

## **OSCE HUMAN DIMENSION IMPLEMENTATION MEETING, WARSAW, NOVEMBER 1997: HUMAN RIGHTS ARE AN ESSENTIAL COMPONENT OF EUROPEAN SECURITY**

*“...today, disregard for the human dimension is at the core of most of the difficulties within our countries and consequently shapes the relationships amongst our countries.”*

- former ODIHR Director Ambassador Audrey F. Glover in her report to the 1996 OSCE Review Meeting in Vienna

**The third Human Dimension Implementation Meeting (HDIM) of the Organization for Security and Co-operation in Europe (OSCE) will be held in Warsaw in November 1997. This edition of Amnesty International’s Concerns in Europe provides an overview of the organization’s current human rights concerns in the majority of the OSCE participating states.**

The concept of the “human dimension” of the OSCE refers to the range of commitments which the organization and its participating states have undertaken to uphold in the area of human rights and fundamental freedoms, humanitarian concerns, and the promotion of democratic institutions and the rule of law. A review of participating states’ compliance with these human dimension commitments is held biennially, and is organized by the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR). These Human Dimension Implementation Meetings are not only a forum for government representatives, but also afford non-governmental organizations a valuable opportunity to speak publicly about the implementation of specific human dimension commitments in individual participating states.

In the Declaration adopted at the conclusion of the 1996 Lisbon Summit, the participating states of the OSCE affirmed that “the OSCE’s comprehensive approach to security requires improvement in the implementation of all commitments in the human dimension, in particular with respect to human rights and fundamental freedoms. This will further anchor the common values of a free and democratic society in all participating States, which is an essential foundation for our common security” (Lisbon Summit Declaration, paragraph 9).

This statement builds on the conclusion set out in the OSCE’s 1994 Budapest Document that “human rights and fundamental freedoms, the rule of law and democratic institutions are the foundations of peace and security, representing a crucial contribution to conflict prevention, within a comprehensive concept of security. The protection of human rights, including the rights of persons belonging to national minorities, is an essential foundation of democratic civil society” (Budapest Document, Chapter VIII, paragraph 2).

Amnesty International shares this view that the matter of regional or national security cannot be separated from an active commitment to protect the human rights of the individual citizen. The organization welcomes the OSCE’s embrace of a comprehensive concept of security which integrates human rights protection into the very centre of its work - particularly as a means for preventing conflicts where large-scale patterns of human rights violations are likely to occur. Amnesty International recognizes and welcomes the important contribution which long-term OSCE field missions, such as those in Croatia and Bosnia-Herzegovina, can make to the establishment of effective human rights protection mechanisms in post-conflict situations. However, Amnesty International continues to emphasize the need for such missions to maintain a clear human rights focus and to identify and intervene in individual cases wherever appropriate. As this document makes plain, for those individual citizens subjected to torture and ill-treatment in police custody or detention, the death

penalty, “disappearance” or extrajudicial execution; for those forcibly expelled from their homes, deprived of a fair trial, harassed on account of their work as human rights defenders, or denied their right to conscientious objection to military service, the OSCE region remains a very **insecure** space.

The OSCE’s High Commissioner on National Minorities, Max van der Stoel, has referred in a recent

The documentation of human rights violations within the OSCE region is an essential prerequisite to the realization of the desired improvements to which the participating states committed themselves at Lisbon last year. Amnesty International’s publication of **Concerns in Europe: January - June 1997**, contains information about the organization’s current human rights concerns in a number of OSCE participating states - as well as references to individual country reports which AI has issued on the concerns featured in this bulletin. Not every country participating in the OSCE is included in this document. The bulletin does not contain information about AI’s concerns in the United States of America and Canada - while the absence of entries on certain European countries indicates that in the period under review, Amnesty International had no active concerns in those countries. A separate, brief document setting out AI’s concerns in OSCE participating states during the period July - October 1997 (which will also include any current concerns the organization has in the United States and Canada) will be distributed with this report at the OSCE’s third Human Dimension Implementation Meeting in Warsaw in November 1997.

article to the human dimension of the OSCE as “the heart of the matter.”<sup>1</sup> If this is indeed true, then its participating states cannot afford to ignore the findings which Amnesty International includes in this and other documents on concerns in the OSCE region. **The legitimacy of the OSCE as an institution genuinely committed to human rights protection is at stake in each of the situations documented in these pages by Amnesty International.** As the High Commissioner concludes in his recent article, “without a genuine implementation of these human dimension commitments by the participating states they will lose their meaning.”<sup>2</sup>

Amnesty International believes that the occasion of the 1997 Human Dimension Implementation Meeting (HDIM) provides a crucial opportunity for the OSCE to make clear that the protection of the human rights and fundamental freedoms of individual citizens in the participating states are a basic component of national and international security within the OSCE area. The organization urges the OSCE to ensure that the 1997 HDIM is not merely a sideshow to the OSCE’s admirable focus on guaranteeing security and preventing conflict at the close of the twentieth century - but is understood by all participating states to be an integral part of those objectives.

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<sup>1</sup>Max van der Stoel, “The Heart of the Matter: The Human Dimension of the OSCE,” in **Helsinki Monitor**, Volume 6, Number 3 (1995), p. 23.

<sup>2</sup>Ibid., p. 27.

In the following paragraphs, Amnesty International examines three of the particularly significant human dimension concerns which demand meaningful attention at this year's Implementation Meeting in Warsaw. Torture and ill-treatment in police custody or detention, the death penalty, and the right to conscientious objection to military service are all important benchmarks of the participating states' commitment to making the human dimension a living reality for the citizens of the OSCE region. Regretfully, all three issues feature prominently in Amnesty International's **Concerns in Europe: January - July 1997** - as indicated in the index of countries and concerns at the start of this document.

The 1990 Copenhagen Document of the OSCE contains a strong pledge by participating states "...to prohibit torture and other cruel, inhuman or degrading treatment or punishment" (paragraph 16.1) which is powerfully contradicted by the evidence reported in Amnesty International's **Concerns in Europe, January - June 1997**. As Amnesty International's report reveals, even where participating states have made considerable efforts "...to take effective legislative, administrative, judicial and other measures to prevent and punish such practices..." as called for in the Copenhagen document (paragraph 16.1), individual citizens continue to be subjected to torture and ill-treatment in police custody or detention. At least 30 OSCE country entries in AI's report contain information about allegations of torture or ill-treatment - a shockingly high proportion of the participating states included in the OSCE framework.

Amnesty International calls on the 1997 HDIM to produce a clear and detailed plan of action to eradicate torture and ill-treatment in the OSCE region - in line with the measures to which participating states committed themselves in the 1994 Budapest Document. In that document, participating states stated unequivocally that they "1.)...recognize the importance of national legislation aimed at eradicating torture; 2.) ...commit themselves to inquire into all alleged cases of torture and to prosecute offenders; 3.) ...commit themselves to include in their educational and training programmes for law enforcement and police forces specific provisions with a view to eradicating torture." (Budapest Document, Chapter VIII, paragraph 20)

The Budapest Document also contains a commitment by participating states to an effective exchange of information on torture and ill-treatment in the OSCE area, and a call for close cooperation with the United Nations Special Rapporteur on torture and with non-governmental organizations documenting individual cases of torture and ill-treatment. (Budapest Document, Chapter VIII, paragraph 20) Although Amnesty International's reports have been widely circulated at subsequent OSCE meetings, there is little evidence to suggest that the aggressive pledges made at Budapest to eradicate torture and ill-treatment in the OSCE area have been followed up by concerted efforts on the part of a large number of participating states.

Likewise, Amnesty International has repeatedly called on all OSCE participating states to implement and strengthen the four primary commitments which the organization has undertaken over the years concerning the abolition of the death penalty. These include ensuring that abolition of the death penalty in all OSCE participating states, including the United States of America, is kept at the top of the organization's agenda; engaging in meaningful cooperation with other relevant international organizations on the issue, including the Council of Europe; ensuring that information about the continuing use of the death penalty in OSCE participating states is made public; and ensuring that a comprehensive exchange of information about abolition of the death penalty takes place within the OSCE framework.

Amnesty International welcomes the fact that during 1996, ODIHR took the first steps towards developing a clearing house for information on the abolition of the death penalty in the OSCE area. This action

has at last begun to fulfil the pledge made by participating states in the 1990 Copenhagen Meeting to “exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration.” (Copenhagen Document, paragraph 17.7)

However, much remains to be done with regard to implementation of these crucial commitments. As this document reveals, despite dramatic progress in the past few years to end the use of or abolish the death penalty in OSCE participating states (including moratoria in the Russian Federation and Ukraine, and total abolition in Georgia), Amnesty International continues to have concerns about the use of or lack of progress toward abolition of the death penalty in at least a dozen participating states within the OSCE framework. If the OSCE’s integrity as an advocate for abolition is not to be called into question, then the abolition of the death penalty must be given a prominent place on the agenda of the forthcoming Human Dimension Implementation Meeting.

Amnesty International’s 1997 campaign on the right to conscientious objection in Europe has sought to draw attention to the fact that a large number of countries participating in the OSCE continue to fall short of that body’s commitment of 1990 “...to consider introducing, where this has not been done, various forms of alternative service, which are compatible with reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature.” (Copenhagen Document, paragraph 18.4) Amnesty International’s main campaign report, **Out of the margins: the right to conscientious objection in Europe** (AI Index: EUR 01/02/97) contains individual country entries on AI’s concerns regarding the right to conscientious objection in more than twenty participating states within the OSCE framework.

Amnesty International is concerned that in spite of the OSCE’s stated intention in its 1990 Copenhagen Document to continue to consider the subject as an integral part of its human dimension framework and to facilitate an information exchange concerning conscientious objection to military service among OSCE participating states, the matter has all but disappeared from view in the various OSCE fora - as evidenced by the absence of any substantial reference to the right to conscientious objection in the 1994 Budapest and 1996 Lisbon Documents.

Apart from the inclusion of a brief reference to the need for OSCE participating states to “...consider introducing exemptions from or alternatives to military service” in the Code of Conduct on Politico-Military Aspects of Security (VII, 28), adopted at the 1994 Budapest Summit, the right to conscientious objection to military service has not featured prominently on the OSCE’s agenda in recent years. As suggested above, this situation of commitments once made and then largely ignored can only call into question the credibility of the very institutions themselves as guarantors of the human rights of individual citizens. Likewise, such a state of neglect effectively gives licence to those states eager to avoid compliance with their obligations for whatever reason.

ODIHR has been described as “...the central institution of the human dimension,”<sup>3</sup> charged with “...the task of translating the grand principles set out in the OSCE documents into concrete realities and turning

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<sup>3</sup> Audrey Glover, “The Human Dimension of the OSCE: From Standard-Setting to Implementation,” in **Helsinki Monitor**, Volume 6, Number 3 (1995), p. 35.

the universal standards into specific programmes.”<sup>4</sup> In recent years, ODIHR has played an increasingly impressive role in this regard through a proliferation of seminars, round tables, training meetings, and publications which bring together participants from both the governmental and non-governmental spheres in all OSCE participating states.

But this existing program of implementation, not to mention any further expansion of ODIHR’s capacity to fulfil its crucial role in OSCE fact-finding missions on human rights concerns or in OSCE long-term missions, is dependent on the degree to which participating states are prepared to provide adequate and sustained financial and political support for ODIHR’s invaluable work within the OSCE framework. The 1997 HDIM should also acknowledge clearly that without the necessary financial and staff resources - as well as a regular presence in Vienna - ODIHR cannot play its vital part in ensuring that the human dimension continues to be at the very centre of the OSCE’s self-declared mission to be the guarantor of regional security.

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<sup>4</sup> *Ibid.*, p. 35.

# CONCERNS IN EUROPE

## January - June 1997

### FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between January and June 1997. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

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

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 01/01/97	Concerns in Europe: July - December 1996
AI Index: EUR 01/02/96	Concerns in Europe: January - June 1996
AI Index: EUR 01/01/96	Concerns in Europe: July - December 1995
AI Index: EUR 01/02/95	Concerns in Europe: January - June 1995
AI Index: EUR 01/01/95	Concerns in Europe: May - December 1994
AI Index: EUR 01/02/94	Concerns in Europe: November 1993 - April 1994

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## ALBANIA

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### ***Crisis in Albania and the state of emergency***

In January and February protests in a number of towns by people demanding the return of money they had lost in fraudulent investment schemes, escalated into violent anti-government riots. The situation continued to deteriorate throughout February, with widespread looting of arms depots amid a general breakdown in law and order. Armed insurgents took control of much of the south of the country. On 28 February, nine people were killed in riots in Vlora; six of them were alleged to be state security police. The following day the government, led by Premier Aleksander Meksi resigned, and on 2 March a state of emergency was declared. On 3 March Dr Sali Berisha was re-elected as President of Albania by parliament, which the opposition boycotted. Much of the south of the country continued to defy central government and to call for his resignation. As further towns fell to rebels and arms looting spread to the capital, President Berisha, under international pressure, agreed to early elections and a coalition government. On 12 March an interim Government of National Reconciliation was formed under Premier Bashkim Fino of the opposition Socialist Party, with the task of restoring order and organizing the elections.

The country nonetheless continued to suffer from lawlessness. With weapons widely available criminal killings and accidental shootings led to a constant rise in the death toll - by mid June at least 1,600 people were reported to have died in violent incidents. Albanian political leaders appealed to Europe for military intervention to restore order. On 28 March the UN Security Council adopted a resolution authorizing the dispatch of an Italian-led multi-national security force to oversee relief efforts and to ensure conditions for the holding of elections. The first contingents of this force arrived on 15 April.

National elections were held on 29 June under the supervision of the Organization for

Security and Co-operation in Europe (OSCE), which described them as "acceptable given the prevailing circumstances". President Berisha conceded that the Socialist Party had won elections, bringing to an end the five-year rule of his party, the Democratic Party. Voters rejected the restoration of the monarchy in a referendum also held on 29 June.

### ***Ill-treatment, detention of prisoners of conscience, releases of prisoners, including prisoners of conscience***

There were frequent reports during January and February that uniformed and plainclothes police and informal groups apparently linked to these forces had detained and/or beaten demonstrators, journalists and opposition leaders. Some prisoners of conscience were detained, including **Roland Beqiraj**, a journalist who was held in Korça for at least 11 days. At least four opposition leaders were arrested and charged with organizing protests.

Following the introduction of the state of emergency there were further attacks on journalists working for independent and opposition newspapers and the offices of the newspaper *Koha Jone* (Our Time) were set on fire.

On 13 March some 1,000 prisoners were released or broke out of prisons; they included **Fatos Nano**, the leader of the Socialist Party, a prisoner of conscience. On 16 March he and some 50 others were pardoned by President Berisha. An amnesty law passed at the end of March benefited some 600 convicted persons, but did not include the prisoner of conscience **Idajet Beqiri**, leader of the National Unity Party (see AI Index: EUR 01/01/97). However, he too was no longer in prison. In April charges against **Klement Kolaneci** and others charged with involvement in political killings, bombings and bank robberies, were dropped. They had been held since October 1996 (see AI Index: EUR 01/01/97).

In February Amnesty International called on the authorities to maintain law and order in a manner consistent with Albania's international human rights undertakings; the organization expressed concern about reports of the ill-treatment

of protesters and members of the opposition; it urged the release of those detained for the non-violent exercise of their right to assembly or freedom of expression, and for any others to be granted a fair trial. Following the introduction of a state of emergency Amnesty International reminded the authorities that even at times of emergency the right to life and freedom from torture were sacrosanct; it urged that security forces be instructed to observe international standards for law enforcement and criticized emergency provisions which authorized security forces to open fire to disperse crowds and to shoot, without warning, people who failed to surrender arms. After the interim government was formed Amnesty International said that a reform of policing must be made an absolute priority, that all police forces - including the state security service - must be fully accountable, and that informal forces which had targeted the opposition and independent press should be disbanded.

### **Refugees**

As chaos and violence spread, many Albanians sought to leave their country; most made for Italy by boat where over 13,000 sought asylum. On 28 March over 80 people drowned when a tug crowded with fleeing Albanians collided with an Italian naval ship which was attempting to intercept and stem the arrival of refugees.

In March Amnesty International noted that the inability of the Albanian Government to ensure the protection of all its citizens was leading many to flee the country and it called on all the governments of the region to respect their international obligations towards refugees and asylum-seekers, in particular the principle of *non refoulement*.

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## **ARMENIA**

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

On 19 March the National Assembly (parliament) began discussing a new draft criminal code in which there would be no capital crimes, whether in time of peace or war, and in which the death penalty would be replaced by the maximum punishment of life imprisonment. Life imprisonment would not be imposed on women or minors. The draft version was passed in its first reading on 3 April, although the issue of abolition caused lively debates. The second reading is expected when parliament reconvenes after the summer recess.

Amnesty International welcomes these moves, as well as the continuing moratorium on executions in force as a result of the abolitionist stance of President Ter-Petrosian (see AI Index: EUR 01/01/97). However, the organization still has a number of concerns about the death penalty in Armenia. One of the foremost of these is the possibility of judicial error, linked with allegations of unfair trials and with a number of reports that law enforcement officials have used physical and other means of duress in seeking to obtain confessions, including in cases where the offence carries a possible death sentence. Two recent political trials in which such allegations have been made are those known as the "Dro" and "Vahan Hovanesian plus 30" cases (see AI Index: EUR 01/01/97, EUR 54/03/97 and below).

In both these cases the Supreme Court of Armenia is the court of first instance, and in this connection Amnesty International has another concern about the lack of appeal to a court of clearly higher jurisdiction. Although decisions of the Supreme Court may be appealed, such appeals are lodged with the Presidium or Plenum of the Supreme Court, that is the same body of people from which the original judges were drawn. International standards are clear that anyone convicted of a capital offence should have the right to their conviction and sentence being reviewed by a *higher* tribunal. In April the Human Rights Committee, reviewing Georgia's initial report under the International Covenant on Civil and Political Rights, commented on similar arrangements in that country and expressed concern that an appeal heard by other bodies within the Supreme Court, against a

sentence passed by the Supreme Court, did not fully respect the right to have a case reviewed by a higher court.

Finally, although there is a *de facto* moratorium on executions, courts have continued to pass death sentences and there are said currently to be 18 men on death row. The numbers on death row have steadily accumulated, in part due to the moratorium but also because, in the absence of any information on pardons, it appears that President Ter-Petrosian has not actually been commuting pending death sentences. This means that some of those currently on death row may have been waiting years without knowing when they may expect their clemency appeals to be heard and in a state of continued uncertainty as to their ultimate fate.

For further information, and Amnesty International's recommendations to the Armenian Government, see *Armenia: Time to abolish the death penalty* (AI Index: EUR 54/03/97, April 1997).

### ***Allegations of ill-treatment and unfair trials of political prisoners***

During the period under review 11 people stood trial in five separate hearings on charges linked with events at the end of September 1996, when opposition protests over disputed presidential elections turned violent. The building of the National Assembly was stormed by a section of the crowd, and the parliamentary speaker and his deputy were among those beaten (see AI Index: EUR 54/03/96). The defendants were charged with "mass disorder" under Article 74 of the Criminal Code; some also had further charges laid against them.

Many of the defendants in the series of trials alleged that they had been beaten in the period immediately after their detention (as did many others who were subsequently released without charge, see AI Index: EUR 54/03/96), and in court withdrew their initial testimony on the grounds that it had been extracted under duress. In the first trial which began on 6 February before the Armenian Supreme Court, for example, Abet Petrosian

testified that he had been beaten by various officials after his detention on 29 September 1996, and that threats had been made against his mother and wife in order to force him to confess. His four fellow defendants made similar claims, although these were reportedly not investigated by the court for lack of proof (Abet Petrosian said that he was unwilling to name those involved in his ill-treatment for fear of reprisals against his family, a reaction common in the allegations brought to Amnesty International's attention). They were convicted but, like others subsequently sentenced during the period under review, were given suspended sentences or released under an amnesty.

Similar allegations of physical and other duress continued in the ongoing trial of a senior member of the opposition Armenian Revolutionary Federation (ARF), **Vahan Hovanesian**, and 30 others accused of attempting to stage an armed coup in 1995. A number of the defendants had already made such claims with respect to themselves (see AI Index: EUR 54/03/97), and in the period under review several witnesses also testified that they had been beaten or that their families had been threatened in order to coerce them into giving evidence against the accused. On 19 February, for example, Zaven Karapetian, father of defendants Gagik and Martin Karapetian, testified that he, his son and his pregnant daughter-in-law had been subjected to physical and psychological pressure at the Police Station of Mashtots district, Yerevan (see also *Women in Europe*, page 78).

Such reports are of especial concern when, as in the above case, some of the defendants face a possible death sentence if convicted. Similar allegations had also been made in the so-called **Dro** case, which ended on 10 December last year with three of the defendants being sentenced to death (see AI Index: EUR 54/03/97). The Supreme Court began hearing appeals in this case in June.

On 30 May the new Procurator General of Armenia, Genrik Khachatryan, was questioned at his first press conference about allegations of ill-treatment and procedural irregularities in the above trials. He reportedly responded that the procuracy

would be able to investigate such claims when the trials had been concluded. Amnesty International has consistently urged the appropriate authorities to ensure that all allegations of ill-treatment are investigated fully and impartially, with the results made public and anyone identified as responsible brought to justice. There should also be a judicial review of all political cases in which the defendants were convicted on the basis of testimony they claim was extracted under duress.

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## AUSTRIA

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### *The alleged ill-treatment of detainees*

In February Amnesty International urged that the investigation launched by the authorities into allegations that **Ewald Stattmann** suffered serious injury while in police custody be prompt and impartial. According to reports, Ewald Stattmann was arrested in the town of Villach in the early hours of the morning of 29 December 1996 and taken to a police station. There a doctor reportedly declared him fit enough to be detained. Six hours later the detainee was found unconscious and rushed to hospital where he underwent emergency surgery and spent 10 days in intensive care. His injuries included multiple bruising, a fractured skull, cranio-cerebraltrauma and a cerebral haemorrhage. Reports of events surrounding his arrest and detention are contradictory. The police officers who arrested him allegedly claimed that Ewald Stattman had banged his head on the ground in an attempt to injure himself, while the head of Villach police was quoted in one report as saying that the detainee had deliberately banged his head against the wall of his cell at the police station. Other witnesses reportedly saw the two officers beat Ewald Stattmann with rubber truncheons when they arrested him, and kick him while he was on the ground. As a result of his injuries Ewald Stattmann has little recollection of events. In its letter to the authorities, Amnesty International urged that investigators pay special heed to the principles

established in international human rights instruments regarding the use of force by law enforcement officials and the medical care and supervision of detainees. These include Principle 5 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which stipulates that: "Whenever the lawful use of force...is unavoidable, law enforcement officials shall...exercise restraint in such use and...[shall] minimize damage and injury", and Article 6 of the United Nations Code of Conduct for Law Enforcement Officials which states that officials should: "Ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required". Amnesty International had received no reply to its letter by the end of June.

In the period under review Amnesty International received information from the Austrian authorities on a number of cases the organization had previously raised.

In April Amnesty International was informed that the investigation conducted into allegations that police officers had ill-treated **Salim Y.** in June 1993 had been discontinued (see AI Index 01/01/96). Salim Y. was reportedly kicked and beaten by Austrian police officers at Vienna Schwechat airport during attempts to deport him. Amnesty International first raised this case in July 1993, and in February 1994 the organization was informed by the Austrian authorities that the detainee had "tried to inhibit his expulsion by pushing his head against a radiator and thus hurting himself" and that he later "jumped up from his chair and rushed backwards into a safety glass door...During the whole procedure [he] was neither kicked nor beaten". In March 1994 Amnesty International asked the authorities whether the allegations of police ill-treatment made by Salim Y. had been investigated by a judge, whether the detainee had been questioned personally about his alleged ill-treatment, and whether witnesses who reportedly saw him being ill-treated had been asked to provide further information about the incident. No reply was received to this letter, therefore the organization wrote again in August 1995. In its

reply to Amnesty International in April, the authorities responded that the prosecuting authorities had discontinued their investigation in September 1996. The authorities added that: "...because Salim Y. was of unknown abode after his release from deportation custody...he could not have been heard by a court. In any case, an offence of bodily harm, if any [was committed]...would by then already have been time-barred under the statute of limitations". In Amnesty International's view this information confirms that the Austrian authorities failed to conduct a "prompt and impartial" investigation into the alleged ill-treatment of Salim Y., as required by Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Austria is a State Party.

In April Amnesty International was informed by the Austrian authorities that a judicial inquiry into allegations of police ill-treatment made by Ugandan **Fred Machulu Onduri** "did not produce any reliable evidence of the correctness of the allegations" (see AI Index: 01/01/97). Fred Machulu Onduri alleged that he was arrested at an underground station in the centre of Vienna in July 1996, made to strip naked, subjected to an intimate body search, punched in the stomach and subjected to racist abuse. According to a report by the Vienna Federal Police Directorate, Fred Machulu Onduri had been asked to identify himself by police "on account of his conspicuous appearance" and was arrested when he did not comply. In their letter to Amnesty International the authorities informed the organization that a medical examination of Fred Machulu Onduri five days after his alleged ill-treatment did not reveal any physical injuries. According to Amnesty International's information, the Ugandan was not questioned by the court responsible for examining the allegations of ill-treatment, even though it had been informed that the complainant had returned to Austria from Uganda in April in order to attend a separate hearing into his complaint by the Vienna Independent Administrative Tribunal. (This hearing is set to continue in July.)

Amnesty International also received information from the authorities about the cases of

**Sabine Geisberger** and **Violetta Jevremovif**. These are included in the section *Women in Europe*, page 78.

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

In March **Peter Zwiauer** was acquitted by Schwechat District Court of charges of failing to comply with a call-up order, an offence which carries a penalty of up to one year's imprisonment. Peter Zwiauer had refused to report for military duty in May 1996 after his application to perform alternative service had been rejected on the grounds that it had not been submitted within one month of the promulgation of the 1994 amendment to the Alternative Service Law in March 1994. In acquitting him of the charges, Schwechat District Court ruled that "the accused could not be reproached for not knowing about the particular deadline for submitting applications to perform alternative service, introduced by the 1994 Alternative Service Law, especially since the authorities made no particular efforts to inform the public about the [new] regulation".

In May, following a medical examination, **Andreas Gruber** was declared "temporarily unfit" to perform military service and was discharged from the army. Although he could be called up again in the future, he now has the right to submit an application for alternative service. Andreas Gruber had refused to report for military service in December 1996 and had gone into hiding. He had previously stated to the authorities that his conscience did not allow him to do military service, but that he was willing to perform alternative service. His request, however, was denied. Andreas Gruber still faces trial for failing to comply with a call-up order.

Amnesty International had previously informed the Austrian authorities that if either Peter Zwiauer or Andreas Gruber was imprisoned as a result of their refusal on grounds of conscience to perform military service, the organization would adopt them as prisoners of conscience and would call for their immediate and unconditional release.

The cases of Peter Zwiauer and Andreas Gruber were described in Amnesty International's six-page document: *Austria: Conscientious objection to military service - a summary of current concerns* (AI Index: EUR 13/01/97), issued by Amnesty International in February 1997.

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## AZERBAIJAN

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### ***Alleged arbitrary detention of ethnic Armenians***

In April and May a number of detainees held by Azerbaijan, Armenia and the self-proclaimed Nagorno-Karabakh Republic were released to mark the third anniversary of the cease-fire in the disputed Karabakh region. Among those released by Azerbaijan were seven ethnic Armenians, including two women and a 15-year-old boy, whose cases Amnesty International had raised amid reports that they were being held as hostages, on grounds of their ethnic origin, rather than as a result of recognizably criminal charges being brought against them (see AI Index: EUR 01/01/97 and *Women in Europe* page 81).

Amnesty International accepts that, given the situation arising from the conflict over the Karabakh region, the Azerbaijani authorities may have occasion to detain people on suspicion of, for example, complicity in terrorist actions. The authorities have explained to Amnesty International in the past that a special holding centre for ethnic Armenians was established at Gobustan where those detained were held while their identity was confirmed and it was established that they were *bona fide* travellers. In some cases, however, it has been alleged that certain of those held have continued to be detained although no evidence of criminal activity has been found, and without any criminal charges being laid against them. If this were true, Amnesty International would regard the continuing detention as arbitrary, and those detained as prisoners of conscience.

Although most of the Armenians held at the Gobustan camp were said to have been released in the above exchanges, it was alleged during the period under review that at least 12 other Armenian civilian men were being held at another camp in Shubany. Available details on most of them were sparse, although one young man reportedly held there was Artur Papayan, born in 1979, who is said to have been seized by Azerbaijanis while walking along the Movses-Aigepar road in Armenia's border district of Taushsky on 14 January.

Amnesty International has asked the Azerbaijani authorities for further information on the current status of these individuals, for example whether they are still in detention and if so whether this is to clarify their identities or as a result of a criminal charge or charges brought against them.

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

At least four death sentences were reported during the period under review. They were passed, in separate trials, on Natic Zeynalov, Nazim Javadov, Akif Sabir oglu Hajbalayev, and Karen Gevorkian. All four men were convicted of premeditated murder, among other charges. Karen Gevorkian, an ethnic Armenian, was subsequently pardoned by President Heidar Aliyev and released on 2 May as part of the prisoner exchanges mentioned above. He had been accused of crossing the border as part of an Armenian sabotage unit and subsequently committing a murder, on his own initiative, as an act of personal revenge.

No executions are said to have been carried out in Azerbaijan, however, since 1993. While Amnesty International welcomes this continuing moratorium, and other moves taken since independence to reduce the scope and application of the death penalty, the organization still has a number of concerns about the death penalty in Azerbaijan. One of the foremost of these is the possibility of judicial error, linked with allegations of unfair trials and with a number of reports that law enforcement officials have used physical and other means of duress in seeking to obtain confessions in cases where the offence carries a possible death

sentence. At the end of December 1996, for example, 19 out of 21 defendants in a high profile political trial known as “the case of the generals” appealed to Amnesty International and other organizations, repudiating the testimony given in pre-trial detention and claiming that it had been extracted under extreme physical and psychological duress. Among the signatories was General Vahid Musayev, for whom the state prosecutor had demanded the death penalty on 15 January (he was subsequently sentenced to 15 years’ imprisonment).

During the period under review at least two of the death sentences were passed by the Supreme Court as the court of first instance, and in this connection Amnesty International has another concern about the lack of appeal to a court of clearly higher jurisdiction. Although decisions of the Supreme Court may be appealed, such appeals are lodged with the Presidium or Plenum of the Supreme Court, that is the same body of people from which the original judges were drawn. International standards are clear that anyone convicted of a capital offence should have the right to their conviction and sentence being reviewed by a *higher* tribunal. In April the Human Rights Committee, reviewing Georgia’s initial report under the International Covenant on Civil and Political Rights, commented on similar arrangements in that country and expressed concern that an appeal heard by other bodies within the Supreme Court, against a sentence passed by the Supreme Court, did not fully respect the right to have a case reviewed by a higher court.

Finally, although there is a *de facto* moratorium on executions, courts have continued to pass death sentences and there are said currently to be around 100 men on death row, held in conditions said to be extremely difficult owing, among other things, to overcrowding. Five to six men are said to be held in cells designed for two at the most, with no opportunity for exercise, and the poor conditions are reported to have contributed to the deaths of 16 men who died on death row in Baku in 1996.

For further information, and Amnesty International’s recommendations to the Azerbaijani Government, see *Azerbaijan: Time to abolish the*

*death penalty* (AI Index: EUR 55/02/97, March 1997).

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

There were few developments in the case of journalist **Taptig Farhadoglu**, who reported that a man he subsequently recognized as a senior police officer was among a group of men who beat him on the street in Baku on 17 November 1996 (see AI Index: EUR 01/01/97). A criminal case was opened on 28 November in connection with the assault, but was reportedly closed on 28 January by the Baku city prosecutor for lack of evidence concerning those responsible. It was apparently reopened on 16 April after various protests, but no results have yet been reported. Amnesty International has approached the authorities for further information on the current status of the investigation.

Amnesty International also expressed concern about further reports of ill-treatment received during the period under review. For example Eldar Afrail oğlu Shirinov was reportedly beaten and ill-treated following his arrest on suspicion of murder on 8 November 1996. Details of his case emerged only in May, when the press reported that he had written a letter of complaint to a member of parliament.

In the letter Eldar Shirinov is said to have claimed that, although arrested on 8 November, he was held without charge for nine days at Police Station No. 28 in Yasamalsky District, Baku, and only questioned for the first time officially on 17 November. He was initially questioned as a witness, but was then charged the same day on suspicion of murder. Eldar Shirinov further claimed that during the investigation he was deprived of sleep and food, and systematically tortured. He was reportedly subjected to electric shock treatment, hung upside down and beaten on the feet, forced to sit on a bottle while someone pressed down on his shoulders, thereby forcing the neck of the bottle into his rectum, and drenched with cold water.

Eldar Shirinov claimed those responsible for his torture were the head of the criminal

investigation department of Yasamalsky Police Directorate (who at one point is said to have hit him so hard his ear drum burst) and several police officers from Police Station No. 28.

Eldar Shirinov reports that he was transferred from the police station to an investigation prison on 5 February, and that during a medical examination there staff noted various injuries including bruises, scars, bone fractures, burns behind his ears as a result of electric shocks and damage to the knee joints. When he began to retract his testimony, on the grounds that it was extracted under duress, Eldar Shirinov alleges that he was returned from the prison back to the same police station and tortured again, as a result of which he attempted to kill himself by slitting his wrists.

In the light of Azerbaijan's commitments under the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment Amnesty International has urged the authorities to conduct a prompt, impartial and comprehensive investigation into this and all allegations of ill-treatment; to make the results public; and to bring anyone identified as responsible to justice in the courts.

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## BELARUS

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### *Further allegations of ill-treatment of peaceful demonstrators by police*

During the period under review Amnesty International continued to express its concern to the Government of Belarus about the pattern of ill-treatment and imprisonment of government opponents during peaceful strikes and demonstrations in Belarus. The organization continued to urge the authorities to provide legal redress and compensation to the victims of police abuse and to inform all law enforcement officials that torture and ill-treatment are prohibited in any circumstances under the provisions of the Convention against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment and the International Covenant on Civil and Political Rights, to which Belarus is a party as a successor state of the USSR. Amnesty International is not aware of any steps taken by the government or the President of Belarus to stop the ill-treatment of demonstrators by law enforcement officials.

In March Amnesty International was gravely concerned at reports that about a hundred demonstrators had been detained in Belarus, and some of them allegedly ill-treated by the police following a peaceful protest on 10 March against President Lukashenka's policies aimed at forging closer ties with the Russian Federation. According to opposition leaders of the Belarussian Popular Front (BNF), a hundred people, many of them teenagers, were arrested after the demonstration in which several thousand people marched through the centre of the capital Minsk. The march was held allegedly in defiance of a ban by the local authorities on demonstrations involving more than 40 people.

Several demonstrators were reported to have been injured when police stopped people marching towards the President's residence. One of the BNF leaders, **Lyavon Barshchevski**, reported at a news conference that he had been beaten and detained by policemen in plain clothes after the demonstration. Vyacheslav Sivchyk, secretary of the BNF and former prisoner of conscience, said that one protestor had been imprisoned for 10 days, and that a hundred others faced fines or up to two weeks' imprisonment. **Vladimir Statkevich**, an opposition activist who took part in the demonstration, reported that policemen in plain clothes had handcuffed him and beaten him around the head and chest.

According to reports, between 70 and 150 demonstrators were arrested following a rally against President Lukashenka on 23 March. **Gennady Karpenko**, a deputy Chairman of the Supreme Soviet of Belarus and former Minister of Internal Affairs, **Yury Zakharenko**, were detained following the demonstration and were also accused of holding an unsanctioned demonstration.

Other such incidents included the arrest of **Aleksandr Bondarev**, arrested following his

participation in the demonstration of 23 March, and accused of "violence against the state"; there is reportedly a photograph of Aleksandr Bondarev threatening a police officer with a stick. Human rights organizations in Belarus maintained that he was defending himself against an attack by police officers. In June Amnesty International received information that Aleksandr Bondarev had been released from detention pending trial.

Human rights organizations in Belarus also reported that widespread demonstrations throughout the country on 23 March resulted in numerous arrests, detentions and fines. Police officers reportedly arrested 30 people following a protest organized against the plans to send certain students for their community service to areas of Belarus which had been affected by the Chernobyl nuclear accident. Those arrested allegedly included elderly people, and young boys and girls. Reports also claimed that **a 10 year old boy** was detained by police for wearing a red and white bandage around his head which resembled the prohibited former national flag.

In the city of Kobrin, **eight school boys** were arrested and charged with organizing an unsanctioned meeting on 23 March. Police officials broke up the march of a hundred peaceful pupils who were protesting about a planned reduction of spring vacations.

### ***Possible prisoners of conscience***

On 1 May **Nikolay Statkevich**, the leader of the opposition Belorussian Social Democratic Party, was arrested following his participation in a rally protesting against President Lukashenka's policies. He was detained for violating a decree by President Lukashenka forbidding unsanctioned rallies involving more than 40 people. Nikolay Statkevich served 10 days in prison after being convicted of holding unsanctioned meetings following the 23 March demonstration.

**Gregory Kishko**, an artist, was arrested on 23 March following a demonstration and reportedly beaten by police officers. Although he was released after his initial arrest, he was

rearrested on 1 April and was released from detention in the beginning of July pending trial. He was reportedly not permitted to leave the country.

According to further information, **Andrey Sheptytskich**, of Ukrainian nationality has been in detention in Belarus since 26 April. This follows his participation in a demonstration commemorating the Chernobyl nuclear disaster. He is reportedly charged under Article 86, part 3 of the Belarus Criminal Code: "organization or active participation in group actions which violate public order". The maximum sentence under this article is five years' imprisonment.

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

In May, the head of the Belarus Ministry of Justice's department dealing with the application of the death penalty and executions, Vladimir Samusev, reportedly stated that 38 people were sentenced to death in Belarus in 1996. He said appeals for clemency were lodged in 32 cases and that President Lukashenka rejected them all because of the nature of the offences. He added that seven of those sentenced last year were aged between 21 and 25. Amnesty International feared that all of these people might have been executed, but no official information on the number of executions in Belarus became available during the period under review.

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## **BELGIUM**

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### ***Alleged human rights violations by members of the armed forces in Somalia***

In March and April the press published the allegations of a former Belgian paratrooper that human rights abuses had been committed against Somali citizens by members of the Belgian armed forces who served in the multinational task force operating in Somalia in 1993.

The allegations were accompanied by photographs, one of which showed two uniformed

soldiers swinging a Somali boy over an open fire and was apparently accompanied by the claim of the former paratrooper that such behaviour was a regular practice in the paratroopers' camp where he was based near Mogadishu and that the boy in this case had been threatened with being burnt alive.

The ex-paratrooper also made allegations, partly supported by photographic evidence, that a Somali child, a Muslim, had been forcibly fed with salt water and, possibly, pork (a prohibited food for Muslims) until he vomited and then made to eat his own vomit. Photographs also showed a soldier urinating on the inanimate body of a Somali man lying on the ground with a foot pressed on the man's body, and of soldiers holding a Somali man by his hair.

There were also allegations that around 23 October 1993 a child caught stealing food had been locked in a container, in stifling heat, without food or drink, for two days and two nights, that its cries of distress were ignored and that when the container was opened the child was found to be dead.

The ex-paratrooper also apparently claimed that he was bullied and intimidated when he tried to protest against such acts.

Judicial investigations were promptly opened into the allegations by the military authorities (*auditorat militaire*) and resulted in two former paratroopers being tried before a military court in June in connection with the treatment of the Somali boy held over an open fire. On 30 June the court acquitted both men of the charges of assault and battery and of using threats (*coups et blessures volontaires avec menaces*). The military prosecutor, who had requested a sentence of one month's imprisonment and a fine of 10,000 Belgian francs for each of the defendants, reportedly lodged an appeal.

A sergeant is due to stand trial before a military court on 8 September 1997 in connection with the alleged forcible feeding of a Somali child and, reportedly, a sergeant major will also stand trial in September, apparently on suspicion of having killed the Somali on whose body he was photographed urinating.

In a letter addressed to the Minister of Defence on 1 July Amnesty International expressed concern about the allegations and welcomed the prompt opening of the judicial investigations. It sought the Minister's cooperation in supplying the organization with precise details of the 30 June verdict and asked to be informed about the eventual outcome of the other judicial proceedings indicated above.

Following the publication of the allegations and photographs the Minister of Defence ordered a broader, administrative, investigation, carried out by an army general heading the Operational Command of the Belgian Ground Forces. In its letter, Amnesty International asked for details of the terms of reference of the investigation and to be informed of its outcome. The organization also asked whether any consideration had been given to a comprehensive inquiry, independent of the military, into alleged human rights abuses by Belgian troops in Somalia, in order to ensure a demonstrably impartial examination of the facts, as advocated under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed by Belgium, and under the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

On 8 July the Minister of Defence highlighted to parliament certain findings emerging from the administrative inquiry. The report, still confidential at the time of writing, apparently recommended better selection of army candidates (military conscription has been abolished), and improved training, including the provision to soldiers of more information on humanitarian law. It also indicated that excessive delays in disciplinary proceedings and a problem of alcohol abuse in the army needed to be addressed. The Minister of Defence added that he wished to set up an independent inquiry on racism within the army. In its letter of July 1997 Amnesty International also sought further information about several trials which reportedly took place during 1994 and 1995 concerning soldiers prosecuted in connection with alleged human rights violations in Somalia. The

trials followed an inquiry into the conduct of Belgian forces in Somalia, carried out in 1993 by a Commission of Inquiry composed of three regular army officers and a civilian assistant to the Minister of Defence. The reports received by Amnesty International included the following:

**F** The acquittal in December 1994 of two soldiers accused of the manslaughter (*homicide involontaire*) of two Somali men and of a third soldier accused of causing minor injuries to a Somali woman. The sentences were apparently appealed.

**F** The issuing of verdicts in January 1995 following the trial of three soldiers in connection with the fatal shooting of two Somali men and with alleged illegal trafficking in arms and ivory. One soldier apparently received a sentence of five years' imprisonment for the killing of one of the Somalis and all three received fines in connection with the arms trafficking charges.

**F** The sentencing in January 1995 of one soldier to three months' suspended imprisonment and another to two months' suspended imprisonment for kicking and punching a handcuffed Somali prisoner and subjecting him to electric shocks, while they were drunk, at their base near Kismayo on 5 May 1993.

**F** The trial in October 1995 of a group of 16 soldiers accused, to varying degrees, of threatening and ill-treating Somali citizens, mainly children, in Spring 1993. It was said that the Somalis had entered their camp frequently and stolen personal effects and military equipment.

According to press reports, it had been alleged that the soldiers had, *inter alia*:

**F** forced two children to dig what they thought would be their own graves and fired shots in the air;

**F** tied a child to a lorry and sprayed him with cold water when he asked for a drink;

**F** beaten prisoners in the stomach with rifle butts;

**F** been photographed next to a boy tied to a tree in the full sun;

**F** forced children to walk on a lead;

**F** verbally insulted and racially abused the Somalis;

**F** kept children shackled overnight, without a drink;

**F** suspended children over a crocodile-infested river;

**F** fired a pistol flare at a female prostitute.

On 31 October 1995 a military tribunal apparently acquitted nine officers, suspended judgment (*suspension du prononcé*) in the case of another six and sentenced one officer to eight days' suspended imprisonment for subjecting two children to mock execution.

In its July letter Amnesty International asked for the Minister's cooperation in enabling the organization to establish the full record of these cases, by confirming or correcting the above reports and supplying precise details of the charges and sentences issued by the first instance courts. Amnesty International also asked to receive details of any appeal sentences issued both in these specific cases and in any other cases involving alleged human rights violations by members of the Belgian armed forces in Somalia.

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## BOSNIA-HERZEGOVINA

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### ***No real improvement for human rights***

In the first six months of 1997 no substantial improvement was seen in the human rights situation in the country. There continued to be daily reports of human rights violations against members of minorities, including ill-treatment and arbitrary detention. The victims included people who had remained in their home areas as well as those who were attempting to visit or return.

Amnesty International called on all parties to implement fully the civilian aspects of the 1995 peace agreement. The organization also called on the international community to increase pressure on the parties to ensure that the issues of justice and truth were properly addressed.

**Displaced persons and refugees: few returns**

In March Amnesty International issued the report *Bosnia-Herzegovina: "Who's living in my house?": Obstacles to the safe return of refugees and internally displaced people* (AI Index: EUR 63/01/97). The report highlighted how many of the key difficulties facing people wishing to return to their own homes arise from the reluctance of the authorities to see the return to the areas which they control of minority populations (some of which had been in the majority before the war). The lack of housing, lack of compensation for homes which were deliberately destroyed and the competition among displaced persons and returnees for the little housing that is available are other major problems. The continued impunity enjoyed by many individuals suspected of perpetrating war crimes and other human rights violations, and the fact that there remain more than 20,000 missing persons, also act as an enormous deterrent to the return of refugees and displaced persons.

The authorities in the Bosnian Serb entity, the Republika Srpska (RS), and the Bosnian Croat-controlled areas of the Bosniac (Bosnian Muslim) and Bosnian Croat entity, the Federation of Bosnia-Herzegovina (Federation), were most vigorous in acting to prevent returns. Amnesty International's report also highlighted the inadequacies in the temporary protection provided for refugees from Bosnia-Herzegovina in many host countries in Western Europe, and recommended that temporary protection schemes not be used to deny asylum-seekers access to a determination of the substance of their individual claim to protection.

**Bosniac visiting west Mostar shot dead by police, others beaten**

On 10 February 1997 several hundred Bosniacs led by local political and religious leaders marched from the eastern to the western part of Mostar (Federation) to visit Muslim graves on the occasion of the end of the *Bajram* religious holiday. (The town remains effectively divided between the Bosnian Croats who control the east and the Bosniacs who control the west.) The Bosnian Croat police first tried to stop the procession, claiming that the marchers might come into conflict with Bosnian Croats gathered for a Catholic religious holiday, despite the fact that the route of the procession would not take them near the Catholic gathering. When the procession came near to its destination, a Muslim cemetery, the police began to beat the Bosniacs. They continued to beat the marchers as they retreated, and some of the police officers then drew pistols and fired into the air. At least two of them fired into the crowd. One of the Bosniacs, Šefik Sulejmanović, was killed, and 20 others were injured. The Bosnian Croat police later claimed that some of the Bosniacs had started to throw stones at them, but a report from the United Nations International Police Task Force (IPTF) based on the statements of its own monitors and other impartial observers, such as the NATO-led Stabilization Force (SFOR) peacekeepers, failed to substantiate claims that police officers were injured and held the Bosnian Croat authorities responsible for the killing and injuries to the Bosniacs.

Following diplomatic pressure from international missions and diplomatic missions in Bosnia-Herzegovina the Bosnian Croat police charged three police officers with minor offences. No one was held to account for the killing of Šefik Sulejmanović or the shooting and beating of other Bosniacs.

Amnesty International believes that the events of 10 February formed part of a deliberate policy on the part of the Bosnian Croat authorities to prevent the return of Bosniacs to west Mostar and other areas which they control.

**Appointment of new High Representative**

In June Carlos Westendorp succeeded Carl Bildt as High Representative in Bosnia-Herzegovina. On the occasion of his succession Amnesty International issued the document *Bosnia-Herzegovina: From Promise to Reality - Agenda for the international community and the new High Representative* (AI Index: EUR 63/10/97). The document outlined the organization's concerns about lack of action to address the issues of impunity and the "missing", as well as the need for effective human rights monitoring by international organizations. Amnesty International called upon the new High Representative to assert his leadership and develop a long-term plan for sustainable improvement in the human rights situation, with emphasis on empowering the domestic human rights institutions and non-governmental organizations.

### ***"Disappeared" and "missing" persons: Human Rights Chamber holds first hearing***

The Human Rights Chamber, one of the national human rights institutions established under the peace agreement held its first hearing in February. It considered the case of Father Tomislav Matanović and his parents (see AI Indexes: EUR 01/01/96, EUR 01/02/96 and EUR 63/02/97), who had been taken away by Bosnian Serb police in September 1995 and who had not been seen since. At the time of writing the Chamber has yet to issue a ruling on the case, however, and the RS authorities were not known to have provided any solid information about the fate of the Matanovijs in advance of the hearing.

The Matanovijs remain among the approximately 20,000 people who are still unaccounted for from Bosnia-Herzegovina, many of whom are "missing" or "disappeared". Some limited exchanges of information between the parties and exhumations in 1996 and 1997 resolved the fate of only around 1,200 people. Exhumations of mass graves and collection of surface remains in the Srebrenica area led to the collection of the remains of some 800 people, many of whom had most likely been massacred.

### ***Conviction and sentencing of Dušan Tadić by International Criminal Tribunal***

In May the International Criminal Tribunal for the former Yugoslavia (ICTY) convicted Dušan Tadić of 11 of the 31 counts of war crimes and crimes against humanity with which he had been charged. The court found that there was not sufficient evidence to convict him on counts such as the killing of Bosniac prisoners in Omarska camp in 1992. Some counts were dismissed because they were grave breaches of the Geneva Conventions, applicable to international armed conflict, and the court found that the conflict had not been international at the time of the acts charged. He was sentenced to 20 years' imprisonment in July. Both the defence and prosecution filed appeals against the judgment.

The trial of three Bosniacs and a Bosnian Croat who were charged with the killing, ill-treatment and rape of Bosnian Serb detainees in 1992 opened in April. In June the trial opened of Tihomir Blaškić, a Bosnian Croat army (HVO) commander who was charged with ordering the massacre of Bosniacs in central Bosnia.

Amnesty International continued to be concerned about the lack of political will to bring about the arrest of other individuals indicted by the Tribunal.

### ***Conviction of "Zvornik seven" in unfair trial***

On 24 April a court in the RS sentenced three Bosniacs each to 20 years' imprisonment and four each to one year's imprisonment for the murder of four Bosnian Serbs in a grossly unfair trial. The men had been taken into custody in May 1996. They had been beaten during interrogation and two of them had had no access to a defence lawyer. The RS authorities had refused to allow lawyers from the Federation to defend the men. At the trial the court-appointed lawyers from the RS spoke only briefly on behalf of the defendants.

The men had originally surrendered to US soldiers of the IFOR/SFOR peacekeeping force. As the Bosniacs were armed the IFOR soldiers had quickly handed them over to the RS authorities, as dictated by the Peace Agreement. However, they had failed to obtain any guarantee that the Bosniacs would be properly treated and would receive a fair trial in accordance with international standards.

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## BULGARIA

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### ***Prisoner of conscience***

Dian Yankov Dimitrov, a conscientious objector to military service who was imprisoned in September 1996 (see AI Index: EUR 01/01/97) for evading military service, was released in April. Local military authorities have reportedly told him that he would be sentenced to an even longer prison term should he fail again to respond to his call-up orders. Dian Yankov Dimitrov, a Jehovah's Witness whose religious convictions forbid him to carry arms and perform military service, has been ordered to report for his military service in September. There is still no law on alternative service in Bulgaria although the right to an alternative service is recognized by the Bulgarian Constitution.

### ***Cruel, inhuman and degrading treatment in a home for mentally handicapped children***

From 31 January to 27 February six children and one 18-year-old who were wards in the Home for Mentally Handicapped Children in Dzhurkovo, died from malnutrition and hypothermia. More than 80 children in this state-run institution located in a remote mountainous area had been left without adequate food deliveries or heating. The home did not have a qualified physician on the staff nor was there a physician working in the vicinity. Extreme neglect of those who are in the care of officials acting in a public capacity is considered by Amnesty International to amount to cruel, inhuman or

degrading treatment. The organization expressed its concern to the Bulgarian Government for failing to meet its obligation under international human rights standards and prevent such cruel, inhuman and degrading treatment, and called for a prompt and thorough inquiry into the deaths of the seven wards in the home in Dzhurkovo. No reply from the Bulgarian Government had been received at the time of publication of this report.

### ***Unlawful shootings and ill-treatment by police***

In February Amnesty International wrote to Petar Stoyanov, President of Bulgaria, expressing concern about continuing violations of human rights in Bulgaria. The organization brought to the President's attention six incidents of unlawful shootings by the police in which at least three victims were killed and five cases of alleged torture and ill-treatment by police officers involving eight victims, two of whom died in suspicious circumstances. Amnesty International urged him to ensure that the investigations into these incidents were prompt and impartial as required by Article 12 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, that the findings are made public and that anyone responsible for human rights violations is brought to justice.

According to an article published on 30 December 1996 in *Standart*, a daily newspaper, a police patrol in Plovdiv, on an unspecified date, was dispatched to investigate an incident in a shop where the security alarm had been set off. In the vicinity of the shop, the officers reportedly observed two men carrying sacks and asked to inspect them, but the suspects started to run. The officers fired after them shooting one of the men who managed to escape. The injured man was later found dead in a yard where he is thought to have tried to hide but died from bleeding.

On 6 January 1997 in Voditsa, at around 6.20pm, 50-year-old Stefan Stanev was arrested on suspicion of theft of a safe-box and a coffee machine from a village bar. He was taken to

Popovo police station. According to a statement of the National Police, shortly following the arrest, Stefan Stanev was examined by a doctor who did not reportedly establish any "serious health problems" and Stefan Stanev was taken to a dark cell. At 1.30am the officer on duty found him dead. Two days later the Director of the Trgovishte Police reportedly stated that an autopsy had established that the cause of death was internal haemorrhage caused by fracture of three ribs which ruptured the lungs. He also claimed that an investigation established that Stefan Stanev had not been ill-treated by the police in Popovo and that he had suffered the fracture of ribs at the time of arrest when one officer resorted to the use of force in order to restrain him. One other police officer and the village mayor were present at the time of arrest.

On 11 January 1997, at around 2.30am, in front of the National Assembly in Sofia, several hundred police officers advanced against a crowd of demonstrators. They indiscriminately beat with truncheons anyone suspected of participating in the demonstrations, many of whom had engaged in the protest peacefully. Over 200 people were treated in hospitals for injuries suffered as a result of beatings, and at least 11 people were hospitalized and treated for several days.

At the time of publication of this report Amnesty International had not received any reply from the Bulgarian authorities about the results of investigations into these incidents.

Similar reports of human rights violations continued to be received by Amnesty International following parliamentary elections in April and the appointment of a new Bulgarian Government in May.

On 27 June 1997, in Sofia, at around 11.40pm, masked police officers from the 4th police station special forces unit burst into the *Neron-2* discotheque where approximately 3,000 people were present. Shortly before the police action, the electricity was reportedly cut off. Police officers, armed with automatic rifles and handguns, ordered everyone to lie down on the floor, and then started checking identity cards. One of the barmen recalled hearing shots while he was lying on the floor. Other

witnesses reported that some police officers were beating one of the bouncers, asking him where the main electricity switch was. The police also beat and kicked other staff, three of whom were later taken to hospital for treatment. Visitors who could not produce their documents soon enough also received blows and kicks. According to Georgi Mladenov, a well-known Bulgarian basketball player, who was in the disco during the raid, the police "brutally kicked people while they were fumbling in their pockets for their passports."

The Sofia District Prosecutor's office announced on 9 July that they had received 51 complaints about police ill-treatment in the *Neron-2* discotheque.

On 30 June 1997, four off-duty police officers visited *Biblioteka*, another well-known club in Sofia. According to an official statement issued later by the Interior Ministry, the four got drunk in the club and started a fight with some other customers. In the end, one of the police officers drew his handgun, upon which some security guards intervened and grabbed the gun. The following evening, a group of 15-20 officers of the special forces unit burst into the club, took the security guards outside and beat them. Some of the officers fired shots in the air, shouting: "Let's see who you were beating up". Three of the guards were taken to hospital after the beating.

See also *Women in Europe* page 79.

### **III-treatment of Roma**

Reports of ill-treatment of Roma by police officers in the Montana region are illustrative of a country-wide pattern of ill-treatment, which frequently appears to be motivated by the victim's ethnic background. Amnesty International is concerned that police impunity, which prevails as Bulgarian authorities consistently fail to investigate such incidents promptly and impartially, places at even greater risk of racist violence the most vulnerable ethnic community in Bulgaria.

On 12 February in the village of Cherni Vrh, Dimitar Borisov Iliev was summoned to the mayor's office. He was suspected of theft of some grain but

a preliminary investigation against him was suspended for lack of evidence. He was held from 3.30pm to 9pm and beaten all over his body by officer G. A medical certificate described the bruises which Dimitar Iliev had suffered as result of the ill-treatment. On 3 May, Plamen Dimitrov Borisov, Iliev's 16-year-old son, was taken to the mayor's office by officer M. and ordered to stand against the wall with his hands raised. The officer reportedly held the boy by the throat and kicked him in the calves. Viktoria Ilieva took her son to be examined by a doctor in Vulchedrom, who reportedly refused to issue a certificate about his injuries. On 8 May, in the presence of the village mayor, officer G. threatened Viktoria Ilieva: "Listen, you have one month to sell the house and move out of the village. If not, I will send "wrestlers" to deal with you." There are around 20 Roma families in Cherni Vrh and many other Roma had reportedly been beaten by the same officers but were afraid to file complains.

On 14 April in Vulchedrom, another village in the same region, at around 9am, Darina Naidenova Pacheva went to the police station and was questioned about the theft of some hens. She was reportedly beaten on the hands with a truncheon and made to kneel on a stool and beaten on the soles of her feet. As he pulled her by the hair, officer M. reportedly told her: "I will get all you Gypsies.". He then hit her on the left shoulder and twice on the head. She was allowed to leave the station later in the afternoon when a younger officer made sure that she was well enough to go home by herself. She then went to her daughter in Kozloduy where she got a medical certificate describing the injuries on her shoulder, hands and soles of her feet.

To discuss these and other reports of police ill-treatment in the region, the Human Rights Project, a local non-governmental organization, organized a public meeting with the Montana authorities on 4 June. An Amnesty International representative who took part in the discussion urged the Regional Police Directorate to suspend from duty the two police officers who were reportedly most frequently involved in ill-treatment incidents, pending a full and an impartial investigation.

Later Amnesty International received a report that the following day, in Vulchedrom, Danail Nedkov Mladenov, a 23-year-old Rom, was taken to the local police office by officers M. and Y. where he was reportedly beaten by four police officers who questioned him about the theft of a goat and a pig. He was ordered to kneel on a stool and was reportedly beaten on the soles with a rubber truncheon. He was also forced to hold his hands out and was beaten with the truncheon on the palms. At around 6pm Danail Nedkov signed a statement "confessing" to the theft. When he told officer M.M. that he would file a complaint, the officer reportedly replied: "What did Darina achieve with her complaint?" A medical certificate issued to Danail Nedkov Mladenov on 6 June described bruising on the buttocks and the soles of Danail's feet, which was consistent with his allegations of ill-treatment.

In July Amnesty International called on the Bulgarian authorities to fully and impartially investigate recent incidents of ill-treatment of Roma in the Montana region, to make public the results and bring to justice those responsible for human rights violations.

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## CROATIA

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### **Attacks on Croatian Serbs around Kostajnica**

On 13 May a group of 10 displaced persons, most of them Croatian Serbs, returned to their homes near Hrvatska Kostajnica, in the former United Nations (UN) Protected Area (UNPA), Sector North (also known as the Krajina). Almost all of the local Croatian Serb population had fled when the Croatian Army took control of the area in August 1995. Since then large numbers of Bosnian Croat refugees had moved into the Croatian Serbs' homes in the area, but very few Croatian Serbs had returned. The displaced persons who returned had been living in Eastern Slavonia, the last area to remain under rebel Serb control.

A few hours after the returnees arrived a crowd of about 150 Bosnian Croat refugees who were living in the area started attacking members of the Croatian Serb population (as well as Croats who had remained in the area during its occupation by Serb forces and people in mixed marriages). The attackers were armed with sticks and poles; some carried guns.

Beginning on 13 May and continuing over several days the houses of the Croatian Serbs were systematically identified, ransacked and their occupants were assaulted. Dozens of people were beaten, some of them very badly. One of the victims, 60-year-old Mirko Knežević, a Croat who had remained during the period of Serb control, died in hospital, apparently as a result of having been beaten by four men on 20 May.

Among the other reported victims were Jovanka Relić, aged 61, who is confined to a wheelchair, and her husband, Milan, who tried to protect her, when they were beaten in the village of Knezovljani on 14 May. Some of the victims were also humiliated as well as brutalized. One woman, aged about 50, had a rope tied around her neck and was dragged around her house, and was beaten all over her body. Children were allegedly encouraged to throw eggs at her.

The local police (as well as military police and soldiers who were reportedly present) failed to provide adequate protection for the victims. A domestic human rights organization, the Croatian Helsinki Committee (HHO), reported that police in many cases stood by as the attacks took place. The police are reported to have said that they did not have sufficient resources to control the crowds.

In addition, four men who appeared to have been victims of the rioters rather than perpetrators were detained by police, and three of them were allegedly ill-treated in custody.

National and local officials tried wholly or partly to justify the actions of the rioters. The local authorities appeared to condone the rioting when they claimed that the Serbs had verbally provoked the rioters and that the return of Serbs to the area was not acceptable.

In June the authorities informed Amnesty International that legal proceedings had been brought against 10 people in connection with the incidents around Kostajnica. Press reports indicated that they had been charged with "participating in a gathering which carried out a criminal act". However, reports of the incidents indicated that witnesses would be able to identify those responsible for specific assaults. For example, at least one of those who beat Mirko Knežević was reported to have been identified by the police.

Besides the events in Kostajnica there were numerous other incidents of physical attacks on Croatian Serbs in the Krajina. For example, in April a booby-trap exploded killing a 58-year-old man when he disturbed a haystack on his farm near Udbina. The man, who had been the youngest left living in the village, had only returned in September 1996 from the Federal Republic of Yugoslavia. In the same area that same month a 67-year-old man was injured when he disturbed a booby-trapped bottle in a field near his house, and a woman was seriously injured when explosives were placed under a plank in her garden.

### ***Displaced persons and refugees: few returns***

No significant numbers of displaced persons or refugees were able to return to their homes, despite the impending transfer of authority of the region of Eastern Slavonia from the UN Transitional Administration for Eastern Slavonia (UNTAES) which was scheduled to occur on 15 July. (In July UNTAES' executive authority was extended until 15 October.)

Little willingness was shown on the part of the Croatian authorities to see the return of Croatian Serb displaced persons and refugees to homes primarily in the former UNPAs, Sectors North, South and West. Security in these areas remained poor, with continuing incidents of harassment of the remaining and predominantly elderly Croatian Serb population (see AI Indexes: EUR 01/01/97, EUR 01/02/96, EUR 01/01/96 and below). The incidents in Kostajnica (see above) and others appeared to be

part of a policy on the part of the authorities to resist the return of the Croatian Serbs.

Equally, more than 90,000 Croatian displaced persons and refugees remained deeply frustrated at not being able to return to Eastern Slavonia because of fears for their safety and that of Croatian Serbs in the region.

In April, under pressure from UNTAES and the United Nations High Commissioner for Refugees (UNHCR), the Croatian authorities agreed to a formal procedure for registering and administering the return of displaced persons. By establishing joint working groups, the agreement allowed potential returnees to register their desire to return, and for the status of their houses to be ascertained. Despite complaints from the authorities that incidents like those in Kostajnica (see above) were due to the procedures not being followed, Amnesty International received no assurance from the authorities that specific plans existed to provide for the physical security of returnees to the Krajina. No specific guarantees for security were given by the authorities in the agreement itself.

Besides concerns for their physical security, returnees and potential returnees complained about a series of other obstacles which were placed in their way directly or indirectly by the authorities. A major area of concern was the ability to take over returnees' property, due to laws passed for the administration of "abandoned" property. These laws enabled many Croats, mainly Bosnian Croat refugees, to obtain the right to live in Croatian Serb property. In some cases housing appeared to have been deliberately allocated to refugee families when it had become known that the owners' return was imminent.

Serbs also complained about discrimination in the laws regarding eligibility for compensation and credit for rebuilding their homes.

### **Problems for journalists and human rights defenders**

Amnesty International continued to be concerned about the situation of human rights activists and independent journalists.

In April Vjekoslav Magaš, a representative of the HHO in the region of Eastern Slavonia, was attacked by a police officer in Osijek. Although the officer was off duty at the time of the attack, he identified himself as a police officer. He started to behave threateningly towards Vjekoslav Magaš when he saw his identification card which had been issued by UNTAES. Although Vjekoslav Magaš tried to walk away from the confrontation, the police officer reportedly hit him in the back, punched him in the jaw and threw stones at him as he tried to get away. The Ministry of Internal affairs informed the HHO that the officer was suspected of committing a petty crime against public order and that disciplinary proceedings would be brought against him. However, the petty crime charge did not appear to be commensurate with the circumstances of the attack on Vjekoslav Magaš.

Amnesty International remained concerned that not enough had been done by the authorities to ensure that perpetrators of other assaults on human rights defenders were brought to justice.

In May a court in Zagreb, the capital, ruled in favour of an appeal by the state prosecutor which overturned the previous acquittal of Viktor Ivančević and Marinko „ulif“, two journalists who had been acquitted of “slandering” or “insulting” President Franjo Tuđman in 1996 (see AI Indexes: EUR 01/02/96 and EUR 01/01/97). A new trial was scheduled, but the defendants stated that they would not participate in it.

### **Exhumations of mass graves: Siniša Glavašević and others identified**

In the first half of 1997 around 60 of the bodies which had been exhumed in late 1996 by a team working for the International Criminal Tribunal for the former Yugoslavia (ICTY) from the Ovčara mass grave, near Vukovar, were identified. The victims who were identified included radio journalist Siniša Glavašević and technician Branko Polovina, whose cases had been highlighted in earlier Amnesty International actions. They and the other victims had been in the Vukovar hospital when the Yugoslav National Army had taken control of it in

November 1991. They were believed to have been taken to Ov..ara and extrajudicially executed.

### ***Arrest of suspect indicted by the International Criminal Tribunal for the former Yugoslavia***

On 27 June members of UNTAES detained Slavko Dokmanović, a Croatian Serb, and transferred him to the custody of the ICTY. He had been indicted by the ICTY in 1996, but the indictment had been sealed and his name had not been made public. The charges against him related to the killing of the approximately 260 men who had been taken from Vukovar hospital in November 1991 (see above). Three other men, all of whom were officers in the Yugoslav army and are believed to be at large in the Federal Republic of Yugoslavia, have been publicly indicted by the ICTY for the same incident.

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## **CYPRUS**

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### ***Lobbying for decriminalization of homosexuality***

In May Amnesty International called on all deputies of the Cyprus House of Representatives to support abolition of the law prohibiting sex between consenting male adults in private.

In 1993 the European Court of Human Rights had held that the law constituted a violation of Article 8 of the European Convention on Human Rights, to which Cyprus is a party. Article 8 provides that everyone has the right to respect for his private and family life. Although there had been no recent prosecutions under the law, the European Court had taken the view that there was no guarantee that action would not be taken by a future Attorney-General to enforce the law.

Debate by the House of Representatives on repealing or amending the law to comply with the European Court's ruling had been expected in May, but the issue was instead referred back to a House

committee, and as of the time of writing there had been no further developments.

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## **CZECH REPUBLIC**

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### ***Alleged ill-treatment by police officer***

On 3 May a peaceful demonstration was organized in Prague to commemorate the anniversary of a police raid which took place on 4 May 1996 in the "Propast" club (see AI Index: EUR 01/02/96). A group of around 200 demonstrators came to the building of the Interior Ministry and as they began to disperse, a bottle was reportedly thrown towards the entrance of the building. Police officers then formed a cordon between the demonstrators and the front of the building and started to push people back to one corner of the square. Some of the officers reportedly hit demonstrators with their truncheons in the stomach and on the back. One man, P.K., was reportedly kicked by a police officer and dragged into a police van where his head was knocked against the side of the van. He was later found to have suffered serious concussion. Another demonstrator, A.N., was thrown to the ground and repeatedly hit by a police officer, after which he was dragged inside the Interior Ministry building and hit on the head. He also claimed that one police officer sat on him for more than 10 minutes, as a result of which he sustained a rib fracture. In addition to this, he was found to have suffered head injuries. Other demonstrators and passers-by reportedly also suffered head injuries and bruising on other parts of their bodies.

Amnesty International urged the Czech authorities to initiate a prompt and an impartial investigation into these allegations of ill-treatment by police officers, to make public the results and to bring to justice those responsible for human rights violations.

According to information received by Amnesty International, an investigation into reports of police ill-treatment during the raid on the "Propast" rock club, carried out by the

Inspectorate of the Czech Interior Ministry, established that some of the police officers involved in the raid had abused their power and caused bodily harm to members of the public. However, as it was reportedly impossible to establish the identity of the police officers suspected of having committed these offences, it was decided to suspend the investigation and to examine instead the overall responsibility for the raid. Thus, the commander of this police action was brought before the Prague Third District Court which eventually dismissed the case for lack of evidence. At the same time a disciplinary action was reportedly initiated against him by the Prague police authorities.

In June, Amnesty International expressed concern to the Minister of Justice that this investigation which failed to identify the officers responsible for the ill-treatment might not have been conducted thoroughly and impartially, as required by the provisions of Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The organization asked to receive additional information on the methods and findings of this investigation.

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## DENMARK

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***Ill-treatment allegations*** (update to information in AI Index: EUR 01/01/97)

In January the Minister of Justice informed Amnesty International that the Regional State Prosecutor's investigation into allegations of ill-treatment by police officers at the time of arrest of Veronica Ngozi Ugwuoha was still pending. The Minister also informed Amnesty International that the Ministry of Justice had "not found grounds to take action against the police officers involved" in the case of Dung Chi Nguyen.

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

In April the Danish Government requested publication of the report of the European Committee for the Prevention of Torture (CPT) on its visit to Denmark in 1996. From 29 September to 9 October 1996 the CPT had visited a number of police establishments and prisons in the country and had met with local officials, national authorities and non-governmental organizations.

The CPT report expressed concerns about issues which Amnesty International had raised in recent years (see *Denmark: Police Ill-treatment*, AI Index: EUR 18/01/94; *Denmark: Summary of Concerns*, AI Index: EUR 18/01/95; and AI Index: EUR 01/01/97). The CPT recommended, among other things, that: (i) police be reminded that "no more force than is reasonably necessary should be used when effecting an arrest" and that, "once arrested persons have been brought under control, there can be no justification for them being struck by police officers"; (ii) the authorities monitor the use of leg-locks on detainees to ensure that they are not, on occasion, being applied by police in an over-zealous fashion (use of the fixed leg-lock had been suspended after publication of Amnesty International's 1994 report on Denmark); (iii) police be issued with instructions making it clear that it is not acceptable to drag people who are handcuffed by their wrists without supporting their arms and shoulders; (iv) regulations and practice be amended to ensure full respect for detainees' rights to access to lawyers at the outset of detention and to doctors, and to notification of their families of the fact and location of their detention; (v) a form setting out a detainee's rights be created and be provided at the very outset of the deprivation of liberty, and a code of practice for police interrogations be created; and (vi) measures be implemented to ensure that detainees held in police establishments have ready access to toilets and to the provision of food.

The CPT examined materials relating to allegations of the inappropriate use of police dogs and requested a copy of a proposed revision of the guidelines on the use of dogs by police. The CPT also made several recommendations to strictly limit the use of solitary confinement, and to ensure the provision of written grounds for placing a person in

judicially ordered solitary confinement. The CPT called for the periodic and full judicial consideration of the necessity of continuing remand in custody, continued placement in solitary confinement, and restrictions on detainee's letters and visits. It also recommended that authorities provide people placed in judicially ordered solitary confinement with access to purposeful activities and appropriate human contact.

### **UN Committee against Torture's Examination of Denmark's third periodic report**

In May the UN Committee against Torture examined Denmark's third periodic report of its implementation of the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture). The Committee recommended that the Danish Government: (i) consider incorporating the Convention against Torture into domestic law, as it had done for the European Convention on Human Rights and Fundamental Freedoms; (ii) ensure that torture, as defined in Article 1 of the Convention against Torture, was made a distinct crime in Danish law; (iii) abolish the use of solitary confinement, particularly during pre-trial detention, except in exceptional circumstances where the safety of persons or property was involved, or at minimum introduce laws to strictly and specifically regulate its use, including duration, and introduce provisions which would provide for judicial supervision of solitary confinement; (iv) reconsider the methods used by police in their treatment of detainees or during crowd control; and (v) ensure that complaints of ill-treatment lodged by detainees are handled by independent bodies.

Many of these issues, including the use of solitary confinement and the use of dogs by police in crowd control, had been raised by the UN Human Rights Committee in November 1996 (see AI Index: EUR 01/01/97).

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## **ESTONIA**

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In March Mart Siimann replaced Tiit Vähi as Prime Minister. His minority government was approved by President Lennart Meri in the same month.

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

In January it was reported that a total of 14 prisoners were on death row.

In March the Estonian State Court pronounced the first life sentence under a new law passed by the 101-seat Estonian Parliament (*Riigikogu*) in December 1996. Andrey Antonov had been sentenced to death in November for the murder of four people, but the State Court commuted the sentence. The new law, which amended the criminal code making it possible for the first time for life imprisonment to be imposed, had been approved by President Meri in January.

### ***Asylum-seekers***

In February the Estonian Parliament adopted a law on refugees.

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## **FRANCE**

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### ***United Nations Human Rights Committee examines France's third periodic report***

The UN Human Rights Committee considered the government's third periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR) during its 60th session held in Geneva in July. In its Concluding Observations<sup>5</sup> the Committee expressed concern about numerous issues, including many which have been raised by Amnesty International in recent

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<sup>5</sup>UN Doc.CCPR/C/60/FRA/4

years (see AI Index: EUR: 01/01/97 and, in particular, *France - Shootings, killings and alleged ill-treatment by law enforcement officers*, AI Index: EUR 21/02/94; *France - Conscientious objection to the national service laws: a summary of Amnesty International's concerns*, AI Index: EUR 21/03/97 and the *Amnesty International Report 1997*).

The Committee expressed regret that France's third report, due in 1992, had been submitted only after considerable delay, in March 1996, and that, therefore, the Committee had not had the opportunity to re-establish its dialogue with France for nearly 10 years. The Committee also found that reservations and declarations made by France when ratifying the ICCPR, and consequent non-reporting on many issues relating to them, made it difficult to assess fully and comprehensively the situation regarding human rights in France.

The Committee was "seriously concerned" by the number and serious nature of the allegations it had received of ill-treatment by law enforcement officials of detainees and other persons, including unnecessary use of firearms resulting in a number of deaths. It underlined that the risk of such ill-treatment was "much greater in the case of foreigners and immigrants" and also expressed its concern that in most cases there was little, if any, investigation of complaints of such ill-treatment by the internal administration of the police and the *Gendarmerie nationale*, resulting in "virtual impunity". The Committee also expressed concern at the "failure or the inertia of prosecutors in applying the law to investigating human rights violations where law enforcement officers are concerned and at the delays and unreasonably lengthy proceedings in investigation and prosecution of alleged human rights violations involving law enforcement officers".

Amongst other recommendations, the Committee urged France to establish an independent mechanism to receive and deal with individual complaints of ill-treatment by law enforcement officers and to introduce in the training of law enforcement officers at all levels a comprehensive course in human rights, on the lines contained in the

UN Training Manual for Law Enforcement Officers. It also recommended that France take appropriate measures fully to guarantee that all investigations and prosecutions are undertaken in full compliance with the provisions of the ICCPR.

The Committee expressed concern that the powers of the *Gendarmerie Nationale*, basically a military corps, are wider than that of the police when operating in a civilian public order situation, and urged that steps be taken to modify or repeal Decree No 1969 of 22 July 1943 which greatly increased the powers of the *gendarmerie* to use firearms. As a consequence of this legislation, people continue to be shot, and sometimes killed, legally, in circumstances which would lay police officers open to prosecution. During discussions with an Amnesty International delegation in Paris in April 1996, representatives of the French authorities had described the 1943 decree as "null and void" (see *Amnesty International Report 1997*).

The Committee observed that the Amnesty Acts of November 1988 and January 1990 for the Overseas Territory of New Caledonia were incompatible with the obligation of France to investigate alleged violations of human rights. Law 88-1028 of 9 November 1988 granted an amnesty to all persons detained for offences committed prior to 20 August 1988, except for crimes of premeditated murder which were later amnestied by Law 90-33 of January 1990. A number of judicial proceedings into alleged human rights violations committed by members of the French security services and by Kanak separatists were halted as a result. (See *Amnesty International Reports 1987 to 1990*).

The continued application of anti-terrorist laws of 2 September 1986 and 16 December 1992 was another subject of concern to the Committee. It described these as providing for a centralized "special court", with prosecutors having special powers of arrest, search and prolonged detention in police custody for up to four days - twice the normal length of time, and where the accused does not have the same rights in the determination of guilt as in ordinary courts. It expressed further concern that the accused has no right to contact a lawyer during the initial 72-hour period of detention, and that no

provision is made for appeal against the decisions of the special court. The Committee stated that it was informed that “many hundreds of people are under detention, investigation and trial on suspicion of committing acts of terrorism or related offences” and recommended that “the anti-terrorist laws be brought fully in conformity” with the requirements of the Covenant.

The Committee also indicated its concern that under current legislation governing conscientious objection to compulsory military service the right to conscientious objection, which is a part of freedom of conscience under article 18 of the ICCPR, cannot be exercised during active military service. It also expressed the view that the length of the alternative civilian service offered to recognized conscientious objectors, being twice that of ordinary military service, might raise issues of compatibility with article 18.

While welcoming an announcement made by the government’s representatives during consideration of the report, indicating that the practice of deportation of groups of illegal immigrants by chartered flights to their home countries, “bearing characteristics of collective expulsion,” had stopped on 1 June 1997, the Committee remained concerned that France’s treatment of asylum seekers did “not appear to comply with the provisions of the Covenant”. The Committee stated that practices such as reported instances of asylum-seekers not being allowed to disembark from ships at French ports, and not having an opportunity to assert their individual claims for asylum, also raised issues of compatibility with the Covenant. The Committee expressed particular concern about the French authorities’ restrictive definition of the concept of “persecution” for refugees, as it did not take into account possible persecution by non-state actors, and recommended the adoption of a wider interpretation of “persecution”.

The Committee noted with satisfaction the institution and functioning of the Consultative Commission on Human Rights, in which non-governmental organizations participate and which serves as an independent consultative body to the

government. However, the Committee strongly recommended that the government establish “an institutional mechanism for receiving complaints of violations of human rights, including all forms of discrimination, with power to undertake conciliation as well as determination of such complaints and granting of redress”.

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## GEORGIA

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*The Georgia entry in the previous Concerns in Europe Bulletin: July to December 1996 (AI Index: EUR 01/01/97) contained, in error, a restatement of the organization’s concerns for January to June 1996. This edition therefore covers the period July 1996 to June 1997.*

### July to December 1996

#### *The death penalty*

On 10 December 1996 President Eduard Shevardnadze declared an official moratorium on executions, and the following day parliament approved an amendment to the Georgian Criminal Code which abolished the death penalty, as of 1 February 1997, as a possible punishment for six offences. These offences, which now carry a sentence of up to 20 years’ or life imprisonment, are: treason (Article 65 of the Criminal Code), espionage (Article 66), participation by mercenaries in armed conflict or in combat action (Article 66-1), banditry (Article 78), activities causing disruption to the work of corrective labour institutions (Article 78-1) and rape (Article 117). The amendment leaves seven offences carrying a possible death sentence: genocide (Article 65-1), terrorist acts (Article 67), terrorist acts against a representative of a foreign state (Article 68), sabotage (Article 69), premeditated murder (Article 104), attempt on the life of a police officer (Article 209-1) and the military crime of offering resistance to a superior or forcing him or her to violate official duties (Article 258).

During a visit to Tbilisi, the capital, in November, Amnesty International delegates were informed by Georgian officials that 14 executions had taken place between 1994, when a previous moratorium had been lifted, and February 1995, when a *de facto* moratorium on executions had again been imposed. Death sentences had continued to be passed since then, however: in November it was reported that some 30 death sentences had been handed down in the previous two years. Indeed, just over a week after President Shevardnadze's 10 December announcement of an official moratorium, the press reported a further death sentence - passed on a man named Gela Gogichaishvili for murder. Other death sentences during the period under review included that passed on 19 November on Vakhtang "Loti" Kobalia, a prominent supporter of former President Zviad Gamsakhurdia, who was found guilty of treason, banditry and premeditated murder; that passed on Davit Otiashvili, a member of the now disbanded paramilitary organization *Mkhedrioni* (Horsemen), who was sentenced for banditry on 26 November; and those passed on brothers David and Tamaz Asanidze, who were sentenced to death on 20 September by the Supreme Court of Ajaria in Batumi, for various terrorist acts, including an attempt to assassinate the head of the Ajarian parliament.

At the end of the period under review unofficial sources reported that there were 52 men held on death row in Tbilisi's Ortachala prison in conditions which were described as very difficult owing, among other things, to overcrowding.

Amnesty International welcomed the news of an official moratorium on executions and the reduction in the scope of the death penalty, but expressed concern about a number of recent reports that law enforcement officials had used physical and other means of duress in seeking to obtain confessions in cases where the offence carried a possible death sentence, and that death sentences continued to be passed. Amnesty International called on the Georgian authorities, among other things, to commute all existing death sentences, as well as any that may be imposed in

the future; prepare public opinion for abolition of the death penalty; and prepare and enact legislation to remove the death penalty completely as a possible punishment from the Georgian Criminal Code and Constitution.

### ***Allegations of ill-treatment, including a death in custody***

On 22 November the UN Committee against Torture examined Georgia's initial report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture). In its report, Georgia admitted serious concern about continued instances of torture in custody; weaknesses in ensuring efficient and impartial investigation of complaints about torture; and the fact that those responsible frequently went unpunished. After reviewing Georgia's report the Committee listed among its subjects of concern the volume of complaints of torture, particularly related to the extraction of confessions; the failure properly to investigate claims of torture and to prosecute alleged offenders; and the unwillingness of many law enforcement officers to respect, in the exercise of their duties, the rights of people under investigation. The Committee recommended among other things that the government provide information on all individual cases raised during the session and by non-governmental organizations; that torture as defined by the Convention against Torture be incorporated into Georgian criminal law; and that the powers of the appropriate body be strengthened to ensure the prompt examination of complaints of torture and the prosecution of those responsible.

Amnesty International had submitted its own report to the members of the Committee (see *Georgia: Comments on the Initial Report submitted to the United Nations Committee against Torture*, AI Index: EUR 56/05/96), which reviewed its concerns about allegations of persistent and widespread use of torture and ill-treatment, and which contained detailed recommendations to the Georgian authorities. These included ensuring that detainees under interrogation are allowed prompt

and regular access to a lawyer of their own choice, as well as to relatives and a medical practitioner; implementing prompt and impartial investigations of all complaints of torture; ensuring those responsible for torture or ill-treatment of detainees are brought to justice in the courts; ensuring that every victim of torture has access to the means of obtaining redress and an enforceable right to fair and adequate compensation; and establishing an effective system of independent inspection of all places of detention. Amnesty International hopes that the government will fulfill these recommendations, and those of the Committee against Torture.

Among the allegations of ill-treatment raised by Amnesty International with the Georgian authorities since publication of the above report was the reported beating to death of a man named David Amashukeli, who was stopped together with a companion on 15 December while driving in Tbilisi by police who required them to be tested for drug abuse. David Amashukeli and Viktor Morozov were reportedly beaten by the police officers when they left the car and again after they had been taken to the drug examination centre, from which Viktor Morozov was subsequently released. Doctors at the centre were said to have found David Amashukeli had been so severely beaten, allegedly by police using truncheons, that a medical examination for drug abuse was impossible. He was then taken to Tbilisi Hospital No. 2, but was said by the head of the surgical department there to have been dead on arrival. Three police officers have reportedly been arrested in connection with this incident. Amnesty International urged the authorities to conduct a prompt, thorough and impartial investigation into the death of David Amashukeli, with the results made public and any persons found responsible brought to justice.

### ***The post of Public Defender***

The post of Public Defender, introduced under the new Constitution of 1995, had still not been filled by the end of the period under review. Various candidates were put forward, but none obtained the necessary parliamentary approval. Under a bill on

the Public Defender adopted in May 1996, this official is charged with supervising the observance of human rights in Georgia, making violations of these rights known, and furthering the restoration of rights that have been violated (see AI Index: EUR 01/02/96 and EUR 56/05/96). Amnesty International hopes that the authorities will move swiftly to place someone in this vacant post, so that the constitutional provisions for supervising the protection of human rights may be implemented without further delay.

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

#### **Alleged deliberate and arbitrary killings of civilians**

The situation in some parts of Abkhazia remained tense, and security poor, amid allegations that Abkhazian militia forces continued to deliberately target ethnic Georgian civilians (see AI Index: EUR 01/02/96). In one incident, for example, three members of the Arakhamia family were allegedly attacked and killed by Abkhazian law enforcement officials in the village of Repi, Gali district, on 10 December between 5pm and 6pm. The father and his two daughters (names not known to Amnesty International) are said to have been killed during the attack and a son seriously wounded. The son was reportedly taken to Zugdidi hospital by members of the Commonwealth of Independent States peacekeeping force. It is alleged that members of this force had previously warned ethnic Georgian villagers of a possible attack, expected in retaliation for the deaths of three representatives of the Abkhaz Defence Ministry in Repi on 8 December. The Arakhamia family were among those who did not leave the village.

Amnesty International sought further information on all such incidents, including details on the progress of any investigations instigated and what measures were being taken to find those responsible and bring them to justice.

#### **Alleged arbitrary detentions**

During the period under review Amnesty International continued to seek further information on the situation of a number of ethnic Georgians detained, it is alleged, arbitrarily by Abkhazian police forces. In some instances it was also claimed that Abkhazian law enforcement officials demanded large sums of money for the release of those detained. On 29 September, for example, Abkhaz police are said to have told relatives of four Georgian men detained in the village of Dikhazurgia, Gali district, that US \$10,000 would secure their release. For further information see *Georgia: A summary of Amnesty International's concerns*, AI Index: EUR 56/04/96.

### January to June 1997

#### ***Georgia's first report reviewed by the United Nations Human Rights Committee***

In April 1997 the Human Rights Committee reviewed Georgia's initial report under the International Covenant on Civil and Political Rights (ICCPR). Amnesty International had submitted its own reports to members of the Committee detailing its concerns (see *Georgia: Further brief summary of Amnesty International's Concerns*, AI Index: EUR 56/03/97).

The Committee expressed its deep concern about cases of torture inflicted on detainees, including for the purposes of extracting confessions, and deplored the fact that such acts usually went unpunished, causing a lack of confidence in the authorities which deterred victims from lodging complaints. The Committee was also deeply concerned about prison conditions which it described as "disastrous" and stressed that Georgia was not complying with the ICCPR stipulation that all detained persons should be treated with dignity and respect. The Committee additionally noted with disquiet that court proceedings in Georgia did not meet the fair trial conditions laid down in the ICCPR, in particular with respect to access by a defence counsel and the right of those sentenced to death to have the case reviewed by a higher court.

The Committee's recommendations included filling the post of human rights Ombudsman as soon as possible; continuing the moratorium on executions and other efforts towards abolition of the death penalty; undertaking systematic and impartial investigations of all complaints of torture and ill-treatment, with those responsible brought to justice and the victims compensated; taking urgent steps to improve prison conditions; systematically excluding confessions obtained under duress from judicial proceedings and, given Georgia's admission in its report to the Committee that torture had been widespread in the past, reviewing all convictions based on confessions allegedly extracted under torture.

Amnesty International supports these recommendations and has written to the Georgian authorities asking what steps have been and are to be taken in order to incorporate them fully.

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

Following President Eduard Shevardnadze's December 1996 announcement of an official moratorium on executions, and the subsequent abolition of the death penalty as a possible punishment for six offences, the Ministry of Justice announced in May that it had prepared a new draft criminal code which would abolish the death penalty totally and replace it with life imprisonment. At least three death sentences were also reduced on appeal during the period under review. One, passed on political prisoner Badri Zarandia for treason in June 1996 (see AI Index: EUR 01/02/96), was replaced by 15 years' imprisonment in February after a law entered into force abolishing the death penalty for this offence. In April the Supreme Court acting on appeal replaced death sentences passed for murder on Zaza Tatuashvili and Hvicha Iremadze with 15-year sentences.

Amnesty International welcomes these moves but still has a number of concerns about the death penalty in Georgia. One of the foremost of these is the possibility of judicial error, linked with allegations of unfair trials and with a number of reports that law enforcement officials have used

physical and other means of duress in seeking to obtain confessions in cases where the offence carries a possible death sentence. Such allegations were made, for example, in the trial of Badri Zarandia and in an earlier political trial which ended on 6 March 1995 (see AI Index: EUR 56/01/97). Two of the defendants in that trial, Irakli Dokvade and Petre Gelbakhiani, were sentenced to death and remain on death row at the time of writing.

In both these cases the Supreme Court of Georgia was the court of first instance, and in this connection Amnesty International has another concern about the lack of appeal to a court of clearly higher jurisdiction. Although decisions of the Supreme Court may be appealed, such appeals are lodged with the Presidium or Plenum of the Supreme Court, that is the same body of people from which the original judges were drawn. International standards are clear that anyone convicted of a capital offence should have the right to their conviction and sentence being reviewed by a *higher* tribunal. Reviewing Georgia's report in April (see above), the United Nations Human Rights Committee expressed concern that an appeal heard by other bodies within the Supreme Court, against a sentence passed by the Supreme Court, did not fully respect the right to have a case reviewed by a higher court.

Finally, although there is a moratorium on executions, courts have continued to pass death sentences and there are said currently to be 52 men on death row. On 24 June, for example, Georgi Iobashvili was sentenced to death for the murder of five people at the end of 1994. The numbers on death row have steadily accumulated, in part due to the moratorium and also because the presidential clemency commission is currently not considering petitions for clemency in death penalty cases. Conditions on death row in Tbilisi's Ortachala prison are said to be very difficult owing to, among other things, overcrowding and cells which are extremely cold in winter and unbearable hot in summer.

For further information, and Amnesty International's recommendations to the Georgian government, see *Georgia: Time to abolish the*

*death penalty* (AI Index: EUR 56/01/97, January 1997).

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

The Georgian Government's reports to both the Committee against Torture (see AI Index: EUR 01/01/97) and the Human Rights Committee had admitted concern about instances of torture in detention. During the period under review few concrete steps appeared to be taken in order to implement both Committees' recommendations regarding torture, although in May it was reported that a former high-ranking police officer had been sentenced to four years' imprisonment for torturing suspects in order to force confessions (see AI Index: EUR 56/01/97). In a trial that began in August 1996, Gela Kavtlishvili had been accused of, among other things, using electric shocks on suspects while investigating a murder.

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

Amnesty International has been concerned for some time about reports that some young men, particularly Jehovah's Witnesses, were being imprisoned for their refusal on conscientious grounds to perform military service which is compulsory for men aged between 18 and 27. Although a law on a civilian alternative to military service was passed in 1991, there are at present no concrete provisions in force for anyone seeking to request and perform an alternative service.

One case known to Amnesty International was that of Kakhaber Galashvili, a Jehovah's Witness who is said to have informed the conscription commission on two occasions - 27 October 1995 and 23 April 1996 - that he was unable to perform military service owing to his religious convictions. He was arrested on 29 May 1996 and sentenced to 18 months' imprisonment on 5 July that year by Rustavi City Court for refusing his call-up papers to compulsory military service (Article 81 part 1 of the Criminal Code).

Amnesty International asked the Georgian authorities for further information on this case, and

urged them to ensure that all those liable to conscription be given an opportunity to perform an alternative to armed service on the grounds of their conscience or profound conviction. Responding in May Rusudan Beridze, recently appointed Deputy Secretary of the National Security Council on Human Rights, said that Kakhaber Galashvili had been released on 29 October 1996 and that a new draft law on an alternative to military service was before parliament.

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

#### **Alleged deliberate and arbitrary killings of civilians**

The security situation remained poor in parts of Abkhazia, especially the Gali district, amid allegations that Abkhazian law enforcement officials continued deliberately to target ethnic Georgian civilians (see AI Index: EUR 56/03/97). On 1 February, for example, a 60-year-old man named Vazha Dzandzava is said to have died in the village of Chuburkhinji after being beaten by Abkhazian police who accused him of illegally possessing a weapon. Around the middle of that month Davit Gabunia, described as the principal of a school in Chigvari, was allegedly burned alive in his home in Gudava village as a result of actions by Abkhazian police. At the end of March or the beginning of April Abkhazian soldiers are said to have murdered the husband (name not known) of Iskra Malania in the village of Tsarche during negotiations over an unspecified subject. Two houses belonging to another inhabitant in the same village were also said to have been burnt down. In another confrontation Abkhazian soldiers are said to have inflicted severe head wounds on Kako Nachkebia, while robbing him and his family in the village of Gumurishi.

Amnesty International sought further information on all such incidents from the Abkhazian authorities, including details on the progress of any investigations instigated and what measures were being taken to find those responsible and bring them to justice.

Amnesty International is aware that these reports have occurred against a background of violent incidents in Abkhazia in which ethnic Abkhazians are also said to have been attacked, and in some cases killed, by ethnic Georgians. The organization is also aware of allegations that the Georgians said to be responsible for these acts (often claimed by an organization called "The White Legion") have acted with the knowledge or complicity of Georgian authorities, who have not taken the necessary strenuous measures to bring them to justice, or halt their activity. Amnesty International approached the Georgian authorities about these allegations, urging them to take all appropriate steps to ensure that anyone within their jurisdiction responsible for such violations should be apprehended and brought to justice. Responding in February the Interior Minister said that the poor security situation in Gali and other districts had forced the local Georgian population to form their own unofficial groups. The Georgian authorities had no jurisdiction over these areas in Abkhazia at that time, but had instructed the relevant police officials to take the necessary actions on territory they controlled to prevent illegal acts by unofficial armed groups.

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## **GERMANY**

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### ***The alleged ill-treatment of detainees***

In March Amnesty International asked the Minister of Foreign Affairs what steps the German Government had taken in order to implement the recommendation of the **Human Rights Committee** (HRC) that "independent bodies [be established] throughout the territory of the State Party for the investigation of complaints of ill-treatment by the police" (see AI Index: EUR: 01/01/97). In its letter Amnesty International stated that the organization was particularly interested in learning who had been appointed by the German Government to formulate or coordinate its response to the Committee's recommendation, what brief the

appointee had been given, and whether a timetable for acting on the recommendation had been set. In May the Head of the Human Rights Division in the German Foreign Ministry informed Amnesty International that "...an effective human rights policy begins at home" and that the German Government therefore "takes very seriously the comments of the Human Rights Committee". However, the German Government saw "no need for additional measures for regulating the investigation and prosecution of allegations of ill-treatment by police".

During the period under review Amnesty International raised a number of cases of alleged ill-treatment with the German authorities.

In May Amnesty International asked the Berlin authorities what progress had been made in the investigation into the alleged ill-treatment of Turk **Nadir Gül** by Berlin police officers in the early hours of the morning of 31 August 1996. Nadir Gül alleged that he received a violent blow in the face at *Friesenstrasse* police station where he had been taken to provide a blood sample. He stated that he was also thrown to the ground and repeatedly kicked and punched in the face and on the body. According to a medical examination carried out on 2 September 1996, Nadir Gül had suffered bruising of the skull, thorax, both arms and both legs, a broken nose, and a cut to the upper lip. An investigation was reportedly launched into the incident after one or more officers stated that they had witnessed a fellow officer assault Nadir Gül. A second investigation was reportedly under way into allegations that Nadir Gül resisted officers in the exercise of their duty. No substantive reply from the authorities had been received by Amnesty International before the end of June.

In May and June the Berlin authorities rejected Amnesty International's criticisms of the prosecuting authorities' decision not to charge any of the officers alleged to have ill-treated **Mustafa K.** in July 1996. Mustafa K. alleged that he was beaten, kicked and subjected to racist insults when he protested to Berlin police officers searching his flat. Medical evidence showed that he had suffered bruising of the ribs and multiple bruising of the face,

wrist, shoulders and arms. In January the Berlin prosecuting authorities rejected Mustafa K.'s complaint of ill-treatment and charged him with one count of assault and one of attempted assault, and with resisting officers in the exercise of their duty. Amnesty International had written to the Berlin Director of Public Prosecutions and to the Berlin Ministry of Justice in April, expressing concern that in their investigation the authorities had failed to treat all the available evidence equally and impartially, and had contravened the Guidelines for the Conduct of Criminal Proceedings by failing to interview all the witnesses, including the officers involved, in person. In their reply to Amnesty International in June, the prosecuting authorities stated that the evidence of one witness - who supported Mustafa K.'s version of events - contained "crass contradictions", while another witness - who, the authorities stressed, had been interviewed personally by the prosecuting authorities - supported the police version of events. In fact, according to Amnesty International's information, the second witness had not been able to give any details about events at Mustafa K.'s flat, referring in his statement only to an earlier incident that had taken place in Mustafa K.'s restaurant. Also, the witness in question was, in fact, the *only* one to have been personally interviewed by the prosecuting authorities. None of the witnesses at the scene of the alleged ill-treatment were questioned by the prosecuting authorities. In June Mustafa K.'s application for a judicial review of the prosecuting authorities' decision not to charge the officers was rejected on procedural grounds.

The case of Mustafa K. was documented by Amnesty International in a 43-page report - *Federal Republic of Germany: Continuing pattern of police ill-treatment*, published on 3 July (AI Index: EUR 23/04/97). In it, Amnesty International detailed allegations it had received over the period April 1995 - April 1997 that German police officers had used excessive or unwarranted force in restraining or arresting people, or had deliberately subjected detainees in their custody to cruel, inhuman or degrading treatment or punishment. As in previous years, the vast majority

of the alleged victims were foreign nationals, including asylum-seekers, or members of ethnic minorities. In a letter which Amnesty International sent to Chancellor Helmut Kohl and to the heads of government of the 16 *Länder* together with its report, the organization stated that in its view the allegations it had documented provided further evidence that cases of alleged police ill-treatment are not isolated incidents but amount to a clear pattern of abuse. Amnesty International also stated that its analysis of developments in cases which it had previously documented (see, for example, *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, AI Index: EUR 23/06/95) showed that although criminal investigations had been opened into all the allegations of police ill-treatment reported to the organization, in many cases they had not been carried out promptly, impartially and thoroughly. Many of the officers allegedly responsible had therefore escaped prosecution; few, if any, had faced disciplinary sanctions, and none of the foreign or ethnic minority complainants had been compensated for the injuries they suffered. Amnesty International also urged Chancellor Kohl to reconsider, as a matter of urgency, the German Government's response to the Human Rights Committee's recommendation that independent bodies be established for the investigation of complaints of ill-treatment by the police. Finally, Amnesty International drew the authorities' attention to its own recommendation, contained in its new report, that the federal and all 16 *Länder* governments should establish permanent, independent oversight bodies. These bodies should, Amnesty International stated, be given the responsibility and authority to: maintain uniform and comprehensive statistics on complaints about ill-treatment by officers and on their outcome; conduct its own investigations into such complaints, and recommend whether criminal and/or disciplinary charges should be brought against any of the officers involved, and whether compensation should be awarded to any of the complainants; and to perform a continuous assessment of the measures

adopted by the police authorities to prevent the use of excessive force or deliberate ill-treatment.

During the period under review, Amnesty International also received information on cases it had previously documented. Some of this information reached the organization after the end of April and could not therefore be included in its new report *Federal Republic of Germany: Continuing pattern of police ill-treatment*.

In May the **Hamburg** Justice Ministry informed Amnesty International that the judgment in the case of a Hamburg officer who was fined in June 1996 for ill-treating and insulting a Nigerian detainee had entered into force. The Ministry also informed Amnesty International that a Hamburg court acquitted "officer B" of charges of ill-treatment in January 1997, and that the Hamburg Public Prosecutor had appealed against the court's decision. (It is believed that the case referred to by the Ministry is the one where an officer was alleged to have emptied the contents of a canister of tear gas into a police cell containing six African detainees. This case was documented in Amnesty International's report *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, published in May 1995).

In May the trial took place of two officers accused of ill-treating **Ahmet Delibas** (see AI Index: EUR: 01/01/97). Ahmet Delibas, a Turkish national, alleged that the officers strangled and punched him in the face in the back of a police car following his arrest outside a club in Hamm in North-Rhine/Westphalia in October 1995. Medical evidence showed that he had suffered serious injuries, including a fracture of the left cheekbone, and separate fractures to both eye-sockets. Ahmet Delibas himself was accused of participating in an assault on one of the officers outside the club prior to his arrest. The court heard both cases simultaneously and found one officer guilty of negligent assault, fining him DM 4,500 (approximately £1,500). The second officer, and Ahmet Delibas, were acquitted of the charges against them.

In June Amnesty International was informed by the Ministry of Justice of North-Rhine

Westphalia that there was no evidence of any delay in the investigation of allegations of police ill-treatment made by **Muhamed A.** in October 1994. The Ministry's comments came after Amnesty International had expressed concern that more than a year after the Director of Public Prosecutions in Cologne had ordered the investigation into Muhamed A.'s allegations to be reopened (his complaint had been rejected by the prosecuting authorities in October 1995) and over two and a half years after Muhamed A. first complained about a police assault on him, the authorities had still not concluded their investigation. (See *Federal Republic of Germany: Failed by the system - police ill-treatment of foreigners*, published in May 1995, for a detailed description of this case, and *Federal Republic of Germany: The alleged ill-treatment of foreigners - An update to the May 1995 report*, published in February 1996 (AI Index: 3/02/96), for an analysis of Amnesty International's criticisms of the prosecuting authorities' decision to close the investigation in October 1995.)

Also in June, the Minister of Justice of Brandenburg rejected Amnesty International's criticism about the length of time it had taken the prosecuting authorities to investigate a criminal complaint of ill-treatment brought by **Waldemar Kalita**, and about the authorities decision not to charge any of the officers concerned (see "*Federal Republic of Germany: Continuing pattern of police ill-treatment*"). Waldemar Kalita, a 41-year-old medical doctor from the Polish town of Gubin, alleged that he was ill-treated by officers of the Federal Border Protection Police in December 1994, as he was driving home with a neighbour after completing some Christmas shopping in the German border town of Guben (in the *Land* of Brandenburg). According to medical reports, Waldemar Kalita suffered swelling and bruising to his face, bruising of the ribs, abrasions to both wrists and an injury to his left eye. In his letter to Amnesty International in June, the Minister informed Amnesty International that the length of the investigation was explained by the fact that it had been so extensive and had been conducted

"particularly carefully". The Minister also stated that the complainant had the right to appeal against the prosecuting authorities' decision to discontinue the investigation.

In June Amnesty International was informed by the Baden-Württemberg Interior Ministry that no disciplinary action would be taken against any of the officers involved in the arrest of Turk **Hidayet Secil**. Hidayet Secil had alleged that in July 1995 he was ill-treated by police officers who were called to his apartment in Göppingen following a complaint by a neighbour about noise. The Turk alleged that one officer punched him four times in the face and another repeatedly struck him with his baton while he was being held by three of the officer's colleagues. His injuries included a suspected broken nose and fractured rib, bruising to the upper lip and upper jaw, and seven weals on his back. Hidayet Secil's complaint of ill-treatment was rejected and he himself was issued with a penal order requiring him to pay a penalty of DM 2,000 (approximately £700) for resisting police officers in the performance of their duty, and for assault. He appealed against the penal order, opting instead for a full trial. However, when this took place in July, Hidayet Secil did not contest the charges, fearing his health would suffer if he were forced to relive his experiences. In his absence he was fined DM 450 (approximately £150). In announcing the court's verdict, the trial judge reportedly commented that the whole police operation had "perhaps assumed a dimension which was no longer appropriate". The Interior Ministry's letter to Amnesty International in June, informing the organization that: "As the results of the [criminal] investigation removed any doubt about the legality of the officers' actions, the matter is regarded here as closed" reinforces Amnesty International's concern that once a criminal complaint has been rejected by the prosecuting authorities, the police authorities automatically close the disciplinary proceedings, which until then have been suspended, without moving on to a full examination of the facts.

**Death in police custody: The case of Halim Dener: an update** (see *Federal Republic of Germany: A summary of concerns in the period May - October 1994*, AI Index: EUR 23/08/94).

In June it was reported that Hanover Regional Court had acquitted an officer charged with causing the death of Halim Dener through negligence two years earlier.

Halim Dener, a 16-year-old Turkish Kurd, had been killed after he fled from officers who had caught him putting up posters for the ERNK, the popular front of the banned Kurdistan Workers' Party (PKK). The youth was chased by an officer and, following a struggle, killed by a single shot in the back which was fired from the officer's service revolver from close range. According to reports, the court found that Halim Dener had been accidentally shot when the officer had tried to put his service revolver back in its holster after it had dropped to the ground. Lawyers representing Halim Dener's family announced that they would appeal against the acquittal.

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## GREECE

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

On 5 June 1997 the Greek Parliament adopted a law (Law 2510/97) on conscription which includes a provision for alternative civilian service. The law states that conscientious objector status and civilian alternative service or unarmed military service are available to conscripts declaring themselves opposed to the personal use of arms for fundamental reasons of conscience based on religious, philosophical, ideological or moral convictions (Article 18 paragraphs 1, 2 and 3). However, according to Article 24 paragraph 2 of the law, in case of war the dispositions established for alternative service can be suspended upon decision from the Ministry of Defence. Conscientious objectors performing alternative civilian service will then be incorporated

into the compulsory unarmed military service. Amnesty International considers that the right to perform alternative civilian service should never be derogated from, even in time of war or public emergency, and calls on the authorities to modify the law accordingly.

Amnesty International is concerned about the punitive length of the alternative civilian service (Article 19 paragraph 1) which is 18 months longer than military service (42 months as opposed to 24 months of military service). Amnesty International urges the Greek authorities to review the length of the alternative civilian service with a view to bringing it into line with international standards and recommendations. Moreover, despite the introduction of the law, there was no amnesty for about 250 conscientious objectors currently serving sentences of up to four year's imprisonment. Amnesty International urges the Greek authorities to immediately and unconditionally release of all conscientious objectors currently detained.

According to Article 21, paragraph 2, of the law, conscientious objectors applying for alternative civilian service have to report to undertake their [alternative] service within the time-frame of a period which is determined [as starting] from the date a convocation for alternative service is sent to them by the relevant military authorities of the Ministry of National Defence, otherwise they face being charged with insubordination. However, the period of time given to conscientious objectors to report for alternative service is not specified by the law and could therefore be open to any interpretation. According to Paragraph 5 (d) of the same article, conscientious objectors who carry out trade unionist activities or participate in a strike during the period of their alternative service will have their right to alternative civilian service or unarmed military service revoked, and therefore, according to Paragraph 6 of the article, will have to serve the remaining part of their military obligations in the army.

Although this law recognizes the right of conscientious objectors to switch from alternative civilian service at any time to military service - the minimum length of which being six months (Article

21 paragraphs 7 and 8), it contains no specific provision for conscientious objection developed during military service. Article 18, paragraph 4 (a) states that: *"those who have carried arms for whatever length of time in the Greek or foreign armed forces or in the forces of the Security"* cannot be considered as conscientious objectors. Amnesty International believes that conscientious objectors should have the right to claim conscientious objector status at any time, both up to and after entering the armed forces and calls upon the authorities to review this article of the law.

Amnesty International is also concerned that the Minister of Defence decides on initial applications for conscientious objector status on the advice of a committee composed of civilian and military members (Article 20 paragraph 1)

Finally, the organization is concerned that Law 2510/97 relating to alternative civilian service will not enter into application before 1 January 1998 and that conscientious objectors who refuse to perform military service still face prison sentences of up to four years.

### **Unfair trials**

The trials of sub-groups - which were created by splitting a first group of 260 defendants in the case of 470 people arrested at Athens Polytechnic University in November 1995 following clashes during demonstrations (see AI Index: EUR 01/01/96 and EUR 01/01/97) - continued and resulted in various sentences. For example, on 21 March 1997 in the same trial (all the defendants were charged with the same offences) 20 defendants were acquitted while 15 others were sentenced to one year's imprisonment (suspended for three years) for disruption of public order.

Meanwhile the appeal hearing of a first sub-group of a group of 126 defendants, tried in first instance in December 1995, was held on 7 March 1997. All defendants were charged with the same offence and had been sentenced to various terms of imprisonment ranging from four to 40 months. The outcome of the appeal hearing was a guilty verdict for 33 of the defendants for disruption of public

order - for which their sentences were reduced to one year's imprisonment (suspended for four years) - and acquittal for 26 others. On 11 March the appeal hearing of a second sub-group of the 126 defendants was postponed until 17 September 1997.

### **Freedom of expression**

After an eight-hour hearing in Thessaloniki on 14 March, Hara Kalomiri's sentence was confirmed on appeal, but slightly reduced to two months' imprisonment suspended for three years. On 27 March 1996, Hara Kalomiri had been sentenced to three months' imprisonment by the court of first instance in Thessaloniki for "founding and operating a place of private worship for a Buddhist community in Chalkidiki without government permission", in violation of Article 1 of Law 1363/1938 which forbids non-Orthodox worship and the establishment of places of worship without the prior authorization of the Orthodox Church, as well as the practising of a religion considered heretical by the Orthodox Church. (See AI Index: EUR 01/02/96).

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## **HUNGARY**

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### **Alleged ill-treatment by police officers**

A report of the European Roma Rights Center described an incident which occurred on 15 February 1997 in the centre of Szombathely. Five plainclothes police officers arrested Z.Z., and six other adults and two minors, most of whom were Roma and suspected of pickpocketing. One officer reportedly assaulted Z.Z., making him fall to the ground face down, and pressed a gun against his head. He then handcuffed him and made him kneel down facing a wall. The other arrested adults were also handcuffed and made to kneel against the wall until four police vehicles came to take them to the police station. During the arrest the officers allegedly called the detainees "stinking Gypsies". Z.Z. was reportedly beaten by police officers while he was led into the police station. He was taken to

an office where he alleges three officers questioned him and beat him on the abdomen, the chest and the back of the head. The officers demanded that he should confess to stealing a wallet from an Austrian woman, as well as to bribing the security guards in the centre of Szombathely where pickpockets allegedly operate. The beating continued until he vomited blood and lost consciousness for a short period of time. When the officers who beat him temporarily left the room, another officer allegedly told Z.Z. that he would be beaten to death if he refused to sign a statement prepared by the police. Later his handcuffs were removed before a police doctor came to check on his state of health. The doctor, who reportedly did not examine Z. Z., told him to sign a statement that he had not been ill-treated by the police.

The other detainees were reportedly threatened with beatings if they did not sign statements incriminating Z. Z.. When they refused, a police officer allegedly twisted Z. F.'s arm behind his back and then twisted his fingers. After he was hit and kicked several times he signed a police statement. An officer reportedly pulled É.K. by the hair and hit her in the abdomen. The police reportedly failed to inform the parents of the two minors that they had been arrested. All the detained adults and the two minors were later released. The same afternoon, Z.Z. received treatment in the Markusovszky hospital for injuries he had suffered as a result of the ill-treatment.

In May Amnesty International urged the Chief Public Prosecutor of Hungary to ensure that the investigation into this alleged ill-treatment incident is carried out promptly and impartially as required by Article 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Earlier, in February, Amnesty International received from the Chief Public Prosecutor's Office information about investigations into incidents of police ill-treatment reported to the organization in 1996 (see AI Index: EUR 01/01/97). Concerning the case of Hamodi Ahmed, an investigation against officer C.B. was dismissed because of lack of evidence. Another investigation in the same case

against unknown police officers was also dismissed "as the identity of the offender could not be established". The official reply did not give substantial grounds for such decisions and Amnesty International asked to receive full reports of the investigations into Hamodi Ahmed's complaint of ill-treatment. In the case of István Nagy, the initial investigation was dismissed in December 1996. However, in January, the Chief Public Prosecutor's Office ordered an additional investigation following István Nagy's appeal. Concerning the case of Károly S. an investigation against seven police officers was completed and referred to Budapest district prosecutors with proposals that the officers should be charged with ill-treatment under Article 226 of the Penal Code.

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## ITALY

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### ***Alleged human rights violations by members of the armed forces in Somalia***

On 9 June Amnesty International wrote to the Ministers of Defence and Justice, expressing concern at allegations by former Italian paratroopers, published in the press over the immediately preceding days, that Somali prisoners were subjected to torture and ill-treatment, sometimes resulting in death, by members of the Italian contingent of the multinational task force operating in Somalia in 1993.

Michele Patruno, who served in Somalia as a conscript, claimed that during 1993 Italian soldiers had kept prisoners for interrogation tied up in the sun and deprived of food and water, or given only spicy food to increase their thirst. If they refused to talk they were then subjected to blows, burning cigarettes applied to the soles of the feet, electric shocks to the body, including to the testicles, or were thrown against razor wire fences. His allegations were supported by photographs depicting soldiers apparently preparing to apply electrodes to the body of a young Somali man lying half naked on the ground.

In its letters Amnesty International welcomed the prompt opening of a judicial investigation into the allegations by a military prosecutor and of an internal administrative investigation by an army general. However, the organization urged that a comprehensive inquiry be conducted by a judicial body independent of the military and that its findings be made public, to ensure a demonstrably impartial examination, as required under the UN Convention against Torture and the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

Amnesty International also asked to be informed of any mechanism established by the government to provide a recourse of complaint to Somalis alleging human rights violations by the armed forces. It expressed the hope that if no such mechanism existed, an effective procedure would be made available to Somalis as soon as possible.

Amnesty International also expressed concern at Michele Patruno's claims that Italian conscripts received no specific training relating to the treatment of prisoners before arriving in Somalia. Failure to provide such training would be in breach of Italy's obligations under the Geneva Conventions and the Organization of Security and Cooperation in Europe's Code of Conduct on Politico-Military Aspects of Security, both of which require dissemination of humanitarian law to all military personnel.

Further allegations by other former soldiers and by Somalis of torture, sexual abuse and unlawful killings rapidly followed the initial claims.

On 11 June it was reported that, following preliminary investigations by the military prosecutor, certain specific cases of alleged torture had been referred to a civilian prosecutor for further investigation and the formulation of possible charges. The government then announced the creation, via a Ministry of Defence decree of 16 June, of a joint civilian and military Commission of Inquiry, led by a former president of the Constitutional Court.

On 7 July Amnesty International wrote again to the government authorities. It sought

clarification as to the precise areas of competence of the military and civilian prosecutors and clarification as to the precise terms of reference and powers of the Commission of Inquiry.

At the end of June Somalis claiming to be witnesses to alleged abuses by Italian soldiers and Somali human rights monitors receiving and examining such allegations and related evidence in Mogadishu, expressed concern publicly about threats to their physical safety and about the safety of collected evidence. Amnesty International drew the Ministers' attention to these claims and to the great logistical difficulties faced by Somalis trying to convey information to the Italian investigating authorities, given prevailing conditions in Somalia. The organization urged the government to do all in its power to protect witnesses who wished to give evidence of human rights violations, as well as human rights monitors investigating such abuses, and to provide ways and means to enable them to give evidence directly to the Italian investigating authorities. Amnesty International recommended that members of the judiciary investigating the alleged human rights violations, and/or representatives of the Commission of Inquiry, travel to Somalia to collect witness testimony and carry out on-site investigations as soon as possible.

In mid-July the President of the Commission of Inquiry stated publicly that it had been established that certain episodes of torture had occurred but indicated that the Commission's report would not be finalized until certain Somali witnesses had been interviewed.

### ***Alleged torture and ill-treatment by law enforcement and prison officers***

In March Amnesty International wrote to the Prime Minister drawing his attention to, and seeking his comments on, the organization's principal concern during the 1990s, namely the noticeable increase in the number of allegations that detainees and prisoners have been subjected to ill-treatment, sometimes amounting to torture and frequently accompanied by racist abuse, by law enforcement and prison officers. The letter also drew attention

to successive reports published by Amnesty International detailing its concerns about such allegations and to the organization's conclusion that, although Italy has adopted certain legislative and administrative measures designed to combat the use of ill-treatment against detainees and prisoners, in practice these are often not fully respected. Amnesty International pointed out that its conclusion was entirely consistent with the findings of such authoritative inter-governmental organizations as the UN Human Rights Committee, the UN Committee against Torture and the Council of Europe's Committee for the Prevention of Torture (ECPT).

Amnesty International sought assurances that it was the government's policy to authorize publication of the reports drawn up by the ECPT, following its visits to places of detention in Italy. Specifically, it asked about the likely date of publication of the ECPT's report on its second periodic visit to Italy in 1995, to follow up the criticisms and recommendations made after its first visit in 1992 (see AI Index: EUR 01/02/95) and of the ECPT's findings on its November 1996 *ad-hoc* visit to San Vittore Prison, Milan (which the ECPT had described as "outrageously" overcrowded following its 1992 visit).

Amnesty International also pointed out that, following its consideration of Italy's second periodic report in April 1995 (see AI Index: EUR 01/02/95), the UN Committee against Torture expressed concern about the persistence of cases of ill-treatment by law enforcement and prison officers, about reports of torture and deaths in custody, and about continuing high levels of prison overcrowding. It also noted that the majority of victims of ill-treatment were either from certain "foreign countries" or belonged to "minorities" and emphasized its concern about "a dangerous trend towards some racism". The Committee also stated that the punishment imposed on law enforcement officers in cases of alleged torture and deaths in custody were "not commensurate with the seriousness" of the acts committed.

The Committee's recommendations included: creating a specific criminal offence of torture; monitoring effective compliance with

existing safeguards against ill-treatment during initial custody, especially access to medical and legal assistance; ensuring the speedy and effective investigation of complaints of torture and ill-treatment; the adequate and effective punishment of those responsible; establishing further relevant training programs for law enforcement and medical personnel and improving the rights of torture victims to state compensation.

Amnesty International asked the Prime Minister for information regarding any steps already taken to implement these recommendations and about any future reforms envisaged by the government in the areas indicated by the UN Committee against Torture.

No response had been received by the end of June.

### ***Updates to previously documented cases of alleged torture and ill-treatment***

In January Turin Court of Appeal examined **Marcello Alessi's** appeal against a May 1994 sentence finding him guilty of insulting, and using violence against, a prison officer in December 1992. (See AI Index: EUR 01/01/97). The court acquitted him of insulting the officer but confirmed the remainder of the May 1994 sentence.

The first instance trial of the prison officer on charges of causing Marcello Alessi bodily harm and abusing his power as a public official, arising from a complaint lodged by Marcello Alessi in December 1992, and of Marcello Alessi himself, again charged with insulting the officer in December 1992, is scheduled to take place in December 1997.

In February a Catanzaro court was due to try **Grace Patrick Akpan** on charges of refusing to identify herself to a public officer in February 1996, insulting and resisting a police officer and causing an officer bodily harm, and also two police officers charged with causing her serious bodily harm, abusing their position as police officers and (in one of their cases) threatening her. The court postponed the hearing until October 1998. (See AI Index: EUR 01/01/97).

In March 1993 Grace Patrick Akpan had also lodged a formal complaint of ill-treatment, supported by medical and eye-witness evidence, against another, off-duty, police officer in Catanzaro. In April, almost four years later, a court in Catanzaro was scheduled to try the officer on charges of insulting Grace Patrick Akpan, using racist abuse, threatening her with deportation to Africa and causing her bodily harm, by slapping her and pulling her by her hair, causing injuries requiring an estimated 10 days to heal. She was also due to be tried on charges of insulting the officer and causing him bodily harm, by hitting and scratching him, causing injuries requiring an estimated three days to heal. However, the court immediately postponed the hearing until July.

Further developments were reported in the case of **Salvatore Marino** who died in a Palermo police station in 1985, while being interrogated about the murder of a police officer. A forensic report established that he had been forced to swallow large quantities of salt water through a plastic tube and had sustained numerous injuries to his body: it concluded that he had died from "respiratory constriction which had led to heart arrest" (see *Amnesty International Reports 1986 to 1991* and AI Index: EUR 03/02/90).

Eleven police officers and four *carabinieri* officers have been tried in connection with his death. In May 1990 a first instance court sentenced 10 officers who participated in his interrogation to suspended terms of two years' imprisonment and two years' prohibition from holding state employment for unintentionally causing his death by subjecting him to physical coercion. Two other officers were found guilty of a lesser charge of "causing involuntary physical injury", qualifying them for an amnesty. Three defendants were fully acquitted.

In May 1994 an appeal court sentenced eight of the officers to three years' imprisonment for deliberately inflicting injuries leading to the death of Salvatore Marino, acquitted three others and ruled that there were no grounds to proceed against four officers who had not actually inflicted the torture. However, the Court of Cassation

subsequently annulled the decision in these four cases and referred them for retrial before the court of appeal, ruling that the officers in question had either stood by while torture took place, or were senior officers, responsible for the conduct of their subordinates, and, therefore, they had all participated in the crime.

In May 1996 the appeal court sentenced one of these officers, the head of the Palermo Flying Squad, to three years' suspended imprisonment and the other three to suspended sentences of two years, 11 months' imprisonment. In February 1997 the Court of Cassation annulled the suspended sentences and ordered the retrial of the officers.

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## KAZAKSTAN

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### *In defence of human rights defenders*

Amnesty International wrote in February to President Nursultan Nazarbayev to express concern about a recent statement made on national television by Zhurmabek Busurmanov, the First Deputy Chairman of the Presidential Human Rights Commission, in which he accused three non-governmental human rights organizations based in Kazakstan of seeking negatively to influence international opinion about Kazakstan, and of having links with international organizations whose aim was the "destabilization" of the country and "ideological sabotage". He also questioned the motives of organizations in seeking to defend the human rights of former detainees Nikolay Gunkin and Nina Sidorova (see AI Index: EUR 01/01/96 and EUR 01/01/97), whom Zhurmabek Busurmanov described as "odious".

In a detailed critique of Zhurmabek Busurmanov's statement, Amnesty International expressed concern that the First Deputy Chairman's comments raised very serious doubts that within the Presidential Human Rights Commission there was a general recognition of the fundamental principle that all persons enjoy equal and inalienable rights,

including the right not to be tortured or ill-treated, the right not to be detained arbitrarily, and the right to a fair trial. Amnesty International also considered that unjustly calling into question the motives of the three local human rights organizations he had named - the Kazak-American Bureau on Human Rights and the Rule of Law (since renamed the Kazakstan International Bureau for Human Rights and the Rule of Law), the Almaty Helsinki Committee, and Legal Development of Kazakstan - constituted intimidation of these organizations by the authorities.

The organization called on the President to condemn unjustified criticisms of human rights defenders by state officials, and to ensure that the Human Rights Commission strove to build a working relationship with human rights organizations based on open and constructive dialogue, and respect for the crucial role human rights defenders play.

Amnesty International's letter was circulated to the human rights organizations named in the First Deputy Chairman's statement, and consequently was reported in the media in Kazakstan. It was subsequently reported to Amnesty International that Zhurmabek Busurmanov had been reassigned to other duties.

### ***Lobbying for decriminalization of homosexuality***

In a communication in February to Igor Rogov, Adviser to the President of Kazakstan on Legal Issues, Amnesty International again sought clarification of the status of Article 104 part 1 of the Criminal Code, which punished homosexual acts between consenting adult men. In 1993 Amnesty International had received information from unofficial sources that this law had been repealed, but the Ministry of Justice, responding to a request from Amnesty International for confirmation of this, had informed the organization that the law remained in place. In its communication to Igor Rogov, Amnesty International also sought information about whether it was envisaged to decriminalize homosexuality in a new Criminal Code then in preparation. The organization stressed that people

imprisoned for homosexual acts between consenting adults in private were considered by Amnesty International to be prisoners of conscience, and that the decriminalization of homosexuality would be a positive indication of the strengthening of respect for human rights in Kazakstan.

As of early July, no official reply had been received on this subject.

### ***Alleged torture and ill-treatment in pre-trial detention and penitentiaries*** (update to information given in AI Index: EUR 57/10/96)

In March Amnesty International wrote to the Procurator General to restate concerns about allegations of ill-treatment of prisoners in pre-trial detention and penitentiaries. Notably, the organization raised again the case of **Valery Zippa**, in the light of information recently received by Amnesty International that criminal proceedings had been dropped against officials accused of inflicting on him in 1994 injuries including a ruptured spleen. The organization also raised two new cases. The first involved **Yevgeny Tarasov**, who alleged that he had been tortured by police officers in Pavlodar into making a confession of murder, for which he had subsequently been convicted and sentenced to 10 years in prison. The alleged torture of Yevgeny Tarasov had taken the form of beatings with truncheons while he was bound to a central heating radiator, and having a gas mask placed over his face with the air supply switched off until he lost consciousness. The second case involved **Viktor Kuznetsov**, who was serving a six-year prison sentence and alleged ill-treatment by officials at various penitentiaries, including an assault by prison guards at a penitentiary in North Kazakstan Region.

In a reply received in May, Deputy Procurator General S.O. Ongarbayev made no direct response to Amnesty International's request for information about the findings of the investigation into the alleged beating of Valery Zippa. The Deputy Procurator General responded only to Amnesty International's additional request for assurances that Valery Zippa was getting

appropriate medical care, confirming that he was being treated at his current place of confinement for the consequences of having had his spleen removed. Regarding Viktor Kuznetsov, the Deputy Procurator General stated that no proof of his allegations of ill-treatment had been found, and that Viktor Kuznetsov was known as a persistent violator of prison rules. The letter gave no response at all about Yevgeny Tarasov.

#### **Conditions in juvenile penitentiary LA-155/6** (update to information given in EUR 57/10/96)

In Amnesty International's March letter the organization reminded the Procurator General of its concerns about conditions at the juvenile penitentiary LA-155/6 in Almaty. In addition to being the subject of action by Amnesty International, including calls for investigations of alleged deliberate ill-treatment and deaths in custody, this penitentiary had been featured in a television film, "Experiment of the Cross", which had been shown in several countries since mid-1996 and had prompted significant public interest. In the letter received from him in May, the Deputy Procurator General stated that "within the limits of the present lack of material, financial and medical resources the prisoners in the colony LA-155/6 are treated in accordance with the labour-reform laws of the republic". He asserted that the prisoners were provided with adequate bedding, clothing and food, had opportunities for education, and a range of other facilities. He continued: "There is no evidence of facts of cruel treatment, torture [or] ill-treatment in these institutions".

Amnesty International continued to press for a substantive response from authorities about alleged deaths in custody at LA-155/6. Amnesty International members also continued to press their own governments to take an interest in the issue of poor prison conditions in Kazakhstan amounting to ill-treatment, with a view to securing international material and technical support to bring about improvements.

**The death penalty** (including update to information given in AI Index: EUR 01/01/97)

During the period under review Amnesty International continued to receive from unofficial sources encouraging indications of a positive shift in official attitudes towards the application of the death penalty. Notably, courts trying capital cases were said to be exercising the option of imposing a long custodial sentence instead of a death sentence more frequently than before. Moreover, a new Criminal Code which at the time of writing had been approved by parliament but was awaiting the signature of the President to become law was reported to include fewer capital crimes than in the existing code.

However, death sentences continued to be passed and executions carried out. Amnesty International was particularly outraged by the execution in April of **Oleg Gorozashvili**. The authorities went ahead with the execution despite pleas within Kazakhstan and from abroad for a stay of execution to be put in place in order to allow an examination of allegations of serious investigative and judicial errors in this case. The authorities also acted apparently in violation of an undertaking given in January by a representative of the State Investigation Committee not to carry out the execution until the allegations had been thoroughly investigated.

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## **KYRGYZSTAN**

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### ***Prisoners of conscience***

#### **Political activist Topchubek Turgunaliyev**

**Topchubek Turgunaliyev**, a leading opposition political activist, was sentenced in January to a 10-year prison term after being convicted of three offences. On appeal the following month charges of "theft of state property" and "malfeasance" were thrown out, leaving only a charge of "abuse of authority", for which the Supreme Court replaced

the 10-year prison term with a sentence of four years' confinement in a low-security penitentiary. As arranged by the Supreme Court, the sentence was apparently to have been in practice non-custodial, with Topchubek Turgunaliyev being allowed to live at home in Bishkek, the capital. The appeal court decision was widely regarded as a face-saving solution to what had been a controversial case. There had been widespread protests against the prosecution of Topchubek Turgunaliyev, on the grounds that the bringing of criminal charges, which were related to his authorization in 1994 of payments for the development of business ventures while he was rector of the Bishkek Humanities University, appeared to be politically motivated, and of dubious legal validity.

However, in early March law enforcement officials removed Topchubek Turgunaliyev from his home and transported him to a low-security penitentiary at Arka, Osh Region, several hundred kilometres from Bishkek. The reason for this change in the terms of his sentence appeared to be that since the appeal hearing Topchubek Turgunaliyev had taken part in opposition political gatherings in Bishkek. Living conditions for prisoners at the Arka penitentiary were said to be harsh, and in June Topchubek Turgunaliyev was reported to be in very poor health.

Amnesty International believed that Topchubek Turgunaliyev, having been the subject of a politically motivated and apparently bogus criminal prosecution, had had a non-custodial sentence replaced with a sentence of imprisonment in harsh conditions because he had exercised his fundamental human right to freedom of expression. He was a prisoner of conscience. (For a detailed account of this case, see *Kyrgyzstan - Prisoners of conscience back on trial: The cases of Topchubek Turgunaliyev and Yrysbek Omurzakov*, AI Index: EUR 58/08/97.)

During the February hearing of Topchubek Turgunaliyev's appeal police detained **Tursunbek Akunov**, a well-known human rights defender, and **Chynybek Aitkulov**, an opposition political activist, for being involved in a picket of the Supreme Court.

Chynybek Aitkulov was quickly released on the grounds of ill health, but Tursunbek Akunov was sentenced by a district court judge in Bishkek to 24 hours' administrative arrest for "organizing an unsanctioned meeting". He later lodged an appeal against this sentence, and in March the Supreme Court ruled in his favour and dismissed the conviction handed down by the district court.

### Prosecution of journalists for criminal libel

Journalist **Yrysbek Omurzakov** went on trial in a district court in Bishkek in May charged with the criminal libel of a factory manager in an article in the newspaper *Res Publika*. Critical of the government's privatization policies, the article featured a workers' hostel attached to a factory in Bishkek where residents were resisting moves by managers allegedly to privatize the hostel into their own hands. Yrysbek Omurzakov had been in pre-trial detention since March.

On trial with Yrysbek Omurzakov were two women residents of the hostel, **Damira Akmatova** and **Gulya Ibraimova**, charged with "knowingly providing false information" to the journalist. They had not been in pre-trial detention.

After only three days the judge halted the trial proceedings and referred the case for reinvestigation. Yrysbek Omurzakov was ordered to be returned to custody. However, a hearing in the Bishkek City Court in early June resulted in Yrysbek Omurzakov being released on bail, although the charges against him and against Damira Akmatova and Gulya Ibraimova remained outstanding. (For a detailed account of the background to this case, see AI Index: EUR 58/08/97.)

In a separate case, four other people associated with the *Res Publika* newspaper went on trial in a Bishkek district court in the same week in May as Yrysbek Omurzakov. They were charged with the criminal libel, in articles published between 1993 and 1996, of the president of the state-owned gold company Kyrgyzaltyn. All four defendants were found guilty. **Zamira Sydykova**, editor-in-chief of *Res Publika*, and journalist

**Aleksandr Alyanchikov** were each sentenced to 18 months' imprisonment, and Bektash Shamshiyev and Marina Sivasheva (respectively a translator and a copy editor) were fined and banned from journalism for 18 months. On appeal to the Bishkek City Court in June Aleksandr Alyanchikov's sentence of imprisonment was suspended, and he was ordered to be released from custody, although he remained banned from journalism for 18 months. The convictions of Bektash Shamshiyev and Marina Sivasheva were overturned completely. In respect of Zamira Sydykova the court ruled to leave her conviction unchanged, and modified the sentence only by ordering her to be placed in a detention facility with a more lenient regime.

Amnesty International took no position on the legitimacy or otherwise of the complaints of libel in these two cases, and recognized that anyone who believed that they had been the victim of defamation had the right to seek redress through the courts. Amnesty International argued, however, that using criminal proceedings in libel cases such as these was inappropriate, since it implied that the defendant was responsible for an injury to society at large. The organization disputed that the alleged libel in these cases constituted any such injury to society. Amnesty International believed that libel complaints such as in these cases should be addressed through civil proceedings in which a complainant could seek redress for personal injury to their reputation.

Amnesty International considered Yrysbek Omurzakov, Zamira Sydykova and Aleksandr Alyanchikov to be prisoners of conscience and called for their immediate and unconditional release. It called for the dropping of charges against Damira Akmatova and Gulya Ibraimova, who, if convicted and imprisoned, would be regarded as prisoners of conscience.

See also *Women in Europe* page 81.

### ***Alleged torture and ill-treatment***

Responding to reports that the government was to review proposals for a new state programme on public law and order, Amnesty International wrote in April to Prime Minister Apas Dzhumagulov to

express the hope that principles for the observance of human rights as set out in international standards would be fully incorporated into this programme.

In particular, Amnesty International stated its concern that every reasonable step should be taken to ensure that increased efforts to solve crimes and to tackle the problem of juvenile crime (both reported aims of the planned law and order programme) should be achieved without recourse to practices which violated international standards regulating the conduct of law enforcement officials and protecting the rights of detainees. The organization stated this concern in the light of continuing reports of serious breaches of discipline by law enforcement officials, including alleged torture and ill-treatment of criminal suspects. In addition to cases mentioned in the May 1996 Amnesty International report *Kyrgyzstan: A tarnished human rights record* (AI Index: EUR 58/01/96), the organization raised the case of two men identified as **Namir N.** and **Viktor S.**, and two women identified as **Yelena S.** and **Olga**, who, according to a Kyrgyzstani media report, had filed complaints in July 1996 against officers of the October district police department in Bishkek. The complainants alleged that they had been severely beaten while held overnight in the custody of police officers. Medical examinations reportedly showed that Olga had sustained concussion, cuts and bruising, Yelena S. and Viktor S. had sustained minor injuries, and Namir N. had sustained a fractured collar bone.

As of early July 1997, Amnesty International had received no response from the Prime Minister's office or from any other official about the status of the investigation of the complaint by these four people. (This case is also referred to in *Women in Europe* page 79.)

**Tursunbek Akunov** claimed that he was beaten by a police officer in the course of being arrested while picketing the Supreme Court building in February (see above). The claim was substantiated by the testimony of a witness. It is not known whether this ill-treatment was the subject of an official investigation.

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

In April Amnesty International wrote to the Chairmen of the two chambers of Kyrgyzstan's parliament and to the Chairman of the Supreme Court concerning a report that the Supreme Court was drafting an amendment to the Criminal Code which, if approved by parliament, would extend capital punishment to the offence of large-scale drug possession. Amnesty International argued that such an extension would not solve drug-related crime in Kyrgyzstan, and called for this project to amend the Criminal Code to be abandoned. As of early July, the organization had no information about the status of the draft amendment.

During the period under review Amnesty International learned of 10 new death sentences in Kyrgyzstan, all of them passed in 1996.

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## **LATVIA**

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### ***Asylum-seekers***

In June the Latvian Parliament (*Saeima*) reportedly adopted a law "On Asylum-seekers and Refugees in Latvia".

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## **MOLDOVA**

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### ***The imprisonment of Ilie Ilascu and the case of the "Tiraspol Six"*** (update to information in Amnesty International Report 1997)

During the period under review there was a development in the case of the so-called "**Tiraspol Six**", who had been convicted in December 1993 by a court in the self-proclaimed Dnestr Moldavian Republic (DMR) (see AI Index: EUR 01/02/94).

Leaders from Moldova and DMR signed an agreement on 8 May which moved towards ending the seven-year separatist dispute. The agreement did not specify what constitutional status would

eventually be granted to the ethnically Russian DMR region, but included a pledge that it would remain part of Moldova. According to reports, the release from detention of **Ilie Ilascu** and his other three co-defendants was also discussed during the negotiations. Apparently no final agreement has been reached and they remained in prison at the end of June.

**Ilie Ilascu, Alexandru Lesco, Andrei Ivanîlc and Tudor Petrov-Popa** have been in prison since their conviction in 1993 for allegedly killing two DMR officials. Amnesty International and other human rights groups raised questions about the fairness of the trial. Local organizations continued to maintain that the men had been prosecuted for political reasons, solely because of their membership in the Christian Democratic Popular Front, a Moldovan party that favours reunification with Romania.

Two of the six prisoners were released in 1994. **Petru Godiac** was set free in June 1994, after serving his sentence in full. The following month **Vladimir Garbuz**, who had received less than the minimum sentence in view of his cooperation with the investigation, was pardoned and released early from his six-year prison term. The only defendant to plead guilty and whose testimony implicated the others, Vladimir Garbuz, subsequently alleged publicly in October 1994 that his confession had been extracted under duress, including by beatings.

Alexandru Lesco, Andrei Ivanîlc and Ilie Ilascu suffer from serious illnesses and they have not, reportedly, been provided with adequate medical care. The DMR authorities repeatedly refused to allow independent medical examination of the prisoners by outside experts, including representatives of the International Committee of the Red Cross.

Amnesty International continued to call for a review of the case, and for the remaining four prisoners to receive all appropriate medical care.

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## **NORWAY**

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### **Detention of mentally-ill prisoners**

In January the Norwegian Ministry of Justice replied to a letter Amnesty International had written to the Minister of Justice in October 1996 expressing concern about the practice of placing mentally-ill people in isolation in prisons (see AI Index: EUR 01/01/97). The Ministry of Justice expressed the government's dissatisfaction with the current situation and acknowledged the authorities' commitment to its improvement. The Ministry, however, stated that it was confident that "the conditions for mentally-ill prisoners are in conformity with UN Standard Minimum Rules for the Treatment of Prisoners [the Standard Minimum Rules]."

In May, Amnesty International wrote to the Minister of Justice welcoming the authorities' commitment to improving the situation of mentally-ill prisoners, but expressed concern about the apparent difference in interpretation of the requirements of the Standard Minimum Rules. In particular, Amnesty International stated that it failed to understand how the practice of placing mentally-ill prisoners in isolation could be considered to be in conformity with the Standard Minimum Rules, given that Rule 22(2) incontrovertibly states: "Sick prisoners who require specialist treatment should be transferred to specialized institutions...". In addition, Rule 82(1) and (2) states that "[p]ersons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible" and that "[p]risoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management". The organization asked for clarification from the Minister of Justice on this point. Amnesty International also asked to be informed about measures the authorities were planning to take to eradicate the practice of placing mentally-ill detainees in isolation, any steps being taken to ensure that mentally-ill prisoners were speedily transferred to special institutions, as well as up-to-

date statistics on the detention of mentally-ill prisoners in Ila Prison.

### **Prolonged detention in police cells**

In its January reply, the Ministry of Justice stated that "the issue of prolonged detention in police cells is currently not a problem" and that "the Ministry has introduced procedures in order to secure that a detainee is not kept in a police cell for more than five consecutive days".

In its May letter, Amnesty International welcomed the Ministry's statement and asked to be informed about the procedures introduced by the Ministry. The organization also asked to be informed how the "five consecutive days" are calculated.

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## **PORTUGAL**

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### **Urgent Action on new proposals regarding the death penalty**

In May Amnesty International received confirmation that the Portuguese Parliament was to consider imminently an amendment to the Constitution which could place people at risk of the death penalty. The authorities were seeking to amend the clause which forbids the extradition of any person for crimes which carry the death penalty under the law of the requesting state. According to the proposed amendment to Article 33(3) of the Constitution, extradition to requesting states would be allowed in certain exceptional cases, if the Portuguese Government was persuaded that it had received "satisfactory assurances" (*garantías consideras suficientes*) that the death penalty would be commuted and substituted by another penalty of limited duration. Concerned that the Portuguese authorities had not defined the nature or the applicability of such assurances, and the way in which they would assess their reliability, Amnesty International sent urgent appeals expressing its

concern to Jorge Sampaio, President of the Republic, and António Almeida Santos, President of the Assembly of the Republic. In its appeals Amnesty International expressed its opposition to the amendment because it could result in an extradited prisoner being sentenced to death by a court in the requesting State, and underlined its unconditional opposition to the death penalty. It also suggested that the amendment would be seen in other countries as a retrograde step, given Portugal's long history of abolition of the death penalty and the important role Portugal has played in seeking worldwide abolition.

### **Cases of alleged ill-treatment**

Amnesty International was concerned about allegations of police ill-treatment that were made by **Vítor Manuel Santos**, a 23-year-old carpenter, hours before he was found shot through the head near Vila Franca de Xira on 9 February 1997. An autopsy report concluded that the cause of death was suicide, but also reportedly found on his body a number of marks that indicated he could have been beaten shortly before his death. The Public Security Police (*Policia de Seguranca Pública - PSP*) deny the allegations made by Vítor Santos and by members of his family that he had been beaten and kicked en route to and inside the police station at Vila Franca de Xira, following his arrest in a bar for drunk and disorderly behaviour during the night of carnival. After leaving the station Vítor Santos attended the local hospital, where he was reported to have a bruised left eye and to be in a state of great agitation. A judicial complaint was lodged against the police by his family. Reports that the judicial inquiry was dropped by the public prosecutor (*Ministério Público*) on grounds of lack of evidence have not yet been confirmed. The family say they have not had access to the autopsy report and are seeking information concerning certain incidents prior to his death.

Amnesty International is seeking further details about allegations that a prisoner at Caxias, **Belmiro Santana** was severely beaten by five guards on the night of 8 June. He remains in a poor

state of health. The beating is thought to have originated in an incident during a visit by the prisoner's mother when the guard refused to allow him to return to his cell to fetch a legal document. Belmiro Santana claimed that he had been kicked and beaten on the arms and groin with truncheons, that two of his teeth had been broken and that the rings on his pierced nipples and navel had been torn out "in cold blood", leaving deep gashes in the flesh. He further claimed that he had been left for the remainder of the night in solitary confinement, without medical treatment, and did not see a doctor until the following day. He was then taken to the Hospital S. Francisco Xavier for tests and treatment and later transferred back to the prison hospital of Caxias. The General Prison Services Directorate (*Direcção-Geral dos Serviços Prisionais - DGSP*) reportedly stated that only one guard had been involved in the incident and that both a guard and a prisoner had received medical treatment. An inquiry into the incident was opened by the DGSP.

### **Update on deaths in police custody**

A judicial inquiry into the death of **Carlos Manuel Gonçalves Araújo** (AI Index: EUR 01/01/97), who died of a gunshot wound in the course of arrest, shortly after being taken into custody for robbing a shop in Évora on 15 December 1996, continued before the *Tribunal de Instrução Criminal de Évora*. The police officer whose Browning semi-automatic pistol was found to have fired the fatal shot, and who had been held in preventive detention, was subsequently released by order of the appeal court (*Tribunal da Relação de Évora*) and he has been allowed to continue service within the police force, but not to carry arms. Disciplinary proceedings are continuing against him. In its inquiry into the shooting, the General Inspectorate of Internal Administration (*Inspeção-Geral da Administração-Interna - IGAI*) found there been no unwarranted delay in getting Carlos Araújo to hospital, as earlier reports had suggested.

IGAI also informed Amnesty International in May that it was pursuing disciplinary proceedings against a police officer for unjustifiably assaulting

Carlos Araújo and the two other men arrested with him while they were being held in custody at Évora. The two other men were named as **Sérgio Filipe Reis Nogueira** and **Luís António Gomes Alfama Correia**. The disciplinary inquiry was still in progress.

The Portuguese authorities assured Amnesty International that judicial and disciplinary inquiries had been opened into the death of **Olívio Almada** (AI Index: EUR 01/01/97), whose body was found in the Tagus river following his detention by police officers in October last year.

The trial of officers of the National Republican Guard (*Guarda Nacional Republicana - GNR*) in connection with the killing of **Carlos Rosa** (AI Index: EUR 01/01/97) has been scheduled for 22 September 1997 before the *Tribunal da Boa Hora* in Lisbon. Defence lawyers acting for the police officer accused of killing the detainee and cutting his head off are reportedly attempting to reduce the charge against the officer from aggravated homicide (*homicídio qualificado*) to one of manslaughter (*negligência grosseira*). Four other police officers face charges in connection with the murder.

### ***Inspector-General's plan to control abuses***

At the end of May IGAI published a report on its plans for 1997. Referring specifically to criticisms made by both Amnesty International and the European Committee for the Prevention of Torture (AI Index: EUR 01/01/97), the Inspector-General announced that initially he would focus on human rights breaches by the security forces. Plans included systematic, unannounced visits to PSP stations and GNR posts at the rate of one station or post a day by the end of the year. IGAI is also working on new proposals governing the use of firearms by police officers and is engaged in an inquiry into the current practice of suspending internal disciplinary procedures against officers

while judicial inquiries are under way. A study is being undertaken into police conduct towards minority groups, such as Africans and Roma.

### ***Amnesty International calls for reform of Penal Code on torture***

In April, Amnesty International called on the government to redraft the proposed reform of the articles of the Penal Code relating to law enforcement officers suspected of crimes of torture and ill-treatment.

The revised 1995 Penal Code introduced specific crimes of torture and ill-treatment and also provided for the punishment of superior officers who fail to report such crimes within three days. The effectiveness of these new laws is questionable because of the qualifying articles. In particular, the definition of what constitutes such a crime is so restrictively worded in Article 243, and the burden of proof on the victim so heavy, that many acts of torture and ill-treatment would not qualify.

The consequences of this are very serious because of another piece of legislation which discriminates against victims of ill-treatment. Most of the cases of ill-treatment by law enforcement officers would be considered crimes of common assault (*ofensas corporais simples*) under Article 143. Currently clause 2 stipulates that any criminal investigation requires a judicial complaint by the victim. Amnesty International believes that there are many valid reasons why the victim of an assault by a law enforcement officer may legitimately not wish to make a complaint. If there is no such complaint then there will be no judicial action and the victim is denied a remedy.

In December 1996 the Minister of Justice assured Amnesty International that this article of the law would be reclassified to a *crime publico* leading to automatic judicial action. The proposed reform is a two-step process meaning that the law would only recognize common assault as a *crime publico* where the officer is suspected of having committed an offence with a **grave** abuse of authority. This introduces the definite possibility that numerous offences of common assault will be

excluded because they fail to meet the court's definition of the qualification **grave**. Then the law making common assault subject to this amendment is itself conditional.

Amnesty International believes that for the reform to be effective any new law should make clear that where an officer is suspected of ill-treatment this should lead to automatic judicial action.

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## ROMANIA

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### ***Unlawful use of firearms by police officers***

Amnesty International is concerned with the growing number of reports of apparently unlawful shootings by Romanian law enforcement officials in the past two-year period. Amnesty International believes that firearms were used in circumstances which are prohibited by internationally recognized principles on the use of force and firearms. In March, the organization published a report, *Romania - Unlawful use of firearms by law enforcement officials* (see AI Index: EUR 39/01/97), which described 11 incidents in which three people were killed and 12 injured, some of whom suffered severe consequences. In one such incident which occurred in the evening of 11 February, in Bucharest, two police officers reportedly observed Laurențiu Ciobanu, a 29-year-old Rom from Gîneasa, taking a radio-cassette-player from a parked car. When the officers attempted to apprehend the suspect, he reportedly swung a screwdriver at one of the police officers and started to run. The police officers reportedly called on him to stop and fired two warning shots from their guns. As Laurențiu Ciobanu continued to run one of the officers shot at him three times bringing him to the ground. He was taken to hospital where he reportedly underwent several operations for injuries caused by the bullets to the lungs and kidneys.

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

On 3 February at about 6am two police officers came to the Iordache family home in Bucharest and carried out a search without presenting a warrant or obtaining their written consent. After an hour, the police took Dănuț Iordache to the Section 14 Police Station for questioning. He was released two days later, on 5 February, although the police are authorized to keep a suspect in detention for only 24 hours. On the same day Dănuț Iordache was treated in the Emergency Hospital for a broken jaw and contusions on the chest. He claimed that he had been beaten by many police officers in the police station and that his jaw broke after he was hit with a club.

On 7 February, in Ungureni, Bacău county, Daniel Neculai Dediu, a 26-year-old man, was arrested and held in detention in the local police station for 24 hours. He claims that the local police chief and his deputy severely beat him in order to force him to confess to breaking into a village bar. The officers reportedly beat and kicked Daniel Neculai Dediu in the abdomen, and then hit him with truncheons on the back. When Daniel Neculai Dediu refused to confess to the burglary one officer hit him with a wooden chair until it broke. Later he hit the detainee on the back with a metal chair. Daniel Neculai Dediu then wrote a statement, which was dictated to him, in which he "confessed" to the charge and to threatening with an axe a police officer who came to apprehend him. The medical certificate issued to Daniel Neculai Dediu on 10 February describes four large bruises on both sides of the chest, bruising of the right arm, extensive bruising on the back and lesions on the left knee.

Amnesty International also received reports of a further incident in which police officers ill-treated members of *Miscarea de Integrare Sărituală în Absolut* (Movement for the Spiritual Integration in the Absolute), commonly known as *MISA*, an organization of yoga followers (See: *Women in Europe - Romania* AI Index: EUR 01/02/96). On 10 March at around 6am in Bucharest, a police patrol entered by force a house which belongs to Catrina Nicolae, President of *MISA*. The officers took the identity cards of all the people in the house and told them that they

would be taken to Section 18 Police Station. More *MISA* members from another house on the same street were also ordered to come to the police station. Simion Lupescu, who is a law student, persistently complained that the police action was illegal. While around 20 people were being pushed by the police into a bus, an officer reportedly hit Simion Lupescu on the chest and the back several times and then handcuffed him. The same officer then grabbed M|d|lin Mocanu, who had just arrived in front of the house and attempted to leave the scene of the incident. He allegedly punched M|d|lin Mocanu on the chest, abdomen and back before pushing him onto the bus. At the police station the detained *MISA* members were held for over four hours. They were told that those who did not have proper registration of residence in Bucharest would have to sign a police statement and would be fined. When some of the detained protested, an officer reportedly approached Adelina Matei, a medical student, kicked the table she had been sitting on and hit her in the abdomen. Police harassment and intimidation continued as the detainees refused to sign police statements and asked to speak to a lawyer. They were individually taken to be fingerprinted and photographed. The officer who escorted them was followed by a police dog who was not on a lead or muzzled. When Simion Lupescu refused to be fingerprinted, the same officer who had ill-treated him earlier reportedly took him by the collar and slapped and punched him, and also threatened him with further ill-treatment if he should fail to cooperate. Victor Safta was also reportedly slapped and kicked by police officers when he refused to sign a police statement. Prior to their release at around 11am, 16 people were issued with fines for improper registration of residence, which they have subsequently appealed to the municipal court. Simion Lupescu was examined by a forensic medical expert on the same day and given a medical certificate which described bruises and lesions on his chest and back, injuries which are consistent with his allegations of ill-treatment.

On 13 May, at around 10am, in a café in Br|ila, a man who was later identified as a police officer reportedly offered to “sell” Costic | Naz|ru,

the 63-year-old proprietor of the café, commutations for fines. Costic | Naz|ru refused because he believed that he was being set up following several false accusations that he bought merchandise in violation of his license to operate a small café. At around 12am, five men in plain clothes presented themselves as police officers but refused to show their badges. An officer reportedly hit Costic | Naz|ru, causing him to fall to the ground, and he was dragged to a police car. Costic | Naz|ru was told that he was suspected of buying stolen goods and organizing illegal gambling and was taken to the police station on GalaŦ street. During the interrogation he was allegedly beaten on the nape of the neck and on the head. The officers demanded that he should write a statement confessing to the charges. His request to speak to a lawyer was refused. He was detained for three hours and then released without being charged with any criminal offence. Two days later he was examined by a forensic medical expert who established bruising on the neck, the left shoulder, the left arm and the left side of the chest, injuries which required three to five days medical treatment.

In May and July Amnesty International urged the General Prosecutor of Romania to initiate thorough and impartial inquiries into these incidents of ill-treatment, to make public the findings and to bring to justice anyone responsible for human rights violations.

See also *Women in Europe* page 80.

### ***Response of the Ministry of the Interior to Amnesty International cases reported during 1996***

In March Amnesty International received from the Ministry of the Interior a copy of “*Documentar cuprinzând situaŦile de fapt în cazurile si aspectele semnalate de membri ai Amnesty International în 1996*” (Document about the factual situation in cases and other observations made by members of Amnesty International in 1996). Amnesty International made this 29-page report available to its members who are working on cases of human rights violations in Romania, along

with its comments about outstanding concerns in the reported cases.

Amnesty International's comments in three specific cases mentioned in this report are illustrative of the apparent failure of the Romanian authorities to investigate ill-treatment complaints promptly and impartially, as required by Article 12 of the United National Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as Article 7 of the International Covenant on Civil and Political Rights.

In the case of Gheorghe Notar Jr, Ioan ȂtvÅs and Rupi Stoica (See AI Index: EUR 01/01/97) it is noted that an investigation into the alleged ill-treatment of the three minors is under way and that "the checks which have already been carried out confirm that the two officers who investigated the minors have acted properly, respecting legal procedures". Furthermore, it is noted that "the investigation to which the minors had been subjected respected their right to defence (an ex-officio lawyer, Kiralyhalni Stefan, presented his power of attorney, reference number 1971, issued by the Bar of Mures County on 15 July 1996.)". However, the date of issue of this power of attorney clearly indicates that the lawyer had been appointed three days after Gheorghe Notar Jr, Ioan ȂtvÅs and Rupi Stoica were released from the Centre for the Protection of Minors where they were held in custody for five days. In the course of their detention they were taken to the police station and interrogated on several occasions by police officers without the presence of a lawyer or the minors' parents.

In the case of Gabriel Carabulea (see *Ill-treatment and death in suspicious circumstances of Gabriel Carabulea*, AI Index: EUR 39/10/96) the official response contains contradictory information. It states that on 13 April 1996, Gabriel Carabulea suffered chest, abdominal and head injuries in a road accident which took place immediately before his arrest. These injuries had reportedly been established following his admission to hospital on 16 April 1996. At the same time, in support of the claim that Gabriel Carabulea had not been ill-treated by police officers who questioned

him, it is noted that two other detainees who were medically examined in the police station at the same time as Gabriel Carabulea, following his arrest on 13 April 1996, had testified that they neither observed any physical injuries nor heard Gabriel Carabulea complain of any pain or ill-treatment by police officers. Amnesty International requested copies of written records of the medical examination in the police station and detailed information concerning the road accident in which Gabriel Carabulea had reportedly been injured.

Concerning the case of Cameilia Rosu and Carmen Efta who were allegedly ill-treated on 17 June 1996, in Bucharest, during a police raid on a yoga class organized by *MISA* (see previous subchapter on new cases of ill-treatment) the report of the Ministry of the Interior contains extensive information without, however, any reference to the allegations of ill-treatment. Amnesty International urged the Ministry of the Interior once again to fully and impartially investigate Camelia Rosu and Carmen Efta's complaint about police ill-treatment. Furthermore, Amnesty International expressed concern about the Ministry's apparent support for an intolerant public attitude to *MISA*, which is frequently vented in some Romanian media. The report of the Ministry contains comments which appear to be libellous and a crude attempt at character assassination. Previous reports of the Ministry of the Interior have also contained comments which were apparently intended to discredit the complaints of some human rights victims. Amnesty International is concerned that such conduct is a violation of the internationally recognized right to freedom from discrimination.

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## RUSSIAN FEDERATION

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***Torture and ill-treatment*** (update to information given in AI Index: EUR 01/01/97)

In April Amnesty International published *Torture in Russia: "This man-made Hell"* (AI Index: EUR 46/04/97), documenting the systematic and

widespread torture and ill-treatment of criminal suspects in police custody throughout the Russian Federation, including the apparent targeting of members of ethnic minorities, and torture and ill-treatment within the context of the conflict in the Chechen Republic-Ichkeriya (Chechnya). The report presented proposals and recommendations to the Russian Government and to the Chechen authorities for prevention of torture, including a specific recommendation to President Boris Yeltsin to rescind decrees allowing law enforcement officers to detain suspects incommunicado for up to 30 days without charge.

On 10 April members of leading Russian human rights groups organized a press conference in Moscow to voice their reaction to Amnesty International's report. They also used the occasion to publicize concerns about continuing persecution of human rights defenders in Russia's regions, such as the arrest of **Rafail Usmanov** from the Magadan Group of the International Society for Human Rights, who had been reporting on cases of torture of detainees by police in Magadan Region. Rafail Usmanov was subsequently released from detention and the charges against him were dropped. Shortly after the publication of the report, Amnesty International learned that six law enforcement officers from Magadan had been detained and charged in connection with alleged torture.

In June President Yeltsin rescinded his 1994 decree on fighting organized crime, No. 1226, as well as the part of the 1996 Presidential decree No. 1025 allowing for incommunicado detention. At the beginning of July the Russian Constitutional Court ruled that a similar presidential decree on fighting organized crime in the Republic of Mordovia violated citizens' constitutional rights.

See also *Women in Europe* pages 80 and 82.

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

Conscientious objectors from a number of European countries and representatives of human rights groups from around 30 regions of the Russian

Federation took part in the launch in mid-April in Moscow of Amnesty International's Europe-wide campaign for the right to conscientious objection to military service. As well as the report *Out of the margins: The right to conscientious objection to military service in Europe*, AI Index: EUR 01/02/97, the organization issued a detailed report on the situation of conscientious objectors in Russia (see *Russian Federation: The right to conscientious objection to military service*, AI Index: EUR 46/05/97).

In a related event, a round-table discussion on human rights issues relating to military service in Russia was organized jointly by Amnesty International and a number of leading Russian human rights groups such as the Committee of Soldiers' Mothers of Russia, the Organization of Soldiers' Mothers of St Petersburg, the Moscow Helsinki Group, the Human Rights Centre "Memorial", the Movement Against Violence, the Anti-military Radical Association and the Centre-Museum "Andrey Sakharov". The event was attended by members of parliament, government officials and Supreme Court and regional court judges. Discussion focused on the lack of alternative service for conscientious objectors in Russia; persecution, imprisonment and forcible drafting into the army of conscientious objectors; and the widespread practice of torture and ill-treatment in the army. Participants in the discussion drafted a joint statement which called on the Russian civilian and military authorities to take urgent legislative, judicial and practical measures for improvement of the situation.

Shortly after the event in April, Amnesty International was informed that responsibility for the draft law on alternative service had been transferred from the parliamentary Committee on Defence, where the majority of the members were allegedly against the introduction of a civilian alternative service of non-punitive nature, to the Committee dealing with public associations and religious organizations, where a number of members were believed to support a more liberal law on alternative service.

### **Failure to protect refugees and asylum-seekers**

As part of Amnesty International's worldwide Refugee Campaign, in April the organization published the report *Russian Federation: Failure to Protect Asylum Seekers - "We don't want refugees here - go back to your own country"* (AI Index: EUR 46/03/97).

In the report and during a press conference in Moscow attended by members of leading Russian human rights groups working on refugee issues, members of parliament and government officials, Amnesty International reiterated its concern that the Russian Federation was failing in its duty to protect asylum-seekers fleeing human rights violations. Asylum-seekers wishing to seek protection in the Russian Federation are routinely denied access to the asylum procedures. Left in a legal limbo, often for years, they are unable to obtain any protective identity documents from the Russian authorities and are often harassed and ill-treated by law enforcement officers. Asylum-seekers in the Russian Federation are at constant risk of being detained. The report also focused on specific cases of *refoulement*, in particular from the transit zone of Sheremetevo-II airport in Moscow: without even the most cursory examination of their asylum requests asylum-seekers have been forcibly deported from the airport back to their countries of origin, where they may face persecution, torture or threats to their lives. Recommendations in the report included a call to European countries not to return to Russia asylum seekers from third countries who have transited through Russia.

Following publication of the report Amnesty International received information about further detentions of asylum-seekers who faced possible *refoulement* to countries where they might be subjected to human rights violations. They included two ethnic Somalis, **Mohammed Hassan Abdi** and **Abdirahman Abdiyou Dmar**, who were detained in January 1997 and at the end of June were being held in a Moscow detention centre. They were reportedly threatened with deportation from the Russian Federation as they had been living in

Moscow for three years without registration with the passport office. The fact that they were registered with the representative office of the United Nations High Commissioner for Refugees (UNHCR) and the FMS as asylum-seekers was allegedly not being taken into account.

### **Prisoners of conscience**

A number of individual cases prompted concerns that local authorities were seeking to prevent independent human rights advocates from exposing violations by the judicial or law enforcement authorities. In addition to the cases of **Yury Shadrin** from Omsk (see AI Index: EUR 01/01/97) and **Rafail Usmanov** from Magadan (see above), Amnesty International took up the case of prisoner of conscience **Oleg Pazyura**, a retired naval officer and a respected human rights defender who was arrested in late May in Murmansk and who, at the time of writing, faced up to three years' imprisonment.

Oleg Pazyura had been active with the Murmansk Centre for Human Rights. Shortly before his arrest he attended a meeting between the new governor of Murmansk Region and local human rights groups, where he reportedly spoken publicly about violations of the judicial process by the courts, and corruption in the procuracy. Not long afterwards, officials tried to detain him at his home but were thwarted when police were summoned and discovered that there was no arrest warrant. However, a week later Oleg Pazyura was arrested by five armed law enforcement officers who, according to his wife and daughter, broke into their home and, without identifying themselves or showing an arrest warrant, handcuffed and took him away. The family had to wait five days before being informed that Oleg Pazyura was being held in the Murmansk pre-trial detention centre and had been charged with "slander of a person or a public official with accusations of committing serious or especially heinous crime" and "threat or violent actions against a procurator, investigator, interrogator or other officials in the process of their judicial activities or during the preliminary

investigation". Reportedly he was without a defence lawyer of his own choosing after the lawyer he requested declined to represent him, allegedly fearing repercussions from the authorities. Amnesty International believed that the charges against Oleg Pazyura were unfounded and that he had been arrested to prevent him from continuing with his human rights work and exercising his right to freedom of expression. It called for his immediate and unconditional release.

### **The death penalty**

At the end of January the Parliamentary Assembly of the Council of Europe adopted a resolution strongly condemning continuing executions in the Russian Federation and threatening not to accept the credentials of the Russian Government delegation at the Council's next session unless executions stopped.

In February the Chairman of the Presidential Clemency Commission, Anatoly Pristavkin, reaffirmed that no executions had been carried out in Russia since August 1996 and urged the State Duma to pass legislation confirming the existence of a moratorium. Fifty three people were confirmed as having been executed in the first six months of 1996, although in other statements Anatoly Pristavkin had put the number of executions in 1996 as high as 140 (see AI Index: EUR 01/01/97).

In April the Russian Federation signed Protocol No. 6 to the European Convention on Human Rights and Fundamental Freedoms, relating to the abolition of the death penalty.

### **Reported executions under Shari'a law in the Chechen Republic-Ichkeriya**

A Chechen man identified only by the name **Ibrahim** was publicly executed in the Chechen Republic-Ichkeriya in April. His execution - by having his throat slit by a group of hooded men - was reportedly shown on public television throughout the Republic. Ibrahim had earlier been found guilty of the murder of three people,

reportedly while he was under the influence of drugs and alcohol. Sharip Yusupov, the official representative of the Chechen Republic-Ichkeriya in Moscow, was reported as saying that the execution had been televised in order to demonstrate the "inevitability of punishment", adding that relatives of the victims had been among the executioners. Amnesty International does not know when or where the trial took place, whether Ibrahim had access to a defence lawyer of his own choosing, or whether he had been able to appeal against the sentence to a court of higher jurisdiction.

According to newspaper reports, this was the first public execution conducted in the Chechen Republic-Ichkeriya as a result of a judgment by an Islamic Shari'a court. The introduction of Shari'a courts had been announced by President Aslan Maskhadov of the Chechen Republic-Ichkeriya in June 1996 (for further details see *Torture in Russia: "This man-made Hell"*, AI Index: EUR 46/04/97). Amnesty International learned of another public execution under the Shari'a law in June of an unnamed man convicted of murdering a clergyman.

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## **SLOVAK REPUBLIC**

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

In April the European Committee for the Prevention of Torture (ECPT) published a report on its visit to places of detention in Slovakia in June and July 1995. The ECPT found that "persons suspected of a criminal offence run a significant risk of being ill-treated by the police at the time of their apprehension and during the first hours in police custody, and that on occasion such persons may be subjected to severe ill-treatment". During its visit the delegation received many allegations of police ill-treatment from victims, and was informed by the Slovak prison authorities that "since the beginning of 1995, in the whole of Slovakia there had been 40 cases of persons who, on admission to a remand prison, had displayed physical injuries allegedly

inflicted by the police at the time of apprehension or during preliminary questioning". Furthermore, the Committee's report expressed concern about the apparent lack of access to a lawyer and to a doctor for persons in detention.

**Prisoners of conscience: conscientious objectors to military service**

Two prisoners of conscience, Erik Kratmüller and Martin Badin, were released in May 1997. In February 1997, Martin Bednár was imprisoned for refusing to carry out his military service and was subsequently adopted by Amnesty International as a prisoner of conscience. The organization continued to receive reports of new cases of conscientious objectors facing prosecution for refusing to do their military service. In all these cases, the defendants had not submitted their application for alternative service in the 30-day period following the conscription board decision on their fitness for military service. In January Emanuel Munko was sentenced to 14 months' imprisonment. His sentence was changed on appeal to 12 months and suspended for two years. Also in January, Timotej Novotný was charged for the second time with refusing to carry out his military service. He had been convicted of the same offence in January 1995 and had served a prison sentence from March until the end of September 1995. In April another conscientious objector, Miroslav Albert, was sentenced to one year's imprisonment for refusing to start military service. He is currently free pending an appeal.

Amnesty International urged the Slovak authorities to immediately release the three prisoners of conscience and to stop criminal proceedings against Emanuel Munko, Timotej Novotný and Miroslav Albert. In April, Amnesty International published a report, *Slovak Republic - Restrictions on the right to conscientious objection* (AI Index: EUR 72/11/97), as part of a Europe-wide campaign on the right to conscientious objection.

## SPAIN

***Alleged torture and ill-treatment by law enforcement officers***

According to statements made by 17-year-old **Iván González Polanco** and by his brother, Daniel, Iván González was riding his Vespiño motorcycle around the centre of Badajoz on the evening of 15 January when an officer of the local police (*Policía Local*) signalled to him to stop. He began to brake and turned off the motor, travelling slowly in the officer's direction, when the officer, rebuking him for not having completely stopped, pushed him to the ground. After an argument, the officer hustled him into a police car, where he alleged he was beaten and his nose was broken. He was escorted to the *Hospital Provincial* and later to the *Hospital Regional*, where he and his relatives were told that the injuries were serious and required urgent surgery. The hospital issued a medical report confirming that his nose was fractured and that the bone structure had been shifted towards the left side of the face. He was then transferred to a police station where he was held overnight.

According to the police version of events, Iván González had been travelling too fast and his injuries were sustained by collision with the officer's arm, outstretched in a "Stop!" signal, thereby also causing injuries to the police officer. However, two independent eye-witnesses reportedly stated that this was not the case, and that Iván González had been uninjured before entering the police car.

The family of Iván González said that they attempted to lodge a formal complaint against the police officer during Iván González's detention at the police station, but were not allowed to do so. A request that the police officer and his colleague take a breathalyser test was also rejected. The family was obliged to make the complaint in court, on 17 January. By that time the police officer had apparently already lodged his own complaint against Iván González, in connection with the injuries he claimed to have sustained during the alleged collision.

Amnesty International urged the prompt and thorough investigation of the allegations made by Iván González and his family, as well as of those made by the police officer.

The organization also sought information from the authorities about the alleged torture during interrogation of **Fernando Elejalde Tapia**. On 11 March two members of the armed Basque group *Euskadi Ta Askatasuna* (ETA), Basque Homeland and Liberty, killed Javier Gómez Elósegui, the psychologist in the Basque prison of Martutene, in San Sebastian (see below - *Human rights abuses by armed Basque group. ETA*). Fernando Elejalde Tapia, who fired the fatal shot, was taken into custody by three officers of the National Police (*Cuerpo Nacional de Policía*) after a short chase.

He was taken to a police station for interrogation and held under the antiterrorist legislation which allows extended incommunicado detention of up to five days.

Two days after his detention, on 13 March, Fernando Elejalde was taken to Nuestra Señora de Aranzazu hospital by the police. He had a perforated eardrum, four broken vertebrae in his back, bruising all over his body, blackened eyes, a kidney malfunction, and was in a state of semi-consciousness.

Amnesty International was concerned that the injuries might have been the result of torture while under interrogation and called for the fullest judicial investigation, with the results being made public as soon as possible.

An inquiry ordered by the Interior Ministry concluded that, contrary to Fernando Elejalde's claims, no torture or ill-treatment had taken place while he was in police custody and that his injuries had resulted from collision with a car during the chase, and from the circumstances of the arrest, when he violently resisted the police officers seeking to detain him. However, the Minister of the Interior accepted the resignation of the Provincial Governor and dismissed the San Sebastian police chief in connection with a failure to inform the government that Fernando Elejalde had been badly injured upon his arrest and neglect to ensure that he was taken to hospital sooner. A judicial inquiry into

the torture allegations was also opened in San Sebastian and was still in progress in June.

In March a Madrid court sentenced four officers of the National Police to three months' imprisonment and one year's suspension from duty for torturing **Enrique Erreguerena** in September 1982. Enrique Erreguerena is to receive compensation of a million pesetas. The officers were acquitted of illegally detaining him and denying him his rights.

Enrique Erreguerena had been detained in connection with inquiries into ETA operations and held incommunicado for 10 days in Pamplona and Madrid, under the antiterrorist legislation in force in 1982. When he was presented to the National Court in October 1982 the judge ordered him to be taken immediately to hospital. He later complained that he had been beaten, plunged in a bath until near the point of drowning and given electric shocks to his penis. In 1993, some 11 years after the events, six officers were charged with torturing Enrique Erreguerena. However, the trial was postponed on numerous occasions on a variety of grounds, including the holiday leave of one of the accused (see AI Index: EUR 41/07/96).

### ***Human rights abuses by armed Basque group, ETA***

ETA continued to commit human rights abuses, including attacks on security forces and civilians. By early July it was held responsible for 10 deaths during 1997, a significant increase on 1996 during which five people were killed by ETA. In public statements Amnesty International reiterated its unreserved condemnation of deliberate and arbitrary killings as well as of kidnapping and hostage-taking by ETA, as a contravention of international humanitarian standards. The organization continued to urge the immediate and unconditional release of hostages such as José Antonio Ortega Lara and Cosme Delclaux. (See AI Index: EUR 01/01/97)

**José Antonio Ortega Lara**, a prison officer, was abducted in Burgos in January 1996. On claiming responsibility for the kidnapping, ETA

stated that its action was in response to the policy of dispersal of some 500 Basque prisoners in penal institutions throughout Spain. In its statement ETA called on the Spanish authorities to abandon what it defined as their strategy of repression of Basque prisoners, saying that in return it would be prepared to make an "equivalent gesture". It further stated that prison officers would cease to be the object of their actions.

On 1 July 1997 José Antonio Ortega Lara was discovered by Civil Guard officers in a concealed, underground cell inside an abandoned warehouse. As the longest serving ETA hostage, he had spent 532 days in the cell located in an industrial estate near Mondragon. The conditions of his detention were cruel and inhuman. He was held in a damp, badly ventilated cell three metres long, 80cms wide and 1.80 metres high. On release he was found to have lost 23 kilos in weight and was suffering from malnutrition and muscle waste as well as impaired vision.

Hours before the prison officer was rescued **Cosme Delclaux**, a lawyer and son of a wealthy industrialist from the Basque country, was found tied to a tree near Elorrio following an anonymous tip-off to a regional Basque newspaper. He was suffering from the effects of sedative drugs administered prior to his release. His family had reportedly paid a substantial ransom to ensure his release after 232 days.

Cosme Delclaux had been taken hostage in November 1996 while on his way home from work. His kidnapping coincided with a renewed campaign by ETA to raise funds through the means of the so-called "revolutionary tax".

On 10 July 1997 ETA kidnapped **Miguel Ángel Blanco Garrido**, a local town councillor for the ruling Popular Party in Ermua. ETA issued a statement threatening to execute the 29-year-old man unless the Spanish Government met its demands to relocate some 500 Basque prisoners nearer their homes.

On 11 July 1997, in a public appeal which received widespread coverage in the national media, Amnesty International urged the immediate and unconditional release of the ETA hostage. The

organization called on all those in a position to influence events to do everything in their power to save his life and appealed for all members of society to mobilize to the same end. Amnesty International stated that his murder would constitute an attack on the basic principles of international humanitarian law.

On 12 July 1997 Miguel Ángel Blanco was discovered on the outskirts of Lasarte by passers-by who had overheard gun shots. He was in a critical condition with two bullet wounds to the head and was pronounced dead following his transfer to a hospital in San Sebastian. His death provoked an unprecedented level of national and international condemnation. Mass demonstrations took place throughout Spain with a march of an estimated one and half million people in Madrid and similar marches in towns and cities across the country.

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## SWEDEN

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### *Osmo Vallo's death in police custody*

New evidence came to light about the disputed circumstances of the death in police custody - allegedly due to torture and ill-treatment at the time of arrest - of Osmo Vallo.

At about 11pm on 30 May 1995, police were called to investigate a disturbance. Calls for help had been heard by inhabitants of apartment blocks in Basungatan in the area of Kronoparken, in Karlstad. Osmo Vallo, a 41-year-old man, reportedly drunk and under the influence of drugs, was approached by two police officers. There are great discrepancies between the account of the incident given by witnesses and that of the police.

According to several eye-witnesses, the two arresting police officers kicked Osmo Vallo and set a police dog on him without apparent justification. They then lay him face downwards on the ground and cuffed his hands behind his back. Reportedly, one of the police officers then forcefully pressed his foot down on the middle of Osmo Vallo's back while he lay on the ground. As a result, at least

three eye-witnesses heard a noise as if something inside Osmo Vallo's upper body had cracked. Shortly afterwards Osmo Vallo died.

According to the account given by the arresting police officers, at the arrival of the police, Osmo Vallo seemed excited and violent. A tumult ensued, during which Osmo Vallo tried to kick both police officers and a police dog. As a result, he was bitten by the dog. In connection with the arrest, the police report describes Osmo Vallo as acting "completely wild, hitting and kicking about". Eventually, the police officers managed to make Osmo Vallo lie on the floor and to handcuff him.

The first post-mortem was carried out in June 1995. It proved to be inconclusive, although it recorded 39 different signs of wounds and bruises, including dog-bite marks on Osmo Vallo's face, arms and legs. It later emerged that the forensic pathologist who had carried out the first post-mortem had received only a partial account of the disputed circumstances surrounding Osmo Vallo's death.

In September 1995, the two arresting police officers were charged in connection with their control over the dog. It was reported that it had not been possible to bring murder charges as the police officers' conduct could not be linked to Osmo Vallo's death given that the first post-mortem could not establish a cause of death. However, questions were raised about the prosecutor's reasoning for not bringing additional charges arising from other allegations of torture and ill-treatment at the time of arrest. In April 1996, both police officers were convicted of causing bodily injury as a result of the dog bites detected by the first post-mortem on Osmo Vallo's body. Once convicted, both police officers were fined but remained on duty.

Following the officers' conviction, questions continued to be raised about the case, and it was reopened. A second post-mortem was performed on Osmo Vallo's body, and a radiological examination was carried out in January 1997. The findings were made available in April. The second post-mortem discovered five fractured ribs, which had not been detected during the first post-mortem. The two reports compiled in the light of the second

post-mortem and the additional X-ray examination indicate that the rib injuries may have been caused by Osmo Vallo's chest having been pressed against a hard surface through stamping or pressure against his back or as a result of his falling or being thrown against something hard. It is likely that Osmo Vallo had cardiac and respiratory arrest shortly after having been handcuffed. However, even the second post-mortem could not establish with certainty an exact cause of death.

The opinions expressed by four forensic pathologists present at the second post-mortem differ. Two of them concluded that the findings strongly indicated that the joint effects of alcohol and amphetamine and of severe physical exertion had been of determining relevance to the cause of death. The other two experts concluded that the probable cause of death could be posture-related asphyxia for a person affected by ethanol, amphetamine or cannabis.

In April, Amnesty International wrote to the Swedish Minister of Justice expressing concern, and seeking clarification about a number of issues surrounding Osmo Vallo's custodial death. The organization expressed concern about the conduct of the two arresting police officers. Such conduct, according to eye-witnesses' statements, violated Sweden's treaty obligations under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms. At the end of June, Amnesty International had not yet received a reply from the Minister of Justice.

The organization remains concerned that the allegations of torture and ill-treatment - which would appear to be substantiated by the injuries detected on Osmo Vallo's body as a result of two separate post-mortems - have not been adequately investigated. In this connection, the investigation conducted in the aftermath of Osmo Vallo's death fell short of requirements established in international standards concerning the thoroughness, promptness and impartiality of investigations into disputed deaths

in the custody of law enforcement officials. As a result, the criminal proceedings against the arresting police officers held in the aftermath of Osmo Vallo's death, as well as the additional investigation conducted by the authorities in view of the findings of the second post-mortem, failed to fully clarify the disputed circumstances of his death. More than two years have passed since the death of Osmo Vallo and several questions remain unanswered. His family still do not know the full truth about the circumstances that led to his death.

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## SWITZERLAND

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### ***Alleged ill-treatment by law enforcement officers***

**Clement Nwankwo**, a prominent Nigerian lawyer and human rights activist, alleged he was ill-treated by Geneva police in April, a day after arriving in the city to give evidence to the UN Commission on Human Rights. He was stopped by police in central Geneva, on suspicion of shoplifting and held overnight before being committed to prison where he was questioned by a judge of instruction in connection with charges of theft and of opposing the police at the time of arrest. The following day both he and two shop assistants who had accused him of taking two women's suits from their shop, appeared before the judge. Clement Nwankwo did not deny entering the shop but strenuously denied taking the clothes. No women's suits were ever found in his possession and neither shop assistant had seen him steal them: they believed two such items to be missing after he had briefly entered the shop.

He was released some 72 hours following his arrest, after again appearing before the judge who sentenced him to 20 days' suspended imprisonment, expulsion from Switzerland for three years, also suspended, plus costs of 230 Swiss francs on charges of theft and opposing the police. A sentence issued under such a summary procedure is automatically annulled if the defendant, as in this case, formally challenges it. Clement Nwankwo

was committed for full trial, therefore, before the Canton of Geneva's *Tribunal de Police*, a court hearing lesser offences.

In a complaint made to the Geneva administrative authorities within days of his release, Clement Nwankwo said that six police officers, some uniformed and some in plain clothes, surrounded him on the street and offered no explanation. He said that he promptly produced his passport, as requested, but that an officer pushed him back roughly against a wall and that, as he struggled to regain his balance, another hit him in the face, smashing his spectacles. He said he now considered himself in serious danger and began to shout his name and that of his hotel, whereupon officers started to kick, punch and beat him, using their fists and batons, and subjected him to racial abuse. He claimed that one of the officers put a baton across his neck, exerting such pressure that he lost consciousness: he regained it to find a police officer kicking him on the floor of a police station. He alleged that he was then slapped, forced to strip naked, and for around an hour left in his underpants, handcuffed to a metal table leg in an interview room. He was told that he had been arrested on suspicion of theft and was asked to make a statement. He denied stealing the clothes but refused to sign a statement written in French, a language he did not understand.

According to Clement Nwankwo, when he asked to see a doctor the police told him a doctor could be brought in but not one of his own choice, as he had requested. He also said that he was not allowed to make a telephone call until the second time he appeared before the judge who allowed him to make the call, to the International Commission of Jurists, only on condition that he agreed to sign the record of proceedings afterwards.

A medical certificate issued the day after his release recorded his complaints of pain in his wrists and chest, and noted injuries to his wrists and left eye, stating that "in all probability" the injuries could have been caused by the ill-treatment which he had alleged.

An administrative investigation was promptly opened by the head of the cantonal

department responsible for justice and police who, in a letter sent to Clement Nwankwo in May, argued that it was the “strong resistance” to arrest which he had displayed which had led the police officers to the use of force. However, he acknowledged that the internal inquiry had shown that “the conditions” in which Clement Nwankwo had been held in the interview room in the police station “were not in conformity with the rules of ethics of the Geneva police”. He offered the apologies of the police for this “inadequate treatment” and stated that sanctions would be taken against the officers concerned.

In June an Amnesty International delegate observed the hearing of Clement Nwankwo’s case before the *Tribunal de Police*. The court acquitted Clement Nwankwo of the charge of shoplifting but sentenced him to four days’ imprisonment (already served in April), plus costs of 600 Swiss francs for opposing the police. His appeal against the sentence is expected to be heard in September or October 1997.

In May the Geneva Procurator General informed **Marc Guerrero** that he intended to archive his March 1996 complaint against the Geneva police (see AI Index: EUR 01/01/97) because the judge of instruction assigned the case had concluded that his allegations had been contradicted by the investigations which had been carried out. Marc Guerrero did not lodge an appeal: he had by then completed his prison sentence for theft and been expelled to France.

Amnesty International learnt that in November 1996 the Ticino Public Prosecutor had closed the investigation into the formal complaint lodged by Turkish refugees **Ali Doymaz and Abuzer Tastan** in June 1995, in which they alleged that they had been ill-treated by law enforcement officers in Chiasso in April 1995 (see AI Index: EUR 01/02/96).

According to the information received by Amnesty International, the Prosecutor closed the investigation, not only without having questioned the two complainants themselves but also without questioning the accused officers or their colleagues, any of three possible witnesses to the alleged ill-

treatment and without questioning or seeking any further information from any of the individuals who saw the complainants within hours or days of their return to their cantons of residence, including the two doctors who issued the medical certificates which accompanied their complaint. Amnesty International also noted that it had been reported that the Prosecutor only questioned the interpreter who assisted during their questioning by the police, and who was, therefore, not present at the time the incidents alleged by Abuzer Tastan and Ali Doymaz were said to have taken place, namely, at the moment of arrest and on arrival at the police station, before being interrogated by the police.

In March a Ticino court rejected the appeal which Abuzer Tastan and Ali Doymaz lodged against the Prosecutor’s ruling that there were no grounds to pursue criminal proceedings against any police officers. In May 1997 the complainants lodged an appeal against the court’s decision with the Federal Tribunal.

The cases of Abuzer Tastan and Ali Doymaz were amongst several cases of alleged ill-treatment by law enforcement officers which Amnesty International raised in a letter sent to the Ticino authorities in June. It sought clarification about the conduct and progress of official investigations into such allegations and about the safeguards against ill-treatment offered to detainees held in the custody of law enforcement officers in the canton.

### ***Report of the Council of Europe’s Committee for the Prevention of Torture (ECPT)***

In June the federal government authorized publication of the ECPT’s report on its second periodic visit carried out in February 1996, to follow up the criticisms and recommendations made after its 1991 visit (see AI Index: 43/02/94) and to examine the treatment and conditions of detention of people held in various places of detention in the cantons of Bern, Geneva, Ticino, Valais, Vaud and Zurich. The government’s interim response was published simultaneously.

The ECPT stated that the great majority of individuals met during its two-week visit, held or recently held in police custody, indicated that they had been correctly treated both at the time of arrest and during police interrogation. However, the ECPT added that it had met "a certain number of people, in particular foreign nationals and people arrested in connection with drugs-related offences, who alleged having been subjected to ill-treatment, consisting mainly of insults, slaps and blows, by officers *at the time of arrest*". The Committee also noted that in Zurich it had met two detainees who stated they had been severely bitten by police dogs at the time of arrest. One of them still displayed wounds on his shoulder and thigh. Zurich cantonal police authorities stated that the police intervention had respected the principle of proportionality: the person had tried to run away when stopped during a drugs check, ignored police orders to halt and had resisted arrest "energetically". In response to the ECPT's request for detailed information on standing instructions on the use of police dogs in arrest operations, the federal authorities indicated that no such guidelines existed.

The ECPT also noted that it had received a list, relating to 1995, of 22 people bearing traumatic injuries which had been passed to the Geneva Chief of Police by Geneva's University Institute of Forensic Medicine. Twenty-one of them alleged being ill-treated by the police, mainly at the time of arrest. Two alleged being ill-treated during police interrogation: one of these claimed to have been slapped and received blows to the lower half of his body with an electric flex. A clinical examination carried out two days after the alleged incidents recorded injuries consistent with the use of an electric flex.

The Geneva authorities indicated, with reference to these 22 cases and four other cases of alleged ill-treatment raised by the ECPT, that in the majority of cases no criminal complaint had been lodged by the individual concerned so that the allegations mentioned in the medical reports had not been confirmed. In most cases where there had been criminal complaints it had been found that the police officers had behaved in conformity with the

law, leading to the Procurator General archiving the complaints. The ECPT noted a number of measures aimed at the prevention of ill-treatment introduced by the Geneva authorities since its 1991 visit and underlined that the adoption of similar measures in all cantons was highly desirable.

The ECPT stated that it had encountered very few allegations of physical ill-treatment being inflicted *during police interrogation* but noted that it had heard some such isolated allegations in the Cantons of Valais and Zurich. In one case a medical report drawn up on the detainee's admission to prison recorded that his injuries (including a haematoma to the abdominal wall and contusions around the abdomen, liver and bladder) were consistent with his allegations of ill-treatment.

The ECPT requested that law enforcement officers be reminded that the use of force should be limited to what is strictly necessary and that as soon a person has been subdued, nothing could ever justify officers physically abusing him/her.

The ECPT noted that, following its 1991 visit, it had recommended, *inter alia*, the introduction of three guarantees against the ill-treatment of detainees in police custody which it considered fundamental: the guaranteed right to have a relative or a third party informed of the arrest without delay; to have access to a lawyer from the moment of arrest and to have access to a doctor, including one of the detainee's own choice. The Committee noted that the situation with regard to these recommendations appeared to have "scarcely developed" since its 1991 visit and recommended that the authorities re-examine their position on these matters. It also reiterated its recommendations that all detainees be informed of their rights, that a code of conduct for police interrogations be drawn up and requested that a system of regular, unannounced visits to places where people are held in police custody, carried out by a judicial or other independent body (similar to a system operating in the Canton of Geneva), be introduced in all cantons, as a dissuasive measure against possible ill-treatment. The federal authorities indicated that they would be drawing the recommendation to the attention of all cantons. The

ECPT also made a number of recommendations relating to conditions of detention, including a recommendation that immediate steps be taken to allow all detainees, without exception, access to exercise in fresh air for at least one hour a day.

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## TAJIKISTAN

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### ***Peace accord***

More than five years of civil war in Tajikistan formally ended in late June with the signing in Moscow by President Imamali Rakhmonov and United Tajik Opposition (UTO) leader Sayed Abdullo Nuri of a General Agreement on Peace and National Accord. The agreement was intended to pave the way, among other things, for the creation of a coalition government and a National Reconciliation Commission charged with preparing new parliamentary elections in 1998; legalization of political parties; a free media; merger of UTO armed forces into the national army; a general amnesty; and the return of refugees.

In addition to a planned general amnesty for people imprisoned for civil war crimes, in July the two sides carried out the first of a planned series of prisoner exchanges. At the time of writing, it was unclear whether any of the persons named below had been released as a result.

### ***Political prisoners and possible prisoners of conscience***

#### **Crackdown in Khujand following assassination attempt on the President**

At the time of writing, Amnesty International was seeking further information about reports of a wave of arrests of suspected government opponents in Leninabad Region following an assassination attempt on President Rakhmonov in the regional capital, Khujand, at the end of April. A hand grenade was thrown at the President, the explosion causing minor injuries to his legs, but two people

died as a result of the attack and over 70 other people were injured.

Official reports of the assassination attempt issued on the same day reported the arrest of the man identified as having thrown the grenade, Firdavs Dustboyev. Within days at least 11 more people were reportedly detained in connection with the incident, and on the following day a shoot-out was reported in a village near Khujand between police and a group of people suspected of involvement in the assassination plot, resulting in the deaths of five of the group. By late May, unofficial sources in Leninabad Region were reporting that arrests were continuing, and that among those detained were people who had no connection to the assassination attempt, but had been identified as government opponents through their participation in anti-government protests in Leninabad a year earlier (Firdavs Dustboyev was said to have been an organizer of these protests). Amnesty International feared that some of the people caught up in this wave of arrests might be prisoners of conscience, detained solely for non-violent opposition to the government.

In late May police in Khujand arrested **Abdulkhafiz Abdullayev**, younger brother of Abdumalik Abdullojanov, a former Prime Minister and head of the opposition National Revival Bloc. Reportedly, he was detained after a police raid on his mother's house, as a result of which a quantity of narcotics was discovered, and was originally held on a charge of illegal narcotics possession, but it was subsequently reported that he had been charged in connection with the assassination attempt on the President. His supporters claimed that the charge was a fabrication, and that the motive of the arrest was to intimidate the Khujand-based opposition. Amnesty International sought information about the circumstances of the arrest and detention of Abdulkhafiz Abdullayev, on the grounds that he might be a prisoner of conscience.

#### **Extradition of Akhmajon Saidov**

In June authorities in the Russian Federation went ahead with the extradition to Tajikistan of

**Akhmajon Saidov**, a former deputy speaker of Tajikistan's parliament who had been living in Russia since 1994. In August 1996 a warrant for his arrest had been issued in Tajikistan on charges of "abuse of authority" and "embezzlement". There were suspicions that the true motive for bringing the charges was to punish Akhmajon Saidov for his perceived connection to the National Revival Bloc, formation of which had been announced at a press conference in Moscow days before the warrant had been issued. Notably, the charges reportedly related to Akhmajon Saidov's period as deputy parliamentary speaker in 1991-92, and there had apparently been no previous attempt to bring charges against him in the almost four years since he had resigned that position. On the basis of the warrant, Akhmajon Saidov was arrested in Moscow in February 1997.

Believing that the allegations of a political motive behind the bringing of criminal charges were plausible, Amnesty International feared that Akhmajon Saidov might become a prisoner of conscience, and called on the Russian authorities not to extradite him. Amnesty International called on authorities in Tajikistan to provide more information about the basis of the charges against him.

## **"Disappearances"**

### **The Ojiev brothers**

**Rizoali Ojiev** was detained for questioning on 28 February by police in Khujand, where he ran a business. In the early hours of the following day witnesses saw him being brought home in a police car, but reportedly only moments afterwards a group of armed masked men who had been in another car waiting outside Rizoali Ojiev's home seized him and drove him away. At the time of writing, there had been no further news of him.

On 28 February Rizoali Ojiev's younger brother **Gadoali Ojiev** also "disappeared" after being detained in the town of Kanibadam, near Khujand. He "reappeared" five weeks later, and reported that he had been held in the custody of law enforcement officials in Uzbekistan, having been

arrested ostensibly on suspicion of involvement in a criminal incident in mid-February when an Uzbekistani customs post on the Tajikistan-Uzbekistan border had been attacked by armed men crossing from Tajikistan. However, Gadoali Ojiev claimed that he had been repeatedly questioned not about that incident, but about the activities of his brother Rizoali. He was driven back to Khujand from Uzbekistan in April and was reportedly released without charge. He subsequently went into hiding.

Theories about the reasons for Rizoali Ojiev's "disappearance" included claims that he had made enemies in his native region of Gorno-Badakhshani by declaring that he had been appointed to represent the UTO there. Involvement in illegal business practices, including drug trafficking, was also alleged, and there were suggestions that he had gone into hiding voluntarily, or fallen victim to criminal elements. Supporters of Rizoali Ojiev strongly denied that there was any substance to these theories. Instead, his supporters believed that his "disappearance" was the work of government law enforcement agents, and was prompted by his suspected links to the UTO. Certainly, the fact that Rizoali Ojiev's abductors appeared to have been waiting for him to be returned home raised the question of whether they had had prior knowledge of what Rizoali Ojiev's movements would be that day, and whether they had been acting on information which had come from the law enforcement officials who had detained him for questioning. Information that Gadoali Ojiev was questioned about his brother while reportedly detained in Uzbekistan also raised questions about the possible involvement of Uzbekistani authorities in Rizoali Ojiev's "disappearance".

Amnesty International appealed for information about the whereabouts of Rizoali Ojiev to authorities in both Tajikistan and Uzbekistan. In June Uzbekistani authorities wrote to Amnesty International denying involvement in his "disappearance". At the time of writing, no response had been received from the authorities in Tajikistan.

## **Extrajudicial executions**

### **Possible extrajudicial executions during suppression of Khujand prison riot**

There was grave concern that law enforcement officials may have used excessive force when they stormed a penitentiary in Khujand to put down a riot there in April. The official death toll among inmates was put at 21, with over 30 wounded, but unofficial sources put the casualty figures considerably higher. Amnesty International sought further information about the conduct of law enforcement personnel during the storming of the penitentiary.

### **Escape from custody of accused perpetrator of extrajudicial executions in 1993** (update to information given in AI Index: EUR 01/01/96)

Amnesty International was dismayed to learn from media sources in Tajikistan at the beginning of the year that Khoja Karimov, a former field commander of the paramilitary People's Front, had escaped from detention. Arrested in November 1995, he had been awaiting trial for the July 1993 "disappearance" and subsequent murder of member of parliament **Saidsho Shoyev** and his brother **Siyarsho Shoyev**, and the murder of member of parliament **Tagkhoykhon Shukurov**. Amnesty International was concerned that the case cast doubt on the full extent of the commitment of the Government of Tajikistan and the law enforcement organs to seeing that justice was done, or their ability to exercise the kind of authority or chain of command control that would make this possible.

### **The death penalty**

Amnesty International was disturbed by a report in May indicating that the death penalty had been extended to the offence of "hooliganism" (Article 220 of the Criminal Code). If confirmed, this would raise the number of peacetime capital crimes to 28 (amendments to the Criminal Code in November 1995 had added 12 new capital offences, including

three relating to the narcotics trade, and several crimes against property).

Amnesty International continued to call for complete abolition of the death penalty, and lobbied for commutation of each individual death sentence coming to its attention. The organization learned of one death sentence passed in the period under review, on **Aleksandr Gayurov**, who was convicted in February of the 1995 murder of two Russian soldiers in Dushanbe, the capital. For the whole of 1996, 12 people were sentenced to death according to official figures reported by the International Helsinki Federation for Human Rights. Amnesty International learned of death sentences passed in 1996 on **Abdunabi Boronov** and **Nurali Janjolov**, allegedly former members of the People's Front, who were convicted of the 1995 murder of member of parliament Zayniddin Mukhiddinov. The organization also learned of death sentences passed in 1995 on two other members of pro-government paramilitary forces, **Safarqul Samadov** and **Abdurauf Urunov**, who were convicted of multiple murder and other offences committed in late 1992 and early 1993.

At the time of writing it was unclear whether provisions in a general amnesty agreed upon by the National Reconciliation Commission in early July 1997 would extend to persons convicted of capital offences. As reported, the agreement provided that persons found guilty of violent crimes or crimes against society connected with the civil war would not be released automatically, but could petition for a review of their case if they believed the charges and conviction had been a pretext to punish them for political actions. It was also unclear whether a moratorium on carrying out death sentences connected with the civil war, declared by the government in June 1995 (see AI Index: EUR 01/01/96), would now be rescinded.

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## **TURKEY**

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### ***New legislation on detention procedures "unacceptable" - Continuing torture and ill-treatment allegations***

On 6 March the Turkish Government enacted long overdue but insufficient reforms to detention procedures. The changes, announced by the government as measures to combat torture and ill-treatment, actually differed little from an earlier draft described by the European Committee for the Prevention of Torture (CPT) in a December 1996 public statement as "unacceptable".

The new law shortened the maximum terms of police detention from 30 days to 10 days in provinces under state of emergency legislation, and from 14 days to seven days throughout the rest of the country. People detained for offences within the jurisdiction of State Security Courts, previously denied all contact with lawyers, would now be permitted access to legal counsel after the first four days' detention.

In introducing the new legislation, the then Deputy Prime Minister and Foreign Minister Tansu Çiller claimed that "*from now on, Turkish norms conform with European norms on detention periods*". However, neither European human rights law nor international human rights law endorse four days' incommunicado detention.

Amnesty International welcomed the substantial reduction in detention periods but feared that the provisions of the new law would be insufficient in scope to combat ingrained systems of abuse, and regretted in particular that incommunicado detention would continue even though the UN Special Rapporteur on Torture had recommended that it should be abolished.

The practical effects of the law were far from clear. One factor in this was that from March the Human Rights Association (HRA), one of the very few organizations in a position to carry out independent monitoring, came under extreme pressure (see below), with a number of key branches being closed down by the authorities. From the few cases which were brought to the notice of Amnesty International, it appeared that access to legal counsel following the four days'

incommunicado detention was far from satisfactory, with lawyers rarely admitted and then only for a few moments and in the presence of police officers. In some cases the police did not reliably respect the limit of four days but registered detainees late or overran when the fifth day fell on a weekend, thereby extending the incommunicado detention closer to a week.

Nevertheless, detentions appeared to have become shorter even than the new 10- and seven-day limits because the police seemed to prefer to release detainees or bring them to court rather than admit lawyers into the police stations. The new shorter incommunicado detention period also appeared to have had some effect on the extent of torture. From March 1997 Amnesty International continued to receive allegations of torture and of death in custody, but appreciably fewer in number. Only very thorough monitoring - virtually impossible under current conditions - will reveal whether this apparent effect is genuine and permanent. Moreover, it should be emphasized that four days give ample time to inflict torture. Aziz Durmaz, the president of the Sanliurfa branch of the HRA, was detained on 24 June and interrogated for five days. He informed his lawyers that he had been subjected to beating, freezing, being suspended by the arms, beating on the soles of the feet (*falaka*) and electric shocks.

It was not clear how the new detention procedures were being implemented in rural areas of the southeast, and what little news that emerged gave cause for concern. On 1 July, a security operation took place in the village of Hisaralti, near Derik, Mardin province, following an armed attack on the local gendarmerie post carried out by the Kurdish Workers' Party (PKK). Seven villagers were detained. The families heard nothing more of the fate of the seven men and contacted members of the Mardin branch of the HRA, who visited the village (at some risk to themselves) and then spoke to the public prosecutor in Derik. The prosecutor had no record of any such arrests.

The local gendarmerie commander, outraged that the villagers had complained to the HRA, detained all the remaining male villagers.

Twenty eight men were held in incommunicado detention until 14 July, when 13 were released and 15 formally arrested. These men were therefore held for twice the maximum detention period, and more than three times the maximum period of incommunicado detention (Mardin is not now one of the provinces under state of emergency). Still more disturbing is that during this time the detainees had effectively "disappeared", since they were apparently never officially registered. They were reportedly very badly tortured in detention.

### ***Murat Yi•it - alleged torture of a juvenile***

In November 1996 Amnesty International published *Turkey - Children at risk of torture, death in custody and "disappearance"* (AI Index: EUR 44/144/96). The organization was therefore particularly disturbed to receive a further report of torture of a juvenile in January 1997. Sixteen-year-old Murat Yi•it was detained by police on 29 January in the Etlik district of Ankara and taken first to Etlik police station, then to Aktepe police station in the Keçiören district, and lastly to the Theft Bureau of Ankara Police Headquarters. He is not sure how long he was held but he believes that it was four or five days, before he was released without charge. He reported that he was taken twice to an office in the basement of Aktepe police station where he was tortured by three plainclothes officers for about 30 minutes in order to make him confess to a number of burglaries in which he denied involvement. Murat Yi•it has stated that he was blindfolded and stripped naked, drenched with cold water and forced to lie inside tyres. He was beaten on the soles of his feet and given electric shocks via his genitals and feet.

Murat Yi•it was denied access to a lawyer and forced to sign papers written by the officers (detainees aged under 18 should by law be questioned only with a lawyer present). He received a medical report after examination on 5 February at Ankara Forensic Institute which indicated grazing on the head.

### ***"Disappearance" - The case of Fikri Özgen***

At about 9.30am on 27 February, a relative and neighbours saw four armed men, believed to be plainclothes police officers, stop 73-year-old Fikri Özgen outside his house in the 5 April district of Diyarbakir, check his identity and drive him away in a car the make and registration number of which they noted. His family applied in vain for information about his whereabouts to all the relevant authorities, but these have denied that he was detained.

Several of Fikri Özgen's relatives were reported to have had connections with the PKK. The same was true in many of the eleven cases of "disappearance" reported from Diyarbakir in November 1996 (see AI Index: EUR 01/01/97).

### ***UN experts to visit Turkey***

Amnesty International, having repeatedly encouraged the Turkish Government to invite United Nations experts to investigate human rights problems and give advice, welcomed the Turkish Government's decision, made public in June, to invite the UN Working Group on Enforced or Involuntary Disappearances and the UN Special Rapporteur on Torture to visit the country in 1997 and 1998. Amnesty International urged the government to cooperate fully with them, stressing that if these missions are to be effective, the delegations must be given unaccompanied access to all areas of the country, all places of detention, all relevant officials, and all relevant records of military and police operations. It is also essential that recommendations by the expert bodies are fully implemented.

### ***Human Rights Association under pressure once again***

The June torture and arrest of Aziz Durmaz (see above), and the closure of the Sanliurfa branch were the latest in a series of actions taken against the HRA.

On 24 May the Diyarbakir HRA branch was closed indefinitely by order of the Diyarbakir Provincial Governor's Office on the grounds that "its

activities threaten the unity of the state", and its office was sealed by the police. Officials of the branch who had been detained earlier that week were released.

On 4 June the Malatya HRA branch was closed down and its chairperson removed from his post on orders of the Malatya Province Governor's Office, on the grounds that banned publications had been found at the branch.

On 7 June Yıldız Temurturkan, president of the Ankara branch of the HRA, was detained for participating in a demonstration calling on the international community to condemn the incursion into northern Iraq by Turkish armed forces (see News Service 92/97, AI Index: EUR 44/38/97).

On 19 June the HRA branch in Izmir was closed down by the Izmir Province Governor's Office on the grounds that "illegal publications" had been found in the office. Reportedly the police had searched the premises on 18 June without a search warrant and seized numerous copies of a publication issued by the Ankara branch of the HRA entitled *Human Rights Panorama in Turkey*, which is the subject of an ongoing trial. After strong representations by non-governmental organizations the Governor re-opened this branch.

On 24 June the HRA branch in Konya was closed down by the Konya Province Governor's Office because of a public statement made by a group of students at the branch premises in which they condemned the incursion into northern Iraq.

The renewed pressure on the HRA was apparently connected with the incursion into northern Iraq but may have been planned earlier: a confidential circular from the Interior Ministry, leaked earlier in the year and apparently genuine, advocated measures to combat the activities of a group of non-governmental organizations including the HRA.

### ***Prisoners of conscience - new targets of prosecution for freedom of expression***

Despite public assurances by the government that prisoners of conscience would be released by the end of the year, pressure on freedom of expression escalated noticeably during the first half of 1997. In addition to the arrest and harassment of human rights defenders, writers and journalists continued to be the target of prosecution. In June, the writer and former lawyer Ahmet Zeki Okçuoğlu was once again imprisoned under Article 159 of the Turkish Penal Code for "insulting the institutions of the state", after the Supreme Court upheld a 10-month prison term given to him by the Istanbul Heavy Penal Court No.2 for an article published in the newspaper *Azadi* in 1993. In 1995 he had been released after serving a 20-month sentence under Article 8 of the Anti-Terror Law for "separatism". At the time of writing he was being held at Sağmalcılar Prison in Istanbul.

People expressing Islamist ideas were also prosecuted and imprisoned. Former independent member of parliament and former *Refah* (Welfare) party member Hasan Mezarci was charged under Law 5816 with insulting the memory of Mustafa Kemal Atatürk, the founder of modern Turkey, in a speech he had made in 1992. Hasan Mezarci's parliamentary immunity from prosecution had been lifted, and in January 1996 he had been convicted and sentenced to one and a half years' imprisonment. After the sentence had been confirmed at appeal, he was arrested in December 1996. At the time of writing he was being held at Ankara Central Closed Prison. Several prosecutions for the same offence, and for insulting "the institutions of the state", are outstanding against him.

In April 1997, 116 members of the Aczmendi religious order were sentenced to terms of up to four years' imprisonment under Article 7/1 of the Anti-Terror Law for being members of "an organization aiming to change the qualities of the Republic as set out in the Constitution, and the political, legal, social, secular or economic order by means of... intimidation or threats". The Aczmendi order have strongly and publicly criticized the secular status of the Republic of Turkey, and appear in public wearing turbans and robes which

contravene the dress laws instituted by Atatürk. They do not, however, advocate violence and Amnesty International considers those imprisoned for membership of this order to be prisoners of conscience.

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## TURKMENISTAN

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### ***Official indications of serious abuses within the police, courts and prisons***

#### **Presidential admission of widespread judicial errors**

At the beginning of April President Saparmurad Niyazov made the astonishing admission that Turkmenistan's courts often fail to sentence real criminals and instead prosecute "innocent people". Announcing the dismissal of the Procurator General, the President was reported to have complained of widespread incompetence and corruption among the country's law enforcement officials.

In the light of the President's admission, Amnesty International reiterated its calls for a judicial review of the criminal convictions of possible prisoners of conscience **Mukhametkuli Aymuradov** and **Khoshali Garayev** (see AI Index: EUR 61/03/96), and restated its concerns about the prosecution of eight political prisoners (see below). The organization also renewed calls for a moratorium on the death penalty, arguing that if death sentences were being passed on some of the "innocent people" to whom the President had referred, those mistakes could never be undone.

In early July, the President decreed further dismissals of senior law enforcement officials. The procurator of Lebap Region was dismissed, as officially reported, for allowing the "complete merging of law-enforcement agencies with the criminal underworld". The procurator of Mary Region and the chief of police of Balkan Region were also removed from their posts.

#### **Presidential amnesty decree**

In June President Niyazov issued an amnesty decree which reportedly would benefit over 2,000 prisoners. Unofficial sources suggested that the decree was in reaction to the problem of serious overcrowding and other appalling conditions in the country's penitentiaries. At least twice since 1995 appalling prison conditions had reportedly provoked riots among prisoners. It was unclear whether there would be mass releases of prisoners according to criteria such as their offence and the length of their sentence, or whether releases would only occur after individual case reviews.

#### ***Political prisoners: What happened to the "Ashgabat Eight"?***

In July Amnesty International issued the report *Turkmenistan - The "Ashgabat Eight": Two Years On, Time for the Truth* (AI Index: EUR 61/10/97). Marking the second anniversary of an unprecedented organized anti-government protest in Ashgabat, the capital, the report featured the cases of eight men who were still serving prison sentences as a result of criminal prosecutions arising from the protest. Amnesty International considered these eight men - **Amanmyrat Amandurdyev**, **Khudayberdi Amandurdyev**, **Charymyrat Amandurdyev**, **Gulgeldi Annanyazov**, **Charymyrat Gurov**, **Begmyrat Khozhayev**, **Kakymyrat Nazarov** and **Batyr Sakhetliyev** - as political prisoners, and had a range of concerns about them including possibly unfair trials and continuing ill-treatment.

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

A new Criminal Code was approved by the *Majlis* (parliament) in June. It provided for the death penalty for 17 offences, including murder, genocide, various anti-state crimes, and a number of drug-related crimes.

The President's June amnesty decree, as reported, provided for the commutation of 222 death sentences. This was the first official indication that

the number of people on death row in Turkmenistan was as high as had been alleged to Amnesty International by unofficial sources, which had recently claimed that there were some 350 people on death row. Amnesty International sought full disclosure from the Turkmen authorities of the names of the prisoners who had benefited by commutation of a death sentence under the President's decree, and urged commutation of all other pending death sentences in Turkmenistan. At the time of writing there had been no response.

For this reason, the status of eight death row prisoners about whom Amnesty International had learned during the period under review could not be confirmed. Information became available from unofficial sources only about two prisoners who had apparently had their death sentences commuted under the decree. They were **Dunyagozel Ovezdurdyeva**, a woman, and **Ashirgeldy Sadyev**, who had been convicted of drug trafficking in separate trials. In the case of Ashirgeldy Sadyev, who had been tried in May by Ashgabat City Court, there were allegations that the criminal charge against him was fabricated to punish his telephone contacts with a relative who was a prominent dissident living abroad.

In a judgment taken prior to the President's decree, the Clemency Commission reportedly commuted to life imprisonment the death sentence passed on **Gulsere Dzhumayeva**, a woman convicted of drug trafficking.

From unofficial sources, Amnesty International learned of at least 16 other death sentences passed on individuals whose names were not disclosed. Amnesty International also learned of 10 executions, although the true number of executions during the period under review was believed to be much higher. See also *Women in Europe* page 82.

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## UKRAINE

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### ***Ukraine before the UN Committee against Torture***

Amnesty International urged the Ukrainian Government to implement the recommendations of the United Nations Committee against Torture which on 29 April examined the third periodic report submitted by Ukraine. Amnesty International had submitted its own report to the members of the Committee detailing its concerns about allegations of the use of torture and ill-treatment in Ukraine (see *Ukraine: Comments on the Third Periodic Report submitted to the United Nations Committee against Torture*, AI Index: EUR 50/08/97). The organization also held a meeting with the Ukrainian Government delegation in Geneva in which measures planned by the authorities were discussed.

The findings of the Committee against Torture confirmed Amnesty International's concerns regarding the continuing practice of torture and ill-treatment of suspects in detention by law enforcement officials, resulting in death in a number of cases; lack of an effective system of independent institutions able to review individual complaints by victims; lack of provisions for court review of the legality of arrest and detention in Ukrainian legislation; and absence of the crime of torture in the national legislation.

The Committee expressed concern about the failure of the Ukrainian authorities to institute an immediate moratorium on executions -- in violation of the country's commitments upon accession to the Council of Europe -- and the high level of executions in Ukraine. With 169 prisoners executed in 1996, Ukraine is second only to China for known executions. Ukraine was also criticized for the systematic torture of new recruits in the armed forces, conditions of pre-trial detention which amount to inhuman or degrading treatment, the failure of the authorities to ensure access to a lawyer of the detainee's own choice, and the lack of an effective machinery for the prompt examination of prisoners' complaints. The process of harmonizing domestic legislation with human rights standards was judged to be progressing slowly, and the police and prison personnel were said to lack training. Furthermore, the Committee questioned

the lack of an effective system for compensation of victims of torture.

Amnesty International strongly supports the recommendation of the Committee that Ukraine adopt a comprehensive action plan to stop torture. The plan includes: adoption of legislative acts of direct applicability, which will implement the Constitutional provision prohibiting torture, and particularly a new Criminal Code which should make acts of torture a criminal offence, punishable by appropriate punishments; adoption of a new Criminal Procedural Code, which should ensure the right of the accused to defence at all time during the criminal procedure; establishment of effective and independent control by the courts over the arrest, taking into custody and the pre-trial detention of suspects, ensuring the prevention of torture on all levels of the criminal procedure; ensuring civilian and judicial control over the law enforcement bodies; establishment of independent institutions to conduct prompt and impartial reviews of all complaints of the use of torture and ill-treatment; the dissemination of information, including through the mass media, about the norms of the Convention against Torture; training and education of law enforcement officials and prison personnel, and especially medical personnel, about the prohibition of torture as provided by the norms of the Convention against Torture; prohibition in the national legislation of the interrogation of detainees in the absence of a lawyer of their own choice and also while detained *incommunicado*; decreasing the length of pre-trial detention, currently a maximum of 18 months; signing and ratifying Protocol No. 6 of the European Convention on Human Rights and Fundamental Freedoms, relating to the abolition of the death penalty; radical reform of all places of detention, including prison colonies, and ensuring full compliance with the norms of the Convention against Torture; a permanent moratorium on executions; legal guarantees for full redress and compensation of victims of torture, including moral damages.

Despite the recommendations of the Committee against Torture Amnesty International continued to receive reports about torture and ill-

treatment in detention. In May the organization feared for the safety of **Sergey Valkovanyish**, who was reportedly tortured for five days in police custody, and whose whereabouts were unknown. According to information given to Amnesty International by unofficial sources, Sergey Valkovanyish was arrested at his office on 27 March by officers of the Girnyitsky and Kirovsky branches of the Makeivka city police in the Donetsk region. The reason for Sergey Valkovanyish's arrest was not known to Amnesty International.

During the first five days of detention, Sergey Valkovanyish's ribs were allegedly broken, and he was also said to have been beaten on his face, round his eyes, on his body, arms and feet. A gas mask was reportedly then put on his head, and a plastic bag put over this, which was then filled with an allegedly poisonous gas. At the same time, sources reported, Sergey Valkovanyish was hit repeatedly over the head and verbally abused. After five days he was reportedly transferred to a different location, but his family were said not to have been informed of his whereabouts. Amnesty International was greatly concerned that he might have been at risk of further torture. No further information was available to the organization on this case.

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

In February Amnesty International was appalled to learn that Ukraine had executed 167 people in 1996, including prisoners sentenced to death in previous years, placing Ukraine second only to China for the highest known number of executions in the world. This figure was issued by the head of the Department of Organizational Support to Courts at the Ministry of Justice on 29 January 1997 and was revealed to Amnesty International on 7 February. She also said that 167 people had been sentenced to death in 1996 and in only two cases had sentences been commuted.

A resolution by the Parliamentary Assembly of the Council of Europe on 29 January strongly condemned the continuing executions in Ukraine. The information on the number of executions

carried out was not provided to the Council of Europe prior to the Parliamentary Assembly discussion of this issue. Point 6 of the Resolution passed by the Parliamentary Assembly on 29 January clearly warns the Ukrainian Government of the consequences should they continue to violate their obligations to the Council of Europe in the matter of the death penalty. This includes possible expulsion of the Ukrainian parliamentary delegation from the Parliamentary Assembly. On 28 January, the Ukrainian Cabinet of Ministers submitted draft legislation to parliament which provided for the establishment of a moratorium on executions. Amnesty International was afraid, however, that more people could be executed before this legislation comes into effect.

In April, during the review of Ukraine's third periodic report by the Committee against Torture in Geneva, the head of the Ukrainian Government delegation and Deputy Minister of Justice, Lada Pavlikovska, claimed that 169 executions took place in Ukraine in 1996 and that no executions had been carried out since the beginning of 1997. The Ukrainian delegation also submitted recent official statistics on the application of the death penalty in Ukraine. According to information from the Supreme Court of Ukraine, over the last three years 529 people have been sentenced to death (168 in 1994; 185 in 1995 and 176 in 1996). According to the official statistics, during the same period 73 people have been pardoned and have had their death penalty commuted and replaced with a prison sentence (10 in 1994; 30 in 1995 and 33 in 1996). The statistics also stated that as of 1 February 1997 there were 190 death penalty prisoners in Ukraine.

On 5 May Ukraine took a step towards honouring the commitments with regard to the death penalty which it made on accession to the Council of Europe by signing Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Amnesty International also learned that the death sentence of **Sergey Vysochansky** was commuted in March 1997 and the one of **Andrey Yevtemy** was commuted in April.

Amnesty International welcomed the signing of Protocol No.6 as a development which is in line with the clear worldwide trend towards abolition of the death penalty. The organization urged President Leonid Kuchma and the relevant authorities, having signed Protocol No. 6, to immediately publicly announce the existence of an official moratorium on executions, and formalize the decision by issuing public orders to all prison governors that no further executions are to be carried out. Article 18 of the Vienna Convention on the Law of Treaties, states that once a state has signed a treaty it is "*obliged to refrain from acts which would defeat the object and purpose of [the] treaty...*". It is Amnesty International's view that any further executions would defeat the object and purpose of Protocol No. 6, which is to abolish the death penalty in peacetime.

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## UNITED KINGDOM

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In June Amnesty International published a document entitled *United Kingdom: An Agenda for Human Rights Protection* (AI Index: EUR 45/12/97) in which it urged the new government, elected in May, to make significant moves for the protection of human rights throughout the United Kingdom. The organization outlined a number of key human rights issues which it believes should be addressed by the new government as a matter of priority including ensuring that the UK's law and practice are consistent with the full range of international and regional human rights law and standards. Amnesty International welcomes the commitment by the new government to incorporate one of these instruments, the European Convention for the Protection of Human Rights and Fundamental Freedoms, into national law as a first step towards implementing its international obligations. The government should establish a Human Rights Commission, which would have full and effective powers to strengthen human rights protection. The organization also referred to its concerns about the significant numbers of deaths in custody due to alleged violence in England, the inquest system, the use of plastic bullets in Northern

Ireland, allegations of ill-treatment, the inadequate police complaints procedures, violations of fair trial guarantees, the asylum process, emergency legislation, and policing in Northern Ireland. In addition, Amnesty International urged the government to publish the reports of police inquiries into allegations of collusion and extrajudicial executions in Northern Ireland; and to quash the findings of the Widgery Tribunal and establish an immediate and full inquiry into the events of "Bloody Sunday" in 1972. Amnesty International is seeking a dialogue with the government on these issues.

In June the United States Section of Amnesty International gave written and oral testimony to a hearing on the human rights situation in Northern Ireland, held by the House International Relations Sub-committee on International Operations and Human Rights.

### **Inquests**

The January inquest into the death of Kenneth Severin returned an "open verdict" on the reason for his death in Belmarsh Prison in November 1995. The post-mortem stated that the most likely cause of death was asphyxia due to the position he had been put in, upon restraint. The jury was told that he died shortly after a struggle with at least four prison officers while being transferred to a "strip" cell. The officers denied applying a neckhold or placing their knees on his back, or kicking and punching him; they could not account for the bruises to his upper back and neck.

### **Ill-treatment and cruel, inhuman or degrading treatment**

In March Amnesty International published a document entitled *United Kingdom: Special Security Units: Cruel, Inhuman or Degrading Treatment* (AI Index: EUR 45/06/97), which urged the government to carry out a review of the "security" measures which have been implemented within the British prison regime, in order to ensure that such measures do not amount to cruel, inhuman

or degrading treatment of prisoners. Independent medical reports indicated that measures pertaining to Category A prisoners led to a serious deterioration of prisoners' physical and psychological health. Prisoners, on remand or convicted of serious offences, can be categorized as Category A if their escape is considered as highly dangerous. Amnesty International is concerned that the Special Security Units (SSUs), in which "exceptional escape risk" Category A prisoners are held, constitute cruel, inhuman or degrading treatment and deny remand prisoners their right to a fair trial in violation of the United Kingdom's obligations under international treaties.

Róisín McAliskey, who was arrested in November 1996, was detained - while pregnant - in total isolation in an all-male prison for six days before being transferred to a women's prison, Holloway Prison. She was detained as a Category A high risk prisoner in Holloway Prison, a prison which does not have facilities for Category A prisoners. Amnesty International considers that she was detained in conditions which constituted cruel, inhuman or degrading treatment. See *Women in Europe* page 81 for further details.

### **Fair trial concerns**

Amnesty International sent representatives to three appeal hearings: one in England and two in Northern Ireland. In April the appeal hearing began of four men - known as the Bridgewater Four, although the fourth appellant died in prison in 1981 - who were convicted for the murder in 1978 of a newspaper boy called Carl Bridgewater. They had been released on bail in February after 17 years' imprisonment. The appeal was heard on the grounds that the police had falsified one suspect's confession and then applied undue pressure, including ill-treatment, on another suspect to force a confession.

Christopher Sheals appealed in April against his murder conviction in 1994 in connection with the killing of Margaret Wright. He appealed in Northern Ireland against the "common purpose" grounds for conviction, an issue which is currently being considered by the House of Lords in another case.

The Northern Ireland Secretary of State referred the case of Patrick Kane to the Court of Appeal in May; Patrick Kane had been convicted in March 1990 in connection with the murder of two army corporals. His conviction was quashed by the Court of Appeal in June; the conviction was considered unsafe and unsatisfactory because new evidence showed that his confessions might have been inadmissible and unreliable. He was released on 20 June. Amnesty International continues to urge the authorities to urgently review the convictions of two of his co-defendants, Sean Kelly and Michael Timmons.

Amnesty International is also concerned about the case of Daniel McNamee, who was convicted in 1987 of a bombing attack in London and sentenced to 25 years' imprisonment. He was convicted solely on the basis of forensic evidence which has since been reportedly discredited.

### ***"Bloody Sunday"***

During 1997, a large volume of evidence emerged concerning the Widgery Inquiry into the killing of 13 unarmed people and the wounding of 15 others by British Army soldiers on 31 January 1972, known as "Bloody Sunday". This evidence shows that the original findings of the inquiry were seriously flawed. Amnesty International believes the government should quash the findings of the Widgery Tribunal and establish an immediate and full inquiry into the events of "Bloody Sunday" in 1972, in order that the full circumstances of the killings be known (see AI Index: EUR 45/02/97).

### ***Undercover operations in Northern Ireland***

Amnesty International is concerned about the circumstances of the shooting in Coalisland of Gareth Doris on 28 March. Gareth Doris, 19, was shot and wounded by undercover soldiers shortly after a small explosion at a police station in Coalisland. It would appear that many undercover soldiers had been lying in wait for an IRA attack. The following eye-witness account was given to Amnesty International:

"I was at the art exhibition at the Heritage Hall, otherwise known as The Mill, that evening. At approximately 9.40pm I heard a loud explosion, dull, followed quickly by 8 to 10 shots. There was silence in the hall, no one knew what they were hearing. Then we went out on the street. We saw a person lying on the ground, and a person kneeling next to him, tying his hands. The person standing over him held a gun to the head. A number of cars appeared from different directions. One car mounted the footpath just in front of me. People got out of the cars, they were armed, dressed in civilian clothing, wearing baseball caps with a fluorescent white band round them. The crowd gathered. The soldiers were in an agitated and nervous mood, they shouted at people to stand back. They were firing at the ground, there were explosions on the ground, flashes and sparks. ...They were loud, fireworks-type thing, never been used before. It was a very traumatic situation. The actual incident at the barracks was a dull explosion and lasted about 1-2 minutes (including immediate shooting). But it was the aftermath which really scared people. The whole incident has to be investigated and an explanation has to be given to the public. People are entitled to know the reason for the firecrackers, why there was an undercover operation in a public area while there was a cross-community function taking place."

Masked men, later identified as undercover security forces, attacked staff and customers in the Derryhirk Inn in Aghagallon near Lurgan in March. People from the bar had apparently noticed people hiding in the bushes who, when challenged, reportedly ran towards the bar, firing at least 12 shots, before bursting into the bar, knocking people to the ground and threatening to shoot them. Thirty people have reportedly made complaints about the

security forces' conduct; they believed they were being attacked by a paramilitary group.

Amnesty International was concerned about allegations that five of seven men arrested in and around Crossmaglen on 10 April 1997 were ill-treated by undercover soldiers, possibly members of the SAS. Bernard McGinn alleged that he was beaten repeatedly and then kicked when he was both in an upright and in a kneeling position. He was taken to Craigavon hospital where he was treated for many injuries including to both temples, his nose, mouth, both eyes, the right ear which required stitching, the back of the head which required staples, his right shoulder and right arm, lower back, knees and legs. Miceál Caraher claimed that he was repeatedly kicked and abused, and that a weapon was placed at his mouth. He was also taken to Craigavon hospital for treatment of his ribs and his hand.

### ***Policing in Northern Ireland***

Amnesty International considers that the government should give urgent consideration to the independent review of the complaints procedures in Northern Ireland by Dr Maurice Hayes, published in January 1977. Dr Hayes recommended the appointment of a Police Ombudsman whose duty would be to investigate complaints against the police by using his or her own staff of independent investigators.

Amnesty International is concerned about the indiscriminate firing of plastic bullets by security forces, a method of crowd control used only in Northern Ireland. Although plastic bullets were introduced in 1973 as a non-lethal method of crowd control, they have led to 14 deaths and hundreds of injuries. In many instances the regulations governing the use of such potentially lethal bullets are not adhered to; they state that plastic bullets should only be aimed at the lower half of the body and, unless lives are at risk, should not be fired at a range of less than 20 metres. Amnesty International believes there should be a review of the use of plastic bullets. On 10 June the government announced that a large percentage of plastic bullets issued from

early 1994 had velocities which were over the upper recommended limit. The faulty bullets had been withdrawn in April and replaced by stocks which did not exceed the stipulations. The higher velocity meant that the bullets would have hit their targets at excessive speed. The government statement did not say how many faulty plastic bullets had been issued, nor how many had actually been fired. However, a total of 7,437 plastic bullets were fired by the RUC and 1,424 by the British Army since the faulty plastic bullets were issued in May 1994. The government stated that 94 alleged injuries have been caused by plastic bullets since the beginning of 1994.

Robert Hamill, a Catholic man aged 25 and father of two, died on 8 May 1997 after a severe beating by a large crowd of Protestants in Portadown on 27 April. Family members who were with him claimed that RUC officers, who were sitting in a parked police vehicle at the scene of the beating, did not intervene to protect Robert Hamill and the others, despite family members' requests. At least six men have been charged in connection with his death.

The report of an inquiry, organized by the Castlederg/Aghyaran Justice Group, into the killing of Patrick Shanaghan by Loyalist paramilitaries in 1991 was published in June. The inquest, held in June 1996, exposed the inadequacies of the procedure in investigating allegations that he had been killed as a result of collusion between the UDA and the security forces.

### ***Human rights abuses by paramilitary groups***

Amnesty International continued to be concerned about reports of human rights abuses carried out by armed political groups in Northern Ireland. There were several deliberate and arbitrary killings. In March, John Slane, a father of nine and a Catholic, died after being shot in the back and in the chest in the kitchen of his home by Loyalists in an alleged sectarian attack. Sean Brown, a prominent GAA club chairman, aged 61, was abducted by Loyalists,

shot in the head and left dead beside a burning car in May. In June an off-duty RUC officer, Constable Gregory Taylor, died in Ballymoney, Co. Antrim, after a Loyalist crowd beat and kicked him, and stamped on his head; the officer was attacked after an argument about the RUC handling of a Loyalist demonstration in a Catholic village. In May a group of Catholics severely beat Ivan Heatherington, 21, a Protestant, in London/Derry.

Amnesty International is also deeply concerned about the so-called "punishment" killings, shootings, and beatings, which are actions taken by paramilitary groups against members of their own communities in Northern Ireland. For example, in June Loyalists killed Robert Bates, a former Loyalist prisoner, in Belfast as he arrived for work. Also in June Sean McNally, 24, was shot through the knee by alleged IRA men using a shotgun at close range; his right leg was amputated from the knee.

In February a group of masked men, allegedly Loyalists, broke into the home of a presbyterian minister, Mr David Templeton, and beat him with wooden sticks. His injuries included a fractured skull and two broken legs and he died on 24 March. On 27 February, a 16-year-old girl, Judith Boylan, was tied to a lamp post, beaten, threatened with an iron bar; her attackers, allegedly from the IRA, then threw paint on her and hacked her hair off.

February by Moscow police at a suburban market for a personal documents check. He was discovered to be living in Moscow without proper registration and taken to a police station where it was established from records that he was wanted by authorities in Uzbekistan, a criminal case having been instituted against him in 1992 under a former criminal code article punishing libel of a senior state official.

Believing that this charge was politically motivated, Amnesty International feared that Albert Musin was at risk of imminent and forcible repatriation to Uzbekistan, where he might become a prisoner of conscience. It called on the Russian authorities not to extradite him, and for him to be formally recognized as a refugee in the Russian Federation.

Albert Musin was released from police custody in early March, shortly after Uzbekistani Embassy officials in Moscow stated that his extradition to Uzbekistan was not being sought. Nevertheless, his position in Moscow remained uncertain, and as a result of intervention by the office of the UN High Commissioner for Refugees he was able to emigrate to Finland.

### **Imprisonment of Islamic activists**

Amnesty International called for judicial review of the sentences of two imprisoned Islamic activists from the Fergana valley in eastern Uzbekistan, Abdurauf Gafurov and Rakhmat Otakulov, who were possible prisoners of conscience. The two men, leaders of Islamic congregations which were not affiliated to the state-regulated Muslim Spiritual Directorate, were believed to be victims of an ongoing state clampdown against such congregations.

**Abdurauf Gafurov**, the elected *kazi* (Muslim judge) of the Fergana valley, had been arrested in November 1993 and convicted in May 1994 of "embezzlement of state and social property through misuse of official position", for which he received a three-year prison sentence. There were allegations that the charge was a fabrication, and that the real motive for the arrest and conviction of

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## **UZBEKISTAN**

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### ***Prisoners of conscience***

#### **Detention of human rights monitor Albert Musin in Moscow**

Albert Musin, a journalist and monitor of human rights developments in Central Asia who was living in political exile from Uzbekistan, was detained in

Abdurauf Gafurov had been to punish him for his contacts with independent Islamic activists, including in neighbouring Tajikistan, where the government was at that time facing an insurgency by an armed opposition with an Islamic militant component.

In August 1994 Abdurauf Gafurov was charged with possession of narcotics in prison, for which he was convicted the following year and given a two-year sentence to run concurrently with his original sentence. There were allegations that this charge was also fabricated in order to prevent Abdurauf Gafurov from qualifying for release under an amnesty. Similarly, in November 1996, one week before the expiry of his sentence, a new criminal case was opened against him for "disobeying the prison administration", and the following month he was given a further two-year prison term. Again, there were concerns that the charge might have been bogus.

Amnesty International contended that the bringing of repeated and probably bogus criminal charges to prevent Abdurauf Gafurov's release pointed to official hostility towards him which made allegations that he was regarded as a political opponent of the regime highly believable. The motivation for his continued detention appeared to be to prevent him from playing a role as a prominent figure in the unregistered Islamic community.

**Rakhmat Otakulov**, a religious teacher, was detained by police in April 1997, ostensibly for questioning about a road traffic accident. After searching his car and home, however, police claimed to have discovered quantities of bullets and narcotics, and he was charged with illegal weapons and narcotics possession. He was tried by a local court in the city of Margilan in June, and sentenced to three and a half years in prison.

Amnesty International was concerned that the charges against Rakhmat Otakulov might have been fabricated, and that the material evidence "discovered" during the searches might have been planted there or otherwise fraudulently produced by police themselves. This would be consistent with a police practice in evidence particularly during 1993-94, when Amnesty International took up a number of cases in which police apparently fabricated drugs

and weapons possession charges against political opponents of the government.

The "disappearance" of three other Islamic activists, **Abdullo Utayev** (in 1992) and **Abduvali Mirzoyev** and **Ramazan Matkarimov** (in 1995) continued to be the subject of denials by the authorities of any official involvement (for previous update on these cases see AI Index: EUR 01/01/97).

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

Amnesty International learned of four new death sentences. **Tuychi Akhtamov**, **Khusnitdin Kasymov** and **Saitniyaz Sharipov** were tried together in Samarkand Regional Court and sentenced to death in 1996 (the exact date is unknown; an appeal against their sentences was turned down in November) for drug trafficking. **Aleksandr Korneyev** was sentenced to death by Tashkent City Court in July for murder, and his sentence was upheld by the Supreme Court in October. The subsequent fate of these individuals is not known to Amnesty International. No individual death sentences passed in the period under review came to Amnesty International's attention, although death sentences were believed to have been passed and carried out during this period.

Amnesty International also learned of the case of **Shokir Davronov**, sentenced to death in 1994, who was reported to have a clemency petition outstanding as of early 1997. It was feared however, that he might be no longer alive, and that this might be a further case in which a prisoners' family had been left in ignorance of the prisoner's fate long after execution had been carried out.

***Official attitude to human rights groups***  
(including correction to information in the *Amnesty International Report 1997*)

In January the Ministry of Justice refused registration to the Human Rights Society of Uzbekistan. The Society had operated underground and in exile since its foundation in 1992, but in 1996 had been officially invited to submit a registration application. (This invitation to register is incorrectly reported as actual registration of the Human Rights Society of Uzbekistan in the *Amnesty International Report 1997*. In fact only one human rights group, the Committee for the Defence of the Rights of the Individual, was officially registered in 1996.)

In May 1997 another human rights group, the Independent Human Rights Organization of Uzbekistan, applied to the city government of Tashkent, the capital, to hold a founding congress; this was one of the procedures required for registration. In violation of regulations, the city government failed to respond to the application ahead of the congress's scheduled date in June (the congress consequently did not take place), thereby effectively denying registration to the organization. Prior to this, on seeking information about the progress of the application, the head of the Independent Human Rights Organization of Uzbekistan, Mikhail Ardzinov, was reportedly informed by the responsible official that he was "waiting for instructions from above".

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## FEDERAL REPUBLIC OF YUGOSLAVIA

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Mass demonstrations by supporters of the Serbian opposition coalition *Zajedno* (Together) and students in protest against the annulment of *Zajedno* victories in November's local elections in Belgrade and other major cities continued throughout January and into early February, when parliament passed a special law reinstating these victories.

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

In January and February police on a number of occasions beat and injured demonstrators in Belgrade, Kragujevac and some other towns. Police also beat journalists who were present at these events. The Humanitarian Law Fund, a Belgrade-based human rights organization, later filed a complaint against police officers on behalf of 22 journalists and 34 others (protesters and passers-by) who were beaten in incidents in December 1996 and February 1997.

There continued to be frequent reports that ethnic Albanians in Kosovo province had been beaten by police in the course of arms searches and following arrest. Police ill-treatment, amounting to torture, was particularly marked in the cases of those arrested during a wave of arrests at the end of January. Those who were released without charge frequently had sustained injuries and bore marks of severe bruising. Among them was a journalist, Rrahim Sadiku, who was held for four days and who lost consciousness after being repeatedly beaten on the soles of his feet. Those who were detained for investigation on charges of terrorist activity subsequently alleged they had been tortured; they included Alban Nezirli who was allegedly tortured with electric shocks, Nait Hasani - who was admitted to hospital with severe injuries and was three days later taken by police to an unknown destination and held incommunicado for a month - and Agron Tolaj, who suffered internal injuries as well as severe bruising. One of those arrested and allegedly ill-treated was Besim Restelica who died in detention in February. An autopsy report stated he had committed suicide, but ethnic Albanian sources disputed this finding.

### ***Unfair trial of political prisoners***

About 50 of some some 100 ethnic Albanians arrested in Kosovo province in January were released within three to five days. At least 50 others remained in detention for investigation on charges of being members of clandestine organizations seeking, by means of violence, the unification of Kosovo province with neighbouring Albania and of planning or carrying out attacks and assassinations directed

mainly against members of the largely Serbian police forces and ethnic Albanians alleged to have "collaborated" with the Serbian authorities. In May a first group consisting of Avni Klinaku and 19 others were sentenced to between two and 10 years' imprisonment; and in July Besim Rama and 14 others received sentences of between four and 20 years' imprisonment. Over 20 others continued to be detained for investigation on similar charges. Some were probably prisoners of conscience. In many cases detention in police custody was illegally prolonged beyond three days, and the defendants' right to defence was severely undermined by restrictions placed on their lawyers' access both to their clients and to the court files. Convictions were based very largely on statements made during investigation proceedings which the defendants withdrew in court alleging that these statements had been obtained by ill-treatment (see above). In most cases there was little other relevant evidence in support of the charges. The courts did not investigate the allegations of ill-treatment.

### ***The imprisonment of a conscientious objector to military service***

In February the Supreme Military Court reportedly sentenced a member of the Jehovah's Witness religion to six months' imprisonment for refusing, on conscientious grounds, to do military service.

### ***Possible extrajudicial executions***

On 31 January three ethnic Albanians were shot dead by police. Police stated that at the time they had been attempting to arrest a man they suspected of being the leader of a terrorist organization and that they had returned fire in self-defence after being fired on from a car.

### ***Refugees***

Several hundred ethnic Albanian were forcibly returned from Germany where they had sought asylum. Reports indicated that on arrival they were frequently interrogated by police about their

activities in Germany or instructed to report to local police stations. There were also complaints that police had in some cases confiscated money from them and it was alleged that police had physically or psychologically ill-treated some of those returned.

In April a court in Belgrade ruled in favour of eight Serb refugees who had sued the Republic of Serbia for compensation: they were among several thousand male refugees who were arrested in 1995 by police in Serbia and returned to Croatia and Bosnia-Herzegovina to be forcibly mobilized into Serbian armed forces there, in violation of the 1951 [Geneva] Convention relating to the Status of Refugees..

### ***Death penalty***

Four men were sentenced to death (in unrelated cases) for murder or other crimes resulting in deaths.

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## **RATIFICATIONS**

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### **ESTONIA**

In February Estonia acceded to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

### **LATVIA**

In June the Latvian Parliament ratified the 1951 Convention relating to the Status of Refugees, opting however for the “geographical limitation”, meaning that Latvia will accept international responsibility under the 1951 Convention only for refugees from within Europe.

In June the Latvian Parliament ratified the European Convention on Human Rights and Fundamental Freedoms and five of its protocols.

### **LITHUANIA**

In January Lithuania ratified the 1951 Convention relating to the Status of Refugees and the 1967 Protocol.

### **TURKMENISTAN**

Turkmenistan acceded to the International Covenant on Civil and Political Rights (ICCPR) and its first optional protocol on 1 May 1997.

## WOMEN IN EUROPE

### A selection of Amnesty International's concerns

Human rights violations against women occur regularly in Europe but are only infrequently given the attention they deserve. The following cases are a selection of the incidents investigated by Amnesty International. They are not intended to be an exhaustive summary of Amnesty International's concerns, but are a reflection of the range of violations suffered by women in Europe.

#### *Allegations of ill-treatment*

##### **ARMENIA**

During the period under review a number of witnesses in the trial of political prisoner Vahan Hovanessian and 30 others (see the entry on Armenia) testified that they had been subjected to physical or psychological duress in order to coerce them into giving evidence against the accused.

Lilit Khachikian, for example, testified in court on 25 February that Interior Ministry employees from the Mashtots district of Yerevan forced her to give evidence against Vahan Hovanessian by beating her and subjecting her to psychological pressure. On the same day Aghavni Karapetian, wife of defendant Gnel Hovanessian, told the court that she was also beaten severely by Interior Ministry employees from Mashtots district and that she subsequently miscarried. She said that in addition her two sisters and disabled brother were also beaten.

Amnesty International has urged the appropriate authorities to ensure that all allegations of ill-treatment are investigated fully and impartially, with the results made public and anyone identified as responsible brought to justice

##### **AUSTRIA**

In February the Austrian authorities informed Amnesty International that proceedings had been discontinued into allegations that police officers had ill-treated **Sabine Geisberger** in November 1995 (see AI Index: EUR 01/02/96). In a criminal complaint she had lodged with the Vienna prosecuting authorities, Sabine Geisberger had alleged that a Vienna police officer had dragged her by the hair into the bedroom of her apartment and had thrown her into the corner of the room where he repeatedly kicked her in the genitals. An examination by a doctor from the gynaecological department of Klagenfurt Hospital the next day revealed that Sabine Geisberger had suffered bruising to the rim of her pelvis, left thigh, and to her genitals. According to the authorities' letter to Amnesty International, investigators had "not been able to find any objective evidence of criminal behaviour" by the officers involved.

Also in February 1997 Amnesty International was informed by the Austrian authorities that a judicial examination into allegations that **Violetta Jevremovic** was ill-treated by Vienna police officers in April 1996 was still pending (see AI Index: 01/01/97). Violetta Jevremovic alleged that police officers beat her when they came to her Vienna flat to arrest her husband, Nicola. She also alleged that police officers subjected her to racist abuse. In their letter to Amnesty International, the authorities stated that according to an incident report by the Vienna Federal Police Directorate, "Violetta Jevremovic hit out at a police officer with a wine glass. While fending off the attack the officer was injured in the right hand. As Violetta Jevremovic continued to flail around violently, she was told that she was under arrest and finally her hands were cuffed to her back". The authorities added that: "Evidently Violetta Jevremovic was not injured as a result of this procedure...At first neither Violetta Jevremovic nor her husband Nicola Jevremovic claimed to have been unlawfully beaten and racially insulted". This information would appear to contradict that received by Amnesty International from other sources: Violetta Jevremovic's allegations of ill-treatment were described in a letter by the non-governmental

organization *Romano Centro* to the Ministry of the Interior only five days after the incident. With its letter the organization enclosed copies of medical certificates, dated 25 and 27 April 1996, which showed that Violetta Jevremovič had suffered bruising of both elbows, left wrist, right hand, right thigh, left ankle and swellings on the head, upper jaw and upper lip. In January a Vienna court found Violetta Jevremovič guilty of attempting to resist state authority and of causing serious bodily harm<sup>6</sup> to an officer. She was sentenced to two months' imprisonment, suspended for three years. The court found that Violetta Jevremovič had sought to prevent officers from arresting her husband and had injured the officer's hand by throwing a wine glass at him. (According to the court's findings, the officer suffered "bleeding underneath the nail of his little finger and the tip of the third finger of his right hand".)

## **BULGARIA**

On 5 December 1996 16-year-old Martin Zagorov and his 14-year-old brother Nedyalko were allegedly ill-treated at Shumen police station where they had been taken for questioning about the sale of a stolen television and video recorder. The brothers were released, but Martin was ordered to return the next morning.

The next day the boys' mother, Valentina Zagorova, went with Martin to the police station. She insisted that the police needed written authorization from the prosecutor to question her son, and asked that a lawyer be present during the questioning. The police officers turned down her request.

While Valentina Zagorova was arguing with the officers the commander of the station arrived and ordered her to leave. Valentina Zagorova refused, demanding to know on what grounds her

son was being held. At this point the commander is said to have screamed, "Who do you think you are, woman!" and to have started hitting her. According to Valentina Zagorova:

"He continued to hit me. At one point I fell to the floor and he somehow dragged me up and threw me across the room. As I fell down I broke my hand. Some other officers helped me get up and restrained [the commander], who screamed at me: 'Get out of here or I'll kick you down the stairs'... My son is so scared now that he doesn't dare to leave the house any longer, he doesn't eat and can't sleep at night."

Valentina Zagorova consulted an orthopaedic doctor who confirmed that the bones of her left hand had been broken. A police spokesman later told the press that the two boys had been illegally held in investigatory arrest but that the conduct of the commander had not been unlawful and he would not be disciplined. Pavlina Zagorova filed a complaint about her ill-treatment with the local prosecutor.

The Bulgarian daily newspaper *24 chasa* reported on 10 December 1996 that on an unspecified date Pavlina Pehlivanova and her brother Georgi were beaten by six police officers in front of their house in Sofia.

Pavlina and Georgi had uprooted a tree from a nearby grove, intending to plant it in their street as an anti-pollution measure. Police officers stopped them at the entrance to their house, reportedly threatening them with a gun. According to reports, they handcuffed Georgi and started to kick him. They also allegedly hit Pavlina in the chest and in the face, breaking her nose. Georgi and Pavlina were then taken to the Fifth police station.

When the Pehlivanovs asked to make a complaint about their ill-treatment they were told that they should go to the First police station, where the police officers involved were based. However,

<sup>6</sup> According to section 84 (2) 4 of the Austrian Criminal Code, any assault on "a public official, witness or expert" in the performance of his/her duties is automatically classified as serious bodily harm.

when they reached this station the officer on duty refused to register their complaint.

In March 1997 Amnesty International called upon the Bulgarian authorities to investigate both reports promptly, impartially and thoroughly, to publish the results of these investigations and to bring to justice any police officers found responsible.

### **KYRGYZSTAN**

A case involving two women, identified in reports only as Yelena S. and Olga, was among further reports received by Amnesty International of ill-treatment of criminal suspects by police in Kyrgyzstan. The two women, with two male companions, filed complaints in July 1996 against officers of the October district police department in Bishkek, the capital, in which they alleged that they had been severely beaten while held overnight in police custody. Medical examinations showed that Olga had sustained concussion, cuts and bruising, and Yelena S. had sustained minor injuries. Amnesty International raised this case with authorities in Kyrgyzstan in April, and requested to know the outcome of the investigation into the complaints by Yelena S., Olga and their male companions. At the time of writing, no reply had been received.

### **ROMANIA**

Ioana EnuŃ, a 48-year-old woman from Berceni, had been involved in a long-standing dispute with her neighbours, two of whom are reported to be police officers. In May 1996 she was fined for disturbing the peace, this fine being later replaced by a sentence of 10 days' imprisonment. Ioana EnuŃ appealed both the fine and the legality of the decision replacing the fine with a term of imprisonment.

On 1 May 1997, before the court decision had come into force, two police officers came to Ioana EnuŃ' s house and ordered her to go with them to the police station. Ioana EnuŃ refused

because the officers did not have a warrant for her arrest.

Shortly afterwards, as Ioana EnuŃ left her house, the two officers reportedly grabbed Ioana EnuŃ, making her fall to the ground, and then kicked her as they pulled her towards the police car. A number of villagers witnessed the incident and called on the officers to stop the beating. Ioana EnuŃ ran into the house of a nearby family, pursued by an officer. The family persuaded the officer to leave as he did not have a search warrant.

Since this incident there have been no other attempts to apparently illegally apprehend Ioana EnuŃ. On 17 July 1997 she filed a complaint about the police ill-treatment with the Bucharest Military Prosecutor.

Amnesty International has urged the Romanian authorities to ensure that the investigation into the alleged ill-treatment of Ioana EnuŃ is thorough and impartial, that the findings are made public, and that anyone found responsible is brought to justice.

### **RUSSIAN FEDERATION**

The April 1997 Amnesty International report *Torture in Russia: "This Man-made Hell"*, AI Index: EUR 46/04/97, featured the case of twin sisters **Yelena and Irina Smirnova**, who were allegedly the victims of a severe beating by Moscow police in 1994. Yelena Smirnova was also reported to be suffering as a result of prison conditions amounting to ill-treatment in Moscow's Butyrka prison, where she has been incarcerated in pre-trial detention on a charge of "misappropriation of state property" since August 1995.

It was reported that on 21 March 1997 Tverskoy District Court in Moscow decided to send Yelena Smirnova's case back for additional investigation, and to re-open a criminal case which had been previously brought against Irina Smirnova, also for "misappropriation of state property". The court ordered the arrest of Irina Smirnova and her detention pending trial, a decision which prompted Irina Smirnova to go into hiding. At the time of writing her whereabouts remained unknown.

Karinna Moskalenko, the defence lawyer for the two sisters, told Amnesty International that she believed the order for the arrest of Irina Smirnova was without foundation and politically motivated. According to Karinna Moskalenko, Irina Smirnova had become very active in the defence of her sister's rights after the latter's arrest, including by petitioning various judicial and government institutions and international organizations. As a trained lawyer and a journalist, Irina Smirnova had also become involved in the work of the International Protection Centre, a human rights and legal defence local non-governmental organization. The March 1997 court order to arrest her was suspected to be an act of retaliation by the authorities for Irina Smirnova's work as a human rights defender and for widely publicising her case and that of her sister.

Amnesty International continued to call on the authorities to undertake an investigation into the allegations of ill-treatment of the Smirnova sisters by police in 1994. It also urged the authorities to review, in accordance with the law, the grounds for and the legality of the arrest and detention of Yelena Smirnova and to provide her with adequate medical care. Furthermore, Amnesty International was concerned that if Irina Smirnova were to be detained she might be a prisoner of conscience.

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### ***Cruel, inhuman or degrading treatment***

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#### **UNITED KINGDOM**

Róisín McAliskey, who was arrested in November 1996 - while four months' pregnant - on an extradition warrant, was detained in total isolation in an all-male prison for six days before being transferred to a women's prison, Holloway Prison. She was detained as a Category A high risk prisoner in Holloway Prison, a prison which does not have facilities for Category A prisoners. She was subjected to frequent strip-searches, "closed visits" (prisoner separated from visitors by a glass wall) and severe restrictions throughout her pregnancy on her rights to associate with other prisoners, to receive Irish press, and to exercise. Amnesty

International considers that she was detained in conditions which constituted cruel, inhuman or degrading treatment. It was only through international protest that some of the restrictions were eased towards the end of her pregnancy, and she gave birth on 26 May in a civilian hospital. She is currently on bail in a mother-and-baby unit in a secure hospital in London. Amnesty International published a document in April entitled: *United Kingdom: Cruel, inhuman or degrading treatment: Detention of Róisín McAliskey* (AI Index: EUR 45/08/97).

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### ***Women prisoners of conscience***

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#### **KYRGYZSTAN**

Zamira Sydykova, editor-in-chief of the newspaper *Res Publika*, was sentenced in May to 18 months' imprisonment after being found guilty by a district court in Bishkek of the criminal libel of the president of a state-owned gold company Kyrgyzaltyn. She was a prisoner of conscience (for an explanation of Amnesty International's opposition to the use of criminal libel legislation in cases such as this see the country entry on Kyrgyzstan). This was Zamira Sydykova's second criminal conviction for libel: in 1995 she had received an 18-month suspended sentence and had been banned from working as a journalist for the same period for libelling the President of Kyrgyzstan.

On appeal to the Bishkek City Court in June, Zamira Sydykova's latest conviction was left unchanged, although she was ordered to serve her sentence in a detention facility with a more lenient regime. Amnesty International continued to call for her unconditional release.

Zamira Sydykova's codefendants in the case included a former copy editor on *Res Publika*, Marina Sivasheva, who was also convicted, fined and banned from journalism for 18 months. On appeal, Marina Sivasheva's conviction was overturned completely.

In a separate case, Damira Akmatova and Gulya Ibraimova went on trial in May accused of "providing false information" to journalist Yrysbek

Omurzakov, who was himself on trial for the criminal libel of the manager of a now defunct state factory. The two women were employees of the factory and residents of a worker's hostel attached to it which the manager was accused in Yrysbek Omurzakov's article of trying, with others, to privatize into their own hands. The trial lasted only three days before it was halted by the judge and the case was referred for further investigation; trial proceedings had not resumed at the time of writing. Damira Akmatova and Gulya Ibrahimova were not held in pre-trial detention, but Amnesty International appealed to authorities in Kyrgyzstan to halt criminal proceedings against them, and warned that, if convicted and sentenced to prison terms, they would be considered prisoners of conscience.

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### ***Alleged arbitrary detention***

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#### **AZERBAIJAN**

A 17-year-old girl and a woman were among a number of ethnic Armenians released in April and May to mark the third anniversary of the cease-fire in the disputed region of Karabakh (see Azerbaijan entry). Irina Kachaturian, born 1979 in Baku and living in the Ijevan region, Armenia, and Larissa Kirakossian, from the town of Maralik, Armenia, together with other ethnic Armenian civilians, were allegedly held as hostages on grounds of their ethnic origin, rather than as a result of recognizably criminal charges being brought against them. Larissa Kirakossian, speaking after her release, claimed that she had been detained originally in Turkey while a tourist there, and subsequently handed over to Azerbaijan.

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### ***Fear for safety: abductions of journalists***

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#### **RUSSIAN FEDERATION - CHECHEN REPUBLIC-ICHKERIYA**

On 10 May 1997 **Yelena Masyuk**, a journalist with the Russian NTV network, was reportedly kidnapped in the Chechen Republic-Ichkeriya (Chechnya) along with cameraman Ilya Mordyukov and sound technician Dmitry Olchev. According to a Chechen Interior Ministry officer, six gunmen ambushed the car in which the NTV crew was travelling en route to neighbouring Ingushetia, ordered the crew into another car, and drove off. The crew's driver was allowed to escape. According to press reports, the crew members had filmed a rally in Grozny, the Chechen capital, and were leaving Chechnya with their video tapes. The Chechen Interior Minister was reported as saying that the NTV crew had refused the services of a special Chechen police squad set up to accompany journalists. In March the Chechen Government had reportedly established new restrictions on reporters which had since been ignored by the few journalists still travelling to the region.

Yelena Masyuk, a prize-winning reporter, had covered the conflict in Chechnya from 1994 to 1996 before she reportedly received threats to her security. In 1995, after interviewing leaders of the Chechen fighters, she had allegedly been interrogated by agents of the Russian Federal Security Service (FSB) who had demanded that she reveal the Chechen leaders' whereabouts. She was subsequently allegedly harassed by the FSB in respect of other stories from Chechnya.

Amnesty International feared that the kidnapping of Yelena Masyuk and her crew might have been timed to coincide with the signing of a 12 May peace treaty between the Russia Federation and Chechnya. The organization further feared that she might have been deliberately targeted solely for her reporting from Chechnya during and after the armed conflict. Whether motivated by commercial or political gain, such kidnappings called into question the ability of both the Russian and the Chechen authorities to guarantee the safety of journalists in Chechnya.

Amnesty International called on both governments to condemn kidnapping and ensure that an immediate, impartial and effective investigation

into all kidnappings in the Chechen Republic-Ichkeriya would be undertaken, with the results made public and anyone found responsible for human rights violations brought to justice. The organization also called on the Russian and Chechen authorities to undertake all the necessary measures to locate the kidnapped journalists and bring them to safety. At the end of June the whereabouts of Yelena Masyuk and her crew members remained unknown.

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***Women and the death penalty***

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**TURKMENISTAN**

From unofficial sources Amnesty International received several reports during the period under review of women in Turkmenistan who had been charged with offences involving narcotics, and faced a possible death sentence. In most of the reported cases, sources indicated that trials of these women ended with them receiving long prison terms rather than the death penalty. However, in at least two cases reported to Amnesty International women received a death sentence. In the case of Gulsere Dzhumayeva, it was reported that Lebap Regional Court sentenced her to death for drug trafficking, and this sentence was left unchanged on appeal to the Supreme Court. Reportedly, a petition to the Presidential Clemency Commission was successful, however, and the death sentence was commuted to a long term of imprisonment. In the second case, Dunyagozel Ovezdurdyeva was sentenced to death for drug trafficking (the date and place of the trial were not known to Amnesty International), but sources reported that she subsequently benefited from a mass commutation of 222 death sentences decreed by the President in June.