

@AMNESTY INTERNATIONAL CONCERNS IN EUROPE May - October 1991

This bulletin contains information about Amnesty International's concerns in Europe during the period May - October 1991. Not every country in Europe is reported on, in some cases because there were no major developments in the period covered by the bulletin, in others because AI's concerns have been made public in other material. This is listed in the appendix which should be referred to for all AI's external information on Europe from May - October 1991.

French and Spanish translations of this bulletin will be available in due course.

ALBANIA

Update on human rights developments and Amnesty International's concerns

In July the last remaining political prisoners were released, according to official reports. These included people accused of espionage, sabotage, terrorism, slandering state bodies and participating in illegal demonstrations. A leading member of the Association of Former Political Prisoners and Interned (founded in April and officially registered in August) confirmed this to Amnesty International in September. However, large numbers of released prisoners remained without accommodation or employment and people previously held in internal exile (interned), although formally free were frequently unable to leave their camps because they had nowhere to go.

In September some 200 former political prisoners went on hunger-strike in Tirana to demand that all former political prisoners be officially declared innocent (having rejected a proposal for an amnesty). On 30 September this demand was acceded to and they ended their 10-day hunger-strike. Four days previously a law had been passed granting a small monthly pension to former political prisoners without employment or unfit for work.

Thousands of Albanian citizens continued to seek to leave the country as economic conditions worsened. In June there were further departures. On 19 June Amnesty International wrote to the government expressing concern that in an interview published in the Italian press Prime Minister Ylli Buqi (head of a coalition government formed on 13 June) reportedly stated that, if necessary, Albanian coastal guards would shoot at Albanian citizens attempting to leave the country without official permission. On 26 June Amnesty International received a communication from the Prime Minister in which he assured the organization that it was not government policy to shoot at would-be emigrants.

In August there was another mass exodus of some 18,000 from Albanian ports to south Italy. The Italian authorities forcibly returned most to Albania by the end of the month. On 14 August the Italian Section of Amnesty International issued a press release expressing its concern that the speed with which this was done made it reasonable to believe that potential asylum-seekers were not allowed access to determination procedures in accordance with international standards on refugees. Later reports suggested that an unknown number of soldiers amongst the refugees had been arrested for "desertion" on return to Albania. In an article published in an opposition newspaper in October, an employee of the Procuracy in Durrës indicated that about 80 soldiers and police who had been on duty in Durrës port at the time of the mass exodus in August and had joined it, were sentenced to two to three months' imprisonment or were sent back to their units for "re-education" on their return to Albania.

Amnesty International is concerned about the continued existence of legislation which allows for the imprisonment of people for the non-violent exercise of their right to freedom of expression. However, it knows of no recent cases in which courts have used these provisions to imprison people. The organization is also concerned that 11 offences (including two economic

offences) are punishable by the death penalty. It has so far learned of only one death sentence this year which was carried out on a man convicted of killing border-guards.

AUSTRIA

Torture and ill-treatment (update to report of January 1990)

In December 1991 Amnesty International will publish a 28-page document entitled *Austria: Torture and ill-treatment - Update to report of January 1990* (AI Index: EUR 13/04/91). Anyone wanting a copy of the full document should contact the International Secretariat. The following is a summary of the paper.

In January 1990 Amnesty International published a report expressing concern that people in police custody in Austria were sometimes subjected to unwarranted and deliberate physical violence. The consistency, regularity and credibility of the allegations received by Amnesty International caused the organization to believe that the problem was not one of a few isolated incidents.

Since the report was published the Austrian Government has announced a number of measures intended to safeguard police detainees; Amnesty International and the Austrian Government have been engaged in extensive correspondence on the subject; and, in May 1990, the European Committee for the Prevention of Torture visited Austria and submitted a report to the Austrian Government in November 1990 which confirmed many of Amnesty International's findings. This report was published in October 1991, together with the Austrian Government's comments on it.

The update describes these developments and considers Amnesty International's concerns in the light of them. The organization continues to receive consistent and regular allegations of police ill-treatment, in some cases amounting to torture. Amnesty International continues to be concerned at the lack of adequate safeguards against ill-treatment of detainees, lack of public confidence in the mechanism by which complaints can be made about police ill-treatment and the insufficient implementation of the provisions of the United Nations Convention against Torture.

BELGIUM

Progress of draft legislation abolishing the Death Penalty for peacetime offences

On 13 September the Belgian Council of Ministers approved a bill to abolish the death penalty for peacetime offences. The bill was then passed on for parliamentary approval. Under the provisions of the draft law the death penalty would be retained for serious military offences committed in time of war.

Under the Penal Code of 1867 the death penalty is provided for serious crimes against the person, and specified crimes against state security. In addition, mandatory death sentences were introduced in June 1975 for kidnapping and in June 1976 for hijacking an aircraft, in both cases when aggravating circumstances can be proved. The death penalty is also provided for certain crimes in the Military Penal Code for members of the armed forces.

Since 1863 death sentences for common criminal offences have, with one exception, always been commuted. In March 1918 a frontline military officer was executed after being convicted of the murder of a pregnant civilian. Some 15 people were, however, executed in the course of World War I for crimes against external state security, and about 242 people were executed by firing-squad between November 1944 and August 1950 after being convicted of war-related crimes against the external security of the state. No execution has been carried out since August 1950.

BULGARIA

Allegations of torture remain uninvestigated

In October 1991 Amnesty International wrote to the Procurator General of Bulgaria to urge him to undertake full and impartial investigations into a number of cases of alleged torture or ill-treatment in detention which had occurred before the change of government in November 1989. Amnesty International also urged that the results be made public and that any official found responsible be brought to justice.

Amnesty International had received testimonies from around 20 former political prisoners of ethnic Turkish origin who alleged that they had been tortured and ill-treated in pre-trial detention to induce them to sign false confessions. Most of them had been arrested and imprisoned in connection with the official campaign which began in December 1984 during which the ethnic Turkish minority in Bulgaria were forced to take Bulgarian names in place of their ethnic Turkish ones.

These cases had been made known to the Bulgarian authorities earlier in the year by the Bulgarian Centre Against Torture. The Bulgarian authorities had promised to undertake investigations into them. Amnesty International was concerned that no information had been made public to confirm that these investigations had taken place and to reveal their findings (see AI index EUR/15/03/86; EUR/15/01/89; EUR/15/03/90).

CYPRUS

Conscientious objection to military service

Conscientious objectors continued to be imprisoned for refusing to perform military service or take part in reservist exercises. According to Amnesty International's information, between May and October some eight conscientious objectors, all Jehovah's Witnesses, were sentenced to terms of imprisonment ranging from two to six months. Amnesty International considered all of them to be prisoners of conscience.

One conscientious objector, 36-year-old Omiros Konstantinou, was sentenced to two months' imprisonment on 2 July for refusing to take part in exercises for reservists. Omiros Konstantinou is married with four children and works as a labourer. As the sole breadwinner in his family his imprisonment caused his family considerable hardship. Another conscientious objector, Zinonos Andreas Zinonos, a 30-year-old father of two, who had already served six months of a 20-month sentence in 1985 for refusing to perform military service, was sentenced to a further four months' imprisonment on 23 October.

At the end of October the Cypriot press reported that the Minister of Defence was intending to promote the passage through parliament of draft legislation on conscientious objection originally drawn up in 1988. This legislation, if passed, would recognize the right to have conscientious objections to military service for the first time in Cyprus. However, the alternative service it provides for falls short of international standards on a number of counts. The length of the service at four years - about twice the length of ordinary military service - is punitive. It is also unclear whether the service provided for would be completely civilian and under civilian control and whether the service would be open to men whose conscientious objections develop after they are drafted into the armed forces. It further appears only to take into account conscientious objectors on religious grounds. On 31 October Amnesty International wrote to the Minister of Defence expressing its concern that if the draft law is passed without these crucial considerations being taken into account, the service would be unacceptable to many conscientious objectors who would be imprisoned for refusing to accept it. Amnesty International pointed out that it would consider such prisoners to be prisoners of conscience.

Amnesty International has appealed repeatedly to the Cypriot Government to release all imprisoned conscientious objectors and to legislate for an alternative service which is completely civilian in character and under civilian control and which takes into account conscientious objectors on religious, moral, political, pacifist, philosophical and other grounds as well as those who declare their conscientious objection after they have been conscripted into the armed forces.

Torture allegations

In May Amnesty International received information about three cases of alleged torture of people in police custody said to have taken place during 1990 and 1991.

Andreas Zinonos, a 50-year-old former local council head and employee of the health department, lodged a complaint against five policemen from the Limassol anti-narcotics squad who allegedly tortured him for 10 hours on 17 May 1991. Reportedly these policemen stopped him at gunpoint as he was walking along the river bank at the village of Phinikaria on his way to work. He was allegedly thrown to the ground, kicked, beaten with truncheons, threatened with being shot, orally abused and had his head held underwater in the river. He was also reportedly forced to climb up a precipice on his hands and knees and once he was at the top the policemen threatened to push him off and fired shots at him which narrowly missed him. During the alleged torture the police tried to make him confess to being paid to water some cannabis plants which were being grown in the vicinity and also demanded to be told where some weapons were being kept.

Cyprus Weekly, 24-30 May, reported that the five policemen had been suspended on the orders of the commander of the anti-narcotics squad until an investigation into Andreas Zinonos' complaint had been carried out.

Amnesty International wrote to the Cypriot Government expressing its concern about the allegations and requested to be informed of the progress of the investigation and to be kept informed of further developments. In a letter, dated 17 September, the Ministry of the Interior informed Amnesty International that five policemen had been formally charged with the alleged offences and that the case was before the court awaiting trial.

Amnesty International also sought further information about the case of Michalis Loukas, who was reportedly tortured by police in Limassol in December 1990. The incident reportedly took place after Michalis Loukas failed to produce adequate identification papers and was taken to the police station to have his identity checked. There he was reportedly kned in the groin, punched in the head and face, slapped and had his hair pulled. He was also allegedly held by the throat and pushed against a wall, so that he had difficulty breathing, and hit on the ears, which caused great pain and loss of hearing in his left ear. He was reportedly made to strip and stand naked on a table while being mocked by the police officers, some of whom allegedly spat on his genital organs.

Michalis Loukas was subsequently taken to hospital where a perforated left ear drum, bruising around the eyes, slight haemorrhaging in the eyes, concussion, damage to his balance mechanism and other injuries were recorded. He reportedly had to undergo an operation in order not to lose his hearing permanently.

An investigation was carried out into his allegations by the Complaints Board which concluded that his allegations were by and large true, although exaggerated on some points, and which rejected police claims that they had not ill-treated Michalis Loukas. The Board's findings are said to have been submitted to the Minister of the Interior. It is not known what further action has been taken.

Amnesty International expressed its concern about the allegations to the Cypriot authorities and requested to be informed of the steps that had been taken since the Board's findings were submitted to the Ministry and to be kept informed of further developments. By the end of October Amnesty International had not received a reply to these inquiries.

DENMARK

Report of the European Committee for the Prevention of Torture

In September 1991 the Danish Government made public the *Report to the Danish Government on the Visit to Denmark Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*. The Committee carried out its periodic visit to Denmark in December 1990. In the context of this visit, the Committee heard from a wide variety of sources about the allegations of ill-treatment in custody made by Himid Hassan Juma (see AI Index EUR 03/02/90 and EUR 01/01/91) and Babading Fatty (see AI Index EUR 01/01/91). Amnesty International had written to the Danish Government expressing concern about the allegations of ill-treatment in both of these cases, and asking the government about the measures which had been taken to investigate the allegations.

The Committee's report acknowledges that the Ministry of Justice initiated an inquiry in both these cases, and has asked that it be informed of the findings of the inquiries and the measures which the authorities intend to take as a result. The Committee also endorses the proposal made by the Governor of Copenhagen Prisons following the November 1990 incident involving Babading Fatty's alleged ill-treatment. The Governor advocated the introduction of specific training courses for Police Headquarters Prison staff "...designed to enable them to deal with emergency situations and provide desperate or emotionally highly disturbed individuals with the necessary help". The Committee reported that it "...was struck by the similarity of the allegations concerning the treatment of these two individuals, both from African countries (Himid Hassan Juma and Babading Fatty)", and noted that "...there might be a problem of communication with nationals of states whose languages are little known or not known at all, especially when the behaviour of the individuals concerned, for a variety of reasons - for example, a failure to understand the reasons for their detention -, is disturbed".

ESTONIA

Concern over provisions for conscientious objectors to military service

Amnesty International wrote in October to Toomas Puura, Head of the State and Border Defence Department of the Republic Estonia, with regard to comments attributed to him concerning the forthcoming call-up of conscripts in the republic. Press reports had quoted him as saying: "We will need very urgently a certain number of young men for military service, primarily border service. It goes without saying that an independent state will not ask boys whether or not they want to serve, as happened with the draft to alternative service. When necessary certain coercive methods will be used." Amnesty International expressed its concern that these remarks, if correctly reported, implied that conscientious objectors to military service would no longer be offered a civilian alternative.

Amnesty International drew the attention of the Head of the Defence Department to Resolution 1989/59 adopted by the United Nations Commission on Human Rights, which recognized conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion. This resolution recommends among other things that states refrain from subjecting conscientious objectors to imprisonment, and that they provide an alternative service of non-punitive length and impartial decision-making procedures for applying it.

Amnesty International also raised the question of the length of alternative service in Estonia, having received no response to a letter to Arnold Rüütel, Chairman of the Supreme Council, earlier in the year. The organization expressed its concern that according to the law of March 1990, which established a programme of alternative labour service, the length of this service is 30 months, longer than that of military service. Amnesty International again asked to be informed of the reasons for the difference in length between the two services, in the light of the organization's concern that the length of any alternative service should not be such as could be considered punishment for a person's conscientious objection.

The death penalty

In October Amnesty International wrote to Olev Laanjärv, the Minister of Internal Affairs, expressing its concern at the execution of Rein Oruste, whom the organization understood had been convicted of murder. According to the Estonian daily *Paevaleht* of 27 September, the Minister had announced that Rein Oruste had been executed on 11 September 1991, the first such sentence to be carried out in Estonia itself since 1968, and that the legal procedures had been observed. However, the newspaper also reported allegations from other sources that Rein Oruste was shot on 11 September by prison officials while in the washroom at institution JuM-422/2, in retaliation for an earlier altercation with prison guards.

Amnesty International requested clarification on the circumstances of Rein Oruste's death, such as whether he and his family had been informed of his pending execution, where it

took place and which officials were present. It also requested a copy of the official regulations regarding the procedure for executions in the Republic of Estonia (in the article the Minister had explained that previous death sentences passed in Estonia since 1968 had been carried out in Leningrad, now St Petersburg, in the Russian Republic). The organization reiterated its hope, expressed in a letter to the Chairman of the Supreme Council earlier in the year, that the Republic of Estonia would impose a moratorium on death sentences and executions while the use of the death penalty was reviewed, and that full statistics on the death penalty would be published. Publication of such material for a range of categories is urged in Resolution 1989/64 by the United Nations Economic and Social Council.

Ratification of international human rights instruments

On 21 October 1991 Estonia acceded to a number of international human rights instruments, including the International Covenant on Civil and Political Rights and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Earlier in October Amnesty International had written to Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, welcoming the admittance of the republic to the United Nations on 17 September and urging that the ratification of international human rights instruments be considered as a matter of priority. Amnesty International had further expressed its hope that the Republic of Estonia will urgently consider the abolition of the death penalty, and thereby be in a position to join those other states which have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

FINLAND

Conscientious objection to military service

Janne Mäkinen, a 24-year-old conscientious objector, began serving a seven-and-a-half month prison sentence in February 1991. Timo Tapani Karjalainen, a 27-year-old conscientious objector, began serving an 11-month prison sentence in May 1991. Kari Hämäläinen, a 24-year-old conscientious objector, began serving a six-month prison sentence in September 1991. All three were adopted as prisoners of conscience.

Amnesty International considers that the length of alternative service for conscientious objectors to military service in Finland (currently twice the length of ordinary military service), under the 1987 temporary law on alternative service, could be deemed a punishment for the non-violent expression of conscientious objectors' beliefs. The organization therefore considers those Finnish conscientious objectors who are refusing to perform the 16-month alternative service to be prisoners of conscience (see AI Index EUR 03/02/91). New legislation on conscientious objection is presently before the Finnish parliament. The final draft of the new act calls for an alternative service of approximately 13 months. Amnesty International will carefully consider the length of alternative service which is finally adopted in assessing whether conscientious objectors have been offered an alternative service of comparable length to military service.

FRANCE

Conscientious objection to the national service laws

Large numbers of conscientious objectors to the national service laws continued to be imprisoned. The vast majority were Jehovah's Witnesses who base their objection to both military and alternative civilian service on religious grounds; according to unofficial estimates, between 500 and 600 Jehovah's Witnesses are imprisoned each year as a result of their refusal to perform military service.

The right to conscientious objection to compulsory military service is currently governed by Law 83-605 of July 1983. Under its provisions conscripts who declare themselves opposed to "the personal use of arms" for "reasons of conscience" are accepted for alternative civilian service in a state administration or in local organizations of a social or humanitarian nature "in the general interest".

Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service. However, Amnesty International believes that an essential component of the right to conscientious objection to armed service is that alternative service should not be imposed as a **punishment** for such objection. As the length of civilian service in France is, at 24 months, twice that of ordinary military service, Amnesty International considers that it does not provide an acceptable alternative to military service and that those imprisoned for rejecting both services are prisoners of conscience.

On 3 October 1991 the Chamber of Deputies (the lower chamber of parliament) voted by 316 to two votes to approve a bill, presented by the ruling Socialist party, which proposed the reduction of military service from one year to 10 months. However, it is envisaged that civilian service will remain twice the length of military service. The bill is now awaiting examination by the Senate (the upper chamber of parliament).

Amnesty International remained concerned that, under Law 83-605, the right to conscientious objection may only be exercised within strictly defined time limits. Amnesty International adopts as prisoners of conscience those conscientious objectors to military service whose applications for conscientious objector status and civilian service are rejected on the grounds that they have been received outside the stipulated time limits and who are subsequently imprisoned for refusing military service. Amnesty International believes that conscientious objectors are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time, both up to and after the issuing of call-up orders to military service. Amnesty International is also concerned that conscripts for national service in France do not appear to receive sufficiently detailed information on the procedures to be followed in order to obtain conscientious objector status.

Amnesty International continued to seek further information about the case of **Stéphane Thébault**, a 22-year-old conscript who, on 6 February 1991, was sentenced to 15 months' imprisonment for refusing military service by a court using a summary procedure (*procédure de comparution immédiate*). He apparently made no appeal against his sentence. According to the information received by Amnesty International, Stéphane Thébault complied with an order to present himself at a military barracks in Poitiers at the beginning of February 1991 to commence his military service but then refused to put on military uniform and perform military service, reportedly on grounds of conscience. The reports received by Amnesty International allege that the authorities supplied him with incorrect or insufficient information on the procedures to be followed in order to obtain conscientious objector status and that, as a result, he did not submit a formal application for recognition as a conscientious objector.

The alleged ill-treatment and death in police custody of Aïssa Ihich

Aïssa Ihich, an 18-year-old high-school student from Mantes-la-Jolie, a suburb west of Paris, and a chronic asthma sufferer, died on 27 May 1991 after spending approximately 36 hours in police custody. He had been arrested on the night of 25 May when he was reportedly amongst a group of youths attacking cars and throwing stones at police officers in Mantes-la-Jolie.

It was alleged that he was beaten by the police at the time of arrest and a medical certificate issued during his detention recorded injuries to his body which were caused by blows. The doctor who examined him classified these as minor injuries ("*lésions traumatiques mineurs*"). He did not refer in his certificate to Aïssa Ihich's asthma nor did he give any instruction to the police relating to his treatment or conditions of detention. It was also alleged that during his detention he was deprived of medication necessary to alleviate his asthma and held in conditions likely to exacerbate it.

His family made a formal complaint regarding his treatment in police custody and a judicial inquiry was immediately opened into his death. The Minister of the Interior also ordered the *Inspection générale de la police nationale* (IGPN), the General Inspectorate of the National Police (an internal police body responsible for investigating allegations of police misconduct), to carry out an inquiry into the circumstances surrounding the death.

According to the preliminary findings of an autopsy carried out in May, in the context of the judicial inquiry, Aïssa Ihich's death resulted from his asthmatic condition. The court-appointed forensic specialists did not consider injuries to his head and pelvis, which had been caused by blows, to be the direct cause of his death. However, further tests were ordered to try to establish if there was, in fact, any connection between the blows suffered by Aïssa Ihich and the onset of the asthma attack leading to his death. The family also requested that further tests be carried out by, among others, lung and allergy specialists.

Amnesty International was concerned that there might be a possible connection between the blows received by Aïssa Ihich at the time of arrest and the subsequent asthma attack leading to his death some 36 hours later. The organization was also concerned by reports that the police refused to allow medication which the Ihich family brought to the police station in which Aïssa

Which was being held to be given to him and by reports of the continued failure of the relevant authorities to identify which section of the national police, the *police urbaine* (urban police) or the CRS (*Compagnies républicaines de sécurité*) carried out the arrest. Amnesty International is seeking information from the authorities as to the progress of the judicial and IGPN inquiries and has asked for their cooperation in informing the organization of the eventual findings of the inquiries and of any judicial or disciplinary proceedings arising from them.

The alleged ill-treatment of Abdelaziz Gabsi and Kamel Djellal (update to information given in EUR 03/02/90)

Further news was received regarding the progress of a judicial inquiry opened by the Public Prosecutor's office in Grenoble, after Abdelaziz Gabsi and Kamel Djellal alleged that they were ill-treated by police in Echirolles, near Grenoble, on the night of 11 December 1989.

In June 1991 the Public Prosecutor's office in Grenoble and the judge of instruction to whom the case had been allocated for investigation informed Amnesty International that on 10 January 1991, the judge of instruction had ruled that there were no grounds on which to proceed to a prosecution, in conformity with the Prosecutor's request. The Prosecutor also informed Amnesty International that the civil parties had entered an appeal against this decision.

Abdelaziz Gabsi and Kamel Djellal alleged they were ill-treated after a police officer asked to see Abdelaziz Gabsi's identity papers. They claimed that when Abdelaziz Gabsi offered a jacket containing the papers the police officer insulted him, struck him across the face with the butt of his shotgun and then hit him several more times on the head. The police officer then allegedly struck Kamel Djellal several times, handcuffed him and beat him to the ground. He was also bitten by a police dog in the charge of a second officer. The press reported that, following the incidents, Abdelaziz Gabsi's face was badly bruised and swollen and Kamel Djellal required 20 stitches to wounds on his head and face. The police reportedly stated that the accused officer had been attacked by Abdelaziz Gabsi and had acted only in self-defence.

GERMANY

Alleged isolation of prisoners detained under anti-terrorist laws

Correspondence with the government

Since 1979 Amnesty International has expressed concern to the authorities of the Federal Republic of Germany (FRG) about the prolonged isolation of prisoners detained under anti-terrorist legislation, mainly Article 129a of the Penal Code. The organization is concerned that prolonged isolation, including "small-group" isolation (the isolation of a small number of prisoners from the rest of the prison population), can have serious physical and psychological effects and may constitute cruel, inhuman or degrading treatment. Amnesty International has urged the FRG authorities to seek alternatives to this form of imprisonment, stressing that ways should be found to accommodate security needs with humane treatment. (For further details see AI Index: EUR 03/02/89 and *Amnesty International's Work on Prison Conditions of Persons Suspected or Convicted of Politically Motivated Crimes in the Federal Republic of Germany*, AI Index: EUR 23/01/80.)

On 8 May 1991 the Federal Ministry of Justice wrote to Amnesty International in response to a letter Amnesty International had written on 20 December 1990, in which the organization asked for information on what steps the government had taken in order to balance the possible negative effects of the social isolation in which prisoners detained under anti-terrorist legislation were held. Amnesty International had referred to reports received over the years of prisoners suffering from physical and psychological symptoms such as chronic apathy, fatigue, emotional instability, difficulties of concentration, diminution of mental faculties and disorders of the neuro-vegetative system, which may have been caused by prolonged detention in varying degrees of isolation.

In its reply the government stated that: "[t]he symptoms you mention - even if they were in fact to exist - could not point towards isolation torture". The government also quoted a decision from the Stuttgart Higher Regional Court (Oberlandsgericht), dated 25 October 1990, which looked at the conditions under which two remand prisoners - Andrea Sievering and Erik Prauss - were being held. In its decision the court rejected the claim made, it said, by Amnesty International in the *Amnesty International Report 1990* that "'unreasonable conditions'... had possibly made it impossible or unreasonable for these prisoners to join in communal activities with other (non-political) prisoners". The court decision went on to illustrate how the privileges enjoyed by Andrea Sievering and Erik Prauss - including access to television and newspapers, the receipt of mail and the number of visits permitted - made it impossible to talk about the prisoners being held in "virtual isolation".

On 28 August Amnesty International responded to the government pointing out that it had never described the conditions of prisoners accused or convicted under anti-terrorist legislation as "torture". Its concern was that the prolonged isolation of prisoners can have serious physical and psychological effects and may constitute cruel, inhuman or degrading treatment. Amnesty

International also explained that it had not said that the conditions attached to association with other (non-political) prisoners were too onerous for *all* prisoners held under anti-terrorist legislation. Despite the fact, therefore, that the court was satisfied that this did not apply to Andrea Sievering and Erik Prauss, this did not mean that similar claims by other prisoners should not be taken seriously.

Amnesty International asked whether a decision of the Düsseldorf Higher Regional Court of 16 May 1988 forbidding Barbara Perau-Hofmeier (who has been in investigative detention since August 1986) from participating in church services or any other communal activities, except exercise, was still in force and whether a review of it was planned.

Additionally, the organization repeated its concern - last expressed in the *Amnesty International Report 1991* - about the situation of long-term women prisoners in Stuttgart (sometimes known as Stammheim) prison. Because it is predominantly a men's prison, long-term women prisoners are not allowed to associate with the main prison population, nor with each other if they have been accused of terrorist offences. This means that the only prisoners with whom female prisoners detained there under anti-terrorist legislation can have contact are a few women who are held in Stuttgart for short periods pending transfer elsewhere. Sometimes these prisoners are foreigners who do not speak German well. Amnesty International said that it therefore felt justified in describing this lack of meaningful contact as "virtual isolation".

GREECE

Conscientious objection to military service

The imprisonment of conscientious objectors in their hundreds continued to be a source of concern. There was no change in the law and conscientious objectors continued to be denied their right to perform alternative civilian service.

Amnesty International considered all imprisoned conscientious objectors in Greece to be prisoners of conscience and appealed repeatedly to the Greek authorities to observe United Nations, Council of Europe and European Community resolutions and recommendations, to release all imprisoned conscientious objectors and to introduce alternative civilian service of non-punitive length for conscientious objectors to military service.

At any given time, some 400 conscientious objectors are imprisoned in Greece, the majority of them Jehovah's Witnesses. Usually, conscientious objectors are sentenced to terms of imprisonment lasting four years which they are able to reduce to about three years by working. Some 45 men who are not Jehovah's Witnesses had publicly declared themselves to be conscientious objectors by the end of October. Three of them, Nikos Maziotis, Pavlos Nathaniel and Thanasis Karalis, all total objectors, were imprisoned. Nikos Maziotis, who was imprisoned on 15 May, was released on 17 September after being given a one-year prison sentence. His prison sentence was suspended for three years on condition that he does not commit any other act punishable under the law. Although he was called up again immediately after his release and failed to respond, he remained free at the end of October. At the end of October Pavlos Nathaniel and Thanasis Karalis remained in prison pending trial. Amnesty International also learned of the case of a further conscientious objector who was not a Jehovah's Witness. This conscientious objector has not made any public declaration about his position and is serving his sentence in Kassandra Agricultural Prison.

Conditions in Avlona Military Prison were reported to have improved in certain respects, although Jehovah's Witnesses in military prisons, in contrast to prisoners belonging to the Greek Orthodox faith, continued to be forbidden visits by their religious leaders.

Concern about the continued imprisonment of Greek conscientious objectors was expressed by, among others, some Members of the European Parliament who visited Avlona Military Prison in May, and in July the Belgian Senate passed a resolution which called on the Greek Government to free all imprisoned conscientious objectors immediately, to suspend all arrests of conscientious objectors and to prepare a law providing for alternative civilian service. The President of the Belgian Senate was instructed to transmit the resolution to the President of the Greek Parliament, the President of the European Parliament and the Secretary General of the Council of Europe.

Concern for the health of imprisoned conscientious objector Giannis Smaragdis

Amnesty International became gravely concerned about the health of conscientious objector and adopted prisoner of conscience Giannis Smaragdis who is suffering from Hodgkins Disease, a form of cancer affecting the lymph nodes. Giannis Smaragdis was first diagnosed as having the disease in 1982. By the time he was called up to perform military service in 1989 he had undergone an operation and other treatment for his condition but was nevertheless imprisoned. In September, after Giannis Smaragdis suffered a relapse, his lawyer requested the Public Prosecutor to permit him to be released so that he could start receiving treatment. The Prosecutor informed Giannis Smaragdis' lawyer that he would have to take the case to appeal before he could be released from prison. A case can take up to several months to reach the appeal court. Amnesty International is concerned that such a delay could seriously endanger Giannis Smaragdis' life. Kassandra Agricultural Prison, which is a car journey of some hours from the nearest hospital and does not have a resident doctor, is clearly an unsuitable place to keep a critically ill prisoner. In early October Amnesty International appealed to the Greek authorities for the immediate release of Giannis Smaragdis from prison so that he could start receiving treatment and pointed out that any delay in releasing him would reduce his chances of survival. At the end of October Giannis Smaragdis was still in prison.

Imprisonment of Jehovah's Witness religious ministers for their conscientious objection to military service (update to information given in AI Index: EUR 03/02/90 and EUR 01/01/91)

On 30 May Jehovah's Witness ministers Dimitris Tsirlis and Timothy Kouloubas were acquitted by Athens Military Court of Appeals. The appeal court verdict came after the Council of State had ruled in April 1991 that both men were religious ministers of a recognized religion and as such should be exempted from military service in accordance with Greek legislation. These two men had been in prison since March 1990 for their refusal to perform military service despite the fact they were legally recognized ministers. Their request for exemption under Law 1763/88 had been rejected by the military authorities on the grounds that the Jehovah's Witness faith was not a recognized religion in Greece despite numerous court decisions, some dating back to before the Second World War, ruling that the Jehovah's Witness faith is a recognized religion in Greece.

Amnesty International welcomed the release of Dimitris Tsirlis and Timothy Kouloubas and expressed the hope that in future Jehovah's Witness ministers will be exempt from military service in accordance with the provisions of Greek law.

Amnesty International was concerned to learn that the application for exemption from military service of a further Jehovah's Witness minister, Anastasios Georgiades, was rejected by Serres Recruiting Office on 17 September on the grounds that the Jehovah's Witness faith is not a "recognized" religion. By way of explanation the recruiting office stated that "the exercise of this religion...contravenes" Article 13, paragraph 2 (which prohibits proselytism) and Article 4, paragraph 6 (which obliges Greeks to "contribute to the defence of the Fatherland") of the Greek Constitution. Its decision was also based in part on information submitted to the military authorities by the Holy Synod of the Greek Orthodox Church. Anastasios Georgiades is appealing against this decision. If he is imprisoned for his conscientious objection, Amnesty International will consider him to be a prisoner of conscience.

Imprisonment and alleged ill-treatment of total objector Pavlos Nathaniel

Amnesty International was concerned about the case of Pavlos Nathaniel who was arrested and allegedly ill-treated by police on 15 September. Pavlos Nathaniel is currently imprisoned in Avlona Military Prison and is due to stand trial on 11 November for refusing to perform military service.

Pavlos Nathaniel was detained by police after he and some others were leaving a meeting to go and stick up posters in support of conscientious objector Nikos Maziotis. As they left the meeting the six of them were surrounded by police, pushed against a wall, handcuffed two together and searched. Reportedly Pavlos Nathaniel and the person to whom he was handcuffed, Kostas Diavolitsis, made a movement as if to escape. Four or five policemen are said to have immobilized them and to have then started hitting them with clubs and threatening them. The police allegedly threw Pavlos Nathaniel to the ground and kicked him on his head, body and legs. Kostas Diavolitsis tried to keep his balance and was hit with clubs in the kidney area. As a result of the beatings Kostas Diavolitsis suffered bruising in the area around his right kidney and Pavlos Nathaniel had to have six stitches on his right shin and one on his left shin at the Evangelismos hospital.

The six detainees were taken to a police station that evening and the following day they were brought before the prosecutor and charged. On 19 September they were all sentenced to 40 days' imprisonment in connection with charges for sticking up posters and Pavlos Nathaniel and Kostas Diavolitsis were sentenced to an additional 20 days' imprisonment for attempted escape. They have appealed against their sentences. Pavlos Nathaniel and Kostas Diavolitsis have lodged a complaint (No. 491/4091) against unknown police officers of the "Z" police branch for causing dangerous physical injury and threatening them. The complaint was submitted to the Prosecutor of the Court of First Instance (Επαρχιακή Εισαγγελία Αθηνών).

During the above incident the police discovered that Pavlos Nathaniel was a conscientious objector. A warrant for his arrest had been pending for a year. He was arrested by the military police and taken to Avlona Military Prison.

Pavlos Nathaniel has declared himself opposed to performing military service because he considers the army to be "an armed mechanism of violence" and has stated that he is "not asking

to exchange military service with some other form of service. I believe that any service linked to the state even if it is outside and supplementary to the army - and this is expressed particularly clearly in a period of war - is in essence a military service."

Amnesty International takes no position on conscription as such and does not oppose the right of a state to request a citizen to undertake alternative civilian service; however, in the absence of any provision for such alternative service it considers all imprisoned conscientious objectors to be prisoners of conscience.

Amnesty International called on the Greek authorities to release Pavlos Nathaniel as a prisoner of conscience and expressed concern about his alleged ill-treatment and that of Kostas Diavolitsis.

Torture and ill-treatment

Amnesty International was disturbed to receive further allegations that people held in police custody had been tortured or ill-treated. In some of these cases the detainees were allegedly tortured or ill-treated in an attempt to extract a confession from them, in others the purpose of the alleged torture or ill-treatment seems to have been to intimidate the victim and in other cases it appeared to serve no other purpose than that of revenge. There were also several allegations that people in prison had been tortured or ill-treated. Amnesty International was concerned that the Greek authorities failed to respond to its inquiries on cases of alleged torture or ill-treatment and that in some cases investigations into alleged torture or ill-treatment appeared to be inadequate or attempts had been made by the judicial authorities or police to obstruct alleged victims from making complaints. The cases described below are some of those raised with the Greek Government between May and October. By the end of October Amnesty International had not received a reply to any of its inquiries.

Alleged torture of Stella Evgenikou

Seventeen-year-old Stella Evgenikou was one of six people to be charged in connection with violent incidents which took place during demonstrations on 18 July against the visit of US President George Bush to Greece and US foreign policy. All six detainees made allegations that they had been beaten by police. Reportedly Stella Evgenikou was the most seriously tortured.

Stella Evgenikou became separated from her sister and a friend when, as they were trying to find a bus to take them home, they encountered a battery of charging riot police. She was allegedly thrown to the ground, beaten with truncheons, kicked all over her body and orally abused by some 10 riot police. As a result of the beating, she lost consciousness. She came to in a patrol car reportedly feeling severe pains in her head, ribs, back and limbs. On the journey to the Police Headquarters in Alexandras Avenue she felt dizzy and kept passing out. Once inside the building the police reportedly brought her back to consciousness by slapping her and continued to hit her on her face. They told her that as soon as she signed a statement she could

do what she wanted. She was left for some time and then taken to an office where she was made to sign a statement. She was not permitted to make any telephone calls and had no contact with her family or lawyer until the following day.

Throughout the night Stella Evgenikou reportedly kept asking to see a doctor but her request was refused. The following day she and five others who had been held by the police overnight were brought before the prosecutor and then taken to the examining magistrate. The detainees' lawyers requested a three-day delay for their clients to prepare their statements. Stella Evgenikou's lawyer also requested that she be given medical assistance. The magistrate ordered her to be seen by a doctor. She was then taken back to the Security Headquarters. Later that day the police sent a doctor to examine her and the other five detainees. This doctor merely recorded that Stella Evgenikou had bruising around the eye and that the other five detainees had superficial injuries. When her lawyer and family visited her on 21 July she was complaining of a severe headache, aching all over her body, feeling faint and nauseous. She was also experiencing loss of memory and difficulties in breathing and walking. When Stella Evgenikou's lawyer told one of the police officers on duty that she felt sick and needed to see a doctor, the police officer reportedly replied, "So who's stopping her from being sick?". After Stella Evgenikou's lawyer made a written request that she should be examined at a hospital she was taken to the Evangelismos Hospital and it was discovered there she had bruising on the thorax and two fractured ribs. The hospital recommended two weeks' rest. She was, however, sent back to the police station where she had to spend three days in a cell with no bed together with the other detainees despite her condition.

On 23 July all six detainees were taken to the 22nd examining magistrate and were committed into provisional detention in Korydallos Prison. The detainees stated that they had been beaten by the police during their appearance before the magistrate. Stella Evgenikou was been charged with revolt; resistance to authority; hindering communications and disrupting the public peace. On 23 July Stella Evgenikou's lawyers

lodge a complaint on her behalf against one named policeman, Harilaos Delvas, of the MAT (riot police) and an unknown number of uniformed and plainclothes police officers who were present during her arrest and interrogation, for severe bodily harm, unlawful use of force, perjury, threats, torture and other attacks on human dignity, blasphemy and oral abuse. On 29 July the six detainees were released on bail of 100,000 drachmas. At the end of October Amnesty International learned that the investigation into Stella Evgenikou's allegations had ended and that the case had been referred to the Council of the Criminal Court (Σμ6???? ??? μπε?e??d?ε???) which will decide whether or not proceedings should be brought against the police.

Alleged torture of Avgoustis Anastasakos and Elevation Kougios

Avgoustis Anastasakos, suspected of theft, has alleged that he was tortured by police on the island of Patmos on 12 September. When, following his interrogation by police, he was brought before the Court of First Instance of Kos to make a statement, he is reported to have told the court that he had been kicked in the neck, face and genital organs while his hands were tied behind his back. He stated that he was in such pain that he asked to go to the lavatory but was not permitted to go. He was finally taken and reportedly could not urinate because of the pain. He alleged he was then hit on his back with cables from a tape-recorder and punched in the face, with the result that one of his teeth was broken. He also alleged that the police put the cable round his neck and pulled it tight so he could not breathe. Avgoustis Anastasakos reportedly bore signs of torture when he appeared in court. His fellow detainee, Elevation Kougios, also alleged that he had been tortured.

As a result of Avgoustis Anastasakos' allegations, the Public Prosecutor ordered the police to take the two men to hospital for a medical examination before taking them to Kos Prison. At the end of October Amnesty International was waiting to learn what steps had been taken by the Public Prosecutor to investigate Avgoustis Anastasakos' and Elevation Kougios' allegations.

Alleged torture of Artan Malaj

On or around 3 May 1991, 17-year-old Artan Malaj, an Albanian, was arrested by the police on suspicion of having committed some serious robberies. He was interrogated at the General Security of Athens (Ge?ε? ? s φ??e?a ? ε????) in Alexandras Avenue for two days without a lawyer, during which time he alleges that he was ill-treated.

When called to testify before the Ninth Special Examining Judge of Athens (9?? ? ?dε?? A?aεqε?? ? ε????), Mr Panayiotis Petropoulos, on 7 May, he alleged that the police had hit him on the head and in the stomach and had shouted abuse at him. He said that when he tried to run away because he was afraid, the police beat him further. He alleged that the police also beat him during his transfer from the police station to the Public Prosecutor.

Under Greek law an examining judge is obliged to notify the Prosecutor if a defendant makes allegations of torture or ill-treatment. In the case of Artan Malaj, however, the examining judge did not. When the lawyer who had offered to act on behalf of Artan Malaj protested, pointing out to the judge that he was obliged to report the case to the public prosecutor, the judge then reportedly sent the court papers to the prosecutor without any comment or request. On 8 May, Artan Malaj's lawyer sent an urgent request to the judge asking for his client to be examined by a forensic doctor. This request, however, was refused and no examination was carried out. In the event no investigation was initiated into Artan Malaj's allegations.

Alleged ill-treatment of Dimitris Papatheodoros

Businessman Dimitris Papatheodoros was allegedly orally abused, slapped in the face, kicked in the legs, hit in the ribs, the small of his back and on his legs, made to strip naked and was subjected to a body search by police at the Fourth Police Station in Athens. He had been taken to the station for further investigation after he was stopped by police from the "Rapid Action" force, who had checked his identity, in the early hours of the morning of 4 July in Omonia Square. Following the alleged ill-treatment Dimitris Papatheodoros was left alone in a cell for about four and a half hours, after which a police officer came and told him that he was free to leave. Dimitris Papatheodoros filed a suit against police from the Fourth Police Station in Athens for affront to dignity; unprovoked acts of abuse, unprovoked oral abuse and unconstitutional detention.

The case was referred to Athens Police Disciplinary Court, Section 13 (τὰ β' ματ' δ' κ' ? φ' ? ? ? ? , ? μ' ? μα 13). On 21 August Dimitris Papatheodoros was called to the Sixth Police Station and made a statement as a witness. He was informed by the head of that station that the statement was being taken as part of an administrative investigation that was being conducted into his allegations. By the end of October no further information was known about the progress of the investigations.

Death in custody of Süleyman Akyar (for further information see AI Index EUR 01/01/91)

Amnesty International continued to request information from the Greek authorities about the circumstances surrounding the death of detainee Süleyman Akyar, who died on 29 January in the KAT Hospital in Athens after he was beaten all over his body while held in custody by police from the Drugs Squad (anti-narcotics squad) following his arrest on 21 January as a suspected drugs dealer. It continued to call on the authorities to conduct a prompt, thorough and impartial investigation into the circumstances surrounding Süleyman Akyar's death, for the findings of such an investigation to be made public and for anyone found responsible for his death to be brought to justice. By the end of October Amnesty International had not received a reply to its inquiries. Amnesty International received an unconfirmed report that the administrative investigation into his death had concluded that the police had acted in self-defence and that the Public Prosecutor apparently had not initiated a judicial investigation.

Two doctors had remarked independently of each other to Amnesty International that there was evidence from the post-mortem report that Süleyman Akyar had been beaten while he was hung up by his arms. A further doctor also thought this a possibility, but expressed the opinion that this could not be substantiated fully from available evidence.

Allegations from prisons

Some prisoners who had attempted to escape from Korydallos Prison in February alleged that they were kept in a disciplinary cell for two days without food and water and that they were beaten by guards during that period. A preliminary investigation was ordered by the Public Prosecutor of Piraeus into these allegations. Seventeen prisoners who were transferred from Larisa Prison to other prisons throughout Greece during February, following a hunger-strike at Larisa, alleged that they they were beaten by guards wearing hoods and armed with chains and truncheons prior to the transfer. It is not known what steps were taken to investigate these allegations.

Amnesty International wrote to the responsible authorities asking for further information about these alleged incidents and the progress of any investigations carried out into them. By the end of October it had not received a reply to these inquiries.

IRELAND

Allegations of ill-treatment in police custody

Amnesty International has renewed its call for an independent inquiry into allegations of ill-treatment in custody made in connection with the Sallins mail train robbery Ireland. In a letter to the Irish Government on 21 October 1991, the organization said that it remains concerned about the origins of injuries sustained by Osgur Breatnach, Nicky Kelly, Brian McNally and John Fitzpatrick while held in custody following the 1976 robbery (see AI Index EUR 03/01/90).

Osgur Breatnach, Nicky Kelly, and Brian McNally were convicted in 1978 of involvement in the robbery, solely on the basis of confessions allegedly obtained by ill-treatment during incommunicado detention. The Court of Criminal Appeal in 1980 ruled that the confessions of Osgur Breatnach and Brian McNally had been involuntary and quashed their sentences. Nicky Kelly was released on "humanitarian grounds" in 1984. John Fitzpatrick had been charged initially with involvement in the Sallins robbery, but the charges against him were dismissed.

In October 1991 an RTE (the Irish state broadcasting company) television documentary on Nicky Kelly's case, "Though the Heavens May Fall", underscored Amnesty International's continued doubts about the findings of the Special Criminal Court in 1978 regarding the allegations of ill-treatment. A linguistic analysis of Nicky Kelly's alleged confession, commissioned by RTE and carried out by Andrew Morton, a speech pattern expert based at Glasgow University, cast further doubt on the admissibility of this alleged statement as evidence of Nicky Kelly's involvement in the Sallins mail train robbery.

Evidence derived from this technique, which Andrew Morton has claimed has the same validity as a finger print, was recently accepted in the United Kingdom in a case before the Court of Appeal - resulting in the quashing of a 12-year sentence for armed robbery. Andrew Morton, who was not aware of Nicky Kelly's case before being approached by RTE, has said that he is "perfectly confident" that the words allegedly spoken could not have come from Nicky Kelly. He has claimed that the results establish that the alleged confession could not have been the work of one person, and that at least two people had been involved in its production.

Amnesty International understands that the Ministry of Justice is currently considering the linguistic analysis presented in the RTE documentary. In the light of this evidence, Amnesty International has urged the government to set up an inquiry to address those questions about the injuries sustained by all four men which were not satisfactorily dealt with by the Special Criminal Court, and to make public its findings.

ITALY

Meeting with the Prime Minister - Memorandum to the Government

During a press conference held in the People's Republic of China on 20 September 1991, the Italian Prime Minister (*Presidente del Consiglio dei Ministri*), Giulio Andreotti, replying to questions on human rights in China and a dossier on human rights violations in China sent to him by the Italian section of Amnesty International, was reported to have expressed the opinion that Amnesty International's information was unreliable, on the grounds that in a recent report it had stated that detainees were tortured in Italy and had criticized preventive detention in Italy.

In view of these reports Amnesty International sought a meeting with the Prime Minister to clarify his statements. On 16 October 1991 a meeting took place between the Prime Minister, a representative of the International Secretariat of Amnesty International and the President of the Italian Section of Amnesty International. During the meeting the representative of the International Secretariat handed over a memorandum containing a selection of cases of alleged torture and ill-treatment of detainees and prisoners in Italy which had been received by the organization in recent years. The cases had been raised previously with the Italian authorities.

Amnesty International has been concerned by the persistent failure of the Italian authorities to reply to its requests for information on most of the cases cited in its memorandum and by the apparent lack of progress in judicial inquiries opened into some of the allegations of torture and ill-treatment.

The Prime Minister gave assurances that he would ask for a thorough investigation into each of the cases described in Amnesty International's memorandum and would pass on the results of these investigations to the organization.

The representative of the International Secretariat explained that, under Article 1 b) of its mandate, Amnesty International works for fair trials within a reasonable period of time only for prisoners of conscience and political prisoners and that the organization was not at present concerned by the application of preventive detention to specific cases of this nature in Italy. However, the organization had criticized the excessive length of preventive detention in certain political cases in the past (see *Amnesty International Reports 1980 to 1990*).

At the end of the meeting the Prime Minister indicated his support for a revision of the Wartime Military Penal Code, leading to the total abolition of the death penalty. The Wartime Military Penal Code currently retains the death penalty for a wide range of offences; the death penalty has been abolished for common criminal offences and for military offences committed in peacetime. In August 1989 the Chamber of Deputies (lower house of parliament) asked the government to prepare legislation abolishing the death penalty from the Wartime Military Penal Code.

Alleged ill-treatment in Sollicciano prison, Florence

During April and May 1991 letters signed by both Italian and foreign nationals held in Sollicciano prison, Florence, were sent to the local and national press complaining about the conditions of detention within the prison and alleging, *inter alia*, that inmates were regularly subjected to ill-treatment and threats of ill-treatment and that detainees had suffered physical injuries as a result of the beatings they had received. The prisoners sent copies of their letters to the Director General of Prison Administration (*Direttore generale per gli Istituti di Prevenzione e Pena*) and to the judge of surveillance responsible for Sollicciano prison.

Approximately 600 male prisoners are normally held at Sollicciano Prison. About half are Italian nationals, the other half consists mainly of immigrants from outside the European Community, the majority of them from Morocco, Tunisia and Algeria.

In response to the prisoners' allegations, on 11 May 1991 a delegation consisting of Italian parliamentarians and regional councillors, accompanied by a journalist, visited the prison. They conducted brief interviews with a number of individual prisoners and, following the visit, reports of the allegations made by some of these prisoners were carried by the press. They included the four cases described below.

! **Skiri Mohamed** alleged that he had been beaten in the reception office of the prison on 2 March 1991 when he had been unable to remove a ring from his finger, as ordered.

! **Meftaki Sami** alleged that, after falling and breaking his arm while playing football, he was attacked by a prison guard when he returned to his cell.

! **Mohsen Ayari** alleged that, approximately a fortnight before the 11 May visit, he had been involved in a fight with an Italian prisoner and that three prison guards kicked and punched him repeatedly while he was being transferred to an isolation cell.

! **Osmani Faisel** alleged that approximately a fortnight before the visit he had been watching TV in his cell when a guard ordered him to turn down the volume. He claimed that he had complied with the order but that the guard then attacked him, hitting him around the head with his bunch of keys, knocking him to the floor and then kicking him repeatedly.

In an interview given to the press in May 1991 the director of Sollicciano prison stated that the judge of surveillance assigned to the prison was responsible for investigating the prisoners' allegations. He added that the situation in the prison was difficult - "Forty per cent of the prisoners are Moroccan, Algerian and Tunisian, people with different cultural habits, often rebellious and violent".

Amnesty International wrote to the judge of surveillance responsible for Sollicciano prison, the Minister of Justice and the Director General of Prison Administration, seeking confirmation that an investigation was being carried out into the allegations made by the inmates of Sollicciano prison and cooperation in communicating to the organization the progress and eventual findings

of any such investigation and of any eventual judicial or administrative proceedings arising from it.

No replies have so far been received.

The alleged ill-treatment of Loris Tezzon, Padua

On 4 June 1991 *Il Gazzettino di Padova*, a newspaper published in the town of Padua in Northern Italy, carried a report of a letter which it had received the previous day from inmates of a local prison - the *casa di reclusione di strada Due Palazzi*.

In their letter the prisoners claimed that Loris Tezzon, a 22-year-old prisoner accused of various offences against property had been beaten by prison guards on 18 May 1991. According to their letter, Loris Tezzon's brother had died a few days before the alleged attack occurred. He requested permission to attend the funeral but it appears that although the judge of surveillance responsible for the prison granted his request, the permission of another, unnamed, court was also required and, as this was not forthcoming, Loris Tezzon was unable to attend his brother's funeral. His fellow prisoners stated that Loris Tezzon then became depressed and on 18 May 1991 was taken to the prison infirmary to receive sedative drugs. They alleged that a disagreement of an unspecified nature then developed between Loris Tezzon and the prison guards accompanying him and that at approximately 4pm the prison guards attacked him. The prisoners claimed that, as a result of kicks and blows, Loris Tezzon suffered a broken arm and that after the attack he was placed in isolation for two days.

Amnesty International is seeking information from the Italian authorities as to the steps taken to investigate the alleged ill-treatment of Loris Tezzon and their outcome.

The fatal shooting of Spaho and Sefik Halilovic (update to information given in AI Index: EUR 01/01/91)

In June 1991 the Ministry of the Interior replied to Amnesty International's letters expressing concern about the circumstances surrounding the fatal shooting by police officers of the cousins Spaho and Sefik Halilovic, Gypsies of Slav origin, in November 1990. Amnesty International had asked to be informed as to the progress and outcome of a judicial inquiry opened into the shootings by the Turin Public Prosecutor's office and of an administrative inquiry reportedly opened within the police force.

The Ministry of the Interior informed Amnesty International that in the early hours of 9 November 1990 a highway police patrol, consisting of two police officers, received information from a toll-booth attendant on the Turin-Aosta motorway that a van carrying five people and loaded with electric material had been in transit on the motorway. The material subsequently proved to have been stolen.

When the patrol intercepted the van and indicated that the driver should stop, the van accelerated away from the police. When it eventually stopped the driver and the other occupants of the van ran off. The Ministry stated that, in an attempt to apprehend the fugitives,

one of the police officers fired a few warning shots in the air and that the fugitives then fired some shots in reply. The second police officer then fired the shots which mortally wounded Spaho and Sefik Halilovic.

The Ministry confirmed that the incidents were the subject of an inquiry opened by the Turin Public Prosecutor's office and stated that no disciplinary action had been initiated against the two police officers.

According to press reports published immediately after the shootings, the police stated that, during the chase, the police officers involved believed that either Spaho or Sefik Halilovic were the persons firing at them. However, no fire-arms were found next to their bodies or in their vicinity. The police then put forward the theory that the officers could have been mistaken and that the shots aimed at them must have been fired by one of the three men who escaped, rather than by Spaho or Sefik Halilovic. However, according to the November 1990 press reports, no spent cartridges were found in the vicinity of the shootings, except those used in the standard police-issue Beretta firearms carried by the police officers.

The initial examination of the bodies of Spaho and Sefik Halilovic reportedly found that one of the men had a bullet wound in his back and that the other had been shot in the head three times, at close range. On 10 November 1990 the Italian daily newspaper *La Repubblica* claimed to have interviewed one of the three men who escaped and reported his allegation that he had seen the police shoot Spaho Halilovic while he was lying on the ground, begging the police not to fire.

Outcome of judicial inquiry into alleged ill-treatment in Novara prison (update to information given in AI Index: EUR 03/01/90)

Amnesty International learned that a judicial investigation opened into alleged ill-treatment in Novara prison in January 1990 ended in March 1991.

On 30 January 1990 around 20 prisoners in Novara Maximum Security Prison attempted to remain in the exercise yard for an extra 30 minutes, in protest at disciplinary action taken against a fellow prisoner. It was alleged that when they refused to disperse, water hoses were turned on them and about 80 guards attacked them with truncheons and iron bars. Some of the prisoners were reportedly beaten after they had been knocked to the ground. It was claimed that some prisoners were beaten again after the dispersal operation and that at least two prisoners, Nicolò de Maria and Bruno Ghirardi, were also beaten the next morning. When Nicolò De Maria's lawyer visited the prison on 2 February he noted that his client had received eight stitches to a head wound. After interviewing some of the prisoners and receiving reports about the physical condition of others, he estimated that between 10 and 15 prisoners had suffered fractured bones during the disturbances and that a similar number had required treatment for head wounds. He subsequently submitted a memorandum to the Novara Public Prosecutor's Office, setting out the information which he had gathered and requesting that medical documentation should be gathered on the cases of alleged ill-treatment as soon as possible.

According to a press report published on 3 February 1990, the director of Novara prison stated that some 80 guards intervened to force the prisoners to return to their cells and that a violent confrontation had ensued but that "obviously, given their greater number, the guards had the best of it" (*"ovviamente visto il numero preponderante gli agenti hanno avuto la meglio"*). He also stated that eight guards and some 17 or 18 prisoners had suffered injuries from which they were expected to recover within a few days and that only one of the prisoners - Salvatore Colonna - had suffered a fracture (a broken finger).

Two inquiries were subsequently opened into the incidents at Novara prison. The first, a judicial inquiry opened by the Novara Public Prosecutor's office, was to investigate the prisoners' allegations of ill-treatment against the prison guards; the prisoners themselves were also to be investigated in connection with possible charges of resisting and injuring some of the Novara prison guards who suffered minor injuries during the incidents of January 1990 and also in connection with charges of calumny against the guards. The second inquiry was an administrative inquiry carried out by inspectors of the Ministry of Justice.

Amnesty International wrote to the Minister of Justice and the Director General of Prison Administration, expressing concern at the allegations of ill-treatment and asking for details as to the extent of the prisoners' injuries. Amnesty International also sought confirmation of the opening of the judicial and administrative inquiries and asked to be informed of their progress and eventual findings. No reply was received.

Amnesty International subsequently learned that in March 1991 the Judge of Preliminary Investigation (GIP) assigned to the judicial investigation into the incidents at Novara prison ruled that both the proceedings against the prisoners and the guards should be archived, in accordance with the request of the Public Prosecutor's office.

The judge concluded that the prison guards had carried out the 30 January operation in conformity with legal requirements. They had made legitimate use of truncheons to block the flight of the prisoners from the exercise yard when they had pushed past them in the genuine belief that they were about to be attacked by the guards. The judge noted that water hoses had also been used in the operation. She also concluded that injuries suffered by some of the prison guards were caused accidentally by the impact of their heavy shields against their bodies as the prisoners pushed past them. The judge discounted an allegation that the prisoners had kicked and punched prison guards and concluded that the prisoners had neither threatened nor used violence against the guards.

The judge emphasized that the operation was marked by the greatest disorganization. There had been no plan of operation and, as no records had been kept, it had not been possible to establish exactly which guards had taken part in the operation and which had been armed with shields; the guards questioned during the inquiry appeared uninformed as to the reasons for, method and purpose of the order to intervene. The judge also noted that the number of guards who participated in the 30 January operation was uncertain: the marshall in charge had at first provided the Public Prosecutor's office and the Ministerial inspectors with a list of approximately 80 guards but had subsequently reduced the number to 60 guards of whom, he stated, only approximately 20 had been issued with shields and truncheons.

With regard to injuries suffered by the prisoners, the judge noted that Salvatore Colonna had suffered a fracture to his right hand and six other prisoners (including Bruno Ghirardi and Nicolò De Maria) had suffered head wounds requiring stitches, as well as bruises and contusions, particularly in the area of their shoulders and hands. Some of these prisoners had refused to be X-rayed.

The prisoners involved in the 30 January incidents, the majority of whom were held in connection with politically-motivated crimes, apparently refused, on political grounds, to cooperate with the judicial and administrative inquiries and chose one prisoner, Salvatore Colonna, to act as their spokesman.

The judge noted that, in the statement which he made to the Public Prosecutor on 15 February 1991, Salvatore Colonna had alleged that some of the prisoners (whom he refused to name) had seen guards using metal bars to hit prisoners. The judge considered this allegation improbable because, had metal bars been used, the prisoners' injuries would have been more serious and because the medical personnel of the prison, when questioned in the course of the inquiry, had stated that the nature of the prisoners' injuries was consistent with the use of truncheons. The judge added that, because of its size and colour, the type of truncheon in use in the prison could easily *appear* to be a metal bar, especially when seen only briefly and in passing.

Salvatore Colonna had also stated that two prisoners (Mauro Mereu and Carlo Alé) were deliberately beaten when they returned to their cells on 30 January and that two further prisoners (Nicolò De Maria and Bruno Ghirardi) were beaten the following morning by four or five guards and an officer - all of whose names he refused to supply. The judge stated that it had not been possible to collect any evidence to support this allegation - partly because of the prisoners' collective policy of non-cooperation and partly because forensic examinations were incapable of distinguishing between injuries inflicted during the initial operation and any which might have been inflicted such a short time later. However, she noted that the absence of firm evidence could not be considered as proof that no such incidents had taken place and there was therefore also no proof that the prisoners were guilty of calumny towards the prison guards.

Progress of draft legislation on conscientious objection to military service (update to information given in AI Index: EUR 03/02/90)

In July 1991 the Chamber of Deputies (lower house of parliament) approved draft legislation replacing Law 772, the current law governing conscientious objection to military service. The new draft law widens the grounds on which conscientious objector status may be granted, proposes a reorganization of alternative service and reduces the length of alternative civilian service from 20 to 15 months, making it three months longer than ordinary military service. The draft law stipulates that the 15 months of alternative civilian service must begin with a three-month training period - to include general training for the type of employment to which the objector is to be assigned and further training within the specific institution or organization which

then employs him. There is no provision for individuals to claim conscientious objector status after incorporation into the armed forces. The law is now pending Senate approval.

LATVIA

Length of the civilian alternative to military service

Amnesty International wrote to Anatolijs Gorbunovs, Chairman of the Supreme Council of the Republic of Latvia, in April 1991, welcoming the introduction of a civilian alternative for those unable for reasons of conscience to perform compulsory military service. The organization expressed its concern, however, at the length of this alternative service.

No response was received and the organization wrote again on this subject in October to Aloiz Vaznis, the Minister of Internal Affairs, in the context of the autumn conscription which began on 1 October 1991.

All young men aged 19 to 25 permanently residing in the republic are subject to call-up. Military service, in the police, border guards and prison service, will last for 18 months. The length of alternative labour service, however, is 24 months.

In its letter Amnesty International drew the Minister's attention to Resolution 1989/59 adopted by the United Nations Commission on Human Rights, which recognized conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion. This resolution recommends among other things that states provide an alternative service of non-punitive length for conscientious objectors. Amnesty International again asked to be informed of the reasons for the difference in length between the two services, in the light of the organization's concern that the length of any alternative service should not be such as could be considered punishment for a person's conscientious objection.

The death penalty

The Republic of Latvia retains the death penalty. According to a report by the Latvian parliamentary Committee on Human Rights and Nationalities the death penalty is seldom applied in the republic. All those executed in 1990 and early 1991 are said to have been sentenced to death for multiple murder and approximately half of the 10-11 death sentences, which the report says are passed on average each year, are commuted. The report, received by Amnesty International in May, expected that the criminal code would be amended by the Latvian parliament in September 1991 and that it would reduce the scope of crimes punishable by the death penalty to multiple murder, aggravated rape, and murder with aggravating circumstances.

In its April letter to the Chairman of the Supreme Council, Amnesty International pointed out the organization's total opposition to the death penalty, and urged a moratorium on death sentences and executions pending a review and the publication of full statistics. It welcomed the recent commutation of the death sentence passed on Viktor Smirnov for murder by the Latvian Supreme Court in April 1990, and urged that all other pending death sentences also be commuted. Amnesty International mentioned the case of one other man on which it had details: Roman Gasparovich, who was sentenced to death for murder by the Latvian Supreme Court on

24 May 1990. No reply had been received by the end of October 1991, and Amnesty International did not know if Roman Gasparovich's sentence had been carried out.

Ratification of international human rights instruments

In October 1991 Amnesty International wrote to the Chairman of the Supreme Council, welcoming the admittance of the republic to the United Nations on 17 September and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights, and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed its hope that the Republic of Latvia would urgently consider the abolition of the death penalty, and thereby be in a position to join those other states which have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

LITHUANIA

Length of the civilian alternative to military service

In a letter to Vytautas Landsbergis, Chairman of the Supreme Council of the Republic of Lithuania, in April 1991 Amnesty International welcomed the introduction of a civilian alternative for those unable for reasons of conscience to perform compulsory military service. The organization expressed its concern, however, at the length of this alternative service and, having received no response, wrote in October to Audrius Butkevicius, the Minister of National Defence, in the context of the forthcoming call-up to the Lithuanian National Defence Service, due to begin the following month.

Around 8,000 young men aged between 19 and 26 are to be drafted into the National Defence Service, serving in a special detachment of the Ministry of the Interior, as border guards or in the fire brigade. The length of such military service will be 12 months. Four thousand young men are to be called up for alternative labour service, which will last for 24 months (Law on Compulsory (Alternative) Labour Service, 16 October 1990).

In the letter Amnesty International drew the Minister's attention to Resolution 1989/59 adopted by the United Nations Commission on Human Rights, which recognized conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion. This resolution recommends among other things that states provide an alternative service of non-punitive length for conscientious objectors. Amnesty International asked to be informed of the reasons for the difference in length between the two services, in the light of the organization's concern that the length of any alternative service should not be such as could be considered punishment for a person's conscientious objection.

The death penalty

The Republic of Lithuania retains the death penalty, although to Amnesty International's knowledge no official statistics on its use in the republic have been published and the organization does not know how many death sentences are passed or carried out each year.

In its letter to the Chairman of the Supreme Council, in April this year Amnesty International pointed out the organization's total opposition to the death penalty, and urged a moratorium on death sentences and executions pending a review. It also urged the publication of full statistics, in line with Resolution 1989/64 by the United Nations Economic and Social Council. No reply had been received by the end of October 1991.

Ratification of international human rights instruments

In October 1991 Amnesty International wrote to the Chairman of the Supreme Council, welcoming the admittance of the republic to the United Nations on 17 September and urging that the ratification of international human rights instruments be considered as a matter of priority. The letter drew specific attention to the International Covenant on Civil and Political Rights, and its First Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Amnesty International further expressed its hope that the Republic of Lithuania would urgently consider the abolition of the death penalty, and thereby be in a position to join those other states which have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, the first international treaty of worldwide scope aimed at abolition of the death penalty.

NORWAY

Conscientious objection to military service

In July 1991 Amnesty International adopted as a prisoner of conscience a conscientious objector who had refused to perform military service. Sverre Høegh Krohn served a 90-day prison sentence between July and September 1991. He had refused to perform military service for political reasons. Sverre Høegh Krohn is not a pacifist, and supports the idea of an independent, decentralized Norwegian military force. He would not rule out defending his country if it were attacked. However, he strongly opposes Norway's present defence policy and strongly opposes the country's membership in NATO. Because he would find it acceptable under certain circumstances to defend his country, Sverre Høegh Krohn's "selective" objection was judged not to fulfil the requirements of the 1965 Norwegian Law on Military Exemption. Article 1.1 of that law requires that in order for a conscript to be entitled to an exemption, he must have a sound and seriously-held conviction. This conviction must result in his not being able to undertake military service "of any kind" (see AI Index EUR 03/01/90).

In October 1991 Amnesty International adopted another conscientious objector, Torbjørn Brandeggen, as a prisoner of conscience for the second time. He had refused to perform military service for reasons of conscience. Torbjørn Brandeggen began serving a second prison sentence of 60 days in October 1991, having served a 60-day prison sentence earlier in the year (see AI Index EUR 01/01/91). While Torbjørn Brandeggen has stated that he himself could never take part in any violent action, he has also said that in certain cases he could understand how people might resort to violence in order to free themselves from repression. It would appear that Torbjørn Brandeggen's application for recognition as a conscientious objector was rejected on the grounds that his allowance for an exception to an absolute pacifist position in a situation of political repression constituted a "selective" objection which did not fulfil the requirements of the 1965 Norwegian Law on Military Exemption, as cited above.

Allegations of ill-treatment - the case of Hassan Salem

Amnesty International was concerned about the case of Hassan Salem, a 34-year-old Palestinian student at the University of Oslo, who was allegedly ill-treated while in police custody following a January 1991 public demonstration against the Gulf War. In March 1991 Amnesty International asked the Norwegian Government whether Hassan Salem's allegations were being investigated by the Special Committee for the Investigation of Police Conduct (*Det saerskilte etterforskningsorganet for politet*) (see AI Index EUR 01/01/91).

Following an investigation by the Special Committee, a police officer was fined in May 1991 for acts of negligence in Hassan Salem's case. When the officer refused to accept the fine, the case was taken to the Oslo Municipal Court (*Oslo byrett*). In October 1991 the officer was acquitted by the Municipal Court. The court accepted that the apprehension technique or grip used by the officer against Hassan Salem was a common policing practice and was

regarded as relatively safe. The court also ruled that Hassan Salem's injuries could not have been caused by this apprehension technique, and that "...it is more likely that Salem's injury was inflicted after he had been laid to the ground by the defendant".

During the investigation of the case, the police reportedly failed to question all of the witnesses to Hassan Salem's alleged ill-treatment. Neither were any of these witnesses apparently called during the court proceedings against the police officer. Norwegian law requires that the injured party as well as all witnesses in such a case appear in person in the court to give their explanation of the incident. Hassan Salem appears to have been denied this opportunity to speak directly to the court after a legitimate medical excuse prevented his appearance at the scheduled time.

He was also apparently deprived of his right under Norwegian law to see all relevant documents during the investigation - despite requests from his lawyer on at least four occasions between January and October 1991. Hassan Salem's lawyer did not in fact receive the case documents until after the case was closed in October 1991.

Amnesty International is concerned that the Municipal Court's decision in the case does not resolve the matter of how Hassan Salem's injuries were sustained. The organization is also concerned that the court heard neither Hassan Salem's own account of events nor the accounts of those who witnessed his alleged assault, and that Hassan Salem's right to have access to all documents relating to his case was not upheld. In the light of these concerns, Amnesty International considers that Hassan Salem's allegations should be the subject of a further investigation.

Interrogation of Palestinian asylum-seekers

In October 1991 the Norwegian chief of intelligence resigned after it was revealed that the police had permitted agents of the Israeli external intelligence service (Mossad) to interview a group of Palestinian asylum-seekers. The Mossad agents were presented to the Palestinian asylum-seekers as experts on the region, and the interviews were conducted in Arabic. The Norwegian police were therefore unable to follow the conversation. The asylum-seekers were unaware of the identity of the agents during the interviews. Amnesty International's Norwegian Section raised with the government the organization's concerns about the integrity of the asylum process. The revelation of the incident attracted considerable public attention. The Minister of Justice has said that the practice was unacceptable and would cease. On Monday, 11 November 1991, the Norwegian Government announced that the ten Palestinians who had been interviewed by the Mossad agents would be given residency permits. The head of the Directorate for Foreigners said that the Palestinians were not being granted political asylum, but were being given their residence permits on humanitarian grounds. He said that the decision was based on a consideration of possible problems the Palestinians might encounter if they were returned to North Africa, and that the fact that they had been questioned by Mossad had also been taken into account.

PORTUGAL

Two police officers in Oporto charged with causing bodily harm (update to AI Index: EUR 01/01/91)

On 19 September, the Prosecutor for the District of Oporto charged two officers of the Public Security Police (*Polícia de Segurança Pública* - PSP) with crimes causing bodily harm. José Vieira was charged under Article 142 with causing bodily harm, which carries a penalty of up to two years in prison or 180 days with a fine, and Adelino António Teixeira dos Santos was charged with causing serious bodily harm under Article 143. This applies when a person is seriously mutilated or disfigured and prevented from working and carries a penalty of between one and five years' imprisonment on conviction.

The charges arose out of alleged assaults on two young men in Oporto during the early morning of 30 September 1990 (see AI Index: EUR 01/01/91). The first officer, José Vieira, slapped and punched José Luis Barros in the face and stomach in the *Avenida de Fernão de Magalhães* in Oporto while he was questioning him. José Luis Barros was later taken to the offices of the Sixth Squadron of the PSP (*6ª Esquadra da Polícia de Segurança Pública*) where the officer continued to hit him. The charge against Adelino António is that when Paulo Jorge Gomes Almeida, a friend of José Luis Barros, went to the Sixth Squadron to inquire about him, the policeman seized him and threw him violently against a glass door leading into the station. This broke, causing extensive injuries to his right arm requiring 59 stitches and resulting in permanent and serious disfigurement.

A complaint was made to the court in Oporto which carried out an investigation. The date of the trial has not yet been fixed.

In April Amnesty International wrote to the Minister of Justice, Dr Laborinho Lúcio, seeking information on a number of cases of alleged torture and ill-treatment, including that of Paulo Jorge Gomes Almeida. No reply had been received by the end of October 1991.

Update to the alleged ill-treatment of Isidro Albuquerque Rodrigues by the Judiciary Police in Setúbal (see AI Index: EUR 01/01/91)

Isidro Albuquerque Rodrigues was arrested on 26 June 1990 in Alcântara in connection with his suspected involvement in assault, robbery and being an accessory to murder. After his arrest he was taken to the offices of the Fourth Brigade of the Judiciary Police (*Polícia Judiciária* - PJ) in Setúbal. He alleged that he was tortured there for the two nights of 26 and 27 June, before he was committed to prison. He subsequently received medical treatment for his injuries in the prison hospital of Caxias, *Estabelecimento Prisional de S. João de Deus*. He alleged that, because of the serious ill-treatment in Setúbal by the PJ, he was forced to sign a false confession. On 26 June he was sentenced to 16 years' imprisonment for assault and attempted murder. This judgment is being appealed. Isidro Albuquerque Rodrigues made a complaint -

queixa 3394/90 - to the prosecutor (*Ministério Público*) of the Second Section of the *Tribunal Judicial* in Setúbal alleging that he had been ill-treated by the PJ while in custody.

At the beginning of August 1991, Dr Marques Vidal, the Director General of the Judiciary Police, was interviewed on *Radio Comercial*. He reportedly answered a question about Amnesty International publishing allegations that a prisoner had been ill-treated in Setúbal by the PJ by saying that the allegations had been investigated but it had been concluded that they were unfounded. Isidro Albuquerque Rodrigues is the only prisoner about whom Amnesty International has published allegations of ill-treatment in Setúbal. Isidro Albuquerque Rodrigues heard this interview in Lisbon prison and, therefore, wrote to the newspaper *Expresso* giving further details of his ill-treatment. According to his account, there were 16 named officers involved, including an inspector called Dias Costa. His interrogation started on the night of 26 June when he was stripped naked and handcuffed. The Inspector then kicked him in the stomach and punched him in the face, before declaring "the session is now open". He is also reported to have said "From this moment I have complete power over you for 48 hours". In addition to being kicked and punched, he also claimed that a bottle of shampoo was forced into his anus. After that he stated that he was taken to a bathroom and whipped with a length of flexible metal hose pipe normally used as a shower attachment (*bicha de chuveiro*). He was punched and kicked repeatedly in the face, the upper body and back. Two of his teeth were broken, his ribs were scarred and over a year later he complained of permanent pain in his back.

It has been reported that another prisoner, Eleutério Ferreira Brás, had been arrested two days before in connection with the same criminal investigation. He was also interrogated by the Fourth Brigade of the PJ and, when he appeared in court, the judge noted his physical condition and, of his own accord, ordered a judicial investigation into his treatment while in custody.

Amnesty International does not know the results of either of the investigations but in April 1991, wrote to the Minister of Justice, Dr Laborinho Lúcio, requesting his comments on a number of cases of alleged torture and ill-treatment, including that of Isidro Albuquerque Rodrigues. No reply had been received by the end of October 1991.

The alleged ill-treatment of Pedro Mariz Pires Neves Martins in Sintra

Amnesty International is currently seeking information about the progress of the judicial complaint against the Public Security Police (*Polícia de Segurança Pública*- PSP) made by Pedro Mariz Pires Neves Martins to the Fourth Section of the Judiciary Police (*4ª Secção da Polícia Judiciária*) in Lisbon on 1 July. He alleged that at approximately 11.30pm on 30 June he climbed over the gate of the closed *Parque da Liberdade* (Liberty Park) in Sintra. He claimed that he went to see if he could find some friends whom he thought might still be in the park. It appeared that they were not there and after walking around alone for about one hour he decided to go home.

According to press reports and his statement, a patrol of four PSP officers in a car spotted him. He alleged that the officers went straight towards him and assaulted him. He

stated that the officers did not question him before they began hitting him across the back with truncheons, punching him in the face and kicking him in the stomach.

He was put in a jeep and taken to the station of the PSP in Sintra. He claimed that he was not given any explanation as to why he was being arrested, even after he had identified himself in the station. When he attempted to leave the station he stated that he was punched, slapped in the face and locked in a room. He was not allowed to telephone anyone. He told Amnesty International that because he was so upset by what had happened, and as the only means of protest left to him, he began to shout to be allowed out and to kick the door. According to his account, two officers entered the room, threw a bucket of water over his head and silenced him with blows. After an interval the same thing happened again. Eventually, he was handcuffed and taken on a stretcher to the Sintra hospital for treatment to bruises and administered a sedative before being taken back to the station.

The next morning he was brought before the court in Sintra and the judge ordered his immediate release because of his physical condition. The judge informed Pedro Mariz that he would be charged with attempted assault on a policeman (*tentativa de agressão a um agente da autoridade*). It appeared from Pedro Mariz's statement to Amnesty International that this charge of attempted assault refers to the incident where he alleged he was beaten in the park by four PSP officers.

On his release he made a formal complaint against the PSP officers and on 4 July he was given a medical examination at the Institute of Legal Medicine in Lisbon.

In late August, Pedro Mariz's dead body was discovered on the outskirts of Sintra. It appeared that he had had an accident. Amnesty International at this stage has no information whether there is any connection whatsoever between the allegations of ill-treatment made against the PSP in July and his death. However, Pedro Mariz's father will be pursuing the criminal action initiated by his son.

Alleged ill-treatment in the Naval Prison of Alfeite

In April 1991, Seaman First Class (*1º Marinheiro*), António Rodrigues Louro, was serving a sentence for desertion and petty crimes relating to drug addiction in the Naval Prison of Alfeite (*Prisão da Marinha no grupo 2 do Alfeite*). On 16 April he was taken from his normal cell to another cell which contained a bed with no mattress or bedclothes. Reports do not mention any other furniture but state that the cell was extremely small and airless and without exterior light. It is alleged that later that day two senior naval ratings whom António Rodrigues Louro identified as Sergeant Serra, from the prison office, and Corporal Cordeiro, of the prison guards, went to his cell and assaulted him.

He was allegedly beaten with a length of rubber hose pipe and, punched and kicked by Sergeant Serra and Corporal Cordeiro. According to information received by Amnesty International he was left unconscious on the floor of his cell with a split nose, injuries to the head, eyes, neck, arms, back and legs. When he recovered consciousness, he called for help. After a while he was taken in handcuffs to the infirmary. The doctor apparently gave him a

perfunctory examination and he was then taken back to the cell where he had been beaten. In the absence of any bedding he was forced to lie on a cement floor.

The next day, 17 April, he was taken to the Naval Hospital for treatment to his nose and X-rays to his head. On 18 April he was visited in prison by his father, José Fonseca Louro, who was accompanied by a civilian doctor who examined him and issued a medical certificate. It was only then that he was given a mattress and bedclothes.

The medical certificate issued after this examination was certified on 22 April by the Notary Public of the town of Almada. The civilian doctor, Mário José de Barros Rocha, stated that in his examination of António Rodrigues Louro he noted extensive bruising, cuts and swellings. In particular, he detailed injuries to the left ear, the neck, both eyes, the right cheek, multiple cuts on the nose, bruising on the back and arms and cuts on the thighs.

The father made a complaint to the military judicial authorities about the ill-treatment suffered by his son and requested them to hold a full inquiry to establish what had happened and who was responsible. Amnesty International is currently seeking information from the *Tribunal de Marinha* in Lisbon, the court responsible for handling the inquiry, as to the outcome.

Further allegations of ill-treatment in Linhó prison

On 6 September José Paulo Santos Silva, a 26-year-old inmate of Linhó prison was sentenced to 10 days' isolation in a punishment cell for fighting with another prisoner. Earlier that day he had received a visit from his mother and was in good health, despite suffering from epilepsy. After she had left he became involved in a quarrel with another prisoner in the refectory.

He alleged that he was taken from the refectory to another room where he was severely beaten by four guards. Two of the guards were named by him as João Afonso and Serzinheira. He alleged that he was punched and received multiple kicks to his head and back, causing him injuries.

After this he was removed to a punishment cell, which was reportedly the same cell in which another prisoner, Mário Manuel da Luz, was found unconscious on 21 June 1989. It was reported that he had been subjected to systematic beatings while he was serving a month's sentence of isolation. He died a few hours after being found (see AI Index: EUR 03/02/89). José Paulo Silva complained that during this period in isolation he was denied any medical assistance for his injuries or medication for his epilepsy.

On 8 September his parents visited Linhó, but reportedly were not allowed to see him or to leave some food for him. His lawyer was also unable to see him. A priest was allowed to visit him but Amnesty International does not know what he thought of his condition.

On 16 September his mother, Alda Silva, was allowed to see her son. According to Amnesty International's information, his physical condition had deteriorated considerably since 6 September; he had allegedly received no medication for his epilepsy and was unable to stop trembling. She claimed that, when she asked if he could be seen by a doctor outside the prison, she was told that she would have to pay for the expense of a guard to accompany her son, which she was unable to afford.

The case of José Paulo Silva is the latest in a series of serious allegations of ill-treatment relating to Linhó prison. In June 1989, after the death of Mário Manuel da Luz there were allegations of systematic beatings in the punishment cells (see above). The Director General of Prison Services acknowledged that acts committed in the prison's punishment cells and security wing constituted "serious breaches of discipline and, probably, criminal offences". At the time the prison governor, Adolfo Tassis Teixeira, and other officers, including the prison doctor, had already been suspended in connection with previous allegations of ill-treatment of four prisoners in the security wing and in March 1990, 19 prisoners complained of severe beatings with truncheons by a special Intervention Squad of the General Directorate of Prison Services (see AI Index: EUR 03/01/90). The Director General has announced numerous internal inquiries into these allegations but Amnesty International does not yet know the results.

On 27 September the newspaper, *O Público*, published a report that the Director General of Prisoner Services, Fernando Duarte, had announced an internal inquiry into José Paulo Silva's allegations of ill-treatment by guards and denial of essential medication.

Amnesty International is currently seeking to establish whether an inquiry, either judicial or internal, has been opened into his allegations and if he is receiving full medical care.

Letter to the office of the Attorney General regarding the alleged ill-treatment of Daniel Rodriguez Perez in Sto Tirso and Chaves (update to AI Index: EUR 03/02/90)

Amnesty International has been urging the Portuguese authorities to initiate an action for a judicial review of a decision of July 1989 to file Daniel Rodriguez Perez's complaint of ill-treatment in custody.

He was arrested in April 1988 in Sto Tirso and alleged that, over a two-week period there, and in Chaves, he was beaten by officers of the Judiciary Police (*Polícia Judiciária* - PJ) and the Public Security Police (*Polícia de Segurança Pública* - PSP) during questioning. He claimed that he was struck with a pistol on the head and required hospital treatment in Sto Tirso and, on other occasions, was insulted, threatened, punched and kicked. He was examined on three separate occasions by the doctor attached to the prison in Chaves who recorded a stitched scalp wound and bruising of differing degrees of severity to his face, chest, throat, shoulder and blood on the ears. In May 1988 the doctor registered a formal complaint as to his physical state with the court in Chaves.

Daniel Rodriguez Perez was subsequently charged with physically assaulting an officer while under interrogation in April 1988. In September 1990, Amnesty International sent a delegate to observe his trial in Chaves on these charges. Although the trial was prorogued, Amnesty International was able to review the statements and evidence collected by the court relating to Daniel Rodriguez Perez's allegations and consequently called for a review of the decision of the Chaves court to file his complaint (see AI Index: EUR 03/02/90). In April 1991 Amnesty International wrote to the Minister of Justice about a number of cases of alleged torture and ill-treatment, including this case.

On 16 October 1991, Dr Maciel, the Head of the Office of the Attorney General of the Republic replied to Amnesty International's letter of September 1990 informing the Minister of Justice that a delegate was being sent to observe the trial of Daniel Rodriguez Perez in Chaves and attached a copy of the July 1989 judgment. On 29 October Amnesty International replied to Dr Maciel reminding him of the April letter to the Minister of Justice, to which no reply had been received, and asking to be kept informed of any steps which were taken to review the decision to file the complaint, since it considered that this case required further investigation.

ROMANIA

Allegations of ill-treatment in detention

On 26 July 1991 Amnesty International wrote to the Minister of the Interior, Viorel Ursu, bringing to his attention a number of cases of alleged ill-treatment, some of which had occurred before the overthrow of Nicolae Ceausescu in December 1989 and others which related to the post-Ceausescu period. Amnesty International pointed out that although some of the alleged ill-treatment took place before the then authorities came to power, the organization was not aware of any investigation into them and was informed that many of the officials responsible, whose names had been provided to the organization, remained in office. Amnesty International urged that there should be a full and impartial investigation into all the allegations.

The cases of Mircea Rogajina, Ioan Rogajina, Toader T Nastaca, Catalin Vasile Condur

All the above four young men are from the village of Falticeni in Suceava county in northern Romania. They were all taken by the police for questioning in relation to an incident which occurred in early 1989 in Risca village when Constantin Rogajina (no relation to Mircea and Ioan) was stabbed.

Ioan Rogajina, aged 20, was taken to Falticeni police station on 28 February 1989 and allegedly severely beaten by a police officer to make him confess to the crime.

His brother Mircea Rogajina, aged 19, was taken to the same police station on 1 March 1989. In a signed statement he alleged that his hands were tied and he was hung by his arms and beaten on his hands and legs for some 15 minutes to force him to incriminate his brother, Ioan Rogajina. When he refused he was held face-down on a table, subjected to *falaka* (beating on the soles of the feet), and beaten on his hands while a third police officer whipped his back with a belt. He again refused to incriminate his brother and was then allegedly kicked in the stomach by another police officer and subjected to further beatings until he finally signed a declaration falsely incriminating his brother.

Catalin Vasile Condur, aged 23, was taken in for questioning on 28 February and in a signed statement alleges that he was beaten by two other police officers. Toader T Nastaca, aged 21, also in a signed statement alleges that he was also beaten on 2 March 1989 by one of the police officers previously mentioned.

Ioan Rogajina was subsequently convicted of stabbing Constantin Rogajina on the basis of the statements allegedly induced by torture and according to Amnesty International's information he is still serving his sentence.

The case of Endre and Andor Muszka

Endre Muszka and his brother, Andor, are both residents of Tîrgu Mures and members of the Hungarian ethnic minority in Romania.

Amnesty International received information that on 23 November 1990 at about 8.30pm they left the Turist restaurant and were walking down Calarasilor Street when Endre Muszka was grabbed by his hair by a police officer, apparently because he had been swearing. Endre Muszka broke free and tried to flee after the police officer threatened to take him to the police station. The officer then reportedly stopped a taxi, followed him, caught him, and hit him in the testicles. A police car appeared on the scene and another officer got out and helped the first officer put Endre Muszka inside. He was then allegedly beaten while being taken to the police station. After he gave his address during interrogation, three police officers went to his home and arrested and allegedly beat his brother Andor Muszka.

Endre and Andor Muszka were held all night at the police station and allegedly severely ill-treated. Reportedly, they were handcuffed to a radiator and punched, hit with gun butts and kicked by the arresting officers until approximately 10pm when the officers went home. The relief guard allegedly continued to beat them, apparently because they were Hungarian and had not voted for President Iliescu. They were reportedly forced to sing in Hungarian and then punished for doing so. Some of Andor Muszka's hair was allegedly pulled out and forced into his mouth. In the morning another police officer threatened that if they did not admit that they had intended to attack the original police officer they would remain in detention. Additionally it is alleged that certain possessions were taken from them, including 1,100 lei, and not returned. Amnesty International is informed that after their release the two men received medical certificates which attested to bodily injuries requiring eight to nine days' medical treatment in one case and 11 to 12 in the other.

The case of Mircea Scarlatescu

Also in July Amnesty International called on the authorities to investigate the alleged ill-treatment of Mircea Scarlatescu while in detention in Constanța.

On 29 April 1991 in Constanța Mircea Scarlatescu called the police after witnessing an incident in a private car. When the police arrived they allegedly hit him on the face and head. He was then taken in a police car to Constanța police headquarters where he was allegedly severely beaten after he requested the presence of a lawyer. Another man, Nicolae Radu, who claimed that he was similarly beaten at the police headquarters around the same time to make him sign a false confession, reportedly witnessed the ill-treatment. Mircea Scarlatescu was subsequently released but reportedly required medical treatment for the injuries he sustained. A medical certificate obtained immediately after his release reportedly stated that he needed three days in hospital with a further seven or eight days' medical care due to "wounds caused by blows with hard objects".

Allegations of official collusion in attacks by "unknown assailants"

The case of Marius Oprea

Amnesty International received during the period under review a report alleging the collusion of members of the current security forces in attacks on Marius Oprea, a journalist who had revealed the identity of a former Securitate official.

Under the government of Nicolae Ceausescu the Securitate were responsible for widespread human rights violations. Following the overthrow of Ceausescu the new authorities disbanded the Securitate and promised to investigate past human rights violations. However, apart from a number of Securitate officials accused of killings during the actual overthrow of the former President, Amnesty International knows of no former security agents who have been prosecuted. Following serious inter-ethnic disturbances in March 1990, a new security force, the Romanian Intelligence Service (RIS), was formed, reportedly often employing former Securitate members.

Marius Oprea is from Brasov. When he was a student at the time of the Ceausescu government he was reportedly questioned by the Securitate on account of his connection with the production of anti-communist pamphlets. After the fall of Ceausescu, while working for the Brasov newspaper *Interval* he recognized the chief editor of another magazine as being the Securitate official who had investigated him previously. On 13 November 1990, after Marius Oprea had made a signed declaration of this which appeared in the Brasov newspaper *Express*, he was attacked in the street by three unknown people. The police arrived and managed to apprehend one of the attackers but reportedly he was set free the following day without having given any personal details. Following this Marius Oprea was reportedly subjected to anonymous death threats due to his continued attempts to expose the past actions of the former Securitate. On 11 February 1991 he was again attacked and beaten in the street by unknown assailants. He did not report this attack to the police as he believed that his assailants were members of the officially disbanded Securitate who had links with the current security forces.

SPAIN

Conscientious objection to military service and to participation in the Gulf conflict

Under Law 48/1984, regulating conscientious objection to military service and alternative civilian service, the right to conscientious objection may only be exercised "until the moment of incorporation into the armed forces" ("*hasta el momento en que se produzca la incorporación al servicio militar en filas*"). However, Amnesty International believes that conscientious objectors to military service are exercising their fundamental right to freedom of conscience and that they should therefore have the right to claim conscientious objector status at any time, both up to and after their incorporation into the armed forces. Amnesty International considers conscientious objectors who are denied this right and imprisoned as a consequence to be prisoners of conscience.

Amnesty International does not take a position on the merits or otherwise of war or any particular wars. However, basing its position on international standards, Amnesty International recognizes the right of all persons to refuse to bear arms on grounds of conscience and considers that this right extends to those objecting to participation in a *particular* war or armed conflict as well as to those opposing *all* wars.

The cases of Manuel Blázquez Solís and José Antonio Escalada (update to information given in AI Index: EUR 01/01/91)

In June 1991 Amnesty International adopted Manuel Blázquez Solís and José Antonio Escalada, 19-year-old conscripts from the Barcelona area, as prisoners of conscience. M a n u e l Blázquez and José Antonio Escalada commenced their military service in the Spanish navy in September 1990 and during January 1991 were based in the port of Cartagena, serving on the naval corvettes '*Vencedora*' and '*Infanta Elena*' respectively. These ships were scheduled to relieve the three Spanish vessels already in the Gulf zone at that time. On 15 January 1991, the date of the United Nations deadline for Iraq to withdraw from Kuwait, José Antonio Escalada left the naval base. The '*Infanta Elena*' sailed for the Gulf zone on 22 January. On 21 January Manuel Blázquez Solís failed to report to his post on board the '*Vencedora*', which also sailed for the Gulf zone on the morning of 22 January. After leaving their vessels, both conscripts contacted various pacifist and anti-militarist groups and went into hiding in Barcelona. Arrest warrants were issued in their names on suspected offences of desertion, a military offence carrying a penalty of between three months and a day and two years' imprisonment.

Manuel Blázquez and José Antonio Escalada submitted formal applications, on 21 January and 20 February respectively, to be recognized as conscientious objectors to military service. They informed the *Consejo Nacional de Objeción de Conciencia* (CNOC), National Council on Conscientious Objection, the authorized decision-making body, that their objection was based

on moral and philosophical grounds. They had apparently received no formal reply to their applications by the end of October 1991.

On 2 April, at a joint press conference held at the Barcelona church which was sheltering them, they declared that "the only thing we have done by deserting is to exercise the right to freedom of conscience..." ("*lo único que hemos hecho al desertar es ejercer el derecho a la libertad de conciencia...*"). They also announced their intention of voluntarily presenting themselves to the military authorities on 4 April to resolve their legal position and demonstrate openly that they were not ashamed of their actions.

On 4 April they held another brief press conference at the Barcelona church and explained that they had left their vessels and military service because they did not want to take part in "widespread killing" ("*una matanza*"). Both indicated their pacifist objections to performing any further military service. They then proceeded to the offices of the military governor in Barcelona, accompanied by their lawyer, and were arrested there shortly after mid-day on 4 April.

They were immediately transferred to Santa Lucía Military Naval Prison in Cartagena. As a result of their refusal to wear the military prison uniform they were not allowed to mix with other prisoners until the beginning of June.

On 3 July 1991 José Antonio Escalada and Manuel Blázquez Solís were brought before the military authorities in Cartagena and, according to the reports received by Amnesty International, were asked if they were now willing to complete their military service: if so, they would be escorted back to their ships. However, both repeated their refusal to perform any further military service and were informed that, in this case, as they had already been imprisoned for three months and a day - that is, the length of the minimum sentence applicable for the offence of desertion - orders for their release into provisional liberty, pending trial, would be issued. They were released later that day but ordered to report to the military authorities every 14 days.

They returned to their families in Barcelona but on 8 July were informed that the military authorities in Cartagena had issued *new* arrest warrants against them, on this occasion for the offence of refusal to perform military service (*negativa ... al cumplimiento del servicio militar*). Their appeals against the new warrants have so far been unsuccessful. They are currently awaiting the outcome of further appeals to the Constitutional Tribunal. The police have reportedly visited the homes of José Antonio Escalada and Manuel Blázquez Solís on several occasions since the issuing of the new warrants but were unable to carry out the arrests because both conscripts are again in hiding. They remained at liberty at the end of October 1991.

The alleged ill-treatment of Mohamed Hegazy and Raed Shibli in Ibiza

In September Mohamed Mahmoud Amer Hegazy, a taxi driver, and Emad Raed Shibli, an unemployed truck driver, were on holiday in San Antonio Abad in Ibiza. Although they both live in Denmark, Mohamed Hegazy is an Egyptian and Raed Shibli is a Palestinian holding an Israeli passport.

The account which follows is taken from statements made by Mohamed Hegazy and Raed Shibli to Amnesty International and their complaints to a court in Ibiza. At 4pm on 6 September Raed Shibli stopped a Civil Guard car to ask for directions to their hotel. As neither he nor his companion speak Spanish Raed Shibli spoke to the officer who helped them to find their hotel in Italian. Later that night they went out to have dinner and at around 1.30am on 7 September they claim that they saw the same officer with another colleague. Mohamed Hegazy alleges that he went up to the officer to greet him and to thank him for his assistance earlier that day. However, this officer reacted violently and pulled his truncheon and held it to Mohamed Hegazy's throat. The officer started to talk to them in Spanish which they did not understand so Mohamed Hegazy asked him if he could speak English. He produced his passport to show that he was a tourist but the officer snatched it from him and threw it on the pavement all the while shouting "Italians, Italians". He then pushed him against the wall, breaking a golden bracelet Mohamed Hegazy was wearing.

Raed Shibli went to help his friend but he too was pushed against the wall. The officer's companion intervened and hit them both with his truncheon. One of the officers then seized Raed Shibli's camera and threw it on the pavement.

The police radioed for more officers and, according to Mohamed Hegazy, about 15 officers eventually gathered. They were handcuffed and taken by car to the Civil Guard station in San Antonio Abad. During the journey the police punched them and beat them with the truncheons. Mohamed Hegazy has stated that he believes that the reason the officer reacted so aggressively towards them that evening was that, as he was later told, the officer he approached was in fact the identical twin of the one they had met earlier and the friendly remark he made to him in Italian might have been misunderstood.

They were taken to a large empty room in the Civil Guard post by more officers who proceeded to beat them with rubber truncheons and to punch and kick them. Both men were menaced by one of the officers by having a knife held to their throats. Amnesty International has copies of two medical certificates which were issued that same day (7 September), immediately after they had received these beatings. Even though the injuries had not had much time to develop visibly, both certificates record multiple bruising to various parts of the body. A set of photographs of Mohamed Hegazy, who was the most severely beaten, taken three days after his arrest and after he had been released, show very serious injuries - especially bruising - to the buttocks, back, arms and legs. His left leg was sufficiently badly bruised for it to be X-rayed as it was suspected that it might be broken.

During the period when they were being beaten in the station, the officers, in particular a large bearded man known to the other Civil Guards as 'King Kong', smashed their possessions,

including all their jewellery and both their watches, with truncheons. Raed Shibli's jacket was thrown into the toilet and both their passports were damaged.

They were later strip searched and put in a cell. Mohamed Hegazy claimed that by then he was so badly injured he was unable to stand. During this period they were medically examined, given pain-killing tablets and some cream to help remove bruising. Over the next two days he stated that they were given water and a sandwich but Raed Shibli could not eat because of the injuries to his throat.

On 8 September a duty lawyer saw them in the station but he was unable to speak English and only recorded the police statement. On 9 September they appeared in court where an interpreter was present. The judge only recorded part of their complaint that they had been ill-treated. The statement of the court merely gives the physical description of the officer known as 'King Kong' and contains no information as to the extent of the ill-treatment or the injuries they had suffered. However, the judge noted the existence of the medical certificates describing their injuries. Mohamed Hegazy and Raed Shibli were then charged with resisting and disobeying public forces and released into provisional liberty. Two days later they returned to Denmark.

Amnesty International is seeking further information from the judicial authorities as to what action the court is taking to investigate the two men's complaints of ill-treatment.

Alleged ill-treatment of Navarre parliamentarian by Civil Guards

Zutoia Mitxel Arbizu is a 28-year-old member of the parliament of Navarre representing *Herri Batasuna*, the Basque nationalist coalition. She was arrested by the Civil Guard at dawn on 6 February 1991 with a companion, Joseba Beroiz, the former mayor of Uharte. They were held incommunicado under the provisions of the Code of Criminal Procedure relating to acts of collaboration with armed bands. After an initial interrogation in Pamplona both detainees were transferred to Madrid. They were held for a total of 48 hours until they were presented to the National Court in Madrid (*Audiencia Nacional - Juzgado Central de Instrucción N°1*). In accordance with the law, they were not allowed to designate a lawyer but had to be represented by a lawyer who had been appointed *de oficio* by the court. Zutoia Mitxel was remanded in custody, pending judicial investigation on charges of collaboration with an armed band, under Article 174 bis a) of the Penal Code; Joseba Beroiz was released without charge.

According to press reports, Zutoia Mitxel complained repeatedly during her period in custody that she had been ill-treated. Firstly, to the forensic surgeon who examined her in Pamplona on 6 February; secondly, to the forensic surgeon who examined her in the General Headquarters of the Civil Guard and later in the court in Madrid; thirdly, in formal written statements to the Civil Guard and the judge in the Central Court of Instruction N°1 of the National Court in Madrid.

In these statements she alleged that she had been ill-treated by the Civil Guard in Pamplona, on the journey to Madrid and in the General Headquarters there. She alleged that

she was interrogated in a straitjacket with her eyes bound. She also stated that during these interrogations she was hooded with a plastic bag, beaten and given electric shocks.

The medical certificates issued by the forensic surgeons reportedly do not record physical signs of ill-treatment but Amnesty International believes the judicial authorities should examine promptly and in full all allegations of torture or ill-treatment which are presented to them.

In the case of Zutoia Mitxel it has been reported that both the *Audiencia Nacional*, to whom she made a formal complaint of ill-treatment, and the Civil Guard have failed to investigate her allegations. Furthermore, the court in Madrid has denied it is competent to do so and has referred her case to the court in Pamplona as being competent to hear her petition. Her lawyers petitioned this court to investigate her allegations of ill-treatment but in September the court rejected her petition on grounds of competence. Neither of the offices of the state prosecutor in Pamplona or Madrid have acted to institute a judicial investigation into her allegations. Amnesty International is concerned that over eight months have passed since Zutoia Mitxel's official complaints to the courts and that apparently no effort had been made by the judicial authorities to investigate them.

On 17 October Zutoia Mitxel was acquitted by the *Tribunal Superior de Justicia de Navarra* of the charge of collaborating with an armed band, specifically the armed Basque group, *Euskadi Ta Askatasuna* (ETA). The court found in its judgment that, because of expert forensic examination, the charge of collaboration had been proven. She was accused of having supplied ETA with information, in her own handwriting, relating to the whereabouts of two Civil Guard officers. A piece of paper with such information had been found in the possession of a member of ETA, Iñaki Pujana, who was extradited from France to Spain on 6 October to face charges relating to terrorist activities.

However, the court acquitted her, despite considering the charge proven, because, according to Article 113, paragraph 3 of the Penal Code, the alleged crime was committed outside the time limits laid down by the law and was prescribed, thereby removing her criminal responsibility.

Amnesty International is currently seeking information from the judicial authorities as to what action they are prepared to take to examine Zutoia Mitxel's allegations of ill-treatment.

Police officer sent for trial charged with homicide of Mikel Castillo (update to information given in AI Index: EUR 01/01/91)

On 28 September, the Second Section of the Provincial Court of Pamplona ordered the opening of the oral hearing in the trial of a police officer charged with homicide. On 18 September 1990 Rafael Navarro Vacas, an officer in the *Cuerpo Superior de Policía* in Pamplona, had shot Mikel Castillo, a 23-year-old member of the armed Basque group, *Euskadi Ta Askatasuna* (ETA) during a chase. He died later that day in hospital (see AI Index: EUR 03/02/90).

The Court's action indicates that it considers that the inquiry stage of the procedure should now be closed in view of the amount of evidence it has available and that the Prosecutor and

the lawyers representing the family of the deceased and the accused should enter their arguments on the charge of homicide.

This charge carries a sentence on conviction of 12 to 20 years but the lawyer representing the family of the deceased has argued consistently that the charge should be changed to murder, which carries a sentence of 20 to 30 years. The principal reason for this is his claim that Mikel Castillo was shot in the back at close range by the policeman, while he was unarmed. There were press reports of conflicting police and eyewitness statements as to whether he was armed or not when he was shot. The prosecution had reportedly opposed upgrading the charge to murder because, although it does not deny that Rafael Navarro killed Mikel Castillo, it considers he did so in the fulfilment of his duty and in circumstances which were justified.

The Court also issued a bail order against Rafael Navarro for five million pesetas and ordered him to appear in court every two weeks. The judge appointed in September 1990 to conduct the investigation into the killing had allowed Rafael Navarro to leave the region of Navarre and live in provisional liberty without bail. Rafael Navarro was decorated less than one month after killing Mikel Castillo, at a ceremony attended by the Governor and senior police and court officials.

The date of the trial has not yet been fixed but it is expected to be announced shortly and will probably take place early in 1992.

SWITZERLAND

Developments relating to penalties for conscientious objection to military service and the introduction of an alternative civilian service

Amendment of the Military Penal Code (update to information given in AI Index: EUR 01/01/91)

In a national referendum held on 2 June the majority of voters (55.7 per cent) approved a government bill amending the Military Penal Code and altering the penalties available for certain categories of conscientious objection to military service. Military service remains a binding obligation under Article 18 of the Federal Constitution with male citizens normally carrying out regular periods of military service, amounting to a total of approximately 12 months, between the ages of 20 and 42. There is still no provision for alternative civilian service. This could only be introduced by amending the Constitution through a national referendum.

Until the new legislation came into force on 15 July 1991 military tribunals could pass sentences of up to three years' imprisonment for refusal of military service although, in practice, sentences rarely exceeded 12 months. The law allowed a maximum of six months' imprisonment if the military tribunal hearing the case recognized a conscript's "severe conflict of conscience" on religious or ethical grounds; such sentences could be served in the form of *arrêts répressifs* or *semi-détention*, allowing approved work outside the prison during the day (see the case of Patrick De Marchi - below).

According to statistics published by the Federal Military Department, during 1990 a total of 581 people were sentenced to prison terms for refusing to perform military service. Of these, 317 based their refusal on religious, ethical or political grounds. However, as in previous years, it was claimed that the number of people who had refused on conscientious grounds was far higher than reflected in the department's restricted categories.

Under the provisions of the new legislation, refusal to perform military service remains a criminal offence. If a conscript is able to show to the satisfaction of a military tribunal that he cannot reconcile military service with his conscience because of "fundamental ethical values" ("*des valeurs éthiques fondamentales/ethische Grundwerte*") then he will be sentenced to a period of work in the public interest ("*un travail d'intérêt général/Arbeitsleistung, die im öffentlichen Interesse liegt*").

This period may range from one and a half times the total length of military service refused by the conscript, up to a maximum of two years. If completed, no criminal sentence will be registered on the individual's record. Refusal to carry out the work sentence is punishable by up to three years' imprisonment. Those objecting to military service on grounds of conscience which are not recognized under the law, such as political grounds, and those who fail to convince the military tribunal hearing their case that their refusal of military service is based on fundamental ethical values which are irreconcilable with military service, continue to receive prison sentences and a criminal record.

Amnesty International has repeatedly expressed concern that the amendment to the Military Penal Code continues to punish people refusing military service on grounds of conscience and does not provide a genuine alternative civilian service outside the military system. Before the referendum Amnesty International distributed literature to the Swiss public setting out its position on conscientious objection and the international standards on which this is based and explaining its objections to the proposed amendment of the Military Penal Code. In letters to Amnesty International the federal authorities have stated that they are "aware that the question of conscientious objection in Switzerland has to be solved". They also acknowledged that the amendment to the military penal code would not introduce "a real civilian service"; this would require an amendment to the Federal Constitution, rejected by national referenda in 1977 and 1984.

Application of the Military Penal Code during 1991

Since 15 July 1991 the military tribunals have been sentencing those refusing to perform any of their military service and those refusing to continue performing their military service, according to the provisions of the amended Military Penal Code. However, the Federal Office for Industry, Trade and Work, which is responsible for the organization of compulsory work, is still in the process of drawing up the enabling legislation. Conscripts sentenced to periods of compulsory work will not therefore be able to begin their sentences until this is completed. The Federal Military Department has stated that it expects the new system of compulsory work to be in operation by the second half of 1992.

However, Amnesty International has received reports that a number of conscientious objectors have announced their intention of refusing to carry out sentences of compulsory work, on the grounds that it does not provide a genuine alternative service. On 4 September a military divisional tribunal at Epalinges concluded that Maurizio Donati, a 23-year-old conscript from Geneva, had based his refusal to carry out all military service, including recruit school training, on fundamental ethical values and that he was a genuine conscientious objector who qualified for a sentence of compulsory work. However, Maurizio Donati informed the court that he would refuse to carry out any work sentence because it did not provide a genuine alternative civilian service. The court sentenced him to 10 months' imprisonment. He has entered an appeal against the sentence.

During the brief period in which the legislation has been in operation Amnesty International has also noted apparent inconsistencies in the way the new legislation is being applied by different military divisional tribunals (that is, the first instance courts of military justice). On 30 August, a military divisional tribunal in Neuchâtel heard the case of Jean-Bernard Widmer, a 23-year-old mechanic from Courrendlin who, after carrying out recruit school training and a refresher course of military service, refused to perform any further military service on religious and humanitarian grounds. The court found that he had fundamental ethical objections to military service and stated that it was impressed by the sincerity of his convictions. He was sentenced to seven months' compulsory work. The length of his sentence was

therefore approximately equivalent to the number of days of outstanding military service which he had refused. Similarly, on 4 September a military divisional tribunal at Pully recognized that Yves Nicolier, a 23-year-old pacifist from Lausanne, who had refused further military service after completing military recruit school training, had fundamental ethical objections to military service. However, he was sentenced to 10 months' compulsory work - approximately one and a half times the length of the outstanding military service which he had refused. Patrick Krall, a 20-year-old pacifist from Geneva, who had refused to carry out military recruit school training, was also tried on 4 September. A military divisional tribunal at Yverdon acknowledged his fundamental ethical objections to military service and sentenced him to 15 months' compulsory work, again approximately one and a half times the length of the outstanding military service refused. Patrick Krall has entered an appeal against the sentence and has announced his intention of refusing to carry out any sentence of compulsory work, on the grounds that it does not provide a genuine alternative service.

Amnesty International has also received reports of conscripts who have based their refusal of military service on grounds of conscience but where the military divisional tribunals hearing their cases have concluded that their reasons for refusal do not fulfil the necessary legal criteria to qualify for a sentence of compulsory work. In September a military divisional tribunal in Morges concluded that David Burnier, a 20-year-old conscript from Lausanne, who had refused all military service, including recruit school training, had not proved that he had fundamental ethical values which made it impossible for him to reconcile military service with his conscience, as the law required. The court apparently found that, although David Burnier had put forward non-violent views, these were not supported by any active personal commitment and sentenced him to 10 months' imprisonment. David Burnier has entered an appeal against the sentence.

Meanwhile, conscientious objectors who were tried and sentenced under the provisions of the Military Penal Code in force before 15 July 1991 continued to enter prison to serve sentences of full imprisonment, *arrêts répressifs* or *semi-détention*. For example, Patrick De Marchi, a 24-year-old jeweller from Nyon, was ordered to enter Morges prison on 6 November 1991 to commence a sentence of six months' imprisonment which had been imposed by a military divisional tribunal in Rolle on 22 January 1991. Criminal proceedings had been opened against him after he had failed to carry out military recruit school training between 16 July and 10 November 1990.

He explained in a letter sent to the military authorities on 25 May 1990, and during his interrogation by the judge of instruction in charge of the investigation of his case, that his conscientious objection to military service was based on his respect for life in general and for that of human beings in particular. He stated that he refused "to commit an act of violence against my fellow man or to learn how to do so, whether this is in the context of the army or in any other situation...Defending one's territory by violent means is a manifestation of instinct; an animal acts like this. In addition to his instinct, man possesses...his conscience. This allows him to dominate his instinct and to try to find solutions other than violence...I would say that my ethics are those of non-violence...that I act according to my conscience which channels my

instincts, that I believe in individual freedom and in freedom of thought, that I reject destruction as a solution to the evils of our time. Consequently it is impossible for me to reconcile my personal convictions with military service".

The tribunal concluded that Patrick De Marchi's refusal had been motivated by sincere moral convictions, that he was suffering a "severe conflict of conscience" and that he therefore qualified for the more lenient sentence of *arrêts répressifs*. He was sentenced to six months' *arrêts répressifs*, plus costs of 700 Swiss francs, and excluded from further military service.

Proposed constitutional amendment introducing an alternative civilian service (update to information given in AI Index: EUR 01/01/91)

On 16 September 1991 a plenary session of the National Council (one of the two chambers of parliament) approved, by 147 to 14 votes, a proposal to amend Article 18.1 of the Federal Constitution which states that all Swiss male citizens are obliged to perform military service ("*Tout Suisse est tenu au service militaire*" / "*Jeder Schweiz ist wehrpflichtig*") by the addition of a clause stating that "The law provides for an alternative civilian service" ("*La loi organise un service civil*" / "*Das Gesetz sieht einen zivilen Ersatzdienst vor*"). The proposal, which replaces a parliamentary initiative put forward by the Socialist party in 1989, had already been agreed by a National Council Committee in February 1991. Following the September vote, the National Council passed the proposed amendment to the Council of States (the other chamber of parliament) for further discussion during its December 1991 session. If approved by parliament the proposed amendment will eventually be put to a national referendum.

Progress of legislation abolishing the death penalty

On 16 September 1991 the Federal Council (the executive branch of government) stated that it had approved a proposal to eliminate the death penalty from the Military Penal Code and thus for all offences. Under the Military Penal Code of 1927 the death penalty is applicable in time of war and imminent threat of war for a wide range of offences. The proposed amendment was then passed to the National Council which approved it unanimously in October 1991. It is currently awaiting the approval of the Council of States, the second chamber of parliament.

USSR

Conscientious objection to military service

In February 1991 the Ministry of Defence announced that the Soviet parliament would soon consider a draft bill introducing a civilian alternative service for those unable to perform military service owing to their "religious or other convictions" (see *AI Index: EUR 01/01/91*). By the end of October, however, the draft had still to come before the USSR Supreme Soviet. Some individual republics continued to make their own provisions, although these are not recognized by the central USSR authorities. During the period under review, for example, the Republic of Moldova adopted a law "On Alternative Service" on 10 July, setting out the right of its citizens to refuse military service on religious, pacifist or political grounds. On 23 October the Ukrainian parliament adopted a law on alternative service at its first reading. However, provision appears to have been made only for those whose religious beliefs preclude them performing military service, and the length of the alternative service is envisaged as three years, longer than that of military service.

In the period under review Amnesty International continued to urge authorities in the USSR to introduce a civilian alternative to military service of non-punitive length, with a fair procedure in law for applying it. The organization worked on behalf of some 15 imprisoned conscientious objectors to military service during this time, but suspects that the true figure is higher. One of these cases is described below.

Sergey Aleksandrovich Osnach

Sergey Osnach, aged 21, was arrested on 4 April 1991 in the town of Shostka in the Sumy Region of the Ukraine. He was charged with "evasion of regular call-up to active military service" under Article 72 of the Ukrainian Criminal Code. At his trial on 18 June he was sentenced to 18 months' compulsory labour.

Sergey Osnach refused his compulsory military service on the grounds that the Soviet Army "does not defend the motherland and the nation, but the `socialist choice'". As Soviet law offers no civilian alternative to military service, Amnesty International has adopted him as a prisoner of conscience.

Compulsory labour, also known as "building the national economy" involves working at a site designated by the authorities. It is less severe than imprisonment in a corrective labour colony, but the prisoners are still under surveillance and Amnesty International regards the restrictions placed on their movements to be analogous to imprisonment. Sergey Osnach is serving his sentence in the town of Sumy, at a factory producing bricks. He is due for release from his sentence, should he serve it in full, in October 1992.

Other suspected prisoners of conscience

In the period under review Amnesty International groups also sought further information on a number of other people the organization believed may have been imprisoned in connection with their conscientiously-held beliefs. Four such cases are outlined below.

Shirali Nurmuradov

Shirali Nurmuradov, a poet and playwright from the Central Asian republic of Turkmenia, was sentenced on 8 July 1991 to three years in prison (reduced to 18 months by a general amnesty) on a criminal charge of swindling. Unofficial sources allege that the charge was fabricated, and was brought in order to punish Shirali Nurmuradov for publishing poems in which he criticized the Turkmen government.

In the year prior to his arrest on 1 October 1990, Shirali Nurmuradov's involvement in the Turkmen opposition movement *Agzybirlik* ("Unity") had brought him increasingly into conflict with the republican authorities: previously widely published, his works were withdrawn from sale in January 1990, and he was twice fined for organizing unsanctioned meetings. In August 1990 President Saparmurad Niyazov of Turkmenia announced at a meeting attended by Shirali Nurmuradov that anti-government *samizdat* works by him were being investigated by the republican procurator, and declared: "The time will come when I will put you in prison."

Shirali Nurmuradov was tried twice on a charge of swindling (Article 158, part 3 of the Turkmen Criminal Code) by the City Court in Chardzhou, Turkmenia. The first trial ended on 30 November 1990 when he was sentenced to seven years' imprisonment for swindling 65,000 roubles from a Chardzhou woman, but the Chardzhou Regional Court overturned the sentence on appeal on grounds of lack of evidence, albeit referring the case for further investigation. The chief prosecution witnesses at the first trial subsequently withdrew their testimony, but a second trial went ahead in June 1991, the charge being based this time on new testimony by two people that Shirali Nurmuradov had borrowed money from them under false pretences in the amounts of 1,000 roubles and 500 roubles respectively. Unofficial sources allege a number of judicial malpractices during the investigation, including coercion of witnesses, but this time the sentence was upheld on appeal on 13 August 1991.

Amnesty International is concerned that the criminal charge against Shirali Nurmuradov may have been brought as a result of his peaceful exercise of the right to freedom of expression. The organization is therefore calling for the case to be re-examined.

Georgy Chanturiya

Georgy Chanturiya, Chairman of the opposition National Democratic Party (NDP) of Georgia, was arrested on 16 September 1991 at the airport serving Tbilisi, the capital of the Republic of Georgia. He is currently in pre-trial detention on a charge of violating public order. Although Amnesty International would not normally take up the case of someone facing such a charge, the organization is concerned that Georgy Chanturiya may be imprisoned for his non-violent political activity in opposition to the Georgian government. It is therefore seeking further information on the case. If it becomes clear that he is imprisoned solely for the peaceful exercise of his rights to freedom of association and expression, Amnesty International will regard him as a prisoner of conscience who should be released immediately and unconditionally.

Georgy Chanturiya is a founder member of the NDP, which gives as its aim the restoration of the republic's independence as a state by exclusively peaceful means. Recent tension between the government and the political opposition came to a head on 2 September 1991 when a number of people were injured at a demonstration in Tbilisi calling for the resignation of President Zviad Gamsakhurdia and new elections. Journalists present claim that members of the Georgian National Guard fired on the crowd in an attempt to disperse it, wounding four people, and that several other demonstrators were beaten. Some 1,000 demonstrators are then said to have marched towards the local television tower to demand that one of their leaders be allowed to make an address, but Georgy Chanturiya appealed to them to return to the NDP headquarters in the city centre. There a party spokesperson said they were building barricades for fear their leaders would be arrested.

Since then there have been numerous demonstrations in Tbilisi, many of the meetings being led by Georgy Chanturiya. On the day of his arrest he addressed a crowd estimated to be some 5,000 strong, then boarded a plane for Moscow. A short time into the flight, however, the plane was ordered to turn back and Georgy Chanturiya was arrested along with two other NDP members travelling with him. They were soon released but Georgy Chanturiya remains in detention, in Ortachala prison in Tbilisi. He has been charged with "organizing group actions which violate public order", under Article 206-3 of the Georgian Criminal Code.

At least two other people are also in pre-trial detention following the recent street demonstrations. They are Georgy Khaindrava, a camera operator reportedly arrested after filming the break-up of the demonstration on 2 September, and Ivan Giorgadze, who headed the NDP after Georgy Chanturiya's arrest. Both face public order charges, and Amnesty International is investigating their cases also.

Vladimir Aleksandrovich Lebedev

During the period under review information emerged on the case of Vladimir Lebedev. Unofficial sources report that he was tried by the Supreme Court of the Karelian Autonomous Republic in 1990 for refusing his call-up papers for military service (Article 80 of the Russian Republic Criminal Code) and attempting to leave the country illegally (Article 83). He was sentenced to two years' compulsory labour, which he performed in the Karelian city of Segezha, and was due for release in September 1991.

According to the source Vladimir Lebedev wished to leave the USSR because he did not want to live in a county which he considered violated the rights and freedoms of its citizens. His reasons for refusing military service were not clear. Prior to his release Amnesty International tried to clarify the circumstances of Vladimir Lebedev's arrest and to establish the reasons he gave for wishing to leave the USSR and refusing his call-up papers. If it had become clear that he had acted on grounds of conscience, and was imprisoned solely for his non-violent attempts to exercise his fundamental human rights, Amnesty International would have adopted him as a prisoner of conscience.

Vladimir Kaptel

Vladimir Kaptel, sentenced to one year's imprisonment in the Ukraine for "illegal exit abroad", completed his sentence in September 1991.

In the period under review Amnesty International also learned of the release of Sergey Vorotnikov, said to have been confined in a psychiatric hospital following his arrest in September 1987 for attempting illegally to leave the USSR by crossing the border with Romania. (For details on their cases see *AI Index: EUR 01/01/91*).

Balazhon Boyev

The sparse information available on the case of Balazhon Boyev was set out in *AI Index: EUR 01/01/91*. A Moslem from the Republic of Tadjikistan, he is said to be confined against his will for an indefinite period in a maximum-security psychiatric hospital in Tashkent, the capital of Uzbekistan, solely because of his peaceful religious activity.

In August 1991 the Chief Psychiatrist of the Ministry of Health of the Republic of Uzbekistan replied to a letter of inquiry from an Amnesty International group. He wrote that Balazhon Boyev had been ruled non-accountable after committing an unspecified offence, and had been confined in the Tashkent hospital since 1983. A regular psychiatric commission was due to consider his continued confinement in August 1991. The outcome of this review is not known.

Administrative detention

Amnesty International continued to receive reports of people being placed under "administrative arrest", which can be imposed by a single judge without right of appeal for up to 15 days, for taking part in unsanctioned meetings and demonstrations, or distributing leaflets. Amnesty International is concerned that some people may have been detained because they exercised their rights to freedom of expression and association, and not because they threatened public order.

a. On 24 June in Tyumen, Russian Republic, the Tobolsk and Tyumen branches of the opposition group Democratic Union staged a protest, including the collection of signatures on a petition, against the holding in Moscow of the forthcoming conference on the human dimension within the framework of the Conference on Security and Cooperation in Europe. During the protest the militia detained and allegedly beat brothers Andrey and Yevgeny Knyazhev. In response, Democratic Union activists mounted a picket of the Tyumen city council headquarters, but they were also detained. One of them, Vasily Kovalenkov, was sentenced on 25 June to 10 days' administrative arrest.

b. On 8 September Edgor Obidov, a writer, was detained following a rally in Tashkent, the capital of Uzbekistan, called to celebrate the failure of the August coup and the victory of democratic forces in Russia. He was placed under administrative arrest for 15 days. Around 200 other participants in the rally were fined.

Allegations of ill-treatment in detention

In the period under review Amnesty International continued to receive reports of ill-treatment in short-term or pre-trial detention. In August Amnesty International issued a report entitled *Recent allegations of ill-treatment by law enforcement officials in the Republic of Azerbaydzhani* (AI Index: EUR 46/53/91). This set out the organization's concern at numerous allegations of ill-treatment of ethnic Armenians during an operation by Soviet troops and Azerbaydzhani special police units (OMON) in April and May 1991 in areas of the Republic of Azerbaydzhani which have been the scene of ethnic violence.

Many men detained, both briefly by the OMON and in Azerbaydzhani prisons, claim they were beaten and otherwise ill-treated. At least two men reportedly died in prison from injuries inflicted. Amnesty International is also concerned that in other instances during the operation some unarmed civilians were reportedly killed deliberately by law enforcement officials without warning or attempts to apprehend them, and that some people are said to have been detained for short periods solely on grounds of their ethnic origin.

Amnesty International recognizes that law enforcement officials in the area are charged with keeping order in a situation in which they and the civilian population are subject to attacks from armed bands. However, it has urged the authorities to ensure that all law enforcement

officials be made aware of, and conform to, the United Nations Code of Conduct for Law Enforcement Officials and other human rights standards. It has also urged the authorities to initiate a full and prompt inquiry into allegations of ill-treatment, that the findings be made public, and the perpetrators brought to justice. For further details please see the full report.

Possible extrajudicial executions

Eleven Armenian militiamen shot dead

In July Amnesty International wrote to the then Minister of Defence of the USSR, Marshal Dmitry Timofeyevich Yazov, in connection with an incident near the village of Voskepar in the Noyemberyansky district of the Republic of Armenia on 6 May 1991. Eleven Armenian militiamen are said to have been shot dead by soldiers from the Soviet Army, engaged in an operation to confiscate illegally-held weapons. Amnesty International is concerned at allegations that the men were deliberately killed without warning and without any attempt to apprehend them.

The exact circumstances in which the deaths occurred are not clear to Amnesty International. It is claimed by some sources that the men were travelling to guard duty in Voskepar carrying trays of bread in a small bus when they were fired on by soldiers from the Soviet Army at approximately 5am. An unnamed military source has alleged that the bus failed to stop at an army checkpoint. Amnesty International is not aware of any casualties sustained by the Soviet Army in this incident.

Amnesty International asked the Minister of Defence for clarification of the circumstances of the deaths, and urged that a comprehensive and impartial investigation be carried out. It also asked what steps were being taken to ensure the implementation of the provisions of the new Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by consensus on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Among other things this text reaffirms the principle that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Deaths of six Lithuanian law enforcement and customs officials

In August Amnesty International wrote to Viktor Barannikov, Minister of Internal Affairs of the USSR in connection with an incident on 31 July 1991 at a customs post at Medininkai on the border between the Republics of Lithuania and Belarus (formerly the Belorussian SSR). Unknown assailants are said to have forced eight Lithuanian law enforcement and customs officials to lie on the floor, and then shot them in the head. Six men are said to have died almost instantly, and one two days later. One man survived and is still seriously ill in hospital.

Amnesty International welcomed the announcement of an official investigation into the deaths and urged that it be thorough, independent and impartial, that the findings be made public, and the perpetrators brought to justice.

The death penalty

In the period under review the USSR parliament adopted new legislation reducing the number of crimes punishable by the death penalty in peacetime from 18 to five. The Fundamentals of Criminal Legislation of the USSR and Republics were adopted on 1 July 1991 and published in the Soviet newspaper *Izvestiya* on 19 July. They will take effect as a whole on 1 July 1992 although Article 40, which concerns the death penalty, came into force on the day of publication. The new legislation retains the death penalty for treason, premeditated murder with aggravating circumstances, rape of a minor with aggravating circumstances, kidnapping of a minor with especially grave consequences and grave crimes against the peace and security of mankind. It exempts women and, as previously, those under the age of 18 from the death penalty. The sentences of women who have been sentenced to death and of men sentenced to death for crimes which no longer carry the death penalty will be commuted to 15-year terms of imprisonment. The death penalty will be carried out, as before, by shooting.

Amnesty International welcomes this new legislation, but regrets that the draft proposal to exempt men over 60 from the death penalty has been dropped. It also regrets that the number of capital crimes has been increased from the four mentioned by the USSR Minister of Justice at a press conference in January 1991, to five.

The status of these Fundamentals is also in some doubt with the increasing desire of republics to legislate independently of the central USSR authorities, given further impetus by the failed coup of August 1991. It is unclear, for example, whether the individual republics will adopt them in their present form, and within what time scale. However at least one republic has expressed its intention to follow this lead in limiting the scope of the death penalty. In reply to an earlier letter concerning the death penalty, A.S. Orudzhev, the Minister of Justice of the Republic of Azerbaydzhan stated that a new criminal code for the republic would be adopted within the near future, and would reduce the number of capital crimes to those five enumerated by the new USSR Fundamentals. He also wrote that the death penalty was applied only rarely in the Republic of Azerbaydzhan, and practically only for intentional homicide under aggravating circumstances. No exact figures were given, however, and Amnesty International is continuing to urge all individual republics to publish statistics on the use of the death penalty.

In the period under review Amnesty International received one other reply to its earlier letters to republican heads concerning the death penalty. In June the office of the President of Kyrgyzstan wrote that the issue of a moratorium on the death penalty in the republic would be examined in the context of legal reforms, and that a copy of published death penalty statistics would be sent to Amnesty International following the removal of limitations on their publication. No further details were received by the end of the period covered by this report.

In July the head of the USSR parliamentary clemency commission reported that 208 death sentences were carried out in 1990, mainly in the Russian Republic and the Ukraine. In the period under review Amnesty International appealed for the commutation of 24 death sentences which came to light from official and unofficial sources. One sentence learned of was passed in the Republic of Georgia, the rest were passed in the Russian Republic and the Ukraine. On 14 September 1991 it was announced that President Boris Yeltsin had commuted the death sentences passed on 24 people in the Russian Republic to periods of imprisonment. Amnesty International wrote welcoming his decision, and urging a moratorium on death sentences and executions while the use of the death penalty is reviewed.

For further information on recent developments regarding the death penalty in the USSR please see the document *USSR: Prospects for abolition of the death penalty* (AI Index: EUR 46/20/91), issued in July 1991.

UNITED KINGDOM

Conscientious objection to military service - the case of Vic Williams

Amnesty International is concerned about the case of Vic Williams, a 28-year-old soldier in the British Army's Royal Artillery, who was sentenced to 14 months' imprisonment for desertion and conduct prejudicial to good order and military discipline. On 11 September 1991 a court martial found him guilty on three charges relating to deserting his regiment and speaking out against the Gulf War. Amnesty International considers him to be a prisoner of conscience, imprisoned for acting in accordance with his conscientiously-held beliefs, and calls for his immediate and unconditional release. A paper was published in October 1991 giving details of the case (see AI Index EUR 45/15/91).

Amnesty International considers as a prisoner of conscience any conscientious objector whose detention or imprisonment is a consequence of "...his or her leaving the armed forces without authorization for reasons of conscience...if he or she has taken reasonable steps to secure his or her release from the military on the grounds of conscience or **if he or she did not use those means because he or she has been deprived of reasonable access to the knowledge of them...**".

Amnesty International is concerned that in the case of Vic Williams, such "reasonable access" to information about procedures for registering his conscientious objection to military service in the Gulf War was not guaranteed. The regulations setting out the procedure whereby a soldier in the British Army can apply for conscientious objector status are classified as a restricted document - to which only Army officers have access. They are contained in a separate document from the Queen's Regulations (regulations governing soldiers' conduct), and were not made available to the defence lawyers in Vic Williams' case until the court martial itself. Amnesty International's concern is supported by the evidence given by officers and a soldier during the court martial, and by the statement made by the Judge Advocate at the conclusion of the proceedings. In his summing up, the Judge Advocate acknowledged that it was "not in dispute that Vic Williams was **not** specifically made aware of procedures for conscientious objection".

Fair trial issues

Amnesty International has had long-standing concerns about fair trial issues in Great Britain and Northern Ireland. The organization's assessment of the fairness of criminal proceedings also covers aspects of pre-trial proceedings, to the extent that they may have prejudiced the fairness of the proceedings at trial. The absence of safeguards for the upholding of the detainee's rights in the pre-trial phase may lead to unfairness in the trial phase of criminal proceedings. The principal pre-trial safeguards should include detainees' rights to consult a lawyer of their choice and to have legal representation at hearings, safeguards against involuntary, unreliable and uncorroborated confessions being used as the basis for prosecution, effective safeguards against ill-treatment and punishments in law for breaches of such safeguards. The organization has

been concerned about many cases in which detainees were denied legal advice and uncorroborated contested confessions were the basis for convictions. Another issue of concern was the deliberate withholding of crucial evidence from defence lawyers by the prosecution or police (see AI Index EUR 45/04/91).

The Maguire appeal

In June 1991 the Court of Appeal quashed the convictions of the seven members and friends of the Maguire family on the ground of innocent contamination of forensic evidence. Five other grounds of the appeal were dismissed by the judges. Amnesty International had sent delegates to observe the appeal hearing.

In 1976, seven members and friends of the Maguire family had been convicted, on the basis of forensic evidence, of possessing and handling explosives. The arrests were made by detectives investigating the Guildford and Woolwich pub bombings of 1974. Annie Maguire, her husband Patrick, their two sons, two friends and Giuseppe Conlon (the father of Gerard Conlon, one of the "Guildford Four" - Giuseppe Conlon died in prison in 1980) were jailed for between five and 14 years. None of them ever made a confession, and they all proclaimed their innocence from the first (see AI Index EUR 45/04/91). In the appeal, the judges maintained that the innocent contamination may have occurred as a result of the appellants coming into contact with a contaminated bathroom hand towel in the Maguire house - leaving open the possibility that one or more of the appellants had in fact been handling nitroglycerine at some point before using the hand towel and thereby contaminating the others. No test had ever been done on the hand towel which was in use on the day of the Maguires' original arrest. The judges accepted that the argument advanced by the Crown in the original trial - that all seven appellants had knowingly been handling explosives - was most improbable, and found the contaminated towel theory the most plausible explanation for the positive test results on the hands of the appellants.

This explanation for the innocent contamination of the seven appellants was advanced last year during the May Inquiry, when an eminent forensic scientist demonstrated in tests that it was possible for a person to become contaminated after using a hand towel previously used by someone who had been handling explosives. The justices stated that the available evidence did not allow them to determine the identity of the person or persons responsible for the contamination of the hand towel, but ruled that the convictions were nevertheless unsafe and unsatisfactory. The forensic scientists from the Royal Armament Research and Development Establishment (RARDE), who carried out the original tests for the Metropolitan Police, were effectively exonerated - with the justices notably dismissing any suggestion that there had been any deliberate attempt by the RARDE scientists to mislead the jury or withhold evidence at the time of the original trial. While accepting that the failure to disclose certain information at the trial could be seen to constitute a "material irregularity" the judges were not willing to concede that this had in any significant way undermined the credibility of the witnesses or contributed to a miscarriage of justice. The conclusion of the judges was that the substance on the hands of

the appellants and on the plastic household gloves which also tested positive had in fact been nitroglycerine. Although the Court had heard from the very same witnesses on the forensic evidence as did Sir John May's inquiry into the circumstances surrounding the various convictions arising from the related trials of the "Guildford Four" and the "Maguire Seven", the Court reached the opposite conclusions to those expressed in the May Inquiry Report of July 1990. Indeed, whereas the May Inquiry concluded that the RARDE scientists **had** misled the original trial with their claims for the conclusive nature of the forensic tests and their concealment of other tests which might have undermined the Crown's original case, the Court largely upheld the reputations of the scientists and their work.

When the May Inquiry resumed its hearings in October 1991, the Maguire family and their solicitors protested that they were being prevented from cross-examining civil servants, law officers, and ministers appearing before the inquiry in this second phase of its investigation. Scientists appearing in the first phase of the inquiry had been cross-examined at great length. In his appearance before the inquiry in October 1991, former Home Secretary and now Foreign Secretary Douglas Hurd proposed that the Home Secretary's present power to refer cases to the Court of Appeal should be transferred to an independent tribunal. The tribunal would also have the power to conduct investigations into alleged wrongful convictions. Douglas Hurd said that the current system had proved "inadequate for the purpose of justice".

The case of Judith Ward

In September 1991 the case of Judith Ward, convicted of a 1974 coach bombing on the M62 (motorway) in England which killed 12 people, was referred to the Court of Appeal. In the United Kingdom, the Court of Appeal reviews a conviction at the request of the Home Secretary. The Home Secretary said that the referral had been prompted by the findings of a Home Office review of the forensic evidence presented at Judith Ward's 1974 trial. The evidence given by Dr Frank Skuse, a Home Office forensic scientist, had been of critical importance at the trial. Dr Skuse's tests in the case of the "Birmingham Six" - identical to those he ran on Judith Ward - had later been discredited as unreliable.

People convicted in 1975 for bombings in Guildford and Woolwich: the "Guildford Four"

In June 1991 a magistrate decided that the case against three Surrey police officers accused of conspiracy to pervert the course of justice in the "Guildford Four" case was to be dropped. Four people had been sentenced to life imprisonment in 1975 for pub bombings in Guildford and Woolwich. Their convictions were quashed by the Court of Appeal in October 1989 (see AI Index EUR 45/04/91). The magistrate accepted the view put to the court by the officers that the lapse of time and adverse public comments surrounding their case would disadvantage their defence and prejudice the outcome of the proceedings against them. Following the magistrate's decision to drop the charges against the three officers, the Crown Prosecution Service announced that it would apply for judicial review of the decision.

The six men convicted of bombings in Birmingham: the "Birmingham Six"

Four retired detectives are to be prosecuted for alleged conspiracy to pervert the course of justice and for perjury in connection with their role in the investigation of the 1974 bombings of two Birmingham pubs. Six men had been convicted in 1975 for murders committed in the two bombings. Their convictions were quashed by the Court of Appeal in March 1991 (see AI Index EUR 45/04/91). The four officers to be prosecuted were all members of the West Midlands police force. Among the four is former Detective Superintendent George Reade, who was in overall charge of the police investigation. Formal charges are to be brought against the four men in November 1991.

Broadwater Farm cases

On 25 July 1991 the Home Secretary requested a new police inquiry into the convictions of Winston Silcott and Mark Braithwaite for the murder of police officer Keith Blakelock in 1985 during a riot in London. A previous police inquiry had already resulted in the referral of Engin Raghip's conviction for the same murder to the Court of Appeal (the appeal hearing is scheduled to begin on 25 November).

This latest inquiry was prompted by the results of a forensic examination of the notes taken during the interrogation of Winston Silcott. The evidence indicated that key passages in the notes had not been recorded contemporaneously, but inserted at a later date. It was alleged that these passages were the incriminating ones.

On 26 September the Home Secretary announced that he had referred the cases of Winston Silcott and Mark Braithwaite to the Court of Appeal. In the case of Mark Braithwaite the reliability of his admissions are to be re-examined in the light of medical evidence showing that he was an acute claustrophobe.

At the same time Detective Chief Superintendent Graham Melvin of the Metropolitan Police was suspended. He had led the murder inquiry and had conducted the key interview with Winston Silcott.

Ill-treatment in Northern Ireland

For detailed background information on ill-treatment in Northern Ireland, please see Chapter 1 of a report published in June 1991 entitled *United Kingdom: Human Rights Concerns* (AI Index: EUR 45/04/91).

Amnesty International continued to receive reports of ill-treatment since the publication of the report. Of the 45 cases of people held under emergency legislation reported to the organization during July, August and September, 19 detainees alleged physical ill-treatment. In August the organization issued an urgent appeal on behalf of 17-year-old Damien Austin who alleged that during his detention at Castlereagh interrogation centre, the police subjected him to severe ill-treatment including punching (see AI Index: EUR 45/13/91).

The organization has also been concerned about allegations that ten youths have been charged with serious offenses on the basis of confessions made in the absence of a lawyer and allegedly obtained through ill-treatment or other means of duress. In May and June 1991 at least 18 local youths were arrested and interrogated in connection with the IRA killing of a police officer. Five of them: Liam Coogan (18), Mark Prior (19), James McCabe (19), Kevin Mulholland (17) and Lawrence Hillick (17) have been charged with murder. The young detainees allege that they were ill-treated and threatened during interrogation in the absence of their lawyers and families. Although the youths had requested to see their lawyers, none of them saw a lawyer before 48 hours after arrest and some even longer than 48 hours. (Under the Prevention of Terrorism Act access to lawyers can be denied for up to 48 hours after arrest). Forty-eight hours after the arrest of Kevin Mulholland, his lawyer was told that he could not see him as Kevin Mulholland was in the process of making a statement. The youths have subsequently contested their confessions which they claim were obtained under duress. Some of them alleged that false statements were made to them about members of their families: Liam Coogan claims he was told that his sister had also been arrested; James McCabe claims that he was told his father had a stroke. In August a number of young people were arrested in the Ballymurphy area of Belfast in connection with a blast bomb attack on the security forces. Anthony Garland, Michael Beck, Hugh McLaughlin, Stephen McMullan and J. Morgan have all been charged with murder on the basis of their confessions. They allege that the confessions were obtained under duress in the absence of their lawyers.

In July Amnesty International received reports that eight people were allegedly ill-treated while in custody at Castlereagh. The eight were among a group of approximately 19 people from the South Fermanagh area detained for questioning about a variety of serious crimes; five of the 19 were eventually charged under emergency legislation. Martin Sweeney alleged that he was slapped, struck, beaten and that he was subjected to death threats. Rose Ann Maguire alleged that she was physically and verbally abused: that she was slapped and punched, that her hair was pulled, and that a detective ran his hand up and down her leg and his fingers down from her head to her breast. Monica Boyle, who was seven months pregnant at the time of arrest, alleged

that she was verbally abused and taunted that her child would be born deformed. Eamonn McPhillips was released after five days' detention on the day before his wedding.

Killings by Security Forces in Northern Ireland

In July Amnesty International wrote to the government about killings by members of the security forces in Northern Ireland and expressed concern that the government continues to rely on procedures which have been shown to be inadequate (see AI Index EUR 45/10/91). The organization sought clarification on: whether the police were reinvestigating cases highlighted in a BBC *Panorama* programme which had revealed new information; why senior police officers from another force have not been requested to investigate disputed killings; and procedures used to interrogate soldiers about their involvement in disputed killings. The organization criticized the practice of denying the deceased's family access to autopsy reports and other forensic reports.

In its letter Amnesty International expressed concern that investigations of disputed killings and legislation governing the use of lethal force do not meet minimum international standards.

The killing of Karen Reilly and Martin Peake

Karen Reilly, 18, and Martin Peake, 17, were shot dead in September 1990 by soldiers while driving a stolen car. Officials alleged at the time that the car was fired at after it had driven through an army checkpoint and hit a soldier. However, eyewitnesses claimed there was no checkpoint and that the soldiers faked a leg injury in order to corroborate their story.

On 31 July 1991 six British Army soldiers were charged with the killing of the two teenagers. One was charged with murdering Karen Reilly, two were charged with attempting to murder Martin Peake, and all six were charged with attempting to pervert the course of justice and obstructing the Royal Ulster Constabulary (RUC) investigation into the shooting. One soldier faced an additional charge of attempting to pervert the course of justice by permitting himself to be struck on the leg by a colleague in order to back up their account of what had happened in the moments before the shooting.

The killing of Kevin McGovern

On 30 September 1991 a 19-year-old student, Kevin McGovern, was shot dead by police officers after he and two friends allegedly wandered unwittingly into a police security operation set up to trap an IRA unit. The police acknowledged that he was not involved in any illegal armed activities. His two friends were detained under anti-terrorist legislation by the RUC for 15 hours after the incident.

There were a number of different police explanations of the incident. Initially they said he was shot after an object was thrown at the police. Subsequently they said he ran away when challenged and was shot after he "appeared" to throw something at the police.

The Chief Constable of the RUC stated that there would be no "cover-up" in the police investigation, and that the Independent Commission for Police Complaints would supervise the investigation of the incident. Contrary to recommendations made by the Stalker/Sampson inquiry, a senior police officer from an outside police force has not been requested to lead the investigation. (Senior British police officers John Stalker and Colin Sampson had carried out an investigation into the killing of six unarmed men in 1982. See AI Index EUR 45/04/91).

An autopsy carried out independently for the family concluded that Kevin McGovern was shot in the back which, according to the family, raised the question of why an unarmed man was killed in such a fashion when there was already a heavy security presence in the area. The family also questioned the fact that the officer responsible was not suspended pending investigation; they believed this was tantamount to the police concluding that the officer had not acted wrongly. The family have requested a public, independent and judicial inquiry into the circumstances of the shooting.

YUGOSLAVIA

The conflict in Croatia

Amnesty International was gravely concerned by reports of extrajudicial executions by governmental forces and arbitrary and deliberate killings by non-governmental forces and the ill-treatment and torture of detainees. On 5 August 1991 the organization, citing some of these reports, appealed to the Yugoslav Presidency, and to the Presidents of Serbia and Croatia to ensure that all prisoners detained in the conflict were treated humanely. Amnesty International also called for the protection of non-combatants from all acts of reprisal and violence (see AI Index: EUR 48/14/91 and Weekly Update NWS 11/29/91). Further appeals to all parties to the conflict were issued in September (EUR 48/17/91 and Weekly Update NWS 11/35/91).

In August the organization wrote to the Croatian Minister of Justice asking for information about the grounds for the continued detention of judge Slavoljub Sremac, a Serb from Vukovar who had been arrested on suspicion of having taken part in an armed attack in Borovo Selo on 2 May. Judge Sremac was subsequently released in an exchange of prisoners. In September Amnesty International wrote to the Federal Secretary for National Defence, General Kadijević, about Anton Kikas, a Canadian citizen of Croatian origin who was detained at Zagreb airport on 31 August after being found on board a Ugandan plane containing weapons. The organization expressed concern about allegations, confirmed by Mr Kikas' lawyers, that following his detention he was beaten and injured by officers of the military counter-intelligence service with the aim of obtaining information from him. Amnesty International urged an investigation into his case and that any official responsible for ill-treating Mr Kikas be brought to justice; it also asked for clarification concerning the role and competence of the military court in Belgrade to hear this case.

In October the organization wrote to members of the Yugoslav Presidency after four members of this body ruled on 5 October that military courts were to apply provisions of the Criminal Code of the SFRJ under which those who commit offences against the armed forces in time of war or immediate danger of war may be sentenced to five to fifteen years' imprisonment or the death penalty. Amnesty International expressed its total opposition to the death penalty and, noting reports that many young people were deserting or refusing to respond to call-up, urged the immediate recognition of the right to conscientious objection for all those who refuse to take up arms in the Yugoslav National Army on conscientious grounds. It also urged the abolition of the death penalty for these and other offences (see Weekly Update NWS 11/40/91).

Amnesty International's concerns in Kosovo province

Amnesty International continued to receive almost daily reports that ethnic Albanians in Kosovo province were beaten and otherwise ill-treated by the police. It also adopted as prisoners of conscience ethnic Albanians sentenced to up to 60 days' imprisonment as a result of their non-violent exercise of their right to freedom of expression. Among them was Xhemail Rexhepi, editor of an Albanian-language newspaper who published in September an article titled: "Kosovo - a sovereign and independent state". Some 30 other ethnic Albanians who helped to organize an unofficial referendum between 26 and 30 September on whether the inhabitants of Kosovo were in favour or against a "republic of Kosovo" also received prison sentences of up to 60 days.

ASYLUM-SEEKERS

The need for a fair policy

Many governments in Europe are taking a restrictive approach towards asylum-seekers which threatens to undermine universal standards dealing with the protection of people at risk of serious human rights violations. Although many thousands of asylum-seekers in Europe have fled countries where there are serious and widespread human rights violations, European governments have not made any sustained effort to make full use of international human rights mechanisms to bring pressure to bear upon these countries. European governments have imposed visa requirements, in some cases backed up by stringent enforcement measures, that restrict access to asylum procedures. They have also frequently sent asylum-seekers to other countries which they consider to be "first countries of asylum", sometimes without ascertaining whether the asylum-seekers will be afforded protection in those other countries. Further, international standards which require certain fundamental safeguards to be followed in asylum procedures are being undermined by governments' attempts to accelerate the procedures, since some such reforms have been made or proposed without properly respecting these fundamental safeguards.

For several years European governments, in particular those in the twelve member states of the European Community (EC), have been cooperating with each other in establishing and applying restrictive measures; this cooperation is now becoming systematic and set out in formal agreements. They have agreed to cooperate in imposing visa requirements on nationals of the same countries, and in establishing criteria to determine which member state is responsible for examining a request for asylum. More recently there have been indications that the member states are considering common rules for the procedures to be followed and criteria to be used in examining and deciding on asylum claims. This cooperation among the EC member states is followed closely by governments outside Europe and agreements negotiated in Europe are likely to have a decisive influence on asylum policies world-wide.

Amnesty International fears that measures such as the systematic imposition and enforcement of visa requirements can obstruct asylum-seekers from obtaining access to an asylum procedure. This concern is heightened by the fact that a number of states are cooperating in imposing such restrictions on the nationals of the same countries. Such cooperation may obstruct people from seeking asylum in any of those states, which may be their only effective chance of obtaining protection. The organization is also concerned that the arrangements agreed between the member states allow the governments concerned to send asylum-seekers to third countries without any assurance that they will be granted effective and durable protection in those countries against forcible return to their countries of origin. Also, the arrangements whereby an asylum-seeker can lodge an asylum claim in only one member state in effect make a refusal of asylum by one member state take effect in all the other member states, even though asylum procedures vary considerably between the contracting states and in some cases fall short of international standards.

There are serious deficiencies in asylum procedures in a number of European states. Moreover, many countries have passed or proposed reforms to their asylum procedures which are aimed at separating from the normal procedures certain types of claims, or asylum-seekers from certain countries, and dealing with these claims in an expedited or accelerated procedure.

The current crisis in asylum procedures in Europe is largely a result of governments' preoccupation with treating asylum applicants in a manner similar to immigrants or persons who enter a country "illegally". As a result, various police and immigration authorities are involved in complex and time-consuming procedures which can create a backlog of applicants. This leads to the establishment of various devices to "screen out" or separate certain types of claims from the normal procedures, but these devices often diminish procedural safeguards and create further backlogs.

Amnesty International calls on governments to acknowledge that examining and deciding on asylum requests should be carried out by a fully independent body to which all asylum-seekers have access. If that body is composed of expert decision-makers who are familiar with conditions in asylum-seekers' countries of origin, decisions can be made promptly. If each applicant appears in person, with legal counsel, before the decision-makers her or his credibility (which is often a determining factor in asylum claims) can be assessed fairly. In short, asylum procedures can be made to be both fair and expeditious.

Amnesty International believes that an international agreement among the EC member states that prescribes minimum procedural standards for asylum procedures is the most effective way of ensuring that agreements already made, such as those dealing with the state responsible for examining an asylum request, are implemented in a manner consistent with the protection of refugees. If any such agreement is reached, it must include certain essential principles, based on international standards for the protection of human rights and refugees, to ensure that asylum procedures effectively identify all those in need of protection.

These essential principles include that all asylum claims must be thoroughly examined by an independent and specialized authority; the decision-makers must have expertise in international human rights law and international refugee law, and should take full account of human rights information which is drawn from the widest possible range of independent sources. An asylum-seeker should be able to appear in person before a decision-maker when his or her case is first examined, and at all stages in the procedure must benefit from the right to legal counsel. All refused asylum-seekers must have the right to have their case reviewed through a judicial process before being expelled from the country, although in exceptional circumstances this review may be expedited.

Amnesty International's concerns on this are set out in more detail in *Europe: Human rights and the need for a fair asylum policy* (AI Index: EUR 01/03/91), issued by Amnesty International in November 1991.

RATIFICATIONS

States which have ratified or acceded to a convention are party to the treaty and are bound to observe its provisions. States which have signed but not yet ratified have expressed their intention to become a party at some future date; meanwhile they are obliged to refrain from acts which would defeat the object and purpose of the treaty.

Albania

In June 1991 Albania joined the Conference on Security and Cooperation in Europe (CSCE) and in September 1991 signed the CSCE's Charter of Paris and the Final Act of the CSCE (Helsinki, 1975). In October 1991 Albania acceded to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Belgium

On 23 July 1991 Belgium ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Cyprus

On 18 July 1991 Cyprus ratified the United Nations Convention against Torture and Other Cruel Inhuman or degrading Treatment or Punishment.

Estonia

On 21 October 1991 Estonia acceded to a number of international human rights instruments, including the International Covenant on Civil and Political Rights and its Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Greece

On 2 August 1991 Greece ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

Norway

On 5 September 1991 Norway ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights.

USSR

On 25 July 1991 the Ukraine acceded to the Optional Protocol to the International Covenant on Civil and Political Rights.

On 1 October 1991 the USSR acceded to the Optional Protocol to the International Covenant on Civil and Political Rights. It made a declaration under Article 41, recognizing the competence of the Human Rights Committee to consider complaints by States Parties about violations of the Covenant. It also made a declaration under Article 21 of the United Nations Convention against Torture recognizing the competence of the Committee to consider complaints by States Parties about violations of the Convention and a declaration under Article 22 of that Convention recognizing the competence of the Committee to consider complaints by individuals.

Yugoslavia

On 10 September 1991 Yugoslavia ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and made declarations under Article 21 of that treaty recognizing the competence of the Committee against Torture to consider complaints by States Parties about violations of the Convention and Article 22 recognizing the competence of the Committee to consider complaints by individuals.