

CONCERNS IN EUROPE

July - December 2001

FOREWORD

This bulletin contains information about Amnesty International's main concerns in Europe between July and December 2001. Not every country in Europe is reported on: only those where there were significant developments in the period covered by the bulletin.

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

This bulletin contains an index on pages 85 and 86 about cases and incidents investigated by Amnesty International affecting women and children, discrimination based on race, and the effects of the attacks of 11 September in the USA. They are not an exhaustive summary of the organization's concerns, but a reflection of the range of violations suffered by women, children and juveniles in Europe.

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

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

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The impact of the 11 September attacks in the USA

Following the attacks in the USA on 11 September 2001 and the call by the US government to all countries to take measures in the “fight against international terrorism”, governments around the world responded with a range of legislative and other measures. Amnesty International acknowledges the duty of governments to protect people within their own territories and in other states from such attacks. However, as a consequence of the level of anxiety about security aroused by the attacks of September 11, various measures adopted and proposed by states may violate, or facilitate the violation of human rights that states are obliged to respect.¹ Within Europe, these concerns are illustrated in the reports on the following countries:

Austria: In December, Egyptian asylum-seeker Muhammad ‘Abd al-Rahman Bilasi-Ashri was at imminent risk of being forcibly returned to Egypt by the Austrian authorities where AI believed he would be at serious risk of torture and other human rights violations.

Bosnia: In September, Italian SFOR soldiers reportedly detained two Bosnian citizens who were taken to a US army base near Tuzla where they were detained until 3 October. The men were denied access to a lawyer and were not permitted to contact their families. In October, a Jordanian national was arrested by SFOR and Federation police in Biha... He was transferred to an SFOR holding facility in Sarajevo he was not allowed to inform his lawyer or a consular official. AI wrote to SFOR’s Commander, Lieutenant General John Sylvester, raising the organization’s concerns that SFOR’s actions were not in compliance with European and international human rights standards and requested clarification of the legal basis for the arrests and detentions. SFOR’s response did not satisfactorily address the issues raised by AI.

On 6 October, the Federation authorities deported to Egypt Ussama Farag Allah and Al-Sherif Hassan Mahmoud Saad, who had dual Bosnian and Egyptian citizenship. AI was concerned that the deportations were apparently in disregard of Bosnian court rulings and that in Egypt the men might be tortured, might face an unfair trial and be sentenced to the death penalty. Following their return, according to information received by Amnesty International, one of the men was held in incommunicado detention and has alleged that he was tortured.

Kosovo: Three civilians working for international aid agencies in Kosovo were unlawfully detained by KFOR on 14 December. They were subsequently transferred to a US detention facility at Camp Bondsteel where they remained until they were released, without charge, on 21 January 2002.

Sweden: In December, Muhammad Muhammad Suleiman Ibrahim El-Zari and Ahmed Hussein Mustafa Kamil Agiza were forcibly returned by the Swedish authorities to Egypt, where they were at risk of torture and unfair trial. At the hearings, which determined whether they should be deported, the authorities presented intelligence evidence not disclosed to the men and their lawyers, alleging that the two men were connected to organizations which had been responsible for acts of “terrorism”.

United Kingdom: The government declared that there was “a terrorist threat to the United Kingdom from persons suspected of involvement in international terrorism”. As a result, the government stated, there existed an “emergency” within the meaning of provisions of the European Convention on Human Rights and the International Covenant on Civil and Political Rights [ICCPR] that permit states to derogate from certain of the treaties’ obligations under such circumstances. The government derogated from Article 5(1) of the ECHR and Article 9 of the ICCPR relating to the rights of detainees and introduced draconian legislation giving the Home Secretary power to certify non-UK nationals as “suspected international terrorists and national security risks” who, if they cannot be deported, may be detained indefinitely without charge or trial. AI is concerned that the legislation has created what is in effect a shadow criminal justice system under which individuals may be imprisoned without

¹See Amnesty International, *Rights at risk: Amnesty International’s concerns regarding security legislation and law enforcement measures*, AI Index:ACT 30/001/2002.

the fair trial rights that people who are prosecuted for crimes have. Amnesty International is also concerned that the legislation denies asylum-seekers, considered to be “suspected international terrorists” or national security threats, the right to have the merits of their claim individually assessed. No other European government has derogated from the ECHR in order in response to the attacks in the USA.

Regional action

As well as acting individually, states also implemented and proposed measures collectively, within both the European and the international - United Nations - institutions. The following describe the main actions within primarily European bodies that are particularly pertinent from a human rights perspective.

The European Union

Shortly after the attacks in the USA, an extraordinary Council of EU Justice and Home Affairs ministers met to discuss the Commission’s proposals to strengthen cooperation in criminal matters among EU Member States, including the relationship between safeguarding security and complying with international protection obligations for asylum-seekers and refugees. Amnesty International was concerned that the main goal of the EU was not to ensure the protection of human rights but to strengthen security. As indicated below, the organization’s concern was shown to be well founded by aspects of the proposals that were developed for adoption by EU member states and which were the subject of submissions by AI.²

The EU Commission prepared a proposal for a set of offences that all member states should prohibit as acts of “terrorism.” In Amnesty International’s view, some of the proposed offences were excessively broad or too vague and could criminalize peaceful activities which were unrelated to acts of violence.

The Commission also prepared a proposal for an arrest warrant and surrender procedures aimed at abolishing traditional extradition procedures among member states. The idea that EU member states should have common, special procedures applying to relations between their criminal justice systems had been under consideration for some time and its development was given very high priority following the attacks of 11 September. Amnesty International considered that while the Framework Decisions contained some positive features, such as the obligation to surrender individuals responsible for certain crimes under international law, the agreed text had a number of shortcomings. such as the obligation not to surrender in case of amnesties, immunities or age, even in the case of crimes under international law. Other aspects would infringe human rights guarantees, for example some aspects of the rights of the defence in cases of subsequent surrenders or extradition.

A further concern which Amnesty International raised with EU member states was that new measures might allow governments to deny asylum-seekers, who are suspected of involvement in “acts of terrorism”, their right to have their claims considered in fair and satisfactory procedures.

In October, the US government approached the EU seeking agreement to joint cooperation in “combatting terrorism” in a range of areas, such as the work of police authorities. The European Parliament expressed concern that European law and standards were inconsistent with some US laws and policies, such as the use of the death penalty and a Presidential order establishing “military commissions” for the prosecution of non-nationals alleged

²See for example the following published by Amnesty International European Union Office, "Aide Memoire: Comments by Amnesty International on the proposals for a Framework Decision on Combatting Terrorism and for a Framework Decision on the European Arrest Warrant and the Surrender Procedures between the Member States", 5 December 2001; "Comments by Amnesty International on a proposal by the Commission for a Council Framework Decision on combatting terrorism" [COM(2001)521 final], 19 October 2001; "Comments by Amnesty International on the proposal by the Commission for a Council Framework Decision on the European arrest warrant and the surrender procedures between the member States" [COM (2001) 522 final]; "Security and Refugee Protection. Amnesty International’s Comments on the relationship between safeguarding internal security and complying with international obligations of protection towards refugees and asylum-seekers", 15 November 2001.

to be involved in terrorism. The Parliament adopted a resolution calling upon the EU and its member states to ensure that any international agreement on police and judicial cooperation with the USA would fully respect the European Convention on Human Rights and the minimum procedural guarantees that are common to all the member states.³

Organization for Security and Cooperation in Europe

In December, the 55 participating states of the Organization for Security and Co-operation in Europe (OSCE) adopted "The Bucharest Plan of Action for Combatting Terrorism" which specified action to be taken by governments individually and collectively and assistance to be provided by the OSCE. The aim of the plan was stated to be to identify a framework of action to combat terrorism, "fully respecting international law, including the international law of human rights and other relevant norms of international law". The Plan contains a range of measures to prevent terrorism, including not only traditional law enforcement types of measures [eg co-operation between law enforcement officials] but also those intended to counter "social, economic, political and other factors...which engender conditions in which terrorist organizations are able to recruit and win support". Accordingly, among the agencies to which the Plan allocated responsibilities are the OSCE Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities.

Council of Europe

Various agencies of the Council of Europe took measures to respond to issues arising from the attacks of 11 September and their aftermath. Amnesty International welcomed the statement of the Council's Committee of Ministers that "measures for combatting terrorism must remain consistent with the requirements of democracy, the rule of law and human rights".⁴ Subsequently, the Committee of Ministers requested its Steering Committee on Human Rights to draft guidelines to be adopted by the Council to ensure that states' security measures are consistent with their human rights obligations. A Group of Specialists on Human Rights and the Fight against Terrorism was established to prepare the guidelines and Amnesty International provided a submission to the Group.⁵

In November, Walter Schwimmer, Secretary-General of the Council of Europe issued a joint statement with Mary Robinson, United Nations High Commissioner for Human Rights and Ambassador Gerard Stoudmann, Director of the OSCE's Office for Democratic Institutions and Human Rights, which stated:

While we recognize that the threat of terrorism requires specific measures, we call on all governments to refrain from any excessive steps which would violate fundamental freedoms and undermine legitimate dissent. In pursuing the objective of eradicating terrorism, it is essential that States strictly adhere to their international obligations to uphold human rights and fundamental freedoms.

³European Parliament resolution on EU judicial cooperation with the United States in combatting terrorism B5-0813/2001, 13 December 2001.

⁴Communique on international action against terrorism, 8 November, 2001

⁵"A Human Rights Framework for the Protection of Security" AI Index: IOR 61/005/2001.

ALBANIA

Allegations of torture and ill-treatment of detainees by police

Torture and ill-treatment of detainees by police continued to be widespread, although steps were taken to monitor human rights violations by police. In some cases police officers were dismissed from service or otherwise disciplined after they were found to be responsible for ill-treatment. There were also several cases in which police officers were referred to trial for ill-treatment, and at least three police officers were reported to have been convicted by courts.

Sokol Çullhaj, aged 19 and Erando Sallaku, aged 18, complained that on 24 November a (named) police officer arrested them and took them to Tirana Police Station no.1, where they were held overnight, together with another young man, Julian Katrosi. During their detention the officer reportedly punched them and beat them with a truncheon in order to force them to confess to having committed a theft from a shop in their neighbourhood. They were released the next morning. However, the three young men, and a fourth, Fatmir Fusha, were again detained in police custody on the evening of 30 November, where the same police officer allegedly again beat and kicked them. They were released the following day. On 3 December Erando Sallaku underwent a forensic medical examination, which found bruising on both of his hands, which it concluded had been caused by beating with a hard instrument. This case was investigated by the Office of the People's Advocate (Ombudsperson) which decided that these allegations were founded, and recommended that the police officer be suspended from duty and that penal proceedings be started against him on charges of "abuse of office".

On 26 December, Naim Pulaku, a taxi driver from Elbasan, filed a criminal complaint against the Elbasan police chief and another police officer. In his complaint he stated that on 21 December he was beaten and kicked by the two officers at a road-block, as a result of which he lost consciousness and was the same evening brought by police to hospital. The next morning the two officers came to the hospital where they dragged him out of bed, struck and threatened him, until medical staff intervened. Naim Pulaku was transferred to the Military Hospital in Tirana for further

treatment. The police chief was shortly afterwards dismissed from service and placed under house arrest. He and his colleague (who went into hiding) are being investigated on charges of "abuse of duty". This was the second time that Naim Pulaku was beaten and injured by police in Elbasan: in September 2000 he and two brothers were arrested on suspicion of stealing car tyres and brutally beaten. Three police officers were tried by Korça Military Court in connection with this incident; one, Fatmir Muca, was convicted of "abuse of office", and two others were acquitted. There had been numerous previous complaints of ill-treatment made against the Elbasan police chief and his subordinates.

Torture and ill-treatment of minors

In October the Albanian Human Rights Group (AHRG), a non-governmental organization (NGO), reported that all the 47 minors they had interviewed in two prisons (Vaqarr and Tirana 313), alleged they had been ill-treated by police or prison guards. In one case, guards at Tirana 313 Prison were said to have beaten a group of seven minors who had repeatedly called for medical help for one of their cell-mates who was ill. According to the AHRG, the marks of the beating were clearly visible on all members of the group, except for the sick child. The AHRG was also concerned that in Tirana 313 Prison minors were held together with adult detainees. In December another NGO, the Legal Clinic for Minors, stated that dozens of children throughout the country were being held in police custody for months "more or less forgotten" while being investigated for what were often petty offences. The Clinic criticized courts for ordering their indefinite detention pending investigation.

Investigation of allegations of police ill-treatment

Judicial proceedings against police officers accused of ill-treating detainees were still infrequent, but AI learned of several cases in which police officers were prosecuted, referred to trial or convicted of ill-treatment. In July the Ombudsperson's Office reported that in the past year it had investigated 153 complaints of police ill-treatment and had found 74 of them to be justified. As a result of its recommendations, the Ministry of Public Order dismissed two police officers

and 10 others were transferred or demoted. A decision was pending in 11 other cases. In September the Ministry opened a telephone complaints line and within the first month reportedly received 33 complaints, many of them from Tirana and Elbasan, alleging physical ill-treatment or verbal abuse. As a result, eight police officers were reportedly suspended from duty or dismissed for these or other violations. According to statistics announced by the Chief of Police in December, over the past four years 68 police officers had received disciplinary sanctions for misconduct and ill-treating detainees, 53 had been dismissed from service and penal proceedings had been initiated against 25 others.

Elbasan District Court reportedly convicted two police officers in connection with the death of Kastriot Bega, a 19-year old murder suspect who was detained on 5 January 1999 and died some hours later after being brought from a police station to hospital. Hospital staff allegedly stated that his body bore multiple marks of ill-treatment. Criminal proceedings against two officers were started at the time, but in September 1999 the Ministry of Public Order reportedly stated that the young man had died of natural causes and charges against them had been dropped. In July 2000, however, the Prosecutor General's Office re-opened the case.

Trial proceedings were started against a police officer accused of ill-treating Ferit Çepi, and Ilir and Veli Mona. They were arrested in Vlora in November 2000 and beaten to force them to confess to a theft they had not committed. As a result of the beating he received, Ferit Çepi reportedly lost sight in one eye.

Conditions of detention

Conditions in police cells were harsh, and in some cases reportedly amounted to cruel, inhuman and degrading treatment. In July Rrëshen police station was reportedly so crowded that detainees were forced to take turns to lie down to sleep. In October the Albanian Helsinki Committee (AHC) similarly reported severe overcrowding at police stations in Fier, Vlora, Gramshi, Lushnja and Elbasan.

ARMENIA

Armenia's human rights commitments as a member of the Council of Europe

(update to AI Index: EUR 01/001/2001 and EUR 01/003/2001)

The human rights obligations Armenia agreed to undertake upon accession to the Council of Europe in January 2001 included ratifying, within one year of accession, the European Convention on Human Rights and its Protocol No. 6 concerning the abolition of the death penalty, together with the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment; adopting the draft new Criminal Code, drawn up in 1997, within a year of accession, thereby replacing the death penalty with life imprisonment and decriminalizing homosexual relations between consenting adult men; and adopting, within three years of accession, a law on alternative service, and in the meantime pardoning all imprisoned conscientious objectors. By the end of 2001, Armenia had yet to fulfil any of these commitments.

There was widespread public and political support, including from the Prime Minister, for imposing the death penalty on the defendants in the October 1999 parliamentary shootings case (see below). President Robert Kocharian reportedly reiterated on 3 July his opposition to carrying out executions at a meeting with members of the Committee of Ministers' "Ago" group, which is charged with monitoring Armenia's and Azerbaijan's compliance with their commitments as members of the Council of Europe.

On 1 October, the authority over the penitentiary system was officially transferred to the Ministry of Justice with the exception of one investigation-isolation prison, which remained under the jurisdiction of the Ministry of National Security at the end of the period under review. Upon accession to the Council of Europe Armenia had committed itself to transfer the penitentiary system from the Ministry of the Interior and the Ministry of National Security to the Ministry of Justice. The law on the transfer of the responsibility for the penitentiary system was requested to be adopted within six months of Armenia's accession. It was to be implemented within the following six months, and the transfer of pre-trial detention facilities and work colonies was to be finalized within a year after adoption of the law.

On 24 October, a report entitled *Cases of alleged political prisoners in Armenia and Azerbaijan*, which was prepared by independent experts appointed by the Secretary General of the Council of Europe as part of the post-accession monitoring procedures with respect to Armenia and Azerbaijan, was published (see also Azerbaijan entry). In their report the experts did not identify cases of political prisoners in Armenia. However, they pointed out that they gave detailed

attention only to the two substantive cases in Armenia raised with them. In the context of the Council of Europe's ongoing monitoring of the issue of political prisoners, AI raised with the organization concerns relating to a number of other cases, whom AI regards as political prisoners, including those of the defendants in the 1999 parliamentary shootings case (see below).

Prisoners of conscience

(update to AI Index: EUR 01/01/00, EUR 01/03/00, EUR 01/001/2001 and EUR 01/003/2001)

Continued arrests and imprisonments of conscientious objectors appeared to be a violation, at the very least, of the spirit of Armenia's commitment on accession to the Council of Europe in January, to pardon all conscientious objectors pending the adoption of a law on alternative service.

At least 26 Jehovah's Witnesses were imprisoned for their conscientious objection to compulsory military service during the year, and sentenced to terms of imprisonment ranging from one to three and a half years. At least 14 conscientious objectors remained in prison at the end of the period under review. They were named as Aramais Arakelian, Artashes Atoian, Karapet Haroutiunian, Vachagan Hovhannisian, Amayak Karapetian, Mesrop Mirzoian, Vahan Mkroian, Araik Sargsian, Aram Shahverdian, Henrik Simonian, Sanasar Tovmasian, Karen Vardanian Samvel Vardanian and Armen Yeghiazarian. Thirty-eight conscientious objectors were reportedly released in the period under review following a presidential amnesty in June to mark the 1700th anniversary of Armenia's adoption of Christianity as the state religion. Another three conscientious objectors were released in December under the condition that they regularly report to the police. Three of those released under the amnesty, Henrik Hovnikian, Spartak Sargsian and Araik Bagdasarian, were rearrested in November for their repeat refusal on religious grounds to serve in the army. AI knows of other cases where young men were prosecuted a second time for their conscientious objection to military service in Armenia. Vardan Virabian, for example, was first sentenced to two years' imprisonment for refusing his call-up papers in September 1999, but released two months later under an amnesty. He was called up again and sentenced to four years' imprisonment for "evading military service" (Article 257a of the Criminal Code of Armenia) in January 2000.

AI was still seeking information from the Armenian authorities regarding any investigation opened in response to allegations of ill-treatment of a number of conscientious objectors in pre-trial detention, including Vitaly Usupov and Rafik Tonoian, who were reportedly beaten following their arrests in November 1999 and August 2000 respectively (see AI Index: EUR 01/01/00, EUR 01/03/00, EUR 01/001/2001 and EUR 01/003/2001).

Prosecution of member of religious minority

On 18 September, Jehovah's Witness Levon Margarian was acquitted of charges of "enticing minors into attending religious meetings of an unregistered religion" and "influencing members to refuse their civic duties". AI welcomed the 18 September court decision, but expressed concern at allegations that the charges against Levon Margarian had been brought to punish him for peacefully exercising his religious belief. Following an appeal by the prosecution against the acquittal, a new trial against him was opened in November. By the end of the year the court hearings were still ongoing. If convicted and sentenced to imprisonment on these charges, AI would regard Levon Margarian a prisoner of conscience, imprisoned solely on account of his non-violent religious activities.

The case had been brought against Levon Margarian in March at Armavir Regional Court near Yerevan, reportedly because children had attended meetings in the town of Medzamor, where he was a Jehovah's Witness elder. The defence maintained that parents had signed documents giving permission for their children to attend, and that the court case was an attempt to block the Jehovah's Witnesses officially registering in Armenia.

AI was concerned at reports that Aram Shahverdian, a key witness for the defence, who had reportedly denied the prosecutor's statements that Levon Margarian had forced him to reject military service, was arrested during the trial for his conscientious objection to military service. Jehovah's Witnesses monitoring the trial believed the arrest might have been an attempt to prevent other witnesses testifying for the defence. In addition, there were allegations that prosecution witnesses had had their statements dictated to them.

Torture and ill-treatment of military personnel

On 12 July, the Presidential Human Rights Commission

heard the complaints of family members of military servicemen who alleged torture, ill-treatment and violations of due process in some 50 cases. The Military Procurator and the Chief of the military police reportedly denied the allegations at a hearing held one week later by the Commission. The case materials were reportedly forwarded to the General Procuracy, and a special working group of seven senior procurators was created to investigate the allegations. Following the working group's investigations, the Presidential Human Rights Commission reportedly stated that the allegations of undue pressure on military servicemen by the Military Procuracy could be confirmed in at least four cases. The four men were named as Artush Ghazarian (see below), Misha Arutiunian, Suren Grigorian, and Erdzhanik Sarkisian. Erdzhandik Sarkisian and Misha Arutiunian were reportedly ill-treated at Stepanakert military police station by officer "X", a former senior officer at the police station, and at least three law enforcement officers (the names are known to AI) from 1 to 2 and on 5 March 1999 respectively. Erdzhandik Sarkisian and Misha Arutiunian were reportedly kicked, punched, and beaten with truncheons; their fingers were squeezed with pliers; and the officers reportedly drove pins under Erdzhanik Sarkisian's fingernails, to the point that he lost consciousness.

Following the investigations by the working group, at least three criminal cases were reportedly opened against officers from the military police in the town of Stepanakert (the names are known to AI) on charges including "coercion to give testimony" (Article 193 of the Criminal Code of Armenia) and "abuse or excess of power, or negligence" (Art. 268). AI is seeking information on charges brought against any other law enforcement officers in connection with allegations of torture and ill-treatment examined by the working group.

There were allegations that the working group's investigations into a number of other cases were not thorough and impartial and that nobody had been charged in connection with those cases.

Alleged ill-treatment of Karen Asloian

In the period under review AI raised allegations with the Armenian authorities that the investigation carried out following a complaint to the Presidential Human Rights Commission (see above) into reports that serviceman Karen Asloian had been ill-treated in pre-trial detention was not thorough and impartial, and that

his case file was lost by the office of the General Procuracy.

Karen Asloian © Private

Karen Asloian, who is serving a 10-year prison sentence convicted of the murder of a fellow soldier in a military unit in the disputed region of Nagorno-Karabakh in February 1998, was reportedly tortured, threatened and psychologically pressured during interrogations in detention at Stepanakert military police station from 5 to 15 February 1999, reportedly in an attempt to extract a confession. The interrogations were allegedly conducted under the supervision of officer "X" (see above). Karen Asloian is also said to have been tortured while in the custody of the military police in Yerevan, where he was transferred on 16 February and kept for seven months, reportedly without an official warrant. There, Karen Asloian was said to have been beaten, including by being whipped with thin twigs on the soles of his feet to the point of losing consciousness, reportedly in the presence of a senior official of the criminal department of the military police in Yerevan.

Fellow soldiers of Karen Asloian reportedly stated at the trial at Lori Regional Court in December 1999 that they had given false testimony during the pre-trial detention stage, including falsely incriminating Karen Asloian, under the dictation of the investigator of the military procuracy. They stated that they had been beaten and tortured, and threatened with arrest by the military police, both in Stepanakert and in Yerevan.

The death in custody of Artush Ghazarian (update to AI Index: EUR 01/01/00 and EUR 01/03/00)

Lieutenant-Colonel Artush Ghazarian, the military commissar of Tashir district in the northern Lori region, was tortured so severely by law enforcement officials at investigation-isolation prison No. 3 in the town of Vanadzor that he died in custody on 29 September 1999. The attack appears to have been savage, as it led to Artush Ghazarian suffering bleeding in the brain and "softness" of the brain (encephalomalacia) - the direct cause of death - as well as a broken nose, six broken ribs, a ruptured lung and other injuries.

AI learnt in the period under review that at least eight officials of investigation-isolation prison No. 3 in

Vanadzor stood trial on charges related to torture and ill-treatment of detainees, including the torture of Artush Ghazarian that resulted in his death. On 13 June 2000, six officials were reportedly sentenced to between one and ten years' imprisonment. One official was convicted on charges including "intentional infliction of grave bodily injury" (Art. 105). The others were convicted on charges not involving serious bodily injury, such as "abuse of power". On 21 June 2001, the head of the medical department at the detention centre as well as a medical practitioner were convicted to five and two years' imprisonment respectively. However, both officials were included in an amnesty: the prison term of the head of the medical department was reduced to three years and four months, and the medical practitioner was released from the court room. AI is seeking information as to whether the seven officers who served prison terms are still in prison, and on what grounds the amnesty was applied to the medical staff. The organization is also seeking information as to any further measures that were taken in the case of Artush Ghazarian following the instigation of an investigation by the General Procuracy into this and other cases in July (see above).

Other cases of torture and ill-treatment

The alleged killing of Pogos Pogosian by presidential bodyguards

Forty-three-year-old political activist Pogos Pogosian was allegedly killed by presidential bodyguards and found dead in the toilet of the "Aragast" cafe in Yerevan in the early hours of 25 September, 10 minutes after President Robert Kocharian had left the cafe. He had allegedly been beaten to death by the President's personal bodyguards. Some eyewitness accounts state that Pogos Pogosian had approached the President as he was leaving the club, and had verbally abused him, after which some of the presidential bodyguards began to beat Pogos Pogosian in the hallway of the club. He was then reportedly taken to the toilets of the club for a 'conversation' by another member of the security team, where he was subsequently registered dead at 12.40am on 25 September. On 27 September, the presidential press service announced that President Kocharian had suspended three of his bodyguards after the incident, and had insisted that the investigation into the incident be impartial. On 28 November, bodyguard Agamal Arutiunian was charged with manslaughter. Reportedly, no one else had been charged in this case

by the end of the year. There were allegations that witnesses were intimidated and feared to come forward.

Allegations of ill-treatment of political prisoners - the October 1999 parliamentary shootings case

(update to AI Index: EUR 01/01/00, EUR 03/01/00, EUR 01/001/2001 and EUR 01/003/2001)

Defendants in the ongoing trial into the armed October 1999 attack on the Armenian parliament continued to allege that they had been ill-treated in pre-trial detention to extract testimonies. In addition, at the end of November, Karen Unanian was said to have alleged that pressure was exerted on some relatives of the defendants by law enforcement officers, and that complaints had not been investigated.

In May a temporary parliamentary commission was reportedly set up to look into violations that occurred during the investigation into the October 1999 parliamentary shooting, reportedly including allegations of torture and ill-treatment of defendants in this case. According to AI's knowledge, no criminal case had been opened with regard to such allegations by the end of the period under review. The mandate of the commission was due to expire in November, but was reportedly extended until April 2002.

Amendment to the Criminal Procedural Code

On 23 October, Parliament adopted at its second and final reading a law reducing the time a person can be held in police custody without charge from 96 to 72 hours. This time may be extended, however, in the event that transportation to other facilities is not available. Supporters of the new law stated this would significantly reduce the risk of detainees to be tortured or ill-treated. Critics maintained that the period of detention in police custody without charges should be even shorter, pointing out, however, that even a further reduction would only reduce, but not eliminate the risk of undue pressure on detainees. The amendment reportedly comes into force on 1 January 2002.

In addition to reducing the time a person is held in police detention, AI continued to urge the authorities to ensure the right of detainees to immediate access to their lawyers, family and a doctor of their choice, as recommended by the Committee against Torture in 2000. Ensuring respect for such rights are, among other things, key safeguards against torture and ill-treatment in police custody, which remains a key

concern of AI in Armenia.

A U S T R I A

Unequal age of consent

AI considered a 36-year-old gay man, W.⁶, to be a prisoner of conscience, after he was arrested in August for having consensual sexual relations with his 17-year-old boyfriend. W. was the second gay man to be given AI prisoner of conscience status in Austria in the course of 2001. In February another gay man, Franz L., was also imprisoned for having consensual sexual relations with a male under the age of 18 years of age (see AI Index: EUR 01/003/2001). In Austria the legal age of consent for heterosexuals and lesbians is 14 years of age, but 18 for gay men. Gay men convicted of contravening the relevant part of the Austrian Penal Code - Article 209 - may face up to five years' imprisonment.

W. was reportedly arrested on and charged under Article 209 on 6 August after his boyfriend's mother found a love letter from her son to him and contacted the police. For this reason the case has been widely reported in the Austrian news media as the 'Love Letter Affair' ('Liebesbrieffall'). On 24 August, Vienna-Neustadt Regional Court sentenced W. to 15 months' imprisonment, of which 14 months were suspended, for violating Article 209. Since W. had been held in pre-trial detention since 6 August, he was reportedly released 13 days after Vienna-Neustadt Regional Court made the ruling. However, AI learned that the state prosecutor's office contested the verdict, reportedly on the grounds that it was too lenient, and on 23 October, Vienna's Court of Appeal sentenced W. to a further four months' imprisonment. At the time of writing W. was still at liberty but it was expected that he would be ordered to begin serving the four-month sentence in early 2002. AI informed the Ministry of Justice that it would consider W. to be a prisoner of conscience if he were re-imprisoned and would call for his immediate and unconditional release.

In December AI learned that former prisoner of conscience, Franz L., faced possible renewed imprisonment under Article 209, after the state prosecutor's office sought to contest a decision made by Vienna Regional Criminal Court on 27 February

⁶All names are known to AI.

2001 on grounds of leniency. The Court released Franz L. from pre-trial detention on the condition that he pay compensation. The case was due to come to trial in early 2002.

Death in custody/restraint techniques

In early August AI called for an investigation into the death of a 56-year-old prisoner, referred to as Ernst K. in the Austrian news media, who died in Krems-Stein prison in the night of 15 to 16 June. The organisation queried the use of a restraint technique and the adequacy of medical care. At the time of his death Ernst K.'s hands and legs had reportedly been strapped to both sides of the bed. The decision was made to restrain Ernst K. after he reportedly experienced psychological difficulties. He was reportedly left in an unmoveable position until the next morning when prison officials discovered him dead, reportedly as a result of an obstruction to the intestines. In late August AI received a response from the Ministry of Justice, stating, among other things, that the death of the prisoner was being examined by the state prosecutor's office. AI had previously expressed concern about the use of various restraint techniques in Austrian penal institutions, including cage-beds ('*Gitterbetten*') which were prohibited in late 1999, following the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to Austria in September 1999.

Death of Marcus Omofuma

AI learned that the start-date for the trial of the three police officers accused of ill-treating Marcus Omofuma with death as a consequence (*Quälens eines Gefangenen mit Todesfolge*) was set for early March 2002. The 25-year-old Nigerian asylum-seeker died on 1 May 1999 after being gagged and bound during his forced deportation from Vienna to Nigeria, via Sofia, Bulgaria (see AI Index: EUR 01/003/2001).

Non-refoulement

In late December AI was informed that, in violation of Article 3 of the UN Convention against Torture⁷,

⁷Article 3 (1) of the United Nations Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment states: "No State Party shall expel,

Egyptian asylum-seeker Muhammad 'Abd al-Rahman Bilasi-Ashri was at imminent risk of being forcibly returned to Egypt by the Austrian authorities. If returned AI believed that he would be at serious risk of torture and other human rights violations.

Muhammad 'Abd al-Rahman Bilasi-Ashri was taken into custody by police in Vienna in October following an extradition request from the Egyptian authorities, who sentenced him *in absentia* to 15-years' hard labour in late 1995. He was sentenced following an unfair trial in connection with his alleged affiliation to an armed Islamist group. Prior to his trial, in March 1994, Muhammad 'Abd al-Rahman Bilasi-Ashri reportedly fled from Egypt, via Albania, to Austria where he claimed political asylum. Muhammad 'Abd al-Rahman Bilasi-Ashri's application for asylum, under which he has been granted a provisional permit to remain in Austria, was still under consideration through the regular asylum application channels at the time of his arrest.

The final decision to deport Muhammad 'Abd al-Rahman Bilasi-Ashri was taken by Vienna's Higher Regional Court on 12 November and was due to come into legal effect in early January 2002. The Court took the decision to extradite him, in spite of considerable contradictory evidence that Muhammad 'Abd al-Rahman Bilasi-Ashri faced grave risk of torture and ill-treatment if returned to Egypt, on the basis that several of the crimes allegedly committed in Egypt are also recognised as such under Austrian law.

The alleged police ill-treatment of demonstrators

In the period under review AI received no response from the Austrian authorities relating to its concerns about the alleged ill-treatment of demonstrators in February 2001 (see AI Index: EUR 01/002/2001). The organization received a number of reports of the excessive use of force or ill-treatment of people during two separate anti-government demonstrations in Vienna on 4 and 22 February, during which police officers and demonstrators suffered injuries. However, AI learned of a ruling of Vienna's Independent Administrative Tribunal in late July, which stated that police officers subjected a detained demonstrator to a 'humiliation

return ("*refouler*") or extradite person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

ritual' on 22 February by cutting off a 30 cm piece of his hair with a knife, after knocking him to the ground.

A Z E R B A I J A N

Azerbaijan's commitments as a member of the Council of Europe

(Update to AI Index: EUR 01/001/2001 and EUR 01/003/2001)

Political prisoners

On 24 October, a report entitled *Cases of alleged political prisoners in Armenia and Azerbaijan*, which was prepared by independent experts appointed by the Secretary General of the Council of Europe as part of the post-accession monitoring procedures with respect to Armenia and Azerbaijan, was published (see also Armenia entry). The experts had been appointed in February 2001 following the requirement placed on Azerbaijan upon accession to the Council of Europe to release or grant new trial to "those prisoners who are regarded as 'political prisoners' by human rights protection organizations".

The experts selected 25 "pilot cases" and established that 17 of them could be defined as political prisoners. They pointed out that human rights violations had not only occurred in the "pilot cases", but that "the experts' conclusions would apply, *mutatis mutandis*, to the other cases" and that "other persons held in the same or similar circumstances are also political prisoners".

Six prisoners considered by the experts to be political prisoners were released under a presidential amnesty on 17 August. They were named as Elhan Abbasov, Rafik Agayev, Israyl Akberov, Adil Hadjiyev, Siyavush Mustafayev and Anatoliy Sisoyev. The prison term of Nariman Imranov, who had been sentenced to life imprisonment, was reduced to 15 years by presidential decree on 29 December. Eleven people considered to be political prisoners by the experts remained in prison by the end of the period under review. AI has previously raised concerns regarding allegations of ill-treatment and unfair trials in some of these cases, including the cases of Natig Efendiyev (see AI Index: EUR 01/003/2001), Iskender Mejid oglu Hamidov (also known as Iskander Gamidov; see AI Index: EUR 01/001/2001), Alakram Alakbar oglu Hummatov (also known as Alikram Gumbatov; see AI Index: EUR 01/001/2001 and EUR 01/003/2001), Suret Davud oglu Huseynov (also known as Suret Guseynov;

see AI Index: EUR 01/01/99 and EUR 01/02/99) and Rahim Hasan oglu Qaziyev (also known as Raqim Gaziyeu; see AI Index: EUR 01/001/2001). As far as AI is aware, no retrials had been opened into any of these cases by the end of the year. Domestic non-governmental organizations said that hundreds of political prisoners remained in detention.

Other human rights commitments

Other obligations Azerbaijan undertook on joining the Council of Europe in January included ratifying, within a year of accession, the European Convention on Human Rights and its Protocol No. 6 concerning the abolition of the death penalty, and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. By the end of 2001, Azerbaijan had signed but not ratified these instruments. On 25 December, the Parliament of Azerbaijan adopted the European Convention on Human Rights with Protocols 1,4,6 and 7 and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment with Protocols 1 and 2. At the end of the period under review they had yet to be signed into law by the President.

On 28 December, the Milli Mejlis (parliament) adopted a "constitutional law" on a Commissioner for human rights (Ombudsperson). It had not been signed by the President by the end of the period under review. On accession to the Council of Europe Azerbaijan committed itself to adopt such a law within one year.

United Nations Human Rights Committee (HRC)

On 12 November, the HRC released observations and comments on its review of Azerbaijan's second periodic report to the Committee under the International Covenant on Civil and Political Rights. The Committee noted some positive developments, such as the transfer of the jurisdiction over detention facilities from the Ministry of the Interior to the Ministry of Justice and the abolition of the death penalty in 1998. It expressed concern at a number of issues, however, including continuing reports of torture and other cruel, inhuman or degrading treatment; the failure to ensure application of international standards to prevent torture; reports that detainees' rights of access to legal counsel, medical advice and family visits were not always respected; prison overcrowding; and the use of criminal libel law to harass journalists.

The Committee also raised concerns that there was

no independent mechanism for investigating complaints against police officers and prison guards, and that new legislation regulating the legal profession could compromise lawyers' independence. Among other things, it recommended the establishment of an independent body to investigate complaints of abuses by law enforcement officials and initiate proceedings against those found responsible, and the institution of independent inspections of detention facilities.

Torture and ill-treatment

AI continued to receive allegations of ill-treatment of demonstrators by police as well as reports of torture and ill-treatment of detainees. There were persistent reports of impunity for the perpetrators in many of the cases.

Alleged ill-treatment of journalists

On 12 December, for example, police reportedly forcibly broke up an unsanctioned demonstration organized by the opposition newspapers *Azadlyg*, *Yeni Musavat*, and *Hurriet* in front of the headquarters of the ruling New Azerbaijan party. Among the demands of the demonstrators were calls to stop harassment of opposition media and to conduct prompt and impartial investigations into cases of alleged ill-treatment of journalists by law enforcement officers.

Ramiz Najafli, journalist of *Azadlyg*, was said to have been beaten so severely that he had to be hospitalized with concussion, and was still said to be suffering from severe headaches at the end of the period under review as a result of these injuries. Azer Hasret, head of the Journalists' Trade Union, and Elman Maliyev, journalist of the *Express* newspaper, were detained and taken to a police station in Sabail district in Baku. A senior official of Sabail district police (whose name is known to AI) was reported to have beaten the two men in the car on the way to the police station. They were released the same day. Police officers were also reported to have confiscated the dictaphones of journalists of *Impuls*, *Hurriet*, and *Ulus* newspapers.

On 27 December, President Heydar Aliyev issued a decree "On additional measures to increase state care for the mass media", which reportedly stipulates, among other provisions, that the Procurator General of Azerbaijan should investigate cases of harassment and ill-treatment of journalists and to bring those found

responsible to justice.

Death in custody - The case of Ilgar Javadov
(update to AI Index: EUR 01/003/2001)

Ilgar Javadov died following his detention at police station No. 9 in Baku's Sabail district in the early hours of 13 May 2001, allegedly as a result of ill-treatment by law enforcement officers.

Ilgar Javadov © Private

According to Ilgar Javadov's lawyer, three police officers (whose names are known to AI), who had initially been charged with "incitement to suicide" (Article 125 of the Criminal Code of the Azerbaijan Republic), subsequently changed to "abuse of power" (Art. 309), were reportedly released following a ruling by Sabail district court on 25 May that the post mortem had concluded that Ilgar Javadov's death was not caused by ill-treatment. In June, however, the investigator reportedly found the evidence of the post mortem insufficient and sought a second medical investigation, which was opened on 17 June. Following an appeal by the commission of experts who conducted the second medical expertise, Sabail district court ruled on 1 August that a second post mortem should be carried out. However, this was never conducted despite calls by Ilgar Javadov's wife and lawyer. The second medical expertise reportedly concluded in August, on the basis of the criminal case material, that Ilgar Javadov had been beaten following his detention. From 10 to 30 October the investigation into the case was reportedly put on hold on the grounds that the police officer, who had been on duty the night Ilgar Javadov died and who was charged with "negligence" (Art. 314.2), did not appear for questioning (his name is known to AI). By the end of the period under review no criminal case with regard to the allegations of torture and ill-treatment had yet come to court.

Intimidation of critics of the government

Criminal convictions for defamation of a number of journalists in the period under review violated their right to freedom of expression and therefore constituted a violation of Azerbaijan's obligations under domestic law as well as under international treaties. AI is concerned that the bringing of criminal charges of "libel" and

"insult" under Articles 147.1 and 148 of the Criminal Code of the Azerbaijan Republic in these cases is motivated by a desire on the part of the authorities to punish, intimidate and silence critics of the government. AI considers that libel complaints by officials such as these should be addressed in civil proceedings in which any complainant, regardless of status or function, can seek redress for personal injury to their reputation.

On 17 September, for example, Narimanov District Court in Baku is reported to have found Shakhbaz Khuduoglu, editor-in-chief of *Milletin Sesi* newspaper, and *Milletin Sesi* correspondent Gulnaz Qamberli, guilty of criminal defamation. Shakhbaz Khuduoglu was sentenced to six months' imprisonment and Gulnaz Qamberli was given a three-months suspended sentence following convictions for "libel" and "insult". The case had allegedly been instigated after Ramiz Mehdiyev, head of the Presidential Administration, lodged a complaint about an article published in *Milletin Sesi* on 26 August, whose title has been translated as "The Leisurely Adventures of Ramiz Mehdiyev". The article included allegations about Ramiz Mehdiyev as well as other high-ranking but unnamed officials from the Ministry of Internal Affairs and the Ministry of National Security. A criminal investigation has reportedly also been opened into Eynulla Fatullayev, head of the policy department of *Milletin Sesi*, in connection with the published article, under Articles 147.1 and 148.

Shakhbaz Khuduoglu was released under a presidential pardon on 17 October, but investigations against him and one other journalist investigated in connection with this case, reportedly remained open at the end of the period under review.

During his imprisonment, AI considered Shakhbaz Khuduoglu to be a prisoner of conscience, imprisoned for the peaceful expression of his political, religious or other conscientiously held beliefs.

Concerns in the disputed Karabakh region

Prisoners of conscience
(update to AI Index: EUR 01/003/2001)

Vladimir Kiroian and Edgar Bagdasarian, who had been convicted to custodial sentences charged with "evasion of military development call-up" in the first half of the year, had reportedly been released by the end of 2001. When sentencing the two men and their co-defendant, Vladimir Osipian, who received a suspended sentence of one year, Shushinsky District court reportedly did

not take into account that they had previously served in the army and were refusing only to attend a one-day military refresher course for reasons of conscience.

Political prisoners in the case of the failed March 2000 assassination attempt on Arkady Ghukasian
(update to AI Index: EUR 01/03/00, EUR 01/001/2001 and EUR 01/003/2001)

In November Karen Babaian, the former mayor of Stepanakert, was reportedly sentenced to five-and-a-half years' imprisonment under charges including "abuse of power" and "illegal possession of weapons". On 19 December, the Supreme Court of Nagorno-Karabakh ordered his release and suspended his sentence. There were allegations that the charges against Karen Babaian were politically motivated and linked to the case of his brother Samvel Babaian (see below).

The press service of the Armenian Ministry of Justice reportedly confirmed on 19 December that Sasun Agadzhanian, the head of Samvel Babaian's bodyguard who is serving a 14 years prison sentence, was transferred to Nubarashen hospital in Yerevan to undergo a medical examination. There were allegations that he had to be hospitalised to treat him for injuries he had sustained as a result of ill-treatment in detention. AI had previously raised fair trial concerns with regard to this case, in particular at allegations that Sasun Agadzhanian's lawyer had problems in meeting with his client and gaining access to case materials prior to the opening of the trial.

Samvel Babaian was found guilty of organizing a failed assassination attempt on Arkady Ghukasian, "President" of the self-proclaimed Nagorno-Karabakh Republic and sentenced to 14 years' imprisonment by the Supreme Court in February 2001, a verdict upheld by the board of the Supreme Court in March. His co-defendants in the trial were sentenced to terms ranging from suspended sentences to up to 14 years in prison. AI had previously raised concern at allegations that Samvel Babaian and other defendants in the case had been ill-treated in pre-trial detention and that fair trial standards were violated.

BELARUS

Possible "disappearances"

The trial of two former members of the elite *Almaz*

police unit and two other men accused, among other crimes, of the abduction and murder of the Russian Public Television (*ORT*) cameraman, Dmitry Zavadsky, began at Minsk Regional Court on 24 October (see AI Index: EUR 01/003/2001). In contravention of various international human rights standards the trial was held behind closed doors. The authorities offered no credible reason for this decision. Repeated requests for access to the proceedings from domestic human rights organizations were rejected. Human rights monitors stated that they suspected high-level state involvement in the murder, an argument reinforced by incriminating statements made by two officials assigned to the case from the Prosecutor General's Office, who fled the country in June and successfully obtained asylum in the US.

International and domestic observers argued that, although the four accused men may have been involved in the murder, President Alyaksandr Lukashenka's immediate circle of appointees had organized this and other murders of prominent opposition figures. The attempts of the Prosecutor General's Office to investigate this alleged involvement resulted in the dismissal of several high-ranking state officials in late November 2000, including Prosecutor General Oleg Bozhelko, who was said to have interviewed suspects, who were later not brought to trial (see AI Index: EUR 01/001/2001). Concern has also been expressed that several or all of the accused will be convicted of the charges and then quickly executed in order to eradicate any evidence linking the President's administration to the crimes.

The presidential elections - continued harassment and intimidation

Presidential elections were held on 9 September, returning President Alyaksandr Lukashenka to power. The outcome of the elections was disputed by Belarus' opposition as well as many foreign governments due to serious doubts about their fairness. The International Limited Election Observation Mission (ILEOM)⁸ stated that there were fundamental flaws in the electoral

⁸ILEOM comprises the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODHIR) and the Parliamentary Troika of the OSCE Parliamentary Assembly (OSCE/PA), the Parliamentary Assembly of the Council of Europe and the European Parliament.

process including “[a] political regime that is not accustomed to and does everything in its power to block the opposition”; “[a] campaign of intimidation directed against opposition activists, domestic observation activists, opposition and independent media, and a smear campaign against international observers”; and “[h]ighly biased State-controlled media and censorship against the independent print media”.⁹

These sentiments were reflected in a pre-election period marred by numerous accounts of arbitrary action on the part of the state, aimed at stifling the peaceful activities of the opposition, including the detention of human rights and pro-democracy activists and alleged police ill-treatment. The offices of election-monitoring organizations and independent newspapers were also targeted by the authorities in various police and tax raids, resulting in confiscations of valuable office equipment and election materials (see below).

A significant number of people who took an active part in the elections as election campaigners or election monitors, or had staged peaceful anti-government protests, suffered reprisals after polling day. The prominent Belarusian human rights organization, *Spring-96*, stated that peaceful anti-government protesters were fined or imprisoned for their activities, while the involvement of college and university students and workers resulted in expulsions and dismissals from their respective places of learning and employment.

Harassment and intimidation of human rights defenders and pro-democracy activists

During the run-up to the election various independent human rights and pro-democracy oriented non-government organizations (NGOs) were raided by the Belarusian authorities. At the start of September five police officers reportedly attempted to forcibly enter the press office of the Minsk-based human rights and pro-democracy organization, *Charter-97*. The organization’s equipment reportedly only narrowly escaped being confiscated. Several weeks previously, around 20 state officials raided the Minsk office of the Belarusian Voters Club on 21 August, confiscating office equipment and materials. Officials had previously visited the offices of this election monitoring

organization on 17 and 20 August demanding information about the equipment being used in its office. On 8 and 9 August officers from the Committee for State Security (KGB) raided an office being used by the *GART* youth centre in Gomel, on the Belarusian-Ukrainian border, confiscating office equipment and detaining several youth pro-democracy activists. *GART* later became one of the first Belarusian NGOs to be prosecuted with violation of presidential decree No 8, preventing foreign monetary and non-monetary aid being used for a broad range of pro-democracy activities (See AI Index: EUR 01/003/2001), when Gomel City Court fined it one million Belarusian roubles (approximately \$630) on 27 December. In the period under review several other NGOs suffered the same fate.

In the run-up to polling day, *Spring-96*, received two official warnings from the Ministry of Justice on 27 and 28 August, threatening it with closure. Human rights organizations, like all other associations in Belarus, are subject to a system of official warnings which can result in their closure by the Ministry of Justice if two warnings are received in any one year period. The Ministry of Justice accused *Spring-96* of distributing more than the regulatory maximum 299 copies of its publication *Right to Freedom* and of not supplying the ministry with the organization’s list of election observers. AI has previously expressed concern that warnings are often issued for the most spurious of reasons and are designed to harass human rights defenders and restrict their activities (see AI Index: 49/005/2001). No official action had been taken against the organization at the end of the period under review.

Other organizations, like the Belarusian Students Association, were less fortunate. The Belarusian Supreme Court ruled to close this nationwide, independent association, which had been in existence since 1992, on 3 December after it had received two official warnings in June and September. The second warning, issued on 9 September, ensued after officials discovered a minor inconsistency in the association’s official registration. The Belarusian Students Association considered that the real reason behind its closure was the involvement of some of its members in Belarus’ pro-democracy movement.

Harassment and intimidation of the independent news print media

Belarus’ small independent printed news media was

⁹OSCE/ODIHR Limited Election Observation Mission - Final Report, Republic of Belarus Presidential Election 9 September 2001 - page 3.

also repeatedly targeted by the state authorities before and after the elections. On 17 August the authorities seized 300,000 copies of a special election issue of the independent newspaper, *Nasha Svaboda*, from the *Magic* printing house due to alleged inaccuracies in the printing house's financial records. On the same day *Nasha Svaboda* reportedly received a warning from the State Press Committee for publishing an article about members of President Lukashenka's government. Officials raided the office of Belarus' largest independent newspaper, *Narodnaya Volya*, on 23 August, reportedly confiscating 10 computers. The independent newspapers, *Nasha Svaboda* and *Belaruskaya Delovaya Gazeta* were also reportedly raided by officials the day previously. On 28 August 40,000 copies of the newspaper, *Rabochy*, which favoured the main opposition presidential candidate, Vladimir Goncharik, were seized by state officials at the *Magic* printing house in Minsk.

The 4 September print-run of Grodno-based independent newspaper, *Pagonia*, was also seized for containing a series of articles about the possible falsification of the results of the presidential election. The contents of the 4 September issue resulted in Grodno's Regional Prosecutor's Office issuing the newspaper with an official warning on 21 September for slandering President Lukashenka. As a result of the warning and a warning the newspaper had received in November 2000, the Belarusian Supreme Economic Court closed *Pagonia* on 12 November. On 13 December Grodno's Leninsky District Court fined the newspaper's editor, Nikolai Markevich, approximately \$300 dollars for taking part in an unsanctioned protest against *Pagonia's* closure three weeks previously, during which he and two colleagues were detained.

Prisoner of conscience

In the period under review AI received a letter of thanks from the member of the dissolved Belarusian parliament, the 13th Supreme Soviet, and prisoner of conscience Andrey Klimov, who remains imprisoned in the UZ 15/1 colony in Minsk (see AI Index: EUR 49/14/00). Andrey Klimov, who was sentenced to six years' imprisonment in March 2000 for alleged corruption, has served nearly four years of his sentence. Expressions of international concern about his imprisonment persisted. In mid-September the Inter-Parliamentary Union, which has closely followed his case, stated during its 169th session in Ouagadougou, Burkina Faso, that it "[r]emains

concerned at the continuing imprisonment of Mr. Klimov, particularly in view of the serious misgivings it has previously expressed about respect for the right to fair trial and the right to defend oneself, and the harshness of the sentence handed down on him, which it considers grossly disproportionate to the alleged offence".

Death penalty

On 10 December the Deputy Prosecutor General, Alyaksandr Ivanovsky, reportedly stated that, in 2001, four prisoners were executed and a further four sentenced to death. The figures given contrasted with those offered by the Chairman of the Belarusian Supreme Court, Valyantsin Sukala, who stated in early 2002 that seven people were sentenced to death in 2001, five of whom were said to be waiting execution.

BELGIUM

Allegations of police ill-treatment

On the streets and in police stations

There were new allegations of people being subjected to ill-treatment and racist abuse in police custody.¹⁰ Emily Apple, a British citizen detained in the context of demonstrations during the Laeken Summit - a summit of the European Union held in Brussels in December - complained to the Belgian authorities that, while leaving a demonstration, a group of men, whom she later

¹⁰In its annual report covering 2000, submitted to parliament in March, the Standing Police Monitoring Committee (*Comité permanent de contrôle des services de police/Vast Comité van Toezicht op de politiedienst*) recorded an exponential increase in the number of complaints made against law enforcement officers, including scores relating to physical assault, threats, and verbal, including racist, abuse. It said such complaints rarely resulted in criminal sanctions. The Centre for Equal Opportunities and Opposition to Racism (*Centre pour l'égalité des chances et la lutte contre le racisme/Centrum voor gelijkheid van kansen en voor racismebestrijding*), in its own annual report for 2000, recorded for the second year running a decrease in the number of complaints of racism and discrimination concerning law enforcement officers, but nevertheless indicated receipt of dozens of complaints against officers, around a third of which related to ill-treatment.

learned were plainclothes police officers, hit her around the head and kicked her legs from under her, forcing her to lie face down on the pavement. After being handcuffed and photographed she was informed that she and others had been detained after failing to obey an order to disperse. She claimed that no such order had been given and that she was held in a police station until the early hours of the next morning, together with some 20 other women. She said all of them were detained during demonstrations and denied access to lawyers and telephones and were thus unable to inform relatives and third parties of their whereabouts. She claimed that before being released without charge, she was subjected to verbal abuse by police officers.

In December it was reported that an army colonel from the Republic of the Congo had alleged that, while attending a training course with the Belgian armed forces, he saw police ill-treating and harassing black African men during identity checks on the Brussels metro. He claimed that when he intervened he was himself assaulted and detained, along with an army colleague, a co-national. He said that they were held overnight in police cells, handcuffed throughout, given no explanation for their detention and then released without charge. Belgian army authorities indicated that they had visible injuries following the incidents. The police stated that the two men had been violent towards the Belgian police officers carrying out the identity checks.

During its third visit to Belgium carried out in November, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reviewed the measures taken by the authorities in response to the recommendations made after its previous visits in 1993 and 1997 regarding the introduction of certain fundamental safeguards against ill-treatment in the custody of law enforcement officers, including the right of immediate access to a lawyer.

During deportation and in detention facilities

There were further allegations that police officers subjected a number of foreign nationals resisting deportation to physical assault, death threats and racist abuse, and deprived them of food and drink for many hours. There were also new allegations that dangerous restraint methods, restricting breathing, were sometimes used to subdue deportees. These allegations included using material to cover the mouth, thus blocking the airway.

A letter addressed to the Prime Minister in October by over 50 members of parliament (drawn from the European, federal and regional parliaments) expressed concern about allegations made by Mohamed Konteh, an asylum-seeker from Sierra Leone, who claimed he suffered ill-treatment, threats and racist abuse during numerous attempts to deport him between June and October. He said that police officers used various methods to cover his mouth, and that during one attempted deportation he was beaten until he defecated involuntarily, then tied up inside a blanket, wearing his soiled garments, and left in this condition for several hours. Individuals, including members of parliament, who visited him while in detention following failed deportation attempts, reported that he displayed visible injuries, and a medical report issued by a privately-hired doctor in October recorded injuries consistent with some of his allegations. The Prime Minister's response gave no indication of official steps being taken to investigate the allegations.

In October, after it emerged that police officers were being paid a special allowance (*une allocation spéciale*) for acting as escorts during deportation operations but received only half the allowance if the operation had to be abandoned before the deportee left the country, fears were expressed that the practice could encourage use of excessive force by police. The Minister of Interior indicated that the payment was considered a form of compensation for an unpleasant task and stated that he favoured the same allowance being paid to all escorting officers, whatever the outcome of the operation.

The CPT stated that during its November visit (see above) it examined in detail "the procedures and means applied during the repatriation by air of foreign nationals."

The case of Semira Adamu

Criminal proceedings had still not concluded in connection with the death in 1998 of Semira Adamu, a Nigerian national who died as a result of asphyxiation following a deportation attempt during which gendarmes pressed a cushion over her face while on board an aircraft at Brussels Zaventem airport. The so-called "cushion technique" - a dangerous but authorized method of restraint at that time - allowed gendarmes to press a cushion against the mouth, but not the nose, of a recalcitrant deportee. In December 2000, the Brussels Public Prosecutor's office had requested that three of the escorting gendarmes be charged with manslaughter

(*coups et blessures volontaires ayant entraîné la mort sans intention de la donner*) but not with violation of Belgian anti-racism legislation, as had been requested by civil parties to the proceedings. In April 2001, a Brussels court (*chambre du conseil*) had heard part of the submissions of the various parties to the proceedings and further hearings were scheduled for May. However, by then Semira Adamu's relatives had lodged a new criminal complaint with the Public Prosecutor's office against another four gendarmerie officers, including the colonel in charge of the gendarmerie's airport detachment and a gendarme who filmed the deportation operation without intervening to help Semira Adamu. Further hearings before the court were postponed and the criminal proceedings were still open at the end of the year.

Universal jurisdiction over war crimes, genocide and crimes against humanity

Legislation enacted in 1993 and 1999 made specific provision for Belgian courts to exercise universal jurisdiction over war crimes in international and non-international armed conflict, genocide and crimes against humanity, including torture.

In the context of this legislation, between 1998 and the end of December 2001, criminal complaints, some still pending declarations of admissibility, had been lodged with Belgian courts against several leaders and prominent members of past and present administrations of over 15 foreign states.

In June, following Belgium's first trial based on universal jurisdiction, the Brussels Court of Assizes convicted four Rwandese nationals resident in Belgium of war crimes committed in the context of the 1994 genocide in Rwanda and sentenced them to between 12 and 20 years' imprisonment. The civilian jury found one of the accused guilty of some charges and not guilty of others. The other three accused, including two Roman Catholic nuns, were convicted of all charges and subsequently entered appeals against their sentences. AI publicly welcomed the judgment as a significant step in the fight against impunity. The organization pointed out that universal jurisdiction is an essential tool in the struggle against impunity when states where the crimes occurred are unable or unwilling to bring those responsible to justice. AI called on Belgium not to weaken its universal jurisdiction legislation in any way.

AI calls on states to ensure prompt, thorough, impartial and independent investigations in accordance

with international standards, wherever allegations of crimes under international law are made. If such an investigation shows that there is sufficient admissible evidence for a prosecution, then, in accordance with international law which allows the national courts of any state to try people accused of such crimes, regardless of the nationality of the alleged perpetrators or victims and regardless of where the crimes were committed, AI calls on states to bring the accused to trial or extradite them to another country for trial, provided certain safeguards are met. No one should be extradited to a country which cannot assure that any trial on such charges meets international standards for fairness and does not result in the imposition of the death penalty or other cruel, inhuman or degrading treatment.

BOSNIA - HERZEGOVINA

General political background

There were severe delays in the implementation of the Constitutional Court decision of July 2000, which awarded the Bosniac, Serb and Croat nations in Bosnia-Herzegovina equal rights and status throughout the country. The decision, also known as the ruling on the constitutionality of nations, was envisaged to facilitate equal access of the three ethnic groups to the right to representation and effective participation in governmental structures, and to halt the segregation along ethnic lines in both entities. Proper and full implementation of the decision would also entail concrete and wide-reaching measures by the local and entity authorities to curb the systematic discrimination on the basis of ethnicity, which currently present a major impediment to sustainable minority returns. Though constitutional commissions in both entities, which had been set up in January 2001 by a decision of the High Representative, proposed a significant number of amendments, many of which were adopted by the parliaments, neither entity amended its constitution to bring it fully in line with the Constitutional Court's decision.

Return and reintegration of refugees and displaced persons

According to the United Nations High Commissioner

for Refugees (UNHCR), some 50,000 refugees and displaced persons were registered as having returned to their pre-war homes in the period under review, the majority of whom were minority returnees. This increased number of returns was to a large extent caused by the improved implementation of property legislation allowing for the return of private housing and socially owned flats to their pre-war occupants, although by the end of the year the overall implementation rate was still low at around 40%. In particular, cases of double and illegal occupancy, which should be a priority for local authorities, were still slow to be resolved. In December, the High Representative imposed a package of amendments to property laws, intended to speed up their implementation.

AI remained seriously concerned about several aspects hampering the sustainability of returns and the successful integration of returnees into their pre-war community. These include the failure of the authorities to guarantee the safety of returnees, and to investigate violent attacks against them with due diligence - particularly in the Republika Srpska (RS). The Bosnian Association for Refugees and Displaced Persons reported that a total of 1,300 attacks on returnees had been registered throughout the country in 2001, and that increasingly returnee leaders were being targeted by violence.

For example on 11 July, a 16-year-old Bosniac girl, Meliha Durif, was shot dead in Džambifi hamlet near Vlasenica in eastern RS. Her murder coincided with the yearly anniversary of the fall of the Srebrenica enclave on 11 July 1995, and was thought to be connected to another shooting at the makeshift returnee settlement in May, which remained unresolved. Local police, who were extensively supported and guided by experts of the International Police Task Force (IPTF) and the United Nations Mission (UNMIBH), arrested a suspect in late November, who has so far not been officially charged with the shootings.

In November, an elderly Bosniac man who had recently returned to Pale in the RS, was stabbed to death in his house, in another attack apparently motivated by his ethnicity. Local police opened an investigation into his murder, which remained unresolved.

Sustainability of returns was further compromised by lack of access of returnees to employment, education, health care and social services, often motivated by discrimination on grounds of ethnicity. While the IPTF/UNMIBH program for restructuring of

the police force led to a country-wide increased intake of minority police officers, there were few other attempts to reintegrate minority returnees in other parts of local and entity administrations, in order to reflect the increasingly multi-ethnic composition of the population.

Further obstacles to reintegration included restrictions to the right of worship, in particular the efforts of the Islamic community in Bosnia to rebuild several mosques which had been deliberately destroyed during the war in the RS and parts of the Federation under virtual control of Bosnian Croats. Several violent incidents took place in Stola... in the south of the country, aimed at disrupting the rebuilding of the 16th Century „aršija mosque which had been destroyed in 1993. Although the Stola... Islamic community had obtained permission from the Federal Ministry of Urban Development to rebuild the mosque, their initiative had to be postponed as the Croat mayor opposed reconstruction on the pre-war location. In early December violent confrontations erupted between scores of Bosniac and Croat inhabitants of the town, when two Croats, who had reportedly destroyed and burnt the fence around the reconstruction site, were arrested and subsequently escaped. Following the incident, the Cantonal authorities dismissed the Stola... chief of police and his deputy, and announced that they would be taking measures to improve the performance of the Stola... police force - which has been under IPTF scrutiny for years - and that extra police officers would be assigned to support the investigation into the violence and to improve security in the town.

Impunity

Tribunal prosecutions

Of the 80 persons publicly indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal)'s Prosecutor, 50 are currently in the Tribunal's custody. 30 publicly indicted suspects remain at liberty - the majority of them are believed to be in the RS or the Federal Republic of Yugoslavia (FRY). Among those at large are the war-time Bosnian Serb leader Radovan Karadžić and General Ratko Mladić, who were both indicted for genocide in 1995 - despite years of persistent calls for their arrest either by SFOR troops or by national police forces. Although the RS parliament adopted a law facilitating cooperation with the Tribunal in October, which confirmed that Bosnian Serb police had the authority to locate and

arrest those indicted by the Tribunal, no suspects had been arrested by the end of the year.

During the period under review nine trials were ongoing or commenced before the Tribunal in the Netherlands, and judgements were issued in three cases.

On 2 August, the Tribunal issued its first verdict for genocide in the trial of Bosnian Serb General Radislav Krstić, who was sentenced to 46 years' imprisonment. The Trial Chamber concluded that General Krstić played a key role in organizing and facilitating the mass executions of thousands of Bosniac men and boys after the fall of the protected enclave of Srebrenica in July 1995, with the intention to destroy a substantial part of the Bosniac population. He was also found guilty of having planned and ordered the forcible transfer of thousands of Bosniac civilians from the enclave, and of having contributed to the inhuman conditions under which the civilians were held prior to their transfer at Potočari, just outside Srebrenica, and the abuses to which they were subjected - which included murder, beatings and rape by soldiers and paramilitaries. The court concluded that, though aware of his responsibilities as an army commander, General Krstić failed to prevent soldiers under his command from committing these crimes, or to punish them afterwards.

On 2 November, the Tribunal convicted five Bosnian Serbs of crimes against humanity and war crimes, for their participation in what the presiding judge called a "hellish orgy of persecution" in the Serbrun Omarska, Keraterm and Trnopolje detention camps in the Prijedor region in 1992. They received sentences of up to 25 years' imprisonment. Another trial, focussing in particular on crimes committed in the Keraterm camp, also ended in November with the sentencing of three Bosnian Serbs - who had all entered guilty pleas to charges of crimes against humanity - to imprisonment terms of up to 15 years'.

Stabilization Forces (SFOR) arrested one Bosnian Serb, Vidoje Blagojević, in August. He was charged with genocide, crimes against humanity and war crimes committed in his capacity as a commander in the Bosnian Serb Army after the fall of Srebrenica, in a sealed indictment issued by the Tribunal's Prosecutor in 1999. His trial was joined with that of Dragan Obrenović (arrested earlier in the year) and Dragan Jokić, who surrendered to the Tribunal's custody in August. The case remained pending at year's end.

In August, three high-ranking officers of the former Bosnian Government Army (*Armija Bosne i*

Hercegovina - ABiH) were transferred to the Tribunal's custody after they had been arrested by Federation police. They had been charged in a sealed indictment with war crimes committed against Croat and Serb civilians and prisoners of war in central Bosnia in 1993. In September one of the former chief commanders of the ABiH, Sefer Halilović, surrendered to the Tribunal; he is indicted for war crimes against Croat civilians in 1993.

In November the Appeals Chamber overturned the convictions of three Bosnian Croats, brothers Zoran and Mirjan Kupreškić and their cousin Vlatko Kupreškić, who had been convicted in January 2000 for participating in mass killings of Bosniacs in Ahmići village. The Appeals Chamber ruled that their convictions had not been based on credible evidence and ordered the defendants to be released from custody.

Domestic prosecutions

A small number of prosecutions for war crimes and other crimes committed during the war continued before domestic courts; however most perpetrators of such crimes continue to enjoy impunity. According to recent press reports, the Tribunal's Prosecutor is currently reviewing investigation files of an estimated 15,000 suspects of war crimes and other violations of international law, which would subsequently be returned to the Bosnian judiciary. Very few actual prosecutions have been initiated in cases where the suspected perpetrators still held positions of power or were of the same ethnicity as the prevalent local administration.

AI was concerned that no criminal investigations appeared to have been opened against 15 police officers who were de-authorized by the IPTF Commissioner in both entities because of their war-time activities and allegations of their possible involvement in war crimes.

Police and judicial investigators of both entities continued to gather evidence - particularly during exhumations of mass graves - on crimes against members of their own ethnic group, although they had no jurisdiction to prosecute any of the perpetrators, since the crimes had occurred in the other entity. The lack of cooperation between the police and the judiciary in prosecuting war crimes meant therefore that, with very few exceptions (see below), the forensic evidence on crimes obtained during these exhumations, did not lead to criminal proceedings by the relevant authorities.

A comprehensive investigation launched by the

Zenica Cantonal investigative judge in September into war crimes allegedly committed by 14 Bosnian Croat political and military leaders in the *Šep...e* area was frustrated by political obstruction and violence. In late October, attempts to arrest some of the suspects - as required by the Federation Criminal Code - led to large scale protest demonstrations of local Croats demanding that the case be transferred to a different court which would also include Croat judges. Violent attacks on the houses of the chief of *Šep...e* police and his deputy, apparently in connection with their attempts to carry out arrests, occurred in October and early November. On 8 November, the High Representative issued a decision amending the Criminal Procedure Codes of both entities, abolishing compulsory pre-trial detention for suspects of crimes punishable by long-term imprisonment and allowing judges to use their discretion in deciding whether to remand such suspects in custody. The investigation against the group was continuing at the end of the year.

Legal reform

The International Judicial Commission (IJC), which had been established by the High Representative in early 2000, continued to supervise the comprehensive process of legal reform; its mandate continues until the end of 2002. This law reform process included the overseeing of reviews of complaints against judges and prosecutors in both entities through the Federation Judicial and Prosecutorial Commissions and the RS High Judicial and Prosecutorial Councils.

There were serious concerns, however, that the entity Commissions and Councils were not performing their tasks in a professional and impartial manner, and that IJC's mandate expired too soon to ensure that it would achieve the monumental task of building and empowering a truly independent and functioning judiciary. Bearing in mind the limitations in the scope and mandate of the Tribunal, AI has repeatedly stressed that an independent and impartial body of judges and prosecutors is a pre-condition necessary for domestic courts to take over the vast amount of cases investigated by the Tribunal as well as those investigated by local police and prosecutors.

Outstanding cases of "disappearances"

Exhumations of mass graves continued in both entities, and at the end of the year the RS Commission for Missing Persons reported that a total of 266 bodies had

been recovered, of which 92 had been identified. In the Federation, several thousands of bodies were exhumed throughout the year, including those of 1,300 victims of the Srebrenica massacres of 1995. The high number of bodies recovered suggested that the total number of missing persons far surpassed the over 17,000 cases registered by the International Committee for the Red Cross (ICRC).

In December a new DNA laboratory was opened in Sarajevo by the International Commission on Missing Persons (ICMP), in order to accelerate the identification of bodies exhumed from mass graves. Currently more than 6,000 unidentified bodily remains await identification, some 5,000 of them Srebrenica victims - of whom so far only 144 have been positively identified.

There was progress in two individual cases of "disappearance" on which AI has been campaigning. In September the bodies were found of Father Tomislav Matanovič, a Bosnian Croat priest from Prijedor, and his parents Josip and Božena, who had "disappeared" in September 1995, after having been detained by Bosnian Serb police. The victims had apparently been handcuffed and shot at close range before being dropped in a well in a hamlet 15 km outside Prijedor. After formal identification and autopsy procedures, the bodies were buried in the cemetery of the Prijedor Catholic Church. Although the Human Rights Chamber had ordered the RS authorities to start an immediate investigation into the case in 1997 and report back on any finding within three months, no serious attempts to resolve the case were made until late 2000 when, under pressure from UNMIBH, a new team of police investigators reopened the case. After the discovery of the bodies, and additional evidence linking a number of former officers in the Prijedor police force to the illegal detention of the Matanovič family, the investigating team turned the case into a murder investigation; no charges against suspected perpetrators had been issued by the end of the year.

In the case of Colonel Avdo Palif, the Bosniac military commander of the UN protected enclave of *Šepa* who had "disappeared" in July 1995, the RS Defence Minister sent a reply to the Human Rights Chamber in October. The Human Rights Chamber had ordered the RS authorities in January 2001 to open an immediate investigation into the "disappearance". Ostensibly, the reply, the first by an RS government official in the case, was triggered by lobbying of AI membership, and stated that Colonel Palif had been taken to an unacknowledged military prison in Bijeljina

from where he was transferred into the custody of an RS Army official in September 1995. In late December, the RS government paid 65,000 KM to Avdo Palif's wife Esma, as it had been ordered to do by the Human Rights Chamber, to compensate for her mental suffering and for the violations suffered by her husband.

Human rights violations committed in the context of anti-terrorism measures

In the wake of the attacks in the United States of 11 September, a number of measures taken by SFOR and the Federation authorities caused AI concern as they violated the internationally guaranteed human rights of individuals suspected of criminal offences and undermined the rule of law.

On 25 and 26 September Italian SFOR soldiers reportedly detained an Egyptian and a Jordanian man and two Bosnian citizens. The Bosnian men, who were employees of the Saudi High Commission for Relief (a humanitarian organization funded by Saudi Arabia) were first taken to the SFOR base in Sarajevo, before being flown by helicopter to the US Army Eagle Base near Tuzla. The men claimed afterwards that while in detention in Sarajevo and during the flight to Tuzla, they were handcuffed and their faces were covered with sacks without eye holes. They were detained on the Eagle Base until 3 October. They were denied access to a lawyer and were not permitted to contact their families. A lawyer representing the family of one of the men, who repeatedly contacted SFOR during their detention, was refused information as to the whereabouts of the detainees.

On 2 October, another Jordanian national, also working for the Saudi High Commission for Relief, was arrested by SFOR and Federation police in Biha... He stated that upon his arrest an SFOR officer kicked him in the chest and that upon his transfer to an SFOR holding facility in Sarajevo he was not allowed to inform his lawyer or consular official. He was subsequently turned over to Federation police who released him on 4 October.

On 16 October AI sent a letter to SFOR's Commander, Lieutenant General John Sylvester, raising the organization's concerns that SFOR's actions had not been in line with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the International Covenant on Civil and Political Rights (ICCPR) and other international human rights standards which apply in Bosnia-

Herzegovina and countries which supply troops to SFOR. AI also requested SFOR to clarify the legal basis for the arrests and detentions. In reply, an SFOR legal advisor stated that SFOR had the mandate to carry out detentions of individuals under the Dayton Peace Agreement and the Geneva Conventions and Additional Protocol 1, and that the force had complied with the requirements of international humanitarian law. The letter did not address the violations of provisions of the ECHR and ICCPR, which safeguard the right to a fair trial, freedom from arbitrary detention, and the prohibition of ill-treatment, nor did it say why SFOR had undertaken these measures circumventing the Bosnian police and judiciary who appeared to have primary jurisdiction over the detained individuals.

On 6 October the Federation authorities deported two men who had dual Bosnian and Egyptian citizenship, Eslam Durmo and Abdullah Essindar, to Egypt. AI was concerned that their deportation, reportedly motivated by an extradition request from the Egyptian authorities - according to which the men had connections to armed illegal groups in that country - took place while criminal proceedings against both men were ongoing before Federation courts. In both cases, the courts had ruled that there was a need to establish the true identity of the men, who had been in investigative detention since July and who had allegedly used falsified documents in order to obtain Bosnian identification papers. Following orders from the courts to release the men from investigative detention, pending further proceedings against them, both men were re-arrested by special police forces and sent to Egypt. Immediately prior to their deportation, the Federation Ministry of Interior revoked their Bosnian citizenship. In a letter to the Federation Interior Minister in November AI expressed concern that the Federation authorities had deported the men to Egypt where they might face torture or ill-treatment, in contravention of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition the organization was concerned that the men could face an unfair trial and be sentenced to the death penalty upon their return to Egypt. The fate and whereabouts of both men remains unknown. The Federation authorities had not responded to AI's letter of concern by the end of the year.

BULGARIA

New reports of police torture and ill-treatment

Reported torture and ill-treatment of Roma

In the period under review the Human Rights Project, a local non-governmental organization, reported new incidents of police torture and ill-treatment of Roma. In some of the reported incidents the victims were minors. On 21 May 2001, at about 7pm, in Stara Zagora, in front of the house where he had earlier picked some plums from a tree with two other minors, 16-year-old T. T.¹¹ was apprehended by a man who introduced himself as a police officer. The youth was handcuffed and taken into the officer's house. He was reportedly punched, kicked and beaten with a truncheon all over his body. The officer was then said to have threatened the youth with a gun which he pointed at his head and chest, asking his own wife, who was present throughout the incident, "What shall I do with his body after I have killed him?" Half an hour later the youth's parents arrived and he was released. That evening he was treated for contusions to the chest, head and face and a forensic medical certificate confirmed that these injuries were consistent with the ill-treatment allegations. On 29 June 2001, at about 6am in Beglezh, 17-year-old M.D. was taken by a police lieutenant to the Second Police Station in Pleven. The police sergeant who questioned him about some thefts, reportedly kicked him in the back and the chest. Later, the youth was reportedly beaten by another officer who allegedly forced him to sign a statement without reading it. At about noon, the youth was released from the police station. On 2 and 4 July 2001 he was examined by a doctor who issued a medical certificate describing the bruising on his right shoulder and the chest that were consistent with the allegations of ill-treatment. The youth then filed a complaint about the beating with the Pleven Regional Military Prosecutor.

In some reported incidents the alleged ill-treatment was such that it could be considered as amounting to torture. On 26 June, at around 5.30am in Beglezh, a police lieutenant came to the home of V.P. and took him to the Second Police Station in Pleven. The

detainee was then questioned about some thefts by another officer. He was reportedly kicked in the chest and knee, and struck with a truncheon on the left side of the head. At around lunch time he was returned to Beglezh for further questioning by the local inspector who reportedly punched him on the chin. Afterwards V.P. was again taken to Pleven where, at around 10pm, three police officers, whom he had not seen before, took him to a toilet and allegedly beat him all over the body. He was then taken into another room where he was tied to a chair and splashed with water. V.P. reports that when an electric wire, which had been attached to the legs of the chair, was connected to a socket, he suffered an electric shock and, as a result, lost consciousness. He then remembers lying on a bench and being given a massage. Following his release the following day V.P. was examined by a doctor who issued a medical certificate describing swellings on the left side of his head, cuts and bruises on his left knee, nose bleeding and blood in urine. The doctor concluded that these injuries were consistent with the allegations of torture and ill-treatment. A complaint about the incident was filed with the Pleven Regional Military Prosecutor.

On 28 August 2001, three men of Romani background were collecting scrap metal in the villages of Karantsa and Orlovets, using a car and a small trailer belonging to one of them. At about 1pm, they were stopped by two police officers from Polski Trambezh, one in uniform, the other in plain clothes, who found some spare car parts among the scrap and, suspecting that these might have been stolen, proceeded to check their origin in the village. Later, a senior officer of the Regional Police Department in Polski Trambezh, came to Orlovets, reportedly to check whether anything had been stolen from his father's house. He ordered that the scrap metal should be unloaded in the yard of the former farm cooperative and took the three Roma to the Regional Police Department in Polski Trambezh. At about 4.30pm, they were all reportedly beaten as a result of which one lost consciousness while another pleaded that he should not be hit on the head because he had previously suffered a skull injury. Later, the three detained men were taken outside the station where the officer and the driver reportedly beat them with a wooden lath and a copper cable. The following day, the three men were examined by a forensic medical expert who established that one of them had suffered multiple swellings and bruising on the head, neck, back, buttocks, left side of the chest, left shoulder and right leg; another had suffered bruising on

¹¹The full identity of the reported victims is known to AI but withheld in order to protect them.

the head and the left eye, forearms, the buttocks and the back of the right thigh; and the third had suffered bruising on the right side of the neck, buttocks and the back of the right thigh. The forensic medical expert concluded that these injuries had resulted from blows by hard objects such as truncheons and cable. A complaint has been filed with the Department of the Internal Affairs in Veliko Tarnovo, and a preliminary investigation was reportedly initiated.

Investigations into these incidents appeared not to be prompt and impartial as required by international human rights standards. In February 2001, N. N. from Stambolovo filed a complaint about a beating inflicted on him by an officer of the Pavlikeni Regional Police Department. A forensic medical expert who had examined N. N. immediately after his release on 16 February 2001 issued a certificate describing weals 12 to 15 centimetres long on his arms, back and right thigh. On 27 June 2001 the Military Prosecutor of Trnovo decided not to initiate a criminal investigation into N. N.'s complaint, dismissing the incident as being of "clearly insignificant degree of social danger". On 16 October 2001, following an appeal, the Appellate Military Prosecutor ordered a new preliminary investigation.

In January 2002 AI urged the General Prosecutor of Bulgaria to ensure that the investigations into all of the reported incidents of torture and ill-treatment are thorough and impartial, that the findings are made public, and that anyone responsible for human rights violations is brought to justice.

The reported ill-treatment of Veska Voleva

On 26 July, Veska Voleva, a lawyer, intervened on behalf of her clients who were being forcefully evicted from their home in Sofia. When she questioned the legal basis for the eviction two police officers handcuffed her and took her to the Ninth Police Precinct where she was reportedly verbally abused and intimidated. A female officer is said to have told her "If you continue in this way I shall show you who I am and how I will deal with you." Half an hour later, Veska Voleva was released and returned to her client's home where the eviction was in progress. When she continued to protest the officers handcuffed her again and violently pulled her down the stairs. At the police station she was placed in a holding cell where five police officers allegedly beat her all over the body. Afterwards she was left to stand, handcuffed to a railing, for about two or three hours. Veska Voleva

reports that she was not allowed to take her medication, contact a family member or a lawyer and was refused access to a doctor. Veska Voleva was later placed in a bare cell where she slept on the cement floor. She was released the following day having been apparently arbitrarily detained for 24 hours.

Alleged beating of peaceful protesters in Tsarevo, 21 October 2001

On 21 October 2001, at around 1pm, in Tsarevo, 30 police officers wearing helmets and bullet-proof vests and armed with truncheons reportedly assaulted a group of approximately 100 people who were apparently peacefully protesting in front of the local community centre. Opposing a proposed referendum on new administrative arrangements for the municipality, the protesters blocked the entrance to the building. According to newspaper reports, the police acted suddenly and brutally in an attempt to ensure a passage through the gathering of the protesters. There are reports that the police's actions included trampling on protesters, beating them with truncheons; twisting their arms, tearing their clothes and knocking them down onto the ground. Those assaulted are said to have included women and the elderly. Reportedly, dozens of protesters suffered injuries as a result. Todor Grudev, a 62-year-old pensioner, was thrown onto the ground, landing on top of a woman, who had also been assaulted by the police. He reported that he saw a man being beaten with a truncheon on the head. Anastasiya Radeva, another pensioner, reports that was repeatedly pushed by several officers until she fell to the ground. The following day at least four people filed complaints about the alleged police ill-treatment and submitted medical certificates describing injuries which they had suffered as a result. Boyko Borisov, secretary of the Ministry of the Interior, reportedly denied that the officers had used excessive force. He reportedly said: "Our citizens should know that they ought to obey police orders and do as they are told"¹².

Unjustified use of firearms by police officers

In the period under review there were new reports of incidents in which police officers resorted to firearms

¹²"MVR: *Ne sme bili hora v Tsarevo*" (MI: We did not beat the people in Tsarevo), *Demokratsia* of 23 October 2001

in circumstances which far wider than those allowed by the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, which only allow the use of firearms in self-defence or the defence of others against the imminent threat of death or serious injury. Police officers frequently used firearms as a means to apprehending a suspect, who was trying to avoid arrest by simply running away from the police.

One such incident took place on 22 July at around 11am, in the village of Stefanovo, in the Dobrich district. Sevgin Asanov, 21 years old, and two other youths were standing near a car when another car drove up and blocked the road. Three military police officers in plain clothes came out of the car and ordered the youths to stand still. Sevgin Asanov got into the car and drove in reverse. When the car hit a curb and halted, he got out and started to run through the park. One of the officers then shot at him four or five times. Sevgin disappeared in the park bushes and was later found lying dead on the ground. Three months earlier he deserted from an army unit where he had been serving his national service. Allegedly he then committed several thefts. Before the shooting, the officers met with Sevgin Asanov's father who told them that he would bring his son to the military police the following day. Reportedly, there were more than 20 other people in the park at the time of the shooting.

CROATIA

General political background

On 29 October the Croatian government signed a Stabilization and Association Agreement (SAA) with the European Commission, facilitating the country's integration into European Union (EU) institutions. Negotiations to set up the SAA started in late 2000, recognizing that the political situation in Croatia had changed, with the aims of establishing a free trade area, improving regional political and economic cooperation, bringing Croatian laws in line with EU legislation and standards, and initiating comprehensive judicial reforms. In December the SAA was ratified by the Croatian Parliament (*Sabor*), which in the same session adopted a law on its implementation.

No further progress was made on the revision of the Constitutional Law on Human Rights and Freedoms and the Rights of Ethnic and National Minorities. In May 2000 the *Sabor* adopted some provisional amendments to this legislation, and instructed the

government to propose a new constitutional law on the rights of minorities, which would conform with Council of Europe standards, within six months. When it became a member of the Council of Europe in 1996, Croatia committed itself to substantially amending this legislation. In July the Venice Commission, an expert body on constitutional law with the Council of Europe, issued its opinion on a new draft law prepared by the government in early 2001. The Venice Commission concluded that, despite improvements in the proposed legislation, the rights of minorities were still insufficiently protected in the Constitution. The Commission's recommendations - which included *inter alia* the clarification of the competences and functioning of minority self-government bodies - had not been implemented by the end of the year.

Impunity

Prosecutions before the International Criminal Tribunal for the former Yugoslavia (Tribunal)

In July the Tribunal unsealed two indictments against Croatian Army generals for crimes against Croatian Serbs during the war. One of them, General Rahim Ademi - who was indicted for individual and command responsibility for war crimes and crimes against humanity which took place in the Medak pocket in 1993 - surrendered to the Tribunal's custody when he learnt about the charges against him. Croatian authorities failed to arrest and surrender retired General Ante Gotovina, who had gone into hiding after the unsealing of the indictment which charged him with war crimes and crimes against humanity during Operation Storm in 1995. The opinion of the government coalition as well as the general public was divided on the requests for surrender of the two Generals, and led to the resignation of the leader of one of the largest coalition parties. On 16 July 2001 the government won a vote of confidence in the *Sabor*, following a protracted debate which eventually re-affirmed the country's willingness to continue its cooperation with the Tribunal.

On 1 October the Tribunal disclosed an indictment against four former officers in the former Yugoslav People's Army (*Jugoslovenska narodna armija* - JNA) and the Yugoslav Navy for war crimes, in particular the unlawful shelling of civilians and unlawful devastation of civilian objects and historic monuments in and around Dubrovnik which took place in late 1991. Two of the four accused, Pavle Strugar and Miodrag Jokif,

voluntarily surrendered to the Tribunal's custody in October and November respectively.

On 8 October, the Tribunal confirmed the indictment charging Slobodan Milošević with war crimes and crimes against humanity committed in Croatia between August 1991 and June 1992. The former Federal Yugoslav President, in detention in the Hague since June 2001, was accused of having participated in a joint criminal enterprise, with the aim of removing Croats and other non-Serb inhabitants from approximately one-third of Croatia's territory. While pursuing this aim, JNA units and Serb paramilitaries allegedly murdered hundreds of civilians, and unlawfully detained at least 170,000 people, many of whom were subjected to torture and ill-treatment. Trial proceedings against Slobodan Milošević for crimes against humanity committed in Kosovo opened in February 2002; a second trial, on the charges against him for crimes committed in Croatia and Bosnia-Herzegovina is scheduled to begin in the second half of 2002.

Domestic prosecutions

In September the Justice Minister and the Public Prosecutor stated that a total of 1,522 persons had been charged with war crimes since the beginning of the war, of whom almost 700 had been convicted, mostly after trials *in absentia*. Although no breakdown according to ethnicity of the accused was made public, it is believed that most of those tried and convicted were Croatian Serbs. In November the Croatian Interior Ministry reportedly sent arrest warrants for over 1,545 Croatian Serb refugees to the Republika Srpska entity in Bosnia-Herzegovina and the Federal Republic of Yugoslavia (FRY). Despite calls by international organizations, including AI, the Croatian authorities have never undertaken an independent review of all prosecution and investigation files relating to crimes committed during the war, though many of the outstanding indictments and arrest warrants appear to have been based on summary investigations of large groups of suspects containing little evidence of their individual criminal responsibility.

A significant number of prosecutions for war crimes continued before domestic courts in the period under review, including several criminal proceedings against suspected Croat perpetrators. However, many of these trials demonstrated that the criminal justice system was still ill-equipped to prosecute those suspected of war crimes impartially and fairly and to

ensure that victims and witnesses called to testify were adequately protected.

High-profile trial proceedings before the Rijeka County Court against five former Croatian Army soldiers, which opened in June 2001 (see also AI Index: EUR 01/003/2001) were slowed down by repeated adjournments. The suspects had been charged in March 2001 with war crimes committed against Serb civilians in the Gospi...area in 1991, following years of abundant reports in the media which detailed these crimes. The August 2000 murder of a key witness to war-time events in Gospi..., former special police officer Milan Levar - who had repeatedly spoken out publicly about the executions of Gospi... Serbs - remained unresolved although police investigating the case had reportedly obtained leads in the attempt to identify perpetrators. No investigation was ever initiated into the failure of the authorities to provide protection for Milan Levar (who had previously been threatened and attacked), as they had been requested to do in 1997 by the Tribunal.

In September police arrested seven former and active military police officers suspected of participation in war crimes committed in the Lora military prison in Split. The arrests followed the opening of an investigation into the case by a Split County Investigative Judge. The men are alleged to have been involved in the torture of scores of Serb and Montenegrin prisoners in Lora prison in 1992; many of these prisoners subsequently "disappeared". An eighth suspect had reportedly gone into hiding. In October a witness, himself a former Lora inmate, was reportedly attacked and threatened by a group of war veterans inside the court building and subsequently outside his apartment block. The Split County Public Prosecutor dealing with the case reportedly also received threats. In December there were concerns about undue interference in the judicial proceedings when the Split-Dalmatia County Prefect visited the suspects in prison and subsequently made statements to the media implying the men were innocent.

Outstanding "disappearances"

According to statistics published by the Croatian Government Commission on Missing Persons, 1,392 people are still listed as missing following the end of the 1991-1995 war. The FRY Commission on Humanitarian Affairs and Missing Persons has recorded 503 FRY citizens as missing in Croatia, while estimates for the number of missing Croatian Serbs vary between

one and two thousand.

Some progress was made in the cooperation between the Croatian and FRY Governmental Commissions for Missing Persons which met in November in Belgrade. In particular the Commissions agreed to coordinate their lists of missing persons originating from Croatia and to start mutual monitoring of their respective exhumation proceedings. The FRY Commission also handed over 24 protocols listing a total of 87 persons - presumed to be those of Croat missing persons - whose bodies were dredged up from the Danube in 1991 and 1992 and were buried in Novi Sad and Sremska Mitrovica. The Commissions also started cooperating in the identification process of the bodies of some 300 persons, thought to be Croatian Serbs who had been killed during and after Operation Storm, and who had been exhumed from Knin cemetery in April 2001 by Tribunal investigators and forensic experts.

Refugee return

According to official statistics - recording a total of around 10,000 registered returns of Croatian Serbs - there was a significant decrease in return compared to previous years, despite an improved security climate and constant lobbying of the government on this issue by the international community, notably the Organization for Security and Co-Operation in Europe (OSCE) and the United Nations High Commissioner for Refugees (UNHCR). Return and reintegration of thousands of Croatian Serb refugees continued to be obstructed by discriminatory legislation and practices, notably by the provisions of the Return Programme, a decree passed by the *Sabor* in 1998. The Return Programme's provisions condition the return of private property to the lawful owner on the availability of alternative accommodation for temporary occupants of the property, effectively paralysing the process of property return, even in cases where the owners' applications were positively decided. Several constitutional complaints, filed in July 2000 by the Norwegian Refugee Council - an international non-governmental organization - on behalf of Croatian Serb house owners, arguing that the Return Programme violated these people's rights under domestic and international law, remained unaddressed.

Furthermore, the government did not resolve the problems faced by tens of thousands of potential returnees, whose tenancy rights to socially-owned apartments had been abolished during and after the

war, in many cases after the occupants had been forced to leave as a result of illegal and violent evictions. Although it is theoretically possible for people whose tenancy rights were cancelled to re-open such cases before local courts in extraordinary proceedings, reports indicate that in practice this remedy was virtually unavailable, reinforcing the concern that many returnees are denied access to justice.

Violations of the right to privacy by state agents

In November the Interior Ministry transferred to the State Archives over 39,000 dossiers, containing information on individuals who had been put under surveillance by the state security services since the Second World War. Some 650 of these dossiers had reportedly been handed over by the Service for the Protection of Constitutional Order (*Služba za zaštitu ustavnog poretka - SZUP*), covering the period 1990-2000; these files included many cases of journalists critical of the government, opposition politicians and human rights activists. Concerns were raised that, in the majority of cases, the surveillance measures had reportedly been unlawful since the surveillance had neither been ordered by a court for the purpose of investigating crimes, nor were they justified on grounds of national security. However, under Ministry of Interior (MUP) regulations, persons who had been subjected to these measures - which amounted to violations of the right to respect for private life - were not allowed to copy or transfer any information from the files. Since the files apparently contained information which some of the people targeted by the surveillance wished to use as evidence in prosecutions or civil suits against the state - for example in the case of five journalists of the *Nacional* weekly - the MUP regulations effectively obstructed their attempts to obtain a remedy for these human rights violations.

Committee on Economic, Social and Cultural Rights examines Croatia's initial report

In November the Committee on Economic, Social and Cultural Rights examined the Croatian Government's initial report its implementation of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Croatia had succeeded in October 1991. In its concluding observations, the Committee expressed a number of concerns, most of which focussed on the discrimination faced by members of minority groups in

the enjoyment of economic, social and cultural rights. In particular, legal and administrative obstacles faced by Croatian Serbs trying to return to the country were in the Committee's opinion excessive, procedures for obtaining citizenship were considered unfair and discriminatory, and women were insufficiently protected against discriminatory treatment. The Committee also raised concern that many people - especially minorities - were virtually denied the possibility to seek a remedy for violations of human rights through the Croatian court system. The Committee urged the government to initiate a comprehensive review into the occurrence of discrimination with the aim of taking measures to address legislation and practice to guarantee access to the rights of the ICESCR to all citizens. In addition the government was urged to accelerate the return and reintegration of Croatian Serbs and to take a range of measures aimed at improving women's rights.

CZECH REPUBLIC

Concluding Observations of the Human Rights Committee

On 24 July 2001, after examining the Czech Republic's initial report on its fulfilment of obligations under the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee adopted its concluding observations. These contain a number of concerns and extensive recommendations to remedy the situation.

The Committee *inter alia* expressed its deep concern regarding discrimination against minorities, particularly the Roma. The Committee noted that the steps taken by the Czech Republic to improve the socio-economic condition of the Roma "do not appear to be adequate to address the situation and *de facto* discrimination persists." It also noted its particular concern about the "disproportionate number of Roma children who are assigned to special schools designed for mentally disabled children, which would seem to indicate the use of stereotypes in the placement decisions, in contravention of Article 26 of the Covenant, and which make it difficult, if not impossible, to secure admission to secondary schools." Its other specific concerns were the high rate of unemployment of Roma, bordering on 70 per cent when the general rate of unemployment is 10 per cent. The Committee recommended that the state should

adopt measure to ensure the effectiveness of existing legislation against discrimination and adopt further legislation in the fields not covered by the current legislation, as well as to make greater efforts to provide suitable training and create job opportunities for the Roma.

Although it acknowledged the Czech government's expressed concern about racial violence and their statement about the decrease in the number of such acts and the increase in prosecutions, the Committee remained concerned about violence and harassment of Roma by certain groups. It noted the failure on the part of the police and judicial authorities to investigate, prosecute and punish hate crimes. Furthermore, the Committee expressed its deep concern about the persistent allegations of police harassment, particularly of aliens, the Roma and other vulnerable minorities.

In its concluding observations the Committee noted that the system in which complaints against the police are handled by an internal police inspectorate, and criminal investigations by the Interior Ministry which has overall responsibility for the police, "lacks objectivity and credibility and would seem to facilitate impunity for police officers involved in human rights violations." It recommended that the Czech government should establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of power by the police. The Committee also recommended that all detained persons are brought promptly before a court and that access to a lawyer is available from the moment of deprivation of liberty. It also urged the Czech government to take measures to overcome overcrowding in prisons and to ensure compliance with Article 10 of the ICCPR which requires that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

AI welcomed the adoption of these recommendations. In its report *The Czech Republic: Arbitrary detention and police ill-treatment following September 2000 protests* (AI Index: EUR 71/001/2001), published in March 2001, the organization had urged the authorities to implement similar measures in order to ensure that law enforcement officials respect the rights of people deprived of their liberty, and to put in place a system for prompt and impartial investigations into all complaints of torture and ill-treatment. By the end of the year, the government had still not replied to AI's report.

FINLAND

Adoption of imprisoned conscientious objectors as prisoners of conscience continued

(Update to AI Index: EUR 01/003/2001)

During the second half of 2001 AI adopted as prisoners of conscience five conscientious objectors who were serving prison sentences of between 195 and 197 days after being convicted for refusing to perform alternative civilian service. Given that the length of alternative civilian service remains twice as long as military service (395 versus 180 days) for more than 50 percent of military recruits, a length considered punitive and discriminatory by AI, the organization has continued adopting imprisoned conscientious objectors as prisoners of conscience.

AI members continued to campaign for the release of these prisoners of conscience and a reduction in the length of alternative civilian service for conscientious objectors, including writing letters to the government. Members received some positive replies from the Ministers of Labour and of Foreign Affairs who promised to continue working for a shorter alternative service.

The following conscientious objectors were adopted between July and December. They were all convicted for a non-military service crime. Although some of them are total objectors due to their pacifist conviction, AI has adopted them as prisoners of conscience because current legal provisions fail to provide for adequate and fair alternative service conditions.

Mikko Petteri Korhonen, a 22-year-old student, was imprisoned on 16 July 2001. He stated to AI that his refusal was based on the discriminatory and punitive length of alternative service.

Sami Petteri Heikkinen is a 20-year-old student who was imprisoned on 20 August 2001. Although he based his refusal to perform alternative service on its discriminatory length, he believes, *inter alia*, that 'world peace cannot be built on a balance of terror' and he 'considers military or civilian service a precarious way to reduce the over-population of the world'.

Pentti Olavi Nurmi, a 21-year-old warehouse worker, has been imprisoned since 17 October 2001. He is a total objector who stated to AI that he refused alternative service particularly because of 'the contradiction between promoting welfare and the deployment of weapons' and that he considers

alternative service a punishment. Although he does not state specifically that his reason for objecting is based on the excessive length of civilian service, AI has adopted him because the government has failed to provide a system that can be considered fair.

Jarkko Juhani Mauno is 20 years old and works in marketing. He has been imprisoned since 13 August 2001 following his unsuccessful appeal against a prison sentence of 195 days. Jarkko Mauno had never applied for alternative service. He started military service but refused to continue after two days. When he was called up for alternative service he mainly refused because he found the length discriminatory.

Sadri Samuli Cetinkaya is a 22-year-old student from Helsinki who has been imprisoned since 15 October 2001 after deserting the army and refusing to perform alternative service. He was also sentenced to a fine for desertion. On appeal his sentence was upheld but the fine reduced. In his statement to AI Sadri Cetinkaya wrote, *inter alia*, that ... 'armies and their maintenance have caused much more harm than benefit to mankind. They create only ostensible security ...'. He sees alternative service as a form of punishment for not performing military service, particularly when considering its discriminatory length. He also criticises the fact that exemption from military service applies only to peace time.

Allegations of racism and racial discrimination

In November AI wrote to the Minister of Justice about reports that police officers in the township of Hakunila have failed to investigate alleged racist attacks against refugees and immigrants in an impartial manner. AI referred to the case against Farah Muhamed, a refugee from Somalia, who was convicted of attempted manslaughter after a car accident in which he hit and ran over a man. It is alleged that the conviction was the result of racist and prejudicial behaviour by the police as they had reportedly ignored evidence and eye-witness accounts of the accident that contradicted the prosecution case. According to Farah Muhamed, the accident happened when he panicked while trying to escape from a gang of hooded men who were charging at his car wielding a baseball bat and an axe. In its letter, AI also urged the government to set up a committee of inquiry to examine the racial tensions in Hakunila and the allegations made by refugees.

The Committee of Ministers of the Council of Europe expressed concern in November 2001 that the implementation of the Convention for the Protection of

National Minorities had not been entirely successful in Finland, and expressed concern about the discrimination suffered by Roma and their socio-economic status. It acknowledged improvements in the protection enjoyed by the Sami.

FRANCE

Death in custody

Edouard Salumu Nsumbu, a national of the Democratic Republic of the Congo, died in police custody following arrest early on the morning of 29 October at the place Pigalle. Resident in Germany, and the father of two children, Edouard Nsumbu had been arrested in Paris during an identity check. According to eye-witnesses, the Congolese national, who had been sitting at the wheel of his car, was thrown to the ground and sprayed with tear gas before being taken to the rue de Parmentier police station, where he lost consciousness. He reportedly died while being taken to hospital by paramedics. His family was reportedly only informed about the death two days later. According to the police, Edouard Salumu Nsumbu died of a heart attack. However, relatives of the victim, who believed the heart attack had been caused by police ill-treatment, formally accused the police officers of violent acts inducing death (“*violences volontaires ayant entraîné la mort*”). They joined judicial proceedings as a civil party, together with an NGO, the *Mouvement contre le racisme et pour l’amitié des peuples* (MRAP). The public prosecutor asked the police internal investigation service, the *Inspection générale des services* (IGS), to investigate the death. The IGS reportedly concluded that police violence had not occurred. A judicial inquiry was opened into the circumstances surrounding the death.

Effective impunity: court verdicts

The trial of a police officer who shot and killed a young man of Algerian origin in 1991 compounded concerns about the effective impunity of law enforcement agents. The officer, who had been charged with the killing of Youssef Khaïf, was acquitted by the Yvelines Court of Assizes on 28 September. While excluding the defence claim that the officer had acted in “legitimate defence”, and accepting that Youssef Khaïf had been unlawfully shot in the back of the neck while driving a car that was speeding away, the public prosecutor

[*avocat général*] evoked the emotional situation in which the killing had occurred, shortly after the death of a police colleague in a separate incident. (The driver of the stolen car responsible for the collision which caused the death was convicted to 10 years’ imprisonment). The prosecutor, who also referred to the exemplary past record of the officer, asked only for a suspended prison sentence. The court’s acquittal verdict was greeted by protests outside the court. At present there is no possibility of appealing against an acquittal verdict by an assize court, unless a public prosecutor decides to appeal to the Court of Cassation.

Earlier, in March, the trial took place of police officers implicated in the death in custody of Aïssa Ihich in May 1991. It was the death of Aïssa Ihich that had provoked the disturbances, at Mantes-la-Jolie (Yvelines) in which Youssef Khaïf had been killed. Aïssa Ihich died from an asthma attack after being severely beaten while lying on the ground. Two police officers were sentenced by the Correctional Court of Versailles to suspended 10-month terms for acts of violence. The prosecutor had requested that the officers be found not guilty. A doctor was given a 12-month suspended prison sentence for involuntary homicide by negligence. In December the Appeal Court of Versailles heard an appeal against the Correctional Court’s verdicts by the police officers and the doctor, but a decision was deferred until February 2002.

In January the Appeal Court of Aix-en-Provence confirmed the order of an investigating judge not to proceed against police officers in connection with the death by asphyxia, while under prolonged restraint, of Mohamed Ali Saoud in Toulon in 1998. The victim’s family, who had joined proceedings as a civil party, appealed against the decision to the Court of Cassation.

In December the Court of Appeal of Orleans (*chambre de l’instruction de la Cour d’Appel d’Orléans*) decided not to proceed against a police officer (*ordonnance de non-lieu*) for the fatal shooting of 16-year-old Abdelkader Bouziane in 1997. Abdelkader had been shot in the back of the neck when trying to avoid a roadblock. Rejecting the view that two police officers had acted in “legitimate defence”, the investigating judge had earlier decided that they should be tried in a court of assizes. The Court of Appeal of Paris had confirmed this decision with regard to one officer, but decided not to proceed in the case of the other. On 20 March the Court of Cassation annulled the order to send the police officer before an assize court. The lawyer for the Bouziane family stated that an appeal would be made to the Court of Cassation against

the decision of the Court of Orléans. He was reported as saying: "I do not see how one can view as legitimate defence a bullet shot into the back of the neck of someone driving a car at less than 40kph, and who was fleeing".¹³

Ill-treatment of children

The Nanterre prosecutor opened an inquiry into the alleged serious ill-treatment of 16-year-old "Yacine" by police officers at Asnières-sur-Seine police station on 10 July 2001. According to reports, "Yacine" claimed that, after being stopped and questioned about a damaged starter motor in a car in which he was sitting, he was taken into a corridor and punched, kneed and kicked. He was subsequently taken to the Beaujon Hospital in Tenon, where he underwent surgery on his testicles. Two medical reports reportedly referred to the existence of numerous haematoma on his back, one thigh and a wrist, and to heavy bruising on the face. Shortly after the operation "Yacine" was reportedly temporarily admitted to a psychiatric hospital because he had reacted violently on waking from the anaesthetic.

Allegations of ill-treatment were made in June by a group of children of African, North African and Macedonian Rom origin in the Goutte d'Or area of Paris, who said they had also been racially abused. AI was also investigating other reported cases of police ill-treatment, including one in French Guiana.

General Aussaresses on trial

In decisions dated 11 July and 11 September, an investigating judge in Paris refused to act on judicial complaints filed against General Paul Aussaresses - a high-ranking French military officer during the Algerian war of independence from 1954 to 1996 - for "crimes against humanity" (AI Index: EUR 01/003/2001). The judge argued that the actions to which Paul Aussaresses admitted were war crimes, and therefore covered by the amnesty law of 31 July 1968. The decisions were appealed. However, on 26 November, in a separate proceeding, the general appeared before a Paris court (*17e chambre correctionnelle de Paris*) for

¹³ "Je ne vois pas comment on peut parler de légitime défense pour une balle tirée dans la nuque de quelqu'un au volant d'une voiture qui roulait à moins de 40km/h et qui prenait la fuite". (*Le Monde*, 22 December 2001)

"complicity in apology for war crimes", with judgment deferred until January 2002. The charge arose out of a book he had published in May 2001 about the Algerian war,¹⁴ in which he justified torture and summary executions and claimed, among other things, that the French government was regularly informed about, and tolerated, the use of torture, summary executions and forced displacement of populations.

In October first steps were taken to officially commemorate the massacre of Algerians in Paris on 17 October 1961. The mayor of Paris unveiled a plaque on the Pont Saint-Michel to the memory of the many Algerians who were killed on that day by police officers while demonstrating against a curfew. The precise number of those killed, either in police stations or by drowning after being thrown into the Seine, has never been clarified, but up to 200 were thought to have lost their lives. The inauguration of the plaque was hotly contested by some police unions and politicians.

GEORGIA

Continuing attacks on members of religious minorities and impunity of the perpetrators

(update to AI Index: EUR 01/003/00, EUR 01/001/2001 and EUR 01/003/2001)

On 3 September, Tbilisi city procuracy opened a criminal case against defrocked Georgian Orthodox priest Basil Mkalavishvili and another alleged leader of attacks on religious minorities, Petre (or Gia) Ivanidze, on charges including "intentional infliction of light injury" (Article 125 of the Criminal Code of Georgia). The charges did not include serious physical assault, although many of the attacks on members of minority religions have allegedly involved such assaults by radical supporters of the Georgian Orthodox Church. Basil Mkalavishvili and Petre Ivanidze are accused of taking part in five and two attacks respectively on religious minorities, as well as on the offices of the newspaper *Rezonansi*. By the end of the period under review, no criminal case had yet come to court against any of the alleged perpetrators of attacks against religious minority groups.

Attacks on members of minority religions, however, continued. In one such attack in the evening of 23 September, a group of 20 or 25 people, bearing

¹⁴ "Services spéciaux Algérie 1955-1957"

truncheons, is reported to have physically and verbally assaulted members of the evangelical congregation "Madli"(Grace) at a choir practice in Gldani district, Tbilisi. Reportedly, 16 people were injured, including a 12-year-old girl. Twelve of those injured were reported to have sustained serious injuries.

On 28 September, a group of around 100 people, many of which were wearing masks, reportedly set up a roadblock on a main road leading out of Tbilisi towards the town of Marneuli, where a Jehovah's Witness convention was due to be held that day. The Jehovah's Witnesses had reportedly informed the authorities in advance of the convention and received guarantees from the police that proper measures would be taken to protect their right of assembly. However, according to the Jehovah's Witnesses, police stood aside and watched as the group stopped the buses carrying Jehovah's Witness delegates, dragged men, women and children outside, and kicked, punched, and beat them with clubs. Up to 40 people were said to have been injured, around 12 seriously. Police also allegedly stood by and watched as the group looted and set fire to the convention site, and confiscated film and a video camera from the Jehovah's Witnesses.

Torture and ill-treatment

Rapid Reaction Group under the Public Defender of Georgia (Ombudsperson)

In December 2001, the office of the Public Defender of Georgia launched a pilot project to monitor detention facilities, in particular at police stations in Gldani-Nadzaledevi district in Tbilisi as well as at the military commandant's office. As provided for by the mandate of the Public Defender, the Rapid Reaction Group pays unannounced visits to the aforementioned facilities. The pilot project will run until June 2002.

Alleged ill-treatment of Dato Kalandadze

On 11 September, Dato Kalandadze was detained at about 7pm on suspicion of having stolen a television set, and was allegedly beaten for two hours by a police officer (whose name is known to AI) in the office of the Vazisubani subdivision of the Isani-Samgori district police in order to extract a confession. As a result, Dato Kalandadze reportedly suffered concussion. Following an investigation by the supervisory service of the Ministry of the Interior, a police officer was found to have beaten Dato Kalandadze and, according to

reports, was subsequently dismissed from his job on 1 October. No criminal case appears to have been opened in connection with this incident.

Alleged torture and ill-treatment of Zezva Nadiradze

On 16 November, Zezva Nadiradze was arrested in the village of Samtavisi in Kaspi region some 20 kilometres east of Tbilisi. He was reportedly tortured by police officers (the names of some of the police officers are known to AI) at the police station of Didube-Chugureti district of Tbilisi in an attempt to force him to confess to a robbery. He was allegedly beaten, tortured with electric shocks to his genitals, burnt with a cigarette, and a police officer reportedly attempted to rape him. At the first court hearing on 19 November, the judge reportedly ordered release of Zezva Nadiradze after seeing his injuries. A medical examination that was reportedly conducted the same day found bruises, burns and abrasions on his arms, legs, face and head. Following a report about the case in the weekly program "60 minutes" on the independent television channel Rustavi-2 at the end of November, a criminal investigation was opened into his ill-treatment by the procuracy of Didube-Chugureti district. No one had been charged by the end of the year.

Alleged ill-treatment of member of parliament Gocha Jojua

On 18 or 19 November, official "X" (his name is known to AI), the head of a police department at the Ministry of the Interior, together with two policemen, reportedly beat up Gocha Jojua, a member of the Georgian parliament, at Lisi Lake in the outskirts of Tbilisi, where they had taken him from his house. Gocha Jojua reportedly had to be hospitalised. An investigation was opened by the General Procuracy, and the forensic service at the Ministry of Justice reportedly concluded that Gocha Jojua was suffering from concussion and fractures of a rib. There were allegations that the assault was to punish Gocha Jojua for an interview he had given to the Tbilisi-based newspaper *Alia* on 12 August, when Gocha Jojua reportedly accused official "X" of corruption. On 19 November, this official reportedly denied assaulting Gocha Jojua and declined to answer further questions of parliamentary committee members about the incident, on the grounds that he was unwell. According to Black Sea Press, President Edvard Shevardnadze commented on the incident of ill-treatment on National Radio the same day and stated

that it was “inadmissible and disgraceful”. However, shortly afterwards, Gocha Jojua reportedly stated on the TV channel Rustavi-2 that he had made peace with official “X”, following an intervention by the Patriarch of the Georgian Orthodox Church, who had allegedly acted on the wish of the official to mediate between the two men. Following this public statement, a second medical expertise was reportedly conducted by a commission of medical experts, which only found minor injuries that had not seriously affected his state of health. No one had been charged in connection with this incident by the end of the year. AI had previously received reports alleging that official “X” had ill-treated detainees while he occupied a post in the Tbilisi police force. One of these cases is the case of Zviad Tavkhelidze (see below).

Impunity of the alleged perpetrators of Bachuki Sharvashidze, Dato Sokhadze, Zviad Tavkhelidze and Gia Portchkhidze
(update to AI Index: EUR 01/003/2001)

AI received reports that the investigations carried out by the Ministry of Internal Affairs into allegations that Bachuki Sharvashidze, Dato Sokhadze, Zviad Tavkhelidze and Gia Portchkhidze were tortured and ill-treated by police officers from Tbilisi’s city police department over the course of several days in October 2000, were neither thorough nor objective. The investigations were reportedly closed in the period under review with none of the alleged perpetrators brought to justice. A petition by lawyer for the four men to bring charges against official “X” (see above), and other police officers, who had reportedly ill-treated ten of her clients, was turned down by Tbilisi city procuracy on 14 August on grounds of lack of evidence. Zviad Tavkhelidze was one of the ten men who alleged to have been ill-treated by official “X”.

Deaths in custody

The case of Temur Mikaia

Temur Mikaia, who had been detained for theft, died in police custody in the town of Poti on 14 July. There were allegations that he was thrown out of the first-

floor window of the police station following questioning by police officers. The police stated that Temur Mikaia jumped out of the window. An investigation was opened by the procurator’s office of the town of Poti and was later transferred to the procuracy of the region of Imereti following appeals by Temur Mikaia’s family accusing Poti procuracy of bias. The state forensic service reportedly established that Temur Mikaia had jumped out of the window and had not been ill-treated in police custody. Temur Mikaia’s family, however, were said to have expressed doubts about the impartiality of the forensic examination and demanded the body to be exhumed and examined by an independent expert.

AI had previously received other reports on similar cases. Ivane Kolbaya, for example, fell to his death from the fifth floor window of the Tbilisi central police department in early 1999. Zaza Tsotsolashvili fell to his death from the sixth floor window of the Ministry of Internal Affairs in Tbilisi in December 1999.(see AI Index: EUR 01/01/00).

The case of Mamuka Rizhamadze
(update to AI Index: EUR 01/001/2001 and EUR 01/003/2001)

Mamuka Rizhamadze was found hanged in his cell in preliminary detention facilities in Kutaisi on 31 May 2000. There were allegations that he did not commit suicide, but that his death was caused by ill-treatment by law enforcement personnel.

In a letter of 16 November 2001, Nana Devdariani, the Public Defender of Georgia (ombudsperson), informed AI that she had applied to the Procurator General with the recommendation to reopen the investigation into allegations that Mamuka Rizhamadze died as a result of ill-treatment by law enforcement officers. According to AI’s knowledge, the investigation into the case had been closed on 29 March and no fourth post mortem, which had reportedly been requested by the Kutaisi procuracy in the second half of the year 2000, was carried out.

According to Nana Devdariani, the conclusion of the post mortem conducted by independent forensic medical expert Maia Nikoleishvili on 5 June 2000, which stated that the cause of death was not suicide but a craniocerebral blunt closed injury, had neither been proved nor disproved. Maia Nikoleishvili had told AI in March 2001 that an investigation of the skin on Mamuka Rizhamadze’s neck also indicated to her that

he had been dead before the noose was applied. Following her post mortem, she conserved the patch of skin in a jar, which was sealed by the investigator of Kutaisi Procuracy. Maia Nikoleishvili pointed out that the state forensic service had not examined this piece of evidence, with the jar remaining sealed at the end of the period under review.

The state forensic service had concluded that Mamuka Rizhamadze's death resulted from suicide. Reportedly, the state expertise found that blue-green bruises on the upper eyelid of the right eye and his right shoulder blade, a scab on his nose, as well as traces of violence on the inner joint of his left knee and the surface of the left shin had been inflicted three days prior to Mamuka Rizhamadze's death and had not been related to his death.

**Fair trial concerns -
the case of Guram Absandze**

(update to AI Index: EUR 01/02/98, EUR 01/02/99 and
EUR 01/01/00)

On 17 August, the Board of Criminal Cases of the Supreme Court sentenced Guram Absandze, a minister in the government of former President Zviad Gamsakhurdia, to 17 years' imprisonment on charges including "terrorism", "treason", "murder" and "banditry." He was accused of involvement in the failed attempt to assassinate President Eduard Shevardnadze in February 1998. Co-defendants in the case received sentences of up to 20 years. Following an appeal by Guram Absandze's lawyers, the Chamber for Criminal Cases of the Supreme Court reduced Guram Absandze's prison term to six years on 13 November, reportedly dropping all charges except for misappropriation of state funds. The sentences of at least two co-defendants were reduced at the same trial.

AI had previously sought further information about the mechanisms for appeal, given that the case was being heard by the Supreme Court of Georgia as court of first instance. Responding in July 1999, the Deputy Prosecutor General of Georgia reported that any sentence passed by the Board of Criminal Cases of the Supreme Court may be appealed via the Chamber for Criminal Cases of the Supreme Court. However, the UN Human Rights Committee had been among those expressing concern that such an appeal within the same body did not meet international fair trial standards, in line with which a defendant has the right to conviction and sentence being reviewed by a *higher* tribunal.

Concerns in the disputed region of Abkhazia

The overall situation in the conflict zone, in particular the southern district of Gali, remained volatile, and high levels of crime and lawlessness added to the insecurity of the local population. In October there was a serious outbreak of hostilities between armed groups, said to include Georgian and Chechen fighters, and the Abkhaz forces. Reports of casualties were difficult to verify, although estimates were that about 60 members of armed groups, 16 Abkhaz troops, and at least 21 civilians had been killed. These casualties were in addition to those killed when a UN helicopter was shot down over the Gulripsh district of Abkhazia. There were nine unarmed people on board including four UNOMIG military observers on their way to resume patrolling in the Kodori Gorge.

Prisoners of conscience

(update to AI Index: EUR 01/001/2001)

AI welcomed reports last year that the Abkhaz authorities were working on a draft law on alternatives to military service, and has urged that this be given prompt attention, and that all efforts be made to ensure that it provides a fully civilian service, of non-punitive length, for all those with a conscientious objection to military service. It is equally important to ensure that the decision-making procedures for applying an alternative service are independent and impartial, and that all relevant persons affected by military service, including those already serving in the army, have information available to them on the right to conscientious objection and how to apply for an alternative service. In addition, AI has urged the authorities to release anyone imprisoned in Abkhazia for their conscientious objection to military service immediately and unconditionally, and to refrain from imprisoning anyone else as a conscientious objector.

At least one person, Elgudzha Tsulaya, remained in prison at the end of the year for refusing on religious grounds to perform compulsory military service. He had been sentenced to four years' imprisonment in October 2000 by the Military Court for desertion, reportedly in connection with steps he had taken earlier in the year to avoid forcible conscription.

GERMANY

The reaction to the 11 September attacks in the USA

In the wake of the 11 September attacks in the United States of America the German parliament approved two legislative packages designed to counteract the threat of "terrorism". The first package, the First Anti-Terrorism Act, which came into effect in December, provided, among other things, for the extension of the existing anti-terrorist paragraph in the German Criminal Code, allowing the authorities to investigate and prosecute foreign nationals based in Germany, who are considered to be terrorist suspects by other states. The First Anti-Terrorism Act also allowed the authorities to prohibit religious organizations deemed to be fronts for individuals involved in unconstitutional activities. In December police forces in several regions (*Länder*) raided the offices and mosques of a number of Islamic organizations suspected of being involved in such activities. In addition, approximately 20 organizations were reportedly banned subsequent to the legislation coming into force.

The second legislative package, which came into force on 1 January 2002 as the Second Anti-Terrorism Act, among other things, tightened personal identity requirements, by providing for the inclusion of biometric data in passports and identity cards. It also tightened identification measures in visa application procedures. The legislation further permitted various state agencies greater access to personal data held on people, and facilitated the exchange of such data between various state agencies. Furthermore, it allowed the authorities to carry out systematic computer searches on individuals using a range of information. While many individuals and organizations welcomed the two legislative packages as a necessary measure to counteract the threat of "terrorism", certain concerns were raised, particularly in relation to perceived encroachment on individual privacy and to the prospect of law enforcement agencies investigating possibly innocent people in dragnet-style law enforcement operations.

Deaths in police custody

AI learned of the death of a 19-year-old Cameroonian asylum-seeker in Hamburg on 12 December following the non-consensual administration of the emetic

substance Ipecacuanha four days earlier. According to multiple news reports of the incident, the deceased man, who has been referred to as Archidi J. in the German news media, was arrested by police officers in the *St. Georg* district of Hamburg on 9 December. The arresting police officers had reportedly witnessed Archidi J. swallowing small plastic bags believed to contain narcotic substances and had subsequently arrested him. The police officers reportedly transferred the detainee to the Forensic Medical Institute of Eppendorf University Hospital, where, after Archidi J. reportedly resisted the request to voluntarily ingest the Ipecacuanha emetic solution, four police officers allegedly restrained him in the sitting position while two medical personnel administered 30 millilitres of the Ipecacuanha solution through his mouth and nose, followed by 800 millilitres of water. Shortly afterwards Archidi J. began to suffer serious medical difficulties and collapsed. Medical personnel attempted to revive Archidi J. but he fell into a coma and was placed in an intensive care unit in the hospital, where died on 12 December. He is said to have sustained serious irreversible brain damage as a result of the incident.

AI welcomed the decision of the Hamburg authorities to initiate a prompt investigation into the death and requested to be informed of its findings. However, in the light of the death and the various statements made by the Hamburg authorities that the practice of forcibly administering emetics to detainees would continue, AI requested further clarification regarding the practice in Hamburg, particularly information about the medical guarantees in place safeguarding the detainee's well-being. Approximately 26 detainees had reportedly been forcibly administered emetics, since the introduction of the practice in Hamburg in June 2001.

Deaths in police custody update - the case of Aamir Ageeb

There was a significant reported development in the investigation into the death of the 30-year-old Sudanese asylum-seeker, Aamir Ageeb, who died in the presence of three officers from the German Border Police (*Bundesgrenzschutz*) during his forced deportation from Frankfurt to Khartoum via Cairo on 28 May 1999 (see AI Index: EUR 01/02/99). According to a report in the weekly current events magazine, *Der Spiegel*, appearing in late July 2001, Aamir Ageeb died of asphyxia as a result of being restrained in the sitting position, whereby his head and upper body were forced

forward onto his knees by the three accompanying police officers. The report also alleged that, as a result of the pressure applied to Aamir Ageeb's upper body, several of his ribs were broken. The report is said to have based these findings on the concluding autopsy report. In early November AI wrote to the German authorities seeking confirmation of the veracity of the report and requesting, among other things, to be provided with a copy of the post-mortem report.

Allegations of police ill-treatment

In the period under review AI learned about the alleged ill-treatment of a man by police officers of the Special Deployment Command (*Sondereinsatzkommando*) on 8 December 2000 in the North Rhine-Westphalian town of St. Augustin. The alleged victim, 49-year-old Josef Hoss, suffered multiple injuries as a result of his reported treatment by police officers. AI wrote to the North Rhine-Westphalian authorities in October, requesting to be informed whether an investigation was initiated into the incident and to be informed of its findings.

Josef Hoss alleged that police officers from the Special Deployment Command ill-treated him on the morning of 8 December 2000, after he departed from his home in St. Augustin in his van. He stated that, shortly after leaving his home, a van, which could not be identified as a police vehicle, drove towards him in the middle of the road, causing him to brake. At the same moment another unidentified vehicle reportedly blocked Josef Hoss's van from behind. A group of masked men jumped out of the two vehicles and rushed towards his van. The men smashed the passenger side window of the van with a hammer, opened its doors and pulled Josef Hoss out of the vehicle onto the road. Josef Hoss alleged that the men proceeded to hit him with their batons and fists and to kick him after he was thrown to the ground and handcuffed. Shortly afterwards, he reportedly lost consciousness and woke up leaning against a wall, still handcuffed, with a cloth bag over his head. The police officers took Josef Hoss to a police station in St. Augustin, where he was later informed that he had been arrested on suspicion of possessing hand-grenades and firearms. He was released later in the day after police officers had searched his home, only to find three antique guns, for which Josef Hoss held the appropriate firearms licences, and a gas pistol.

Josef Hoss suffered multiple injuries as a result of his alleged ill-treatment by the police officers, including

two fractured ribs, numerous abrasions and extensive bruising. A doctor, who examined Josef Hoss on 11 December 2000, stated: "[t]he injuries were only explicable by the application of a brutal degree of force, such as reckless beating for example". According to later medical assessments, Josef Hoss's alleged ill-treatment has wielded longer-term effects on his physical and mental health. Since the incident he has been unable to resume work as a tile-layer as a result of his injuries, causing him and his family significant financial difficulties. In addition, Josef Hoss is said to be suffering from post-traumatic stress.

In the period under review AI was informed of another incident of alleged ill-treatment in North Rhine-Westphalia. The organization learned of an ongoing investigation by Cologne's Public Prosecutor's Office into the alleged ill-treatment of 62-year-old Walter Herrmann in Cologne on 18 September 2001. Walter Herrmann sustained multiple injuries as a result of his alleged ill-treatment, including an open fracture of the bridge of the nose, first degree concussion, a fractured rib and multiple bruising, requiring that he remained in hospital for one week. AI wrote to Cologne's Public Prosecutor's Office requesting to be informed of the findings of the investigation.

The ill-treatment is alleged to have taken place at Cologne-Kalk Police Headquarters in the late afternoon of 18 September after Walter Herrmann had been arrested in Cologne's city centre. Upon arriving at the police station, a police officer allegedly pulled Walter Herrmann out of the police vehicle, and with the help of two other police officers, fixed him to the ground. Walter Herrmann, while admitting that he had initially resisted the arresting officers, stated that he would have voluntarily alighted from the vehicle, if he had been given the opportunity to do so. One police officer allegedly pinned him to the ground by placing his knee on the side of his head and applying his whole body weight to it, while the two other officers attempted to twist his arms behind his back. One police officer is said to have placed his knee on the detainee's left hand-side rib cage, causing him to shout out in pain. The ill-treatment allegedly continued in a police cell, where a police officer once again pinned the handcuffed detainee to the floor by placing his knee and his full body weight on the back of Walter Herrmann's head. At the time his nose and face was reportedly pressed against the cell floor. The detainee was allegedly subjected to this procedure for approximately two to three minutes until his nose broke and began to bleed heavily. The police officer allegedly held Walter

Herrmann in this position, despite his screams, for approximately one more minute after his nose had broken and had visibly begun to bleed heavily. Simultaneously, the two other police officers allegedly twisted Walter Herrmann's arms behind his back.

UN Convention against Torture

On 19 October Germany formally acceded to Articles 21 and 22 of UN Convention against Torture and Other, Cruel, Inhuman or Degrading Treatment or Punishment (see AI Index: EUR 01/003/2001), which respectively allow states and individuals to make complaints directly to the Committee against Torture, the body of experts which monitors state implementation of the Convention. In the course of its *Campaign against Torture*, beginning in October 2000, AI's membership had repeatedly written to the German authorities urging them to make declarations under the said articles.

Trials of electro-shock stun gun technology

AI learned about the ongoing trials of taser electro-shock stun gun technology by police forces in the four German *Länder* of Baden-Württemberg, Bavaria, Berlin and North Rhine-Westphalia. The organization was concerned at the possible deployment of taser electro-shock stun gun technology in the absence of a full and independent investigation into the medical effects of such weaponry.¹⁵ Certain experts have shared this concern, stating that the biophysical and physiological basis of the effectiveness and safety of tasers does not appear to be well understood.

G R E E C E

Police killings and wounding

Two men were shot dead by police officers in the Athens area in separate incidents within a month in circumstances which did not appear to justify the resort to firearms. Marinos Christopoulos, an unarmed Rom aged 22, was shot and killed by a police officer in October, when he failed to respond to a signal to stop

¹⁵AI's detailed concerns regarding the use of electro-shock technology can be found in the report, *Stopping the torture trade* (AI Index ACT 40/002/2001).

the car he was driving. The police officer reportedly stated that Marinos Christopoulos had attempted to run him over, and that while avoiding the car he had stumbled, causing his gun to fire accidentally. However, an autopsy report, which showed that Marinos Christopoulos had been hit by a bullet in the back of the head, appeared to cast doubt on this explanation.

Gentjan Celniku, aged 20, an Albanian immigrant, was shot dead in central Athens in November by a police officer. At the time Gentjan Celniku was in a cafe with friends. He did not have a gun on him; it seems that he had a knife in his pocket. Police sources claimed that Gentjan Celniku was a dangerous criminal who had assaulted and wounded two other Albanian men some 10 days earlier. However, these two men were taken to make statements to police about this assault only some hours after Gentjan Celniku's death. In this case, too, the police officer claimed that his gun fired accidentally. Both officers were charged with "reckless homicide" and released on bail; they returned to service.

There were also at least three incidents in which coast or border guards shot and killed or wounded foreign citizens. In August Greek coastguards shot and fatally wounded Oktay Deliktas, a Turkish citizen. According to a statement by the Greek Merchant Marine Ministry, Oktay Deliktas, a people-trafficker, had just disembarked nine migrants on the Greek island of Kos and was returning to Turkey in his speedboat. He failed to respond to the coastguards' order to stop, and allegedly attempted to ram their vessel. The coastguards first fired warning shots, and then fired at his boat to incapacitate its engine, wounding him. An investigation was launched into this incident. In July four Albanians were wounded, and in December an Albanian was killed, in disputed circumstances, after entering Greek territory without authorisation.

Allegations of torture and ill-treatment

AI continued to receive allegations that police had tortured or otherwise ill-treated people in custody. In July Ilias Hatzidiakos, aged 40, was stopped by two police officers on the island of Rhodes for a minor traffic offence. An argument ensued. According to a complaint he later filed, the two officers arrested him, knocked him to the ground and took him a police station where he was threatened, beaten and kicked, as a result of which he suffered a broken arm and extensive bruising. Ilias Hatzidiakos' requests to

contact his family, a lawyer and a doctor were refused and it was only several hours later, after relatives had notified a senior police officer, that he was released and brought to hospital. A judicial investigation was opened but had not been completed by the end of the year.

Dimitrios Zelilof, aged 23, stated in a complaint that he was beaten by two police officers on the street in Thessaloniki in December. Afterwards he went to a local police station to complain, but was arrested at the station and subjected to further beatings until he lost consciousness. He was taken by police to hospital in an ambulance, where he remained for four days. Medical certificates confirmed injuries to his head and chest, and damages to several teeth. An internal police inquiry was opened to examine this complaint.

There were further complaints that border guards or other police forces had ill-treated Albanians who had entered Greece without authorization. In August it was reported that police officers from Devolli (Albania) and Florina (Greece) had met to discuss these complaints, and that the Greek authorities had agreed to take measures against police officers responsible for ill-treatment. However, in early November the Albanian press reported further complaints: six Albanians who had been arrested after entering Greece clandestinely alleged that they had been beaten and had their money confiscated by Greek police in Florina.

In August and September a Greek non-governmental organization, the Greek Helsinki Monitor (GHM), interviewed 22 foreign nationals - from Iraq, Bangladesh, Sri Lanka, Sierra Leone, and Kenya - held at the Hellenikon Detention Centre for foreigners detained pending deportation. Among those who reportedly complained of having been ill-treated during detention was Hamad Raed, a Kurd from Iraq. According to his account, on the night of 3 to 4 September the officer on duty at the Centre punched him and kicked him in the ribs and stomach, apparently because he and his cell-mates were talking loudly. The same officer on this occasion also allegedly punched in the face another detainee, Abdulla Omar Ozallan. GHM confirmed that Hamad Raed bore bruises.

Trials of police officers

In October AI observed a trial in Patras at which a police officer was acquitted of having beaten and injured two young Roma in 1998 at Mesolonghi police station. Lazaros Bekos and Lefteris Koutropoulos, then aged 17 and 18 respectively, had been arrested for attempted theft. The court found that it had not been

proved that the officer had inflicted the boys' injuries. In earlier disciplinary proceedings the officer had been fined for failing to prevent the boys from being ill-treated, although an internal inquiry concluded in 1999 that the officer concerned and one other officer had themselves ill-treated the boys "with exceptional brutality". In another case, Athens Appeals Court in October reduced a 30-month prison sentence previously imposed on police officer Vasilis Athanasopoulos to a suspended 15-month prison sentence. In 1999 he had been convicted of causing dangerous bodily injury to Melpo Koronaïou, who in 1995 took part in a left-wing demonstration in Athens. After she was knocked to the ground by several police officers, Vasilis Athanasopoulos had repeatedly kicked her, causing her severe injuries to the jaw. The incident was photographed by a journalist and witnessed by two lawyers.

Freedom of religion and expression - updates

In December Sotiris Bletsas, a member of the Society for Aroumanian (Vlach) Culture, was acquitted by an appeal court of a charge of "distributing false information liable to cause public alarm". He was convicted on this charge in February, for having in 1995 distributed a leaflet which listed minority languages in EU states, including Aroumanian and several other languages in Greece. At three trials in July and December Mehmet Emin Aga was acquitted on nine counts on charges of "usurpation of the function of a Minister of a known religion". Other legal proceedings against him on this charge continued. (For further details of these cases see AI Index: EUR 01/003/2001)

Undocumented immigrants and refugees

In October it was reported that police were frequently serving administrative deportation orders on arriving immigrants, requiring them to leave the country within 30 days without giving them the chance to apply for asylum. There were also reports that many undocumented migrants, including potential asylum seekers, arriving via Turkey from third countries, were detained by police and forcibly returned to Turkey without observing due procedures for deportation. On 5 November a ship carrying some 750 people, mostly Kurds and Afghans, was towed to the island of Zakynthos after its engine failed. Among the passengers were three Turkish political prisoners who had been

released from prisons in Turkey on health grounds after they took part in a death fast. The Greek authorities announced that most of those on board would be returned to their country of origin, indicating that they would not be allowed to apply for asylum. AI urged the authorities to ensure that every member of the group was able to apply for asylum and to refrain from forcibly returning anyone - including the three Turkish citizens - to a country where they might be at risk of torture or other serious human rights violations. On 7 November the group were allowed to disembark and to apply for asylum. However, on 8 November Greece and Turkey signed a protocol allowing for the reciprocal return of immigrants from third countries. Greece stated this would not be applied to asylum seekers. Nonetheless, soon after there were reports that boats carrying immigrants were being turned back in mid-sea to Turkey, without examining if any of the passengers were refugees entitled to protection.

Inhuman and degrading conditions of detention

There continued to be reports that conditions in detention centres where foreigners are held pending deportation were often poor and sometimes inhuman and degrading. In September GHM reported that Hellenikon Detention Centre was over-crowded and unsanitary, and that detainees had no access to fresh air and exercise. In December the Ombudsman's Office made similar criticisms of the conditions in which foreign detainees were held at the General Police Directorate of Attica.

ITALY

Human rights violations during the G8 Genoa policing operation

On 10 July, in the lead-up to the Group of Eight (G8) summit held in Genoa between 20 and 22 July and planned mass demonstrations surrounding it, AI wrote to the government, urging that it ensure that state officers engaged in G8 policing operations were aware of, and acted at all times in accordance with relevant international human rights standards. AI drew attention to its concern about alleged human rights violations by law enforcement officials during demonstrations which had taken place in the preceding weeks and months in Italy. It pointed out that similar allegations had been made against law enforcement officials in several other

countries in the context of demonstrations around inter-governmental meetings in recent years. It renewed the call it had addressed to the previous Italian government in April 2001 for the establishment of an independent commission of inquiry to investigate fully and impartially police tactics and behaviour during a mass demonstration which had taken place in Naples in March 2001, during the Third Global Forum meeting (see AI Index: EUR 01/003/2001).

AI's letter set out the provisions of key international human rights standards relating to the use of force and firearms by law enforcement officials; the rights of freedom of expression and freedom of assembly; the right not to be subjected to arbitrary arrest or detention, and the rights of people deprived of their liberty (including the right - not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment - for relatives or a third party to be informed of their whereabouts - for foreign nationals to contact consular officials - of prompt access to a legal counsel of their choice - of prompt provision of adequate medical care - to be duly informed of their rights and of any charge(s) against them in a language they can understand - to humane conditions of detention).

During and after the G8 summit, in public statements and a letter to the government dated 31 July, AI expressed its deep concern about the numerous reports and allegations of the violation of all the above rights in the context of the policing operation. (See *Italy: Letters to the Italian government concerning the G8 policing operation*, AI Index: EUR 30/008/2001 for further details). AI underlined that it recognizes the difficulties faced in policing summits, especially when certain factions are set on causing violence. Similarly, AI recognized that it was the duty of the authorities to ensure the safety and security of participants in the summit as well as of peaceful demonstrators and local inhabitants. The organization does not condone violence aimed at law enforcement officers or property, nor does it oppose the lawful use of reasonable force by law enforcement officials. However, as AI's July letters emphasized, at the same time, policing must be carried out with full respect for international human rights standards and in such a way as to protect the rights of those people engaged in peaceful protest.

Over 200,000 people participated in anti-globalization demonstrations surrounding the G8 summit in Genoa. The vast majority protested peacefully but some demonstrations degenerated into violence, resulting in significant injuries to people and

extensive damage to property. By the end of the summit, hundreds of people had been injured, over 280, many of them foreign nationals, detained and one Italian protestor shot dead by a law enforcement officer performing his military service in the carabinieri force. AI urged that the criminal investigation opened into the death include a determination as to whether the use of lethal force was consistent with international human rights instruments regarding the use of force and firearms by law enforcement officials, and that there be a thorough review of the existing training and deployment of law enforcement officers involved in crowd control.

Some protestors with apparently peaceful intent were not allowed to enter Italy and proceed to Genoa, thus violating their rights to freedom of expression and assembly. There were well-documented reports of law enforcement officers using excessive force and indiscriminately assaulting non-violent protestors and also journalists and medical personnel working in a professional capacity and clearly identifiable as such. During an overnight raid carried out on a building legally occupied by the Genoa Social Forum (GSF), the umbrella group which had coordinated the demonstrations, officers inflicted beatings resulting in injuries to some 62 people, some of them requiring urgent hospitalization.

Dozens of people were subjected to arbitrary and illegal arrest and subsequent expulsion from Italy, including the vast majority of the 93 people detained during the GSF raid. There were also numerous allegations of law enforcement and prison officers subjecting individuals to cruel, inhuman and degrading treatment inside detention facilities, in particular the Bolzaneto facility. Detainees were systematically denied the rights to have their relatives promptly notified of their whereabouts and of prompt access to lawyers and, in the case of foreigners, to consular officials. Some were denied prompt and adequate medical care.

While welcoming the prompt initiation of a number of criminal investigations into the treatment of people on the streets, during the raid on the GSF centre and in detention facilities, AI believed these were unlikely to provide an adequate response. On 18 September, as a parliamentary fact-finding investigation into the Genoa events ended its work in disagreement and acrimony, AI recalled the limitations of the investigation's mandate, and renewed the call it first made in July for an independent public commission to carry out a comprehensive investigation into alleged human rights violations during the policing operation. AI set out some

of the criteria which it believed should inform the establishment of an effective commission. No such commission had been established by the end of the year.

On 19 September the President of the European Parliament announced that the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs had been authorized to draw up a recommendation to the Council of the European Union on "an area of Freedom, Security and Justice: security at meetings of the European Council and other comparable events ...". In November AI took the opportunity to draw the Committee's attention to a summary of its key concerns regarding the G8 Genoa policing operation (See *Italy: G8 Genoa policing operation of July 2001 - A summary of concerns*, AI Index: EUR 30/012/2001 for further information)

The Committee adopted the final text of its proposal for a recommendation on 12 November and it was then passed to the Plenary of the European Parliament. On 12 December the European Parliament adopted a detailed recommendation relating to "security measures for European Council meetings and other similar international events" and among other things specifically recommended that member states:

- "avoid blocking borders or denying individuals or groups of people who seek to participate peacefully in legitimate demonstrations the right to cross borders".
- "avoid a disproportionate use of force and instruct national police forces to control violence and preserve individual rights even in confused crowd scenarios where violent lawbreakers are mixed with peaceful law-abiding citizens. Avoiding the use of guns and complying with the UN recommendation on a proportionate use of force and the Council of Europe ethical code for enforcement should be mandatory".
- "ensure that all European citizens have the right to use their own language and have immediate access to a lawyer, to consular protection as provided for in Articles 36 of the Vienna Convention and ... the right to be defended by a lawyer of their choice ...".

The European Parliament also stated in its recommendation that it would "pay particular attention to the follow-up" to official inquiries opened into the events in Genoa, "in view of its 2001 annual report on the protection of fundamental rights in the European

Union”.

Torture and ill-treatment in prisons

Criminal investigations were opened or continued into many allegations of ill-treatment, sometimes amounting to torture, by prison officers. However, there was still no specific crime of torture under the law. A number of investigations were marked by excessive delays.

In November it was reported that two prison officers serving in Catanzaro district prison were under criminal investigation in connection with possible charges of causing bodily harm and abusing their authority following allegations that they had subjected two sex offenders to physical and psychological ill-treatment, including beatings and sleep-deprivation. The previous month Milan Public Prosecutor's office had opened an investigation into allegations that for a week a number of prisoners in San Vittore Prison had prevented a fellow inmate, accused of paedophile crimes, from leaving his cell and receiving medicines and food, and that they had burnt the soles of his feet, tortured and sodomized him with a broom handle, while prison officers and the prison administration failed to intervene to protect him.

In October a magistrate began examining a request by Sassari public prosecutor's office for 95 people to stand trial, following a criminal investigation into allegations that on 3 April 2000 over 40 inmates of Sassari prison, Sardinia, were subjected to cruel, inhuman and degrading treatment, in some cases amounting to torture, by dozens of prison officers employed in various Sardinian penal institutions (see AI Index: EUR 01/03/00). The accused also included the former director of Sassari prison, the former regional director of Sardinian prisons, various doctors employed in Sassari and two other Sardinian prisons - Macomer and Oristano - as well as the directors of these two prisons: a number of the Sassari inmates were transferred to these prisons immediately after the incidents but the relevant officials did not report their physical state on arrival. In November the magistrate referred the cases of five of the accused, attached to Macomer and Oristano prisons, to the Oristano Public Prosecutor's office on grounds of territorial competence.

In December it was reported that Nuoro Public Prosecutor's office had requested that seven officers be committed for trial on charges of causing bodily harm to Luigi Acquaviva who died in Bad'e Carros prison, Sardinia, in January 2000 (see AI Index: EUR

01/01/00 and *Amnesty International Report 2001*) and that a further prison officer be committed for trial on a charge of causing his death, through negligence. The prosecutor considered that the officer had failed in his duty to monitor the prisoner in his cell and thereby prevent his suicide. Luigi Acquaviva died within 24 hours of taking a prison officer hostage for some four hours and placing a noose around his neck. Administrative and criminal investigations, involving a number of prison officers, were opened into his death following claims that his death was not suicide as the prison administration maintained. Autopsy and forensic tests found that his body, found hanging in a cell, had suffered extensive traumatic injuries before death as well as neck injuries consistent with suicide.

The trial of 20 prison officers attached to Secondigliano prison, Naples, which had opened in April 2000, apparently had still not concluded by the end of 2001. The officers had been committed for trial in October 1999, following a criminal investigation into the alleged ill-treatment of Secondigliano inmates between June 1995 and February 1999. (See AI Index: EUR 01/01/00 for further information).

In October the European Court of Human Rights again found Italy guilty of violating Article 3 of the European Convention on Human Rights because of negligence and delay in investigating the allegations of ill-treatment by Pianosa Island prison officers contained in a criminal complaint lodged by the wife of an inmate, Rosario Indelicato, in 1992. In April 2000 the Court had found Italy guilty of failing to carry out a “thorough and effective investigation into the credible allegations” made by Benedetto Labita that he and other Pianosa prisoners had been subjected to ill-treatment between July and September 1992 (see AI Index: EUR 01/03/00).

The complaint alleged that Rosario Indelicato was repeatedly subjected to physical assault, including beatings with truncheons and other cruel, inhuman and degrading treatment between July and September 1992 and that other Pianosa prisoners suffered similar treatment.

An investigation carried out by Livorno Public Prosecutor's office resulted in two Pianosa prison officers standing trial in May 1998. Prior to the trial, the only attempt made to identify other officers responsible for ill-treatment had been to show Rosario Indelicato photographs of 262 officers who had worked at Pianosa prison.

In May 1999 a first instance court recognized that ill-treatment had occurred and found the two officers

guilty of abusing their authority, noting that they were only two amongst many offending officers and were not the principle offenders. In February 2000 an appeal court reclassified the charges to more serious ones of coercion, annulled the first instance sentence and returned the dossier to the Livorno Public Prosecutor's office where proceedings were still pending in October 2001.

In its ruling the Court observed that statements made by Rosario Indelicato's wife and the man's own allegations of ill-treatment during the trial gave rise to plausible suspicion that he had undergone questionable treatment while in Pianosa prison. It also pointed out that Rosario Indelicato was not the only prisoner who had complained of reprehensible conduct by prison officers, that the existence of questionable practices had also been publicly criticised by state authorities, including in a September 1992 report by the Livorno magistrate of surveillance responsible for monitoring the treatment of Pianosa inmates, and cited AI's 1992 reporting on allegations of ill-treatment emerging from Pianosa prison.

Universal jurisdiction over crimes against humanity

In July the Chief Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) expressed disappointment at Italy's refusal to implement an international warrant for the arrest of a Rwandese national, a Roman Catholic priest resident in Italy, on the grounds that, under Italy's domestic legislation, there was no legal basis to carry out any such arrest. The individual had been indicted by the ICTR reportedly on charges of genocide and crimes against humanity during the 1994 genocide in Rwanda and his arrest was requested as a preliminary step in his transfer to the ICTR. The UN Security Council Resolution establishing the ICTR directs all states to cooperate fully with the tribunal, and under the ICTR's Statute Italy is obliged to comply without delay with any request for the arrest of any person indicted by the ICTR. AI called on Italy immediately to fulfil its international obligations and ensure that any perpetrators of serious human rights violations be brought to justice. A bill on cooperation with the ICTR, put forward by the government in August, was still awaiting final parliamentary approval at the end of the year.

KAZAKHSTAN

Death Penalty

On 28 September Mikhail Vershinin, Sergey Kopay and Evgeniy Turochkin were sentenced to death by Almaty City Court for premeditated aggravated murder. An appeal against their death sentences was believed to be pending with the Supreme Court.

They were charged with the murder of seven women, all prostitutes, desecration of the women's corpses, cannibalism and illegal possession of medical drugs. The murders took place in 1998 and 1999, reportedly in Sergey Kopay's flat. The men, under the alleged leadership of Mikhail Vershinin, reportedly believed that they were acting in the interests of society, that their actions had a moral purpose, i.e. they were cleansing society from those they considered to be morally degenerate.

According to reports they confessed to the murders during their first interrogation. However, they withdrew their confessions in subsequent interrogations, claiming that they had been tortured to force them to admit to the murders. During the trial Sergey Kopay claimed, for example, that they were beaten on the soles of their feet before and during interrogations.

All three accused are ethnic Russian Kazak citizens with no prior convictions. Mikhail Vershinin, aged 27, worked as a psychiatric nurse. He is married with a ten-year-old son.

KYRGYZSTAN

Harassment of Human Rights Defenders

Releases

Prisoner of conscience Topchubek Turgunaliyev
(Update to AI Index: EUR 01/003/2001)

Topchubek Turgunaliyev, leader of the opposition *Erkindik* (Liberty) party and chairman of the independent human rights organization Guild of Prisoners of Conscience, was released unexpectedly from prison on 20 August after being granted a special presidential pardon.

Topchubek Turgunaliyev had been convicted in September 2000 on charges connected with an alleged plot to assassinate the President; seven others were also convicted in the trial. He had consistently denied the charges and alleged that the case against him was

fabricated by the Ministry of National Security (MNS) in order to punish him for his peaceful opposition political activities. In March the Supreme Court upheld a November 2000 decision by Bishkek City Court to reduce his 16-year prison sentence to six years on appeal.

Kyrgyz Committee for Human Rights (KCHR)
(update to AI Index: EUR 01/003/2001)

Noomagan Arkabaev, the KCHR coordinator for Osh region, was released from detention on 18 July on medical grounds when his health sharply deteriorated as a result of a hunger-strike.

On 27 June the office of the KCHR in Osh was sealed by the MNS. Noomagan Arkabaev was detained and charged with "public appeals for the violent overthrow of the constitutional order". During the search of the KCHR office, MNS officers claimed to have discovered leaflets which called for the overthrow of the President. The KCHR alleged that the real reason for the arrest of Noomagan Arkabaev was the fact that he had prepared articles for publication accusing the director of the MNS of Osh region of corruption.

On September 17, Abdymamat Kadyrbekov, a member of the KCHR in Jalal-Abad, received a three-year suspended prison sentence on charges of "hooliganism". On October 7, according to the KCHR, masked men burst into Abdymamat Kadyrbekov's house and caused him severe injuries, warning him not file a complaint about his sentence and to stop his human rights activities.

Abdymamat Kadyrbekov was reportedly charged with "hooliganism" for resisting arrest when the taxi he was travelling in was stopped by traffic police in Jalal-Abad on 12 June. When he showed his identification the police officers allegedly made disparaging comments about his KCHR membership, handcuffed him and forced him into their car. Abdymamat Kadyrbekov claimed that he was beaten in the police car and later in the police station when he tried to protest against his arrest.

Possible prisoners of conscience

On 24 October Ravshan Gapirov, the director of the independent Kara-Suu Human Rights Centre *Pravosudie i Istina* (Justice and Truth), was sentenced to 13 years' imprisonment for illegal possession of narcotics. The narcotics were allegedly planted in Ravshan Gapirov's bag by members of the Kara-Suu

prosecutor's office after he had a dispute with the deputy prosecutor in September. Supporters claimed that the charges were fabricated in order to punish Ravshan Gapirov for his human rights activities which brought him into regular conflict with local and regional authorities.

This was the second conviction during this year. On 28 February he was convicted of hooliganism and fraud and sentenced to two years' imprisonment, reportedly for having protested against the arrest of several human rights activists at a conference in Kara-Suu in September 2000. He was released from detention in May.

On 1 November Jalal-Abad City Court sentenced independent journalist Samagan Orozaliev to nine years' imprisonment on charges of illegal possession of weapons, forgery, blackmail and resisting arrest. His driver and co-accused, Mukhtar Topchiev, received eight years. Samagan Orozaliev, a freelance correspondent for the National TV and Radio Corporation (NTVRC) claimed that the charges against him and his driver were fabricated by the Jalal-Abad MNS office and local officials in order to prevent his documentary on corruption of local officials in Jalal-Abad being shown on television.

Samagan Orozaliev and Mukhtar Topchiev were reportedly detained in Jalal-Abad on 28 May while Samagan Orozaliev was investigating allegations of corruption of a local parliamentarian for a television documentary. Samagan Orozaliev was initially held in pretrial detention on charges of accepting a bribe from this local official after police officers claimed to have found US\$300 on him. According to Samagan Orozaliev, the money was planted on him by the local official's son during a meeting to discuss the material he had filmed. Samagan Orozaliev had reportedly complained on several occasions to the Jalal-Abad procuracy that relatives and supporters of the local official in question were following him and trying to prevent him from conducting his investigation. Both Samagan Orozaliev and Mukhtar Topchiev also alleged that the police planted cartridges in their car. On 31 July Samagan Orozaliev was reportedly transferred to hospital following heart problems.

Political prisoner Felix Kulov
(Update to AI Index: EUR 01/003/2001)

In July the Supreme Court rejected Felix Kulov's appeal against his verdict. He was also facing new charges of embezzlement and abuse of office while he was

governor of Chui Region from 1993 to 1997 and mayor of Bishkek in 1998 and 1999.

On 22 January Bishkek Military Court had sentenced Felix Kulov, the chairman of the opposition *Ar-Namys* party, to seven years' imprisonment with confiscation of property on reportedly fabricated and politically-motivated charges of abuse of authority while serving as a Minister of National Security in 1997 and 1998. He was arrested in the court room and taken into the custody of the MNS. In August 2000 Bishkek Military Court had cleared Felix Kulov of the same charges. In September 2000, after the prosecution lodged a protest against his acquittal, the Board of the Kyrgyz Military Court ruled that the verdict should be reconsidered, and ordered a re-trial in Bishkek Military Court under a new presiding judge.

The death penalty

In December the President extended the moratorium on executions for another year until December 2002.

New death sentence

On 31 December a court in Bishkek sentenced Otabek Akhadov, an Uzbek citizen of Uighur origin to death for premeditated aggravated murder. His co-defendant Djalal Makhmud Kasardzhi, a Turkish citizen of Uighur, origin was sentenced to 25 years. Muhammad Toktoniyaz and Ablemit Kerim, two Chinese citizens of Uighur origin, were sentenced to 17 and 16 years' imprisonment respectively.

All four were charged with organizing the murders of Nigmat Bazakov, the leader of the Kyrgyz Uighur organization "Ittipak" in March 2000, and of a Chinese businessman in May 2000; kidnapping of a Chinese businessman in June 2000; and membership of a separatist Uighur organization, the Eastern Turkestan Liberation Front, which is banned in China.

Concerns were expressed by unofficial sources that the case was politically motivated and that the four men were convicted for their ethnic origin and alleged membership of a separatist Uighur organization. These sources claimed that there was no convincing evidence to link the men to the murders and kidnappings. One of the accused, Dzhahal Makhmud Kasardzhi, was already serving a 14-year prison sentence at the time of the murders.

In view of the moratorium on executions in place in Kyrgyzstan, Otabek Akhadov was not in immediate danger of being executed. However, there was a danger

that China might request the extradition of the Chinese nationals. If extradited to China, they would be at risk of torture and execution.

L A T V I A

Alleged torture and ill-treatment - police detention facilities

The report of the first visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Latvia in early 1999 was made public in November 2001. The publication of the report fuelled a significant degree of debate in the Latvian news media about its findings, particularly relating to alleged ill-treatment and torture at police stations and in police detention facilities.¹⁶ The CPT stated that "[t]he delegation received a considerable number of recent allegations of physical ill-treatment of persons detained by members of the police force in Latvia", most commonly at the time of arrest and during interrogation.¹⁷ According to the report, the alleged ill-treatment consisted mainly of punches and kicks, and of striking detainees with truncheons or a gun butt. More seriously, the CPT also noted: "[i]n some cases, the ill-treatment alleged - severe beatings, asphyxiation using a plastic bag or a gas mask, strangulation using a guitar wire, infliction of electric shocks, in the course of questioning - could be considered as amounting to torture".¹⁸

In several news reports Ministry of the Interior representatives rejected these claims. One spokesperson was quoted in an *AFP* report from 5 December 2001 as stating: "[t]he Ministry of the Interior rejects all such reproaches - the report makes sweeping generalizations and contains no concrete facts". In contrast to such refutations, the CPT report affirmed that certain detainees who made allegations of ill-treatment were found on examination by medical members of the delegation to display physical marks or

¹⁶It is noteworthy that hardly any allegations of ill-treatment of prisoners were heard by the CPT delegation in the two post-trial detention facilities visited.

¹⁷CPT/Inf (2001) 27, 22 November 2001 - para 14.

¹⁸*ibid* - para 14.

conditions consistent with their allegations.¹⁹ The CPT offered several recommendations aimed at preventing such abuses, emphasizing the need to improve the selection and professional training of police officers, to diligently examine complaints of ill-treatment and indications thereof, and to impose suitable penalties on offending police officers.

The CPT also found that certain safeguards against ill-treatment and torture were wanting. During its visit the CPT delegation interviewed many detainees, who - for various reasons - had not been able to notify a third party of their arrest or secure access to a lawyer. Moreover, it found that Latvian legislation contained no formal provision governing access to a doctor for persons held in custody or directives about how police interrogations should be conducted. Consequently, the CPT made various recommendations to address these shortcomings and strengthen these important safeguards.

Conditions of detention - police detention facilities and prisons

During the 11-day visit the CPT inspected various places where people are deprived of their liberty, including police stations, a range of police detention facilities and prisons. At several of the police stations and police detention facilities visited the material conditions of detention were deemed unacceptable by the delegation, where detainees were held in unclean, poorly ventilated cells with no or little access to natural light. In some cases mattresses were not available for overnight stays and detainees were not guaranteed regular food or the opportunity of outdoor exercise. Prison conditions in Latvia did not escape criticism. Riga's Central Prison and the 'ISO' Block of I-uciema Prison for women fell well below international minimum standards and, according to the CPT, due to a combination of negative factors such as overcrowding, very poor material conditions and hygiene as well as impoverished activity programmes "... could easily be described as inhuman and degrading treatment".²⁰

The CPT is due to undertake a second visit to Latvia in the course of 2002.

¹⁹*ibid* - para 15.

²⁰*ibid* - para 99.

LITHUANIA

Intergovernmental organizations

The report of the first visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) to Lithuania in February 2000 was made public in October 2001. During the 10-day visit the CPT inspected various places where people are deprived of their liberty, including police stations, police detention centres, prisons and a detention centre for foreigners. The report disclosed the following findings:

Alleged torture and ill-treatment - police detention facilities and prisons

The CPT stated that, in comparison with past years, it appeared that there had been a marked improvement in the treatment of detainees by police in Lithuania. The CPT considered that, previously, instances of ill-treatment were more frequent and their severity greater, and included electro-shock torture, beatings on the soles of the feet and the insertion of needles under the nails. However, the CPT still found that "... a significant proportion of the persons interviewed alleged that they had been ill-treated while in police custody".²¹ The alleged ill-treatment consisted mainly of slaps, punches, kicks and blows and mostly occurred before, during and after interrogation. Disturbingly, the CPT noted that "[i]n certain cases, the ill-treatment alleged - e.g. partial suffocation by placing a rubber gas mask over the person's face and severe beating - could be qualified as torture."²² In addition to reports of alleged ill-treatment and torture, the CPT also received frequent allegations of the use of excessive force by police officers during arrest, particularly the infliction of blows with batons. It considered that the number and consistency of the allegations lent them credibility.

In order to counteract instances of ill-treatment of detainees by police officers the CPT made a number of recommendations, including that a very high priority be given to the recruitment and professional training of police officers of all ranks. It stated that such training should emphasize the incompatibility of ill-treatment

²¹CPT/Inf (2001) 22 - para 13.

²²*ibid* - para 13.

with domestic and international human rights standards as well as with modern investigation techniques. As a deterrent to ill-treatment the CPT stressed the need to investigate complaints and bring offending officers to justice. In this respect the CPT considered: "... one of the most effective means of preventing ill-treatment by police officers lies in the diligent examination by the competent authorities of all complaints of such treatment brought before them and, where appropriate, the imposition of a suitable penalty. This will have a very strong dissuasive effect".²³ To this end the CPT made several recommendations to facilitate greater oversight of places of police detention by the authorities, including, among other things, regular and unannounced checks of police detention facilities and greater vigilance to the signs of ill-treatment on the part of public prosecutors and judges.

In contrast to police detention facilities, no allegations of torture and relatively few allegations of ill-treatment were heard from inmates in the three prisons visited by the CPT. Those reports encountered mainly related to Vilnius Prison where some allegations of kicks, slaps and blows with batons were documented. However, the CPT did receive recurrent accounts of inter-prisoner violence in the prisons visited and it appeared that "... a significant number of prisoners lived in fear of physical violence and were subjected to a host of indignities (being forced to clean for others, verbal abuse) by stronger prisoners".²⁴ As a result it urged the Lithuanian authorities to develop and implement a concrete strategy to address the problem.

*Conditions of detention -
police detention facilities and prisons*

The CPT found that the material conditions of the various police detention facilities and prisons it visited were wanting. In the former facilities detainees were often housed in dirty, poorly ventilated cells with no or little access to natural light and possessing insufficient space. It also noted that detainees held overnight were not routinely provided with mattresses, blankets and personal hygiene items. The CPT considered that "... in some instances, conditions in the police detention centres visited could be fairly described as inhuman and

degrading".²⁵ It made a series of recommendations to address these problems.

Prison conditions were also far from adequate. In particular, the CPT considered that improvements could be made regarding the material conditions of imprisonment, such as the quality of health care and prisoners' access to work, education and recreational activities. Overcrowding was cited as a significant problem.

MACEDONIA, FORMER YUGOSLAV REPUBLIC OF (FYROM)

Background

The conflict in the north and west of the country between the National Liberation Army (NLA), an ethnic Albanian armed opposition group and the Macedonian security forces which started in the first half of the year was at its height from the beginning of July until mid-August, when mediators appointed by the USA and European Union (EU) helped the leaders of the four main political parties to reach a political agreement, known as the Ohrid or framework agreement. Thereafter, with the presence of forces from NATO and monitors from the Organization for Security and Co-operation in Europe (OSCE) and EU, the number of violent incidents decreased although tension was still high and parts of the north west remained outside government control. Incidents included bomb attacks and shootings at police checkpoints, some of which led to injuries and deaths of civilians. There was considerable tension around the issue of the return of the police to the areas which had been under the control of the NLA during the conflict.

The framework agreement included reforms aimed at addressing discrimination against the Albanian minority including increased political, economic, social and cultural rights for ethnic Albanians, estimated at comprising a quarter to a third of Macedonia's population. The reforms included changes in the constitution to remove the preferential status of ethnic Macedonians and the Orthodox religion; the greater use of Albanian as an official language, in government, education and the media; a rise in numbers of ethnic

²³*ibid* - para 19.

²⁴*ibid* - para 138.

²⁵*ibid* - para 34.

Albanians in the public sector, particularly in the police forces; and decentralization of power and budgets to local authorities. Implementation of the framework agreement proceeded slowly with many obstructions. Parliamentary amendment of the constitution and other legislation proposed in the framework agreement were delayed by strong opposition from ethnic Macedonians to what they perceived as concessions towards ethnic Albanians. The constitutional amendments were finally ratified on 16 November, but none of the other legislation had been passed by the end of the year.

In return, the NLA agreed to hand over some of its arms to NATO and to disband. There was also an understanding that there would be an amnesty from prosecution for NLA members, except those who had committed serious war crimes. The delay in clarifying and formalizing this amnesty became a major political issue as debates continued about implementing the Ohrid agreement. During December 64 people were released from prison, mainly from pre-trial detention, following pardons from the President. AI is aware of dozens of other people facing conflict-related charges whose position remained unclear. In addition up to 1,000 draft resisters and deserters, of all ethnicities, who had not wanted to fight in the internal conflict were still threatened with criminal proceedings. Many Albanian activists and the international community continued to press for an amnesty law.

The international community, including up to 200 OSCE and EU monitors protected by a German-led NATO force, tried to reassure both sides and to push forward the peace process. The monitors were effective on the ground in the conflict areas, doing a great deal to build confidence on both sides, despite frequent hostile comments in the Macedonian press and by some Macedonian politicians.

On 20 November the International Tribunal for Former Yugoslavia (the Tribunal) opened an investigation into possible war crimes in Macedonia. It said it would be looking at the killing of eight of the Macedonian security forces at Vejce in April and of at least six Albanians in Ljuboten by the security forces in August.

Alleged abuses by the NLA

Between June and August, as clashes became more intense and the NLA moved into areas inhabited by ethnic Macedonians, civilians were abducted and ill-treated. The NLA took control of a number of villages where the residents included ethnic Macedonians and

they were frightened into fleeing their homes. Among those allegedly killed by the NLA was an elderly man, Boris Magdenovski, who was shot as ethnic Macedonians fled from Brezno. Five road workers were abducted on 7 August and, according to reports, were physically ill-treated, sexually violated and threatened with death before being released some hours later. Dozens of ethnic Macedonians were abducted. While many were released after a few hours, at least 14 were held and ill-treated for several weeks. Macedonian families reported that 12 people remained missing after the NLA declared in late September that it had released all those it had been holding. Although difficult to confirm, there were also reports of the NLA putting pressure on ethnic Albanians in the police and army to leave their posts and of high levels of organised crime, including trafficking of women, in the areas not controlled by the security forces.

AI is concerned that by taking civilian hostages and ill-treating them, the NLA did not uphold Article 3 of the Geneva conventions as applicable to conflicts not of an international conflict.

Police ill-treatment of Albanians and lack of fair trials

There were numerous reports from the conflict areas of ethnic Albanians being detained arbitrarily and ill-treated at police roadside checkpoints. Allegedly, those who were subsequently arrested were beaten repeatedly at police stations while being interrogated about the NLA. Some were released without charge. Others were charged with "terrorism", or possessing explosives, or having weapons without a licence. Victims reported that they had been tortured and ill-treated by regular police, special police, reservists and by paramilitary units allegedly armed by the Ministry of the Interior. It was frequently claimed that the perpetrators of ill-treatment wore masks or covered the heads of their victims to avoid identification. Namzi Aliu (29) died on 13 August apparently from injuries he received that day from police beatings in the street outside the main hospital in Skopje. It was alleged that six ethnic Albanians and one Bulgarian citizen who had been arrested at different times during the year had disappeared in police custody and had not been accounted for by the end of the year. They included Ruzhdi Veliu who was reported to have been arrested on 20 August on the road to the southwestern town of Struga.

There were also concerns that detention and trials

of people charged following interrogations were conducted in a manner that may have been unfair. Those arrested were often held for more than the legal maximum of 24 hours before being brought to court. Indictments often alleged possession of very similar lists of weapons and ammunition. Trials of crimes allegedly committed in the Tetovo region were held in one of the courts in Skopje, in breach of the criminal code. Reliance was placed on contested tests for traces of nitrates on the hands of the accused as evidence that they had used firearms. Lawyers and families, and even the International Committee of the Red Cross, were denied access to detainees while doctors refused to treat them or to provide certificates recording their injuries allegedly at the hands of the police.

On 12 August, following the deaths of eight Macedonian soldiers in an anti-tank mine explosion, Macedonian special police forces entered the nearby village of Ljuboten. According to journalists and a representative of Human Rights Watch who visited the site shortly afterwards, the special police summarily killed six civilians and ill-treated more than 100. The Tribunal is investigating this incident as a possible war crime. The Ministry of the Interior claimed that the dead were armed and had been killed during exchanges of fire. At least 20 villagers from Ljuboten, including a 14-year-old, were detained in prison without being brought to trial from then until the middle of December, when they were released under the terms of the amnesty.

AI's longstanding concerns about police ill-treatment were addressed by the publication in October 2001 of the report of a visit by the Council of Europe's Committee for the Prevention of Torture (CPT) to Macedonia in May 1998 which concluded that:

“[o]n the basis of all of the information obtained by the CPT before, during and after the visit, the Committee can only conclude that physical ill-treatment of persons deprived of their liberty by the police in ‘the former Yugoslav Republic of Macedonia’ is relatively common”

In the government's response, which was published at the same time, the Ministry of the Interior reported that several training courses on human rights had been held for police officers and senior officials and that steps were being taken to strengthen the rights of detainees. The CPT made a further visit to Macedonia in October 2001, including unannounced visits to several police stations in the disputed area. Its findings were not available published by the end of the year. According to

many reports and interviews conducted by AI, there was little evidence of the measures the Interior Ministry claimed to have taken having practical effect on the ground. There were numerous allegations of ethnic Albanians being brutally beaten, particularly by police reservists hastily mobilized during the conflict. Reports of ill-treatment at police checkpoints continued to be received after the conflict had subsided. On 6 December five taxi drivers from villages around Kumanovo reported that they were beaten by police on the streets of Skopje. AI is not aware of any investigations being started into police behaviour in any of the cases of torture or ill-treatment which allegedly occurred during 2001.

Particular concern was expressed, for example by the International Helsinki Federation, that, towards the end of the year, police reservists and irregulars, far from being demobilised as the crisis abated, had been formed into permanent rapid response units called Lions and Tigers, under the command of the Minister of the Interior. In contravention of the policing provisions of the Ohrid agreement, these forces were recruited exclusively from the ethnic Macedonian community and were not trained by international instructors.

Displaced persons

Over 140,000 people were displaced at some time between March and August. People who left their homes were mainly from villages which fell under the control of the NLA. While in the first half of the year it was mainly ethnic Albanians who were affected, after the beginning of July tens of thousands of ethnic Macedonians reported being driven out by armed opposition forces and were displaced to other parts of Macedonia. Many of those from areas where they were in a minority did not return home and in mid-December, 18,680 people remained registered as displaced within Macedonia, while UNHCR estimated a further 10,000 were still in Kosovo. Most ethnic communities reported fearing that ethnic cleansing tactics, familiar from other parts of former Yugoslavia, were being used against them. There were numerous reports of homes and churches being vandalized and burned after they had been abandoned. Some people moved to areas where their ethnic group was in a majority, exchanging properties rather than returning home.

The peace process

AI is concerned that, because of the conflict, there has been a serious set back in the general human rights situation in Macedonia. Many ethnic Macedonians hold the opinion that the concept of rights was merely used as a cover for aggression. Many Albanians interpret rights only as ethnic, or collective, rights. The framework agreement hardly mentioned the importance of upholding human rights. Rather than pursuing cases in the interests of the victims and their families, or in order to achieve justice, issues about the amnesty and the missing people have been politicised by politicians of all parties.

P O L A N D

Reports of police failure to protect the victims of racist violence

In September, AI wrote to Jerzy Buzek, then Prime Minister, expressing concern about reports of racist harassment and violence in which police authorities failed in their duty adequately to protect the victims (cases mentioned in AI Index: EUR 01/003/2001). The organization was also concerned that such incidents had not been investigated thoroughly and impartially as required by international human rights standards, and that those responsible for racist violence had not been brought to justice. In October 2001, this letter was returned to the International Secretariat on the grounds that it could not be taken into consideration as it had not been written in Polish. In December AI wrote to Leszek Miller, the new Prime Minister, reiterating its concerns and brought to his attention another case in which police officers apparently failed effectively to protect Roma from racist violence.

According to information received by AI in the early morning hours of 20 August 2001, following an incident in a local discotheque in which a Romani youth allegedly committed a theft, a group of around 40 young men wielding clubs and stones attacked about 20 Roma who were staying in the recreational centre "Borowik" in Koszelówka, near Plock. The mob, shouting threats and racist abuse, forced open the gate of the centre and threw bricks at the windows which

were secured by metal bars. They broke windshields of the parked cars and threw burning wood inside the vehicles. Two police officers were reportedly present at the scene of the attack but did not attempt to intervene and protect the victims. According to some observers, the two officers left the scene shortly after the attack began. The mob dispersed after three police patrol cars arrived at the scene of the violence. One Romani man who was hit in the face with a brick was hospitalized while several others received treatment for lesser injuries. The police reportedly detained three men and subsequently charged nine for participating in a fight and causing damage to property. A police spokesman reportedly denied that the assault was racially motivated and claimed that the two officers present at the scene of the attack were unable to intervene.

AI urged the Polish authorities to ensure equal treatment and protection to all people on its territory. The organization also urged the authorities to thoroughly and impartially investigate the reported incidents, including the conduct of the police officers involved.

P O R T U G A L

Elections

Antonio Guterres, the Prime Minister, resigned on 17 December, following the heavy defeat of his Socialist Party at the municipal polls held earlier in the month. Parliamentary elections were scheduled to take place the following spring.

Publication of AI report

A 25-page report, *Portugal: 'Small problems ...?'* A summary of concerns, (AI Index: EUR 38/002/2001), was published in July. Originally submitted by AI to the UN Committee against Torture in 2000, the report had been updated for general publication. It summarized AI's concerns about deaths in police custody; ill-treatment and illegal detention by police officers; ill-treatment and cruel, inhuman or degrading treatment of prisoners, and the issue of effective impunity. (While welcoming the establishment and work of the Interior Minister's police oversight agency, the General Inspectorate of Internal Administration [IGAI], the report noted that there was no independent police oversight agency in Portugal. AI also urged that all

allegations of torture, ill-treatment or other abuse by police officers be automatically investigated as “public crimes”, where the filing of a judicial complaint was automatic).

Prisons

CPT report

In July the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published its report on a visit, carried out in April 1999, to several police establishments and to Coimbra Regional Prison, Leiria Special Prison, Lisbon Central Prison and Oporto Central Prison (Custóias). This was accompanied by an Interim Report and Follow-up Report from the Portuguese Government. The CPT expressed particular concern about the level of inter-prisoner intimidation and violence at Oporto Central Prison - a point it had drawn to the attention of the Portuguese authorities in a previous report, published in 1998. The CPT found that the level of inter-prisoner violence had remained high, that drugs were widely available and that drugs-related problems there were “dramatic”. It also stated that staffing levels on the wings were inadequate. In consequence, the prison authorities were not in a position to guarantee the physical and mental well-being of prisoners and “prisoners minded to exploit their fellow inmates enjoyed a virtually free hand”. The CPT added that in all the establishments visited, the delegation received a significant number of accounts of ill-treatment of prisoners by fellow-inmates - principally beatings, often using sticks, metal bars and other objects - and intimidation.

The Interim and Follow-up Reports by the Portuguese government outlined a series of measures which had been undertaken to improve the general prison environment. These included measures to decrease overcrowding and increase custodial staff numbers, the conviction of two prison guards for drugs trafficking, improved medical facilities for drugs-dependent prisoners and - since issues relating to drugs were found to be a major cause of inter-prisoner violence - a tightening up of measures against drug trafficking in prisons. In addition, as the CPT had earlier expressed the belief that cells left open at night contributed to inter-prisoner violence, the Interim Report referred to Circular N° 6/GDG/97 of 4 August 1997, which stresses that the opening of cells at night is an exceptional measure, which has to be recorded,

with the motives set out.

New reports of deaths, ill-treatment and inter-prisoner violence

In August AI received allegations reinforcing concerns earlier expressed by the CPT about conditions at the Oporto prison of Custóias. One report described continuing abuse of power by custodial staff, who habitually and arbitrarily beat prisoners, kicking and punching them and hitting them with truncheons or other objects. It also referred to continuing prison guard passivity in relation to serious inter-prisoner violence, to daily and systematic sale of drugs and to lack of sanitary precautions.

In October AI also received reports that two prisoners had died at Custóias, one of them from a drugs overdose. In the same month AI’s attention was drawn to reports that the Judicial Police were investigating the deaths of two prisoners who had been killed on the night of 2 October in the prison of Vale de Judeus (Alcoentre), allegedly by two fellow inmates. One of those who died, Augusto Morgado Fernandez, had reportedly complained to the Court of Cartaxo about the illegal sale of mobile phones in the prison and had written to the Ombudsman that he was being “persecuted” at the prison and that he “feared for his life”. According to reports, this prisoner was stabbed 14 times with the end of a spoon that had been worked into a knife and part of his skull was crushed with an iron bar. Some reports implicated prison guards in the killings, either through negligence - because cell doors had been left open when they should not have been - or in relation to scams in which guards were implicated, involving the sale of mobile phones and tobacco.

Following the deaths at Vale de Judeus prison security was reinforced. A special anti-riot force under the responsibility of the Justice Ministry, was sent to Vale de Judeus, and some prisoners were reportedly beaten.

In November AI wrote to the government to express concern about the deaths and to ask what concrete measures were being taken to safeguard prisoners against violence either from members of anti-riot squads, from prison guards or from other prisoners. The organization also asked what steps were being taken to ensure that any security measures were not adopted at the expense of the basic rights of the prison population. AI asked to be informed about the outcome of the specific police and disciplinary inquiries into the killings of the two prisoners at Vale de Judeus

prison.²⁶

Police shooting

On 5 December a Public Security Police (PSP) officer shot Ângelo Semedo, a 17-year-old of Cape Verdean origin, in the Alto de Cova da Moura area. The circumstances of the shooting were disputed. He died later in the Hospital of Amadora-Sintra. According to the PSP, a patrol car was called to the area after receiving information that a car had been stolen, and the driver threatened with violence. Police officers pursued the alleged thieves, including Ângelo Semedo, on foot, and in the course of pursuit one officer fired five rubber bullets at him. He then reportedly fired two live bullets, one into the air and one towards the ground. This last shot allegedly hit Ângelo Semedo, possibly because the officer was running at the time he fired. A number of people witnessed the incident. The family of the victim alleged that the police officer fired two shots point blank into Ângelo Semedo's back while he was trying to escape.

Ill-treatment in police custody

In November a judicial investigation was opened into the alleged ill-treatment by PSP officers in Portimão of two French nationals, Nathalie Julien and her brother, Didier Eric Julien. They were reportedly beaten with truncheons and kicked by up to five officers following a dispute in a bar in the area of Praia da Rocha, in the early hours of Sunday, 4 November. According to a complaint lodged by Didier Julien, he was suddenly and violently hit with a truncheon on the right shoulder. He fell to the floor, where he was reportedly kicked by up to five officers. One officer then handcuffed him and placed him and his sister in a police car. At the PSP station Didier Julien tried to ask for explanations. The same officer who had handcuffed him, then allegedly struck him with a truncheon on his right shoulder,

²⁶A perceived deterioration in the situation in Portuguese prisons led, in October, to the setting up by the First Parliamentary Committee for constitutional matters, rights, liberties and guarantees of a working group to examine the general situation in the prisons. In addition, it was announced that a team from the Ombudsman's office would carry out a third inquiry - following those of 1996 and 1998 - into the state of the prisons. All 54 prisons would be visited in the course of the inquiry.

while he was still under restraint. The blow fractured his collar bone, according to medical reports. Although in great pain, he was not taken to hospital until about 4p.m. the following afternoon. While at the police station the two detainees were reportedly not allowed to make any phone call, or to speak with a lawyer, and were not told the nature of the charges against them. In her complaint against the police, Nathalie Julien claimed that she had been slapped and struck with a truncheon. A medical report referred to various haematomas and bruises. AI was monitoring the criminal investigation into the allegations.

Updates

In November AI wrote to IGAI to inquire, among other things, about several individual cases of alleged police ill-treatment. IGAI informed AI that the cases involving the deaths in, or following, police custody, of Álvaro Rosa Cardoso, Paulo Silva and António Mendes dos Santos (*Concerns in Europe: January-June 2000*, AI Index: EUR 01/03/00 and *Concerns in Europe: July-December 2000*, AI Index: EUR 01/001/2001 and recent reports) were still before the courts. In the latter case, the public prosecutor had requested that the investigation be closed on grounds of lack of evidence, but this was contested by the relatives of António Mendes dos Santos. In all three cases internal disciplinary procedures were formally suspended pending the results of the judicial investigations.

IGAI also told AI that, as a result of an investigation carried out by the agency into the conduct of a GNR unit in Anadia (AI Index: EUR 01/01/00, and recent reports) it had established that seven officers had either direct or indirect responsibility for the ill-treatment or illegal detention of several individuals.²⁷ Disciplinary measures were being undertaken. IGAI had informed the Attorney General's office so that a judicial inquiry could be opened, but a prosecutor had decided that the inquiry should be assigned to the Military Tribunal of Coimbra, and not to a civilian criminal court. In the case of Marco Fernandes (AI Index: EUR 01/01/00, and recent reports) two officers were the subject of disciplinary proceedings, which had been transferred from the Regional Command of the PSP of Madeira to IGAI by order of the Interior

²⁷These officers were members of a criminal investigation unit called the *Núcleo de Investigação Criminal* (NIC).

Minister. As a result two officers were each suspended from duty for 200 days. One officer appealed against the decision. At the same time a criminal investigation was still being carried out by the prosecutor attached to the Court of Funchal. Other cases had been closed on grounds of lack of evidence or, in one case, because the officers could not be identified.

Deontological code

A new deontological code of conduct for PSP and GNR officers was finalised by the end of the year.²⁸ Article 4 of the new code provides for police officers to have special regard to the physical and mental integrity, honour and dignity of persons in custody, to ensure that no act of torture is committed and no other form of punishment or cruel, inhuman or degrading treatment is carried out, and to ensure that prompt medical treatment is available whenever necessary.

Mission

In December an AI delegate visited Portugal to gather information.

ROMANIA

New reports of police ill-treatment and unlawful use of firearms

AI received numerous new reports of police ill-treatment during the period under review. Two cases resulted in death. In both cases the officers involved apparently had a record of complaints against them about ill-treatment of detainees.

Dumitru Grigoras, a 35-year-old father of four children, died on 7 July, in suspicious circumstances, in the R|chitoasa police station, in Bac|u county. The previous evening two police officers arrested him at his home, following a complaint by Felicia Grigoras, his wife, that he had been violent. As he was escorted to the car, Felicia Grigoras reported that she saw how the officers hit her husband on the back of his head and in the ribs. The police officers told Felicia Grigoras that she should come to the R|chitoasa police station the following morning. Later that evening, a man who lives

opposite the police station heard the officers shout: "Tell me! By morning I will have killed you anyway". He then observed an officer come out of the station and tell two guards: "Get lost and watch after places where burglaries might take place!" The following morning the body of Dumitru Grigoras was brought to the local surgery. The nurse on duty was reportedly told that Dumitru Grigoras suddenly became ill in the police station while giving a statement.

Felicia Grigoras and her father-in-law were allowed to see the body only two days later. They were told that a *post mortem* examination had been carried out on Dumitru Grigoras on 7 July at the Bac|u Department of Forensic Medicine, which established that his death was caused by "multiple organ insufficiency" resulting from "an acute haemorrhagic pancreatitis" (an acute inflammation of the pancreas with bleeding). However, when they saw that Dumitru Grigoras's head and body were covered with bruises and other injuries they refused to take away the remains of the deceased, demanding that a second autopsy should be performed. Following their repeated appeals, the Prosecutor's Office agreed that a second autopsy should take place in Iasi on 31 July. The results of this examination were in apparent contradiction with the initial findings, as it established that the deceased had also suffered a "pulmonary embolism". In October it was reported that two police officers who interrogated Dumitru Grigoras had been arrested pending an investigation.

An article published on 25 July in *Ziua*, a Bucharest daily newspaper, brought to light another report of torture of a minor by a police officer in Romania (for other reported cases in 2001 see AI Index: EUR 39/005/2001 and AI Index: EUR 39/009/2001). This incident took place on an unspecified date in July, in Hidiselu de Sus, a village some 12 kilometres southeast of Oradea. Florin Popa, who is 13 years old, and another boy were reportedly asked by a woman, who lives in their neighbourhood, to help her carry several pails of water. Later this woman claimed that after the boys left her house, she discovered that a bag containing 2,000,000 lei (approximately US\$ 70) was missing. She subsequently complained to the police and the two boys were brought to the local police station for questioning. During the interrogation, Sergeant Major X²⁹ of the local police force, reportedly beat

²⁸"Código Deontológico do Serviço Policial"

²⁹The identity of police officers mentioned in this report is known to AI.

Florin Popa with a truncheon in order to force him to admit to the theft. Afterwards, Florin Popa also stated that in the course of his detention at the police station, lasting several hours, he had been handcuffed to a chair and some iron bars. The *Ziua* article also reports that other residents of Hidiselu de Sus also complained that this officer was violent and "that his conduct could be brutal". Bogdan Rosu, the forensic medical specialist who examined Florin Popa following his release, reportedly stated that the minor had multiple bruises on his body, particularly on the buttocks and the back, caused by a hard long object in the form of a truncheon. On 23 July, Florin Popa's parents filed a complaint with the Military Prosecutor.

In October AI wrote to the Romanian authorities urging them to initiate prompt and impartial investigations into a number of ill-treatment incidents of youths in Sighisoara. The reported ill-treatment took place during a summer festival which was organized from 27 to 30 July, when many young people visit cafes or socialize in the streets of the old town late into the night.

According to a report published by the Romanian Helsinki Committee, a local human rights organization, on 28 July, at around 5.30am a large group of gendarmes in black uniforms came to the Doticom café and apprehended and reportedly beat Florin Moldovan, who is 27 years old, and his brother Rares Moldovan, who is 21 years old. They also arrested Florin Lujerdean, who is 23 years old, and Florin Nițu, who is 18. Three other youths, Lucian Chisiu, who is 17, Sorin Adrian Moraru, who is 19, and Cosmin Rotariu, who is 23 years old, had been apprehended earlier. The seven youths were then taken to the police station where they were reportedly hit with truncheons as they passed between two lines of gendarmes and police officers, comprising between 15 and 20 men. The beating continued in the entrance hall of the station and lasted between 10 and 15 minutes.

Those detained were denied the right to contact their parent or a lawyer. Cosmin Rotariu, who had reportedly been severely beaten at the time of his arrest, felt ill but his request to go to the toilet was also denied. When he urinated blood he was reportedly told that the guard could not provide him with any assistance.

Florin and Rares Moldovan were the first to be released at around 8am, without being charged with any offence, and were refused any information regarding the grounds for their arrest. They were both subsequently examined by a forensic medical expert who issued certificates describing the injuries which

they had suffered as a result of the reported police ill-treatment. Both filed complaints about the ill-treatment with the military prosecutor. Florin and Rares Moldovan were later charged with assaulting a public official (defined by the Romanian Penal Code as "outrage") under Article 239 of the Penal Code. In Romania, such charges are often pressed, as a form of pressure and intimidation of those who complained about police ill-treatment.

At around 8.30am Sorin Adrian Moraru was taken by officer L. out of the holding cell and into an office where he was reportedly hit on the head with a baseball bat making him fall to the ground. He was then reportedly taken by the neck, raised to his feet by another officer, while two gendarmes lowered his shorts and held him by the legs. Officer L. then reportedly hit Sorin Adrian Moraru in the testicles. When he was released later that morning Sorin Adrian Moraru refused to sign a report concerning a fine with which he had been issued. Officer O. then reportedly took his hand by force and made him sign the report in a way which he does not recognize as his signature, made of his own free will. Fearing further police ill-treatment he did not file a complaint to the military prosecutor or appeal the fine. Several days after the incident he saw officer L. who reportedly told him "You better not do anything which would force one of us to leave Sighisoara". Cosmin Rotariu was released at 9.30am and taken to the municipal hospital where he was treated for 10 days for "trauma to the right side of the back with blood in urine". Two days following his admission to the hospital he was visited by two police officers named who reportedly told him that Sorin Adrian Moraru and Lucian Chisiu had testified that Cosmin Rotariu had been beaten by Marius Curcu. Cosmin Rotariu denied this but the officers reportedly insisted that he write a statement which they formulated on his behalf to the effect that he had not been beaten at the police station. Cosmin Rotariu later revoked this statement before a military prosecutor, who has reportedly begun an investigation into the incident.

Lucian Chisiu, Florin Nițu and Florin Lujerdean were released at around 10am. Even though he is a minor, Lucian Chisiu's parents had not been contacted by the police about his arrest and detention.

Another incident took place two days later at the closing of the summer festival. After the fireworks display 15 gendarmes and police officers came to the Doticom and reportedly indiscriminately beat the youths present there. Some were thrown to the ground

and prevented from moving by officers who applied pressure to their necks with their boots. A group of around 15 youths was then taken to the police station and released half an hour later without being charged.

Abolition of Article 200 of the Penal Code

In December the Romanian parliament adopted into law the emergency ordinance which abolishing Article 200 of the Penal Code. This criminal offence, *inter alia*, penalized homosexual consensual relations “if the act was committed in public or provoked public scandal”. Paragraph 5 of this article made it an offence, punishable by a sentence of one to five years’ imprisonment, “to entice or seduce a person to practise same-sex acts, as well as to form propaganda associations, or to engage in other forms of proselytizing with the same aim”. AI had been campaigning for the revision of this law, under which prisoners of conscience had been held, since 1993.

Prosecution of conscientious objectors to military service

Fourteen conscientious objectors who were convicted in 2000 and given suspended sentences appealed to the Prosecutor General of Romania to file on their behalf an extraordinary appeal to annul their convictions (*recurs in anulare*). These objectors are part of a larger group of Jehovah’s Witnesses who had refused to perform alternative service because of their reservations about its length and nature, and on the grounds that the law exempts from military service ordained ministers of recognized churches. However, the General Prosecutor initiated a different extraordinary procedure (*recurs în interesul legii* -appeal in the interest of the law) asking the Supreme Court to find that the Military Court of Appeals proceeded correctly when it convicted the 14 conscientious objectors. In a significant number of other cases the Military Court of Appeals had acquitted conscientious objectors on the ground that their refusal to perform alternative service could not be interpreted as failure to report for recruitment, an offence provided for under Article 354 (2) of the Penal Code. All of the prosecuted conscientious objectors had been charged under this law. On 15 October the Joint Session of the Supreme Court ruled that failure to report for alternative service is not provided for in the Penal Code. It is not clear, however, how this ruling would apply to the convicted 14 conscientious objectors who have also appealed to the European Court of Human Rights.

R U S S I A N F E D E R A T I O N

Chechnya - continuing violence against civilians

Russian security forces continued to commit violations of international human rights and humanitarian law largely with impunity in Chechnya. From October-December 2001 Russian forces stepped up military raids (in Russian, “*zachistka*”) of populated areas in Chechnya and committed serious human rights violations, some of which may be categorized as grave breaches of the Geneva Conventions. The reason for this escalation may be simply a tactical military decision on the part of the Russian authorities, but it is impossible to ignore this intensification in light of the post-11 September 2001 environment. Russia has supported military action in Afghanistan and the wider campaign against “terrorism”, while international criticism of human rights violations in Chechnya has been substantially muted.

Abuses of human rights and humanitarian law were not limited to the Russian side; Chechen fighters repeatedly targeted civilian members of the pro-Moscow administration in armed attacks that resulted in dozens of fatalities and serious injuries. Further, Chechen fighters, operating in and around populated areas exposed the civilian population to cross-fire and concomitant fatalities and injuries.

Raid on Sernovodsk

On 2 July Russian security forces raided the town of Sernovodsk, located near the border with Ingushetia. The raid was triggered following the detonation of a remote-controlled mine that reportedly killed five Russian servicemen. During the operation, Russian security forces reportedly detained several hundred persons and subjected them to torture and ill-treatment. According to reports, those persons who were unable to pay a ransom for their release were taken to a field on the village outskirts, blindfolded and forced to lie on the ground. These detainees allegedly included a 90-year-old man, two women and several children. Some of the detainees claimed that they were tortured with electric shocks and stated that the soldiers set trained attack dogs on them. Most of the detainees were released later that night but approximately one hundred

others were taken to a temporary detention facility in the town of Achkoi-Martan.

The fate and whereabouts of at least six persons - 22-year-old Aпти Isigov, 28-year-old Zelimkhan Umakhanov, two brothers with the surname Bataev, and two brothers with the surname Musaev - remain unknown. Relatives searched in vain for news as to their fate at different military bases and detention facilities. Russian security forces reportedly denied any knowledge of detaining these men, even though the names of at least two of the detainees, Aпти Isigov and Zelimkhan Umakhanov, were on a list of detainees held at Achkoi-Martan temporary police station. Further, the brother of Aпти Isigov, Rustam Isigov, was reportedly detained along with his brother and reportedly stated that a Russian officer took his brother away. Similarly, Zelimkhan Umakhanov's brother, Dzhabrail Umakhanov, was also detained along with his brother and witnessed how soldiers put him into an Armoured Personnel Carrier.¹⁴

Raid on Assinovskaia

On 3 July 2001, apparently also in connection with the explosion in Sernovodsk, Russian security forces launched a raid on the town of Assinovskaia.

During the raid, Russian security forces reportedly detained over 300 local residents, primarily men, and took them to a disused farm building on the outskirts of the village. Russian forces reportedly blindfolded the detainees and forced them to lie on the ground for several hours. Many of these detainees reported being subjected to prolonged beatings by Russian security forces. Others reported witnessing detainees being tortured with electric shocks.

In the village itself, Russian security forces engaged in looting and destruction of homes and buildings, including the local hospital and a school. On this occasion, all the detainees were reportedly later released from custody.

Torture and ill-treatment, extra-judicial executions and "disappearances" in Tsotsin-Yurt

In multiple raids beginning in October 2001 until the end of the year, Russian security forces returned

repeatedly to the village of Tsotsin-Yurt, ostensibly in search of Chechen fighters alleged to be sheltering there. During the course of these raids, Russian security forces subjected the villagers, including those not involved in the hostilities to torture, including rape, ill-treatment, extrajudicial executions, and "disappearance". Russian security forces also engaged in acts of looting and arson. Tsotsin-Yurt was by no means the only village to be targeted for raids during this period. Similar punitive raids were also recorded in the villages of Starye Atagi and Argun, among others.

In July 2001, apparently in response to international criticism of Russian security forces' conduct during raids, the general prosecutor of the Russian Federation issued Order No. 46 that required the presence of prosecutors during raids by Russian forces in Chechnya. However, despite the reported presence of prosecutors during at least one of the raids on Tsotsin-Yurt, their presence appears neither to have had any mitigating effect on the soldiers' conduct nor to have led to any prosecutions for violations of international human rights or humanitarian law.

The events of 7-10 October 2001

On 7 October, Russian forces surrounded the village of Tsotsin-Yurt, and proceeded to raid it the following day. One of the villagers, Amkhat Vakhaev, told AI he could hear the screams of his neighbour, Aset Artsoeva, after soldiers entered her house and began to beat her 50-year-old husband, Aiub and 15-year-old son Said-Magomed. Amkhat Vakhaev told AI that Aset Artsoeva was struck by a rifle butt on the back of her neck, knocking her unconscious and that the soldiers had taken her husband away.

When a group of neighbours, that included Aset Artsoeva and Amkhat Vakhaev, began to gather outside the Artsoevs' house and demanded that the soldiers explain why Aiub Artsoev had been taken away, soldiers threatened to shoot them. The group reportedly approached the soldiers, one of whom opened fire with a rifle-launched grenade. Although the grenade did not explode, Amkhat Vakhaev stated that his 25-year-old wife, Birlant Dzhonalieva, who was carrying their seven-month-old baby in her arms, was hit by the grenade and seriously wounded on the lower left side of her stomach. Amkhat Vakhaev's 15-year-old cousin, Tseda Artsoeva was also struck by the grenade, which hit her on her side.

Aiub Artsoev returned to the village on or about 10 October in a badly beaten state. Amkhat Vakhaev stated

¹⁴ See, Human Rights Watch, *Swept Under: Torture, Forced Disappearances, and Extrajudicial Killings During Sweep Operations in Chechnya*, February 2002, p. 31.

that the soldiers took Aiub Artsoev to a field between the villages of Kurchaloi and Mairtup and beat him, breaking his arms and ribs. Amkhat Vakhaev stated that the soldiers tortured Aiub Artsoev with electric shocks; they reportedly made incisions on both of Aiub Artsoev's legs and inserted live electric wires. The soldiers reportedly tried to force him to admit possessing weapons in his home. The soldiers reportedly left him in the field where a woman from Tsotsin-Yurt found him and brought him back to the village. Amkhat Vakhaev also stated that Aiub Artsoev's head was visibly swollen from the beatings.

*The events of 12 October 2001 -
the case of Magomed and Akhmed Mutaev*

Razet Mutaeva told AI that on 12 October, Russian forces again raided Tsotsin-Yurt. Razet Mutaeva told AI that her eldest son, 22-year-old Akhmed, and her husband, 49-year-old Magomed, were badly beaten when soldiers came to their house. Razet Mutaeva told AI that the soldiers accused the family of being connected with Osama bin Laden, after they claimed to have found a communication equipment manual in the house. Razet Mutaeva alleges that the manual was planted by the soldiers during their search. She told AI the soldiers beat her son, breaking his ribs and also beat and kicked her husband in front of her.

Soldiers then reportedly tied Akhmed and Magomed Mutaev's hands and took them to the edge of the village, where they subjected them to further torture and ill-treatment. Razet Mutaeva told AI that the soldiers broke her son's nose, beat him with a hammer and poured petrol over him in an attempt to force to say that he owned the communications equipment manual. Akhmed and Magomed Mutaev were later released and the family has since left the village. As of this writing, AI is not aware of any official investigation into this case.

The events of 30 December - 7 January 2002

On 30 December 2001, reportedly in pursuit of two fighters, Russian forces surrounded the village and blockaded a house into which the fighters had run. During an ensuing gun battle, the two fighters were killed and three civilians, Musa Ismailov, Idris Zakriev and Khamzat Israilov, were wounded. Soldiers reportedly detained the three wounded men and later executed two of them: the mutilated bodies of Musa Ismailov and Idris Zakriev were found by village elders.

The fate and whereabouts of Khamzat Israilov remain unknown.

Soldiers reportedly beat Malika Ustrakhanova outside the house where she was staying and took her, carrying her young baby, along with the other villagers to the village outskirts. Over 100 villagers, including Malika Ustrakhanova, spent the night outside in sub-zero temperatures. Soldiers reportedly beat these villagers, including Malika Ustrakhanova, hitting her on the back and on her hands, demanding that she reveal the location of fighters.

The soldiers permitted some of the men, who had been taken to the village outskirts and beaten, to return home on 1 January 2002. Others were reportedly taken away and "disappeared". The villagers named at least seven "disappeared" men: Shaikh-Akhmed Magomadov, aged 25; Alkhazur Saidselimov, aged 23; the Baisultanov brothers Khanpash, aged 33, Akhmed aged 39 and Suleiman aged 27; Salamu Mazaev aged 42; and Khamzat Israilov aged 32. The brother of Khamzat Israilov, Abbas, was reportedly detained by Russian authorities at the temporary police station at Kurchaloi on 5 January when he went there to seek the whereabouts of his brother. On 7 January 2002, villagers discovered three bodies, badly disfigured by explosives near a neighbouring village; they were able to identify one body, that of Alkhazur Saidselimov, by his clothes.

Ethnically motivated violence

In addition to reports of ill-treatment and arbitrary arrest by police of persons based on their ethnic appearance, AI continues to receive reports of ethnically motivated violence by non-state actors in Moscow, St. Petersburg and other cities across the Russian Federation. The victims are commonly dark-skinned students from Africa or persons from the Caucasus, including ethnic Chechens. These persons expressed the view that the authorities did little to address the climate of impunity enjoyed by the perpetrators of these attacks. Some victims, particularly refugees whose identity documents are often not accepted as valid by police, reported to AI that they were reluctant to report racially motivated attacks out of fear that police would subject them to harassment and attempt to extort money from them. In several cases documented by AI, police investigators were reluctant to classify the attacks as racially motivated, reportedly insisting that the victim state the perpetrators were drunk.

In July 2001, the Moscow-based Protestant-Catholic Task Force on Racial Attacks and Harassment reported numerous unprovoked and apparently racially-motivated attacks in Moscow on African students by groups of "skinheads"¹⁵ and football supporters. The Task Force concluded that the attacks were more likely to occur when the victim was alone, and especially in remote parts of the city. The group further reported that, of the victims interviewed, most had been attacked on between three and five occasions.

*The case of "Joseph Peter"*¹⁶

On 16 June a group of 15-20 "skinheads" severely beat Sudanese Ph.D. graduate, "Joseph Peter" with metal bars in a park near the hostel where he lived. "Joseph Peter" and a female Russian friend had been filming with a video camera beside a pond when the "skinheads" attacked and beat them, pushing "Joseph Peter" into the pond. Afraid the group would try to drown him, and seeing other "skinheads" running towards them, "Joseph Peter" tried to get out but was again beaten. During the assault, he was able to film some of his attackers before the camera was hit and damaged.

Following the intervention of a female passer-by, "Joseph Peter" was able to go home and call an ambulance which took him to hospital. Doctors diagnosed that he had suffered a broken rib and cerebral concussion. He was later hospitalized for a week in a different hospital where he received treatment for severe stomach pains related to the attack.

"Joseph Peter" submitted a written statement about the assault to the duty police officer at his local police station for Kuzminki/Liublino districts. Thereafter, three police officers came to "Joseph Peter's" hostel and told him that in order to investigate the case further, he would have to sign a statement which significantly changed the details of the case, removing allegations of

a racial motive: the officers reportedly insisted he write a new statement, that stated his attackers were drunk and this instigated the assault. The police, "Joseph Peter" said, intimated that otherwise they would not investigate the case further.

Upon viewing the video tape he had made during the attack, "Joseph Peter" noticed that it clearly depicted the faces of three of his attackers. He took his only copy to the police station. Officers there viewed the tape in his presence and reportedly promised to take some still photographs off the tape and to return the cassette to him within two weeks. However, on 4 September, when he went back to the police station to enquire as to the status of the investigation, "Joseph Peter" was told that the investigation had been closed but was now being reopened. The investigator again reportedly insisted that "Joseph Peter" state that his attackers were drunk. "Joseph Peter" later signed a version of events written by police, marking it where he disagreed with the officers' conclusions. Police have not returned "Joseph Peter's" video tape. As of this writing, no-one has been arrested in connection with this incident.

In another attack, on 23 August, a gang of teenagers attacked six African asylum-seekers with baseball bats and broken bottles outside a refugee centre sponsored by the United Nations High Commission for Refugees (UNHCR) in north-eastern Moscow. The youths beat one of the six, 35-year-old Massa Mayoni, from Angola unconscious. On 5 September, he died in Moscow's Botkin hospital as a result of his injuries. On 20 November, police reportedly arrested a 15-year-old "skinhead" in connection with the killing and sought at least one other individual. Following a second autopsy, the prosecutor investigating the case reportedly concluded that Massa Mayoni's injuries were sustained as the result of a fall, and not in the attack. This version is inconsistent with eyewitness testimony.

A representative of the UNHCR in Moscow reportedly condemned the attack and called on the police, authorities in Moscow and the government to address the increasing number of attacks on ethnic minorities in the city.

On 30 October, approximately 300 male youths aged between 14 and 20, including many "skinheads", reportedly raided a market in southern Moscow near Tsaritsyno metro station. The mob attacked mostly dark-skinned vendors, many of whom were from the Caucasus, with metal bars, and reportedly killed an ethnic Armenian man, 37-year-old Vartan Kulidzhanian

¹⁵ The term "skinhead" is used to denote those who literally shave their heads and are affiliated by their dress and political stance to extreme right-wing groups that openly embrace ethnically discriminatory policies and symbols of the Nazi movement. The Russian group, *Rossiskoe Natsionalnoe Edinstvo*, or Russian National Unity is one of the most high-profile of these groups.

¹⁶ Not his full name.

on the spot. An ethnic Indian man, Kumar Sharma Provid, reportedly beaten unconscious during the attack, later died in hospital. Approximately 150 youths went to Kakhovskaia metro station and proceeded towards the Sevastopol hotel, an area known for its Afghan community. In the ensuing violence by the hotel, the mob reportedly beat unconscious an 18-year-old ethnic Tajik man, Karam Dzhanmamedov, who later died in hospital from his injuries. In both incidents, police officers present reportedly fired their weapons in the air in an attempt to disperse the crowd. A total of 22 persons were reported injured in the attacks. That evening, police reportedly detained large numbers of youths suspected of involvement in the attacks, but released the majority after questioning. On 5 November, the Interfax newsagency reported that charges of murder had been brought against a 17-year-old male for the attacks by Tsaritsyno metro station and that others had been identified and were being sought.

Prisoner of conscience

Grigory Pasko

Grigory Pasko, a journalist and naval captain, was arrested in 1997 after exposing the Russian navy's illegal dumping of nuclear waste; he was accused of passing classified documents to Japanese news media. In July 1999, Grigory Pasko was acquitted of the treason charges, but was found guilty of the lesser offence of abusing his position and sentenced to three years of imprisonment; the court immediately released him under general amnesty. However, the prosecution appealed this verdict, and in November 2000, the Military Collegium of Russia's Supreme Court ordered a re-trial which began in July 2001. The public, including the media, were excluded from the trial which was held before the Military Court of the Pacific Fleet.

On 25 December, Grigory Pasko was sentenced to four years in a labour camp following conviction in a re-trial for intending to distribute information that would "harm the battle readiness of the Pacific Fleet".

Following Grigory Pasko's conviction by the Military Court of the Pacific Fleet, AI adopted him once more as a prisoner of conscience and called for his immediate release.

Politically-motivated persecution of an independent journalist

Olga Kitova

In December, a Belgorod court convicted Olga Kitova, an investigative journalist at the newspaper *Belgorodskaja Pravda* and former member of the Belgorod parliament, on charges of slander and insulting or threatening an official. The charges related to the publication of articles she had written in which she alleged official corruption in connection with a rape case. In the articles, she alleged that law enforcement officials had falsified a rape charge against six students. The family of the rape victim complained to the authorities who brought the prosecution.

Olga Kitova was first detained in March 2001, reportedly for failing to respond to a summons for questioning on charges of interfering in a criminal investigation, slander and defamation. She alleged that police officers who took her to the local procurator's office beat her. Released later that day for medical treatment, hospital doctors treated her for high blood pressure, bruises and other injuries to her head and arms.

Olga Kitova was again detained in May 2001 and additionally charged with insulting and using force against, or threatening, an official. She was immediately hospitalized following her arrest after reportedly suffering a heart attack and remained in hospital until 8 June. Her trial, on charges of slander and insulting and using force against, or threatening, an official began in October after the Belgorod parliament voted to strip her of her parliamentary immunity. On 20 December she was convicted and given a suspended sentence of two-and-a-half years, banned from seeking public office for three years, fined 20,000 rubles (approximately US\$680) and ordered to pay 25,000 rubles (approximately US\$850) moral damages to the family of the rape victim.

Freedom of expression

The dispute over ownership of television and radio media outlets and the closure of one independent national television station, owned by critics of President Putin and renowned for critical reporting of government actions (including the armed conflict in Chechnya) raised concerns as to limits on the fundamental right to freedom of expression.

In April 2001, the partially state-owned gas giant, Gazprom, forcibly took over the Media-Most group, owned by Vladimir Gusinsky. Media-Most ran the independent television station, NTV; the national daily

newspaper, *Sevodnia*; the weekly news magazine, *Itoji*; and the radio station, *Ekho Moskvy*. Each of these entities was noted for its popularity and criticism of the authorities. Following the takeover, Gazprom promptly fired the editorial staff of *Itoji* and closed down *Sevodnia* altogether. It further replaced the board and executive director of NTV, prompting large numbers of staff to leave *en masse* to work at TV-6, a smaller national independent television company in protest. At year's end, the future of *Ekho Moskvy* remained uncertain; editorial staff were reportedly considering leaving in protest at Gazprom's majority share in the station.

The subsequent closure of TV-6, owned by Boris Berezovsky, a high-profile opponent of President Putin, was widely viewed as being politically motivated and linked with the closure of NTV. The minority shareholder in TV-6, the pension fund Lukoil-Garant, itself a subsidiary of Russian oil giant Lukoil in which the Russian government maintains a stake, successfully fought a court battle to close the station, citing its lack of profitability. A Moscow court ordered the closure on 11 January 2002.

Before its takeover by Gazprom, NTV had distinguished itself by its critical reporting of the conflict in Chechnya. AI is concerned that the takeover of Media-Most and the closure of TV-6 were motivated by political reprisal and that the moves were a punitive measure designed to curtail the fundamental right of freedom of expression.

Further concerns about freedom of expression and association

The so-called "spy cases" continued to elicit concern about threats to freedom of expression and of association. In echoes of the case against environmentalist Aleksandr Nikitin¹⁷, the Federal Security Service (FSB) appeared to subvert the law to secure or attempt to secure treason convictions against individuals for divulging information already in the public domain.

In June, Russian media reported the leaking of an internal directive by the presidium of the Russian Academy of Sciences that required scientists, among

other measures, to report all contact with foreign persons and organizations. The reported goal of the directive was to prevent classified information from being leaked abroad. The directive further requires scientists to inform the Academy of any international cooperation agreements signed by their institutes and of research grant applications to foreign sources, to report on all research trips abroad and to provide copies of research articles for publication in foreign journals. In the current context of several pending "spy-cases" the leaked directive appears aimed at chilling the fundamental right to freedom of expression and of association.

The case of Valentin Danilov

On 16 February 2001, police arrested scientist Valentin Danilov, Head of the Thermo-Physics Centre at Krasnoyarsk State Technical University, on charges of attempting to sell classified information on satellites to a Chinese company. According to reports, the state ceased funding of Valentin Danilov's research in 1992 whereupon it was declassified. Twenty of Valentin Danilov's colleagues reportedly wrote to the authorities in support of this claim, stating that the information had long been available in publicly-available scientific literature.

Despite suffering a heart-attack in custody along with other health problems, Russian authorities refused to release Valentin Danilov from pre-trial detention. The trial, which began on 9 October 2001 and is closed to the public, was ongoing at time of writing.

AI is concerned that, since the trial is closed, any procedural violations will not be open to public scrutiny. AI is also concerned at allegations that Valentin Danilov is being prosecuted for the peaceful exercise of his fundamental rights to freedom of expression and association.

The case of Igor Sutiagin

Igor Sutiagin worked as a researcher at the Moscow offices of the U.S. and Canada Studies Institute, and lived in the city of Obninsk, Kaluga region in Russia. He also worked for a company named Alternative Futures. In June 1999 he helped coordinate the logistics of a visit by U.S. national and Princeton University Ph.D. student, Joshua Handler. On 27 October 1999, officers from the FSB searched Igor Sutiagin's apartment in Obninsk and office at the U.S. and Canada Studies Institute in Moscow. That day the FSB also searched

¹⁷ See, Amnesty International, *Federal Security Service (FSB) versus Prisoner of Conscience Aleksandr Nikitin: Return to Soviet Practices*, AI Index: EUR 46/42/96, September 1996.

Joshua Handler's apartment in Moscow. On 29 October, FSB officers arrested Igor Sutiagin on suspicion of treason and transferred him to Kaluga prison. On 5 November, he was formally charged with treason. That same day, Joshua Handler was reportedly forcibly "encouraged" to leave Russia, although he was not formally deported.

The FSB focussed its investigation on Igor Sutiagin's work on a project on civil-military relations, reportedly initiated by two Canadian universities. According to Igor Sutiagin's lawyers, the case against him rests on assertions that information possessed by Igor Sutiagin could not have been from public sources. Reportedly, however, Igor Sutiagin did not have access to classified information. The trial began on 26 February 2001 at the Kaluga regional court and lasted until 27 December 2001. On 27 December the court ruled that the prosecution had failed to present enough evidence to convict Igor Sutiagin and, rather than acquitting him, sent the case back for further investigation. The court ordered Igor Sutiagin to remain in pre-trial detention until the next hearing.

AI is concerned at the apparent lack of evidence presented by the prosecution and calls for the release of Igor Sutiagin from pre-trial detention, under a written guarantee not to flee as provided for under Russian law.

The case of Valentin Moiseev

In July 1998, Russian authorities arrested former diplomat, Valentin Moiseev, on espionage charges. His arrest followed the expulsion from Russia of South Korean diplomat, Cho Sung-woo. The FSB claimed that Valentin Moiseev had passed secret documents to Cho Sung-woo. However, Valentin Moiseev's lawyers claimed that the documents were merely a copy of a speech he had previously delivered in public. In December 1999, Valentin Moiseev was sentenced to 12 years' imprisonment. On appeal, the Supreme Court ordered a re-trial. The re-trial culminated in a second guilty verdict and a sentence of four-and-a-half years' imprisonment on 14 August 2001. AI is concerned at allegations made by Valentin Moiseev's lawyer, Yuri Gervis, that during both trials, Valentin Moiseev was not permitted to read the charges against him, since the charges themselves contained secret information. The Russian Supreme Court upheld the verdict of the re-trial in January 2002.

Legal developments

In November, the State *Duma* (parliament) approved a new Code of Criminal Procedure which sanctioned the introduction of jury trials from January 2003 in all regional courts for crimes classified as "very grave" such as murder and rape. The new code also transfers authority for issues that include the signing of arrest and search warrants, and the ordering of pre-trial detention for defendants from prosecutors to the courts from 1 January 2004.

On 28 December, President Putin abolished the Presidential Clemency Commission, headed by Anatoly Pristavkin and announced the establishment of regional clemency commissions under the authority of regional governors and administrations. The move raised concerns that an important safeguard for victims of Russia's dysfunctional penal system had been closed and that the regional commissions may be less independent. Anatoly Pristavkin was later appointed advisor on pardons to President Putin.

The death penalty

A 1999 ruling by the Constitutional Court had banned the imposition of death sentences by judges until the jury trial system had been introduced throughout the Federation; jury trials at the time were available in only nine of the Federation's 89 regions. Despite President Putin's outspoken opposition to the death penalty, the introduction of jury trials in regional courts raised questions as to the continuing implementation of this moratorium on executions and ban on the imposition of death sentences.

AI continues to urge the Russian government to abolish the death penalty in law and to ratify Protocol 6 of the European Convention on Human Rights and Fundamental Freedoms.

Conditions in detention

Despite the implementation of an amnesty (see below), prisons in Russia continued to be overcrowded and rife with infectious disease. Conditions in detention in many pre- and post-conviction facilities were so poor that the conditions themselves in many cases amounted to torture and ill-treatment.

According to information from the Moscow office of the NGO, Penal Reform International (PRI), as a result of an amnesty in 2000, Russia's prison population fell in 2001 from 1,009,432 on 1 January to 870,805 by 31 December. While the number of male

prisoners fell significantly - from 712, 257 to 597,432 - the number of pre-trial detainees remained high; falling from 236,481 to 211,986. Similarly, the number of women in prison barely changed, falling from 43,504 at the beginning of the year, to 42,719 at year's end.

Disturbingly, the official number of inmates living with HIV/AIDS more than doubled during the year. Of the more than one million inmates at the beginning of 2001, 15,102 were registered as living with HIV/AIDS, 1.5% of the total prison population in Russia. By 31 December 2001, although the prison population had fallen to 870,805, a total of 33,664 persons, or nearly 4% of the total, were registered as living with HIV/AIDS.

Similarly, the number of prisoners suffering from tuberculosis rose, despite the overall fall in the prison population. PRI recorded that as at 1 January 2001, 83,100 prisoners and detainees were registered as suffering from tuberculosis, whereas at 31 December 2001, the recorded figure was 92,201.

SLOVAK REPUBLIC

Report of the European Committee for the Prevention of Torture

On 6 December 2001 the Government of the Slovak Republic permitted the publication of *The Report to the Government of the Slovak Republic on the visit to Slovakia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 9 to 18 October 2000, and Response of the Government of the Slovak Republic*. The CPT delegation visited a number of police establishments, including a detention centre for foreigners, prisons and social services homes.

It received a number of allegations of ill-treatment of criminal suspects by police officers in detention centres, including physical assault (kicks and blows with fists, batons and other objects), severe beating or being bitten by police dogs. The records examined in the prisons visited revealed that numerous persons upon their admission to prison - including most of those interviewed by the delegation who alleged ill-treatment by police officers - had displayed injuries consistent with allegations of ill-treatment made by them. At the outset of their custody, before being placed in police cells, many detainees are required to

stay for hours, and sometimes overnight, in a corridor or office, frequently handcuffed to furniture and, allegedly, sometimes without being offered a chair. Many detainees complained that their request to see a doctor had been refused. At the Bratislava Police Headquarters, immigration detainees could be held for up to 30 days without being allowed to see a doctor. The CPT also expressed concern that persons detained under aliens legislation were being held in an inappropriate facility for nearly one month before being transferred to detention centres designated for immigration detainees.

The CPT delegation visited two prisons. It heard allegations of ill-treatment of inmates by staff, such as "rough treatment, blows and pulling by the hair (mostly during cell searches performed by masked officers), slapping and strip searches with inspection of bodily orifices". The majority of prisoners at Bratislava Prison spent the bulk of their time locked up in overcrowded cells and their quality of life was described as very poor. Regarding the provision of health care services, the CPT indicated that the staffing levels "remained inadequate in some respects", and that efforts need to be taken to ensure the provision of such services at night and over the weekend. The CPT also indicated the need to revise and limit the list of authorized means of coercion.

The CPT noted that the situation of certain residents in the social services homes visited "could be said to amount to inhuman and degrading treatment", particularly of residents regarded as "difficult" (those demonstrating severe disability of disorder, and persons with severely impaired mobility). Among other issues, the CPT noted inadequate staffing levels, the manner in which psychotropic drugs were sometimes used, the use of net-beds and seclusion. "The placement in net-beds of certain residents could extend over several months. [...] The delegation saw one such bed occupied by a woman with severely impaired mobility said to be 'in danger of falling down'; the woman was covered with flies." The delegation came across a seclusion cell that "was devoid of lighting fixtures, but had a metal-bar door which allowed some light in from an anteroom. Its walls were stained with faeces. The woman was apparently taken out two or three times a week to be bathed. The establishment's psychiatrist and other staff indicated that she had been held in the seclusion cell for some six months, but were unable to specify the exact date when she had been placed in the cell."

The CPT called upon the Slovak authorities to

review the situation and take appropriate remedial action, positively noted some legislative initiatives but also expressed its view that the envisaged measures be implemented without delay.

Death in custody of Karol Sendrei

The reported torture of three Romani men, one of whom died in suspicious circumstances, in the police station in Revúca in July, dramatically confirms that police brutality documented by the CPT is a pernicious human rights problem.

Karol Sendrei and his two sons, Robert and Peter, were arrested on 5 July in Magnezitovce, following an incident in the mayor's court yard. The mayor's son, who is a police officer, reportedly ill-treated one of Karol Sendrei's sons the previous day. When Karol Sendrei came to complain about this, he was reportedly assaulted by the mayor and the police officer. Robert Gunar and Peter Sendrei arrived at the mayor's house shortly before several police officers who arrested them, along with their father, and reportedly beat them. The officers also allegedly hit Karol Sendrei's wife when she asked them to stop the beating.

Karol and Peter Sendrei and Robert Gunar were initially taken to the police station in Jelsava where the beating reportedly continued. They were later examined by the doctor on duty in a hospital in Revúca who was said to have established that the detainees "had not suffered any serious damage to their health". The three men were then taken to the Revúca police station where they were reportedly handcuffed to an iron bar fixed to the wall and intermittently beaten during the night. One officer reportedly put his gun against Karol Sendrei's head and said "you old stinking animal, should I shoot now? No, it would be a waste of a bullet."

"My brother and I noticed that our father was not moving and we called the police officers," stated Robert Gunar. "They approached us and when they realized that we were saying the truth they called a doctor. However he could not revive him. Father died there next to us, tied to the radiator." Following his release from the police station Peter Sendrei was admitted for treatment at a local hospital with bruises all over the body.

An investigation was initiated immediately but the district court rejected the proposal of the Banska Bystrica prosecutor that the suspected officers should be held in detention pending the results of the investigation. On 27 July the Minister of the Interior

reportedly stated that Karol Sendrei had himself asked to be handcuffed to a heating pipe in the police station "because he wanted to lie down". However, in October it was announced that the investigator had recommended to the prosecutor that seven police officers should be charged with the death of Karol Sendrei.

In July AI urged the Slovak government to ensure that the investigation into the death of Karol Sendrei and the reported torture of his sons is conducted promptly and impartially. The organization also reiterated its request for information conveyed to the Slovak government in December 2000 concerning investigations into other reported incidents of police ill-treatment of Roma in Slovakia. No reply has been received at the time of writing of this report.

SPAIN

ETA killings

On 7 November José María Lidón, a judge of the Court of Vizcaya, was shot dead in Getxo (Vizcaya). *Euskadi Ta Askatasuna* (ETA) suspects were generally held responsible. The judge was among six victims to be killed in the latter half of the year, including a councillor, José Javier Múgica, and several law enforcement officers.¹⁸ The shooting of the judge came less than 24 hours after a car bomb in Madrid injured nearly 100 people. José María Lidón was reportedly the first judge to be killed by ETA in the Basque Country, although another seven judges have been killed, either by ETA or by the armed group GRAPO, since 1978. ETA had reportedly declared, at the end of the cease-fire in 1999, that judges would be "preferred targets" ("*objetivos preferenciales*") and in 2000 two judges were killed by ETA, in Granada (Andalucía) and in Madrid.

Ill-treatment and expulsion of Moroccan children

In July AI wrote to the Spanish authorities, including

¹⁸These were Luis Ortiz de la Rosa, a National Police officer, killed by a car bomb on 7 October, Mikel Uribe, an *Ertaintza* officer, shot dead on 14 July, and two *Ertaintza* traffic officers, Ana Isabel Arostegi, and Francisco Javier Mijangos Martínez de Bujo, shot in Beasain (Guipúzcoa) on 23 November.

the Spanish government and the governments of the autonomous cities of Ceuta and Melilla, to express concern that the authorities of Ceuta and Melilla were planning to resume their practice of systematically expelling unaccompanied and undocumented children - mostly of Moroccan origin - living on the streets or in reception centres for foreign children. Such expulsions - together with allegations that some police officers were ill-treating children during the expulsion process - had largely ceased, following legal actions initiated by three Local Police sergeants in 1998, and by order of the Attorney General (*Fiscal General del Estado*) in March 1999.

In its letter AI also expressed concern about the widely-reported inadequacy of facilities for the care of unaccompanied children. It referred both to the poor health and physical abuse which the children suffered while living in the streets, port installations and underground or hillside tunnels, and to the apparently inadequate conditions in Ceuta's only reception centre for the children. The organization asked specifically for information about the status of a judicial complaint which had been lodged on 26 June 2000 by Mohamed Garbagui. The 13-year-old child alleged that he had twice been placed in a punishment cell at the Ceuta reception centre, the *Centro de Acogida de Menores de San Antonio*, and beaten and slapped by male carers or educators. No answer has yet been received to this letter by any of the authorities to which it was written.

On 16 August, in the run-up to the Third World Conference against Racism, AI issued a press release in which it called for the full protection of the rights of undocumented or unaccompanied foreign children found on Spanish territory in the enclaves of Ceuta and Melilla. AI stated that: "No such child should be removed from Spanish territory unless it is in their best interest and there are clear guarantees that the removal will not lead to human rights violations". AI commented that in a recent incident, a 16-year-old minor who was forcibly returned to the Moroccan frontier by the Melilla police reported being "slapped around hard" by Spanish police officers before being taken to the border.

The minor was one of a group of children caught up in the first wave of new expulsions from Melilla to Morocco which began on 27 July 2001. A number of children involved in the subsequent expulsions had received residence permits, had lived in Melilla for several years, and were at school there. The expulsions were part of a scheme of so-called "family regroupment", whereby the children were supposed to

be reunited with family members in Morocco or taken into the care of Moroccan care organisations. However, virtually none appeared to have been reunited with their families or other care guardians and most found their way back to Melilla on their own. By January 2002 some 44 operations of expulsion of children had been recorded. Several were reportedly ill-treated by the Moroccan police after being handed over to them at the border at Beni Enzar. Some alleged that they had been verbally abused by Spanish police. On 18 December nine-year-old Karim Bouitali, who had been staying at a reception centre in Melilla, was expelled, with some others, and was seen by representatives of a Spanish children's rights organization - PRODEIN - at the frontier at 7.20p.m. The NGO stated that he was seen weeping, drenched and numbed with cold, clutching at the border fence. He returned to Melilla on 25 December.

PRODEIN claimed that there was a pattern in the way in which the expulsions of children in Melilla were carried out. They were taken by police officers from reception centres to the National Police station. They were not informed that they were to be expelled. They were not allowed to exert their rights to a hearing to determine the legality of the expulsion. They had no legal assistance. They were taken to the frontier in police cars, and by armed and uniformed police. They were handed over to the Moroccan police at the customs post. They were not received by any family member of Moroccan social services representative. They were then abandoned in the street - a particularly serious problem for smaller children.

Torture conviction

In September the Court of Guipúzcoa (*Audiencia Provincial de Guipúzcoa*), in the Basque Country, sentenced two Basque autonomous police (*Ertzaintza*) officers to a six-month prison term and suspension from work for subjecting a detainee to "degrading treatment". According to reports, Félix López, a trade unionist, was arrested on 8 April 1997 for alleged disobedience to police officers (refusing to produce his identity card) and, while being held in a police station, was forced to strip naked and bend continually up and down. It was not clear whether the police officers had appealed against the decision.

New torture allegations: Unai Romano

A number of new allegations of torture were made in

the second part of the year. On 6 September, Unai Romano Igartua, suspected of belonging to an armed band, was arrested by plainclothes Civil Guards in Vitoria-Gasteiz, and almost immediately transferred to Civil Guard headquarters in Madrid. According to reports, he was held incommunicado for the maximum five-day period, and was only able to see his lawyers of choice on 11 September. While being held incommunicado, Unai Romano, who stated that he and his family had been treated correctly during his arrest, and that the journey to Madrid had passed without incident, was allegedly beaten repeatedly on the head with a kind of padded or covered truncheon, while being interrogated. He was then allegedly asphyxiated by means of a bag being placed over his head and closed at neck level. He was also allegedly subjected to electric shocks on the testicles and ear lobes, while subjected to various threats. The day following his arrest he was reportedly subjected to similar treatment, questioned without the presence of a lawyer, and additionally forced to bend continually up and down ("*hacer flexiones*"). After falling to the ground with exhaustion, he was reportedly again beaten. He was placed in a cell, where his face and head began to swell to the point where he apparently lost his vision. After apparent attempts at self-mutilation, by cutting and biting his wrists, he was taken to Carlos III Hospital for a series of tests. He was then taken to a doctor's room at Civil Guard headquarters and from there transferred to Soto del Real (Madrid) prison. The day after entering prison the swelling began to go down and he could see again.

Two medical reports were issued by a specialist in forensic medicine who examined him while at Civil Guard headquarters. Others were issued at the hospital or prison, and photographs were taken at the prison of Unai Romano's swollen head and facial injuries. A medical report dated 7 September referred to haematomas around both eyes with palpebral oedema and oedema and inflammation of parts of the face as well as to self-inflicted injuries to the wrists. In her report the doctor stated that all the injuries had occurred within the last four to eight hours. He had been transferred at once to hospital. He was not fit to remain in any prison cell or to appear in court and was to remain under observation in the prison infirmary if not released. Subsequent medical reports by another doctor also referred to such injuries and to the fact that Unai Romano had been placed in a cervical collar. A medical report of 11 September describes his allegations of torture. A formal complaint about the

torture to which he was submitted, and claiming that he had no connection whatsoever to ETA, was made to the National Court on 11 September and referred to an investigating judge in Madrid. Several witnesses have already testified to the judge.¹⁹

Note: In July a delegation of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a five-day visit to Spain - the CPT's seventh to the country. Its main purpose was to "examine the efficacy in practice of the formal legal safeguards against ill-treatment which are available to persons deprived of their liberty by the law enforcement agencies in Spain". The delegation examined, among other things, the internal accountability procedures of the National Police and the Civil Guard in cases involving allegations of ill-treatment by those forces, and interviewed several people who had recently been detained by the National Police or Civil Guard on suspicion of terrorist-related offences.

Alleged use of excessive force during demonstrations

In July, following a demonstration in Barcelona in June, held to protest against the policies of the World Bank, a large number of associations and trade unions lodged complaints with the High Court of Catalonia. According to the complaints, police officers had used excessive force and indiscriminate violence during the demonstration, at which over 20 people were arrested and over 30 people were injured. A number of witnesses reported that undercover police officers had themselves carried out some acts of violence. The Ministry of the Interior reportedly admitted that about 100 police officers had infiltrated the demonstration but denied that they had been involved in violence.

New allegations of use of excessive force were made by students who, on 7 November, had been demonstrating in Las Palmas de Gran Canaria against a new university law. A number of students alleged that they had been beaten by National Police officers and filed judicial complaints in relation to the incidents. These complaints remain currently under investigation.

¹⁹Unai Romano was provisionally released from custody on 27 February 2002.

SWEDEN

Deaths in police custody

The shooting of Idris Demir (update)

In November the police officer, charged in connection with the killing of Idris Demir, was acquitted by the district court (see AI Index: EUR 01/003/2001).

Police shootings and allegations of ill-treatment during the EU summit in Gothenburg

Various investigations continued into the actions of the demonstrators, as well as the police, during the European Union summit in Gothenburg from 14 to 16 June. It had been alleged that the police used excessive force during the anti-globalization demonstrations, including firing live ammunition and beating non-violent demonstrators. (See AI Index: EUR 01/003/2002).

In early October the Chief Prosecutor decided to close the preliminary investigation into the shootings by the police and not to bring any charges against any of the officers involved. He stated that he had not found any evidence of the officers committing a criminal offence. It was reported that 12 or 13 shots had been fired by the police and three demonstrators had been injured. The Chief Prosecutor stated that the five police officers had been under a lot of pressure and had been forced to make decisions in an extreme situation. Shortly afterwards, the Prosecutor General announced that he was reviewing the decisions taken by the Chief Prosecutor.

AI had also been concerned by the reports of prolonged arbitrary detention and ill-treatment during police actions at two schools, Hvitfeldska and Schillerska. Of particular concern were reports that police officers kicked or beat people with batons after they had been detained and, in some instances, restrained with their hands tied behind their back, lying down on the ground.

According to reports received by the organization, over 500 people were detained by police during those few days, the majority of whom were subsequently released and not charged. Sixty people were arrested (53 during the summit and seven afterwards), of which 46 were prosecuted. Of the 40 who were tried by the end of the year, 31 people were appealing against their convictions.

Refugees

Two Egyptian asylum-seekers, Muhammad Mmuhammad Suleiman Ibrahim El-Zari and Ahmed Hussein Mustafa Kamil Agiza, were forcibly returned to Egypt in December after their asylum claims had been rejected in an unfair procedure. There was concern that in Egypt they would be at grave risk of torture or ill-treatment and unfair trial. The government recognized both men as having a well-founded fear of persecution, but excluded them from protection on the basis of their alleged connections to organizations which had been responsible for acts of "terrorism". The decision was based on secret evidence which was provided by the Swedish Security Police and which was not disclosed in full to the men and their legal counsel. The government held that the men would not be at risk of serious human rights violations in Egypt, on the basis of written guarantees from the Egyptian authorities.

SWITZERLAND

UN Human Rights Committee examines Switzerland's record

On 2 November, following its consideration in October of Switzerland's second periodic report on its compliance with the International Covenant on Civil and Political Rights (ICCPR), the Committee said it was "... deeply concerned by reported instances of police brutality towards persons being apprehended and detainees, noting that such persons are frequently aliens". It expressed further concern that "... many cantons do not have independent mechanisms for investigation of complaints regarding violence and other forms of misconduct by the police" and emphasized that "The possibility of resort to court action cannot serve as a substitute for such mechanisms".

The Committee instructed Switzerland to "ensure that independent bodies with authority to receive and investigate effectively all complaints of excessive use of force and other abuses of power by the police are established in all cantons". It pointed out that "The powers of such bodies should be sufficient to ensure that those responsible are brought to justice or, as appropriate, subject to disciplinary sanctions sufficient to deter future abuses and that the victims are adequately compensated", in line with article 7 of the ICCPR which prohibits torture and cruel, inhuman or degrading treatment or punishment.

The Committee also expressed concern that many

of the guarantees in articles 9 and 14 of the ICCPR - which relate to the individual's right to liberty and security of the person and to fair trial proceedings - are not contained in the criminal procedure codes of some cantons, and pointed out that a new criminal procedure code, unifying the existing 26 cantonal codes of criminal procedure and aiming to improve such rights, had not yet been adopted.²⁰ The Committee found that "Consequently, the rights under article 9 and 14 are not always respected" and was "particularly concerned at persistent reports that detainees have been denied the right to contact a lawyer upon arrest or to inform a close relative of their detention". Therefore, it instructed Switzerland to "take measures to ensure effective implementation of all rights under articles 9 and 14 of the Covenant in all parts of its territory."

The Committee also expressed its deep concern that "in the course of deportation of aliens there have been instances of degrading treatment and use of excessive force, resulting on some occasions in death of the deportee". It instructed Switzerland to ensure that all cases of forcible deportation are carried out in a manner compatible with article 6 - governing the individual's right to life - and article 7 of the ICCPR. The Committee said that "In particular, it should ensure that restraint methods do not affect the life and physical integrity of persons concerned." It asked the government to report back within 12 months on the implementation of its recommendations on this issue.

Before the Committee's examination of Switzerland's human rights record, AI had submitted information describing its own concerns regarding alleged police ill-treatment on the streets and in police stations; the lack of certain fundamental safeguards against ill-treatment in police custody; the unsatisfactory nature of some criminal and administrative investigations into such allegations; as well as deaths and the use of excessive force and dangerous, cruel and degrading methods of restraint during forcible deportation operations under police escort: it also highlighted the need for urgent reforms

²⁰The text of a draft code of penal procedure unifying the existing 26 cantonal codes of penal procedure and three federal laws on penal procedure was issued in June 2001, opening a consultation process due to end in February 2002. It included improved safeguards against ill-treatment for detainees in police custody, such as possibilities of earlier access to a lawyer and of having a third party immediately informed of the detention.

in this area. The conclusions and recommendations of the Committee confirmed AI's own findings and recommendations regarding police ill-treatment in recent years. AI urged the Swiss federal and cantonal authorities to press forward with the implementation of the Committee's recommendations with all possible speed.

Alleged ill-treatment and excessive force by police

During forcible deportation operations

Several criminal proceedings were under way in connection with use of excessive force and dangerous and degrading methods of restraint during deportations under police escort.

In July an autopsy concluded that the death of Samson Chukwu, a Nigerian asylum-seeker, in a detention centre in the Canton of Valais in May, at the start of a forcible deportation operation, could be attributed to positional asphyxia, resulting from dangerous restraint methods used by two police officers (see AI Index: EUR 01/003/2001). The officers had lain him face-down on the floor, with his hands bound behind his back, with one of them lying on top of him. In September the relevant Valais investigating magistrate decided that no criminal investigation should be opened against the officers, in view of police statements indicating that they had not violated standard procedures, and had not been trained in and were unaware of the dangers of the restraint methods they had used. Samson Chukwu's family entered an appeal questioning these conclusions.

A criminal investigation was still open into a complaint lodged by Gilbert Kouam Tamo, a Cameroonian, who alleged that during his deportation from Zurich in April 2000, masked officers kicked and punched him, beat him with batons, applied such pressure to his neck that he felt he was choking, pressed a pillow over his face and, when he was bound hand and foot and attached to an airline seat by several belts, twice punched him in the face (see AI Index: EUR 01/001/2001). He also claimed that there was an unsuccessful attempt to inject him and that he was deprived of food and drink during a nine-hour flight. A hospital in Cameroon recorded extensive cuts and bruises to his face and body.

A working group on deportations formed in December 2000, involving cantonal and federal authorities, was continuing its work aimed at the

eventual establishment of agreed common guidelines on the execution of deportation operations and a pool of specifically-trained officers. AI reiterated its June 2001 call on all cantonal governments to review, as an urgent priority, police restraint techniques and the relevant guidelines and training for police and medical personnel involved in deportation operations. In its call the organization made a number of recommendations for the safe and humane implementation of deportation procedures. AI stated that escorting officers should have clear instructions that no more force than reasonably necessary should be used in deportations; methods of restraint impeding respiration should be banned and appropriate guidelines put in place to minimize risk of positional asphyxia; any administration of sedative drugs should be in accordance with purely medical criteria; any use of irritant sprays aimed at temporarily disabling an individual should be subject to strict guidelines and all deportees should be provided regularly with food and drink and have ready access to toilets. (For further details see *Switzerland: Urgent need for reform following deaths during forcible deportation*, AI Index: EUR 43/006/2001).

In August the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) asked the Swiss authorities to take into account certain guiding principles for deportation operations. These included:

- the banning of methods of restraint involving total or partial obstruction of the airways, of the wearing of masks by officers involved in deportation operations and of the use of irritant or incapacitating gas during deportation operations;
- the need for advance preparation, including psychological preparation of the deportee; for guidelines to minimize the risk of positional asphyxia; for all deportees facing special restraint methods to have the possibility of a medical examination before departure; for medication to be administered only on the basis of a medical decision and in line with medical ethics; for all deportees returned to a place of detention following an aborted deportation operation to be given a medical examination; for appropriate training to be given to personnel involved in deportation operations.

In September the Council of Europe Commissioner for Human Rights issued similar guidelines for member states in a recommendation [CommDH/Rec(2001)]

“concerning the rights of aliens wishing to enter a Council of Europe member State and the enforcement of expulsion orders”.

The Swiss working group was apparently taking the various recommendations into account.

On detention

There were several further allegations of police ill-treatment in particular of foreigners, often during identity checks on the street.

A video recording made by neighbours of Cemal Gömeç showed Bern Municipal Police officers striking him some 15 times with batons, mainly around his head, at the end of a four-hour standoff at his apartment in July. During the standoff he had constantly threatened officers with a knife. The police were apparently advised that the man, a Turkish-Kurd and a refugee with a history of psychiatric illness, would never surrender voluntarily to uniformed officers, equating them with torture. Nevertheless, uniformed officers repeatedly fired rubber bullets and irritant sprays at him, used a stun grenade and overcame him after using their batons and pinning him to the ground. After a doctor injected him with a sedative he lost consciousness, suffered a cardiac arrest, was resuscitated and transferred to hospital where he died four days later. The findings of initial forensic examinations included injuries caused by a blunt instrument to his face, head, trunk and limbs, and fractures to his face. An investigation by the Bern Cantonal Police, under the direction of an investigating magistrate, was opened to establish the precise cause of death and whether charges of causing bodily harm and death through negligence should be brought against municipal police officers.

AI, while questioning whether the investigation met the requirements of a fully independent inquiry, sought the cooperation of the relevant cantonal authorities in informing it of the eventual outcome of the criminal investigation and in November received confirmation from the cantonal authorities that this was under way (For further information see *Switzerland: Alleged use of excessive force by officers of the Bern Municipal Police - the case of Cemal Gömeç* (AI Index: EUR 43/007/2001).

There were further developments in proceedings relating to a criminal complaint lodged in January 2000 by 'Didier', a 17-year-old Angolan schoolboy against three Geneva police officers (see AI Index: EUR 01/001/2001). He accused them of kicking and beating

him with truncheons until he lost consciousness and subjecting him to racist abuse after detaining him on suspicion of being involved in a street fight. He was held in a police station overnight, then charged with resisting the police, but subsequently acquitted. When the Geneva Attorney General, who had opened a preliminary inquiry entrusted to the police, ruled in April 2000 that there were no grounds to justify further investigation and closed the inquiry, the boy had never been questioned about his allegations. In August 2000, following an appeal, a Geneva court (*chambre d'accusation*) ruled that an investigating magistrate should carry out a full inquiry into the allegations, to include the questioning of the boy himself and other relevant witnesses and, if necessary, arrange a formal meeting (*une confrontation*) involving Didier and the accused officers.

In September 2001 the duly appointed investigating magistrate returned the dossier to the Attorney General, having informed Didier's lawyer that there was insufficient evidence to pursue charges against the officers. In October the Attorney General decided once again to archive the case. That same month Didier deposited an appeal against the Attorney General's decision arguing, among other things, that the judicial inquiry had been incomplete. The appeal further argued that there was sufficient evidence to warrant charging the officers. The *chambre d'accusation* examined the appeal in December 2001. (For further details - see *Switzerland - Alleged ill-treatment of Visar and Didier*, AI Index: EUR 43/001/2002). AI urged that the court overturn the Attorney General's October 2001 decision and that the dossier be returned to the investigating magistrate in order that a full inquiry be carried out, taking into full and proper account the eyewitness evidence as well as all the directives issued by the *chambre d'accusation* in August 2000, including a *confrontation* involving all the relevant parties. The court rejected the appeal in January 2002.

AI wrote to the relevant authorities to express concern at the fatal shooting of Michel Hercouët by two officers of the Basel-Stadt Cantonal police in August 2001 and at reports that the officers might have used their firearms against unarmed people in a situation where there was no clear danger to the officers' lives or the lives of others, and thus in a manner violating the minimum standards of international law.

The shooting occurred on French territory following a brief car chase which began on Swiss territory. It was reported that Michel Hercouët, a holder

of both French and Swiss citizenship, was unarmed and in the driving seat of a stolen car while his partner, Læticia Gugenberger, also unarmed, and carrying their 11-week-old son in her arms, was in the front passenger seat when two Basel-Stadt police officers fired 18 or 19 bullets in their direction from a distance of several metres. Subsequent autopsy and forensic tests established that Michel Hercouët was hit by three bullets: one entering the back of his head and causing his death, one lodging itself in his left thigh and one grazing his head. All the bullets struck him either from the side or behind, with the fatal shot to his head apparently fired from a position behind and to the left of him.

In view of contradictory versions of events given by Laeticia Gugenberger and the police, AI welcomed the prompt opening of a criminal investigation into the full circumstances surrounding Michel Hercouët's death by the Public Prosecutor's office in Mulhouse, France, and the referral of the dossier to an investigating magistrate. On 25 August 2001, the investigating magistrate in Mulhouse placed two Basel-Stadt police officers under formal investigation in connection with a possible charge of "deliberate force causing unintentional death, committed by public officers in the performance of their duty" and on 27 August, on the orders of the head of the canton's Police and Military Department, they were barred from armed duties for the duration of the criminal proceedings. (For further information see *Switzerland - The fatal shooting of Michel Hercouët by officers of the Basel-Stadt Cantonal Police*, AI Index: EUR 43/009/2001)

TAJIKISTAN

Death penalty

According to reports, at least 74 people were reportedly sentenced to death in 2001. Five executions could be confirmed, but the exact figure is believed to be much higher. Two death sentences were known to have been commuted in 2001; at least 51 appeals for clemency were reportedly turned down by the President. The authorities failed to publish comprehensive statistics on the practice of the death penalty. AI continued to receive reports that some defendants underwent torture or ill-treatment while in pre-trial detention.

Death sentences and allegations of ill-treatment

On 13 July, Mustofokul Boymurodov and Sadriddin Fatkhuddinov, students at the Islamic Institute in Dushanbe, were sentenced to death by the Supreme Court of Tajikistan on charges such as “terrorism” and “murder”. They were accused of having caused explosions, including the October 2000 bombing of the Korean-run Grace Sonmin church in Dushanbe, which killed several church members, and a bomb attack on a shop in Dushanbe, whose merchandise had reportedly offended their religious beliefs. Relatives and their lawyer maintained the men were innocent and claimed that they were ill-treated in pre-trial detention to force them to confess. Abdukarim Kakharov, Mustofokul Boymurodov’s father, reportedly told the Tajik service of Prague-based Radio Liberty: “They took my son from his home at midnight, beat him with metal rods and pulled out his fingernails. I will protest against the sentence.” On 12 October, the board of the Supreme Court returned Sadriddin Fatkhuddinov’s case for further investigation to the General Procuracy. At the same session, however, the board upheld Mustofokul Boymurodov’s death sentence. Reportedly, the United Nations Human Rights Committee sent an intervention to the Tajik authorities at the end of December urging them to put the execution of Mustofokul Boymurodov on hold, following an application by his father under the individual complaints procedure as provided under the Optional Protocol of the International Covenant on Civil and Political Rights.

Mustofokul Boymurodov
© Private

Executions

Valijon Aliboyev and Saidumar Sharipov were reportedly executed on 7 July. They had been sentenced to death on 24 November 2000 by the Supreme Court. Saidumar Sharipov and three co-defendants were accused of a series of crimes including murder and robbery. Valijon Aliboyev was accused of having taken part, with the others, in the kidnapping of a boy in 1999 in order to extract money from the boy’s family. The co-defendants were sentenced to prison terms of between 16 and 25 years. There are allegations that the family of one of the co-accused bribed the authorities, and he escaped a death sentence as a result. According to these reports, the family of Valijon Aliboyev did not have enough money

for a bribe. Following his arrest on 11 May 2000, Valijon Aliboyev was taken to the Ministry of the Interior in Dushanbe, where he was reportedly kept for 18 days and beaten by law enforcement officers. It is not known whether an investigation into these allegations was carried out. Reportedly, he was not given appropriate medical treatment in prison. Mrs Aliboyev reported that when she last visited her husband, on 5 June, she found him in poor health, his stomach was swollen, and he was suffering pain in his kidneys.

Relocation of Afghan refugees (update to AI Index: EUR 01/003/2001)

An order to remove Afghan refugees from Dushanbe by 31 July was reportedly put on hold in September. In July 2000, the President had decreed that refugees were not permitted to live in a number of towns and regions of Tajikistan to “ensure security and public order.” Following the decree, Dushanbe’s mayor ordered all refugees to leave the city by 31 July 2001. There were concerns that access to employment, education and housing would be difficult for relocated refugees, and that the government might not be able to ensure their safety.

Afghan refugees still stranded on the Tajik-Afghan border (update to AI Index: EUR 01/001/2001 and EUR 01/003/2001)

Despite repeated calls to open Tajikistan’s border with Afghanistan to civilians who fled fighting in Afghanistan, the border remained closed. Tajikistan had effectively closed its borders to Afghans fleeing fighting between forces of the opposition Northern Alliance and the Taleban back in September 2000. By the end of 2001, around 10,000 refugees reportedly remained stranded in particularly harsh conditions on promontories in the Panj river, which marks the Tajik-Afghan border.

TURKEY

Constitutional amendments

(see AI Index: EUR 44/007/2002)

In the process of preparing accession to the European Union Turkey gave priority to amending the Constitution which dated from the time of the military coup. On 3 October, the Turkish Parliament adopted a law amending 34 articles of the Constitution (Law No. 4709), which entered into force on 17 October. The amendments included the introduction of equality of men and women, an increase in the number of civilian members in the National Security Council and some welcome steps to an improvement of human rights in Turkey. These include the shortening of detention periods before being brought before a judge; the abolition of the death penalty for criminal offences; the introduction of the right to a fair trial into the constitution; and the lifting of the ban on statements and publications in Kurdish and of the ban on amnesties and pardons for politically motivated offences committed after the amendment entered into force. Some restrictions on fundamental human rights were lifted. However, new restrictions were introduced that fall short of Turkey's international human rights obligations. Furthermore, the death penalty was not abolished for times of war and "terrorist" crimes. AI is especially concerned that the amendments did not include significant guarantees for freedom of expression and safeguards against torture. Following the constitutional amendments several laws will have to be changed accordingly. AI will continue to monitor the legal changes and implementation after the constitutional amendments. Turkey's actual human rights record did not improve in the second half of 2001.

Torture and ill-treatment are widespread and systematic

AI published a comprehensive report on torture and impunity (AI Index: EUR 44/072/2001) which assessed the legal background as well as reports on individual cases collected on missions to Turkey. It demonstrates how insufficient law and bad practices contribute to the persistence of torture and a climate of impunity for torturers. AI concluded that torture is still widespread and practised systematically in the sense that it is a pervasive technique of law enforcement agencies for

the purpose of investigation, securing confessions and intimidation, regardless of approval or disapproval at the higher levels of the public service or by the government's political leadership. AI also concluded that the Turkish authorities need to take effective steps against torture immediately in order to dispel the belief that they tolerate the persistence of torture.

Torture mainly occurs in the first days of police or gendarmerie custody, when detainees are held without any contact with the outside world. Detainees are routinely blindfolded during interrogation. Other methods of torture and ill-treatment regularly reported include severe beating, being stripped naked, sexual abuse, death and rape threats, other psychological torture, and deprivation of sleep, food, drink and use of the toilet. Some detainees are also exposed to electric shocks, hanging by the arms, spraying with cold pressurized water and *falaka* (beating of the soles of the feet). In addition, AI has increasingly received reports about excessive use of force during mass arrests. The latest incident occurred before and after World Peace Day on 1 September 2001 when one man died and hundreds of members of the legal pro-Kurdish party HADEP were beaten throughout the country when police used truncheons, tear gas and water cannons in an attempt to disperse groups joining peace marches.

The torture victims included people suspected of pro-Kurdish, Islamist or leftist activities. Others were suspected of involvement in protests against the new "F-Type" prisons, corruption or criminal offences. Reports received confirm that people suspected of theft and burglary - among them many children - are still regularly beaten in detention. Several people died in police custody. While the authorities spoke of suicide, human rights defenders suspected that their deaths were a result of torture.

In some cases torture is linked to discrimination on the basis of sex, sexual orientation or ethnicity. Both men and women continued to be subjected to sexual torture. The consequences of sexual torture can be more far-reaching for women than for men, because they involve the risk of pregnancies and ostracism from the victim's family and social group. Therefore, many women and girls prefer not to report rape and sexual abuse in custody. In July the Health Minister decided to reinstate "virginity tests" on medical high-school students under certain conditions and authorized schools to dismiss girls who are proven not to be virgins. AI believes that such "virginity tests" are discriminatory and a form of gender-based violence

that can amount to torture or cruel, inhuman or degrading treatment (see AI Index: EUR 44/072/2001, pp. 16-17). Local newspapers reported that the 16-year-old F.D.F., who had been detained on 30 June, was subjected to a forcible virginity test in Van. She was detained with another 10 people on suspicion that they might join the armed opposition group Kurdistan Workers' Party (PKK). In his application her lawyer stated: "*My client was taken from Yoldöndü Gendarmerie Station to a hospital in Van without her consent. A female doctor subjected her to a virginity test without the necessary permission. On 3 July my client was taken to Van State Hospital. Two male doctors certified that my client was not 'raped'.*"

More than 150 African nationals have filed complaints at the Human Rights Association (IHD) office in Istanbul about their treatment by police officers and gendarmes. The group complained of illegal detention, inhumane detention conditions, rape, sexual harassment and ill-treatment while they were held at the Foreign Nationals' Department at Istanbul Police Headquarters from 7 to 14 July and during their subsequent deportation to the Greek border. They allege that one woman died at the border area on 22 July, and another suffered a miscarriage caused by the conditions in which she was held.

In November 2001, a group of students started a campaign for Kurdish to become an elective course at universities. In the following months this developed into a mass campaign, and Kurdish parents all over the country filed applications for Kurdish mother tongue education for their children. The authorities responded with arrests, suspension and dismissals from schools. AI has received reports that some of the detainees were tortured. Mürsel Sargut, a student at the University of Istanbul, was arrested on 30 November at 2.20 pm when leaving the university. According to his reports he was subsequently tortured at the Anti-Terror Branch of Istanbul Police Headquarters in the night of 30 November: he was blindfolded with a scarf, stripped naked, had his sexual organs squeezed, was beaten and exposed first to pressurized water and then to a cold ventilator and raped with a truncheon. In the night of 1 December he was again exposed to different forms of torture. On 3 December he was remanded in Bayrampasa Special Type Closed Prison. He reportedly requires medical treatment. On 21 March 2002 a trial will start in which he and 13 other students are accused of having submitted applications to the University in which they demanded Kurdish language courses as elective classes. Seven of them are charged with

membership of the PKK, the others with supporting the PKK.

People who try to bring their alleged torturers to justice are often exposed to further pressure. For example the Kurdish woman S.Ö. and her children have been apparently threatened, detained and beaten to make her withdraw her complaint after she was reportedly raped and otherwise tortured while in detention in Diyarbakir in November 1997. Eight police officers have been on trial since January 2001 at Diyarbakir Heavy Penalty Court, charged with torture of S.Ö. While the case against the alleged perpetrators continues, S.Ö. - who has moved to Izmir - was subjected to increasing pressure to force her to withdraw her complaint. She was detained and threatened by police officers. Furthermore, some of her six children were reportedly detained without charge, threatened and beaten during separate detentions in October.

AI is concerned that the recent constitutional amendments fell short of introducing effective steps against torture. A major legal change required for an effective fight against torture, namely the abolition of incommunicado detention, is not among the constitutional amendments. These included a reduction of the maximum period for police and gendarmerie custody from seven to four days. This can, however, be extended in the region under state of emergency. Furthermore, AI has received several reports that detainees in Diyarbakir were brought back to gendarmerie custody after having been remanded in prison by a judge. They were reportedly tortured in detention to obtain "confessions". In these cases a decree was applied which grants the State Prosecutor - following a proposal from the Governor of the Region under State of Emergency - permission to ask a judge to return a person already in remand or imprisoned to police or gendarmerie custody for up to 10 days. It had already been applied to people suspected of membership of the Islamist illegal armed organization Hizbullah, but after the constitutional amendment also to members of HADEP and people suspected of support for the PKK. AI recommends that the decree be abolished or amended in such a way as to reflect Turkey's international human rights obligations.

Isolation in "F-Type" prisons remains a concern

(update to AI Index: EUR 01/003/2001)

Two more "F-Type" prisons were opened in the second half of 2001. Thus some 2000 prisoners

remained under conditions of solitary confinement or small-group isolation in these six high-security prisons. With the amendment of Article 16 of the Anti-Terror Law in May open visits with spouses and small children were made possible. The use of the communal areas was also permitted to the prisoners in principle, but only within the framework of "rehabilitation and education programs". Most of the political prisoners in the "F-Type" prisons apparently refrained from applying for the use of the communal areas under these conditions because they assumed that the rehabilitation would amount to a political re-education. They also feared ill-treatment on their way to the communal areas. AI received numerous reports about ill-treatment and beatings in "F-Type" prisons, especially during roll-calls, cell searches and when being brought to lawyers' or family visits. These reports are difficult to verify, however, due to the limited access to these prisons. The implementation of the Law on Prison Monitoring Bodies, which entered into force in June, was delayed. In December such bodies had only been established in less than half of the judicial districts. In the southeastern province of Hakkari the local Chief of Police reportedly became the head of the monitoring body. AI considers it essential to open the prisons to the scrutiny of independent monitors, including human rights defenders, doctors and lawyers.

The hunger strike of political prisoners and their supporters against the "F-Type" prisons continued and by the end of 2001 42 people had died as a result. Suggestions by human rights organizations and bar associations which might have alleviated the isolation conditions and ended the hunger strike were rejected by the Justice Ministry. AI repeatedly received reports that hunger striking prisoners transferred to the prisoners' wards of hospitals were handcuffed and their legs chained to the bed. Some 140 hunger striking prisoners were temporarily released due to their deteriorating health situation and some 60 were released by court decision. The release of others was delayed or rejected. For example, in spite of a medical reports dated 17 November and 21 December 2001 confirming that Bekir Sitki Keçeci was no longer in a situation where he could engage in his daily life without assistance and that his condition had reached a level where his penal sentence should be postponed for six months, he was not released until the middle of January 2002. In its report published in December 2001 the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) repeated that "bringing the hunger strikes to an end will require

a process of adaptation, explanation, and confidence building. Many of the essential elements of that process have already been identified: a determined and visible effort to develop communal activities in F-type prisons; a rapid and satisfactory implementation of the other prison reform measures which have now been adopted; the diligent examination of all complaints of ill-treatment during the prison interventions of December 2000 and subsequent prisoner transfers and, where appropriate, the prosecution of State officials; a willingness to review the current role of the gendarmerie in relation to prisons and prisoner transfers." The CPT had previously specified that prisoners should have the right to participate in communal activities outside their living units for at least eight hours a day.

Pressure on Human Rights Defenders

The constitutional amendments failed to strengthen the safeguards for freedom of expression and freedom of association, and instead introduced new restrictions and retained others. Together with the existing Law on Associations these have been used to seriously impede the activities of human rights organizations contrary to the UN Declaration on Human Rights Defenders. For example, in May 2001 AI filed an application for permission to open a branch in Turkey under Article 12 of the Law on Associations. This permission requires the signatures of all members of the Council of Ministers. AI's application was turned down in November 2001. AI's Secretary General sent an open letter to the Council of Ministers urging them to reconsider the application. AI's members in Turkey stated their intention to appeal.

Local human rights defenders continued to face harassment and intimidation throughout the year 2001. On 7 September the authorities raided the Diyarbakir office of the Human Rights Foundation of Turkey (TIHV). In violation of longstanding medical ethics items including all patient files, computers and details of doctors who supported the Foundation were confiscated and held for a month. A trial was opened against the representative of the office. It was suspected that the reason for the raid was the work carried out by the Foundation into preparing documentary evidence of torture.

On the morning of 30 November 2001 police raided the IHD Bingöl branch and confiscated documents including application forms completed by victims of human rights violations in the province. Ridvan Kizgin, head of the branch, was reportedly

threatened and insulted by the police. He was suspended from chairmanship by decision of the Governor of Bingöl under Article 45 of the Law on Associations, because he had apparently denied access to police officers who wanted to follow and video-tape a training program in the IHD branch on the occasion of the International Day against Violence against Women on 25 November.

In Turkey, prominent human rights defenders risk their lives by pursuing their important work. On 15 November 2001 a gunman who alleged that he was "working in the name of the state" entered the IHD Istanbul office and threatened to shoot the people working there, but was finally disarmed by human rights defenders. The same man had attacked HADEP offices the previous day and escaped unhindered in spite of the usual police presence outside such offices.

Of the IHD branch offices closed by the authorities in connection with the protest against the "F-Type" prisons, the Van office reopened on 13 July 2001 after the trial of the executives had ended in acquittal. The Bursa office was reopened on 24 November 2001. The branches of IHD in Gaziantep and Malatya have been closed indefinitely.

Prisoners of conscience

(update to AI Index: EUR 01/003/2001)

Writers, journalists, publishers, researchers, environmentalists, trade unionists, local and national politicians, religious leaders, human rights defenders and many others continued to be imprisoned or tried for exercising their right to freedom of expression, particularly on issues related to the Kurdish question, the "F-Type" prisons or the role of Islam in politics. The academic Fikret Baskaya remained in prison for writing an article on the Kurdish issue. The four former parliamentarians of the pro-Kurdish Democracy Party (DEP), which was banned in 1994, have not been released although the European Court of Human Rights concluded in July that they were sentenced after an unfair trial. The journalist Zeynel Abidin Kızıyaprak was due to be imprisoned in October and was in hiding at the end of the period under review. He was sentenced on 8 December 2000 under Article 8 of the Anti-Terror Law to 16 months' imprisonment for articles in a booklet entitled *Kurds from 1900 until 2000* that should have been distributed by the daily *Özgür Bakis*. He is accused of separatist propaganda because he used wording such as "Kurdish nation" and

"Kurdish geography"; stated that Kurdish language was banned; and added that it was perceived as a crime to listen to Kurdish music and wear Kurdish national clothes. In the second article he gave a chronological overview of the armed conflict. His sentence was upheld on 16 May 2001. AI would consider him a prisoner of conscience if imprisoned.

In the trial of the Union of Employees in Judiciary and Enforcement Institutions *Tüm Yargı-Sen* for criticising the "F-Type" prisons all 16 defendants were sentenced to three years' and nine months' imprisonment on 6 September. The prosecutor of the Appeal Court demanded that the sentences be quashed. On 28 November the Appeal Court upheld the sentence of three leading members of the legal Socialist Workers' Party of Turkey (TSIP) to three years' and nine months' imprisonment. Turgut Koçak, Hasan Yavas and Necmi Özyurdu had been convicted on 15 May of supporting illegal organizations. During a demonstration on 12 December 2000 against the "F-Type" prisons, some demonstrators clashed with police officers joined by supporters of the rightist Nationalist Action Party (MHP) in front of the TSIP office. During these clashes the windows of the TSIP office were broken and some protestors sought shelter in the office. The only TSIP executive present said that out of fear he hid in the office of another association. In a subsequent search placards and banners related to the hunger strike were found in the TSIP premises. There is no evidence that the three TSIP executives advocated violence. AI would consider them prisoners of conscience if they were again imprisoned.

Death penalty not abolished for "terrorist" crimes

The constitutional amendment on 3 October stated that the death penalty "cannot be imposed except in times of war, imminent threat of war and for terrorist crimes". Yet of the 117 prisoners whose death sentences had been upheld by the Appeal Court as of 8 October and who can be executed upon parliamentary approval, at least 73 were sentenced under Anti-Terror legislation. At least 24 death sentences were passed in 2001, four were later commuted to a prison term.

Extrajudicial executions become a concern again

In 2001 dozens of killings by security officers were reported; some may have been extrajudicial executions.

In a house raid Burhan Koçkar, a HADEP member and municipal police officer in Dogubeyazit in the eastern province of Agri, was shot dead in the early hours of 31 October by masked police officers. They had mistaken his flat for that of his brother Nedim, who was among the 13 HADEP members arrested that night. Burhan Koçkar's relatives and employer reject claims by the police that he was armed.

In the early hours of 17 October three people were killed during an operation in Silvan, Diyarbakir province, directed against the PKK. The authorities issued a statement alleging that two of the dead were PKK members. One of the dead, the 18-year-old daughter of the landlord, Selma (Gurbet) Kiliç, however, was apparently not involved in an armed clash. Witnesses report that the security officers first wounded her when they found two suspected PKK militants in the basement and later shot her dead. AI called for an impartial and comprehensive investigation in order to establish whether she was extrajudicially executed. Three male relatives arrested after the operation were reportedly tortured in detention. An investigation has been opened into these allegations and Selma Kiliç's death.

UKRAINE

In the second half of 2001 Ukraine was subjected to the international scrutiny of four different United Nations (UN) treaty bodies, which reviewed the steps the authorities had taken to implement the various conventions to which Ukraine is a state party. AI used the opportunity to brief two of the four treaty bodies, the UN Human Rights Committee (HRC) and the UN Committee against Torture (CAT), in October and November respectively, regarding the organization's human rights concerns in the country. AI's concerns were published in October 2001 in the report, *Ukraine before the United Nations Human Rights Committee* (AI Index: EUR 50/001/2001)²¹. Many of AI's concerns were shared by the treaty bodies which reviewed Ukraine (see below).

Torture and ill-treatment/racism

²¹Available at:
<http://web.amnesty.org/ai.nsf/Index/EUR500012001?OpenDocument&of=COUNTRIES\UKRAINE>

Several of the international treaty bodies echoed AI's concern that allegations of ill-treatment and torture of detainees by police officers have been relatively widespread in recent years. In October the HRC expressed concern, during its consideration of Ukraine's fifth periodic report, about "the persistence of widespread use of torture".²² It urged Ukraine to ensure that all investigations of torture were effectively investigated by an independent body, that those responsible for torture be prosecuted and that victims be given adequate compensation. A month later, these concerns were reiterated by CAT during its consideration of Ukraine's fourth periodic report. It expressed concern about "[t]he numerous instances that torture is still being regularly practised"²³ and recommended that Ukraine "[t]ake effective measures to prevent acts of torture and ill-treatment in its territory".²⁴

As safeguards against torture and ill-treatment both the HRC and CAT, acknowledging numerous reports thereof in the context of police interrogations, recommended that detainees have access to a lawyer from the outset of arrest and all stages thereafter. They also urged that Ukraine ensure the absolute respect for the principle of the inadmissibility of evidence obtained through torture in practice.

Torture and ill-treatment were also said to have a racial element in some cases. In August the UN Committee on the Elimination of Racial Discrimination (CERD) expressed concern about reports of police brutality against the Roma population in Ukraine, urging Ukraine to take immediate steps to stop such abuses. In the same month the UN Committee on Economic, Social and Cultural Rights (CESC), noting "... *defacto* discrimination against ethnic minorities, such as Crimean Tartars, and Roma, and harassment of foreigners of African origin by law enforcement officials", urged Ukraine to take all necessary steps to prevent incidents of racially-motivated ill-treatment from occurring and ensure that prompt and thorough

²²UN Doc. CCPR/CO/73/UKR, 5 November 2001 - para 15.

²³UN Doc. CAT/C/XXVII/Concl.2, 21 November 2001 - para.4a.

²⁴UN Doc. CAT/C/XXVII/Concl.2, 21 November 2001 - para. 5a.

investigations and effective prosecutions are carried out.²⁵ Similarly, in October, the HRC expressed concern about allegations of police harassment "...particularly of the Roma minority and aliens" and urged Ukraine to effective respective measures.²⁶

Hazing

AI has repeatedly expressed concern about persisting reports of the authorities' failure adequately to address soldier on soldier violence in the form of hazing in Ukraine's armed forces. In the light of continued reports, both the HRC and CAT made recommendations to put an end to such practices through education and training and prosecute and punish offenders.

Press freedom

The harassment and intimidation of journalists and restrictions on press freedom were causes for concern in the view of the HRC and CAT. In October the HRC expressed concern about reports of "intimidation and harassment of journalists" and urged Ukraine to "ensure that journalists can carry out their activities without fear of being subjected to prosecution and refrain from harassing and intimidating them".²⁷ Similarly, CAT expressed concern about "[t]he reported threats and harassment including ill-treatment of independent journalists and others who have raised allegations of abuses by officials".²⁸ These same concerns have also been reiterated by other regional governmental bodies and international non-governmental organizations, including the Committee to Protect Journalists which cited President Leonid Kuchma as 'one of the ten worst enemies of the press in 2001'.

UNITED KINGDOM

²⁵UN Doc. E/C.12/1/Add.65, 31 August 2001 - paras 12 and 22.

²⁶UN Doc. CCPR/CO/73/UKR, 5 November 2001 - para 13.

²⁷UN Doc. CCPR/CO/73/UKR, 5 November 2001 - paras 22 and 22(a).

²⁸UN Doc. CAT/C/XXVII/Concl.2, 21 November 2001 - para 4(i).

Human Rights Committee examines UK's human rights record

In October the Human Rights Committee examined the fifth periodic report of the United Kingdom's implementation of its obligations under the International Covenant on Civil and Political Rights (ICCPR). Whilst the Committee noted several improvements, it also identified areas of concern and made 15 recommendations (see the Appendix of *United Kingdom: Summary of concerns raised with the Human Rights Committee*, November 2001, AI Index: EUR 45/024/2001). Among the areas of concern were: the failure to carry out fully independent and comprehensive investigations into a number of murders in Northern Ireland; the number of racially-motivated violent incidents, including within the justice system; the detention of asylum-seekers in prisons; and the continued use of the "Diplock Court" system in Northern Ireland. An AI representative provided oral briefings to members of the Human Rights Committee.

Response to the 11 September attacks in the USA

In the aftermath of 11 September, racist attacks on mosques and people were reported throughout the country. The UK government assumed a political leadership role in the US-led coalition that on 7 October began a bombing campaign in Afghanistan. AI was particularly concerned by reports that hundreds of Taliban prisoners and others were killed in Qala-i-Jhangi fort in Mazar-i-Sharif after an uprising by some Taliban captives was put down by bombing by US warplanes and United Front artillery. In November AI urged the US, UK governments and the United Front to establish a full and independent inquiry into all the circumstances surrounding the killings. The UK government rejected the call for an inquiry.

The Anti-terrorism, Crime and Security Act 2001 was passed in December after less than a month of parliamentary and public scrutiny. AI opposed some measures in the legislation and questioned the government's declaration of a public emergency in the UK, as a consequence of the 11 September attacks in the USA, and its decision to derogate from Article 5(1) of the European Convention on Human Rights and Article 9 of the ICCPR. In particular, AI opposed provisions which gave powers to the Secretary of State to certify, on the basis of reasonable suspicion or

belief, a non-UK national as a “suspected international terrorist and national security risk” and who the government believes it is unable to deport. Once so certified, the person could be detained indefinitely, without charge or trial, and without recourse to judicial review or *habeas corpus*. The basis for such action could be secret evidence, which would not be subject to public scrutiny or effective challenge. AI was also concerned that asylum-seekers - once labelled as “suspected international terrorists” - will be denied the right to have the merits of their claim individually assessed. (See *United Kingdom: Creating a shadow criminal justice system in the name of “fighting international terrorism”, November 2001*, AI Index: EUR 45/019/2001). Within days of passing the legislation, at least eight people were detained under the new legislation, one of whom agreed to be sent to Morocco rather than face the indefinite detention.

Child soldiers

In August AI wrote to the government to reiterate its concerns regarding the recruitment and deployment of persons under the age of 18 years by the UK armed forces, following reports that among the members of the 2nd Battalion of the Parachute Regiment, deployed to Macedonia in the context of NATO’s Operation Essential Harvest, was 17-year-old Craig Sewell. In its reply dated 26 September the government stated that the UK armed forces had 12 personnel under the age of 18 employed as part of NATO forces in the Balkans.

In September there were reports that a 17-year-old female sailor, Jodie Jones, was on a ship on its way to the Gulf in the wake of the events of 11 September, and had turned down the opportunity to leave the ship.

NORTHERN IRELAND

Bill of Rights for Northern Ireland

The Northern Ireland Human Rights Commission issued a consultation document in September on “Making a Bill of Rights for Northern Ireland”. AI comments on the consultation document were submitted in December. (See *United Kingdom: Strengthening proposals for the Northern Ireland Bill of Rights*, December 2001, AI Index: EUR 45/025/2001)

Impunity: Legacy of the Past

In August the UK and Irish governments put forward to the political parties - as part of a package of proposals to break the political deadlock in Northern Ireland - the proposal that an international judge be appointed to investigate six controversial cases of killings and the allegations of collusion in each of them. The six cases are: Patrick Finucane, Rosemary Nelson, Robert Hamill, Harry Breen and Bob Buchanan (two RUC officers), Lord Justice Maurice and Lady Cecily Gibson, and Billy Wright.

Updates on Finucane and Nelson

The trial of William Stobie - the only person to have been charged in connection with the murder of Patrick Finucane in 1989 - collapsed in November after the prosecution was dropped. He was shot dead two weeks later by Loyalists. William Stobie had alleged that he had given information to Special Branch before and after the killing, without specifically naming Patrick Finucane, but that it had not been acted upon. It was reported that William Stobie’s lawyer had written to the Northern Ireland Office, in the weeks before his death, seeking protection as it was known that he was at risk.

Colin Port continued to lead the investigation into the killing of Rosemary Nelson. Although a number of arrests were made and some people were charged with other crimes, no one was charged in connection with her murder.

Disputed killings and inquests

As a result of the judgment by the European Court of Human Rights in four cases which concluded that the UK had violated the right to life in Northern Ireland, attempts to re-open outstanding inquests were made. However, legal challenges were made to the re-opening of inquests before various aspects of the cases had been dealt with as a consequence of the judgments, as for example, flaws in the inquest system, re-investigations, and reasons given for the failure to bring prosecutions.

Ill-treatment

The remaining interrogation centre, Gough Barracks, was closed down in September. People arrested under the Terrorism Act 2000 were detained and questioned at designated police stations, in the presence of their lawyers. Bernard Griffin was awarded £100,000 in an out-of-court settlement. He alleged that he had been

beaten by RUC officers in 1998.

***Killings, shootings and beatings
by armed groups***

The level of violence escalated in Northern Ireland, although a complete breakdown in the political negotiations was averted. The government announced in October that it no longer accepted that the Ulster Defence Association (UDA) was observing a ceasefire. It was alleged that the UDA and the Loyalist Volunteer Force (LVF) were using the name of Red Hand Defenders to claim responsibility for a number of killings. These included the killings of Martin O'Hagan, a well-known Catholic journalist, who was shot dead in September and William Stobie, a former member of the UDA and informer for Special Branch, who was shot dead in December. They also claimed responsibility for the killings of 19-year-old Ciaran Cummings, a Catholic, in July; 18-year-old Gavin Brett, a Protestant, who was mistaken for a Catholic, in August; and Frankie Mulholland, a Catholic, in December. David McDowell, a Protestant, was beaten to death, allegedly in a sectarian attack. In November, the Irish National Liberation Army reportedly killed Charles Follard, a Protestant.

There was an upsurge in sectarian attacks and petrol bomb attacks on many people's homes, and in "punishment" shootings and killings by members of armed groups of people from their own communities. The three-month Loyalist protest which began in September and resulted in the violent intimidation of Catholic primary-schoolgirls on their way to Holy Cross school in north Belfast was the most extreme example of the polarization that was taking place within certain parts of Northern Ireland.

According to police figures, around 150 "punishment" attacks were carried out between July and December; these included over 90 shootings and 60 assaults. Republican "punishment" shootings included shooting youths under the age of 20 in both ankles and hands, as in the cases of Emmanuel Scott, 18, and Liam Clarke, 19, in September.

ENGLAND AND WALES

Deaths in custody

Police shootings

Several people were shot dead by police officers some

of whom in disputed circumstances. In July two men were killed: Andrew Kernan, who was mentally ill, in Liverpool, and Derek Bennett in Brixton, London.

In December the CPS decided, after a second review of the case, not to bring prosecutions against two officers in connection with the killing of Harry Stanley in September 1999 (see AI Index: EUR 01/003/2001).

Update on Christopher Alder

In October, the Crown Prosecution Service (CPS) announced that it had reviewed new evidence in the case of Christopher Alder and that five police officers would face manslaughter charges. The new evidence suggested that Christopher Alder, who died in April 1998 in a police station, might have survived had he been given immediate medical assistance.

Deaths in prison custody

Concerns are rising about the failure of the prison authorities to ensure that all necessary measures are taken to protect the right to life, and that any death in prison custody is investigated thoroughly and independently, with the full findings made public. In April the European Court of Human Rights found that the UK had violated Article 3 of the European Convention on Human Rights, which guarantees the right not to be subjected to torture or to inhuman or degrading treatment or punishment, in the case of *Keenan v UK*. Mark Keenan had committed suicide in prison in 1993. The European Court found that Mark Keenan had not been provided with the standard of treatment required in respect of a mentally ill person. The European Court also found a violation of the right to remedy and stated that "...it is common ground that the inquest ... did not provide a remedy for determining the liability of the authorities for any alleged mistreatment, or for providing compensation".

In October the High Court ruled that the Home Office should initiate a public and independent investigation into the "systemic" failures which led to the death of Zahid Mubarek. Zahid Mubarek was murdered in his prison cell by a violent and racist cellmate in March 2000. The judge stated that the jurisprudence of the European Court of Human Rights required a public and independent investigation with the family legally represented, with disclosure to them of relevant documents and the right to cross-examine the principal witnesses. The Home Office said it would

appeal the decision, which AI urged the government to withdraw. The organization found the decision particularly disturbing as it was followed a few days later by news of two further deaths in young offender institutions: those of 19-year-old Luke Cortezo-Malone, and of 16-year-old Kevin Jacobs. Both reportedly hanged themselves. Internal prison inquiries were opened into the circumstances of these deaths. A few months earlier, in April 2001, an inquest into the suicide of Kevin Henson, aged 17, had heard that crucial medical records had not been communicated to prison staff and that he had therefore not been regarded as 'at risk'.

Ill-treatment and racism in prisons

AI continued to receive allegations from prisoners that they were being subjected to ill-treatment and racist abuse within prisons, and that the system for investigating such allegations was inadequate.

In September three prison officers were convicted for ill-treating prisoners in Wormwood Scrubs Prison, London during the 1990s. Altogether 27 prosecutions had been brought as a result of a criminal investigation, in which six officers were convicted. However, according to evidence collected by lawyers, brutality against prisoners at Wormwood Scrubs in the 1990s did not consist of a few isolated incidents but of a pattern of systematic abuse by prison officers. Thus, with the completion of criminal proceedings, AI urged the government to establish a wide-ranging and independent public inquiry into the abuses in Wormwood Scrubs, in order to examine what caused the failure of the existing mechanisms and complaints procedures to detect and deal with systematic abuse. (See *United Kingdom: Public statement on Wormwood Scrubs*, September 2001, AI Index: EUR 45/014/2001)

Fair trial concerns:

The case of Samar Alami and Jawad Botmeh

In November, the Court of Appeal denied all grounds of the appeal, against conviction and sentencing, by Samar Alami, a Lebanese-Palestinian, and Jawad Botmeh, a Palestinian, both of whom are UK residents. They had been sentenced in 1996 to 20 years' imprisonment after being convicted of conspiracy to cause explosions in 1994 at the Israeli Embassy and Balfour House in London. Bombs exploded at these locations in July 1994; no one was killed as a result. An AI representative attended the appeal hearing. AI believes

that their convictions are unsafe and that they were denied their right to a fair trial because they were denied full disclosure, both during and after the trial, of all information, including intelligence and forensic information, that may have been relevant to the investigation of the bombings. (See *United Kingdom: Concerns remain on the convictions of two Palestinians accused in connection with the Israeli embassy bombing*, November 2001, AI Index: EUR 45/016/2001.)

Detention of refugees

In September 2001 the High Court ruled that the detention of four Iraqi Kurdish asylum-seekers, who had challenged the legality of their detention at Oakington Detention Centre under the Human Rights Act, was a violation of their rights under the European Convention on Human Rights. The Home Office conceded that detention at Oakington was not used for those at risk of absconding, but merely to facilitate quick decision-making. The judge found that such detention, being solely for the administrative convenience of the Home Office, was unlawful. This ruling was overturned in October in the Court of Appeal. Leave was given to appeal further to the House of Lords.

UZBEKISTAN

Prisoner of conscience Ismail Adylov

(Update to AI Index: EUR 01/03/00)

On 3 July Ismail Adylov, a member of the unregistered Independent Human Rights Organization of Uzbekistan, was unexpectedly released from prison after being granted a special presidential pardon. Ismail Adylov had been suffering from a chronic kidney disease, aggravated by harsh prison conditions, which made him extremely susceptible to infection. After his release Ismail Adylov said that he had been regularly and systematically beaten and ill-treated throughout his detention.

Ismail Adylov had been sentenced to six years' imprisonment on charges of attempting to overthrow the constitutional order, sabotage and possessing material constituting a threat to public security and order after an unfair trial in September 1999. All the charges related to documents which were reportedly planted by police during a search of his home. AI

believed that he had been detained and sentenced because of his human rights work.

Possible prisoners of conscience

Rahima Akhmadaliev

(update to AI Index: EUR 01/003/2001)

Rahima Akhmadaliev was sentenced to seven years' imprisonment on 21 September for "undermining the constitutional order of Uzbekistan" under Article 159 of the Uzbek Criminal Code. There was concern at reports that the charges against her were fabricated and that she had been imprisoned solely to punish her for not disclosing the whereabouts of her husband, independent *imam* (religious leader) Ruhiddin Faruddinov.

Rahima Akhmadaliev had been detained on 17 March by officers from the Ministry of Internal Affairs (MVD), who questioned her about her husband. Her 19-year-old daughter Odina Makhsudova was detained three days later when she searched for her mother at the MVD. Her mother told her that she had been prevented from sleeping to force her to reveal her husband's whereabouts. Odina was reportedly threatened and forced to watch the guards beating a detainee with rubber truncheons. Odina was later released, reportedly, on condition that she kept silent about what had happened and that she helped to find her father. Her mother continued to be held without charge in a basement cell at the MVD for a further two months. During this time she was reportedly denied regular medication, which she needed for the treatment of heart problems.

Yusuf Dzhumaev

Uzbek poet Yusuf Dzhumaev, a member of the banned secular opposition movement *Birlik* ("Unity"), was arrested on 23 October. Initial reports expressed fears that he was tortured, while held in the basement of the National Security Service (SNB) detention facility in the city of Bukhara. However, his wife later reportedly confirmed to human rights monitors that he was not being ill-treated, but that his health had nevertheless deteriorated and that he was suffering from severe headaches and high blood pressure.

Father of six Yusuf Dzhumaev was arrested by officers of the SNB's Bukhara regional branch at 7.30am. They searched his home and reportedly confiscated his poems, his daughter's poems and books by Uzbek writers. The SNB officers apparently told him he was being arrested in connection with the publication of his poems on a Muslim website that the authorities reportedly considered to be subversive. Based on these allegations, Yusuf Dzhumaev was said to have been charged with "undermining the constitutional order of the Republic of Uzbekistan".

Representatives of several independent human rights organizations in Uzbekistan believed that he was arrested because he had openly criticized a number of officials of the Karakul district of the Bukhara region, where he used to live, and accused some of them of corruption. Local police and procuracy officials had reportedly warned him not to "dig into other people's affairs".

Poet Yusuf Dzhumayev © Private

Following an international campaign by AI and the non-governmental organization International PEN, among others, a number of appeal writers received a standard reply from the Uzbek authorities claiming that Yusuf Dzhumaev was detained because his poems called for a *jihad* against the government. AI believed this accusation was untrue, and that Yusuf Dzhumaev had been detained solely to punish him for exercising his right to freedom of expression. According to replies from the head of the Tashkent City Office of the SNB, Yusuf Dzhumaev was detained on the basis of accusations by relatives that he had "published and distributed materials, as well as poems, in which he called upon the population of Uzbekistan to conduct *holy jihad*, which is considered a grave crime against the country and the whole world on the basis of the Criminal Code of the Republic of Uzbekistan." However, the official conceded that "Dzhumaev had published his critical materials about Uzbekistan in foreign periodicals for several years [but these had] never [led to] harassment and prosecution."

According to reliable sources close to Yusuf Dzhumaev's family, several of his neighbours (not his relatives) had accused him of trying to enlist people to take up arms against the government, but only because they had a long-standing personal grudge against Yusuf Dzhumaev. These sources claimed that other

neighbours had signed petitions claiming the poet's innocence, and asking for his release. The SNB reportedly called some of these people to a meeting, and threatened to arrest them if they did not withdraw the petition. SNB officers reportedly beat several of them, but the neighbours refused to withdraw the petition. SNB officers from the Karakul district branch reportedly went round Yusuf Dzhumaev's local collective farm trying to force people to give written statements that the poet had called for an armed uprising.

Yusuf Dzhumaev was released on 29 December 2001. According to human rights sources in Uzbekistan, Yusuf Dzhumaev was brought to trial in Bukhara Regional Court on 29 December on charges of attempting to overthrow the constitutional order of Uzbekistan (Article 159 of the Uzbek Criminal Code). The trial was reportedly open to the public and was attended by local television and newspaper journalists, neighbours and relatives of Yusuf Dzhumaev. Human rights monitors reported that he was given a suspended three-year sentence because he repented publicly in the courtroom and asked for the President's pardon.

Death in custody

(Update to AI Index: EUR 01/003/2001)

On 7 July, three weeks after his arbitrary detention, police returned to his family the body of Shovruk Ruzimuradov, a former prisoner of conscience and head of the Kashkadarya branch of the non-governmental organization Human Rights Society of Uzbekistan (HRSU). The police claimed that he had hanged himself in his prison cell. However, when the body was prepared for burial, relatives discovered that it bore signs of extensive bruising and that some internal organs had apparently been removed. There was concern that Shovruk Ruzimuradov had died as a result of torture. At the day of the funeral scores of police officers were said to have cordoned off the village where the Ruzimuradov family lived and to have restricted access to the area. Human rights activists arriving from Tashkent for the funeral reported that they had been ordered to return to the capital after having been questioned and threatened by the police.

Shovruk Ruzimuradov had been detained on 15 June by officers of the Kashkadarya Regional Department of the Ministry of Internal Affairs who reportedly searched his home later that day without a warrant and beat his wife, daughter and sister. According to his sister, during their unsanctioned

search of the house officers planted cartridges and leaflets from the banned Islamist party *Hizb-ut Tahrir*. They also confiscated computer equipment, which belonged to the HRSU, a copy of the banned opposition movement Birlik's magazine *Karakat*, several books and documents, and cut off the telephone line. Supporters believed that Shovruk Ruzimuradov was arrested to punish him for his recent human rights activities, especially his monitoring of the forcible deportation of thousands of mountain villagers accused by the Uzbek authorities of collaborating with the banned opposition Islamic Movement of Uzbekistan during their incursion into Uzbekistan in August 2000. He was reportedly transferred to Tashkent and held incommunicado in a basement cell of the MVD, although the family was unable to confirm his exact whereabouts.

Fear of forcible deportation

Muhammad Salih, the exiled leader of the banned *Erk Democratic Party of Uzbekistan*, was arrested (reportedly at the request of the Uzbek authorities) by Czech police when he arrived at Prague airport on 28 November. Muhammad Salih had travelled to Prague at the invitation of the Uzbek Service of Radio Liberty/Radio Free Europe. He was detained at passport control at 10am, and the police reportedly did not allow him to use a telephone until 7pm. He called his son and told him that he had been detained at the request of Uzbekistan and that a court hearing would take place to decide on possible deportation to Uzbekistan. Muhammad Salih has had refugee status in Norway since 1999, and under international law the Czech authorities were obliged to allow him to return to Norway, for the Norwegian authorities to decide on any application for extradition.

There was grave concern that Muhammad Salih would be in danger of incommunicado arrest and torture if returned to Uzbekistan. The Uzbek authorities have accused him of being "one of the leaders of an international conspiracy aiming to overthrow the government". In November 2000 the Supreme Court of Uzbekistan sentenced Muhammad Salih *in absentia* to 15 and a half years' imprisonment on charges of terrorism and treason in connection with the February 1999 Tashkent bombings. He always denied the charges and insisted that they were fabricated by the authorities to punish him for his opposition activities.

On 30 November Muhammad Salih was remanded in custody for 40 days by Prague City Court while the

extradition request from Uzbekistan was being examined. However, the court released him from custody on 11 December. The court reportedly decided that there was no danger that he would leave the country before Uzbekistan's request for his extradition was scheduled to be heard. At a news conference given at Radio Liberty/Radio Free Europe's Prague office after his release, Muhammad Salih said that the Czech Republic, as a Western nation, had a responsibility to show Uzbek leader Islam Karimov that he could not hide behind the slogan of antiterrorism in order to crush dissent. The Czech news agency CTK reported that President Vaclav Havel had told journalists that he would meet Muhammad Salih on 12 December at Prague Castle. He said that the Presidential Office had been flooded with appeals for Muhammad Salih from all over the world.

Prague City Court turned down Uzbekistan's extradition request on 14 December and Muhammad Salih was allowed to return to Norway.

The death penalty

In October 2001 the *Oliy Majlis* (parliament) reduced the number of offences punishable by death from eight to four. Premeditated aggravated murder remains punishable by death. In September President Karimov publicly stated that around 100 people were executed each year in Uzbekistan.

New death sentences

Aleksander Kornetov was sentenced to death by Tashkent Regional Court on 7 August for the premeditated aggravated murder of a young woman. He was reportedly beaten to make him confess, however, maintained his innocence during the investigation and at the trial. His appeal was turned down by the Appeals Board of the court on 26 December.

Twenty-year old Aleksander Kornetov was detained on 11 January 2001. His mother was reportedly not told that he had been arrested until four days later. When she went to see him at the police station in the Chilanazarsky district of Tashkent she reportedly saw the investigator slapping her son in the face and hitting his head. When the investigator saw her, he allegedly told her that if she wanted to see her son alive she should go away.

On 17 January, members of Aleksander Kornetov's family were reportedly summoned to the police station for questioning. His mother again witnessed her son

being ill-treated: "I saw how three law enforcement officers were beating my son like animals. They were kicking him in the office of the investigator. My son was crouching, and when he tried to protect his head with his hands, they shouted at him 'put your hands down, you bastard'." During the investigation Aleksander Kornetov reportedly tried to commit suicide and told his mother: "I'd rather die than go through that beating again."

Reportedly, Aleksander Kornetov suffered from open tuberculosis and was not receiving appropriate medical treatment in prison.

Deferred executions

(update to AI Index: EUR 01/003/2001)

Nigmatullo Fayzullayev and Maksim Strakhov were sentenced to death by Tashkent City Court on 18 April for premeditated aggravated murder. The Appeals Board of Tashkent City Court upheld their death sentences on 29 May.

Maksim Strakhov's mother reported that when her son was arrested in October 2000, he was severely beaten by law enforcement officers for more than three days. He had reportedly previously received psychiatric treatment for post-traumatic stress symptoms after military service in Chechnya. The Supreme Court reportedly decided on 21 June to put the execution of Maksim Strakhov on hold for three months while psychiatric tests were carried out to assess his mental health. At the end of October, Maksim Strakhov's lawyer was informed that following psychiatric tests, the Appeals Committee of the Supreme Court had concluded that the execution could go ahead. Maksim Strakhov's mother reportedly appealed to the Supreme Court calling for further medical tests as she believed that the first tests were not conducted properly. According to her son the tests consisted only of an x-ray of his skull and a five-minute conversation with a doctor. The UN Human Rights Committee reportedly sent an urgent communication to the Uzbek authorities requesting a stay of execution of Maksim Strakhov. Nigmatullo Fayzullayev was still believed to be in imminent danger of execution.

Executions

AI learned that Gabdulrafik Akhmadullin was executed on 6 June in Tashkent Prison despite international appeals to commute his death sentence. On 29 May his wife had reportedly been told by a presidential adviser

that her husband's appeal for clemency would be considered within two or three months.

YUGOSLAVIA, FEDERAL REPUBLIC (FRY)

SERBIA AND MONTENEGRO

The FRY continued to aspire to membership of the Council of Europe, to which it had been granted guest status earlier in the year. However, any moves towards implementing the reforms needed to improve human rights in the FRY were overshadowed by the ongoing impasse over the continued integrity of the Federation, and Montenegro's intention to hold a referendum on independence in 2002. Talks between the Federal, Serbian and Montenegrin authorities on the nature of future economic, legal and constitutional issues, foreign policy and security relationships, started on 24 December and continued into the new year. A draft "omnibus law", which aimed to restore the autonomy of the northern province of Vojvodina, was approved by the Vojvodina Assembly on 15 December, and was passed to the Serbian parliament for approval in the new year.

War crimes

Former President Slobodan Milošević, in the custody of the International Criminal Tribunal for the former Yugoslavia (Tribunal) since 28 June, appeared before the Chamber on 29 October to hear the amended indictment for Kosovo on 8 October, together with a further indictment, charging him with individual and superior criminal responsibility for war crimes committed in Croatia between 1 August 1991 and June 1992. On 22 November, the Tribunal confirmed a further indictment on 29 counts in Bosnia-Herzegovina between 1992 and 1995, including charges of genocide and complicity to commit genocide. The former president has consistently refused to accept the authority of the court, and has refused to appoint legal counsel. On 21 December Slobodan Milošević lodged a case at the European Court of Human Rights alleging

unlawful detention and violation of his rights to liberty and security, a fair trial, freedom of expression, an effective remedy, and the prohibition of discrimination.

Two indicted suspects voluntarily surrendered to the Tribunal - former General Pavle Strugar on 21 October and former vice-admiral Miodrag Jokif on 12 November. The arrest of Predrag and Nenad Banovif on 8 November by the Serbian State Security Police triggered a series of armed protests by the police, who, in the absence of a law on cooperation with the Tribunal, claimed they had been tricked into carrying out the arrest, and demanded the resignation of the Interior Minister.

On 29 November, the Deputy Prosecutor at the Tribunal revealed that General Nebojša Pavkoviĳ, Chief of Staff Yugoslav Army (VJ), and Deputy Interior Minister Major General Sreten Lukif, Chief of Police in Kosovo in 1999, were under investigation by the Tribunal. Despite offering his resignation to President Kostunica, General Pavkoviĳ - commander of the Third Army in Kosovo in 1999 - remained in post. A new draft law on cooperation with the Tribunal had not been discussed in the Federal parliament before the end of the year, and no further transfers of indicted suspects to the Tribunal took place. With few exceptions, no proceedings for war crimes took place in domestic courts.

"Disappearances" and abductions

The remains of over 400 bodies of ethnic Albanians transported from Kosovo to Serbia during the NATO Operation Allied Force had been exhumed by the end of the year. In July and August, over 70 bodies were exhumed from two graves at a Special Forces training camp at Petrovo Selo; they included three ethnic Albanian brothers with US citizenship, who apparently disappeared after their release from Prokuplje prison in July 1999, where they had served a 15-day sentence for illegal entry into the FRY. A further 48 individuals, all of whom appeared to have been shot, were exhumed from Bajna Basta near Lake Perucac. According to autopsy results, the bodies had spent some time in water before being buried, apparently confirming allegations that a freezer-truck containing bodies transported from Kosovo had been dumped into the lake in May 1999. A final exhumation in September at the 13 May training centre near Belgrade discovered the remains of a further 269 people, some of whom appeared to have been burned prior to burial. AI was concerned that even in cases where bodies have been

identified, no progress had been made to open investigations.

In Montenegro, the trial of Nebojša Raniavlejevif reopened at Bijelo Polje High Court on 5 December. Nebojša Ranisavlejevif, who has been in custody since October 1996, is charged with war crimes against the civilian population; participating in the hijacking of the Bar-Belgrade train; and the abduction of 20 Muslim passengers at Strpci (in Bosnia-Herzegovina) on 27 February 1993. AI is concerned at the length of time that Nebojša Ranisavlejevif has been kept in pre-trial detention, and that since his arrest and the opening of trial proceedings against him in 1998, the authorities have failed to open investigations into other suspects reasonably believed to have been involved in the abduction and subsequent unlawful killings.

Minorities

Discrimination against Roma in Serbia and Montenegro, including those displaced from Kosovo, continued. The majority of Roma who fled Kosovo after July 1999 are homeless, living in extremely poor conditions, with little effort by the authorities to provide them with alternative accommodation. Many live in temporary settlements - 200 families live on a waste dump in Belgrade, for example - and are unable to register as residents, as they live in illegal accommodation, from which many have been evicted or live in fear of eviction. Ten families evicted from a house in Belgrade on 14 June were reported to be still living in a public park in December 200, although funding for the provision of alternative accommodation had been donated by the Netherlands government. Without adequate documentation or evidence of citizenship, Roma are also routinely denied access to health and social welfare, and children are discriminated against in the provision of education in both Serbia and Montenegro. Roma are also regularly reported as the victims of continuing harassment by non-state actors and of ill-treatment by the Serbian police.

Reports of nationalist graffiti and physical attacks on small religious communities also continued. Draft legislation on the protection of rights of minorities had not been discussed in the parliament by the end of the year.

Ill-treatment

Although the frequency and incidence of ill-treatment by law-enforcement officers has decreased since the

change in government, ill-treatment, particularly that directed against Roma and ethnic Albanians, has continued in both Serbia and Montenegro. In November 2001, the Humanitarian Law Centre (HLC) submitted a report to the UN Committee against Torture (CAT) detailing continuing allegations of ill-treatment, and identifying that the FRY had failed to comply with its obligations under the Convention Against Torture by failing to reform the police forces or made the changes in personnel required to "make a clear break with the practices of the former regime".

The HLC report documented, for example, allegations of ill-treatment of Roma children found collecting waste-paper by a police patrol in Novi Sad. On 22 September 2001, police reportedly struck a twelve-year old girl on the head using a police radio, and a fourteen-year old boy was beaten and his arm broken. In response to a complaint lodged by HLC in this case, the Novi Sad police claimed that there was no evidence of their involvement. The HLC also found that prosecutors generally failed to institute criminal proceedings against those suspected of torture and ill-treatment.

Compensation was awarded in five of the 66 cases brought by the HLC on behalf of 88 individuals - mainly members of the *Otpor* (Resistance) - alleging ill-treatment and harassment by the police; the majority of the cases were brought in September 2001: by the end of the year only five final decisions had been issued.

Southern Serbia

Representatives of ethnic Albanian communities in Southern Serbia reported at the end of the year that the return of the Serbian police to the Preševo valley had lead to further movements of people from the area. They also continued to protest at the failure of the authorities to implement the „ovif plan (see AI Index EUR 01/003/2001), particularly with respect to the integration of ethnic Albanians into local and state institutions. On August 3, two Serbian policemen were killed, and two others injured, in an armed attack in the village of Muhovac; four ethnic Albanians were arrested in connection with the attack. In Bujanovac in November, the four-year-old son of a trainee Albanian police man was injured in an attack on his father's car; his mother was also wounded; the father was part of the multi-ethnic police force set up under the „ovif plan, which began operating and training in May.

Reports of the ill-treatment of ethnic Albanians by Serbian police were also received, including allegations

that Ekrem Sulejmani, Bejtula Musahu and his son Avni Musahu from Preševo were assaulted by 20 police officers as they returned home from buying cattle in Strzovce village. The two older men - one of whom suffered two broken teeth - were taken by ambulance to hospital, while Avni Musahu was taken to Preševo police station, where he was held until 6 pm the following day.

Conscientious objection to military service

On 26 December the Federal Parliament voted to reduce the period of military service from 12 months to nine, amending the Yugoslav Army Act. The law is to be made retroactive to include those called up from September 2001. Conscripts who refuse to bear arms will be required to serve 13 months in non-combatant branches of the military. AI considers that the amended law continues to deny conscientious objectors the right to a genuine alternative civilian service.

KOSOVO (KOSOVA)

The United Nations Interim Mission in Kosovo (UNMIK) continued to administer Kosovo under UN Security Council Resolution 1244/99. Hans Haekkerup, Special Representative of the UN Secretary General (SRSG), appointed in January 2001, resigned in December. Elections for the 120-member Kosovo Assembly took place in November 2001, with a victory for the moderate Democratic League of Kosovo (LDK) party led by Ibrahim Rugova. Although the assembly met on 10 December to elect its officials, they had failed to elect a president by the end of the year.

Serb participation in the election was threatened by a proposed boycott, harassment from some sections of the Serb community, and attacks by ethnic Albanians: on 14 November two cars were damaged in a hand grenade attack outside a building in Zvecan where a meeting of the Return Coalition *Povratak* was being held, and on the following day Serbs leaving a *Povratak* rally in Djakovica (Gjakovë) were stoned by a reported 1,000 ethnic Albanians. Eventually, 49% of Serbs eligible to vote participated in the elections. This was encouraged by the signing in November of the UNMIK-FRY common document, which sought to address outstanding human rights concerns, especially those of the Serb minority.

The period before the elections was also marred by violence, including politically motivated killings often directed at moderate politicians: on 21 August, Hamsa

Hajra, an ethnic Albanian alleged to have worked with the Serbian police, his wife, son and two daughters were killed when their car was ambushed near Glogovac (Gllogoc) by unknown assailants; on 2 September Qerim Ismaili, secretary of the Kosovo Democratic Initiative was killed in Donje Godance, near Štimlje (Shtime); and on 19 October Bekim Kastrati, a journalist for the newspaper *Bota Sot*, and Besim Dajaku - an LDK bodyguard - were killed by gun-fire when their vehicle was ambushed in Srbica (Skenderaj). Other attacks and attempts at intimidation took place against individuals, their homes and party offices or meetings. Just after the elections, on 23 November, Xhemajl Mustafa, a founder of and senior figure in the LDK, who as a journalist had spoken out against organized crime, was killed outside his apartment in Pristina.

Minorities

Attacks on the life and property of minority communities continued to be regularly reported, although it was not always possible to establish the motivation of the perpetrators, as few arrests were made. At the end of August the body of a Serb man, who had gone missing from his home in Vrbesnica in Štrpce (Shterpce) municipality, was found, apparently shot to death, and on 13 September, an elderly Serb man was also found shot - he had been picking mushrooms at Kisnica near Gračanica (Graçanicë). On 4 October, a 37-year old Roma man was found stabbed to death in Gnjilane (Gjilan), and on 20 October Radoš Radonjić, an employee of the Serbian TV station RTS was seriously wounded at his home in Devet Jugovica (Nentë Jugoviqët), north of Pristina. On 23 November a Serb woman, Milica Mirolsavljević, was killed and her husband injured, when they were attacked by gunfire and a hand grenade while walking from the Obiliq (Obiliq) train station to Plemetina (Plemetin).

UNMIK took steps towards addressing the concerns of the Serb minority community prior to the November elections in talks with the FRY authorities, resulting in the signing, in early November, of the UNMIK-FRY Common Document which reaffirmed the status of Kosovo under UN Security Council Resolution 1244/99 and made commitments towards, *inter alia*, resolving the fate of missing persons; moving towards a multi-ethnic judiciary; increasing minority access to justice, and making a commitment to multi-ethnic policing in the Kosova Police Service, reflective of the ethnicity of the areas served. UNMIK

also agreed to assist the return process by setting up an Office for Return and to improve the processing of property claims for returning displaced persons.

In May, more than a thousand ethnic Albanians were reported to have demonstrated in Istok (Istog) about the proposed return of Serbs to the abandoned village of Osojane (Osojan), from which they fled in 1999. On 13 August, 54 Serbs returned to the village under KFOR escort, and a further 30 returned at the end of August, when further demonstrations took place. The village remains protected by KFOR troops.

Ethnic Albanian prisoners in Serbian jails

The fate of some 200 ethnic Albanian prisoners remaining in Serbian jails at the end of the year remained unresolved, despite a commitment under the UNMIK-FRY Common Document that the cases of those currently serving sentences would be reviewed in the Serbian courts. It was envisaged that in cases where there was found to be no case no answer, prisoners would be released; those whose detention was confirmed would be transferred to the custody of the Kosovo Correctional Services at Dubrava prison. This overturned an earlier agreement, under which it had been agreed that the cases would be reviewed by UNMIK, presumably through the Kosovo court system. No transfers or releases under the new agreement were reported before the end of the year. On 10 December, Human Rights Day, apparently on the order of President Koštunica, the former student leader Albin Kurti - convicted of terrorism and sentenced to 15 years' imprisonment in March 2000 - was released.

Meanwhile, in August, 16 Serbs who had been held in pre-trial detention for over 15 months at Kosovoska Mitrovica (Mitrovicë) prison staged a hunger-strike in protest at the length of their detention.

SRSB and KFOR detentions

The SRSB continued to issue Executive Orders for the administrative detention of suspects - including those whose release had been ordered by a court - despite representation from AI and the Ombudperson's Office that such detentions violated international standards, including the rights of those deprived of their liberty to challenge the legality of their detention.

In August, a Detention Review Commission (DRC) was established under UNMIK Regulation 2001/18 for a three-month period to review detentions authorized by the SRSB. The DRC failed to provide detainees with

the means to challenge the lawfulness of their detention, and continued to deny detainees the right to be informed of the reasons for their continued detention through the use of in camera proceedings held in the absence of detainees and their counsel of choice.

The DRC extended the detention of three men who had been administratively detained by the SRSB in February in connection with the Podujevo (Podujevë) bus bombing in which eleven Serb civilians were killed, and following an order for their release by the Pristina District court. Following an order by the Supreme Court on 18 December, Avdi Belhuli, Qele Gashi and Jusuf Veliu were released.

AI was also concerned at the continuing practice of arrests and arbitrary detentions, outside of the judicial process, by KFOR. As far as the organization is aware, of an estimated 1500 men detained earlier in the year, the majority were released without charge. Only one prosecution was reported: on 16 October six men were convicted of weapons possession and illegal border crossing, and four others were convicted for weapons possession alone at Gnjilane (Gjilan) District Court.

At least seven individuals were believed to be in KFOR detention at the end of the year; they included Ruzdhi Saramati, regional commander of the Kosovo Protection Corps detained since July without judicial authority, and three civilians working for international aid agencies in Kosovo, who were unlawfully detained by KFOR on 14 December during Operation Wiseman. According to reports received by AI, two of the men were Iraqi citizens employed by the US-based Global Relief Foundation, the other, a Swedish citizen, was employed by a UK-based humanitarian organization. The men were detained after a search of their offices by KFOR, and were subsequently transferred to the US detention facility at Camp Bondsteel where they remained until they were released, without charge, on 21 January 2002. AI believes that, in addition to violations of their detention rights under Article 5 of the International Covenant on Civil and Political Rights (ICCPR), one of the men was subjected to ill-treatment by Italian KFOR soldiers following his arrest.

War crimes trials

On 18 October, the Supreme Court overturned the conviction of Miroslav Vucković, member of a Serb paramilitary group, who had been sentenced by a panel of one international and four Albanian judges to 14 years' imprisonment for genocide by Mitrovica District

Court on 18 January 2001. Following an appeal against conviction, the court ruled that there was insufficient evidence to support a conviction for genocide - or complicity in genocide - and returned the case to the District Court for retrial relating to Miroslav Vuckovič's participation in arson and aggravated theft. Miroslav Vuckovič remains in custody.

The UNMIK-FRY Common Document included the agreement, as part of a package of measures to create a multi-ethnic judiciary in Kosovo and improve Serb access to justice, that a joint FRY-UNMIK working group would review proceedings in which ethnic Serbs had been convicted of serious crimes by an ethnic Albanian judicial panel.

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