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BELGIUM

THE ALLEGED ILL-TREATMENT OF CHARLES OTU BY LAW ENFORCEMENT OFFICERS

AI is concerned about the alleged ill-treatment of Charles Otu, a Belgian citizen of Ghanaian origin, by Brussels law enforcement officers in October 2000. In complaints lodged with the police and judicial authorities Charles Otu, married to a Belgian citizen and employed by a Belgian non-governmental organization, claimed that he was repeatedly physically assaulted, threatened and subjected to racist abuse by law enforcement officers after refusing to hand over his car-keys. AI welcomes the prompt opening of official investigations into his allegations and is urging that in their investigations the Belgian authorities pay special attention to the principles established in international human rights instruments regarding the use of force by law enforcement officials: these include the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. AI is also seeking the cooperation of the Belgian authorities in informing the organization of the eventual outcome of the investigations and of any further criminal or administrative proceedings arising from them.

According to Charles Otu's account of the events in question, at around midnight on 13-14 October 2000, having spent an evening with friends, he was sitting in his car at traffic lights on rue Rogier, on his way home, when he was approached by an officer of the gendarmerie. The officer ordered Charles Otu, who was still seated in his car, to hand over his car-keys. He refused to comply with this order, offering instead to produce his identity card and driver's licence. He said that, as he reached over to the glove compartment for his documents, the officer opened his door, dragged him out of the car, threw him to the ground and handcuffed him: he was assisted by a colleague who used his boot to keep Charles Otu's head pressed against the road surface. He alleged that the officers then proceeded to kick and hit him with their truncheons.

Officers of the communal police, called to the scene by the gendarmes, escorted Charles Otu by car to a hospital where he refused treatment, insisting that he wished to be treated by his own doctor. He claimed that the gendarmes and an officer of the communal police (*la police communale*) then assaulted him in the hospital car-park in what an officer maintained was retaliation for an earlier assault on one of his colleagues. Charles Otu stated that the assault in the car-park was witnessed by members of the medical staff and by a man who was ordered to "clear off" when he approached the group to protest about the officers' conduct.

He alleged that after his transfer to Schaerbeek gendarmerie post, four officers -- including the arresting officers -- proceeded to again kick him and hit him with truncheons. The handcuffs were then removed and for a short time he was left alone in the cell. Charles Otu further alleged that one of the arresting officers subsequently entered the cell and kicked him several times in the abdomen with such force that he defecated involuntarily and, after Charles Otu had removed his trousers and soiled underwear, hit him on the knee with his truncheon. These alleged assaults were apparently observed by colleagues.

In the course of his detention, Charles Otu was asked, but refused, to sign a document which had been drawn up in Dutch, a language he does not understand. He was released from detention at approximately 6am on 14 October 2000. Before being allowed to leave he said he was asked to sign another document which the officers proceeded to tear up after he had noted down on it that some of his belongings had not been returned to him.

On 14 October 2000 Charles Otu lodged a complaint at his local police station in Ixelles, a district of Brussels. The complaint was accompanied by a medical certificate, issued by his general practitioner at 7am on 14 October 2000, and which recorded cuts and bruising to his face, and bruising to his throat, back, stomach and right knee. On 7 November 2000 he also lodged a criminal complaint against persons unknown with the Brussels judicial authorities, and constituted himself a civil party to the complaint¹.

Amnesty International understands that the Permanent Monitoring Committee of Police Services, known as Committee P², is carrying out an inquiry into the case, at the request of the investigating magistrate assigned to the case.

In an article published in the Belgian newspaper *Le Soir* on 21-22 October 2000, the gendarmes were reported to have stated that they had approached Charles Otu in his car because they had seen him commit a traffic offence, that they believed he was drunk and that he had violently resisted them, injuring two officers.

BACKGROUND INFORMATION

Annual reports submitted to parliament by the **Permanent Monitoring Committee of Police Services** (Committee P) -- a body examining the functioning of all Belgian law enforcement agencies -- regularly record dozens of complaints of unjustified use of violence by law enforcement officers. In May 1999 the **Centre for Equal Opportunities and Opposition to Racism** (CECLR), a body reporting to the Belgian prime minister and parliament, indicated that a significant percentage of formal complaints of racism made during the six years of its existence related to ill-treatment by law enforcement officers.

In June 1998 the Council of Europe's **Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment** (CPT) published the findings of its second periodic visit of inspection to Belgium, carried out in September 1997 and visiting 22 places of detention, including police and gendarmerie establishments. The CPT indicated that, as in its first periodic visit in 1993, "a number of allegations of physical ill-treatment" had been made against police and gendarmes by both Belgian and foreign nationals, some of them minors. It said it was "very concerned" by the treatment of detainees by law enforcement officers in Belgium. The ill-treatment alleged consisted generally of kicks, punches and baton blows, inflicted at the time of arrest and during transfer to and inside police and gendarmerie stations.

The CPT expressed serious concern that no progress had been made regarding the introduction of certain fundamental safeguards against ill-treatment by law enforcement officers which it had recommended following its first visit in 1993. These included recognition of the right of

¹Thus allowing him the possibility of eventually obtaining compensation for his alleged treatment.

² Committee P is a body reporting to the Belgian parliament which is mandated to examine the functioning of all law enforcement agencies and as such, carries out inquiries into complaints against law enforcement officers and makes relevant recommendations.

access to a lawyer from the beginning of the custody period, systematic and prompt provision to detainees of a document setting out all their rights, and the drawing up of a code of conduct for interrogations. In July 1999 the government stated that a working group had begun meeting in January of that year to study certain recommendations of the CPT and possible reforms.

In November 1998, following its examination of Belgium's third periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR), the UN-based **Human Rights Committee** expressed "grave concern" about "reports of widespread police brutality" and regret at "the lack of transparency in the conduct of investigations on the part of police authorities and the difficulty of obtaining access to this information." It also expressed concern that criminal suspects had no right of access to a lawyer and a medical visit from the moment of arrest and said that detainees should be informed promptly of their rights, in a language they understood.

In its second report on Belgium, published in March 2000, and covering the situation as of June 1999, the Council of Europe's **Commission against Racism and Intolerance** (ECRI) stressed "the urgent need to address the problem of manifestations of racism on the part of some law enforcement officials, as well the need to provide the means for a better response on the part of the authorities (judicial and non-judicial) to complaints of racist behaviour."

It reported that "the experience of organisations working in the field of combatting racism and intolerance in Belgium indicates that an important part of the complaints of racism relate to the behaviour of certain law enforcement officials. The acts most recurrently cited are discriminatory identity checks, a considerable part of which result in the person subject to such checks being in turn accused of resisting arrest or insult by the police officer. Insults, bodily injuries, arbitrary detention and humiliating treatment are also reported to be recurrent subjects of complaint. A considerable proportion of complainants are young males of North-African origin."

ECRI stated that "efforts to raise awareness of the issues of discrimination and racism among the persons responsible for internal control within the different police units are urgently needed" and indicated that the number of formally registered complaints did not reflect the true extent of the problem "since many members of minority groups are reluctant to resort to a formal complaint, due to lack of confidence in the possibility of redress or fear of further reprisals." It stated that there was "evidence to suggest that, when complaints are actually filed, the response of the judicial authorities is unsatisfactory. In particular, ECRI is concerned at the low number of complaints which are followed up and the lengthiness of the relevant proceedings. [...] The police service appears reluctant to acknowledge any incidence of racist behaviour on the part of its officers. In addition, a serious lack of transparency is reported, as complainants are very rarely informed by the police authorities of the results of the procedures. As a result, they do not know whether any disciplinary action or other form of sanction has taken place. This situation contributes to the impression that members of police forces enjoy virtual impunity and ultimately diminishes the confidence of members of minority groups in the police."

ECRI made a series of recommendations to remedy the situation. In response the authorities pointed in particular to the introduction of new training programs relating to racism and multiculturalism for law enforcement officials and judges and the inclusion of a code of professional conduct in legislation setting out basic principles for a new police service integrating the existing gendarmerie, judicial and communal police forces into one service, organized on federal and local levels: the federal force is due to come into existence in January 2001, the local force in January 2002.

Anyone wishing further details relating to AI's concerns in Belgium should consult the following recent publications:

- < *Belgium: The death of Xhevdet Ferri* (AI Index: EUR 14/04/00), 17 October 2000. Available in French under the title *Belgique : La mort de Xhevdet Ferri* (Index AI : EUR 14/04/00/ÉFAI);
- < *Belgium: The death of Semira Adamu - Justice still awaited* (AI Index: EUR 14/03/00), September 2000;
- < *Amnesty International Concerns in Europe, January - June 2000: Belgium* (AI Index: EUR 01/03/00). Available in French under the title *Belgique - Résumé des préoccupations d'Amnesty International : Janvier - juin 2000* (Index AI : 01/03/00 ÉFAI);
- < *Amnesty International Concerns in Europe, July - December 1999: Belgium* (AI Index: EUR 01/01/00). Available in French under the title *Belgique - Résumé des préoccupations d'Amnesty International : Juillet - décembre 1999* (Index AI : 01/01/00 ÉFAI);
- < *Amnesty International Report 2000*.

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