that police can be identified for the purpose of investigating incidents of abusive use of force or other human rights violations where they may have been involved. Masks or other means of disguising officers' personal identities should only be used exceptionally, if such measures are necessary for the personal protection or security of the officers concerned or similar reasons of necessity; in such cases the need for each officer to be identifiable by such means as a unique

traceable identification number is particularly important.

Religious minorities

AI welcomed the detention on 12 March of Basil Mkalavishvili and seven of his supporters suspected of involvement in a series of attacks on religious minorities, while expressing concern about the way in which the police operation was conducted (see above). The eight men were charged with offences including "illegal hindrance of the execution of religious rites or other religious rules and habits" (Article 155 of the Criminal Code). Hundreds of perpetrators of attacks on religious minorities remained unpunished by the end of the period under review.

AI was concerned about a statement made by the President following the 12 March police operation that was broadcast on *Imedi TV*: "The Georgian state, not some local extremist who beats and raids people, should protect Georgia from harmful alien influence and extremism". Such a statement clearly contravenes Article 18 of the International Covenant on Civil and Political Rights, ratified by Georgia in 1994, according to which "[e]veryone shall have the right to freedom of thought, conscience and religion" and to "manifest his religion or belief in worship, observance, practice and teaching".

Attackers of Jehovah's Witnesses have their sentences reduced on appeal (update to information in AI Index: EUR 01/001/2004)

Following an appeal by the defendants, a court in Tbilisi on 5 April reduced the terms of the suspended sentences that had been handed down on five members of the radical Jvari (Cross) group – Paata Bluashvili, Mamuka Chubabria, Zaal Kevanishvili, Alexander Abzianidze and Besik Tskhovrebadze – by Rustavi city court in November 2003. The sentences of the first three men were reduced from four to two years and the charge of "damage or destruction of property" (Article 187 of the

Criminal Code) was dropped; the sentences of the latter two were reduced from two years to one year. On 4 November Rustavi City Court had found the men guilty of involvement in attacks on Jehovah's Witnesses in what was the first prosecution of perpetrators in connection with a series of attacks on religious minorities over more than four years.

Mechanisms of accountability

On 30 April Justice Minister Giorgi Papuashvili abolished the Independent Council of Public Control of the Penitentiary System, which had been set up on 30 January 2002. He announced that a new body, the Advisory Public Council of the Ministry of Justice, should be established. AI was concerned that the statute of this new body did not give any details about the right of access to detention facilities and detainees for members of the Council.

The Independent Council of Public Control of the Penitentiary System, whose members included representatives of non-governmental organizations, clergymen and public figures, was entitled to "enter the penitentiary department and all its subject establishments during working hours" and "meet with convicts". In special cases Council members were entitled to the above rights beyond working hours. In addition, it was stipulated that all Council members could "speak to a detainee in the presence of the administration of the pre-trial detention facility provided it is connected with the protection of the inmate's rights or the prison conditions".

Extraditions

AI was concerned about a statement made by President Saakashvili in an interview with the Russian radio station *Ekho Moskvy* on 10 February, in which he stated that "those people who were suspected of the terrorist attacks in Moscow have been extradited ... and if anybody remained [in Georgia], give us a list and we'll find them or if we don't find them, ... come and let's

find them together, and ... let's throw them out of Georgia together".

In recent years AI has repeatedly raised with the Georgian authorities its concern about the extradition of Chechens wanted by Russia on "terrorism" charges, because it believed they were at risk of serious human rights violations including torture if returned to Russia. As a member of the Council of Europe and a party to treaties such as the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Georgia has obliged itself to refrain from deportations or extraditions that put people at risk of serious human rights violations.

Several local human rights activists alleged that the Georgian authorities facilitated the detention of two Chechens previously held in Georgia – Khusein Alkhanov and Bekhan Mulkoyev – by officers of the Russian Federal Security Service (FSB) on 19 February. According to reports the two men were detained by FSB officers in at a control post in North Ossetia while attempting to cross the Georgian-Russian border. However, senior government officials categorically denied facilitating their detention. The two men, who had been wanted by Russia on "terrorism" charges, were among 13 men originally detained by Georgian border guards near the village of Girevi in the Akhmeta district in August 2002. The extradition to Russia of five of the 13 in October 2002 led to an international outcry. In 2003 Georgian courts refused to extradite Khusein Alkhanov and Bekhan Mulkoyev as well as other Chechens detained in August 2002. On 16 September 2003 the European Court of Human Rights declared admissible an application against the extradition of the 13 men to Russia following applications lodged with the court on 4 and 9 October 2002. Tbilisi regional court sentenced Khusein Alkhanov and Bekhan Mulkoyev to one year's imprisonment on 6 February 2004 for resisting prison guards. However, the men were released from the courtroom as they had already served the terms of their

sentences. On 16 February local groups reported the two men had "disappeared", only one week before a delegation from the European Court was due to interview them in Tbilisi.

**Aslan Abashidze's supporters
arrested on alleged fabricated
charges**

In a highly charged case amidst increasing tensions between the central government and the authorities of the autonomous region of Ajaria two supporters of Ajarian leader Aslan Abashidze, Merab Mikeladze and Lasha Chakhvadze, were detained by police on Saburtalo street in Tbilisi on 24 February. There were strong indications that the two men had beaten up demonstrators in Batumi who protested against Aslan Abashidze. However, when detaining the two in Tbilisi, police charged them with illegal possession of weapons, a charge that AI believed was fabricated. The case became even more controversial in Georgian public debate when the two men left for the Ajarian capital of Batumi on 27 February following a court ruling the same day freeing them under the condition that they not leave Tbilisi. Three officials of Vake-Saburtalo district police in Tbilisi who authorized them to leave Tbilisi on the condition that they return to the capital for further investigation were charged with "negligence", and on 9 March Mtatsminda-Krtsanisi district court in Tbilisi sanctioned their preliminary detention for three months. Once in Batumi Merab Mikeladze and Lasha Chakhvadze refused to return to Tbilisi for further investigations, alleging the investigation was politically motivated. Several non-governmental sources alleged that the release of the two Ajarians and the subsequent detention of the three police officers had been politically motivated and reflected the different approaches to the matter by various government authorities in Tbilisi. On 16 March the three police officers were freed by Mtatsminda-Krtsanisi district court but placed under travel restrictions. Shortly after the release of Merab Mikeladze and Lasha Chakhvadze two activists of the non-governmental

organization (NGO) Kmara! (Enough!) who had been detained in Ajaria since 6 January were released by the Ajarian authorities in what several NGO activists called "a deal" between the authorities of the central government and Ajaria.

**Clampdown on dissent under Aslan
Abashidze**

Since the so-called "Rose Revolution" of November 2003 (see AI Index: EUR 01/001/2204) there were increased tensions between the central government and the authorities of the autonomous republic of Ajaria under Aslan Abashidze. Following these, and a series of public protests against the Abashidze regime in Ajaria, Aslan Abashidze left Batumi for Moscow on 5 May. The central authorities took control of the region for an interim period and elections were held in the region on 20 June that resulted in an overwhelming victory for the party supporting President Saakashvili.

While Aslan Abashidze was still in power, AI was seriously concerned about the intensified clampdown on opponents of his regime in Ajaria following the "Rose Revolution". This included the detention and in some cases alleged ill-treatment of activists critical of Aslan Abashidze and his policies, and ill-treatment and psychological pressure on independent journalists. AI also received numerous reports about the excessive use of force by supporters of Aslan Abashidze against demonstrators critical of the authorities of Ajaria.

On 21 February Gocha Khvichia and Imeda Tavdgeridze, two members of the youth movement Kmara! that was particularly vocal in criticizing the Ajarian authorities, were allegedly beaten by Ajarian law enforcement officers at the Ajarian Choloki checkpoint some 30 kilometres from Batumi. The two young men and another Kmara! member, Sofiko Pataraya, together with her sister, had been taken off a bus traveling from Tbilisi to Batumi after the officers had found Kmara! leaflets in their bags. All four were locked into a house near the

checkpoint. Reportedly, the two young women were forced to watch how the two men were beaten and kicked by some 20 men, some of whom were masked. They were threatened not to make contact with journalists or human rights organizations. The four were released later that day.

In another case, early on 5 March journalist Vakhtang Komakhidze from the Tbilisi office of the TV station *Rustavi-2* was severely beaten and kicked by several men who were believed to have acted on instructions of the authorities of the autonomous republic. He and Mziya Amaglobeli from the independent Ajarian newspaper *Batumelebi* were working on a programme highly critical of the authorities of Ajaria. The two were stopped near the town of Khelvachauri in Ajaria by traffic police. Suddenly several men, some of them reportedly masked, approached their car, pulled Vakhtang Komakhidze out of the car and allegedly beat and kicked him until he lost consciousness. When he opened his eyes again he saw that one of the men was taking away his mobile phone and then Vakhtang Komakhidze was again kicked in his face. In the meantime several men were preventing Mziya Amaglobeli from leaving the car and searched the car, removing camera equipment, tapes and money. Vakhtang Komakhidze had to be hospitalized for several days with concussion and haemorrhage.

GERMANY

Allegations of police ill-treatment and excessive use of force

In January AI issued a report on the issue of police ill-treatment (*Back in the Spotlight: Allegations of police ill-treatment and excessive use of force*, AI Index: EUR 23/001/2004). The report highlighted AI's concerns about ongoing allegations of police ill-treatment and excessive use of force, including against foreign nationals or members of ethnic minorities. The report drew attention to the unreasonably protracted length of criminal investigations

into allegations of police ill-treatment; the reluctance of some prosecuting authorities to forward cases to the courts; the high incidence of counter-charges brought by police against those who complain; and sentences which in some cases do not appear to match the gravity of the crime. The report recommended that the German authorities establish an independent body to monitor and investigate complaints of serious police misconduct, ill-treatment and excessive use of force throughout the Federal Republic. It called on the government to maintain and publish regular, uniform and comprehensive statistics on complaints about misconduct including ill-treatment by officers of the regions (Länder) and federal authorities. The report also urged Germany to immediately sign and ratify the Optional Protocol to the Convention against Torture in order to establish a domestic visiting mechanism to inspect all places of detention in Germany.⁹

The following updates to cases featured in the report are illustrative of the problem of protracted criminal investigations into alleged police ill-treatment, and the high incidence of police counter-charges which contribute to impunity for police officers deemed to have committed human rights violations.

Alleged ill-treatment of Svetlana Lauer

The proceedings initiated by the Bamberg Public Prosecutor's Office in September 2003 against Svetlana Lauer for resisting law enforcement officials, causing bodily harm to the officers and slander ended in an out of court settlement after she agreed to pay 210 Euros. Svetlana Lauer had alleged that several police officers ill-treated her at her home in Hallstadt near Bamberg on 20 February 2002. Criminal proceedings against the officers were

⁹ For further information on the Optional Protocol and the general principles that AI considers should guide the establishment of national preventive mechanisms see *Preventing Torture at Home – A Guide to the Establishment of National Preventive Mechanisms*, AI Index: IOR/51/2004.

discontinued and an appeal by Svetlana Lauer's lawyer was rejected in April 2003.

Alleged ill-treatment of Josef Hoss

The appeal against the discontinuation of the proceedings against the police officers involved in allegedly ill-treating Josef Hoss was rejected by the prosecution in Cologne in February. A final appeal by Josef Hoss' lawyer was rejected on 23 April. Josef Hoss was allegedly ill-treated by police officers of the Special Deployment Command on 8 December 2000 in St. Augustin near Bonn. The proceedings against the police officers were discontinued in June 2003.

Alleged ill-treatment of Walter Herrmann

On 3 February the three policemen accused of allegedly ill-treating Walter Herrmann were acquitted by a court in Cologne. The judge found that there was not enough evidence to prove that Walter Herrmann's injuries were inflicted deliberately. Walter Herrmann and his lawyer announced their intention to appeal the judgement.

Death during deportation of Aamir Ageeb

Aamir Ageeb died during forced deportation from Frankfurt am Main airport to Khartoum via Cairo on 28 May 1999. According to experts he died of asphyxiation as a result of the manner in which he was restrained on the aeroplane. Charges of negligent homicide were filed with Frankfurt am Main District Court (*Amtsgericht*) against three border police officers in January 2003, and the trial began on 2 February 2004. On 22 March the case against them was referred to a regional court (*Landgericht*): the presiding judge of the District Court concluded that the charges against the three border police officers had to be upgraded from manslaughter to bodily harm and death.

Fatal shooting of Rene Bastubbe

The Federal Court in Karlsruhe rejected an appeal on 30 June by the prosecution to revise the earlier judgement from October

2003 which ruled that the police officer had shot Rene Bastubbe in self-defence.

Germany's torture debate (update to AI Index: EUR 23/001/2004)

Germany continued to go through an unsettling public debate about whether there were circumstances, including terrorism, in which law enforcement officials were permitted to use torture. The debate was triggered by events that took place in Frankfurt am Main police station in February 2003. Wolfgang Daschner, the vice-President of the Frankfurt am Main police, ordered a subordinate police officer to use force against a criminal suspect in order to receive information about the whereabouts of a kidnapped 11-year-old boy. Wolfgang Daschner has publicly defended his actions. On 22 June the Regional Court (*Landgericht*) in Frankfurt ordered that Wolfgang Daschner stand trial on grounds of severe intimidation. The Interior Minister of Hesse, Volker Bouffier, said he saw no reason to suspend Wolfgang Daschner from his position. Many leading political figures and civil society actors were quick to condemn torture, but the debate also gave rise to attempts by some to justify torture – which is prohibited in all circumstances under international standards and treaties to which Germany is a party. AI remained concerned about the lack of an active, unequivocal response from senior politicians reaffirming Germany's commitment to upholding these international obligations on the prohibition of torture.

Concerns about asylum-seekers and refugees

Refugee status revoked

In 2004 the German authorities continued to revoke the status of refugees from Afghanistan, Iraq and from Kosovo. The authorities developed plans to deport refugees back to these three places, despite the fact that the human rights situation there continued to cause great concern. Germany also started to return some

Chechen asylum-seekers, claiming that they had the option of living in safety outside of the Chechen Republic. However, AI considered that the continuing levels of discrimination faced by Chechens in the Russian Federation rendered them at genuine risk of human rights violations. The ongoing application of the residence registration system (*propiska*) further exacerbated the problems faced by Chechens – due to arbitrary identity checks, restrictions on movement and place of residence, and the denial of a range of civil rights – and further negated the possibility of an internal relocation alternative.

GREECE

Police impunity

AI expressed concerns about the way in which police investigations into allegations of ill-treatment of two Romani youths by police officers were being carried out. On 23 October 2003, the Argostoli First Instance Court concluded its investigation into the case of ill-treatment by police authorities in August 2001 of two Romani youths, who at the time were aged 18 and 16. The court proposed to the Argostoli Judicial Council the indictment of a policeman on a charge of ill-treating one of the youths named Theodoros Stephanou and causing him head injuries that included a bruise on the left side of the forehead and swelling around the nose. Since then, the Greek Helsinki Monitor, a human rights non-governmental organization (NGO), filed a complaint to the Prosecutor of the Cephalonia Court of Misdemeanours, on behalf of the Romani youths, against 11 police officers involved in the arrest and alleged ill-treatment of the two, as well as in the investigation that followed their complaints. As a result of the NGO's complaint, two separate internal investigations were ordered, one to be carried out by the Cephalonia police headquarters and one by the Achaia police headquarters, to investigate allegations of private data violation by another police officer and of collusion between police

officers of the Security Police Department in Argostoli and police officers in the Department of Police Administration of Patras in absolving the officer of any responsibility for the incident. The internal police investigation relating to the allegations of ill-treatment of Theodoros Stephanou was being carried out as part of the two internal investigations mentioned above.

AI expressed concerns that the investigations were assigned to the same police departments whose staff were alleged to have committed the above offences. It also expressed concern that some of the statements made by police officers with respect to this investigation contained derogatory remarks about the Roma, suggesting that members of this group were more likely to break the law than other Greek citizens. Such remarks raise concerns that the ill-treatment suffered by Theodoros Stephanou and the alleged ill-treatment suffered by the second youth, Nikos Theodoropoulos might have been the result of discriminatory treatment, based on their Roma identity.

Eviction of Roma families

Reports were received concerning evictions of Romani communities from three locations in Athens designated for transformation into Olympic facilities.

In one of these cases, in August 2002 the municipality of Maroussi offered a contract to 50 Romani families under which it undertook to pay their rent expenses until suitable permanent accommodation could be provided to them, if they were to move from an area designated for development as a car park outside the Olympic stadium. The municipality has subsequently failed to honour this contract and the other competent state authorities have not sought its enforcement. Local human rights organizations successfully appealed to the Athens Misdemeanours Prosecutor to launch an investigation and a preliminary summary inquiry was initiated. The agreement, which affects a total of 137 people, guaranteed a

monthly payment for each family with payments varying according to family size.

According to a letter from the Mayor of Maroussi to the Greek Ombudsman's Office, dated 19 February, only 14 families had been paid by (and including) January; the remaining 36 families had not been paid since November 2003. Furthermore, the Mayor of Maroussi noted that he should be in a position "soon" to inform the Roma as to the plot of land where they would be relocated. At the same time, however, he informed them that no further subsidies would be forthcoming until all the families filed loan applications even before the Maroussi Municipal Council and the state Auditor's Board approved it. In mid-June, the Municipality of Maroussi paid all the Romani families subsidies for three months and promised to pay the outstanding subsidies either in late June or in early July 2004.

AI expressed its concern that the Greek authorities, by evicting Roma from their settlement and failing to facilitate their move to alternative accommodation, had acted in violation of the International Covenant on Economic, Social and Cultural Rights which Greece has signed and ratified. Such evictions also contravene objective 3.c.a of Greece's Integrated Action Plan for the Social Integration of the Greek Gypsies, which states that "it is anticipated that by the end of 2005 no Greek Rom will be living in tents or makeshift accommodation".

Conditions of detention

Reports were received from the National Commission of Human Rights about the conditions of detention in high security prison facilities at Korydallos Prison where some of the convicted members of the "17 November" group are held. During a visit to the facilities on 21 May, the Commission reported that the prisoners in question were in special facilities where prisoners were deprived of basic rights.

The reports received by Amnesty International about the conditions of detention of "17 November" prisoners

suggested that the prisoners were being held separately from all other prisoners in two isolated groups of seven. Prisoners claimed that they had not been allowed to associate with anyone outside this group since the beginning of their sentence in November 2003 and that they were being denied participation in regular prison activities such as visiting and using the library, exercising in sports fields or in the gym, and taking part in work activities. The cells in which the prisoners were being kept as well as the yards in which they exercised (one for each group) had limited natural light. The yards were fenced off by metal walls on all sides and covered by a double layer of wire mesh on top. Prisoners had pointed out that the metal walls caused the yard to overheat in the summer, which rendered exercise impossible during this period and that the deafening noise produced by balls bouncing off from the metal walls rendered exercise effectively impossible at all times. Additionally, the yard was not protected from the rain, which meant that during rainy days in the winter the prisoners were confined to the small corridor outside their cells. The lack of access to open air, bright daylight and exercise in a larger space violates international standards as set out in rules 11 and 21(1) of the UN Standard Minimum Rules for the Treatment of Prisoners and in rules 16 and 86 of the European Prison Rules. Such lack of access to open air has in cases elsewhere led to a variety of debilitating physical effects in prisoners, including generalized muscle wasting.

It was also reported that all visits to the prisoners were 'closed' (i.e. that there was a glass screen separating the prisoner and the visitor) and lawyers and prisoners have claimed that conversations they held over the telephone during these visits were taped. In the case of social visits, conversations have also taken place in the sight and hearing of a prison officer. Such 'closed' legal visits undermine the integrity of the legal profession; if conversations have been taped, this would be in clear violation of international standards. When 'closed' visits occur between prisoners and their relatives it also causes difficulties in

maintaining long-term family relationships, in particular because the deprivation of physical contact is compounded by the lack of privacy and undermines international law and standards.

Conscientious objection (update to AI Index: EUR 01/001/2004)

AI expressed its deep concerns regarding the punitive nature of alternative civilian service legislation and practice, particularly about the procedure under which a Special Committee provides recommendations regarding the conferring of 'conscientious objector' status to applicants. This committee suggested the blanket rejection of applications of conscientious objectors on the basis of ideological grounds, such as those cited by Dimitris Dimas, who had the committee's rejection recommendation overruled on appeal by the State Council on 30 December 2002.

AI called for a re-evaluation of the committee's operation in general, including its procedures for examining the applications for conscientious objectors, and for the establishment of an alternative civilian service of a purely civilian nature, outside of the authority of the Ministry of Defence. AI repeated its concern that Law 2510/97 that regulates the determination of conscientious objector status process lacks safeguards in the event of arbitrary or subjective recommendations made by the committee. In the case of Dimitris Dimas, the committee recommended against granting his application, and the Minister of Defence subsequently rejected his application on 10 August 2001 because the claimant "did not declare that he belongs to a known belief dogma (religious, political, moral or generally ideological) that opposes military service, and did not present his views about why he opposes military service convincingly as part of a general outlook on life and did not present evidence of activities and lifestyle characteristically led by ideological convictions that would prevent him from carrying out his military duties". In another recent case, conscientious objector Kyriacos Kapidis

claimed objection on ideological grounds. His application to perform alternative civilian service was similarly rejected on 5 April on virtually identical grounds as those quoted above. If imprisoned, AI would consider him to be a prisoner of conscience.

Update on trafficking victim case and police impunity (see AI Index: EUR 01/001/2004)

Developments were noted in the high profile alleged rape case that had previously raised concerns about the impunity enjoyed by police officers and the independence of the judiciary in handling complaints against police officers.

The judicial authorities had failed to call as a prosecution witness a Ukrainian national, Olga B.¹⁰, who was reportedly raped by a police officer in Amaliada in February 1998. In the absence of the victim at the trial, the court concluded that she had consented to sexual intercourse with the police officer and acquitted him of rape, while sentencing him to two years' imprisonment for breach of duty. Four other defendants were convicted of trafficking for the purposes of prostitution and of procuring or assisting in trafficking women, and received sentences of three years' imprisonment on the first charge and two years' on the second.

The court bailiffs said that they had delivered two summons to Olga B. to appear in court to give evidence at the first trial but investigations revealed that the address to which they allegedly posted the summons was one in which Olga B. had never lived and the people who lived at the address testified on oath that they had never seen any bailiffs. Olga B. filed a complaint in Patras in September 2003 that the two bailiffs had falsely claimed to serve her the summons.

After protests at the failure to call Olga B. as a witness in the first trial, a retrial was held in October 2003. However, the court

¹⁰ Her full name is known to AI but withheld to protect her identity

reportedly again failed to call her to testify. A further trial was subsequently set for 2004. On 30 March the court returned a four to three split acquittal verdict. On 5 April the Appeals prosecutor of Patras appealed the acquittal of the policeman. A trial on appeal was set for 21 June.

HUNGARY

Death in custody in suspicious circumstances

On 10 June in Budapest M.S.D.,¹¹ a 27-year-old Bulgarian national, died while he was being transported by police from the court to a detention centre. The previous day M.S.D., who was reportedly experiencing drug dependency withdrawal symptoms, was arrested for rowdy behaviour on a flight from Amsterdam to Budapest. According to a spokesperson for the prosecutor who began an investigation into this case, M.S.D. was resisting the officers escorting him to the detention centre. They then stopped the car and pushed him to the ground where he lost consciousness. He reportedly died on the way to the hospital. An autopsy report reportedly established that his death had been caused by suffocation as a result of being held by the neck when he was pushed to the ground. The two officers involved in the incident have reportedly been suspended from duty. One of them was reportedly under investigation by the prosecutor for manslaughter.

ECRI report

In June the European Commission against Racism and Intolerance (ECRI) published its third report on Hungary, welcoming some measures in the field of legislation and governmental policy in dealing with the problems of racism, intolerance and discrimination. However, ECRI remained concerned about continuing reports of racially-motivated violence, including police

ill-treatment. ECRI assessed that the Roma minority continues to be "severely disadvantaged in most areas of life, particularly in the fields of health care, housing, employment and education". ECRI was also concerned that "[a]nti-Semitic, racist, xenophobic and intolerant feelings have been expressed in the media, by some politicians as well as within mainstream society, alongside negative attitudes towards migrants and asylum seekers". In its report, ECRI recommended that the Hungarian authorities to take further action in a number of fields. It appealed for, among other things, "a strengthened implementation of existing criminal law provisions against racism and the rapid adoption and implementation of further criminal law provisions to better combat racist expressions". ECRI also recommended a stronger response to incidents of police ill-treatment of members of minority groups.

The CPT Report

In June the government authorized the publication of the report of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Hungary from 30 May to 4 June 2003. At the time of the visit, people held in detention pending trial, were frequently remanded in police establishments, often for periods of several months, rather than in remand prisons where the conditions were notably less austere. This situation was aggravated by the delayed entry into force from January 2003 to January 2005 of the Penal Procedure Code provision (adopted in 1999), which mandates that pre-trial detention must be carried out in remand prisons.

With regard to the police establishments visited, the CPT was concerned by statements from some detainees that they had been offered a transfer to a remand prison, as an inducement to provide information for the completion of the investigation. The CPT was also concerned that staff in the fourth District Police Station in Budapest openly carried truncheons

¹¹ The victim's identity was not made public.

and/or tear gas canisters in detention areas. It recommended, among other measures, that improvements should be made in some police stations with regard to access to natural light and ventilation, sleeping arrangements for remand prisoners, and granting access to toilets at any time of day or night. The CPT also recommended that all remand prisoners held in police stations should be provided with some form of activities as well as at least one hour of outdoor exercise every day.

With regard to the establishments under the authority of the Ministry of Justice, the CPT was concerned that overcrowding remained one of the most serious problems facing the prison system. Allegations of ill-treatment by staff were received from detainees at Unit III of the Budapest Remand Prison. These allegations concerned beatings of inmates by prison guards in the disciplinary section, and "verbal abuse and other forms of disrespectful or provocative behaviour; it was clear that prisoners were afraid or reluctant to speak openly to the delegation about this subject". The CPT recommended that the prison management should deliver a clear message to custodial staff of this unit that such behaviour is not acceptable and would be dealt with severely. It also recommended a review of the training needs of staff, especially in Unit III, urged the authorities to make additional efforts to reduce cell/dormitory occupancy rates and improve ventilation in Unit III.

ITALY

Asylum and immigration (update to AI Index: EUR 01/001/2004)

AI continued to call for the introduction of a specific and comprehensive law on asylum, in order to guarantee the fundamental right to asylum, recognized in principle in the Italian Constitution and through Italy's ratification of the UN Convention relating to the Status of Refugees. The organization was concerned that, amongst other things, certain provisions of a law on immigration

introduced in 2002 (Law 189/2002 – the so-called Bossi-Fini law), and relevant enabling legislation approved by the government at the beginning of July 2004, impeded the effective exercise of the right to asylum and allowed many asylum-seekers to be detained or restricted in their liberty in circumstances over and above those allowed under international standards.

Temporary holding centres for aliens

Thousands of foreigners without a right of residence in Italy, or suspected of not having such a right, were detained in temporary holding centres, commonly known as "Cpts" (*Centri di permanenza temporanea*). They could be held for up to a maximum of 60 days before their expulsion from the country as illegal immigrants, or release, but delays and inefficiencies in the processing system led to some people being detained repeatedly for the maximum period. The centres held foreigners detained on the streets and in the community, as well as foreigners transferred from prison after serving sentences for criminal offences. There were regular reports that the inmates of many centres did not receive satisfactory information about the reason for their detention or their rights, and experienced difficulties in gaining access to the legal advice necessary to challenge the legality of their detention and of expulsion orders. AI was particularly concerned at increasing reports that amongst the inmates were individuals trying to pursue asylum claims, but who were unable to gain access to the asylum determination process and, in some cases, to close relatives living in the country.

Tension in the centres remained high with frequent outbursts of violence and protests, including escape attempts and high levels of self-harm. Information continued to emerge indicating that conditions in a number of centres fell below international standards, with frequent overcrowding, unsuitable infrastructures, unhygienic living conditions, inadequate access to fresh air, unsatisfactory diets and inadequate or inappropriate medical care. In addition,

several criminal investigations were under way into alleged physical assaults on inmates by security and administrative personnel.

Such reports exacerbated AI's concern about the continuing absence of any permanent, independent monitoring and inspection body, mandated to make regular, unannounced visits of inspection to the Cpts and similar detention facilities, in line with international standards. AI called for the treatment and conditions of the inmates to be brought fully in line with relevant international human rights standards relating to asylum-seekers and all detained persons.

In January, a Roman Catholic priest employed as the director of Regina Pacis temporary holding centre in Lecce (Puglia province), five members of the administrative personnel, two doctors and 11 *carabinieri* providing the centre's security service were ordered to stand trial in connection with the physical assault and racial abuse of inmates in November 2002 (See AI Index: EUR 01/001/2004). The trial opened in May, as scheduled, but after a day was adjourned to October 2004.

The proceedings followed an investigation into a complaint lodged by 17 young North African men who alleged that, after attempting to escape from the holding centre on 22 November 2002, they were among some 40 North African inmates who were kicked, punched, slapped, spat at and subjected to verbal abuse directed at their religious -- Muslim -- beliefs. They claimed some inmates were pinned down by their arms and legs while their assailants tried to force them to eat pork, against their religious beliefs, by pushing it down their throats with a truncheon.

The charges against the 19 defendants included assault and battery, failure to intervene to prevent ill-treatment, falsification of evidence and abuse of the powers of a state officer. The two doctors were accused of falsifying medical certificates. In the course of various violent incidents on 22 November, three *carabinieri*

and a number of detainees suffered injuries. It was reported that five of the detainees had fractured limbs and around a dozen suffered cuts and bruises. Of the 17 detainees who made the initial complaint, only 11 decided to pursue the case through the courts and they constituted themselves civil parties to the proceedings, thus formally registering their wish to receive compensation for their treatment. All of them were granted residence permits, renewable every three months, in view of the ongoing criminal proceedings.

A criminal investigation was continuing against a member of the Red Cross administration, and some seven police officers and one *carabiniere* attached to the via Mattei holding centre in Bologna (See AI Index: EUR 01/001/2004). It was alleged that, following an escape attempt by two North African inmates in March 2003, they were involved in a physical assault on them and some 10 other inmates. In November 2003 the judge of preliminary investigation had endorsed the Bologna public prosecutor's request for proceedings to be dropped against a further four police officers because the alleged victims had failed to identify them with certainty as their aggressors.

In January a criminal investigation against persons unknown was opened by the Bologna public prosecutor, following complaints lodged by three former inmates of the holding centre. Darwin Livingston, an Ecuadorian, Lahar Said, a Moroccan, and another foreign national said that they and other detainees had regularly experienced excessive drowsiness and disorientation after eating and drinking at the centre and alleged that they had been given heavy sedative drugs without their knowledge. They attached the results of blood analyses to their complaints which indicated that, shortly after their release from the centre, certain prescription drugs were present in their blood in high quantities. There was widespread speculation that drugs had been given to inmates in order to keep them in a tranquillized condition.

The Public Prosecutor ordered an extensive inspection of the centre, took samples of the food and drink available to the inmates, seized medical records and checked the drugs held on the premises and administered by the medical personnel. At the end of June the Public Prosecutor's office indicated that, not only had the food and drink taken from the centre for expert analysis not revealed the presence of the drugs indicated in the former inmates' complaints and in their supporting blood analyses, but also that the latter were unreliable. Some of the investigation's findings were being challenged by the lawyers representing the three former inmates.

Alleged police ill-treatment and excessive force on the streets and in police stations

Allegations of ill-treatment by law enforcement officers often concerned members of ethnic minorities, including Roma, and administrative and criminal investigations were under way into numerous allegations of excessive force and physical assault by law enforcement officers in the context of policing operations surrounding demonstrations.

In February concerns were raised in the Chamber of Deputies regarding the case of Gabriele Greco. He was arrested on 3 February, following a street demonstration on the outskirts of Rome and during the brief occupation by some 200 people of nearby unoccupied buildings, in protest against work under way on an adjacent high speed rail line and its repercussions for local residents. There were allegations that police officers used excessive force to clear people, including children, from the buildings. In public statements made on his release the next day, facing charges of violently resisting arrest, Gabriele Greco alleged that, after being handcuffed and transferred to Prenestino police station, a police officer verbally insulted him, punched his head and lashed him with a wet towel whenever he responded. He claimed that, after some five hours of such treatment, he

was transferred to Rome police headquarters where he was held overnight, almost naked, in a cold and dirty cell, without food or drink. Within days the police stated that an internal investigation had concluded that the allegations were without foundation and lodged a complaint accusing him of calumny and defamation.

Among the ongoing criminal proceedings were a number relating to policing operations surrounding the mass demonstrations which occurred during the Third Global Forum in Naples in March 2001 and the G8 Summit in Genoa in July 2001 (see previous editions of *AI Concerns in Europe and Central Asia, Italy*).

■ In March a judge of preliminary investigation began examining the Naples Public Prosecutor's request for 31 police officers who worked in the *Caserma Raniero*, a barracks used as a detention facility on the day of the demonstration, to be committed for trial on various charges, ranging from abduction to bodily harm and coercion: some officers were additionally accused of abusing their position as state officers and of falsifying records of statements and searches. In mid-July all 31 police officers were committed for trial. It was scheduled to open in December 2004.

■ In February, a judge ruled that there were no grounds to prosecute the 93 people, of various nationalities, accused of belonging to a criminal association intent on looting and destroying property, who had been detained during an overnight police raid on a building legally occupied by the Genoa Social Forum (GSF), the main organizer of demonstrations which took place during the G8 Summit in Genoa. All the other accusations which had been brought against the 93 in July 2001, which included resisting state officers with violence, committing theft and carrying offensive weapons and which led to their deportation from Italy, had been dropped in 2003.

■ In March Genoa Public Prosecutor's office submitted a request for 29 police officers

involved in the GSF raid to stand trial on various charges, including assault and battery, falsifying and planting evidence and abusing their power as state officers. A judge started to examine the request in court hearings which opened in June. No accusations were brought against scores more law enforcement officers involved in the raid and believed to have also participated in physically assaulting many of the demonstrators sleeping in the building. Apparently they could not be identified because their faces were frequently hidden by riot helmets, masks or scarves during the raid and they displayed no other means of individual identification. AI continued to advocate that Italian practice be brought in line with the European Code of Police Ethics (adopted by the Committee of Ministers of the Council Europe in September 2001) which states that, during interventions, law enforcement officers should normally "be in a position to identify themselves as an individual member of the police." The Committee commented that "without a possibility of identifying the individual policeman/woman, personal accountability ... becomes an empty notion." It is clear that if officers do not display prominently some form of identification - such as a service number - this can prevent the identification of alleged assailants and thus provide them with complete impunity.

■ Genoa Public Prosecutor's office concluded its investigation into the conduct of dozens of officials, including penitentiary staff, medical personnel and law enforcement officers who were on duty inside Bolzaneto temporary detention facility during the G8 period, and through which over 200 detainees held during the G8 summit passed, including the vast majority of those detained in the GSF raid. At the end of June the Public Prosecutor's office was reported to be drawing up a request for some 40 people to be committed for trial but this had not been submitted to the relevant judge by the end of June.

Prisons: ill-treatment, torture and deaths in disputed circumstances

Numerous criminal proceedings, involving large numbers of prison staff, were under way into alleged ill-treatment of individual prisoners and sometimes large groups of prisoners. Some of the proceedings were marked by excessive delays, with a few dating as far back as the mid-1990s. The allegations concerned psychological and physical, including sexual, abuse of prisoners, in some cases carried out systematically and sometimes amounting to torture. The criminal proceedings included at least five into individual prisoner deaths occurring in disputed circumstances between 1997 and 2004

The allegations related to district prisons across the country, including Ascoli Piceno, Avezzano (San Nicola di Avezzano), Belluno, Biella, Bolzano, Cagliari, Caltanissetta (Malaspina), Civitavecchia, Latina, Livorno, Milan (San Vittore), Naples (Secondigliano), Naples (Poggioreale), Nuoro, Palermo (Pagliarelli), Parma, Prato, Potenza, Reggio Calabria, and Sassari (San Sebastiano).

Such reports underlined the need for an independent external monitoring body mandated to make regular, unannounced visits of inspection to places of detention in line with existing relevant international standards -- such as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment which stresses the importance of independent supervision of detention conditions. It underlines that these principles are *not* merely advisory, they call upon governments to implement and enforce their provisions.

AI also campaigned for Italy to ratify the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the aim of which is "to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel,

inhuman or degrading treatment or punishment".¹²

AI also continued to call on Italy to respond to the repeated recommendations of various UN treaty bodies and create a specific crime of torture, as defined in the UN Convention against Torture. However, as in previous years, initiatives to introduce such a crime into the Penal Code suffered delays and setbacks.

KAZAKSTAN AND KYRGYZSTAN

The plight of Uighur asylum-seekers and refugees

Over recent years, AI has monitored growing numbers of forced returns of Uighur asylum-seekers and refugees to China from several neighbouring countries, including Nepal, Pakistan, Kazakhstan and Kyrgyzstan. Several Uighurs accused of committing criminal offences have also been forcibly returned, either clandestinely or under the terms of extradition agreements between China and other countries.

Such cases appear to have increased with the intensification of China's crackdown in the Xinjiang Uighur Autonomous Republic (XUAR) following the attacks in the USA of 11 September 2001, and in some cases there is evidence that the Chinese authorities have instigated or taken part in such returns. The fate of Uighurs returned to China is often difficult to establish due to tight restrictions on information, including the threat of reprisals against family members who pass such information abroad. However, in some recent cases, returnees were reported to have been

subjected to serious human rights violations, including torture, unfair trial and even execution.

The International Covenant on Civil and Political Rights has been ratified by Kyrgyzstan, and signed, but not ratified, by Kazakhstan. Both states are also parties to the Convention against Torture and the Refugee Convention. All of these international instruments guarantee right relating to asylum-seekers and refugees. However, Kazakhstan does not allow Uighurs access to the national asylum procedure, reportedly due to the delicate relationships between these two Central Asian countries and China. In Kyrgyzstan, Uighur asylum-seekers can theoretically apply to a national procedure for protection, but do not do so, apparently for fear that the Kyrgyz authorities will pass this information on to the Chinese authorities. United Nations High Commissioner for Human Rights (UNHCR) therefore plays the key role in assessing refugee protection claims in these countries.

Their shared border with China and their large native Uighur populations make Kazakhstan and Kyrgyzstan the most common first countries of 'refuge' for Uighurs fleeing the XUAR. Yet, they are possibly the most unsafe countries of asylum for Uighurs. In the context of its policies in the XUAR, China has made great efforts to ensure that its Central Asian neighbours cooperate in returning Uighurs who are suspected of being "separatists, terrorists or religious extremists". This relationship has been strengthened in recent years under the auspices of the Shanghai Cooperation Organization (SCO) which groups China, Russia, Kazakhstan, Kyrgyzstan, Uzbekistan and Tajikistan. The Secretariat of the SCO was formally established in Beijing in January 2004 and a regional "anti-terror" centre was officially opened in Tashkent, Uzbekistan, in June 2004. Largely spearheaded by China, the organization has been described as a "major force" in combating "terrorism" by Chinese officials and one of its key aims appears to be to quell the activities of Uighur nationalists in both the XUAR and

¹² For further information on the Optional Protocol and the general principles that AI considers should guide the establishment of the national preventive mechanisms see *Preventing Torture at Home – A Guide to the Establishment of National Preventive Mechanisms*, AI Index: IOR/51/004/2004.

Central Asia. China also has extradition agreements with both Kazakhstan and Kyrgyzstan.

According to the official Chinese media, during a visit to the XUAR in May 2004, President Nazarbayev of Kazakhstan said that "Kazakhstan will always adhere to the one-China policy and is willing to strengthen cooperation with China in the fight against terrorism, separatism and extremism for regional peace and stability". This, and other statements made by SCO members, suggest that China's neighbours appear to have adopted China's concept of "separatism", which encompasses peaceful opposition activities, and are ready to cooperate with China to crack down on such activities. AI was concerned that such cooperation appears to be aimed at ensuring the forcible return of Uighurs to China, notwithstanding the high risks they face of serious human rights violations, including torture, arbitrary detention and even execution, and in violation of member-countries' obligations under international law. The organization was also concerned that this cooperation could be used by Kazakhstan and Kyrgyzstan to restrict the legitimate and fundamental right of Uighur nationals to freedom of expression, association and assembly.

Both Kazakhstan and Kyrgyzstan are home to large Uighur communities, comprising Uighur nationals of these countries as well as those who have arrived from the XUAR more recently. Local Uighur activists in both countries have expressed alarm at a recent series of media reports which purport to denigrate Uighurs as a whole, including by describing Uighurs generally as "separatists" or "terrorists". Activists in the region have suggested that such articles may be instigated by local "pro-China forces" and the Chinese security forces.

Some non-governmental organizations (NGOs) in Kazakhstan and Kyrgyzstan who assist Uighurs from China have reportedly been subjected to threats, intimidation and harassment, often from unknown or unidentified sources, apparently aimed at

preventing them from conducting their advocacy activities.

Uighur asylum-seekers in both Kazakhstan and Kyrgyzstan face an ever-present risk of being detained by the police as "illegal immigrants", which puts them in greater danger of being forcibly returned to China. One Uighur asylum-seeker, who wished to remain anonymous, reported that the police had said "you are a separatist, you are a terrorist" when they arrested him recently in the Kyrgyz capital, Bishkek. When he presented a UNHCR official document stating that he was a person of concern, then a police officer replied: "this is like toilet paper - it won't help you." He was taken to a detention centre but released later the same day following intervention by UNHCR.

Local NGOs working with Uighur asylum-seekers in Kazakhstan and Kyrgyzstan have also reported growing numbers of cases where Uighurs in these countries have "disappeared" and are presumed to have been forcibly returned to China.

Local NGOs in the region who assist Uighurs from China estimated that Kazakhstan may have returned around 20 Uighurs, and Kyrgyzstan around 50 Uighurs in recent years, but the exact number is impossible to determine. On 31 March, it was reported in the official Chinese media that two men, Rahmutulla Islayil and Arken Yakuf, both Uighurs from Urumqi, had been executed after being transferred to China from Kyrgyzstan in July 2002.

On 31 December 2002 in the Kyrgyz capital, Bishkek, three Uighurs, Ablimit, Tohti Niyaz and Kayser Jalal were reportedly sentenced to 16, 17 and 25 years in prison respectively for forming an "unlawful East Turkestan organization" and "illegal possession of weapons." Their lawyers reportedly claimed that they were convicted on the basis of fabricated evidence. AI fears that the formal ratification of an extradition treaty between China and Kyrgyzstan in March 2004 increases the risk that they will be returned to China where they are likely to face torture and execution.

(For further information, see AI Index: ASA 17/021/2004)

MACEDONIA

Background

On 26 February President Boris Trajkovski died in a plane crash in Bosnia-Herzegovina. In the ensuing presidential elections in April, Prime Minister Branko Crvenkovski was elected President. In May Hari Kostov, who had been Minister of Internal Affairs, became Prime Minister and in June the new government was approved by parliament.

Prisoner of conscience Zoran Vranishkovski

On 11 January Zoran Vranishkovski, also known as Bishop or Metropolitan Jovan, was arrested on 11 January along with four monks and seven nuns after holding a religious service in his private apartment. All were released after about 30 hours, but Zoran Vranishkovski was re-arrested on 12 January and charged with "causing national, racial or religious hatred, discord and intolerance" under Article 319 of the Criminal Code. AI believed the reason for his arrest and detention was his support for the ecclesiastical control of the Serbian Orthodox Church over the Macedonian Orthodox Church, from which had been expelled, and considered him to be a prisoner of conscience. On 30 January he was released from custody. His trial on these charges began in May and was still ongoing at the end of June.

Extra-judicial executions at Rashtanski Lozja (update to AI Index EUR 01/016/2003)

On 30 April the Macedonian authorities finally acknowledged that the seven immigrants (six Pakistanis and one Indian) who were killed in March 2002 in Rashtanski Lozja had been extra-judicially executed. The authorities had previously claimed that the men were Islamic militants

planning to attack western diplomatic targets in Macedonia, were connected to ethnic Albanian insurgents in the country, and that they had died after opening fire against the authorities. However, major inconsistencies in the government version pointed to extra-judicial executions. In March 2003 after a change in government the authorities announced a special enquiry into the killings. In April the authorities issued a new version of events, stating that the then-Macedonian authorities had concocted a plan whereby the men had been contacted whilst they were in Bulgaria with a promise that they would be smuggled into Greece as illegal migrants but instead were lured to Macedonia, murdered, and false evidence was planted to support the bogus claim that they were Islamic militants linked to ethnic Albanian insurgents. The authorities charged a number of people with murder in connection with the killings including three former police commanders, two special police officers and a businessman, as well as former Minister of Internal Affairs Ljube Boshkovski who fled to Croatia and remained protected from extradition due to his dual Macedonian/Croatian citizenship.

The "disappeared" and abducted in 2001 (update to AI Index EUR 01/016/2003)

There was some progress in discovering the fate of 20 missing persons - 13 ethnic Macedonians, six ethnic Albanians, and one Bulgarian citizen - who "disappeared" or were abducted during the period from 17 April to 31 August 2001 during the conflict between security forces and ethnic Albanian insurgents. On 6 May the Macedonian Ministry of Interior announced that DNA analysis carried out on bodies found in 2003 in a mass grave near the village of Trebos, Tetovo, identified three of them - Dimitrie Dimovski, Krsto Gogovski and Simeon Jakimovski - as abducted ethnic Macedonians. On 9 June a fourth body found in the grave was identified as being that of Vasko Mihajlovski, another of the abducted Macedonians.

On 4 June the Albanian language newspaper *Fakti* reported that an ethnic Albanian police officer claimed to have seen Ruzhdi Veliu, one of the six missing ethnic Albanians, in the prison of Bitola but that he was not allowed by guards to speak to him. In his testimony to the newspaper, he claimed that: *"many people visited him, but according to the prisoners they were policemen or people from the Court. There are more than 20 people who would testify that Ruzhdi Veliu was in the Bitola prison. I am surprised why the police and the court say that he was not there"*. An unnamed witness, also quoted by the newspaper, described the way Ruzhdi Veliu was arrested in Botun, a village near the town of Ohrid: *"we were told to follow Veliu; we knew everything, the time when he left Kichevo and was supposed to arrive in Struga and the time when he will get in Botun. We followed him up to Botun and waited for him to get back. At 16:20 PM Veliu arrived in Botun and inspectors from Bitola stopped the vehicle and arrested Ruzhdi. Then he was taken to Izdeglavje prison."*

On 13 May, the police in Kichevo received an unsigned letter with three maps indicating the locations of burials in Zelenec, Jama and Veles. On 17 May the police received an anonymous phone call claiming that human bodies were buried in a pit in Jama, on the road between Kichevo and Debar, in the Bistra mountains. The Ministry of Interior subsequently disclosed that the anonymous writer of the letter, written in Serbian, claimed that he *"was a police instructor and [he] was fighting on the side of the Ministry of interior against the Albanians terrorists. Here are the corpses of the missing Albanians."* A team of police officers, accompanied by the Kichevo public prosecutor and an investigating magistrate, went to the site where four bodies were exhumed. An autopsy was immediately ordered and relatives of the disappeared volunteered to provide blood samples in order to facilitate DNA identification of the corpses whose identities remained unconfirmed by the end of June.

Police torture and ill-treatment

There appeared to be a drop in the number of alleged instances of police torture or ill-treatment although cases continued to be reported. In March the Court of Appeal postponed for the 17th time the trial against four police inspectors who allegedly beat 12-year-old Isak Tairovski in 1994 so badly that he was hospitalized and became permanently disabled. The hearing was postponed because one of the accused and a witness did not show up in court.

Journalists punished for criminal libel and slander (update to AI Index: EUR 01/001/2004)

In April amendments to the Criminal Code removed the possibility of *ex officio* prosecutions for slander and libel. However, libel and slander brought by private individuals remained as criminal offences with possible prison sentences. The Association of Journalists of Macedonia warned that such potential prison sentences could intimidate and silence journalists and pointed out that there were some 50 charges every year for libel and insult, of which 60 per cent were against journalists.

In April Zoran Bozhinovski, an investigative journalist for the weekly *Start* and owner of the local Kumanovo paper *Bulevar*, was sentenced to 30 days in detention to ensure his presence in court to face charges of libel and insult brought against him by the former chief of the Kumanovo crime police. He was released from custody after seven days in detention.

On 19 February *Dnevnik* Bitola correspondent Mende Petkovski was sentenced by the First Instance Court in Bitola to four months' imprisonment suspended for two years for having libelled Nexhat Ajro, a judge in the Bitola court of appeals, in articles published in 2002 which stated that the judge had been driving around in a car without registration plates. The court also ruled that he should pay the expenses of the two-year trial. He was sentenced under Article 172 (3) of the

criminal code which penalizes untruths which cause severe consequences. However, the Macedonian Helsinki Committee for Human Rights pointed out that the press articles in question were based on fact and that the police had undertaken action against Nexhat Ajro for breach of vehicle registration regulations.

Trafficking of women and girls for forced prostitution

Changes in the Criminal Code came into effect in April, and the minimum prison sentences for human trafficking was raised from five years to eight years. The US State Department in its annual report on Trafficking of 14 June noted that "institutional deficiencies in the judiciary hindered greater progress in combating trafficking." Tetovo crime police statistics for 2003 published by the daily *Vreme* showed that in the Tetovo region 80 police raids on suspected brothels with trafficked women found 95 people "without regulated residence in Macedonia" resulting in 38 charges being brought against owners of the relevant premises, but only one conviction. The newspaper noted that the Tetovo prosecution had difficulties to find relevant evidence and that witnesses were often afraid to testify and sometimes the subject of death threats. The daily *Fakti* on 8 June reported that in Dabile village between Delchevo and Strumica near the Macedonia-Bulgaria-Greece border, there was a public market where girls from the Ukraine, Russia, Romania, Belarus, Moldavia and other countries were being sold and bought for US\$1,000 – 3,000 dollars by traffickers from a number of places in Macedonia.

Refugees and internally displaced persons (update to AI Index: EUR 01/001/2004)

There remained some 2,400 registered internally displaced persons after the 2001 conflict in Macedonia of whom about half were accommodated in collective centres while the remainder were with relatives. In

addition there were an estimated 1,500 refugees from Kosovo, predominantly Roma.

MALTA

Asylum and immigration

Inquiry opened into 2002 refoulement of Eritreans (Update to AI Index: EUR 01/002/2003)

In May AI published a report entitled Eritrea: "You have no right to ask" – Government resists scrutiny on human rights (AI Index: AFR 64/003/2004), describing the organization's grave concerns about the human rights situation in Eritrea. One chapter of the report was devoted to the treatment in Eritrea of Eritrean returnees and refugees, including the fate of some 220 Eritrean citizens deported from Malta to Eritrea on 30 September and 3 October 2002 and about whom AI had corresponded with the Minister for Justice and Home Affairs in 2002 and 2003.

On 27 September 2002, just after receiving reports that deportations of Eritreans from Malta might be imminent, AI had written to the Minister of Justice and Home Affairs. AI was not in possession of the names of all the Eritreans then detained in Malta and threatened with deportation, nor aware of the grounds which those individuals who were claiming asylum were putting forward in their asylum applications to the relevant Maltese authorities. Among other things, in its letter AI stressed the limited nature of the declaration of a cessation of refugee status for certain Eritrean refugees which had been made by the UN High Commissioner for Refugees (UNHCR) in May 2002. AI also stated that "Eritrea cannot be regarded as a 'safe' country with regard to Eritrean asylum-seekers" and pointed out the specific categories of Eritreans who "would be at risk of serious human rights violations, including arbitrary detention, torture or ill-treatment, extrajudicial execution or the death penalty, if returned to Eritrea". AI said that those at risk "would include

suspected opponents or critics of the government, including suspected supporters of exile opposition groups, conscientious objectors to national military service and army deserters”.

According to information subsequently received by AI, described in the May report cited above, the Eritreans returned by Malta were “all detained on arrival in Asmara and sent to the nearby Adi Abeto military detention centre. Most had apparently refused to apply for asylum in Malta, hoping to travel on to Italy ... As AI learned later, women, children and those over the conscription age limit of 40 years were released after some weeks in Adi Abeto prison but the rest of the Malta deportees – mostly army deserters – were kept in incommunicado detention and tortured...”.

The report received widespread coverage in the Maltese media, provoked public debate about the deportations and resulted in calls for an independent commission of inquiry into the Maltese government’s decision to deport the Eritrean citizens.

On 25 May the government announced the opening of an inquiry to be carried out by a Board of Inquiry composed of a magistrate sitting alone who, according to a government press release, was tasked with examining whether the process leading to the deportations was regular and legal, and whether any individuals or authorities had exerted undue pressure for the deportations to be carried out.

On 7 June AI wrote and published an Open Letter to the Minister for Justice and Home Affairs (AI Index: EUR 33/002/2004) which recalled the content of the letters which it had addressed to the Minister both before and after the deportations in 2002 and a further letter of October 2003. The Open Letter underlined that AI’s primary concern was that “all possible steps should be taken to help those people whom it believes to be still in detention in Eritrea following their return by Malta, and currently suffering and at constant risk of serious human rights violations, including torture, death and indefinite detention without charge of trial,

and to ensure that Malta does not again return people in need of international protection to a country where they risk such treatment”.

AI said it welcomed, therefore, news of the opening of an inquiry and sought the Minister’s cooperation in providing the organization with details of its precise remit. AI expressed the hope that the inquiry would be thorough and impartial and, to that end, recommended in particular that the inquiry - be conducted by an expert in domestic and international refugee law; - that its scope, methods and findings be made public; - that it examine whether the deported Eritreans had access to a fair and satisfactory asylum determination process, in line with the requirements of relevant international standards, including free and timely access to legal advice; - that it examine the deportations in the light, not only of Malta’s obligations with regard to the principle of non-refoulement contained in Article 33 of the 1951 Geneva Convention relating to the Status of Refugees, but also Malta’s obligations under other relevant international instruments, including Article 3.1 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and Article 3 of the European Convention on Human Rights and Fundamental Freedoms; - that it examine whether UNHCR was informed that the Eritreans being deported included individuals who had applied for asylum in Malta but been rejected, as well as those who had not applied for asylum in Malta but expressed the wish to travel on to Italy; - that it be empowered to take evidence from state officers performing custodial or escort duties with regard to the deportees, those administering the refugee determination system at initial and appeal levels, representatives of non-governmental organizations in contact with the deportees before they were returned to Eritrea and from ex-Malta Eritrean deportees now in a place of safety, and from Eritreans still in Malta who were detained with those deported in 2002, and that it guarantee full confidentiality to, and protection against harassment and intimidation of such Eritrean witnesses.

AI said it would also welcome the Minister's cooperation in informing the organization of any active steps the Maltese Government had itself taken to clarify the treatment of the returnees in Eritrea. AI also urged the government, if it had not already done so, to request the Eritrean authorities to provide them and the deportees' relatives with information as to the whereabouts of the deported Eritreans, and to allow an international monitoring agency to be given access to Eritrea to visit them.

At the same time, a copy of the Open Letter, together with its attachments (which included the full texts of the letters which AI addressed to the Minister in 2002 and 2003 and of AI reports on the human rights situation in Eritrea issued in September 2002 and May 2004), was also sent, for information, to the magistrate in charge of the inquiry concerning the circumstances surrounding the deportations. The inquiry was still under way at the end of June 2004.

Visits and reports by international and domestic human rights monitoring bodies

The Council of Europe's Committee for the Prevention of Torture carried out an ad-hoc visit to Malta in January, stating that its main purpose was to examine "the treatment of foreign nationals detained under the immigration legislation, as well as the procedures and means of restraint applied in the context of forcible removals by air". In accordance with its usual policy, the Committee's report on its visit will be submitted to the Maltese government and made public if the government agrees.

In February the Council of Europe's Commissioner for Human Rights issued a report on his October 2003 visit to Malta which confirmed concerns which AI has expressed in recent years about the treatment of asylum-seekers and unauthorized migrants on the island. The Commissioner expressed concern, among other things, about the automatic detention of all people entering Malta irregularly, regardless of whether or not they have

applied for refugee status; highly inadequate living conditions in some detention centres for aliens; the excessive length of refugee determination proceedings and inadequate access to education for detained migrant children. He made a series of urgent recommendations to address the situation.

In comments submitted to the Council of Europe during the presentation of the report to the Council of Europe's Committee of Ministers, the Government of Malta noted that:

"The Commissioner ... criticises the fact ... that every person, on entering Malta illegally, is detained, even if he/she has applied for refugee status. He recommends that they be released on making such an application. The Maltese government appreciates the Commissioner's comments, but it does not consider that it would be in Malta's national interest to do away with the policy of detention. If the 2000 persons who entered Malta illegally in the last two years had been immediately released, they would have caused upheavals on the labour market and major problems regarding their accommodation."

AI was concerned by the reluctance of the Maltese government to bring its policy in line with international standards according to which asylum-seekers should be detained only when a legitimate reason for doing so has been demonstrated in the individual case, only when other measures short of detention will not suffice and only for a minimal period.

In response to the Commissioner's recommendations that Malta "adopt a law providing that the detention of asylum-seekers will be authorised only in exceptional circumstances and with the control of the judicial authorities" and "ensure that detention of irregular migrants is not prolonged indefinitely", the government pointed to a bill amending the Refugees Act which had been published in the Malta Government Gazette on 27 January 2004. The bill's main stated object was to expedite "the processing of

applications for refugee status" and the government said it would "enable any person detained in an immigration centre to request his/her conditional release to the Immigration Appeals Board ... if he/she considers that he /she has been detained for an unreasonably long period."

However, AI noted with concern that the January bill, which was still under parliamentary consideration at the end of June, set out no criteria for assessing what would constitute an 'unreasonable' length of detention pending the outcome of applications for refugee status. There was concern that the bill also contained several other provisions which might not meet the requirements for a fair and satisfactory asylum procedure.

A report drawn up by the Maltese Ombudsman and circulated in February, concerning the situation of asylum-seekers and unauthorized migrants receiving treatment in Mount Carmel Psychiatric Hospital, condemned the practice of handcuffing people who needed to leave the detention centres for aliens in order to receive medical treatment (a practice also condemned by the Council of Europe's Commissioner for Human Rights). The Ombudsman's report followed a visit which he had made to the hospital at the request of the Maltese Labour Party's international secretary who had apparently tried to visit the migrants detained at the hospital over Christmas 2003 but been refused entry by police officers. The Ombudsman, while recognizing that the migrants were treated well at the hospital and that they preferred it to being held in the detention centres for aliens, also concluded that they did not suffer from chronic mental health problems and their depression was mainly due to lack of information and uncertainty about their status, and their indefinite detention. He recommended that a qualified person be appointed to update them regularly on their status. He also referred to the strict police surveillance of the migrants confined inside the hospital and suggested the police might be better utilised if the migrants were allowed to exercise in a garden close to

their ward, or allowed to use the hospital gym while police watched over them.

MOLDOVA

Police ill-treatment and conditions in pre-trial detention

Torture and ill-treatment in police custody continued to be a major problem in Moldova. The problem was aggravated by the high number of detentions and failure to use alternative methods such as bonds and bail. A system of quotas and rewards for police based on the number of crimes solved also increased the chances of torture and ill-treatment by putting pressure on the police to "solve" crimes in any way they can. Conditions in the temporary holding facilities (known as IVS, an acronym from the Russian *изоляция временного содержания*) where, according to domestic law, detainees can be held up to a maximum of 30 days, still failed to meet international standards. They are all underground, inadequately ventilated and detainees do not have access to adequate toilet facilities. Even though the Council of Europe's Committee for the Prevention of Torture and the UN Committee against Torture have repeatedly made recommendations to improve pre-trial detention and to introduce safeguards to prevent torture, conditions remained well below international standards and torture continued to be widespread.

The case of Veceslav Drugaleov

The authorities are usually unwilling to conduct prompt and impartial investigations into allegations of torture and ill-treatment; however, in March there was a breakthrough when the central court in the capital, Chisinau, ruled against the Ministry of the Interior. The court ruled that the Ministry was in breach of Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms in the case Veceslav Drugaleov, because it had detained the applicant in inhuman and degrading conditions in the period from

August 1999 to 2001. Veceslav Drugaleov had contracted tuberculosis as a result of his detention in 1996. He was detained again in 1999 and spent 18 months in the IVS of Calarasi police station where detainees were not provided with food or water (they relied on food being brought by relatives) and had no medical care, fresh air, proper ventilation or sanitary facilities. This was the first ruling of its kind on conditions of detention in the country.

The case of Oleg Talmazan (Krasnov)

During a visit to Moldova in June AI delegates took testimony from Oleg Talmazan (who publishes under the name of Krasnov). He had been detained on 4 March in connection with a financial crime, accused under Article 123 of the Criminal Code of failing to repay a bank loan. He was held in an IVS at the Chisinau department for organized crime until 8 April and interrogated twice during his detention by investigators from the Procuracy. The IVS was underground and the ventilation system was periodically turned off depriving the prisoners of adequate air. Sanitary conditions were inadequate and the prisoners were allowed into the exercise yard for only 30 minutes once a week. He was not allowed access to family or correspondence. On 27 March he suffered a heart attack, but was not hospitalized until 8 April despite the fact that an ambulance had been called out and had recommended his hospitalization. He was then transferred to a prison hospital and held a further 30 days until 7 May. He has complained to the General Procuracy, but no action had been taken by the end of the period under review.

Refugees/asylum-seekers

In June the Parliamentary Assembly of the Council of Europe (PACE) recommended that Moldova and other CIS states observe strictly the fundamental principles of international law concerning the protection of refugees and asylum-seekers, and that they show commitment and political will in tackling the problems of migration (Recommendation 1667/2004). During their

June visit to Chisinau AI delegates learnt that although refugee legislation is broadly in line with international standards, there were still many shortcomings in the law and practice. The Moldovan government has responsibility for granting refugee status, but the system is very slow. In the case of Chechen asylum-seekers no decisions are taken. Refugees in Moldova are experiencing difficulties in finding employment and are at risk of ill-treatment by the police because they are not issued with any documents. There have been very long delays in the process of agreeing the type of documents to be issued and the office of the UN High Commissioner for Refugees has been in discussion with the government on this issue since 1998. The final version of a proposal for documentation will be presented to parliament in August.

Self-proclaimed Dnestr Moldavian Republic (DMR)

There has been no progress in resolving the status of this internationally unrecognized, breakaway region, and tensions began to escalate in June around the issue of Moldovan schools in the DMR that teach Moldovan/Romanian in the Latin script. The DMR authorities have refused to register the schools in question despite an agreement brokered by the Organization for Security and Co-operation in Europe (OSCE) in mid-2003, and teachers, pupils and parents have been harassed by police. In June a high-level OSCE delegation visited the DMR and called for a more constructive stance on the part of the authorities; an end to harassment; and for the schools to be registered.

The "Tiraspol Six" (update AI Index: EUR 01/03/00)

On 2 June Alexandru Lesco, who had served 12 years in prison in the DMR, was released. Alexandru Lesco and the other members of the "Tiraspol Six" were sentenced in December 1992 after a court convicted them of murdering two DMR officials and planning other violent political

acts during the period of armed conflict between DMR and the Moldovan forces. Petru Godiac and Vladimir Garbuz were released in 1994 and Ilie Ilascu in 2001. AI welcomed the release of Alexandru Lesco (see AI Index: EUR 59/001/2004) but expressed concern about the conditions of detention of the remaining two members of the "Tiraspol Six", Andrei Ivantoc and Tudor Petrov-Popa.

PORTUGAL

Constitution prohibits discrimination on grounds of sexual orientation

In April parliament approved the Sixth Revision of the Portuguese Constitution. AI welcomed an inclusion prohibiting discrimination on the basis of sexual orientation in Article 13 (Principle of Equality). The constitutional changes entered into force on 24 July (*Lei Constitucional n.º 1/2004 de 24 de Julho*).

Excessive use of force, including lethal force, by police (update to AI Index: EUR 01/01/2004)

AI remained concerned that Portugal was failing to meet its obligations under international law to ensure that no one be arbitrarily deprived of their life, and to comply with international law and standards on the use of force and firearms by police. In May the organization wrote to the Minister of the Interior to reiterate its long-standing concern about arbitrary use of force, including lethal force, by police. The organization's concern arose, in particular, from reports that police had used firearms and rubber bullets unnecessarily and/or disproportionately to the threat posed, if any, to the police officers involved, and that some people might have been unlawfully killed as a result. AI expressed concern about reports that training in the use of force was inadequate, and that operational guidelines were inadequate in some areas and lacking in others. AI also expressed concern that insufficient measures had

been taken to ensure the implementation of, and adherence to, international laws and standards in policing practices. The organization requested information about any measures that had been taken or planned to address the UN Human Rights Committee (HRC)'s Concluding Observations on police use of force, issued in August 2003, and to implement its recommendations. AI also enquired about what measures had been taken in response to the criticism of police use of firearms by the General Inspectorate of the Internal Administration (GIIA), made public during a seminar in November 2003. The seminar's proceedings were published in February.

In its May letter AI continued to express concern about the killing of António Pereira. The trial of a police officer for the homicide of António Pereira concluded in March with the officer acquitted. During the trial it reportedly emerged that not all the police officers that had been allowed to use rubber bullets had received appropriate training in their use. The police officer charged with António Pereira's homicide claimed that at the time of the shooting he had not been aware that rubber bullets could kill, and had not been trained in the use of the rubber bullet shotgun with which he killed António Pereira. The Public Security Police (*Polícia de Segurança Pública* - PSP) National Director gave evidence at the trial in November 2003. He reportedly stated that there were no guidelines regarding the use of rubber bullets at the time of the killing, and added that following the death of António Pereira significant resources had been directed towards improving training. AI understands that the lack or inadequacy of training, and the lack of guidelines for the use of rubber bullets may have played a role in the court's decision to acquit the police officer.

AI expressed further concern that the case had revealed serious systemic failures. Important questions remained about the circumstances of, and background to, the killing, including the use of rubber bullets without adequate training being given to officers, and in the reported absence of guidelines regarding the circumstances in

which the bullets could be discharged. AI noted with concern that rubber bullets were not new technology; that they had been used by many police forces and that their risks had been well known for many years. For example, international human rights monitoring bodies have repeatedly stressed that such weapons must be used in accordance with international law and standards. AI urged the Minister of the Interior to ensure accountability of all those involved in allowing police officers to use weapons without adequate training and in the reported absence of guidelines.

Media reports in April announced the adoption by the PSP of internal operational regulations detailing the situations in which officers of the PSP would be allowed to use force, and specifying which kind of force should be used in different situations, including lethal force. Such regulations were expected to be included in an internal document entitled "*Regulamento de uso da Força*", binding only PSP officers.

In light of the grave concerns that the use of force, including lethal force, had given rise to, and given that the most fundamental human rights were at stake whenever force was used by law enforcement officials, AI urged the authorities to ensure that regulations on the use of force and firearms, consistent with international standards, be in place along with appropriate training for all law enforcement officials, including for example the National Republican Guard (*Guardia Nacional Republicana* - GNR). AI considered that all regulations regarding police use of force should be public and called on the Minister of the Interior to publish any such regulations.

The killing of Nuno Lucas

In January it was reported that the Minister of the Interior had decided that the police officer involved in the killing of Nuno Lucas in August 2002 should be expelled from the police. A disciplinary investigation by the GIJA had reportedly concluded that – irrespective of whether the discharge of fire had been intentional or unintentional – the

use of a firearm in the circumstances had been improper (*indevido*).

Allegations of discriminatory policing

AI continued to receive reports alleging that policing was often carried out in a discriminatory manner in deprived areas, mostly inhabited by people belonging to ethnic and other minorities; and that people belonging to ethnic and other minorities considered that they were being targeted by police, and did not have sufficient trust in the police to lodge a complaint. In light of such reports, the organization was concerned that Portugal was not fulfilling its obligations under international law and standards, including the UN Convention on the Elimination of All Forms of Racial Discrimination.

AI was also concerned that relevant data allowing for an informed analysis of policing of people belonging to ethnic and other minorities appeared to be inadequate or non-existent. In recent years international human rights monitoring bodies have criticized the Portuguese authorities for failing to produce relevant data on human rights issues, including in connection with racism and policing. AI sought information on any mechanism in place to ensure that policing was not discriminatory, and in particular about any system for ensuring that sufficient relevant data be collected.

Prison conditions cause grave concern

There were some new reports of ill-treatment and other forms of abuse by prison officers. AI was investigating the case of a prisoner that had been beaten up by several prison officers in Lisbon prison in November 2003. In light of the circumstances of this assault, the organization was concerned that it might not have been an isolated incident. Concerns about the safety of inmates persisted. Safeguards to prevent self-harm, including through the identification of vulnerable inmates, remained inadequate in some prisons, as did systems to ensure

assistance to inmates in need at night and in disciplinary cells. In Vale de Judeus prison, there were three reportedly self-inflicted deaths in January. AI received reports that safety measures in some prisons, including in case of fire and in prison workshops, were very poor – if they existed at all. Conditions amounting to cruel, inhuman and degrading treatment continued to cause concern in various prisons. Overcrowding remained one of the main problems contributing to cruel, inhuman and degrading conditions of detention, together with gravely inadequate sanitary facilities. There were reports that conditions of detention in disciplinary cells in some prisons were extremely poor. In the wings of some prisons detainees were reportedly locked up for up to 23 hours with no access to fresh air, sometimes for several days at a time. Inadequate health care provisions continued to be of grave concern, especially in light of reports that a large part of the prison population was diagnosed with serious medical conditions, including HIV. The authorities continued to fail to ensure the separation of convicted prisoners from detainees in pre-trial detention. Lawyers interviewed by AI expressed concern at the lack of dissemination of prison rules. AI was concerned that this resulted in inmates not being aware of their rights, including in relation to disciplinary proceedings against them.

A commission established in February 2003 to study a reform of the prison system (*Comissão de Estudo e Debate da Reforma do Sistema Prisional*), submitted its report to the government in February. The commission was mandated to draft general guidelines and legislative proposals on the reform of the prison system. The proposals (with the title *Lei-quadro da reforma do sistema prisional*) were approved by the government at the end of June. The stated objectives of the reform included: the achievement of a humane, just and safe prison system aimed at the social rehabilitation of inmates; the protection of inmates' fundamental rights; an improvement in the conditions of detention ensuring increased protection of inmates'

dignity; the fulfilment of inmates' daily needs including with regard to health; combating overcrowding; and the regular control over the functioning and the quality of the prison service, by internal and external entities.

In connection with the latter, AI considered that the government should take the occasion of the review of the prison system to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to provide Portugal with a system of regular visits undertaken by independent international and national bodies, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment in prisons and other places of detention. The government should also ensure that effective systems are in place for detainees to notify impartial authorities of allegations of torture and ill-treatment. Under the Optional Protocol, Portugal would be under an obligation to establish, designate or maintain independent national preventive mechanisms for the prevention of torture and ill-treatment.¹³

In light of its long-standing and wide-ranging concerns about Portuguese prisons, including regarding ill-treatment, AI considered also that more detailed references to Portugal's obligations under international law to protect the human rights of detainees should be included in the legislative proposals on the reform of the prison system. In addition, the organization considered that the proposals should include provisions to ensure that the training of prison officers give high priority to the operational implications of their duty to protect the physical and mental integrity of detainees; and to ensure the gathering of relevant data on the personal circumstances of the prison population for

¹³ For further information on the Optional Protocol and the general principles that AI considers should guide the establishment of the national preventive mechanisms see *Preventing Torture at Home – A Guide to the Establishment of National Preventive Mechanisms*, AI Index: IOR/51/004/2004.

an effective monitoring of discriminatory practices.

ROMANIA

Psychiatric hospitals - a human rights crisis

AI was concerned that the placement, living conditions and treatment of patients and residents in many psychiatric wards and hospitals in Romania are in violation of international human rights standards and best professional practice in this field. In one of the hospitals in Poiana Mare, 18 patients died in January and February, reportedly mostly as a result of malnutrition and hypothermia (see *Romania: Patients at the Poiana Mare psychiatric hospital* AI Index: EUR 39/002/2004). In May Amnesty International published *Romania: Memorandum to the government concerning inpatient psychiatric treatment* (AI Index: EUR 39/003/2004), and addressed extensive recommendations to the authorities. A thorough and appropriate reform of the mental health care services is the most effective way to remedy the broad range of human rights violations suffered by people who had been placed in psychiatric wards and hospitals, as well as to ensure that the rights of people with mental disorders or intellectual disabilities are fully respected.

As a result of its research the organization concluded that the placement for involuntary psychiatric treatment of people who have not been charged with any criminal offence, or of people who have been placed in hospitals on non-medical grounds, amounts to arbitrary detention and denial of fair trial rights. Many of the people placed in psychiatric wards and hospitals throughout the country apparently do not suffer an acute mental disorder and many do not require psychiatric treatment. Many people who had been cared for in institutions for children with intellectual disabilities had been placed in psychiatric wards or hospitals simply because they had no family or possibilities for reintegration,

with appropriate support, into the community.



© Mocrea Hospital Exchange Group
Men with more complex disabilities suffer the greatest degree of neglect in the worst living conditions in Mocrea Psychiatric Hospital in April 2004

The living conditions, diet and heating provisions in many psychiatric wards and hospitals were deplorable. Overcrowding in some hospitals resulted in patients having to share beds. In some instances patients shared beds as this was the only way to keep warm in unheated wards. The situation was worse in wards for long term patients and for those with the most severe disabilities and therefore more complex care requirements.

Throughout 2003 AI received reports that many patients had been denied adequate medical treatment and that the psychiatric hospitals in general were unable to ensure adequate provisions of psychiatric medication because of lack of allocated resources. Few hospitals had staff and facilities to offer the full range of therapies and rehabilitative and therapeutic activities. In many wards and hospitals the patients apparently did not receive appropriate treatment for somatic conditions which they had suffered in addition to mental health problems.

Restraint and seclusion practices in many psychiatric wards and hospitals were not in line with international standards and in

some instances amounted to cruel, inhuman and degrading treatment or punishment.

AI stood by its methodology and conclusions following a statement by the government's spokesperson that its observations in the report were exaggerated or even false (see: *The Romanian government fails to acknowledge the human tragedy unfolding in psychiatric hospitals*, AI Index: EUR 39/005/2004). Subsequently, on 19 May, the government adopted a list of measures proposed by the Ministry of Health to improve the mental health care system, some of which had also been recommended by the organization. At the same time the Minister of Health invited AI's representatives to visit Bucharest and discuss the Ministry's strategy of reform for mental health services.

A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Romania from 15 to 21 June and visited Poiana Mare Psychiatric Hospital. The CPT had previously visited this hospital in 1995 and 1999. The Romanian Ministry of Health had informed the CPT in November 1995 that the institution "shall be gradually eliminated as a hospital, as it no longer brings together acceptable circumstances (neither from the medical, from the penal or humanitarian point of view)."

New reports of ill-treatment by law enforcement officers

Numerous new reports of police ill-treatment were received in the period under review. One such report concerned an incident which occurred in Bucharest on 14 March when Ion Marin, director of the newspaper *Ultima Oră* (The last hour) was forcibly taken from his office to a psychiatric hospital by four police officers and a medical team. The medical team reportedly acted on information received in a telephone call that there was "a dangerous madman" in the newspaper office. When Ion Marin refused to be taken

to the hospital two police officers arrived and attempted to hold Ion Marin so that he could be injected with a sedative. Because Ion Marin resisted two more officers arrived and he was handcuffed. He subsequently stated: "They hit me, spat at me, they stole things from my pocket... the newly arrived medical assistants injected me twice with a sedative substance... My daughter called my lawyer, Aurelia Crețu, who arrived immediately, and found me in a state of unconsciousness, while the bastards kept saying that I had been drunk for the last three days and this is why I could not open my eyes, and not because they had punched and kicked me as if they were from *Miliția* [law enforcement officers during the Communist regime]." After several hours at the hospital Ion Martin was released. The following day he obtained a forensic medical certificate describing the injuries which he had suffered as a result of the alleged ill-treatment and filed a complaint.

Ill-treatment of children continued

AI's continuing concerns about allegations of police ill-treatment of minors were documented in a report published in June: *Romania: More ill-treatment of children* (AI Index: EUR 39/008/2004). One of them was the case of C.B. (his full name is known to AI). On 6 March, between 8.30 and 9pm, on one of the main streets of Bucharest, 15-year-old C.B. stopped briefly to observe a verbal dispute between police officers and some taxi driver. According to reports, suddenly officers of a special intervention force team (SPIR) arrived and started to beat the taxi drivers and push them into police vans. Five SPIR officers wearing balaclavas then punched and kicked C.B. in the head and back and put him in one of their cars. The child was then taken to Police Station number 14 where the beating continued. C.B. was released at about 10.45pm. In spite of the late hour, however, and his visibly poor state, the police officers did not take him home or ensure that someone accompanied him. At around midnight C.B. was admitted to a children's emergency hospital where he received treatment for an acute cerebral

trauma, fracture of the nasal bones, haematoma and contusions of the left eye and upper lip, as well as bruising of the face and the right shoulder. The hospital released him two days later, reportedly under pressure from the police. On 10 March when C.B. went to the forensic medical institute he was referred to a hospital in Bucharest for further investigations.

Violence against women

Some of the victims of police ill-treatment were women. In February it was reported that two young women from Jăndarei, Ialomița county, had been repeatedly raped and beaten in December 2003 by three senior police officers. Mirela and Iuliana Bon, who are sisters, were working as waitresses in a bar which was reportedly frequented by the local police. One of them, a senior officer of the Jăndarei Police, reportedly arranged for Iuliana Bon to meet another senior officer in the county who reportedly offered to help her obtain a driving licence. The latter then took Mirela and Iuliana Bon to his house five kilometres outside the town. They were joined there by two other officers, one a further senior officer in the county. The officers reportedly beat and repeatedly raped Mirela and Iuliana Bon. Because the women had suffered lesions and bruises as a result of the beating, they were reportedly held against their will in an apartment for seven days. The parents of the missing women were initially told at the bar that they had left in the company of the police officers. They then reported the disappearance of their daughters to the Slobozia municipal police. A senior official at the County Police Inspectorate reportedly tried to cover up for his colleagues by having their names omitted from the complaint. After Mirela and Iuliana Bon were allowed to return home they were examined by a forensic medical doctor with intent to file a complaint. They were then reportedly harassed and threatened by the police not to complain. In February, their case was reported by the press and the Ministry of Interior sent to Slobozia a team of

inspectors to investigate. Two days later the Minister of the Interior suspended the three senior police officers from duty pending results of the internal inquiry.

Unlawful use of firearms by law enforcement officers

There were new reports of law enforcement officers resorting to firearms, and at least one person was killed, in circumstances which were in breach of international standards. On 30 May, at around 10.30am two police officers in the village of Jegălia, in Călărași county, pursued Nicușor Șerban, in an attempt to apprehend him on suspicion of rape. When Nicușor Șerban jumped the fence of a field on the outskirts of the village, officer S. reportedly shot at him twice hitting him in the back. Nicușor Șerban was then taken in the police car in the direction of Călărași. On the way, he was transferred into an ambulance where he died on the way to the hospital.

Assaults on the Roma

According to information received from the European Roma Rights Center and "Tumende" Association of Vale Jiului, a local Romani organisation, on 11 March a Rom named Bela Dodi died following an incident involving private security guards at the Coroiești mine in Vulcan, in Hunedoara county. The guards work under licence issued by the local authorities. According to these reports, Bela Dodi and four other Romani men were collecting scrap metal in the mine when private security guards assaulted them. They reportedly severely beat four men, while Bela Dodi, running in an attempt to escape from the guards, fell to the ground, hit his head and died as a result. The four other men were subsequently taken to a hospital for treatment suffered as a result of the beating. An investigation into the death of Bela Dodi and the ill-treatment of four other men has reportedly been initiated. In November 2003 the employees of the same private security firm were suspected of beating Olga David, a 42-year-old Romani woman, who subsequently died from

injuries suffered in the beating (see: AI Index EUR 01/01/2004)

RUSSIAN FEDERATION

The Chechen conflict: "normal life" characterized by systematic human rights abuses

The conflict in Chechnya continued to be characterized by widespread and systematic abuses of international human rights and humanitarian law. Reports of extrajudicial killings, "disappearances", and torture, including rape, and ill-treatment stood in stark contrast to claims from Russian and pro-Moscow Chechen officials that the situation in the Republic was "normalizing". (See AI report: *Russian Federation: Chechen Republic - "Normalization" in whose eyes?*, EUR 46/027/2004). Furthermore, an increasing number of violations were blamed on the so-called Kadyrovtsy - an armed unit under the command of Ramzan Kadyrov, who became First Deputy Prime Minister of Chechnya in May following the assassination of his father, President Akhmad Kadyrov. Chechen armed opposition groups targeted civilian members of the Chechen administration and were also responsible for a number of abuses.

On 9 May the President of the Chechen Republic, Akhmad Kadyrov, was assassinated in a bomb explosion which took place while he was watching a Victory Day Parade in the Dinamo stadium in Grozny. The explosion killed six people, including the Chairman of the Chechen State Council, Hussein Isaiev, and an eight-year-old girl. At least 13 people needed hospital treatment as a result of injuries sustained in the blast. Presidential elections were scheduled to take place in the Chechen Republic in August.

Alleged violations by security forces, including by the so-called "Kadyrovtsy"

Human rights abuses continued to be committed with impunity by Russian federal forces in the Chechen Republic during targeted raids. During the period under review, the Kadyrovtsy were reportedly responsible for an increasing portion of human rights abuses in the region, and particularly "disappearances". Many Chechens interviewed by AI delegates in April and June said that they feared the Kadyrovtsy more than the federal troops.

According to the non-governmental Memorial Human Rights Centre which systematically monitors the situation in approximately one-third of Chechnya's territory, in the first quarter of 2004, 78 people were abducted in Chechnya, 41 of whom subsequently "disappeared." At least 30 civilians died as a result of the armed conflict in the same period.

The killings of nine men from Duba-Yurt

According to reports, at approximately 2am on 27 March eight military vehicles carrying a large group of masked men in camouflage uniforms entered the village of Duba-Yurt, approximately 25 kilometres from Serzhen-Yurt, and conducted a targeted raid on 19 houses. In total, 11 men aged between 28 and 44 were detained during the raid. Three men were released soon afterwards, but the remaining eight subsequently "disappeared".

On 9 April local residents found the bodies of the eight men in a ravine near Serzhen-Yurt in the Shali region of Chechnya. A ninth body later identified as a man originating from Duba-Yurt who had "disappeared" from his home in Grozny during the night of 1 to 2 April, was also found. The bodies reportedly bore gunshot wounds as well as marks of torture.

The case of Omar Khambiev (see AI Index: EUR 46/019/2004)

In February about 80 relatives of former Chechen Minister of Health, Omar Khambiev, were reportedly rounded up in different locations in Chechnya by the Kadyrovtsy and subjected to torture and ill-treatment in order to put pressure on Omar Khambiev to stop speaking out at international fora against human rights violations in Chechnya and to force his brother, a leading Chechen opposition fighter, Magomed Khambiev, to surrender, which he reportedly did on 8 March.

Persecution and intimidation of human rights defenders, activists and applicants to the European Court of Human Rights

In a worrisome trend, human rights defenders, activists and applicants to the European Court of Human Rights in Strasbourg were targeted by the Russian authorities and in some cases subjected to extreme levels of harassment. Some applicants to the European Court were reported to have been subjected to torture and ill-treatment, and even extra-judicial execution, allegedly because of their resort to the Council of Europe's human rights court.

The case of Imran Ezhiev (see AI Index: EUR 46/006/2004)

On 29 January, Imran Ezhiev – head of the Society of Russian-Chechen Friendship's Information Center in the Northern Caucasus – was detained by a group of armed men in military uniform who took him and his two companions to Sunzhenskoe Regional Department of Internal Affairs (ROVD) – a police station – in the village of Sleptovskaia, Ingushetia. There, several officers allegedly repeatedly hit Imran Ezhiev on the back and beat his head against the wall, while threatening to hand the men over to the Russian federal forces, where they would "disappear" without a trace. Imran Ezhiev claimed that the police officers read the medical documents he carried with him

and were aware that he had a spinal injury when they hit his back. One of the police officers allegedly offered to release the three if they confessed to several unsolved thefts. Imran Ezhiev's release was secured the following day after the head of the Russian Presidential Human Rights Commission, Ella Pamfilova, intervened.

The extrajudicial execution of Anzor Pokaev (see AI Index: EUR 46/027/2004, pp.17-18)

On 10 April 24-year-old Anzor Pokaev was allegedly abducted by federal troops who raided his home in Starye Atagi. The next morning villagers found his body, bearing multiple gunshot wounds, on a roadside near the village of Prigorodnye, about 10 kilometres from Starye Atagi. Sharfudin Sambiev, the father of Anzor Pokaev, and nine other people from Starye Atagi had filed an application in July 2003 with the European Court of Human Rights.

Climate of impunity for violations in Chechnya prevails

The Russian and Chechen authorities continued to fail to carry out thorough, independent and impartial investigations into all allegations of human rights abuses and to bring suspected perpetrators of such abuses to justice. The majority of investigations appeared to be superficial and inconclusive, and prosecutions for serious human rights violations remained few and far between.

On 29 April a court in Rostov-on-Don found four members of a special military intelligence unit, including Captain Eduard Ulman, not guilty of the murder of six civilians in Chechnya. The four officers, who were involved in the incident, did not deny having killed the civilians, but the court found that their actions were not punishable as they had followed orders. In May the General Procuracy of the Russian Federation was reportedly considering whether to appeal against the decision. AI was not aware that any charges had been

brought against the commander of the military unit.

The Zelimkhan Murdalov "disappearance" case (update to AI Index: EUR 46/027/2003)

There was no further progress in the trial of Sergei Lapin – a member of the OMON (special police detachment) from the Khanty-Mansiisk region – who is facing charges of causing bodily harm, abuse of office and forging official documents in connection with the "disappearance" of 26-year-old Zelimkhan Murdalov from Grozny. It was reported that in early 2004 Sergei Lapin returned to work as an armed policeman. The trial was due to resume in August.

Violence against women in the North Caucasus

On April 15 the British charity Medical Foundation for the Care of Victims of Torture launched a report which provided the first-ever substantial body of reliable evidence on the use of rape in the armed conflict in Chechnya. AI and other human rights groups had long suspected that sexual violence in the Chechnya conflict was widespread but faced major difficulties documenting such cases due to the stigma attached to the issue. (See: *The Situation in Chechnya and Ingushetia Deteriorates: New Evidence of Enforced Disappearances, Rape, Torture, and Extrajudicial Executions*, AI index: EUR 46/014/2004).

Women in the North Caucasus region have increasingly become the target of human rights abuses by Russian federal forces and the Kadyrovtsy, allegedly as potential suicide bombers. During a research mission in Ingushetia in June AI obtained first-hand testimonies from several women who reported being detained and tortured, including being raped in order to force them confess to cooperation with Chechen fighters. Due to the stigma attached to sexual abuse in Chechen society, the women had sometimes not even told their closest relatives about the rape and had not

received medical treatment for fear of the doctors handing them over to the federal forces.

The case of "Madina"

At the end of April, "Madina" (her name has been changed to protect her identity), a 23-year-old mother of one, was allegedly tortured after being detained and held incommunicado by Russian federal forces. "Madina" reports being blindfolded and taken to the Russian military base in Khankala, where she was kept for two weeks and routinely tortured, including with electric shocks. She described being stripped naked and sexually abused on several occasions by a group of officers. Those detaining "Madina" released her after two weeks, saying that they had made a mistake, but threatening that if she spoke about her ordeal she would be killed.

The "disappearance" of Eliza Gaitamirova (see AI Index: EUR 46/027/2004)

On 15 January Eliza Gaitamirova, a mother of four children, was reportedly detained by Russian soldiers near her house in Gekhi, Urus-Martan district of Chechnya. She has not been seen since. Eliza Gaitamirova had received a summons to attend her district police station at the beginning of the previous month which led to her being detained until 1 January.

The "disappearance" of Milana Ozdoeva (see AI Index: EUR 46/027/2004)

Milana Ozdoeva, a widow from Kotar Yurt in the Achkhoy-Martan region of Chechnya, was reportedly questioned on 5 and 9 January by a member of the Russian federal forces, about allegations that she wanted to become a suicide bomber – which she denied. On 19 January she was taken away by several men and has not been seen since.

Chechnya and the international community

In February the European Parliament called on the European Council to "renew calls on Russia to do its part in stopping the human rights violations in Chechnya, to investigate disappearances, reports of torture and other crimes, to prosecute perpetrators and ensure that court proceedings comply with all legal requirements". However, there was little sign of a real engagement on this issue between the European Union, its member states and the Russian Federation.

On 15 April the United Nations Commission on Human Rights, for the third year running, rejected an EU-sponsored draft resolution on the situation in the Chechen Republic. Twelve members of the commission voted in favour of adopting the resolution, while 23 voted against and 18 abstained.

Three Rapporteurs appointed by the Parliamentary Assembly of the Council of Europe (PACE) traveled to Chechnya and Ingushetia at the end of May 2004. Their report was expected to be presented later in the year during the October session of the PACE.

Ingushetia: No longer a safe haven

The human rights situation in Ingushetia continued to deteriorate in the first half of 2004 with violations that have long been the hallmark of the Chechen conflict increasingly spilling over the border. Raids by Russian and Chechen security forces have resulted in a number of "disappearances" and killings. Chechen fighters are also suspected of being responsible for coordinated attacks and bomb blasts in the region which have in some cases caused indiscriminate harm to civilians.

On 6 April the President of Ingushetia, Murat Ziazikov, received minor injuries when suicide bombers reportedly detonated a powerful car bomb as they pulled up alongside the presidential cortège as it was leaving Nazran for Magas, the capital of

Ingushetia. Six other people, including two civilians, were injured during the blast which Chechen opposition fighter Shamil Basaev reportedly claimed responsibility for days later.

On 21-22 June coordinated attacks by Chechen fighters on police and government targets in Ingushetia resulted in a large loss of life, including of civilians (see AI Index: EUR 46/037/2004). The acting Interior Minister of Ingushetia, Abukar Kostoiev; his deputy, Ziaudin Katiev; the Procurator of Nazran, Mukhargbek Buzurtanov; and the procurator of Nazran region, Bilan Oziev were all killed. According to a spokesperson for the Ingush government speaking a week after the attacks, a total of 88 people died including 58 law-enforcement officials, 27 civilians and three unidentified persons. Over 100 people were injured.

The 'disappearance' of Rashid Ozdоеv (see AI Index: EUR 46/027/2004)

Rashid Ozdоеv, a deputy procurator of the Republic of Ingushetia, was reportedly detained on 11 March by men who are believed to work for the Federal Security Service (FSB) of Ingushetia. Rashid Ozdоеv had reportedly complained to the Ingush and federal authorities – including the Procurator General and FSB – about "disappearances" and killings allegedly committed by FSB personnel. At the time of writing his whereabouts were still unknown.

Raid on settlement in Altievo (see AI Index: EUR 46/039/2004)

In the wake of the June attacks by Chechen fighters, Ingush police and federal force personnel reportedly used excessive force whilst carrying out a large scale raid on a spontaneous settlement of Chechen internally-displaced people on a former dairy farm in Altievo, Nazran district of Ingushetia on 23 June. According to reports, 36 men were detained and 27 were released five days later. At the end of June the remaining men were still being held in

custody.

Closure of final tent camps for internally displaced Chechens in Ingushetia

The final tent camp for internally displaced people (IDPs) from the Chechen Republic in Ingushetia – Satsita – was closed in early June. Four other camps had been closed down in the previous six months. Prior to the closures, IDPs had been subjected to sustained pressure from local and federal authorities to return to the Chechen Republic despite their well-founded fears about the security situation there. When the Sputnik camp was closed down by the Russian authorities on 1 April, IDPs told AI delegates that Chechen officials had used a combination of threats and incentives to encourage them to return to Chechnya. Officials reportedly promised them compensation for lost property should they return, and threatened that they would lose their right to humanitarian aid if they did not.

Freedom of expression in the Russian Federation

Various civil society actors came under significant pressure from the authorities in what were regarded by many as moves towards a more authoritarian style of government. Human rights defenders, NGOs, activists and journalists were subjected to persecution and harassment by state and non-state actors and criticism by government officials.

The case of Stanislav Markelov (see AI Index: EUR 46/016/2004)

In April the human rights lawyer Stanislav Markelov was attacked by five men on the Moscow metro who knocked him out and stole various identity documents, his mobile phone and a number of important case documents from his bag. It was feared that he had been targeted for his work as a lawyer on behalf of victims in several key human rights cases, a number of which relate to the conflict in Chechnya. Stanislav Markelov has been acting on behalf of the

family of Zelimkhan Muralov in the trial of Sergei Lapin (see above).

Pressure on NGOs

During his state of the nation address on 26 May, President Vladimir Putin made unprecedented criticism of the non-governmental community, stating that the priority of some non-governmental organizations (NGOs) was "in particular receiving funds from influential foreign and domestic foundations, while others serve dubious group and commercial interests". He went on to comment that "far from all of them are targeted at defending the real interests of the people." Some human rights groups expressed alarm that such comments could serve to undermine their work and possibly encourage further persecution of NGOs.

Two months earlier Vladimir Putin had been overwhelmingly re-elected President of the Russian Federation. International observers described the elections as "well-administered" but were critical of the overt bias towards the incumbent displayed by state-controlled media during the campaign.

Racist attacks continued to increase

Racially motivated attacks continued to take place throughout the Russian Federation with St Petersburg being the scene of a particularly high level of violence. Ethnic and national minority groups and foreign citizens – including students and asylum-seekers – were among those subjected to race-hate attacks, in the large part committed by "skinhead" groups. Acts of vandalism against Jewish places of worship, cemeteries and cultural centres were a common occurrence, as was the distribution of anti-Semitic literature.

As previously, criminal investigations – if instigated – were generally ineffective and led to charges of "hooliganism" rather than race hate crimes against perpetrators. Human rights defenders involved in combating racism and discrimination were also victims of human rights violations. In

June the Russian government reportedly closed down the State Program on Tolerance and Prevention of Extremism in Russian Society which was launched in 2001 and was due to run until 2005. Bizarrely coinciding with a rise in racist attacks, the move was widely criticized within the human rights community and appeared at odds with public pledges from President Putin to tackle racism and intolerance.

Murder of human rights defender Nikolai Girenko (see AI Index: EUR 46/038/2004)

On 19 June the human rights community was shaken by the brutal murder of Nikolai Girenko – a prominent human rights defender, Professor of Ethnology and expert on racism in the Russian Federation. Nikolai Girenko was shot dead through the front door of his home in St Petersburg. Days later, the neo-Nazi group, Russian Republic, claimed responsibility for the murder on its website. A criminal investigation was opened which is reportedly under the control of the Governor of St Petersburg, Valentina Matvienko.

Alleged racially-motivated killings

Khursheda Sultanova, nine-year-old Tajik girl, was brutally murdered on 11 February in St Petersburg by a gang of youths in an alleged racially-motivated attack. The murder sent shock-waves through St Petersburg and other parts of the Russian Federation and was condemned by several senior government officials. (see AI Index: EUR 46/022/2004)

AI wrote to the Governor and Chief Prosecutor of St Petersburg in March to raise concern about this and other alleged racially-motivated attacks, and enquired about what measures were being taken to investigate alleged race hate crimes, protect minority groups and encourage tolerance. AI subsequently received a letter from the Committee for Legality, Law and Order and Security of St Petersburg, which emphasized the status of St

Petersburg as a tolerant and ethnically diverse city and the support given to various organizations representing ethnic and national minorities by the administration. The letter indicated that "special attention" was paid to the investigation of such crimes but that attacks were of a "common criminal character" and were not related to "inter-ethnic conflict".

Amaru Antoniu Lima from Guinea-Bissau was stabbed to death in broad daylight on 21 February near the Medical Academy in Voronezh where he was a student. Foreign students staged a three-day walkout following the murder in protest at this and other alleged racially motivated killings and attacks which have taken place in Voronezh. (see AI Index: EUR 46/023/2004)

Abdul Wase Abdul Karim, an asylum-seeker from Afghanistan, was viciously beaten, allegedly by a group of skinheads, in the south of Moscow on 25 March. He died in hospital six days later without having regained consciousness. (see AI Index: EUR 46/025/2004)

Prosecutions relating to race hate crimes

On 11 March three skinheads were convicted for involvement in the September 2002 racially-motivated murder of a 53-year-old Azeri watermelon vendor, Mamed Mamedov. Some 20-25 people in total were allegedly involved in the attack. The perpetrators filmed the murder and the videotape was reportedly seized by the police within days of the attack and used as evidence. Eighteen-year-old Aleksei Lykin was convicted under Article 282 of the Criminal Code of the Russian Federation for "incitement of national, racial or religious enmity" and released straight from the court as the time he had spent in pre-trial detention was counted against his sentence. Viacheslav Prokofiev, aged 17, was sentenced to seven years' imprisonment, rather than the prescribed eight to 12 years for murder, because the judge deemed he had shown "sincere repentance". Maksim Firsov, also 17, was sentenced to four years

for stabbing Mamed Mamedov in the chest but not directly causing his death.

The previous month, verdicts were handed down to the alleged perpetrators of the notorious Yasenevo attack – when some 150 skinheads reportedly attacked and racially abused market traders at the Yasenevo outdoor market in Moscow on the anniversary of Hitler's birth in April 2001. Five of the reported 150 people involved in the attack were brought to trial. The main defendant, Andrei Semiletnikov, reportedly deputy editor of an extreme nationalist magazine called *Russkii Khoziain* (Russian Master), was acquitted of organizing the attack and inciting minors to commit a serious crime. Three other defendants were found guilty of participation in the attack -- two being given suspended sentences and the other sentenced to six months' imprisonment -- and the final defendant was acquitted. According to reports, the jury struck down several charges – including assault and incitement to violence – that carry longer sentences. Reportedly, the verdicts were upheld by the Supreme Court in June.

Discrimination against other minorities

Targeting of Roma (see AI Index: EUR 46/033/2004)

In May St Petersburg police launched an operation targeting Roma which AI feared could lead to violations of their human rights, and in Obukhovo, St Petersburg region, Romani huts in a spontaneous settlement were alleged burnt down by police. In addition, threats of skinhead attacks in Pskov region in north-western Russia reportedly forced Roma to leave their homes due to alleged police failure to protect them. AI wrote to the Governor of St Petersburg in June to raise concern about the treatment of Roma in St Petersburg.

Discrimination against Meskhetians of Krasnodar Territory continued

In January the deputy Interior Minister, Aleksandr Chekalin announced that Meskhetians in Krasnodar Territory had no problems obtaining citizenship of the Russian Federation, a claim strongly denied by human rights groups which reported that local and regional authorities in the territory continued to deny Meskhetians access to citizenship and registration, in defiance of federal law, for discriminatory reasons (see AI Index: EUR 46/001/2003). The result of the authorities' failure to enforce the right to citizenship has been discrimination in almost every aspect of daily life, including education, employment and health care, for the Meskhetians – a mostly Muslim group forcibly relocated from southwest Georgia in 1944 by the former Soviet regime.

A US resettlement project for the Meskhetians of Krasnodar Territory continued to take shape with reportedly over 5,000 Meskhetians having submitted applications by the end of April. According to reports, prospective applicants had until August to submit their applications. The first group of Meskhetians was due to be resettled in July.

Hostility to Chechens followed Moscow metro bomb blast

A bomb blast on the Moscow metro on 6 February killed up to 41 people and injured more than 100. The train was on its way into the Paveletskaya metro station when an explosion ripped through its second carriage during the morning rush hour. Senior government officials, including President Putin, were quick to label the incident a terrorist attack and blamed Chechens for carrying out the explosion. In the wake of the attack, AI issued a press release (see AI Index: EUR 46/007/2004) raising concern about the wave of hostility towards Chechens and other people from the Caucasus region which was reported in the capital following the metro blast. The organization called upon the authorities to take immediate and decisive steps to

prevent the incitement of racial hatred, in accordance with international law. According to some reports a previously unknown Chechen group claimed responsibility for the blast.

Igor Sutiagin: Political prisoner (see AI Index: EUR 46/004/2004)

On 5 April the Moscow City Court found Igor Sutiagin, a 39-year-old nuclear scientist, guilty of high treason in a closed trial. Two days later, the court handed him the longest prison term for high treason since Soviet times - 15 years in a strict regime penal colony. Igor Sutiagin's arrest and charges raised serious concerns that the case was brought for political reasons. He is one of more than a dozen independent scientists, journalists, and environmentalists, who have faced politically motivated prosecutions in the past decade for their cooperation with foreigners on sensitive issues. Violations of international fair trial standards marred proceedings against Igor Sutiagin throughout the investigation and trial.

AI considered Igor Sutiagin a political prisoner and called for a prompt retrial of his case to be conducted in accordance with international standards of fair trial, and for his release from prison pending retrial.

YUKOS case update

As the highly politicized YUKOS affair continued to unfold, Mikhail Khodorkovskii remained in pre-trial detention on charges of fraud and tax evasion, despite repeated appeals by his lawyers for him to be released on bail. Aleksei Pichugin, a YUKOS security official arrested in June 2003, and Platon Lebedev, a YUKOS shareholder and close business associate of Mikhail Khodorkovskii, arrested in July 2003, were also kept in pre-trial detention by court rulings.

On 16 June the trial of Mikhail Khodorkovskii and Platon Lebedev began in the Meshchanskii inter-municipal court in Moscow. Both men faced seven counts of

fraud, tax evasion and embezzlement and were accused of defrauding the state of over one billion dollars (825 million euros). Mikhail Khodorkovskii and Platon Lebedev denied the charges against them and maintained that the case against them was politically-motivated, as did many domestic human rights groups.

Concerns continued to be raised about the health of Platon Lebedev and Aleksei Pichugin who have reportedly been denied access to independent medical examinations despite repeated requests from their counsel. Various reports indicated that Platon Lebedev was suffering from hypertension, hepatitis and possibly advanced liver disease. AI wrote to the Minister of Justice of the Russian Federation in April raising concern about the reported deterioration in the health of both men whilst in pre-trial detention, and calling for the men to be allowed to have an independent medical examination.

In late June the Ministry of Justice replied to AI emphasizing that several detailed medical examinations had been conducted to determine the state of Platon Lebedev's health and that he had been medically examined on 2 March, led by the Chief Physician of the City of Moscow, who gave recommendations. The letter stated that after the consultation, Platon Lebedev refused to undergo the further examination (fibrogastroduodenoscopy) scheduled for 19 May and failed to attend an eye test on 23 March. Platon Lebedev's health was described by the Ministry of Justice as "stable, satisfactory". However, AI has continued to receive reports concerning Platon Lebedev's poor health.

Guantánamo prisoners returned to Russia and released

In a surprise move, seven Russians -- who had been held in pre-trial detention in southern Russia since being returned from Guantánamo Bay in late February -- were released on 22 June without going on trial. The US government had reportedly agreed to return the Russian Guantánamo

detainees on the proviso that they would be investigated and prosecuted under Russian law. The men were freed by court order with no explanation given by prosecutors for their release.

Anti-terror legislation

In June the State Duma approved amendments to the Criminal Code extending the maximum penalty for those convicted of terrorist offences resulting in death or other grave consequences from 20 years to life imprisonment. In addition, the amendments laid down penalties of from eight to 12 and from 10 to 20 years' imprisonment for terrorist activities by individuals and organized groups respectively. The increased penalties were reportedly precipitated by the Moscow metro bomb blast on 6 February.

SERBIA AND MONTENEGRO

Background

Following general elections in Serbia in December 2003 in Serbia, in February a coalition government was formed headed by Vojislav Koštunica of the Democratic Party of Serbia (DSS); the new government was approved by the Serbian National Assembly on 3 March.

On 4 February, Dragan Maršićanin of the DSS was elected speaker of the Serbian National Assembly and acting President of Serbia pending elections held in June when Boris Tadić of the Democratic Party (DS) was elected.

In February, the trial began of Radomir Marković, former head of Serbian state security, and other serving or former security officials. They were accused of involvement in an attempt in 1999, in which four people died, to kill current Foreign Affairs Minister Vuk Drašković, at the time a leading opposition politician. The trial of those accused of involvement in the

murder in March 2003 of Prime Minister Zoran Đinđić continued. On 1 March an eye-witness to the assassination, Kujo Kriještorac, was shot dead in his car. On 2 May the prime suspect for the Đinđić assassination, Milorad "Legija" Ulemek-Luković, surrendered in Belgrade.

The new Montenegrin criminal code became applicable on 6 April. The new code retained libel and slander as criminal offences but eliminated custodial sentences for them.

The UN Interim Mission in Kosovo (UNMIK) continued to administer Kosovo, with the Special Representative of the UN Secretary-General (SRSG) holding executive powers. In May SRSG Harri Holkeri resigned on health grounds and was replaced in June by Søren Jessen-Petersen.

War crimes

The trial of former President Slobodan Milošević, accused of responsibility for war crimes committed in Croatia, Bosnia-Herzegovina and Kosovo, continued before the International Criminal Tribunal for the former Yugoslavia (Tribunal) in the Hague with the prosecution concluding the case against the accused. In June the court rejected calls from the defence for the charge of genocide against Slobodan Milošević to be dropped and ruled that "there existed a joint criminal enterprise, which included members of the Bosnian Serb leadership... and that its participants committed genocide in Brčko, Prijedor, Sanski Most, Srebrenica, Bijeljina, Ključ and Bosanski Novi" and ruled that there was enough evidence for a court to implicate Slobodan Milošević as a participant in that joint criminal enterprise.

In June the Tribunal ruled that crimes committed in the Vojvodina region for which Vojislav Šešelj - leader of the Serbian Radical Party, the largest party in the Serbian Assembly - was accused did not fall within the Tribunal's remit as there had been no armed conflict there at the time. He remained indicted for war crimes and crimes against humanity committed in

Croatia and Bosnia-Herzegovina. Some 20 suspects indicted by the Tribunal and believed to be in Serbia and Montenegro remained at large.

The Serbian authorities refused to transfer Serbian Assistant Interior Minister (dismissed in March) and former Kosovo police chief Sreten Lukić, former Yugoslav army chief Nebojša Pavković, and former commander of Priština Corps Vladimir Lazarević, all indicted by the Tribunal for crimes against humanity and violating the laws or customs of law in Kosovo in 1999. Nebojša Pavković stated that he was willing to be tried in Serbia. Former Chief of Public Security Department Vlastimir Đorđević who was similarly indicted and believed to be in Russia also published a letter stating he was willing to be tried in Serbia but not at the Tribunal. In June Vladimir "Rambo" Kovačević, indicted for violating the laws or customs of war in connections with the shelling of Dubrovnik, was given a six-month provisional release due to mental illness and he was transferred to the Belgrade Military Medical Academy.

In January a district court in The Hague began hearings to establish whether there was a case against the Netherlands, as a member state of the North Atlantic Treaty Organization (NATO), for violating international law by the NATO bombing of Radio Television Serbia (RTS) in central Belgrade in April 1999. The proceedings were launched on behalf of the families of the 16 RTS employees killed in the attack. On 19 April the International Court of Justice (ICJ) at the Hague initiated proceedings against eight NATO countries – Belgium, the Netherlands, Canada, Portugal, UK, Germany, France and Italy – accused in 1999 by Serbia and Montenegro, then called the Federal Republic of Yugoslavia (FRY), of genocide in connection with the NATO military intervention over Kosovo in 1999. In June 1999 the ICJ had rejected similar complaints by FRY against Spain and USA.

In June the Tribunal Prosecutor Carla Del Ponte complained that the Serbian

authorities' cooperation with the Tribunal had all but ceased.

On 9 March the trial began before the special War Crimes Panel within the District Court of Belgrade of six people indicted by Serbia's special war crimes prosecutor in connection with the Ovčara massacre near Vukovar in Croatia in 1991. Another of those indicted for the crime died on 8 March from injuries received when he jumped from a window at Novi Sad Hospital on 27 January in a suicide attempt. In May 12 more suspects were added to the indictment.

On 17 March Saša Cvjetan, a member of Serbia's notorious "Scorpions" special "anti-terrorist" police unit, was sentenced in Belgrade to 20 years' imprisonment for the murder of 19 ethnic Albanians in Podujevo in 1999.

Exhumations

Serbia continued to hand over to UNMIK bodies of ethnic Albanians murdered in Kosovo and buried in mass graves throughout Serbia in the localities of Batajnica near Belgrade, Petrovo Selo, and Bajina Bašta near Lake Perućac. Some 40 bodies were handed over in March and a further 34 in May making a total of 276 of the 836 exhumed from these sites. On 16 March the spokesperson for the Serbian special war crime prosecutor announced that "intensive investigations" were ongoing into the Batajnica and Petrovo Selo mass graves – both situated on Ministry of the Interior property – but no indictments had been issued by the end of June. In May 55 bodies from the 1991-92 war with Croatia, buried in cemeteries in Belgrade and in Obrenovac, were exhumed.

Investigations into past political murders

In April Serbian Minister of the Internal Affairs Dragan Jočić announced that a special task force had been set up to investigate unsolved murders including those of journalists Slavko Ćuruvija and

Milan Pantić in April 1999 and June 2001 respectively, and former secret policeman Momir Gavrilović in March 2004. Dragan Jočić also called for a new inquiry into the assassination of Zoran Đinđić and expressed doubts surrounding the circumstances surrounding the deaths on 27 March 2003 of the main suspects, Dušan Spasojević and Mile Luković. The police had announced at the time that the two men had been shot dead in an exchange of fire with police officers while resisting arrest. On 30 April the Belgrade weekly *NIN* published findings from the official autopsy reports carried out on the deceased on 31 March 2003 which indicated that Dušan Spasojević had been shot in the back while kneeling or lying on the ground, and that Mile Luković had been beaten and shot in the head at close range. On 14 May Dragan Jočić announced that an investigation would be held into the deaths of the two men.

Police torture and ill-treatment

There appeared to be a drop in the number of alleged instances of police torture or ill-treatment in the reporting period. On 6 April Minister of Internal Affairs Dragan Jočić stated that there had been human rights violations during "Operation Sabre" – the widespread clamp-down on organized crime following the assassination of Zoran Đinđić. On 14 May Assistant Minister of Internal Affairs Vladimir Božović, referring to the September 2003 report by AI of widespread torture during "Operation Sabre" (see *Serbia and Montenegro: Alleged torture during "Operation Sabre"*, AI Index: EUR 70/002/2004) stated that there had been six cases of torture during the operation; (later clarification indicated this statement to be based on investigations carried out by the Ministry solely into cases reported by AI). The Defence and Security Committee of the Serbian National Assembly charged with overseeing the police and security apparatus, proposed the formation of commission of inquiry into all aspects of "Operation Sabre".

Attacks on minorities

In response to widespread attacks on Serb communities in Kosovo by Albanians in March (see below) there were a number of attacks on minorities in Serbia and attacks on mosques in Belgrade and Niš. On 19 March the authorities announced that 88 people had been arrested for attacking the police in Belgrade during these disturbances and a further 53 arrested for rioting in Belgrade as well as nine (later 11) people arrested in Niš for burning the Hadrović mosque. On 22 March it was announced that 24 people had been arrested for attacking Albanian and Gorani business premises in the Vojvodina.

There was a rise in attacks on and racist actions directed against minorities in the multi-ethnic Vojvodina region. In early April Hungarian foreign minister Lazslo Kovacs telephoned Serbian Prime Minister Vojislav Koštunica to call on Belgrade to take a firm stance with respect to violent incidents against the Hungarian minority in the Vojvodina region. In June the non-governmental Helsinki Committee for Human Rights in Serbia reported that there had been 40 attacks on minorities in the Vojvodina region since the elections in December 2003 when the nationalist Serbian Radical Party won the most seats in the Serbian National Assembly.

Trafficking of women and girls for forced prostitution

Serbia and Montenegro remained a source, transit and destination country for women and girls trafficked for forced prostitution. In cases where those involved in the trafficking were brought to justice, the courts imposed lenient sentences. On 5 March Belgrade District Court found Milovoje Zarubica and 12 others guilty of involvement in trafficking women and girls from Moldova. They received sentences ranging from five months to three-and-a-half years' imprisonment on charges which included rape, mediation in prostitution, forgery, illegal deprivation of liberty and

illegal border crossing: the defendants were released from custody pending appeal.

In June the US State Department in its annual report of trafficking noted that in Serbia: "Official corruption is a continuing problem; off-duty police officers were caught providing security at venues where trafficking victims were located. Most of these individuals received only administrative sanctions, but one officer was charged with a criminal offense". For Montenegro the report noted that: "...of the 15 cases submitted to the prosecution since 2002, there have been no convictions. Official corruption remains a problem; victims named police and government officials who were among their clients but the government did not take legal action."

Kosovo

War crimes, arrests trials and retrials

On 9 January the Kosovo Supreme Court ordered the retrial of Andjelko Kolasinc, former mayor of Orahovac/Rahovec. He had been sentenced in February 2003 to eight years' for war crimes. On 12 January Dragan Mihajlović was arrested in Mitrovica/ë for war crimes in connection with the murder of three Albanians and attempted murder of two others in April 1999. On 16 February seven Albanian members of the Kosovo Protection Corps (KPC), former members of the Kosovo Liberation Army, were arrested for crimes committed between June and August 1998 including the murder of Kosovo Albanians. On 27 February the Kosovo Supreme Court acquitted KPC General Sali Veseli of all charges; he had been sentenced to 10 years' for conspiracy to murder Ekrem Rexha ('Commander Drini'). On 24 May KPC member Islam Gashi and his father Isuf Gashi-Baca were arrested for war crimes including the murder of Kosovo Albanians.

Accountability of KFOR – the NATO-led international force in Kosovo

KFOR troops are only accountable to their respective national legislatures (see *The apparent lack of accountability of international peace-keeping forces in Kosovo and Bosnia-Herzegovina*, AI Index: EUR 05/002/2004.) On 7 April the first case where an alleged human rights violation by KFOR troops in the course of their duty was brought before a national judiciary of a respective sending state ended in the UK. The UK High Court ruled in civil proceedings that the UK government should pay compensation to Mohamet and Skender Bici for damages caused when in 1999 UK KFOR troops opened fire on the car in which they were travelling in an incident in which two other passengers in the car, Fahri Bici and Avni Dudi, were killed. An investigation by the UK Royal Military Police into the incident had cleared the three soldiers responsible for opening fire. However, the presiding judge ruled that the soldiers had deliberately and unjustifiably caused the injuries. The judge reportedly reached the "clear conclusion" on the evidence, including that of witnesses and "extremely powerful" forensic findings, that the soldiers were not being threatened with being shot when they opened fire, and there were no reasonable grounds for them to believe that they were.

Failure to solve inter-ethnic crimes

UNMIK continued to fail to make any significant progress in investigating and bringing to justice those responsible for the many ethnically motivated murders and other violent



Burned Ashkali house in Vučitrn/Vushtrri

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attacks which have occurred since 1999 (see *Serbia and Montenegro (Kosovo): The legacy of past human rights abuses*, AI Index: EUR 70/009/2004). On 23 February then-Serbia and Montenegro Foreign Minister Goran Svilanović wrote to the UN Security Council pointing out that 22 Serbs had been murdered in inter-ethnic violence in Lipljan/Lipjan alone since UNMIK took control in June 1999 and that none of these cases had been solved.

Niš Express bombing – main suspect detained

On 7 June Florim Ejupi was arrested in Albania and transferred to Kosovo on 8 June. He was a main suspect in the Niš Express bombing of 16 February 2001 in which 11 Serbs were killed and over 40 injured when the lead bus of the Niš Express convoy, in which they were travelling from Serbia proper to Kosovo, was destroyed by a remote-controlled bomb near Podujevo. He had previously escaped from detention in US Camp Bondsteel in Kosovo in May 2001.

The violence of 17 – 19 March

From 17 – 19 March Kosovo inter-ethnic violence erupted throughout Kosovo (see *Serbia and Montenegro (Kosovo/Kosova): The March Violence: KFOR and UNMIK's failure to protect the rights of minority communities*, AI Index: EUR 70/016/2004). The violence began after reports that three Albanian children had drowned after four of them had jumped into the river Ibar near the northern town of Mitrovica/Mitrovicë on 16 March. The fourth boy, who had survived, reportedly claimed that they had been attacked by Serbs and jumped into the river to escape, although the official investigation into the deaths by an international prosecutor found no evidence to support this claim. The previous day in Čaglavica/Çagllavicë near the capital Priština/Prishtinë an 18-year-old Serb was seriously injured in a drive-by shooting, believed to have been perpetrated by Albanians, and resulting in road-blocks by Serbs in protest.

Following reports of the drowning of the three boys, large crowds of Albanians and Serbs gathered on 17 March in Mitrovica/Mitrovicë – which has been the scene of violent inter-ethnic clashes in the past – on either side of the bridge over the river Ibar which divides the town between the predominantly Serbian north and Albanian south. Violence broke out, including grenades thrown at KFOR soldiers: reportedly seven people were killed and hundreds wounded. The wounded included 11 French KFOR troops attempting to keep order reportedly by using rubber bullets and stun-grenades. The situation appeared to have calmed by the evening of 17 March when a curfew of 7pm local time was imposed on the town. In the meantime, violence had spread to a number of places throughout Kosovo including the capital Priština/Prishtinë and almost every major town. The authorities estimated the events involved some 51,000 people in 33 violent incidents throughout Kosovo – predominantly involving Albanians attacking Serb enclaves and communities, but also involving Albanians attacking other minorities, notably the Ashkali community in Vučitrn/Vushtrri. There were also reports of Albanians forced to flee the Serb majority areas of N. Mitrovica/Mitrovicë and Leposavić/Leposaviq. The UN Secretary General Kofi Anan reported that:

"A total of 19 persons died in the violence, of whom 11 were Kosovo Albanians and 8 were Kosovo Serbs, and 954 persons were injured in the course of the clashes. In addition, 65 international police officers, 58 Kosovo Police Service (KPS) officers and 61 personnel of the Kosovo Force (KFOR) suffered injuries. Approximately 730 houses belonging to minorities, mostly Kosovo Serbs, were damaged or destroyed. In attacks on the cultural and religious heritage of Kosovo, 36 Orthodox churches, monasteries and other religious and cultural sites were damaged or destroyed."

"The violence in March has completely reversed the returns process. Minority areas were targeted, sending a message

that minorities and returnees were not welcome in Kosovo. In less than 48 hours, 4,100 minority community members were newly displaced, more than the total of 3,664 that had returned throughout 2003. The majority of those who fled were in the Pristina and southern Mitrovica regions (42% and 40%, respectively), but displacement affected all regions of Kosovo. Of the displaced, 82 per cent are Kosovo Serbs and the remaining 18 per cent include Roma and Ashkali displaced. It is estimated that 350 Kosovo Albanians were displaced from the northern section of Mitrovica."

In a number of places during the March violence the security forces, including KFOR contingents, failed to adequately protect minority communities in the violent clashes. For example, the long-settled Serb community of Svinjare/Frashër were forced out of their homes, which were then burnt, by a crowd of some 500 Albanians. Svinjare/Frashër is located within some 500 metres of a main French KFOR base. KFOR evacuated all the inhabitants, some 200, but did nothing to try and deter the arsonists.

There were also serious allegations of complicity by Albanian members of the KPS in inter-ethnic attacks in a number of places including Vučitrn/Vushtrri where the entire Ashkali community were forced out of their homes, which were then torched, by a crowd of some 300 Albanians. The Ashkali in Vučitrn/Vushtrri had been subject to similar inter-ethnic violence in 1999 and had then also been forced out of their homes. However, from May 2002 many returned after conditions for sustainable return, facilitated by an ethnic Albanian non-governmental organization in conjunction with UNMIK and the UN High Commissioner for Refugees, had apparently been put in place.

On 17 June UNMIK announced that police had so far arrested 270 individuals for offences related to the violent events with International Prosecutors handling 52 cases of a more serious nature involving 26 defendants of whom 18 were in detention,

and approximately 120 cases being handled by local prosecutors, either in the Minor Offences, Municipal or District Courts of Kosovo. However, by June UNMIK had not given details of any cases involving alleged KPS complicity.

By June some 1,600 of those displaced during the March violence had returned to their homes. The Provisional Institutions of Self-Government (PISG) set up a Damage Assessment Committee headed by Minister Behxhet Brajshori who announced on 25 May that the committee had estimated the damage to homes as totalling some €12m. He also emphasized that all the destroyed or damaged houses would be rebuilt by the end of October 2004. However, the issue of compensation for moveable goods - personal property including furniture, machinery and livestock - had by not been agreed by the end of June.

SLOVAKIA

The Roma

In February protests by members of the Roma minority in Eastern Slovakia, which were reportedly sparked off by changes in the social welfare policy, escalated in some instances into rioting and looting. Although AI did not condone the violence it was concerned about reports that in some instances police officers resorted to excessive use of force, verbal racist abuse and even to deliberate ill-treatment.

According to information received from the European Roma Rights Center (ERRC), and the Center for Roma Rights in Slovakia (CRRS), around 250 police officers came to Trebišov in the early morning hours of 24 February. Although their declared objective was to apprehend those who were suspected of theft, destruction of property and assaulting the police in disturbances which took place in the town the previous evening, it had been alleged that the police also intended to intimidate and harass members of the Romani community. In the

course of the day, police officers reportedly indiscriminately entered Romani homes without presenting search warrants or having other appropriate legal grounds for such actions. They reportedly beat with truncheons, prodded with electric batons, kicked and otherwise physically assaulted men, women and children, irrespective of their age or physical and/or mental condition. Some of the officers reportedly addressed racist insults to the victims. The victims were said to be so intimidated by the police action and the security arrangements in the community following these events, that they did not seek to be medically examined in order to document injuries suffered as a result of the ill-treatment, or to file official complaints. Photographs of a number of injured Roma appeared in the Slovak press on the next day.

At least 26 people were detained and taken into custody where they were reportedly subjected to beatings and degrading treatment. According to two men who were released two hours following their arrest, all detained men were stripped to the waist, ordered to face the wall and repeatedly struck on the back with truncheons. They were allegedly also kicked on the back of their legs. They were reportedly not allowed to contact a member of their family or a third person about their whereabouts, to contact a lawyer or to be examined by a doctor of their choice.

Another alleged incident of police ill-treatment took place in Caklov, on 25 February, after the police came to arrest a number of women who were suspected of having stolen food from the state-owned store in the town. The police officers reportedly chased after the alleged suspects wielding their truncheons in a threatening manner, with an officer reportedly hitting three-year-old G.G.¹⁴ on the head. The boy later received medical treatment and the police officer involved returned to the settlement to apologize to the family for his conduct. Twenty-three women and two men

were arrested on 25 February, and a further fourteen women were arrested the following day. During the arrests some of the officers reportedly called the suspects "whore", "dirty gypsy" and other racist insults. Relatives were reportedly refused information about the place where the detained women and men had been taken. On 26 February an ERRC representative accompanied a man whose wife had been detained when the Director of the Judicial Police in Vranov nad Topľou refused to give him any information regarding her whereabouts. Following a court hearing on 27 February, detainees who were being driven away from the court house in a bus were able to indicate in messages written on paper pressed against the bus window to their relatives waiting outside that they were being held in Levoca.

In March AI expressed concern to Prime Minister Mikuláš Dzurinda that the disturbances in Eastern Slovakia may have been provoked not only by the changes in social welfare policy but in the persistent failure of the Slovak authorities to effectively combat anti-Roma discrimination. Over the years the organization had particularly been concerned about allegations of torture and ill-treatment of Roma by law enforcement agents as well as about incidents of racist violence in which the Roma had not been adequately protected. AI noted that the apparent impunity for police officers who commit abuses during operations in Romani settlements leads to further human rights violations. The government's failure to publicly condemn such police conduct fosters an atmosphere which condones racist violence, a severe human rights problem which affects the Roma and some foreign nationals in Slovakia. AI believes that police impunity contributed to the sentiment of many Roma in Slovakia that they were not provided equal protection under the law, which may have also contributed to the frustration demonstrated in the Romani protests.

ECRI Report

¹⁴ The child's full name is known to AI but withheld to protect his identity.

In January, the European Commission against Racism and Intolerance (ECRI) published its third report examining racism, xenophobia, anti-Semitism and intolerance in Slovakia. ECRI, among other things, expressed concern about racially-motivated violence, including police ill-treatment. The Roma minority, according to ECRI "remains severely disadvantaged in most areas of life, particularly in the fields of housing, employment and education". ECRI made extensive recommendations to the authorities and, *inter alia*, appealed "for a full, transparent and impartial investigation into the recent allegations concerning sterilisations of Roma women without their full and informed consent". Similar criticism and recommendations concerning the conduct of the investigation into allegations of illegal sterilization of Romani women were expressed by the UN Human Rights Committee and the Council of Europe's Commissioner for Human Rights (see *Slovakia: Failed investigation into allegations of illegal sterilization of Romani women*, AI Index: EUR 72/005/2003). In June, the General Prosecutor rejected an extraordinary appeal of some of the Roma victims to re-open the investigation and confirmed the decision that no criminal offence had been committed in the reported cases.

SLOVENIA

Citizenship and residency rights

The issue of the status of thousands of former Yugoslav citizens who were removed from the Slovenian population registry in 1992 (otherwise known as the "erased") remained unsolved. Most of the individuals removed from the registry were citizens of other former Yugoslav republics who had been living in Slovenia and had not filed an application for Slovenian citizenship, after Slovenia became independent. 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 the territory of Slovenia, it gave rise to a violation of their rights to a family life and to freedom of movement. AI was concerned that the removal from such registers also gave rise to violations of social and economic rights: in some cases the individuals concerned lost their employment and pension rights.

The Slovenian Constitutional Court had established in April 2003 that previous provisions to resolve this issue were inadequate and ordered the Slovenian authorities to retroactively restore the permanent resident status of former Yugoslav citizens who were unlawfully removed from Slovenian registers. In a referendum in April approximately 95 per cent of voters rejected the "technicalities bill", which had been adopted to implement the Constitutional Court's decision, and which would have applied to approximately 4,000 out of a total of about 18,300 individuals removed from the registry. Several political leaders and Slovenian non-governmental organizations had called for a boycott of the referendum, which saw a turnout of around 31 per cent. Initiatives to hold a second referendum on the so-called "systemic bill", a second act aimed at addressing the issue of the "erased", were blocked by the Constitutional Court.

In the absence of a clear legal framework regulating the implementation of the Slovenian Constitutional Court's decision, the Slovenian Ministry of the Interior has begun issuing permanent residence decrees directly implementing the Court's decision. As of mid-May, approximately 3,100 such decrees has been issued, according to information provided to AI by the Slovenian authorities.

UN Committee on the Rights of the Child

In January the UN Committee on the Rights of the Child (Committee) considered Slovenia's second periodic report on measures to give effect to the rights enshrined in the Convention on the Rights of the Child. The Committee expressed

concern at the negative effect on many children of the removal of former Yugoslav citizens from the population registry, noting that "they and their families lost their right to health care, social assistance and family benefits as a consequence of losing their permanent residence status and children born in Slovenia after 1992 became stateless."

Moreover, the Committee expressed concern that child abuse in the family and in institutions appeared to be widespread; at the high incidence of violence against children in schools on the part of teachers or staff as well as of peer violence and bullying, and at instances of discrimination against the children of Roma and other minorities, including Serbs, Bosniaks, Albanians and Croats. The Committee noted in particular that "Roma children continue to be among the most vulnerable groups in Slovenia and that some programmes aiming at uplifting Roma communities make a distinction between 'autochthonous' and 'non-autochthonous' Roma and exclude the latter group." Moreover, the Committee was concerned at the "high number of Roma children attending classes for children with special needs."

SPAIN

General background

A general election on 14 March, with a large turn out of voters, resulted in a narrow and unexpected victory for the Socialist Party (PSOE), with José Luis Rodríguez Zapatero forming a minority government. The Prime Minister announced that he would not seek to form a coalition government but would rule with the agreement of different political parties. Shortly after coming to power the new government and the main opposition party, the Partido Popular (People's Party – PP), agreed on a renewed anti-terrorist pact (*Acuerdo por las Libertades y contra el Terrorismo*) which was thought likely to focus on measures against both ETA and Islamist groups professing to, or carrying

out, acts of violence. One of the new government's first actions was to pull Spanish troops out of Iraq. Until June, Spain had more than 1,300 soldiers there, despite massive domestic opposition to the war.

UN Special Rapporteur on torture finds it "more than sporadic"

In February the Special Rapporteur on torture issued a report on a visit to Spain in October 2003. The aim of the visit was to study the various safeguards for the protection of detainees in the context of anti-terrorism measures. The Rapporteur noted that "the degree of silence that surrounds the subject and the denial by the authorities without investigating the allegations of torture has made it particularly difficult to provide the necessary monitoring of protection and guarantees". He concluded that, "in the light of the internal consistency of the information received and the precision of factual details ... these allegations of torture cannot be considered to be fabrications". Although not a regular practice, "their occurrence is more than sporadic and incidental". He recommended that the Spanish government draw up a comprehensive plan to prevent and suppress torture and that the incommunicado regime be abrogated.

Many of the UN Special Rapporteur's findings were in accordance with those of AI, as well as with those of the UN Committee against Torture and the Council of Europe's Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT). However, the Spanish government made a number of objections to the report and maintained that "every single accusation of torture or ill-treatment is investigated" and that "the assertions made by the Rapporteur concerning the passivity and permissiveness of the legal and administrative authorities are completely unacceptable". The Government's response showed a continuing refusal to contemplate the introduction of safeguards into the

incommunicado regime, as advocated by a number of international bodies, on the grounds that they were not necessary.

Madrid bombings

On 11 March ten nearly simultaneous explosions, on four commuter trains at three different stations in Madrid (Atocha, El Pozo and Santa Eugenia), caused the deaths of 191 people and injured over 1,600. Three further bombs failed to explode. The multiple bombings came during the Spanish general election campaign. Initially the Spanish government consistently implicated the Basque armed group *Euskadi Ta Askatasuna* (ETA) in the massacre, although early reports suggested that another group, linked with al-Qa'ida, was involved. Subsequently a connection with ETA was generally ruled out. The scale of the attacks was unprecedented in Spain and one of the most serious to take place in a European Union member state. In a public statement AI expressed its outrage, and its deepest sympathy for the victims, their relatives and loved ones. "Targeting commuters going about their daily business shows complete contempt for the most fundamental principles of humanity", AI stated. It called for the perpetrators to be brought promptly to justice in proceedings which met international standards.

In the immediate aftermath of the bombings, Angel Berroeta was shot dead in his bakery in Pamplona (Navarra) by an off-duty National Police officer, reportedly because he had refused to put up a poster denouncing ETA, with reference to the 11 March bombings. The officer reportedly came in to the bakery after hearing about his refusal to put up the poster, and fired four shots at Angel Berroeta, who was dead on arrival at hospital.

By June up to 52 suspects had been arrested in connection with the bombings. A number were released. In May two suspects, considered to be indirectly related to the bombings, were expelled from Spain as threats to national security under the Aliens Law (*Ley de Extranjería*) and other

expulsions were under consideration. Various political parties and associations expressed fears that the Aliens Law could be applied in an arbitrary manner.

Race-related violence

a) El Ejido: There were reports that the municipal corporation of El Ejido (Almería) had unanimously agreed to petition the Minister of Justice for a pardon for two residents who had been convicted for the abduction and physical abuse of three undocumented Moroccan and Algerian workers in December 1997. The judgment of the Provincial Court (*Audiencia Provincial*) of Almería, which sentenced the two men to a total of seven and a half years' imprisonment each, was confirmed by the Supreme Court on 5 March. The Moroccans, thought by the perpetrators to be thieves, were driven to an isolated area and beaten with sticks and baseball bats. There were also allegations that, during the previous year, up to 100 Moroccans had been subjected to race-related harassment and ill-treatment by a Local Police officer in El Ejido, and that the situation had deteriorated following 11 March. The officer was known by the name of "Sharon". The Andalusian Ombudsman (*Defensor del Pueblo Andaluz*) opened an investigation into the allegations

b) Update on case of Driss Zraidi (see AI Index: EUR 41/001/2002): In May, in a disturbing judgment, the Provincial Court of Girona acquitted, for lack of evidence, 14 Mossos d'Esquadra, officers of the Catalan autonomous police, who had been charged with torture and ill-treatment of the Moroccan national, Driss Zraidi, in the police station of Roses (Girona) in August 1998. Although the court confirmed that Driss Zraidi, who had received injuries in the course of his arrest, had indeed been tortured and racially abused following his arrest, agreeing that a number of officers had entered his cell deliberately to harass and hurt him, it felt that the torture was not serious.

In the words of the judgment: "... the conduct of the officers of the Mossos d'Esquadra who, taking advantage of the situation of deprivation of liberty, and thus, of absolute defencelessness, of the prisoner, and in revenge for incidents that had occurred the previous day with one of their colleagues, allegedly injured by Driss Zraidi in the course of his arrest, opened the cell in which he was being held, went in, verbally abused and threatened him, and physically ill-treated him, at the least pushing him about and shaking him vigorously, is undoubtedly a crime of torture – however, of a minor degree, bearing in mind that it has not been proved that he suffered any physical injury as a result of the officers' actions and that the incident was of short duration ..."¹⁵ Despite the existence of sound recordings of the incident, the officers denied any culpability (the evidence of one officer was later nullified because he had not been informed of his right to be assisted by a lawyer) and the court declared that it was unable to identify the perpetrators.

The court judgment was a clear example of the kind of impunity which AI criticised in its report *Crisis of identity* (AI Index: EUR 41/001/2002), in which the case of Driss Zraidi was described. The court recognised that the Moroccan had sustained injuries, including three broken ribs, taking 50 days to cure. However, the court was not clear at what time the injuries had been sustained, and thought they could have occurred "legitimately", during a difficult arrest. The court observed that, according to a doctor's

report, it was not necessary to use much force to break ribs. The court also recognised, from the voice recordings, that racist abuse (eg. "Moorish scum, we're going to kill you") had taken place, but decided that the torture was probably "light" and that it was impossible to establish identity. "The cries of pain and groans ... are compatible with the carrying out of light ill-treatment – pushing about and vigorous shaking – of a person already injured and suffering, in fact, from broken ribs".

The *Consellera d'Interior*, or Catalanian interior minister, reportedly expressed surprise at the judgment and asked the Supreme Court to review it.

High level mission to Spain

Between 6–11 June a high level mission, led by the Secretary General, visited Spain to meet the new Government and to present a report entitled *Spain: The necessary commitment: AI recommendations for a human rights action plan* (AI Index: EUR 41/005/2004). The report defined the key human rights challenges facing Spain and contained a list of 15 indicators to assess the government's performance against its promises. At a national level, it reiterated AI's concerns about torture and ill-treatment, racism, restrictions on the rights of refugees, asylum seekers and migrants, and violence against women in the country. It noted the persistence of racism and xenophobia in parts of Spain and sought commitments to tackle racial and ethnic discrimination.

In Madrid, the delegation had meetings with, among others, the Prime Minister and the Ministers of Justice, of the Interior and of Foreign Affairs, as well as with the President of the Supreme Court and members of the governing body of the judiciary, the *Consejo General del Poder Judicial*. The delegation also had meetings with the Presidents of the autonomous communities of Catalonia and of the Basque Country, when AI proposed regional human rights plans to complement the national

¹⁵ "...la conducta de los agentes de los Mossos d'Esquadra que aprovechándose de la situación de privación de libertad y, por tanto, de absoluta indefensión, en que se hallaba el detenido y en represalia de los sucesos ocurridos el día anterior con un compañero, abrieron la celda en que se encontraba encerrado y penetraron en su interior, le insultaron, amenazaron, le pusieron las manos encima, al menos empujándole y zareándole, es sin duda constitutivo de un delito de torturas ... sin embargo, de menor gravedad, pues teniendo en cuenta que no ha probado que se produjera ningún menoscabo físico en el detenido como consecuencia de la actuación de los agents y que el episodio tuvo una corta duración ...": Audiencia Provincial de Girona, 20 May 2004

plan. AI received a positive response from most of its meetings. The organisation welcomed the Spanish government's decision to give priority to addressing violence against women, and similar initiatives in the autonomous communities. It also reminded the government not to forget other victims and to work actively to "recuperate the memory, dignity and remains of the forgotten victims of the Civil War and Franco's regime".¹⁶

Ill-treatment of prisoners in Catalonia

During its meeting with the President of the Generalitat, the government of Catalonia, the AI delegation raised the issue of the grave situation in Catalan prisons. (Catalonia is the only autonomous community to have responsibility for the running of its prisons). In 2002 the Catalan authorities had admitted to AI that there had been a "spectacular increase" in the prison population of Catalonia, "as elsewhere" in Europe, and that it intended to build a number of new prisons. Since that time the situation had not noticeably improved, and AI had continued to receive allegations of ill-treatment in Catalan prisons.

In January a judicial inquiry was opened into allegations that four prison officers had beaten a prisoner, Manuel Valencia Jorge, so badly that he later died. In May an internal investigation was opened into a riot in the prison of Quatre Camins, near Barcelona, on 30 April, in which the deputy director, Manuel Tellón, was badly injured and over 70 prisoners were allegedly ill-treated by prison guards, either in an attempt to restore order or during transfer to other prisons.

In June the Observatori del Sistema Penal i els Drets Humans, a group of specialists working at the University of Barcelona, published a dossier it had compiled on

events following the April riot at Quatre Camins, and in which it expressed concern both at the injuries inflicted on the deputy director and at the physical abuse of a number of prisoners. Members of the group had visited several prisoners. Among the reports of ill-treatment is that of Gerardo Andreu Vázquez. He stated that after the riot he was returned to his cell. At about 2am a group of prison officers came to the cell, handcuffed him and took him out of the Module, while beating him. He was allegedly taken to a long corridor leading to the entry section of the prison. On other side a row of officers formed a "tunnel", hitting and kicking him as he was forced through it. A cut in his head required five stitches. He was eventually placed in a police car and taken to Ponent prison. In transit he remained handcuffed. At Ponent prison he was placed in an isolation cell, strip searched and allegedly again beaten with batons, punches and kicks. The ill-treatment continued for several days. He was not allowed to leave the isolation cell at all for five days.

In June the Department of Justice of the Generalitat opened an inquiry into ill-treatment during the riot and subsequently (July) submitted to the public prosecutor a report which recognised that up to 26 prisoners had been ill-treated.

Catalan claims torture while being held incommunicado

A judicial inquiry is continuing into the case of 20-year-old Jordi Vilaseca Cantacorps, who was arrested, with others, in Lleida (Catalonia) in April 2003, under the anti-terrorist legislation, in connection with alleged acts of street violence. Jordi Vilaseca alleged that, while being held incommunicado in Catalonia, prior to transfer to Madrid, he was subjected to torture by both officers of the Mossos d'Esquadra and National Police. Jordi Vilaseca claimed that he was forced to stand in the corner of a room for up to eight hours without food or water; that he was threatened and shouted at if he moved, and that the officers also threatened to

¹⁶ See AI press release, "Spain: Window of opportunity for a fresh start on human rights", AI Index: EUR 41/007/2004.

rape his girlfriend. He was, thereafter, forced to kneel for several hours with his hands at his sides, again without moving. Held for the maximum five days in incommunicado detention, he became dehydrated and exhausted and eventually lost consciousness and was taken to hospital. When he woke up he could not move or speak, only utter sounds. He was subsequently taken to the National Court in Madrid and admitted to Soto del Real prison, where he spent six days before being released on bail. In June, AI received news that an officer of the Mossos d'Esquadra had been charged with torture in connection with the case by an investigating judge attached to the court of Lleida.

Violence against women

According to figures published in August by the Ministry of the Interior, arrests for acts of violence against women rose by 317 per cent between January and June. Complaints about acts of violence against women within the family rose from 8,605 in the first half term of 2003 to 21,865 for the corresponding period in 2004, in part owing to changes to the Penal Code which, the previous October, toughened sanctions for violence against women. A report on violence against women was being prepared by AI for the Committee on the Elimination of Discrimination against Women (CEDAW), which was being held in July.

SWITZERLAND

ECRI publishes report on Switzerland

In January the European Commission against Racism and Intolerance (ECRI), a Council of Europe body, published its third report on Switzerland¹⁷, describing the situation as of June 2003. ECRI acknowledged that the country had taken a number of steps to combat racism and intolerance in recent years. These included the prohibition of discrimination contained in the new federal constitution which came into force in 2000 and the establishment of a Federal Service to Combat Racism. However, ECRI noted the lack of a comprehensive body of anti-discrimination legislation and found that racism and intolerance persisted.

It concluded that "A recent worrying development is the rise in racism and discrimination towards black Africans living in Switzerland. Such hostility is displayed in public opinion, political and media discourse, and also in the behaviour of officials, notably the police. It appears that there is a general stigmatisation of black Africans as being involved in the drug trade and in other illegal activities such as prostitution, and this stigmatisation has had an extremely negative effect on the daily life of black persons living in Switzerland."

ECRI recommended that the authorities put in place a strategy to counter such hostility and discrimination. It said that "Particular emphasis should be given to ensuring that public officials, and particularly the police do not act in a discriminatory or wrongful fashion towards members of this group, and that actions taken to combat drug trafficking or other criminal activities do not stigmatise or lead to discrimination against whole groups of persons. In particular, procedures such as identity checks, taking into police custody and body searches – often carried out on the street – should not be carried out solely on the basis of skin colour." ECRI strongly urged that steps

¹⁷ CRI (2004) 5

also be taken to ensure that "an end is put to the practice of effectively 'closing off' certain areas to certain minority groups through measures such as police controls targeted uniquely at members of such groups."

It urged firm measures "to deal with the problem of police mistreatment of persons from minority groups" and pointed out that "A first important step would be the introduction of independent investigation into all allegations of police ill-treatment, be it at the federal or cantonal level." It said that "Mechanisms should also be put in place to enable victims of police mistreatment to bring complaints: this might include the appointment of contact points - independent from the police force - with responsibility for receiving and following-up such complaints, the provision of free legal aid for victims where necessary, and the creation of formal and informal dialogue structures between the police and representatives of minority groups and the non-governmental sector." It commented that "A public commitment from the highest level of the police forces in tackling problems and dealing severely with any police officers found to be behaving incorrectly is also crucial to help improve the confidence of minority groups in the police force." Other recommendations included improved recruitment of members of minority groups into the police and a stepping up of relevant training for the police to avoid discriminatory practices.

The Swiss Federal Government rejected "the assertion ... that the Swiss police behave in a racist, discriminatory and violent way towards minorities, in particular black Africans" but acknowledged that "mistakes may sometimes occur".

ECRI recommended that steps also be taken "to counter the generally negative climate of opinion surrounding the issue of asylum-seekers and refugees." It stressed the need to ensure that the introduction of accelerated asylum procedures "does not represent a weakening of the right of asylum-seekers, inter alia to have their case considered on an individual basis and

on its own merits, and to lodge an appeal against negative decisions with sufficient time and access to legal assistance to make a proper case." It said that "care should be taken to ensure the new laws and regulations in the field of asylum-seekers and non-citizens do not lead to a weakening of the position of these groups."

ECRI further recommended that the authorities "closely monitor the use of detention with respect to asylum seekers and other persons awaiting deportation", establish "a control body responsible for overseeing detention centres at the federal level" and said that "detention should be resorted to as infrequently as possible," with the length of detention kept to "the strict minimum".

Continuing allegations of police ill-treatment and racist abuse

A criminal investigation was opened into allegations made against the police by a Moroccan woman¹⁸, resident in Switzerland for some 24 years and married to a Swiss citizen with whom she has three children. She had no previous history of problems with the police.

She said that on 10 January, following an evening meal with several Moroccan colleagues in a Basel restaurant, she became involved in an argument with staff, after being accused of not paying her bill. She defended herself robustly, shouted, and threw some plates on the floor, whereupon the police were called in. She said that on arrival they seized her, bound her hand and foot and dragged her out of the restaurant and into a police vehicle which transferred her to a police station. She alleged she was ill-treated during the transfer and at the police station, specifically that she was dragged across the ground by her handcuffs and hit and kicked by four police officers while still bound. In addition, she claimed that she was subjected to racist abuse referring mostly to her skin colour and her Moroccan origins.

¹⁸ Full name known to Amnesty International

Amongst other things, she was called an "Arab bitch" ("Arabersau") and a "whore". She said that she was put in a cell and the hand and leg cuffs were left on overnight, causing her considerable discomfort. In addition she said that officers taunted her over the loudspeaker throughout the night, that she was unable to drink anything and that police officers refused to undo the hand and leg cuffs to allow her to use the toilet in her cell.

Her husband, informed by an acquaintance of his wife's detention, contacted the police to ask permission to collect her from the station but was told she had to remain overnight in a drying-out cell. The next morning he collected her and took her home and then on to the accident and emergency unit of a local hospital where the injuries she had sustained during her detention were documented and treated. On 29 January she lodged a criminal complaint against the police with the Basel City public prosecutor's office, supported by detailed medical and psychiatric reports and photographs of her injuries.

A medical report of the hospital examination carried out on the morning of her release recorded her account of her treatment by the police, the fact that she had arrived "in full possession of her faculties" and diagnosed "Multiple haematomas as a result of ill-treatment by other persons to both elbows, both wrists, both knees" and a "Contusion on the right buttock". A report of a further examination two days later recorded the development of "a clearly visible haematoma, approximately two hands width in size, in the area of the right buttock and the adjacent area of the thigh". The hospital doctor referred her to a psychiatrist to help her "cope with the psychological effects of the trauma". The psychiatrist stated that her description of "the threatening situation she found herself in at the hands of the police" was "credible" and that she showed "all the symptoms of acute stress reaction".

Shortly after lodging her complaint, she received a summary order issued by the police and dated 11 January, fining her

some 700 Swiss francs for causing a public nuisance and obstructing officers. At the same time the police said she had soiled her cell with urine and that, therefore, they were claiming for the cleaning costs. In the order, the police accused her of being drunk and disorderly, of violently resisting police officers trying to restrain her, of shouting abuse at them, of tearing off some of her clothes and accusing police officers of raping her. They maintained that she had been taken to the police station in order to sober her up and that she had been bound hand and foot in her cell for her own safety, because of the risk of injury.

Death during deportation (Update to AI Index: EUR 01/007/2002)

In March the Federal Tribunal upheld a three-month suspended prison sentence handed down to a doctor who, in June 2001, had been found guilty of the manslaughter of Khaled Abuzarifa, a Palestinian who died in March 1999, during a forcible deportation operation via Zurich-Kloten airport. In May 2002 an appeal court had reduced his original sentence of five months' suspended imprisonment. The Federal Court overturned the lower courts' rulings that the doctor should pay compensation of 50,000 Swiss francs to the victim's family and stated that the doctor had been acting on behalf of the Canton of Bern and that the Canton itself should pay the compensation. However, no compensation had been apparently forthcoming by the end of June.

Khaled Abuzarifa was given a sedative tablet, had his mouth sealed with adhesive tape, was bound hand and foot and strapped into a wheelchair in preparation for deportation. He was only able to breathe through one nostril due to a deviated septum. A post-mortem report indicated that he died of asphyxia as a result of the restraining measures. The doctor was found to have failed to check whether Khaled Abuzarifa had undergone a medical check before the deportation operation began, to examine properly his breathing difficulties, to give the escorting

Bern police officers relevant instructions on the transportation of a gagged prisoner, and to alert the officers to possible problems by stating that the patient was only pretending to be experiencing breathing difficulties. In June 2001 the first instance court had acquitted two escorting police officers of manslaughter but had referred the case of a third, in charge of the deportation, back to the prosecutor's office for further investigation. However, the officer died while the case was still under investigation.

Policing of demonstrations

There were allegations that police used excessive force in the context of some policing operations surrounding the World Economic Forum (WEF) held in Davos in January and associated demonstrations. In the lead-up to the WEF, in view of reports of police officers using unwarranted and excessive force and making abusive use of police equipment designed to temporarily disable or incapacitate in the context of policing operations surrounding a number of previous demonstrations, AI had publicly called on the federal and cantonal authorities to ensure that international human rights standards, in particular those relating to the use of force and firearms by law enforcement officials, were fully observed during WEF policing operations. AI called for weapons firing projectiles such as rubber bullets and 'markers' (that is, plastic bullets containing paint and metal), dart-firing taser guns, and disabling chemical irritant gases not to be used in any canton, without rigorous independent investigations into their potential for abuse and medical effects, and without strict rules, in line with international standards regulating their use. AI also urged that all officers engaged in direct interventions with the public during policing operations surrounding demonstrations prominently display some form of individual identification -- such as a service number, in line with the European Code of Police Ethics. (For further information see *Switzerland: Policing operations surrounding the World Economic Forum*

must respect international human rights standards, AI Index: EUR 43/001/2004).

Updates

■ A second police officer was indicted in connection with incidents involving Denise Chervet and her 16-year-old son Joshua, which occurred at Geneva's central railway station in March 2003, following a peaceful demonstration protesting against the policies of the World Trade Organization and the war in Iraq and subsequent violent confrontations with the police (see AI Index: EUR 01/001/2004). After apparently seeing an officer seize his mother by the arm to move her on, Joshua sprayed police officers with a fizzy drink. After he was struck by a police truncheon, sustaining a wound which required suturing, Denise Chervet threw a beer bottle at the police. An officer then used a kinetic impact weapon -- the FN 303 "less lethal" launcher -- against her. The weapon had just undergone internal testing by the Geneva police force. One capsule made of plastic and metal and containing paint hit her body and another hit her forehead and remained embedded, causing her permanent injury. The weapon was subsequently withdrawn.

In December 2003 an investigation into a criminal complaint lodged by Denise Chervet concluded that the police officer who had fired the weapon had simply acted according to his orders but charged the officer who had authorized the use of the weapon during the demonstration with causing bodily harm through negligence. In February, as a result of a separate criminal complaint lodged on behalf of Denise Chervet's son, an officer who had admitted injuring her son, but said that he done so unintentionally, was charged with causing bodily harm through negligence. The relevant investigating magistrate had initially refused to charge the officer but reversed his decision following the family's successful appeal to the indictment chamber (*chambre d'accusation*).

■ In May the Geneva government published the report of the Geneva extra-

parliamentary commission of inquiry established in July 2003 (see AI Index: EUR 01/016/2003), the selection of the four-person commission had been agreed by the cantonal government and representatives of its parliament. The Commission was mandated to investigate the general handling by Geneva cantonal authorities, including the police, of security and demonstrations surrounding the G8 Summit held in nearby Evian (in neighbouring France) in June 2003.

There had been extensive damage to property and violent confrontations between protestors and police, as well as peaceful demonstrations and protest actions, in and around the cities of Geneva and Lausanne (in the Canton of Vaud) during the G8 summit period. AI expressed concern as allegations emerged of police officers operating in Geneva during the G8 period (including officers from other Swiss cantons and on loan from neighbouring Germany) making indiscriminate and abusive use of batons, stun grenades and rubber bullets.

In the lead-up to the G8 summit, AI had written to the relevant federal and cantonal authorities involved in the G8 policing operation calling on them to ensure that all law enforcement officers, security and military personnel, both domestic and foreign, engaged in G8 policing be aware of, and act at all times in accordance with key international human rights standards relating to: freedom of expression and assembly, the use of force and firearms by law enforcement officials, the right not to be subjected to arbitrary arrest or detention and the fundamental rights of people deprived of their liberty. AI also urged that all officers engaged in direct interventions with the public during the policing operation prominently display some form of individual identification -- such as a service number -- in line with the European Code of Police Ethics. The organization expressed concern at police statements made before the summit that this would not be done, as it could clearly prevent the identification of any officers accused of misconduct,

including excessive use of force, and thus provide them with complete impunity.

Dozens of people alleged police brutality and excessive and gratuitous use of force by police officers during the G8 demonstrations in and around Geneva and at least 15 individuals lodged formal criminal complaints against the police. In June 2004 it was reported that the Geneva Attorney General had notified eight of them that the investigation into their complaint was being terminated without any further criminal action, on the grounds that it was impossible to identify the officers involved.

In January AI wrote to the Commission, at its invitation, and recalled the content of its correspondence with the Geneva authorities in the lead-up to the G8 summit and its subsequent public statements and appeals. AI also informed the Commission that it would recommend that any state which has experienced demonstrations from which a significant number of allegations of human rights violations by law enforcement officers have emerged, should review its legislation, regulations and training to ensure that they are fully in line, in theory and in their practical application, with relevant international standards, and ensure also that a strong message is being conveyed to officers that violations of these standards will be sanctioned. AI sought clarification as to the scope of the Commission's mandate with regard to alleged human rights violations by police officers. The Commission responded by referring to its general mandate and underlining that it was not its task to investigate specific cases but to give its general appreciation of the manner in which the authorities had conducted events surrounding the G8 summit.

The Commission's May report stated that Switzerland lacked the means and experience to deal with the G8 situation and was critical of the federal government for tardy and inadequate security arrangements and inter-cantonal coordination, as well as of disagreements within the Geneva government resulting in an incoherent strategy. Its overall

conclusion was that, nevertheless, it had been possible for the G8 meeting of heads of state duly to take place, that citizens had been "able to exercise their democratic right to demonstrate" and that interventions made to maintain public order in Geneva had not "caused any serious attack on the life or physical integrity of individuals". Relations between the authorities and the organizers of the main and peaceful anti-G8 demonstration and the G8 'counter-summit' had proved overall successful. It criticized the conduct of some police interventions during G8, on predominantly logistical grounds, and cited inadequate preparation, amongst other things. However, it made no specific mention of the allegations of police use of excessive force apart from reporting, with regard to a demonstration which took place on 3 June that, according to certain testimony "the principle of proportionality appears not always to have been respected." It made 52 recommendations to the authorities and other key actors involved in G8 events, including demonstration organizers. The recommendations included 16 addressed to the police. Amongst other things, it proposed the creation of specialized police units to deal with such policing operations in Switzerland in the future, in view of their complexity and frequency and current police lack of expertise: it also recommended the acquisition and management of relevant police equipment in a coordinated manner across cantons. It called on the Geneva authorities to confirm that the rules of engagement of the police should contain the principle of proportionality "without, however, neglecting that of legality". It also called on the police to ensure that Swiss police officers, and in particular officers brought in from other countries, should wear a service number during public order interventions.

■ In June a trial took place in connection with incidents which occurred at the Aubonne bridge, on the Lausanne-Geneva motorway during the G8 summit (for background information see AI Index: EUR 01/016/2003).

Martin Shaw suffered multiple fractures as result of falling some 20 metres from the bridge on 1 June 2003 after a police officer cut the rope from which he was hanging. Martin Shaw and other protestors had undertaken the action in order to block an official delegation travelling to the G8 summit. They stretched a rope across and a metre above the road and warned approaching motorists by stringing a banner across the road on the approach to the bridge. Martin Shaw and a female protestor, Gesine Wenzel, were hanging on either side of the motorway, at the ends of the rope. The police stated that the rope was cut accidentally: protestors who were at the scene at the time disputed this.

The police were placed under investigation in connection with possible charges of causing bodily harm and endangering life through negligence. However, on 28 June, while that investigation was still under way, a court in Nyon found Martin Shaw, Gesine Wenzel and Olivier L, a Swiss protestor, guilty of blocking traffic and thereby endangering the lives of drivers. The three had previously challenged an order issued by the examining magistrate sentencing them and a number of other activists to 14 days' suspended imprisonment.

The court exempted Martin Shaw from punishment on account of the permanent physical injuries he had sustained. Gesine Wenzel and Olivier L were sentenced to 10 and 20 days' suspended imprisonment respectively and ordered to pay court costs. The three defendants maintained that they had taken all reasonable steps to warn and inform drivers of their action. Lawyers representing the defendants deplored the fact that their clients were being tried before police actions on the bridge had been clarified. The court indicated that, by issuing its sentence, it was not prejudging the police actions which were still under separate investigation.

TAJIKISTAN

Death penalty

Moratorium on death sentences and executions

President Imomali Rakhmonov announced at a joint session of both chambers of parliament on 30 April that a moratorium would be introduced in Tajikistan in due course. He stated that "human life should be treated humanely. Man, his rights and freedom are great and inviolable values, and the right to life has a special place among them. In fact, the right to life is natural, and nobody has the right to deprive any other person of this right."

On 2 June the Majlis namoyandagon (lower house of parliament) voted in favour of the new law "on the suspension of the application of the death penalty". By the end of the period under review, the law had not yet been adopted by the Majlisi Milli (upper house of parliament) and signed into force by the President. The law stipulates the suspension of the handing down of death sentences, and set the maximum penalty in the Criminal Code at 25 years' imprisonment. Reportedly, no death row prisoners were executed after 30 April.

On 10 and 11 June the conference "Moratorium on the death penalty: experience, problems and prospects", organized by the a non-governmental League of Women Lawyers together with the authorities of Tajikistan, was held in Dushanbe. At the conference the Deputy Procurator General reportedly stated that 11 men had been executed between 1 January 2004 and 30 April; four death sentences were replaced with long prison terms.

Executions despite Human Rights Committee interventions

Rachabmurod Chumayev, Umed Idiyev, Akbar Radzhabov and Mukharam Fatkhulloyev were believed to have been

executed in secret only several days before the President's speech on 30 April (see above). The executions of Rachabmurod Chumayev and Umed Idiyev were carried out despite interventions by the (UN) Human Rights Committee on 22 January and 13 April respectively urging the authorities of Tajikistan to stay their executions while the Committee considered allegations of violations of the International Covenant on Civil and Political Rights in their cases. Tajikistan had previously executed five death row prisoners, ignoring similar requests by the Committee.

The four men and co-defendants Todzhiddin Butayev, Ibrogim Khusseyinov, Savriddin Pirov, Akhmaddzhon Saidov, all members of an armed group headed by Rakhmon Sanginov, a former commander of the United Tajik Opposition (UTO), had been sentenced to death in February 2003 on charges of terrorism, banditry, illegal possession of firearms, hostage-taking and murder. The UTO had fought against government forces during the Tajik civil war that formally ended in 1997.

There were allegations that proceedings did not meet international fair trial standards. According to his father, Rachabmurod Chumayev had no access to a lawyer for his first month in custody and was then given a state-appointed lawyer who, the family claimed, did not present a strong defence case.

Many of the defendants were allegedly tortured and ill-treated while they were in custody awaiting trial. According to Rachabmurod Chumayev's father, his son "was beaten with truncheons, then electric shocks were applied to vulnerable parts of his body to force him to sign a 'confession' " while in a police station in the central district of Dushanbe following his detention in June 2001.

On 25 April relatives of Rachabmurod Chumayev and Ibrogim Khusseyinov went to the investigation-isolation prison no. 1 in Dushanbe to leave parcels for their sons. However, the guards only accepted the parcel from the Khusseyinov family and told them that Rachabmurod Chumayev, Umed

Idiyev, Akbar Radzhabov and Mukharam Fatkhulloyev had been taken to the execution site the previous day. Subsequently, their relatives repeatedly approached the authorities to receive a death certificate to which they have a right, according to domestic law. Umid Idiyev's relatives only received it on 25 May, and AI learnt that the relatives of Rachabmurod Chumayev and Mukharam Fatkhulloyev had still not received such a certificate by the end of the period under review.

The death sentence passed on Bakhrom Sadullayev was overturned by the Supreme Court on 17 November 2003 and AI learnt at the beginning of May that Savriddin Pirov's death sentence has also been commuted. The death sentences of Todzhiddin Butayev and Ibrogim Khusseyinov have not been carried out due to the moratorium on death sentences and executions.

Allegations of torture and ill-treatment

AI continued to receive reports about torture and ill-treatment by police. Reports from the northern town of Khodzhand alleged that police tortured and ill-treated 14 defendants accused of membership in the banned Islamic organization Hizb ut-Tahrir for some two months following their arrest in February, to force them to sign confessions. At a press conference on 27 May one mother alleged that her son was tortured with electric shocks. Another said her son was hung upside down for two days. A third alleged that police had demanded US\$ 2,000 for her son's release. Relatives said that the men were held incommunicado for two months.

Ill-treatment in Nurek police station

It is believed that Vladimir Vasilchikov, a preacher of the Awakening Baptist Church in the town of Nurek south of Dushanbe, and Viktor Dudenkov, a member of the congregation, were ill-treated at the Department of Internal Affairs in Nurek by local police and police from the regional

centre Khatlon between 16 and 23 June. Viktor Dudenkov's wife Elena Dudenkova was reported to have been subjected to psychological pressure, including being insulted, forced to stand up for several hours and denied food and drink. The three were summoned to the police department for investigations into the case of Vladimir Vasilchikov's mother Mariya Vasilchikova, who was last seen in June 2002. While no formal charges were brought against the two men, police accused them of having killed her. The three consistently maintained their innocence and alleged that they were pressurized to force them to sign confessions.

For example, Viktor Dudenkov reported that he was ill-treated for three hours on 21 June. He described it thus: "They beat me on my temples, neck and chest. When I fell down they kicked me in the thorax. Then they forced me to stand up and beat me again until I fell on the floor. When they noticed that traces of their boots were visible on my shirt they forced me to take it off and continued to beat me." Viktor Dudenkov said he lost consciousness several times. "When I came to I heard how they said that in case I die they would throw my corpse in the river Vakhsh", he added. Vladimir Vasilchikov was believed to have been beaten several times. He described how he was beaten in his face and on his stomach, chest, and left shoulder. Reportedly, the police officers repeatedly turned down the requests of a lawyer to see Viktor Dudenkov and Vladimir Vasilchikov.

On 23 June police reportedly forced Vladimir Vasilchikov to sign a document stating that the police had treated him humanely and he had to promise that he would not complain about his treatment. The same day the police are said to have taken him for a medical examination in the town of Vakhdat not far from Nurek. Following pressure by police the doctor reportedly did not take notes on any of the injuries. Vladimir Vasilchikov reported that he did not mention the beatings out of fear of reprisals because a procuracy official

from Nurek and a senior police officer were present throughout the examination.

Following complaints by Viktor Dudenkov and Vladimir Vasilchikov to the General Procuracy, the two were examined by doctors at the Republican Centre of Forensic Medicine in Dushanbe. On 25 June the experts concluded that the two men suffered from concussion and head injury. Both had to be hospitalized for two weeks.

TURKEY

Continuing legal reforms

The Justice and Development Party (AKP) government continued to implement legal changes aimed at meeting the criteria for EU accession and bringing Turkish laws into line with international standards. Notable laws in this period were the package of constitutional changes approved by the Turkish Parliament on 7 May. As of June one third of the articles in the 1982 constitution had been changed and this was the ninth time it had been amended.

Among the changes, Article 143 - providing for State Security Courts - and Article 131/2 - providing for a member chosen by the General Chief of Staff to be represented on the Higher Education Council - were both repealed, and by adjusting part of Article 160 the annual military expenditure was made more transparent and placed under the monitoring of the Exchequer (*Sayıştay*). An important alteration to Article 90 of the Constitution placed international conventions above domestic law; this means that where there is a contradiction between the provisions of domestic law and an international agreement, international standards will take precedence. The impact of this measure was already beginning to be reflected in certain Court of Appeal decisions in subsequent months. A further amendment to Article 38 of the Constitution provided for extradition orders to be complied with in those cases which fell under the provisions of the International Criminal Court (ICC);

although Turkey is not yet a signatory to the ICC Statute, this paves the way for it to become a party. All provisions in the Constitution (in Articles 15, 17, 38 and 87) relating to the death penalty were removed.

These constitutional changes paved the way for the two separate packages of law reforms. Law no. 5190 was approved by the Turkish Parliament on 16 June and included the abolition of the State Security Courts, through the annulment of Law 2845 of June 1983 which had established them in their current form and an amendment to the Criminal Procedure Code, and a move to establish special heavy penal courts in their place. Human rights defenders welcomed the move to abolish the much criticized State Security Courts, but strongly urged that the establishment of special heavy penal courts which would deal with organized crime, 'terrorism' and crimes deemed to endanger state security be more than simply a change of name for the same institution.

In June, the law reform package known as the ninth 'harmonization law' (Law no. 5218; passed by Parliament on 14 July) was also prepared. This removed provisions for military members to serve on the Higher Education Council (YÖK) and, though in practice there are still obstacles to its realization, on the Higher Board for Radio and Television (RTÜK). Provision for the death penalty was removed from all articles of the Turkish Penal Code and converted to 'life imprisonment'.

A law passed by the Parliament on 3 March restored full rights to those who had been convicted of political crimes in the wake of the 12 September 1980 military coup (and before 31 December 1987). Often dubbed the 'generation of '78', many of those convicted in the trials of political parties in the 1980s had been previously denied the right to be executives in political parties and associations, or stand as candidates for local or general elections. The new law thus allows these people to apply to the courts for restoration of full citizenship rights.

On 9 June a new Press Law (Law no. 5187) was passed and, with some criticisms from

journalists, was generally commended for bringing Turkish laws on the press into line with international standards and ridding it, in the words of head of the Journalists Association of Turkey, of the 'traces of 12 September'.

A revised draft of the Law on Associations was prepared during this period. AI was concerned that despite there being indications that the new law contained provisions which were in general positive and would facilitate the activities of associations (particularly concerning easing restrictions on membership for civil servants, fundraising and issues of international representation), there had been no attempt to consult with local human rights NGOs during the period when the draft was being prepared.

During this period the Parliamentary Sub Commission charged with redrafting the Turkish Penal Code continued work on the complete new draft. It was anticipated that the new Penal Code would pass into law in September 2004. Women's groups in Turkey generally welcomed the provision for the removal of gender-discriminatory articles. The definition of torture was also welcomed by human rights lawyers who had played an important role in lobbying for the initial definition to be significantly revised. These lawyers, however, also pointed to some remaining deficiencies in the draft, among them certain articles containing provisions which could potentially be used to impose unnecessary restrictions on freedom of expression.

The Parliamentary Sub Commission also began work on redrafting the Criminal Procedure Code (CMUK) and publicly emphasized that introducing provisions relating to judicial process that would ensure fair trial was foreseen as a key part of the new redrafting.¹⁹ Implementation of new laws in Turkey has been uneven, a fact also acknowledged by members of the AKP government (see below).

¹⁹ Nejdet Çokan, 'Savcılar avukata tepeden bakmayacak', *Sabah* newspaper, 17 June 2004.

Council of Europe ends its monitoring procedure

On 22 June, the Parliamentary Assembly of the Council of Europe voted to end its monitoring procedure, dating from 1996, on Turkey's respect of commitments to constitutional and legislative reforms -- deeming that it had 'clearly demonstrated its commitment and ability to fulfil its statutory obligations as a Council of Europe member state'. However, the Assembly resolved to continue 'post-monitoring dialogue' with the authorities.

Meetings with government

From 8 to 13 February AI's Secretary General led a delegation to Turkey for talks with senior government figures, including Prime Minister Recep Tayyip Erdoğan, Foreign Minister Abdullah Gül and Interior Minister Abdülkadir Aksu. This was the first time an AI Secretary General had conducted meetings at this level in Turkey, and as such indicative of some of the important changes continuing in the country. Turkey's bid to attain EU membership has had important implications for human rights and the past two-and-a-half years have seen a process of rapid legislative reform. AI continues to press for full implementation of these reforms, for further changes in legislation as well as for the more fundamental overhaul of institutions (particularly of policing and the judiciary) central to change (see: *Memorandum to the Turkish Prime Minister*, AI Index EUR 44/001/2004). The delegation held a series of constructive meetings in which government officials expressed a willingness to engage with AI's recommendations. Further meetings were held with the three main partner human rights non-governmental organizations (NGOs) in Turkey (the Human Rights Association [İHD], Mazlum Der [Organization of Human Rights and Solidarity for Oppressed People] and the Human Rights Foundation of Turkey [TİHV]) and AI emphasized that their role in the present time and the willingness of government to consult with them were

crucial towards ensuring real change on the ground (see also AI Index: EUR 44/007/2004; AI Index: EUR 44/008/2004).

From 8 to 10 June, AI was invited along with other international and local human rights NGO partners (the three ones named above plus the Federation internationale de droits de l'homme [FIDH] and Human Rights Watch,) to discuss their concerns with the Turkish government authorities. The delegation met with Foreign Minister Abdullah Gül, Justice Minister Cemil Çiçek, Interior Minister Abdülkadir Aksu, the EU Reform Monitoring Group (an extended and detailed meeting with many representatives of the three different ministries that make up that group), the Human Rights Presidency attached to the Prime Minister's office, and the Human Rights Advisory Board. This was the first time the six organizations had formed a joint NGO platform and represented an important show of solidarity between them (see joint press statement: AI Index: EUR 44/008/2004).

Violence against women in the family

As part of its global campaign on violence against women, on 2 June in Istanbul AI launched a report, *Turkey: Women confronting family violence* (AI Index: EUR 44/0013/2004). The report documents how the human rights of hundreds of thousands of women in Turkey have been violated through violence in the community, featuring cases of individual women who have suffered violence at the hands of their family by being beaten, raped, and in some cases even killed or forced to commit suicide. It reveals a culture of violence that can place women in double jeopardy, both as victims of violence and because they are denied effective access to justice, and also profiles the work of individual women and groups working for human rights in Turkey who have courageously exposed the culture of violence in which many women live and which is often invisible to the outside world.

AI is concerned that the Turkish government has failed to adequately address the prevalence of violence against

women by not ensuring implementation of existing legislation – especially by the criminal justice system and the security forces. The report makes a series of recommendations to the Turkish government, including that the authorities publicly and at every opportunity declare a commitment to eradicating violence against women and that they carry out reforms needed to eradicate violence against women and ensure their implementation.

Beginning of non-Turkish language broadcasts

During this period a fundamental taboo was finally broken when state television and radio channels began broadcasts for the first time in languages other than Turkish, a measure of symbolic significance in signalling official acceptance that Turkish is not the only language belonging to citizens of the Turkish Republic. The much delayed implementation of the August 2002 law, which had provided for broadcasts in 'different languages and dialects traditionally used by Turkish citizens in their daily lives', came about in the week beginning 6 June when state television and radio channels began broadcasts in Bosnian, Circassian, Kirmançi, Zazaca and Arabic. While some Bosniak groups complained that they had not asked for mother-tongue broadcasts and expressed concerns about being perceived along with Kurds as 'separatist', some representatives of other groups such as Lazca speakers demanded the right to broadcasts in the Laz language as well. It is probable that in time the limited non-Turkish language broadcasts offered by the state broadcasting services will be supplemented by private and eventually local television channel broadcasts.

Release of the four former DEP parliamentarians

AI was dismayed by the reconviction of the four former Democracy Party (DEP) parliamentarians, Leyla Zana, Hatip Dicle, Orhan Doğan and Selim Sadak, in a verdict

announced on 21 April following their retrial in the Ankara No. 1 State Security Court.

However, in early June the conviction was overturned by the Chief Prosecutor of the Supreme Court in an important communication which emphasized international fair trial standards in pointing to the failure at the beginning of the Spring 2003 retrial to read out the indictment or to read out the evidence against the defendants; the limitation on the defendants' right to defence since there had not been an opportunity to listen to some witnesses; and the court's suspicions about the independence of the defence's expert witnesses. On 9 June, following their lawyer's application for their release pending the July Court of Appeal hearing, the four former parliamentarians were released from Ulucanlar Prison in Ankara. AI welcomed the move but urged that their release be unconditional and that they should face no further legal action.

Police ill-treatment and torture

Over the past two years various changes to the Regulation on Apprehension, Detention and Interrogation and, according to information supplied by the Justice Ministry, evidence of internal auditing of places of detention by public prosecutors, would seem to signal a greater concern with formalizing procedures in custodial settings and imposing a sequence of processes which should provide the detainee with some measure of protection against ill-treatment or torture. AI remained concerned that in practice regulations were not always being followed, that there were still reports of detainees not being granted the right to meet with a lawyer even after requesting one, and that torture and ill-treatment were still being reported. AI urged that further safeguards (notably audio-taping of interviews with suspects) be introduced. Of those in detention, it was detainees suspected of having committed ordinary crimes (theft, assault, etc) who reportedly still faced the highest risk of being tortured or ill-treated. Statistics compiled by the Izmir Bar Prevention of Torture Group demonstrated this. Such

detainees are generally also least aware of their rights in custody and least likely to feel entitled to complain about ill-treatment.

While there is an improvement on the past when it comes to detention procedures, there are still settings mainly outside the formal detention context in which law enforcement regularly display a tendency to resort to excessive force and abuse their function. Three such areas are: demonstrations, unofficial detentions, and a reported case of extrajudicial execution.

Police brutality during demonstrations

Policing of demonstrations in Turkey remained an area of concern and was among the issues which AI delegates raised with the government during the visits in February and June (see above).

A pattern that could be seen repeated on numerous occasions was that of police using excessive force against demonstrators, particularly against students, trade unionists, leftists, supporters of political party DEHAP and other groups targeted as oppositionists. Allegations of ill-treatment filed as complaints with the public prosecutor rarely resulted in prosecution of law enforcement officials, and when such prosecutions did proceed the sanctions were extremely limited. On the other hand, those complaining of ill-treatment were themselves frequently prosecuted under Article 258 of the Turkish Penal Code (TPC) for 'resisting (*mukavemet*) by force, violence or through threats a public official carrying out his duties' and for violating Law No. 2911 on Meetings and Demonstrations, in the latter case generally on the grounds of participating in an unlawful meeting or demonstration.

An instance which exemplifies this pattern occurred on 12 April when a group of students in Ankara participated in a demonstration against a summit of the North Atlantic Treaty Organization (NATO), planned for late June, which – although peaceful – did not have official permission. Riot police officers reportedly used

disproportionate force to disperse and detain the protestors including by punching and kicking them. Beatings of 71 detained students reportedly continued at the Ankara Police Headquarters. When they were taken to the court the next day, the students were again reportedly ill-treated by police officers in and outside the courthouse in front of witnesses. On the request of the prosecutor the judge presiding over the students' case ignored the complaints of ill-treatment made by the students and their lawyers and they were instead charged under Law No. 2911. The authorities rejected a complaint lodged by 24 students to the Ankara State Prosecutor regarding their ill-treatment, deciding not to prosecute on 3 May. The students appealed against this decision. On the other hand, a case was opened against two female students, who had complained of torture and ill-treatment, under Article 258 TPC in which it is alleged that they 'insulted and beat an officer on duty'.

It appeared that reports of ill-treatment more frequently originated from demonstrators than from those detained in police custody on suspicion of other politically related crimes. Demonstrators reported ill-treatment either while participating in a demonstration or meeting in a public place or while being transferred to a place of detention. According to the Izmir Bar Prevention of Torture Group, of the 91 complaints of torture or ill-treatment they received from those suspected of politically related crimes (out of an overall total of 423 complaints in 2003), 70 were facing charges for violating the Law No. 2911. Moreover, the Group reported that among the 333 allegations of torture or ill-treatment from those imputed with having committed a criminal act (whether ordinary or politically related), 83 were facing charges of having 'resisted a public official by force and violence or threats' (Article 258 of the TCK). Like Izmir Bar Association, Diyarbakır Bar Association also raised the concern that a disproportionately high number of people approaching them to allege they had been tortured or ill-treated by law enforcement officials, and who even bore the traces of such ill-treatment, were

themselves facing charges of having violently or threateningly resisted a public official's orders. Both Bar Associations suggested that some law enforcement officials might be resorting to this charge against detainees to counter reports that they had ill-treated the detainee or demonstrator, to cover their traces and, by this means, to reduce the chances of prosecutors investigating the reports of ill-treatment.

When law enforcement officials were investigated for using excessive force during demonstrations, there was evidence of a continuing reluctance to push for meaningful sanctions. The fact that it was still very difficult to identify or mark out individual police officers wearing the so-called 'robocop' uniforms because they have no badges or other identification markers contributed to the failure to investigate or prosecute. While few cases of police brutality resulted in criminal prosecution, there was also a resistance to applying appropriate disciplinary measures.

A case in point was that of the police cameraman, Durmuş Yıldız, photographed simultaneously kicking a male student during the 6 November 2003 student demonstration against the Higher Education Council (YÖK) as the student lay incapacitated on the ground, and filming the incident with his hand-held video camera. A photograph of the incident appeared in the national press. Durmuş Yıldız's punishment for this crime was to be denied promotion for a six-month period. Durmuş Yıldız himself claimed in his statement that he could not remember the incident and 'was not himself' because he



© Sadık Güleç, *Sabah* newspaper
A Turkish police officer sprays pepper gas into the face of a demonstrator during protests against the NATO summit in Istanbul at the end of June 2004

had been affected by the pepper gas used by the police.²⁰

A photograph of an incident that took place during the demonstrations against the NATO summit in Istanbul at the end of June provided another alarming example of evidence of the use of excessive force by law enforcement officials. *Sabah* newspaper's photograph showed a demonstrator being held by two police officers and sprayed in the face with pepper gas at close range. Interior Minister Abdülkadir Aksu himself admitted that he, like everyone, felt uncomfortable seeing such an image. AI called for the incident to be fully investigated, and appropriate sanctions taken against the two officers responsible.

Unofficial detentions

Reports continued of unofficial detention, with a suspect picked up for questioning by the law enforcement authorities, typically driven around in a car or taken to a deserted place for questioning or to a building not identified as an official place of detention and with subsequently no records that the person has ever been detained. Though it has not been possible to claim an increase in the practice, that fact that reports of such incidents continued pointed to a severe failure in the chain of command among some law enforcement authorities. Senior police officers must bring all their units under control and be held fully accountable where such abuses of duty take place. Unofficial detention continued to be a serious impunity issue since in most reports the perpetrators were plain-clothed police officers in unmarked police cars. Some such incidents seemed to support the view that some law enforcement officials were willing to sabotage a period of reform by resorting to methods intended to strike fear into the detained person and into those around them.

A particularly disturbing case was that of Derya Aksakal. On 3 March at around 5pm,

²⁰ 'Tekme atan polis: gazdan etkilendim', *Milliyet* newspaper, 8 January 2004.

on returning home from Haydarpaşa Numune Hospital where she had had an appointment, Derya Aksakal reported being seized from behind by a man and forced into a grey minibus. According to her account, she was blindfolded and her hands tied behind her back. One man, out of an estimated three masked men plus driver, addressed her by name. She claimed that she recognized his high-pitched voice as being that of a police officer from the team which had interrogated her one month earlier when she was detained at the Anti-Terror Branch of the Istanbul Police Headquarters after visiting the picket line at the Şişecam workers' strike. She was then asked for information about her co-workers and activists at the women's organization, the Ümraniye branch of the Women Workers' Union (*Emekçi Kadınlar Birliği*) where she worked, and encouraged to become an informant. When she refused she was reportedly subjected to torture, including having cigarettes extinguished on both her arms numerous times; being stripped of her trousers, subjected to threats of rape and having cigarettes repeatedly extinguished on her upper thighs (medical reports detail the cigarette burns); and having a gun pointed at her head and threatened with death. She reported that she was released at about 7pm on a piece of empty land in the Kazım Karabekir district of Ümraniye.

Extrajudicial executions

AI was particularly alarmed by the case of the killing of Şiyar Perinçek in Adana. On 28 May, Şiyar Perinçek and Nurettin Başçı were travelling by motorcycle in the city of Adana, when according to reports a Volkswagen car carrying security officials in plain clothes drew alongside them. Those inside the car reportedly opened one of its doors and knocked the motorcycle over. Nurettin Başçı was able to run away, but Şiyar Perinçek was shot by a plain clothes police officer allegedly at close distance without any warning to stop being made. Nurettin Başçı was detained a short distance away by other plain clothes police officers. Despite his serious condition he was not immediately transferred to an intensive

care unit. Şiyar Perinçek died in hospital on 30 May as a result of his bullet wound. His t-shirt – which would indicate at what range he had been shot at from – was not made available for examination to doctors carrying out his autopsy.

Nurettin Başçı and Mehmet Gazi Aydın (who was detained apparently on the basis of Şiyar Perinçek's testimony while in hospital and taken there to be identified by him) were taken to the Anti-Terror Branch of the Police Headquarters in Adana, where they were reportedly tortured – including through 'Palestinian hanging', beating, being stripped naked and, in the case of Nurettin Başçı, being sprayed with pressurized water and subjected to electric shocks. Nurettin Başçı was also reportedly taken out of the police station to an abandoned area where he was threatened with death and subjected to a mock execution when a gun was fired close to his head. Nurettin Başçı's lawyers were only allowed to briefly meet with him once during his detention. Furthermore, police officers reportedly remained with Nurettin Başçı throughout his medical examination, despite Turkish law stipulating that they must remain outside whilst a detainee is being examined.

During the June meetings with the Turkish government, AI raised concerns about the possible extrajudicial execution of Şiyar Perinçek and called for a full investigation into the incident. The official response during these meetings was to seek to explain the incident by situating it in the context of a 'security operation' in the Adana region during which ammunition and guns had reportedly been seized and plans for an armed action by Kurdish armed opposition group PKK/Kongra Gel uncovered. Şiyar Perinçek and Nurettin Başçı were named as key suspects in a plot and it was suggested that the death of Şiyar Perinçek had occurred during an armed clash with the security services. According to an independent investigation subsequently carried out and drawing on witness statements and written up as a report by representatives of the Human Rights Association, Mazlum Der, the Human

Rights Foundation of Turkey and trade union confederation KESK, there was no evidence of an armed clash having taken place. AI was disturbed that the Turkish authorities were ready to suggest initially during meetings that the reported violation did not need to be investigated because it had happened in the context of a security operation. The organization was also concerned at subsequent reports that the above human rights defenders investigating the case were told aggressively by the Deputy Police Chief of Adana that, 'You are individuals and organizations which have assumed the mask of human rights defence... This is a terrorism matter... Your activities [here] have an ulterior motive, they are not activities in defence of human rights.'

Subsequently the state public prosecutor opened a case against three police officers for the 'ill-treatment' of Nurettin Başçı and against one of the three for the 'unintentional killing' of Şiyar Perinçek. AI has written to the Turkish authorities about its concerns on these cases.

Freedom of expression

Restrictions on freedom of expression continued to be reported and in some cases resulted in prison sentences. The former journalist for *Milli Gazete*, Hakan Albayrak, was remanded to Kalecik Prison in Ankara province on 20 May, after the Court of Appeal upheld a 15-year sentence (of which he will serve five months) against him for 'committing a crime against Atatürk' (Law No. 5816). The journalist had written an article entitled 'Funeral Rites' in which he made the statement, 'Mustafa Kemal Pasha was buried without funeral rites (*cenaze namazı*) being performed. And this was of no concern either to the state or the society.'

AI considered that very severe fines under the terms of the previous Press Law imposed against newspapers such as *Vakit* and *Muş Haber* for articles that contained non-violent opinion also constituted a punitive means of restricting freedom of expression.

A case against the writer, Fikret Başkaya, and his publisher for non-violent opinions expressed in his book, *Against the Current*, continued. If convicted, Fikret Başkaya would face a three-year prison sentence under Article 159 of the TPC for having intentionally 'insulted or derided the Turkish state'.

Harassment of human rights defenders

In February, AI issued a report *Turkey: Restrictive laws, arbitrary application – the pressure on human rights defenders* (AI Index: EUR 44/002/2004) which documented how members of civil society – including lawyers, doctors, environmentalists, trade unionists – continued to be targeted apparently on account of their activities in defence of human rights. Although several laws and regulations that had been used to unnecessarily restrict the rights of human rights defenders were revised or abolished in 2002 and 2003, and despite a greater willingness on the part of the government to consult with representatives of civil society, state officials including prosecutors and police officers apparently found new ways to restrict the rights to freedom of expression, assembly and association. These included the prohibition or restriction of activities which must be considered to be central to defending human rights – such as petitions, reading of press statements and demonstrations – as well as the opening of large numbers of trials and investigations against human rights defenders and their organizations. Such trials and investigations rarely ended in custodial sentences, but often resulted in heavy fines. In themselves, they were a form of harassment that seemed to constitute a misuse of the judicial system on ideological grounds. In addition, there was a pattern in which prosecutors brought 'alternative charges' using a wide variety of laws – on public order, on associations and foundations and on press – to punish perceived transgressions where, because of law

reforms or rulings by upper courts, a successful prosecution may be unlikely.

An example of this was the various cases launched against representatives of the İHD following the publication of posters in Kurdish to celebrate Human Rights Week in December 2003 and which were confiscated on the order of the prosecutor in several provinces. While the request for their confiscation by the Van public prosecutor on the basis that the display of posters in Kurdish 'was damaging to the basic qualities of the [Turkish] Republic' was swiftly overruled by the Ministry of Justice, the damage had already been done since by that time Human Rights Week had passed. Furthermore, other cases were opened against İHD representatives under bureaucratic pretexts – cases were opened against Vetha Aydın, the chair of the Siirt branch, and Hüseyin Cangir, the chair of the Mardin branch, ostensibly because posters had been hung on municipal billboards without permission from the governor. While Vetha Aydın was acquitted on 19 April, Hüseyin Cangir was given a heavy fine on 21 April. In addition, proceedings were opened against lawyer Mikail Demiroğlu, with a trial set to start on 12 October, under Article 260 TPC for 'exerting influence and force to prevent the execution of any of the provisions of law or regulations.' The grounds for the case were reportedly because he had advised the members of the İHD in Hakkari, whose office was in the same building as his, that police officers could not confiscate the posters without a warrant to do so.

On 19 January, a State Security Court in Istanbul sentenced the head of Göç Der (Migrants' Association for Social Cooperation and Culture), Şefika Gürbüz, to one year's imprisonment (later reduced to a fine of 10 billion Turkish lira (€1,300) under Article 312 of the TPC for 'inciting the people to enmity', in association with the launch in March 2002 of a report on forced migration. Mehmet Barut, the author of the report who was also prosecuted, was acquitted.

A trial was opened on 27 April for the closure of the Human Rights Agenda Association (*İnsan Hakları Gündemi Derneği* - İHGD), a new human rights initiative that had been founded in December 2003. Its closure was sought on the basis that it had not corrected its statute as requested after submitting it for inspection to the Associations Desk at Izmir Police Headquarters. Although some changes had been made, many of the corrections that they were told to make were unnecessary and did not seem to be in violation of the Law on Associations.

On 9 March 2004, a trial of nine executive board members of the Human Rights Foundation of Turkey (Türkiye İnsan Hakları Vakfı, TİHV) for violating Law No. 2860 on Foundations came to an abrupt conclusion when the prosecuting lawyer failed to attend the court session. The trial – in which TİHV had been accused of such ‘violations’ as collecting donations through an internet appeal, translating and distributing its reports to international human rights observers and meeting human rights observers such as the UN Special Rapporteur on extrajudicial, summary or arbitrary executions – had been widely condemned both in Turkey and internationally. While the subsequent termination of the trial was a welcome development, the regulations which allowed for such a prosecution remained in law.

Meanwhile, on 13 February 2004, Dr Alp Ayan and Günseli Kaya from the Izmir branch of TİHV were sentenced to 18 months’ imprisonment under Law No. 2911 on Meetings and Demonstrations for ‘resisting dispersal by violent means’ after attempting to participate in the funeral in September 1999 of an inmate killed in Ulucanlar prison. Video footage showed that security forces did not issue a warning to the crowd to disperse and used disproportionate force against the assembled gathering. AI considered that their prosecution amounted to a particularly harsh application of the law, and that they were exercising their legitimate right to peaceful assembly and acting in their capacity as human rights defenders. The

defendants were appealing against the sentence and were at liberty as of the end of June.

On 29 May prisoner of conscience Özkan Hoşhanlı, the former chair of the human rights group Mazlum Der in Malatya, was released from Yeşilyurt prison. He had entered prison on 28 October 2003 following his conviction for violating Law No. 2911 after observing demonstrations in 1999.

TURKMENISTAN

International concern about human rights

On 15 April the UN Commission on Human Rights adopted its second resolution on the human rights situation in Turkmenistan. It expressed “grave concern”, among other issues, at “the persistence of a governmental policy based on repression of all political opposition activities”, at the “abuse of the legal system through arbitrary detention, imprisonment and surveillance of persons who try to exercise their freedoms of thought, expression, assembly and association, and harassment of their families”, and at “restrictions on the exercise of freedoms ... conscience, religion and belief”. It also deplored the continued refusal of the authorities to grant access by independent bodies including the International Committee of the Red Cross, family members and lawyers to those convicted following the November 2002 alleged assassination attempt on President Saparmurad Niyazov. Among other demands the Commission called on the authorities to “remove the new restrictions on the activities of public organizations ... stipulated in the new Law on Public Associations adopted on 21 October 2003 ... and to enable non-governmental organizations ... and other civil society actors to carry out their activities without hindrance”.

A long list of UN special procedures including the Special Rapporteurs on the independence of judges and lawyers; on

the question of torture; on freedom of opinion and expression and on freedom of religion and belief had applied to the authorities of Turkmenistan for invitations to visit the country. The resolution on the human rights situation in Turkmenistan adopted by the UN Commission on Human Rights at its 59th Session in April 2003 had called on the procedures to seek invitations to visit Turkmenistan. However, as stated in a note by the secretariat of the Commission issued on 20 February, as of that point none of the special procedures had received an invitation.

Clampdown on dissent continued

Anyone perceived to be critical of the regime remained at risk of persecution. The relatives of exiled dissidents continued to be targeted in an attempt to stop those in exile from criticizing government policies and speaking out about human rights violations in Turkmenistan.

AI and seven other international and Turkmen non-governmental organizations urged the USA State Department in a letter of 26 May to designate Turkmenistan a "country of particular concern" under the USA's International Religious Freedom Act unless the country made significant progress, including by "register[ing] all of the religious groups existing in the country that wish to register", by "remov[ing] all undue restrictions on religious activity, including the ban on religious gatherings, unregistered groups, religious education for unregistered confessions, and others" and by "ceas[ing] all forms of harassment and undue interference in the activities of religious groups or individuals for their religious beliefs".

In the period under review the authorities of Turkmenistan took a number of steps to avoid being classified as a "country of particular concern", which could lead to the USA taking steps ranging from diplomatic protest to targeted trade sanctions. The steps taken included the *de jure* loosening of previously imposed restrictions on registering religious communities and the registration of several religious minority

congregations. However, implementation of these measures still remained to be tested as intimidation of religious minorities continued unabated.

Prisoner of conscience forcibly confined in psychiatric hospital

On 13 February 63-year-old Gurbandurdy Durdykulyev was taken from his house in the village of Suvchy in the Balkan region of western Turkmenistan by some six medical personnel and another six in plainclothes. He was taken by ambulance to a psychiatric hospital in the town of Balkanabad (formerly Nebitdag), where he was forcibly confined. Shortly after his hospitalization he was transferred across the country to a psychiatric hospital located in a former Soviet pioneer camp in Garashsyzyk district in the eastern Lebap region.

The first time his wife got permission to visit him was in April, but she was only allowed to see him in the presence of representatives of the hospital administration. One doctor, reportedly referring to instructions received from the authorities, threatened Gurbandurdy Durdykulyev's wife that if she passed on information about her husband's case to media outlets abroad she would not be allowed to visit him again.

Reportedly, a commission at the psychiatric hospital in Balkanabad chaired by an official from the Ministry of Health announced that Gurbandurdy Durdykulyev was mentally ill. He was officially diagnosed as suffering from "wild paranoia in an aggressive form".

On 3 January Gurbandurdy Durdykulyev had sent a letter to President Niyazov and the governor of Balkan region, urging them to authorize a two-day-long demonstration on the main square of Balkanabad on 18 and 19 February, to coincide with the President's birthday. He wrote: "We want to carry out a peaceful demonstration... to express our disagreement with the policies of the President and other senior government officials and urge them to rectify any shortcomings in due course... I

ask you to refrain from using force against the participants of the meeting." Gurbandurdy Durdykulyev had earlier repeatedly criticized President Niyazov's policies in interviews he gave to the USA-funded *Radio Liberty*, and had openly spoken about the necessity to form an opposition political party.

AI considered Gurbandurdy Durdykulyev to be a prisoner of conscience, forcibly confined to a psychiatric hospital solely to punish him for peacefully exercising his right to freedom of expression. AI was concerned that Gurbandurdy Durdykulyev may be being inappropriately administered psychotropic drugs.

Punished for importing a banned historical novel

Writer and journalist Rakhim Esenov, aged 78, was summoned to the Ministry of National Security (MNS) on 23 February and accused of "smuggling" 800 copies of his historical novel *Ventsenosny Skitalets* (The Crowned Wanderer) into Turkmenistan. The book had been banned for 10 years from the publishing houses in Turkmenistan and Rakhim Esenov was only able to get it printed in Moscow in 2003. The copies were delivered to his apartment in the capital, Ashgabat, in January, but customs officers removed them after a few days, alleging that they had been imported illegally. Rakhim Esenov insisted that he had imported them legally and had paid customs duty.

On 2 March it emerged that Rakhim Esenov had been charged with "inciting social, national and religious hatred" using mass media. He believed that this charge referred to statements made by characters in his book, which is set during the Mogul empire founded in the 16th century. In February 1997 President Niyazov had publicly criticized the book and denounced the author for making "historical errors," but Rakhim Esenov refused to make the "corrections" the President demanded. During questioning Rakhim Esenov was reportedly asked for the names of his

"smuggling partners", and who had financed the novel. Following the interrogation, Rakhim Esenov suffered a stroke and was taken to hospital. He had already been in poor health before his detention, having recently suffered a heart attack. However, the interrogations continued and he was placed in the MNS's investigation-isolation prison on 26 February.

On 23 or 24 February Rakhim Esenov's son-in-law Igor Kaprielov was taken to the MNS and accused of conspiring with Rakhim Esenov in the smuggling of the books. On 31 March he was given a five-year suspended sentence for "smuggling" (Article 254 part 2 of the Criminal Code) by Azatlyk district court in Ashgabat.

Rakhim Esenov's friend, the journalist Ashirkuli Bayriyev, was summoned to the MNS on the evening of 1 March. Shortly after his arrest, his son, an English language teacher, and his wife, a journalist, were both dismissed from their jobs. He was charged with "slander in a public presentation or mass media" (Art. 132 part 2). It was unclear whether his arrest was connected to Rakhim Esenov's case.

Following international pressure, Rakhim Esenov and Ashirkuli Bayriyev were released on 9 and 12 March respectively. However, they were placed under travel restrictions and the charges against them were not dropped.

Targeted for giving interviews to Radio Liberty

Khalmurat Gylychdurdyev, aged 64, was held incommunicado in the detention facilities of the MNS in Ashgabat from 23 until the night of 26 June, when he was returned to his family by MNS officers. There were strong indications that Khalmurat Gylychdurdyev was targeted to punish him for giving interviews to *Radio Liberty*, which frequently broadcasts programmes critical of Turkmenistan's government policies. He had repeatedly been summoned to the MNS to question

him about his contacts with *Radio Liberty* before; however, this time fear for his safety was heightened as he had never been detained overnight. To AI's knowledge, no charges were brought against him.

In the morning of 23 June he had gone to the eye hospital in Ashgabat for a check-up following an eye operation the previous day. Three MNS officers were waiting for him at the hospital and took him to the MNS. His family searched for him all night, to no avail.

During questioning he was pressured to stop giving interviews to *Radio Liberty*. After his release he told AI: "They wanted me to sign a letter to the President they had prepared in my name. I was supposed to apologize for passing on lies and secret information about the economy and other issues to *Radio Liberty*. How would I know any secret information? I have no access to such information. I am a pensioner, that's all." He reported that he was threatened his home would be confiscated and he and his family would be "sent into the desert".

While no physical pressure was exerted on him during his detention, he did not receive any medical treatment, although he required treatment following the recent eye operation. As a result he had to undergo a second eye operation after his release.

On 25 June Khalmurad Gylychdurdyev's daughter, Zhenet Gylychdurdyeva, was dismissed from her work as a senior inspector at the Ministry of Internal Affairs, where she had worked since 1989. She was told she had been dismissed for failing to report to the Ministry that her father had been arrested. She said she would have told them about his detention, but as he was held incommunicado she did not have any confirmed information about his arrest and his whereabouts. The Deputy Minister reportedly also indicated that she was actually dismissed on the instructions of the MNS.

**Possible prisoner of conscience
Mukhametkuli Aymuradov (update to
AI Index: EUR 61/002/2002)**

Mukhametkuli Aymuradov, aged 59, was transferred back to the maximum-security prison in the Caspian port of Turkmenbashi (formerly Krasnovodsk) in May or June where he had been kept for several years. In November 2003 he had been transferred to Tedzhen prison in southern Turkmenistan in accordance with his verdict that stipulated the transfer to a less harsh regime after having served several years in the maximum-security prison. It is believed that he was sent back to Turkmenbashi prison, where prison conditions are known to be particularly harsh, for three years. The authorities did not inform his family about the transfer and when his wife heard rumours about it and went to the prison in Turkmenbashi on 25 June she was not told the exact reasons for the transfer. However, it is likely that he was accused of having violated prison regulations in the detention facility in Tedzhen. His family told AI that Mukhametkuli Aymuradov had been extremely cautious not to violate any prison rules so as to avoid any conflict with the authorities. By the end of the period under review his family had been unable to visit him or to pass on medicine and food parcels to him.

AI is seriously concerned about Mukhametkuli Aymuradov's health. He has not been receiving appropriate medical attention for health problems which have included a gastric ulcer, cholecystitis, a heart attack and recurring inflammation of the kidneys and the bladder. Prison conditions in the maximum-security prison in Turkmenbashi are particularly harsh and Mukhametkuli Aymuradov is not permitted any walks in fresh air.

Mukhametkuli Aymuradov was convicted in 1995 of anti-state crimes, including attempted terrorism, and sentenced to 12 years' imprisonment after a reportedly unfair trial. There were reports that the case against Mukhametkuli Aymuradov and his co-defendant Khoshali Garayev was fabricated solely to punish them for their association with exiled opponents of the government. In December 1998 both men were sentenced to an additional 18 years'

imprisonment in connection with an alleged prison escape attempt. Khoshali Garayev died in September 1999 in Turkmenbashi maximum-security prison under suspicious circumstances.

AI is calling for the release of possible prisoner of conscience Mukhametkuli Aymuradov because of his poor health and on the grounds that repeated calls for a fair retrial have gone unheeded, and that there does not appear to be a prospect of his being given a fair trial.

Religious leader Nasrullah ibn Ibadullah sentenced to long prison term

On 2 March former Mufti Nasrullah ibn Ibadullah, an ethnic Uzbek, was sentenced to 22 years' imprisonment on treason charges by Azatlyk district court in Ashgabat with the first five years to be served in a maximum-security prison. He was accused of involvement in the alleged assassination attempt on President Niyazov in November 2002. The President removed Nasrullah ibn Ibadullah from his post as chief mufti and deputy chair of the *Gengeshi* (Committee) for Religious Affairs in January 2003.

There are allegations that the charges against Nasrullah ibn Ibadullah were fabricated and that he was targeted for expressing dissent. For example, he was believed to have repeatedly objected to the extensive use of the President's book *Rukhnama* – a core element of the President's personality cult – in mosques. Imams are forced to display the *Rukhnama* in a prominent place in the mosque and quote from it in their sermons. In addition, Nasrullah ibn Ibadullah did not advocate the imposition of the death penalty on the suspects in the November 2002 alleged assassination attempt on the President while other senior officials called for the reintroduction of the death penalty. Nasrullah ibn Ibadullah's expression of his opinion on this issue, before President Niyazov himself decided that the death penalty would not be reintroduced, could

have been perceived as undermining the President's authority. There were also allegations that one of the reasons for targeting him was his Uzbek ethnicity and a government policy to remove ethnic minorities from particularly influential posts replacing them with ethnic Turkmen.

According to the radio station *Deutsche Welle*, Nasrullah ibn Ibadullah and other prisoners from five cells of the maximum-security prison in Turkmenbashi were beaten by Interior Ministry officers in the night from 23 to 24 May and Nasrullah ibn Ibadullah "suffered significantly".

Conscientious objectors (update to AI Index: EUR 01/007/2002 and EUR 01/001/2004)

In May Jehovah's Witnesses Mansur Masharipov and Vepa Tuvakov were arrested in their home town of Dashoguz, near the border with Uzbekistan, and sentenced on 28 May and 3 June respectively to 18 months' imprisonment for refusing military service on religious grounds. AI regards the two men as prisoners of conscience and is calling for their prompt and unconditional release.

In the period under review seven Jehovah's Witness prisoners of conscience were released. Nikolay Shelekhov was released upon completion of his prison sentence on 2 January. The release of the other six – Rinat Babadzhanov, Aleksandr Matveyev, Shokhrat Mitogorov, Ruslan Nasyrov, and Rozymamed Satlykov and Kurban Zakirov – on 11 and 12 June, was believed to be part of a number of recent measures taken by the authorities of Turkmenistan to avoid being classified as a "country of particular concern" by the USA (see above).

UKRAINE

Police ill-treatment and conditions in pre-trial detention

At a meeting with AI delegates in June the National Human Rights Ombudsperson Nina Karpacheva stated that torture was still widespread. The main problems were lack of immediate access to a lawyer and conditions in pre-trial detention centres (SIZO) and temporary holding facilities (ITT). The problem was aggravated by a very high number of arrests and a failure to use alternative methods such as bonds and bail. Nina Karpacheva also stated that conditions in the Sevastopol ITT were particularly poor and have led to a very high rate of infection with tuberculosis (TB) among the detainees. Cells are overcrowded and detainees are forced to share bunks or sleep in shifts, food is inadequate and until January 2004 when Nina Karpacheva discovered a possible site for an exercise yard, there was no possibility to take exercise.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has repeatedly expressed concern about the spread of TB in prisons and places of detention in Ukraine, and in their report on conditions in 2000 expressed concern that no improvements could be observed. Andrey Ovsianikov was arrested in June 2003 on suspicion of drug dealing and held in the Sevastopol ITT. He was not ill with TB at the time, but by September had been diagnosed with TB. He was not informed and found out only by chance in November when his health worsened. He did not receive any treatment until March when through the efforts of his family and the Sevastopol Human Rights Group he was hospitalized and received treatment. On 30 June he was returned to the ITT. AI is concerned that he has been held since June 2003 in pre-trial detention in the ITT when domestic law stipulates that detainees may be held in such facilities for a maximum of 72 hours, and that conditions in the Sevastopol ITT constituted cruel and inhuman treatment.

Since 2001 the Ukrainian criminal code has included the crime of torture, but according to Nina Karpacheva the new article has not had the desired effect of increasing convictions for torture. One of the reasons is that the law is not in line with the definition of torture in UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment, and does not state that torture can be committed by state officials. Despite these difficulties, in April officers of the organized crime department in Poltava region were convicted of torture. The regional procurator ruled that the officers had used illegal investigation methods and had resorted to physical violence when they detained Volodymyr Tsiselsky. He was detained in December 2003 and died during interrogation. A forensic expert established that he had died of suffocation. A friend arrested along with him reported how the police put a gas mask over their heads and then cut off the oxygen supply and blew in cigarette smoke instead.

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

In the run-up to the presidential elections in October pressure increased on the Ukrainian government to identify those responsible for the "disappearance" of the investigative journalist Georgiy Gongadze. On 19 June the UK-based newspaper *The Independent* published an article based on leaked confidential documents that alleged that high ranking government officials had blocked the investigation and that a key witness, Igor Goncharov, died in August 2003 after an overdose of barbiturates during investigations. The documents also alleged that the Ministry of Internal Affairs had been carrying out surveillance of Georgiy Gongadze for weeks before his abduction. In June the Prosecutor General's office denied the authenticity of the documents and shortly afterwards announced that a convicted murderer had confessed to the journalist's killing.

Refugee law still fails to meet international standards

In June the Parliamentary Assembly of the Council of Europe recommended that Ukraine and other CIS states observe the fundamental principles of international law concerning the protection of refugees and asylum-seekers, and to show commitment and political will in tackling the problems of migration. Refugee law in Ukraine is still not in line with international standards. The law imposes a time limit for applications for refugee status and stipulates that asylum-seekers must apply within five working days for legal entry and within three days for illegal entry. During a visit in June AI delegates also heard about many procedural shortcomings: claims are very often refused or delayed, the system is very complex, and sometimes corrupt. Asylum-seekers are required to have four different certificates, each needing to be stamped individually by the migration department, and AI delegates spoke to one asylum-seeker who described how his application had been refused by the migration department in Kiev but was later offered a positive decision if he paid.

UNITED KINGDOM

The UK's response to 11 September 2001 (Update to AI Index: EUR 01/01/2004)

In the reporting period, AI continued to be concerned about serious human rights violations that have taken place in the UK in the context of the UK authorities' response to the 11 September 2001 attacks in the USA.

By the end of June, 12 people were interned and detained in prisons under the Anti-terrorism, Crime and Security Act 2001 (ATCSA) in the UK. They were held in high-security facilities under severely restricted regimes. Most of the internees had been in detention for more than two years. They had been detained in two high security

prisons (Belmarsh and Woodhill) and a high security mental hospital (Broadmoor). One further person, known only as "G" (see below) was held under bail conditions amounting to house arrest.

In February, AI expressed concern at the UK Home Secretary's reported suggestions for new measures to "combat terrorism", including using a lower standard of proof in "terrorism-related" trials. The organization feared that these measures, if implemented, would dispense with justice, the rule of law and human rights in the UK (see *United Kingdom: Home Secretary's reported proposals -- an aberration of justice, the rule of law and human rights*, AI Index: EUR 45/004/2004).

During the same month, as both Houses of Parliament in the UK prepared to debate and renew Part 4 of the ATCSA, AI also urged the UK authorities to repeal those provisions of the ATCSA pursuant to which non-deportable foreign nationals could be interned -- i.e. detained without charge or trial -- potentially indefinitely, principally on the basis of secret evidence (see *United Kingdom: Scrap internment*, AI Index: 45/008/2004).

In March AI expressed concern that the UK authorities' decision to challenge the Special Immigration Appeals Commission's (SIAC) judgment that their case for detaining a Libyan man, known only as "M" for legal reasons, as a "suspected international terrorist" was "not established" amounted to persecution. AI stated that appealing against the SIAC decision was tantamount to appealing against an acquittal verdict. The SIAC had ruled that some of the UK authorities' assertions were "clearly misleading" and "inaccurate". Overall, the SIAC found that the UK authorities' view of M was "unreasonable", and expressed concern that "too often assessments have been made based on material which does not on analysis support them" (see *UK v M: UK authorities' refusal to accept yesterday's judgment amounts to persecution*, AI Index: EUR 45/010/2004).

Shortly thereafter, AI monitored the proceedings before the Court of Appeal in the case of M. Most of the proceedings in the Court of Appeal were held in closed session from which the lawyers representing M, AI and members of the public were excluded. The open part of the proceedings lasted approximately one hour and 45 minutes. On 18 March the Court of Appeal rejected the UK authorities' application for leave to appeal. As a result, M was released. As of the end of June, he was the sole person who had won an appeal against certification as a suspected international terrorist.

In the immediate aftermath of the above-mentioned judgment AI raised its concern about a passage of the Court of Appeal's judgment insofar as it held that "while SIAC procedures are not ideal it is possible ... to ensure that those detained can achieve justice ...". AI refuted that conclusion categorically, and reiterated the organization's concern that proceedings arising from the internment provisions of the ATCSA represented a fundamental departure from the rule of law. AI noted also in this context that 13 people continued to be interned, without charge or trial, principally on the basis of secret evidence under the ATCSA (see *UK: Court of Appeal puts an end to M's persecution*, AI Index: EUR 45/013/2004).

On 9 March AI expressed its urgent concern for the mental and physical health of a 35-year-old Algerian man and former torture victim, known only as "G" for legal reasons (see AI Index: EUR 45/011/2004). G had originally applied for bail in January given the serious deterioration of his mental and physical state as a result of being interned at Belmarsh high security prison, London, since 19 December 2001, under a severely restrictive regime. On 20 January the SIAC had granted G bail holding that continuing detention would cause G's mental health to deteriorate further, but the UK authorities had prevented his release by opposing the SIAC ruling through protracted legal wrangling. On 22 April AI observed the renewal of the bail application by G before the SIAC. At the end of the hearing, the

SIAC granted bail to G under strict conditions amounting to house arrest. Following this senior government spokespeople made strong statements criticizing the granting of bail. In turn, AI expressed concern that the government was undermining the judiciary and the rule of law.

On 27 May Abu Hamza -- an Egyptian-born UK citizen reportedly suspected of being linked to *al-Qaida* -- was arrested on an extradition request from the USA for "terrorism"-related crimes and detained in Belmarsh high security prison, London. AI considered that his case should be seen in the context of international standards requiring the UK not to extradite or transfer someone to a place where they risk torture, unfair trial, arbitrary detention or the death penalty. AI called on UK authorities to demand and receive credible assurances to this effect, and to seek an agreement from the USA that UK officials would be permitted to effectively monitor his treatment before extraditing or transferring him to US custody.

On 18 June AI submitted a written briefing to the Parliamentary Joint Committee on Human Rights (JCHR) about AI's key concerns on Part 4 of the ATCSA. In May, the JCHR invited written submissions for a response to the Home Secretary's discussion paper entitled "Counter-Terrorism Powers: Reconciling Security and Liberty in an Open Society". AI's submission to the JCHR reiterated the organization's concerns about serious human rights violations that have continued to take place in the context of the UK authorities' response to the 11 September attacks as a result of the implementation of Part 4 of the ATCSA. These concerns included: the continued internment under the ATCSA; the fact that internees are held in high-security facilities under severely restricted regimes; the fact that proceedings under the ATCSA fall far short of international fair trial standards, including the right to the presumption of innocence, the right to a defence and the right to counsel; and grave concern at the reliance on secret evidence and at the

executive's and judiciary's willingness to admit and rely on evidence extracted under torture in proceedings under the ATCSA. Since only non-UK nationals could be interned, AI also considered the ATCSA discriminatory.

UK nationals and residents at Guantánamo Bay, Cuba

On Friday 9 January there were media reports that Pierre-Richard Prosper, the US Ambassador at large for war crimes, had indicated that some of the UK nationals held in US custody at Guantánamo Bay could be repatriated subject to certain conditions. AI wrote to the UK Foreign Secretary urging him to clarify the accuracy of such reports, and to contact the relatives of all UK nationals held in Guantánamo Bay, and not leave it for media speculation to keep the relatives informed (see *UK/USA: Clarify fate of Britons held in Guantánamo Bay*, AI Index: EUR 45/001/2004).

On 9 March Ruhal Ahmed, Tarek Dergoul, Jamal Udeen (also known as Jamal Al Harith), Asif Iqbal and Shafiq Rasul, five of the nine UK nationals held in US custody at Guantánamo Bay, were released. On their arrival in London Jamal Udeen was immediately released without charge, while the other four were questioned by UK police and released -- also without charge -- the following day.

In May AI's concern about the individuals held in US custody at Guantánamo Bay deepened in light of the allegations contained in an open letter sent on 13 May to the Chair and Members of the US Senate and Armed Services Committee by Shafiq Rasul and Asif Iqbal. In their open letter they accused the US authorities of deliberately misleading the public about so-called "interrogation techniques" used by US personnel at Guantánamo Bay and elsewhere while in US custody.

The use of the so-called "stress and duress" techniques has been widely alleged by former detainees held in US custody in Afghanistan some of whom were

subsequently transferred to Guantánamo Bay. Shafiq Rasul's and Asif Iqbal's open letter, as well as the information arising from the then ongoing US Congressional hearings into torture at Abu Ghraib Prison, lent further credibility to the scenario that people held in US custody -- not only at Abu Ghraib Prison, but also in Afghanistan, at Guantánamo Bay, and possibly elsewhere at other undisclosed detention places -- have been subjected to such practices by US personnel.

AI remained deeply concerned that UK authorities had taken and were taking advantage of the legal limbo and the coercive detention conditions in which their nationals and residents had been or were held at Guantánamo Bay to interrogate them and extract information to use in proceedings under the ATCSA. UK nationals and residents had in fact been "visited" and interviewed on a number of occasions by UK officials, including members of the security services.

UK armed forces in Iraq

On 11 May AI issued a report entitled *Iraq - Killings of civilians in Basra and al-'Amara* (AI Index: MDE 14/007/2004), documenting cases in which UK soldiers opened fire and killed civilians in southern Iraq in circumstances where there was apparently no imminent threat of death or serious injury to themselves or others. The report also described how armed groups and individuals executed dozens, possibly hundreds, of civilians for political reasons. In the report, among other recommendations, AI called on the UK authorities to establish a civilian-led mechanism to investigate all suspected killings by UK forces.

On 14 May AI wrote to the Prime Minister expressing concern at the serious violations of humanitarian law identified in the report of the International Committee of the Red Cross (ICRC) to the Coalition Forces of February 2004. In particular, AI expressed concern that the UK authorities' response had been inadequate, including failing to acknowledge all of the concerns expressed

by the ICRC. AI expressed concern that the UK authorities were skirting their joint responsibility for the serious violations of international humanitarian law identified in the ICRC report as an occupying power with all Coalition Forces.

England and Wales

The Independent Police Complaints Commission (Update AI Index: EUR 01/003/2001).

The Independent Police Complaints Commission (IPCC) became operational on 1 April. The IPCC was established following criticism about the lack of independence and impartiality and the inadequate powers of its predecessor, the Police Complaints Authority. AI had contributed to the consultation on the establishment of the IPCC.

Police handling of racist killings

Michael Menson - Update to AI Index: EUR 01/001/2000

On 9 June the IPCC issued a statement on its final decision about the complaint of Michael Menson's family regarding the police handling of the investigation into his murder in 1997. Following a Cambridgeshire Constabulary inquiry, the IPCC decided that two Metropolitan Police Service officers would be admonished for their failings during the investigation into the murder. The IPCC stated that they would have pressed for a disciplinary hearing against a further four officers had the officers still been in the police service. The IPCC would also have recommended that one officer, now retired, receive an admonishment; and stated that two senior officers, now retired, were at fault.

According to the IPCC statement, although the Cambridgeshire Constabulary inquiry had concluded that there was adequate evidence to sustain an accusation that the officers had been swayed in their judgements by racial prejudice, the IPCC decided that there was insufficient evidence

to prove racial prejudice beyond reasonable doubt.

Deaths in custody (Update to AI Index: EUR 01/016/2003; and EUR 01/01/2004)

In April *BBC One* television showed a documentary entitled "Death on camera" including an 11-minute footage showing Christopher Alder choking to death on the floor of Queen's Gardens police station in Hull while handcuffed, in April 1998. Following this broadcast, the Home Secretary announced that he would commission a review of Christopher Alder's case by the IPCC. On 19 April the IPCC stated that it had received the terms of reference from the Home Secretary, and that it would look into significant lessons to be learnt from Christopher Alder's death. The Alder family criticized the Home Secretary's initiative and demanded an independent public inquiry.

In March it was reported that the Metropolitan Police Authority had agreed to fund the judicial review sought by eight police officers to overturn the unlawful killing verdict for the death in custody of Roger Sylvester in 1999. The verdict was returned by an inquest jury in October 2003. However, in May the Metropolitan Police Authority agreed to pay the legal costs of Roger Sylvester's family, as well as those of the eight police officers.

On 29 November 2003 the Home Secretary announced that, in line with the House of Lords judgment on 16 October 2003, he had established a public inquiry into the murder of Zahid Mubarek at Feltham Young Offender Institution in March 2000. The inquiry's terms of reference read: "In the light of the House of Lords judgment in the case of *Regina v Secretary of State for the Home Department ex parte Amin*, to investigate and report to the Home Secretary on the death of Zahid Mubarek, and the events leading up to the attack on him, and make recommendations about the prevention of such attacks in the future, taking into account the investigations that

have already taken place—in particular, those by the Prison Service and the Commission for Racial Equality.” A report of the inquiry, subject to matters of confidentiality, will be published.

Army deaths in disputed circumstances - Update to AI Index: EUR 01/01/2004

In February it was reported in *The Observer* newspaper that the UK Army claims that soldiers shot dead at Deepcut barracks committed suicide had not been corroborated by two of the world's leading forensic authorities: the Forensic Science Service - chief supplier of forensic analysis to UK police forces - and the German Bundeskriminalamt. These forensic institutions had been commissioned by Surrey Police to examine the deaths of Privates James Collinson, Geoff Gray, Cheryl James, and Sean Benton, who died in separate incidents at the Princess Royal Barracks, Deepcut, Surrey, between 1995 and 2002. According to *The Observer's* report, neither of the above-mentioned institutions could state conclusively that the deaths were self-inflicted. The documents containing their findings were expected to be made available to the pending inquests into the death of James Collinson and Geoff Gray.

On 4 March Surrey Police published their fifth and final report into the circumstances of the deaths at Deepcut Barracks. Surrey Police highlighted “The essentially reactive and fragmented nature of the training, care, welfare and accountability regimes that operated between 1995 and the initiation of the Learning Account in 2002 [a joint Surrey Police/Army initiative to ensure that key lessons about risks, vulnerabilities and opportunities to improve the care regime were logged and progress recorded. The Deputy Adjutant General of the Army holds responsibility for its maintenance]”. The Surrey Police final report also indicated that evidence of bullying in the Army was uncovered in sufficient quantity to raise concerns; and that the episodes of bullying revealed during the investigation showed

the potential for it being a factor in escalating the risk of harm to recruits. The report reviewed a series of documents and episodes dating from 1988 to 2003, showing that areas of risk relating to the care, safety and welfare of recruits had been identified on a number of occasions in the past but had not been adequately addressed. In light of this, Surrey Police recommended that “the Ministry of Defence considers a broader investigation of: i) Whether the risks identified at Deepcut are replicated across the wider Army Training and Recruiting Agency and how these may relate to the issues of self-harm, suicide and undetermined deaths. ii) How the Army's care regime may be further improved. iii) How independent oversight might help the Army define and maintain appropriate standards of care for young soldiers.”

Surrey Police acknowledged the shortcomings of the original investigations into the four deaths and apologized to the families for not taking the lead and ensuring a thorough inquiry at the outset. Surrey Police also recognized that the Army had acted to progress the lessons logged on the Learning Account and that there now existed a programme of work to improve practices and procedures relating to the care of soldiers in training. However, Surrey Police remained concerned that more needed to be done to address areas of risk and strengthen the care regime for young soldiers in training and suggested new arrangements for accountability and independent oversight.

In May it was reported in the press that the Defence Secretary was considering the establishment of a new body, independent of the Ministry of Defence, to address abuses in the Army and monitor the welfare of young recruits. It was reported that officials of the new body may be given powers to make unannounced visits to barracks and question trainee soldiers anonymously. The families of many UK Army personnel, who died in and around army barracks in suspicious circumstances, continued to campaign for an independent

public inquiry into the circumstances of the deaths.

Freedom of expression

The Fairford "coach-knapping case"

On 15 and 16 January, AI observed the judicial review proceedings brought against the Police Chief Constable of Gloucestershire by Jane Laporte, a passenger of a coach, which, together with two other coaches, was stopped and then forcibly returned to London under police escort in March 2003 at the height of the US-led attack on Iraq. The 120 passengers of the coaches were in the main peaceful protesters who intended to reach the Royal Air Force base at Fairford -- used by the US B52 bombers to fly to Iraq -- to demonstrate against the war. They were initially stopped in a lay-by, and then forced to board the coach again and were eventually returned to London under police escort. The police argued that there was an imminent danger that a breach of the peace would occur if the coach passengers were allowed to reach Fairford.

AI noted that the judgment, delivered on 19 February, found that detaining Jane Laporte to forcibly return her to London on the coach was unlawful and violated her right to liberty under Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, AI expressed concern about the chilling effect on the rights to freedom of assembly, peaceful protest and expression, insofar as the judgment's finding that preventing the coaches from proceeding to Fairford was lawful, and that, as a result, the police actions had not violated Jane Laporte's right to freedom of peaceful assembly and expression.

Katharine Gun

On 19 January AI observed the bail hearing in the criminal case against Katharine Gun, a former employee of the GCHQ (Government Communications Headquarters, an intelligence and security

organization). She had been charged under the Official Secrets Act 1989 (OSA). Katharine Gun was being prosecuted under the Act for leaking an email which reportedly exposed the US plan to eavesdrop on members of the UN Security Council in the run up to the Iraq war. She did not deny leaking the information, but argued that her actions were necessary to prevent what she believed to be an unlawful war and to save the lives and limbs of UK servicemen and women and Iraqi civilians.

AI considered that the prosecution of Katharine Gun was political, and the fact that it was being brought under the OSA raised a number of concerns, primarily because the Act does not allow for a public interest defence, which in turn raises concern in relation to the right to freedom of opinion and expression. On 23 February AI sent a letter to the UK Attorney General (AG) to express concern about the prosecution of Katharine Gun under the OSA. In its letter to the AG, AI questioned the role of the AG in approving her prosecution, given the stated reasons for Katharine Gun's disclosure and the fact that the AG advised the UK government on the prospective legality of the war on Iraq as its chief legal adviser. The organization also sought clarification from the AG on how Katharine Gun's right to a fair trial could be guaranteed given that the OSA is seriously flawed and in contravention of international human rights law and standards. AI also expressed concern at the unprecedented restrictions placed upon Katharine Gun by her former employers GCHQ on her ability to instruct her legal representatives, which seriously impaired her ability to prepare her own defence, and made a mockery of her right to confidential communication with legal counsel, both key fair trial guarantees.

On 25 February the prosecution dropped the charges against Katharine Gun on the basis that having constantly assessed the evidence they did not believe that there was a reasonable prospect of securing a conviction. The presiding judge entered a not guilty verdict and discharged her.

Northern Ireland (Update to AI Index: EUR 01/01/2004)

At the end of June, the Northern Ireland Assembly remained suspended and direct rule continued.

Collusion and political killings

In January, an investigation conducted by the Police Ombudsman of Northern Ireland concluded that there had been significant failures in the Royal Ulster Constabulary investigation of the 1997 murder of Sean Brown. However, the Ombudsman "found no evidence of police collusion in the murder, including no evidence that police allowed the murder vehicles 'safe passage'".

In the same month, the Tyrone Coroner who had been conducting an inquest into a number of cases, including that of Roseanne Mallon, in which there were serious allegations of collusion between state forces and Loyalists in killings, announced that the Ministry of Defence and Police Service of Northern Ireland were to provide him with access to material that they had previously withheld related to 10 killings in County Tyrone.

In February, the Bloody Sunday Tribunal completed hearing oral evidence although two additional civilian witnesses were heard in June. In February Lord Saville, the chair of the Bloody Sunday Tribunal, announced that no action would be taken against journalists who had refused to disclose their sources.

In March, in a precedent setting case with profoundly detrimental implications for human rights and the rule of law, the House of Lords, the highest court in the UK, reversed a January 2003 ruling of the Northern Ireland Court of Appeal declaring that the government had failed to carry out an effective investigation into the circumstances of the death of Gervaise McKerr. Gervaise McKerr had been shot dead, together with two other people, in 1982 by members of a special "anti-terrorist" unit of the Royal Ulster

Constabulary. In May 2001, the European Court of Human Rights had concluded that the UK had violated the right to life in Northern Ireland. The unanimous rulings were made in four cases, including that of Gervaise McKerr, brought by the families of 11 people killed by security forces and one person killed by an armed Protestant group with the alleged collusion of the security forces (see AI Index EUR 45/010/2001). A five-member panel of the House of Lords held that the UK government was not obliged under the Human Rights Act 1998 (HRA) to carry out an "effective and independent" investigation into killings by state agents because the HRA did not apply to deaths that happened before the act came into force in 2002. The case of Gervaise McKerr was not an isolated incident. Nine cases had been pending in the courts of Northern Ireland awaiting the outcome of the McKerr appeal in the House of Lords. In addition, many requests, prompted by the above-mentioned four judgments of the European Court of Human Rights, had been made to the police and the Director of Public Prosecutions of Northern Ireland for new investigations into deaths involving the police or security forces.

In April Jean McBride, the mother of Peter McBride, renewed her legal challenge in the High Court in Belfast bringing a full judicial review of the Ministry of Defence's decision allowing the two Scots Guards, convicted of her son's murder in 1992, to continue to serve in the army. In June the Independent Assessor on Military Complaints called for the dismissal of the two soldiers convicted of the 1992 murder.

In May media sources reported that an investigation by the Police Ombudsman of Northern Ireland had exonerated the Police Service of Northern Ireland of any blame for the killing of Loyalist William Stobie, a police agent and a Loyalist paramilitary quartermaster who, among other things, had supplied the gun used to kill Patrick Finucane.

Early in the year, the families of Patrick Finucane, Rosemary Nelson, Robert Hamill and Billy Wright were forced to issue

judicial review proceedings in the High Court in Belfast on account of the UK authorities' failure to publish the reports by Justice Cory into allegations of state collusion in these killings. Early in February, frustrated by the UK authorities' failure to publish his reports in the Northern Irish cases, Justice Cory publicly confirmed that he had recommended four separate public inquiries into the Northern Irish cases.

Eventually, after an unconscionable delay of nearly six months, on 31 March -- only one day before publication -- the families of Patrick Finucane, Rosemary Nelson, Robert Hamill and Billy Wright were given a copy of the relevant report by Justice Cory.

On the eve of the publication of the Cory report, AI and other international and domestic human rights non-governmental organizations made a number of recommendations to the UK authorities regarding the establishment of the inquiries. These included: a) a commitment from the UK authorities in the immediate aftermath of the publication of each report that they would promptly establish four separate public inquiries, as recommended by Justice Cory; b) prompt consultation with each family concerned to establish accurately their views about the inquiry into the killing of their deceased relative; c) that each inquiry should be established, constituted and conducted in such a way as to ensure its competence, independence and impartiality, in particular that each inquiry not only be independent and impartial but that it also be seen to be so; d) that the inquiries be conducted in public, and ensure the maximum possible participation of the families concerned; e) that the inquiries be empowered to compel discovery and disclosure of documents, and have subpoena powers to compel the attendance of witnesses; and f) that each inquiry's report be made public.

On 1 April the UK authorities published the above-mentioned reports, and simultaneously announced the establishments of public inquiries in all but one case, that of Patrick Finucane. Instead, their response to the Cory report on the

Finucane case only referred to "set[ting] out the way ahead at the conclusion of prosecutions". The UK authorities refused to announce a public inquiry in the Finucane case despite Justice Cory's unequivocal conclusion that in the case of Patrick Finucane he was "satisfied that there is a need for a public inquiry", and that "only a public inquiry will suffice".

Immediately, AI expressed profound concern that using one outstanding prosecution as the excuse for not establishing such an inquiry further undermined the UK government's credibility and raised more questions as to its real intention. AI considered that the only inevitable conclusion that it could draw from the failure of the UK authorities to establish an inquiry in the Finucane case was that, once again, the UK authorities were making every effort to avoid it.

In this connection, AI also expressed dismay at the severe delays in the prosecuting authorities' decision-making process. In the reporting period, the organization was informed that the Office of the Director of Public Prosecutions in Northern Ireland had been "considering" whether or not to institute criminal proceedings "in respect of members and former members of Her Majesty's Forces" since receiving a number of files from the "Stevens III" investigation on 15 April 2003. The organization was also informed that "decisions as to prosecutions are not anticipated to be taken before autumn 2004". AI failed to grasp why decisions, based on detailed submitted files, should require a year and a half's delay.

In light of this, and given the timing of the only outstanding prosecution arising from the killing of Patrick Finucane -- listed to start on 13 September of this year -- AI was concerned that should this prosecution collapse, charges may conveniently be brought against other individuals so as to further delay a public inquiry.

In late June, AI also expressed concern to the UK authorities that despite their announcement on 1 April of public inquiries into allegations of state collusion in the

killings of Rosemary Nelson, Robert Hamill and Billy Wright, they had been deliberately delaying the establishment of such inquiries. In light of the already unconscionable delay of nearly six months in the publication of the Cory reports, AI considered that these further delays were inexcusable. The organization requested to be informed why the above-mentioned inquiries had not been established yet; what steps, if any, the UK authorities were taking to consult with the families concerned and with non-governmental organizations that had been campaigning for these inquiries over the years as to the inquiries' respective remits; and finally, the authorities' timetables for their establishment.

Abuses by non-state actors

In March Andrew Cully, a 47-year-old builder, was shot dead in an alleyway at a Loyalist housing estate in Greyabbey in Co. Down. His killing was attributed to the Ulster Volunteer Force (UVF), a Loyalist paramilitary organization.

In May, Brian Stewart, a 34-year-old Protestant man, reportedly affiliated with the Loyalist Volunteer Force, another Loyalist paramilitary group, was shot dead in East Belfast in a gun attack as he arrived at work. Sources attributed his killing to the UVF.

In June, Kevin McAlorum, a 31-year-old man, who allegedly had had links with the Irish National Liberation Army, a Republican paramilitary group, was ambushed and killed in South Belfast when two gunmen rammed his car at Derriaghy. Detectives were reportedly examining a possible drugs motive for the attack.

In February, Hugh Orde, the Chief Constable of the Police Service of Northern Ireland accused the Provisional Irish Republican Army of being responsible for the abduction of, and the injuries sustained by, Bobby Tohill, a dissident Republican. In April, in its first report the Independent Monitoring Commission, reported, *inter alia*, that in recent years there had been "a marked increase in total paramilitary

violence short of murder by both republican and loyalist groups. Loyalist violence has increased at a higher rate". The Commission also reported that between January 2003 and February 2004 the total number of casualties as a result of Loyalist paramilitary-style shootings was 123, while there had been 66 casualties as a result of similar incidents in which Republicans had been implicated. In the same period Loyalists were also responsible for 116 casualties as a result of paramilitary-style assaults, while Republicans were responsible for 56 casualties as a result of the same type of assaults.

In March, media sources indicated that the police had confirmed that racist attacks in Northern Ireland had surged by 60 per cent in the previous year while assaults on gays and lesbians had doubled.

UZBEKISTAN

Human rights defenders

The case of Ruslan Sharipov (update to AI Index: EUR 01/016/2003 and EUR 01/001/2004)

On 23 June a district court in the capital, Tashkent, reviewed Ruslan Sharipov's prison sentence and changed it to two years' community service.

The court ordered Ruslan Sharipov to serve his sentence in the city of Bukhara which is registered as his official place of residence, although he has lived in Tashkent for several years and has no relatives in Bukhara. He was also ordered to give 25 per cent of his salary to the state. Under the terms of his community service Ruslan Sharipov is confined to the city and has to report regularly to the Bukhara city department of internal affairs. The court reviewed his case behind closed doors and in the absence of his lawyers and legal representatives. He was reportedly transferred to Bukhara on 25 June.

A government commission had met on 12 June to review Ruslan Sharipov's sentence

and to examine whether he would qualify for early release after having served a third of his sentence. The commission reportedly recommended that he continue to serve the remainder of his sentence.

On 13 March Ruslan Sharipov had been reportedly transferred from the penal colony in Tavaksay to a more relaxed regime of detention at a so-called colony settlement (*koloniya-poseleniye* in Russian) in the Tashkent region. There he had been allowed to live with a relative, but was effectively under a form of house arrest - he had to report daily to the authorities of the settlement, and was not allowed to undertake any public activities. Under a December 2003 presidential amnesty the length of his term of imprisonment was reduced from four years to three years, one month and 17 days.

Ruslan Sharipov, a 25-year-old correspondent for the Russian news agency *PRIMA* and Chairman of the unregistered human rights organization *Grazhdanskoe sodeystviye* (Civic Assistance), was arrested in May 2003. In August that year he was convicted on charges of homosexuality, punishable by up to three years' imprisonment, "encouraging minors to commit antisocial behaviour" and having sex with minors. He was sentenced to five-and-a-half years' imprisonment. In September 2003 his sentence was reduced on appeal to four years. In October 2003 he was reportedly transferred to a penal colony. He insisted that the charges were fabricated because of his critical reporting and human rights work, and that the court had ignored forensic medical tests that exonerated him. He alleged that he was tortured into changing his plea to guilty, dismissing his lawyers and writing a suicide note. He said he had been threatened with rape and suffocation, had a gas mask put over his head and the air supply turned off, and had been injected with an unknown substance.

Arrests following bombings in March-April

A series of explosions, and attacks on police checkpoints, in Tashkent and the city of Bukhara, took place between 28 March and 1 April. Uzbek authorities blamed the violence, which left over 40 people dead, on "Islamic extremists" including the banned armed Islamic Movement of Uzbekistan (IMU) and the Islamic opposition party Hizb-ut-Tahrir, which they accused of intending to destabilize the country. On 9 April the General Prosecutor announced that over 700 people had been questioned in connection with the violence and that 54 suspects had been arrested, of whom 45 had been charged with terrorism, including 15 women. He also blamed the bombings on a previously unknown Islamist group called Zhamoat (Cell). Human rights organizations continued to report sweeping arbitrary detentions, throughout the country, of men and women said to be either devout Muslims or their relatives.

The authorities also linked the attacks to Uzbekistan's participation in the US-led "war on terror". A special commission headed by President Islam Karimov himself was overseeing the investigation into the recent violence, which he linked to February 1999 explosions in Tashkent (which the authorities described as an assassination attempt on President Karimov) in a television address on 29 March 2004. The February 1999 bombings had sparked a wave of arbitrary arrests of suspected Islamic and secular opposition supporters or sympathizers and their families, as well as members of independent Islamic congregations. Thousands of devout Muslims are serving long prison sentences, convicted after unfair trials for alleged anti-state activities.

AI feared that Uzbekistan might use the latest violence as an opportunity to further restrict fundamental freedoms and human rights, and continue its crackdown on opposition Islamic groups with greater impunity.

Arrest of Nilufar Khaidarova

Nilufar Khaidarova was reportedly detained without charge on 5 April at her home in

Tashkent and was held incommunicado at an unknown location where it was feared that she could be at risk of torture. The authorities refused to acknowledge that she was in custody. According to her parents she had not yet fully recovered from major surgery and chemotherapy to treat cancer that was diagnosed three years ago.

She and her parents were apparently woken at 5.30am by a group of 20 uniformed police officers, who took them at gunpoint to the Chilanazar district police station still dressed in their nightclothes. The officers searched the premises, causing serious damage, and claimed to have found Islamic fundamentalist materials in the form of a book, leaflets and a box of videotapes.

At the police station they were interrogated separately and then taken to the Tashkent City Department of Internal Affairs (GUVU). Her parents were released without charge the following evening. They were unable to establish whether Nilufar had been kept at the GUVU or taken elsewhere. The GUVU reportedly refused to acknowledge that Nilufar was in their custody or to provide any information on her whereabouts.

In June the Uzbek Ambassador to the UK informed AI that Nilufar Khaidarova had been charged with attempting to overthrow the constitutional order (Article 159 of the Uzbek Criminal Code) in relation to the March-April violence and that she was being detained at investigation-isolation prison number 1 (known as SIZO from its Russian abbreviation) in Tashkent. According to the Ambassador she had been granted regular access to her lawyer and her mother had visited her several times. She had also reportedly been visited by staff of the International Committee of the Red Cross. According to information received by AI from unofficial sources, however, she had not had regular access to her lawyer, nor had her mother been able to visit her before June.

AI was concerned that Nilufar Khaidarova had been detained without charge in relation to the March-April violence because her husband and her two brothers, all

devout Muslims, were at that time serving long prison sentences, convicted of anti-state activities and membership of banned religious organizations.



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Nilufar Khaidarova, political prisoner in Uzbekistan

Arrest of Babir Makhmudov

Babir Makhmudov, the son of writer and possible prisoner of conscience Mamadali Makhmudov, was reportedly detained at his home by nine police officers in plain clothes on the night of 30 March. His relatives and supporters were unable to locate him and the authorities refused to disclose his whereabouts. When asked about Babir Makhmudov's right to access to a lawyer a representative of the international non-governmental organization Human Rights Watch in Tashkent was reportedly told by a law enforcement officer that he did not need a lawyer.

AI was concerned that Babir Makhmudov, who supporters insist has no opposition political or religious affiliation, had been detained without charge because he was

the son of writer and possible prisoner of conscience Mamadali Makhmudov. Mamadali Makhmudov was sentenced to 14 years in prison in August 1999, after a trial which fell far short of international standards for his alleged participation in the series of explosions in Tashkent in February 1999 (see above). In a written statement he described how he had been systematically tortured in order to force a confession while held incommunicado in pre-trial detention. Mamadali Makhmudov has described in detail how he and other political prisoners have continued to be subjected to torture and other cruel, inhuman and degrading treatment over the last five years.

Babir Makhmudov was released without charge on 9 April. According to a representative of Human Rights Watch in Tashkent he was in good health following his release, and was not ill-treated in detention as feared. He was, however, questioned about the violent events of 28 March to 1 April.

AI believed that the publicity surrounding his incommunicado detention and in particular his relationship to his father kept him safe in detention and secured his release.

Release of possible prisoner of conscience Rahima Akhmadalievna (update to AI Index: EUR 62/015/2001 and EUR 62/004/2001)

Possible prisoner of conscience Rahima Akhmadalievna was released from prison on 17 January under the terms of the December 2003 Presidential amnesty after serving three years of a seven-year prison sentence. Rahima Akhmadalievna was detained in 2001 and ill-treated in pre-trial detention in order to force her to disclose her husband's whereabouts. Her husband, who was an independent imam at a Tashkent mosque, had fled the country to escape arrest and torture by the Uzbek authorities.

In April Rahima Akhmadalievna complained in an open letter to President Karimov that she and her older daughter Odina Maksudova had been repeatedly detained for long periods of time for questioning by officers of the Ministry of Internal Affairs (MVD) following the March-April violence in Tashkent and Bukhara. She claimed that MVD officers had threatened Odina Maksudova and her 10-year-old sister with rape, that they had shouted abuse at herself and her daughter and had accused them and Rahima Akhmadalievna's husband of having close links with the alleged organizers of the violence. They allegedly threatened to have Rahima Akhmadalievna sent back to prison. On 14 April she was reportedly kept in detention for 48 hours at Tashkent GUV and was only released after the intervention of human rights activists.

Political prisoners

Suspended sentence for Fatima Mukadirova (update to AI Index: EUR 01/004/2004)

On 12 February 62-year-old Fatima Mukadirova was sentenced to six years' imprisonment for alleged anti-state activities. The Uzbek authorities accused her of being an active member of Hizb-ut-Tahrir. Fatima Mukadirova had been detained in October 2003, charged with membership of Hizb-ut-Tahrir and with possessing and distributing the organization's leaflets. Sources close to Fatima Mukadirova believed that her detention on criminal charges was intended to intimidate her and to stop her from further publicizing the disputed circumstances of the death in custody of her son, Muazzar Avazov. Two months prior to her detention, on the anniversary of his death, Fatima Mukadirova had renewed her campaign for justice by appealing publicly to the international community for help in securing an independent investigation into the way he died. The authorities insisted Muazzar Avazov died of the injuries he sustained during a fight with fellow inmates. Findings by an independent forensic expert commissioned by the UK

Ambassador to Uzbekistan cast doubt, however, on the official version of events.

There was concern that Fatima Mukadirova may not have received a fair trial. According to reports relatives of Fatima Mukadirova as well as local human rights activists and international observers were denied access to the trial. Witness statements were said to have been contradictory and the state prosecutor was reportedly absent during parts of the trial. AI was also concerned for the health and well-being of Fatima Mukadirova while in pre-trial detention. In 2003 a group of Muslim women prisoners alleged that they were not allowed to wear their headscarves in prison or to perform their prayers. They complained that prisoners sentenced for "anti-state" activities were singled out for particularly harsh treatment and were forced to work regardless of their physical conditions. Prison authorities would reportedly regularly punish them for infringements of the prison regime, such as praying or lying down on a bunk bed if they did not feel well, which disqualified them from falling under the annual presidential amnesties.

On 24 February the appeals board of Tashkent City Court reduced her sentence to a fine of US\$283 and reportedly ordered her to be conditionally released because of her age and her gender. Her release followed strong international protests at her conviction just two weeks earlier.

The death penalty

In a positive move the death sentences of Evgeny Gugin, Abror Isayev and Nodirbek Karimov were reversed to long prison terms by the Supreme Court during the period under review. The (UN) Human Rights Committee had intervened on their cases urging the authorities of Uzbekistan to stay their executions while they were under consideration by the Committee.

The authorities still failed to disclose comprehensive statistics including figures on the number of death sentences and executions. By the end of June, AI had

recorded five death sentences and eight executions for the first half of 2004. However, these figures are believed to reflect only a fraction of all cases as it is very likely that most death row prisoners and their families do not have access to individuals or organizations that will record, disseminate information about or take action on their case. Several local human rights groups believed that more than 200 people are executed in Uzbekistan every year.

Authorities disregard the (UN) Human Rights Committee (update to information in AI Index: EUR 01/016/2003 and EUR 01/001/2004)

In the period under review AI received confirmation that three men had been executed despite interventions by the Human Rights Committee in November 2003 and March 2004 urging the authorities to put their executions on hold while the Committee was considering their cases. The Committee had intervened on Otabek Makhmudov's case on 13 November 2003; however, he was executed on 21 November 2003. Zhasur Madrakhimov and Bakhtiyar Yusupov were both executed on 4 March despite an intervention by the Committee on 24 February. These cases bring the number of executions carried out despite interventions by the Human Rights Committee up to at least 12.

In July 2003 Bertrand Ramcharan, then acting UN High Commissioner for Human Rights, had publicly urged the authorities of Uzbekistan "not to carry out the execution of detainees who have appealed their convictions to the United Nations Human Rights Committee". Later that month the Human Rights Committee reminded the authorities of Uzbekistan that "it amounts to a grave breach of the Optional Protocol to execute an individual whose case is pending before the Committee".

"Terrorist" sentenced to death

On 16 February Azizbek Karimov was sentenced to death by the Supreme Court

of Uzbekistan on charges including "terrorism" and setting up or participating in a religious extremist organization. He was accused of having undergone military training in a "terrorist" training camp in Chechnya in 1998, of membership in the banned Islamic Movement of Uzbekistan, and of fighting on the side of the Taliban against the American-led coalition. The crimes he was accused of having been involved in included a bomb attack on the Dordoye market in Bishkek, the capital of Kyrgyzstan, in December 2002, and an attack on a bank in the Kyrgyz town of Osh in May 2003, as result of which eight people were reported to have died and dozens were injured.

Azizbek Karimov had been detained in the Uzbek town of Andizhan in the Ferghana valley in May 2003, reportedly on the basis of intelligence information submitted by the authorities of Kyrgyzstan. The Supreme Court of Uzbekistan turned down an appeal against his death sentence in March 2004.

Azizbek Karimov's family was reportedly not permitted to see him for several months after his arrest. It was also alleged that he was tortured and ill-treated while kept in the detention facilities of the Security Service in Tashkent.

On 3 June the Human Rights Committee urged the authorities of Uzbekistan to stay his execution, following allegations that his arrest and sentencing violated key principles of international law.