

£SWITZERLAND

@Allegations of ill-treatment in police custody

There have been a number of reports in recent years alleging that law enforcement officers have sometimes used deliberate and unwarranted physical violence against people in the period both immediately before they have been taken into police custody and during the first 24 hours in police custody, before they have been put at the disposal of a judge (that is, during the *garde à vue* period).

Such allegations have emanated from several of the 26 cantons and demi-cantons which make up the Swiss Confederation; a high proportion have concerned the canton of Geneva. They have been made by, amongst others, domestic human rights organizations, doctors, lawyers and religious bodies, as well as the detainees themselves.

The most common forms of ill-treatment alleged are repeated slaps, kicks and punches, heavy pressure on the windpipe causing near-asphyxiation and enforced stripping for no apparent reason except to cause humiliation. All of the complaints concern people who have apparently been detained on suspicion of committing criminal offences, many of them concern foreigners and Swiss citizens of non-European descent. Verbal racial abuse has been frequently reported in such cases.

The police have commonly responded to medical evidence of injuries on detainees by stating that the injuries were sustained while resisting arrest. It is claimed that detainees are often threatened with counter-charges of defamation or resisting state officers when they indicate their intention of lodging a formal complaint of ill-treatment, and that some ill-treated detainees are, therefore, reluctant to identify themselves or to report their treatment to the prosecuting authorities. Judicial and administrative investigations into formal complaints of ill-treatment frequently appear to lack thoroughness; they very rarely result in disciplinary or criminal sanctions against law enforcement officers. It is also reported that because of these circumstances, lawyers often advise clients against lodging criminal complaints.

Article 65, paragraph 2 of the Constitution of the Swiss Confederation prohibits corporal punishment¹. Although the crime of torture, as such, does not exist as a specific offence under Federal law, criminal proceedings for crimes ranging from coercion and bodily injury to homicide, which are committed against detainees and prisoners by state officials, may be brought under the Federal Penal Code and the Cantonal Codes of Criminal Procedure.

¹"*Les peines corporelles sont interdites*"

Switzerland has also ratified the principal international instruments prohibiting torture and cruel, inhuman or degrading treatment or punishment. On 2 December 1986 Switzerland ratified the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture) and on 18 June 1992 acceded to the International Covenant on Civil and Political Rights. The Swiss Federal Court (the Supreme Court) has also ruled that the prohibition against torture and other inhuman treatment constitutes a general principle of international law which must be respected by every authority.

On 14 April 1989 Switzerland submitted its initial report (CAT/C/5/Add.17) to the UN Committee against Torture regarding its compliance with the requirements of the Convention against Torture. This report was considered by the Committee in November 1989. In September 1993 Switzerland submitted its second periodic report to the UN Committee against Torture (CAT/C/17/Add.12). This report is due to be considered during the Committee's April 1994 session in Geneva.

On 7 October 1988 Switzerland ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Convention established a European Committee for the Prevention of Torture (ECPT)² which was designed to strengthen the safeguards against torture afforded by the European Convention for the Protection of Human Rights and other international standards by allowing visits to countries which had ratified the Convention. The ECPT carried out its first visit to Switzerland between 21 and 29 July 1991, visiting places of detention in the cantons of Berne, Geneva, Vaud and Zurich. In January 1993 the Swiss Federal Council (the executive branch of government) made public the Committee's report, together with its response to the findings and recommendations contained in the report.

Main Conclusions and Recommendations of the European Committee for the Prevention of Torture regarding garde à vue detention

In its report to the Swiss Federal Council on its 1991 visit to Switzerland, the ECPT stated (CPT/Inf (93) 3 - para 101) that before arriving there it had received "numerous" allegations of ill-treatment inflicted by the police concerning the four cantons covered by the visit (that is, Berne, Geneva, Vaud and Zurich). In Geneva beatings ("*passages à tabac*") had been described to the ECPT as "almost routine". Some of the allegations of ill-treatment were supported by medical certificates recording sequelae such as pierced eardrums, a broken

² A body of 10 experts elected by the States Party to the Convention to supervise the implementation of the Convention.

arm, a broken nose and lacerated testicles. Other allegations had been brought to the attention of the ECPT delegation in the course of visiting the various cantons.

One of the detainees interviewed alleged he had been struck about the face at the moment of his arrest on 13 June 1991 and hit again at the police station. Another said that when he was in the police station he had been handcuffed and then hit around the eyes. Another claimed that during the *garde à vue* period he had been struck on the back of the neck and slapped while he was already handcuffed with his arms behind his back. A fourth detainee reported that he had been ill-treated by the police some years previously during an ambulance transfer. They had allegedly hit him numerous times around the back of his neck while he was lying on a stretcher, handcuffed and restrained by a belt. Another prisoner described the "severe ill-treatment" to which he had allegedly been subjected some years previously. The prisoner in question had made an application to the European Commission of Human Rights.³ Another prisoner said his feet had been beaten and trampled on at the time of arrest. A pistol had allegedly been put against his temple and he had been ordered to make a confession. He also claimed he had been dragged by the hair and that his head had been knocked against the wall.

The ECPT stated that, after taking into account the number of allegations of ill-treatment inflicted during the *garde à vue* period which it had received, the variety of sources from which they had come, the existence of medical certificates corroborating some of the allegations and the fact that a judicial inquiry into such allegations was under way in

³ Antonio Hurtado, a Colombian, was arrested on 5 October 1989 by six members of the Vaud cantonal police who suspected him of belonging to a violent international drug-trafficking organization. After throwing a stun grenade into an apartment, they overpowered him by force, hooded and handcuffed him and took him to Yverdon police station. Antonio Hurtado alleged being beaten and kicked until he lost consciousness at the time of arrest and assaulted again inside the police station. During the arrest he excreted in his clothes and was apparently forced to wear soiled clothes until his transfer to prison on the evening of 6 October. No medical examination took place until eight days after his arrest, six days after he had asked for a doctor. A subsequent medical report recorded several bruises, various pains and a fracture of the anterior arch of a rib.

In November 1989 Antonio Hurtado lodged a complaint against the arresting officers, alleging actual bodily harm and an abuse of official authority. The allegations were dismissed by the investigating judge in June 1990. Appeals up to the cassation division of the Federal Court based on Article 3 of the European Convention (which states that no one may be subjected to torture or inhuman or degrading treatment or punishment) all failed.

In July 1993 the European Commission expressed the view (by 12 votes to four) that there had been no violation of Article 3 with regard to his arrest but that there had been violations of Article 3 in that the applicant had to wear soiled clothes (15 votes to one) and because of a failure to provide immediate medical treatment (unanimous vote). The commission referred the case to the European Court which, in January 1994, decided the case should be struck off the list after the government agreed to pay the applicant 14,000 Swiss francs as compensation for the treatment suffered and to cover his legal costs in return for him waiving his right to pursue further claims arising out of the case.

Geneva⁴, together with what the Committee considered to be "gaps" in some of the fundamental guarantees against ill-treatment for people held in *garde à vue* in Switzerland, it had concluded that "the risk of being ill-treated during the *garde à vue* period cannot be dismissed".⁵

The ECPT explained that, in the matter of fundamental guarantees against the ill-treatment of people in *garde à vue* it attached particular importance to three rights: the right for the person to inform a relative or third party of the arrest, right of access to a lawyer and the right to be examined by a doctor of his/her own choice. The Committee also considered it fundamental to have clear and precise guidelines on the conduct of police interrogations. The Committee also emphasized the importance of relevant police training in preventing ill-treatment.

The Committee pointed out that in none of the four cantons visited did a person held in *garde à vue* have the right to inform relatives or others of their arrest. The lack of any such guarantee in Swiss law meant that, in practice, where there was no risk of collusion, whether a detainee was allowed to inform a relative of his/her arrest (either directly or via the police) appeared to depend on the practice of the individual canton and police station concerned. **The ECPT therefore recommended introducing the right for all people held under *garde à vue* to inform a relative or third party of their arrest.**

Similarly, the ECPT found that in none of the four cantons visited, nor in Switzerland generally, was there right of access to a lawyer during the *garde à vue* period. The Committee commented that it is the period immediately after deprivation of liberty when the risk of intimidation and of ill-treatment is greatest. **It considered the right of access to a lawyer, from the beginning of the *garde à vue* period, of very great importance and recommended that this right be introduced in Switzerland.**

The Committee had discovered that in all the police stations it had visited, medical assistance was provided by local emergency medical services; there was no other way for a detainee to call a doctor.⁶ **The ECPT recommended that people in *garde à vue* be given the right to be examined by a doctor of their own choice.**

The delegation had noted that the registers held in the police stations visited often omitted information regarding certain important aspects of the *garde à vue*. The ECPT considered that the fundamental safeguards for people held in *garde à vue* would be

⁴ See page 7

⁵"le risque d'être maltraité pendant la garde à vue ne saurait être écarté" (CPT/Inf (93) 3 - para 157)

⁶ See p14 for subsequent reforms in the Canton of Geneva

reinforced if a single and comprehensive custody record were to exist for each person detained, recording all aspects of his/her *garde à vue* (including time of arrest, time told of rights; signs of injury or mental illness; time when relatives and lawyer contacted and when visits take place; when offered food; period of interrogation, when brought before the competent magistrate; when transferred or released). The detainee's lawyer should also have access to such a custody record. The Committee, therefore, **recommended keeping a comprehensive record of the garde à vue.**

The Committee also considered that guidelines on the conduct of police interrogations should envisage **a systematic record of the interviews**, including the starting and finishing times of interviews, and the names of all those present. The Committee also considered that **a system of electronically recording the interview** constituted a useful means of preventing ill-treatment.

Response of the Federal Council to the ECPT's Recommendations

In its response to the ECPT (CPT/Inf(93)4), the Federal Council **agreed that everyone arrested by the police should have the right to inform his/her relatives or a third party** of the fact, without delay, and to be informed of this right. Exceptions should be clearly defined and reasons given for any decisions to deny this right. The Federal Council stated that normally, when there was no danger of collusion, a detainee already had the possibility of contacting a relative or third party.

The Federal Council **could not support the recommendation that all arrested persons should have the right of access to a lawyer from the beginning of the *garde à vue* period**, a period which did not generally exceed 24 hours. The Council added that it would be paradoxical to allow a lawyer to be present during the police interview, when in several cantons the lawyer was excluded from the subsequent interview with the judge of instruction. The Council also said that there was also a danger that the lawyer might involuntarily compromise the result of the investigation, through contact with the client's relatives and friends.

The Federal Council also **rejected the recommendation for the right of the detainee in *garde à vue* to be examined by a doctor of his/her own choice**, stating that the right to receive medical treatment and to be examined by 'a' doctor was recognized without restriction in Switzerland. The Council also opposed the introduction of the right to be examined by a doctor of one's own choice because of a possible risk of collusion.

The Federal Council **rejected the recommendation for a single and comprehensive record of the *garde à vue*** to be instituted, indicating that, in the majority of cantons, much of the information which the ECPT recommended recording was already available, to varying degrees, in different police and judicial documents. The Council also **rejected the**

recommendation for police interrogations to be electronically recorded. The Council shared the Committee's view on police training and attached great importance to its value as a safeguard against ill-treatment.

Allegations of ill-treatment in the Canton of Geneva: 1990 -1991

The number of reports of alleged ill-treatment by police in the canton of Geneva received by Amnesty International began to increase noticeably at the beginning of the 1990s. The allegations were made by lawyers, medical practitioners, representatives of religious bodies and by locally-based human and civil rights groups, as well as by detainees themselves. A high number of the allegations concerned foreigners, in particular those of non-European descent.

In a written statement made during a visit to the Protestant Social Centre (*Centre Social Protestant*) in Geneva on 2 August 1990 Bruno Traoré, a 28-year-old asylum seeker from Guinea, said that on the previous day police had entered the Geneva hotel where he was staying to carry out a check on the residents. A police officer suddenly entered his room, asked him what he was doing there and whether he was employed. He alleged that when he asked the reason for the questions the police officer called him a "dirty nigger" ("*sâle nègre*") and a parasite and spat on him. He said that he shouted back at him and the officer immediately started to beat him as if he were "an animal". He claimed the officer then searched him and made obscene remarks about his mother. Bruno Traoré was not arrested or charged with any offence. In a letter addressed to the cantonal Justice and Police Department on 1 November 1990, the Protestant Social Centre drew attention to his statement, pointing out that he had been so disgusted by the incident that he had decided to leave the country without even waiting for a reply to his asylum petition; he had asked them not to inform the Department of the incident until after his departure. The Centre added that "Like the majority of asylum seekers who report this type of situation to us (around 10 cases each year), Bruno Traoré did not wish to come forward and make a formal complaint, fearing that he might have to suffer retaliatory measures"⁷. The Head of the Department of Justice and Police replied on 7 November indicating that he would look into the alleged incidents. Amnesty International is not aware of the results of his inquiries.

By 1991, doctors attached to Geneva's University Institute of Forensic Medicine (IUML - *Institut Universitaire de Médecine Légale*), responsible for the provision of all medical services to the cantonal prison of Champ-Dollon, had become concerned by a noticeable increase in the number of detainees arriving for admission at the prison from

⁷"Comme la plupart des candidats à l'asile qui font état auprès de nous de ce genre de situation (une dizaine de cas environ dans l'année), M. Traoré ne voulait cependant en aucun cas se manifester par une plainte, de peur d'avoir à subir des mesures de rétorsion"

police custody with physical injuries. The doctors feared that some of these injuries could have been inflicted by the police. They compiled a dossier of 66 cases where individuals had arrived at the prison displaying signs of traumatic injuries. The dossier was sent to the cantonal Department of Justice and Police which forwarded it to Geneva's Procurator General (*Procureur Général*) for investigation in July 1991.

In reply to the ECPT's request for information on the progress of this investigation, the canton said that (CPT/Inf (93) 4 Annex 11), because of the possibility that there had been violations of Article 312 of the Swiss Penal Code, relating to abuse of authority, Geneva's Procurator General had asked the police to carry out a preliminary investigation (*enquête préliminaire*). The canton stated that in February 1992, after receiving the "detailed reports" of the police, the Procurator General decided to file ("*classer*") the whole dossier, without further action.

The canton's statement indicated that four of the detainees listed in the IUML dossier had also lodged individual criminal complaints against the police and that judicial proceedings had been opened into them (Proceedings No 14462/91 relating to a complaint lodged by a detainee identified only by the initial C; Proceedings No 17027/91 relating to detainee S.M; Proceedings No 15763/91 relating to detainee B and Proceedings No 16691/91 relating to detainee A). All four proceedings were filed, with no charges being brought against the police officers involved, the injuries recorded on the detainees being attributed to the circumstances of arrest.

The canton said that, in addition, the Procurator General had opened three other judicial proceedings in 1991 relating to individual complaints of ill-treatment.

Proceedings No 5236/91 relating to the case of H were filed without any criminal charges being brought against the police. However, two police officers received disciplinary sanctions.

Proceedings No 14585/91 relating to the case of C-R were also filed. (See case of João Coelho Ribeiro below).

Proceedings No 13135/91 relating to the case of B were still under investigation at the time the canton prepared its statement in 1992. (In July 1993 this complaint was also filed - see case of François Bellil p 9).

In its statement the Canton drew attention to the fact that out of the 3,803 arrests carried out in 1991, there had been 118 cases of opposition to acts of authority or violence against the police. The Canton commented that although Geneva police lodged complaints of calumny in exceptional, serious cases, they did not normally do so and added that "This

practice could be changed and police officers invited to lodge complaints systematically, if the ECPT so wishes".⁸

According to Amnesty International's information, Proceedings No 14585/91 (see above) were opened on 1 October 1991 following a complaint lodged by **João Manuel Coelho Ribeiro**, a Portuguese citizen studying at Lausanne University, on 17 July 1991. He alleged - *inter alia* - that Geneva police had subjected him to ill-treatment and abused their authority when they arrested him on 8 May 1991 in connection with a jewellery theft. He was acquitted of the charge of theft on 20 September 1992. On 4 April 1992 Geneva's Procurator General filed the complaint. João Coelho Ribeiro's appeal against this decision was dismissed by the court (*Chambre d'accusation*) on 4 September 1992. On 3 May 1993 he lodged a civil suit claiming damages for - *inter alia* - bodily harm (*lésions corporelles*) and illegal arrest (*arrestation illicite*).

João Coelho Ribeiro said that when he answered the door of his Geneva apartment to three police officers between 6.30 and 7am on 8 May 1991, he was stripped to the waist and bare-foot. The officers had no arrest or search warrant; he claimed that when he asked to see such warrants the police officers' attitude became aggressive, that one of the officers pushed him into the apartment and tried to catch hold of him. He said the other two officers each took him by an arm and handcuffed him behind his back. He denied trying to run away, as the police later maintained, but acknowledged that he struggled, trying to avoid the police taking physical hold of him and that he cried out for help in the hope of alerting his neighbours. He claimed that while two officers held him by handcuffs, the third delivered several blows to his lower thorax before throwing him, head down, on to a mattress lying on the floor. He said the officer then held him by his hair and neck, and with his knee pressed down on his back forced his face against the mattress to stop him struggling and crying out. He said that he hit his nose against the ground several times as he tried to raise himself to avoid suffocation. He alleged this treatment lasted up to 20 minutes and that at one point the officer pulled him up off the mattress, pinned him against a wall and asked him to translate a message in Portuguese which had been left on his ansaphone. He claimed that when he refused the officer slapped him and punched him in the stomach. He also claimed that the police subjected him to repeated verbal abuse calling him names such as "little Portuguese shit" ("*petit Portugais de merde*") and "dirty foreigner" ("*sale étranger*") and other, similar, terms. A resident of the same apartment block said she heard repeated cries coming from his apartment and someone shouting "Help, they're going to kill me" ("*Au secours, on va me tuer*"). João Coelho Ribeiro was taken to Geneva's central police station (Carl-Vogt) at around 7.30am. He claimed that while he was held in a cell with his wrists

⁸ "*Les policiers n'ont pas l'habitude de déposer plainte pour dénonciation calomnieuse ... Ils ne le font qu'exceptionnellement, dans des cas graves. Cette pratique pourrait être modifiée et, les policiers invités à déposer plainte systématiquement, si le CPT le souhaite*"

handcuffed to the leg of a table, the police officer who had assaulted him in the apartment slapped him once again.

He was put at the disposal (*mis à disposition*) of the judge of instruction at 11.40am on 9 May, thus remaining in *garde à vue* for 28 hours (four hours over the limit of 24 hours prescribed in the canton's Code of Penal Procedure). He did not appear before the judge until 11.15am on 10 May, that is 51 hours and 30 minutes after his arrest (the prescribed limit is 48 hours). When he entered the cantonal prison later on 10 May the duty doctor recorded the following injuries: a bruise measuring 2 x 0.5 cms on his nose; a bruise on his collar bone; three bruises measuring 5 x 0.5cms at the front of his neck resulting in painful swallowing; two bruises, one measuring 5 x 1cms and the other 3 x 0.5cms in the region of his thorax; a bruise measuring 3 x 0.5 cms on the left underside of his left arm, and abrasions 2cms long on both sides of both his wrists.

The police claimed that it was necessary to use force to prevent João Coelho Ribeiro escaping and to restrain him so that he would not harm himself or disturb the whole apartment block with his persistent shouting. There appeared to be some inconsistencies in the police officers accounts of the circumstances of the arrest and their description of the physical actions used to restrain João Coelho Ribeiro did not appear to fully explain all the bruises found on his body. However, in dismissing João Coelho Ribeiro's appeal against the Procurator General's decision to file his complaint the court stated that his physical injuries appeared consistent with "the usual acts of violence to which the suspect exposes himself when the police have to use force to apprehend him and prevent him escaping".⁹

Proceedings 13135/91 were opened by Geneva's Procurator General following a complaint lodged on 14 August 1991 by **François Bellil**, a 20-year-old French citizen of North African descent, a drug addict and a frequent visitor to Geneva. He alleged that Geneva police subjected him to ill-treatment both during an interrogation which followed his arrest on 5 June 1991 and during his transfer from the cantonal prison to the Franco-Swiss border on 7 June 1991.

In a statement dated 5 June 1991 and bearing his signature, François Bellil confessed to carrying out a knife attack, severely wounding a Geneva citizen on 1 June 1991. When he appeared before the judge of instruction on 6 June he denied all involvement in the attack, alleged he had been beaten by the police and offered information which led to the arrest of the actual authors of the crime; he was released without charge on 7 June. That same day the police (*police des étrangers*) issued an order banning him, as an undesirable

⁹"aux voies de fait usuelles auxquelles s'expose le suspect lorsque l'autorité de police doit utiliser la force pour l'appréhender et l'empêcher de fuir"

alien, from entry into Switzerland for an indefinite period. The ban took immediate effect and François Bellil was accompanied to the Franco-Swiss border by the police later that day.

In his complaint François Bellil said that after crossing from France into Switzerland on 5 June 1991, he and his girlfriend were detained at the Swiss border post until the Geneva police arrived. He also said that he swallowed sleeping tablets to calm himself. After arriving at the police station he was interrogated by two police officers about the knife attack. He said that he denied any personal involvement but supplied information about the attackers. He claimed the police became annoyed when he denied carrying out the knifing and that one of them began to kick and punch him, knocking him off his chair on at least two occasions. He said that eventually the accumulated effect of the blows and the sleeping tablets which he had taken rendered him unconscious and he fell asleep on the floor of the interview room. He claimed to have no memory of signing the confession and noted that his signature was illegible.

His girlfriend who was taken to the police station in the same police car but released after questioning, alleged that one of the police officers had struck François Bellil across the top of the head while in the police car and that she was questioned in a room next to the one in which he was being interviewed and could hear the noise of blows being struck.

François Bellil also alleged that a police officer who sat next to him in the police car during his subsequent expulsion, punched him several times, particularly in the face, and called him a "wog" ("*bougnole*") and a "dirty Arab" ("*sale arabe*") and used other, similar, terms of abuse.

A friend who saw him arriving on the French side of the border stated that he noted blood on his face and clothes and that François Bellil alleged he had been hit by the Swiss police. He accompanied him to a doctor who issued a medical certificate recording a large bruise covering the front and back of his right shoulder (which François Bellil claimed was incurred during his interrogation), an injury to his nose, and cuts and bruises to his face (which François Bellil claimed were the result of the blows he had received during his expulsion).

After receipt of François Bellil's August 1991 complaint, the Procurator General ordered the judge of instruction to carry out an investigation. The judge returned the dossier to the Procurator General in January 1992 but without interviewing several potential witnesses indicated in the complaint, including François Bellil's girlfriend, the friend who saw him on his return to France and the doctor who examined him on 7 June 1991. These interviews were only carried out after François Bellil appealed to the court which in February 1992 ordered the judge of instruction to interview the witnesses and indicate to the Procurator General whether any criminal charges should be brought. The judge returned the dossier to the Procurator General but again without indicating whether charges should be

brought. The Procurator filed the dossier on 20 July 1993. François Bellil's appeal against this decision was dismissed by the court (*Chambre d'accusation*) on 1 October 1993.

In his decision the Procurator General stated that the police claimed that, after a certain length of time, François Bellil's drowsiness during interrogation had made all further questioning impossible and that they had momentarily left the interview room. Their explanation for his injuries was that in their absence François Bellil had fallen asleep and fallen off his chair.

The complaint which **Beat Schätti**, a curator at Geneva's Natural History Museum, lodged with the Procurator General on 21 October 1991 (Proceedings No 15696/91), in which he alleged ill-treatment by Geneva police, does not appear to be amongst those listed in the information sent to the ECPT by the canton of Geneva.

Shortly before midnight on the night of 15 October 1991 two police officers entered Beat Schätti's apartment in connection with a complaint they had received from the former tenant of the apartment, with whom he had a long-standing dispute, who claimed he had struck her.

The officers asked Beat Schätti and his girlfriend to accompany them to the police station. After going downstairs, Beat Schätti said that he asked the officers if he could go back up and get his cigarettes but that before he finished his request one of the officers jumped at him, pulled him by his hair, punched him in the thorax, knocked him to the floor, then jumped on top of him, pressing his forearm so tightly around his throat that he felt he was about to be strangled; he claimed to have passed out for a few moments. He said that the officer was "beside himself" and constantly shouting at him not to move, although he had not resisted the officer in any way. His girlfriend and another resident of the same apartment block, who also apparently witnessed the episode, confirmed his version of events.

Beat Schätti was then taken to the Pécolat police station where he claimed the officer who had assaulted him refused to give him his identity number and subjected him to insulting and humiliating remarks. He was then put in a cell and forced to strip naked. He asked to see a doctor because his throat was so painful he was unable to swallow. However, this request and several subsequent requests to see a doctor met with no success. He remained in the cell for around two and a half hours, during which he claimed to have heard "dreadful noises" and a man crying out in pain for some five minutes.

He refused to sign a statement drawn up by the police and was asked to take an alcohol test which proved negative. When he asked to use the lavatory he was pushed into a cell with a bloodstained concrete bench, without a cover and a floor littered with excrement, where he had to spend the night. During his transfer to the central police station early next morning he was accompanied by another detainee who had spent the night in the station and

who was trembling. The man said he had been ill-treated by the officers and claimed to have several broken ribs. At the central police station Beat Schätti was able to see a doctor. He was subsequently informed that he was accused, amongst other things, of violence or threats against the police (*violence ou menaces contre les autorités*). Shortly after 5pm on 16 October he was transferred to Champ-Dollon prison where he received his first meal in 19 hours of detention.

On 13 January 1992 the Procurator General announced his decision to file his complaint, stating that, according to the preliminary inquiry into the allegations, the violence which he claimed to have suffered was the result of the force the police had been obliged to use in order to contain him. Beat Schätti appealed to the court (*Chambre d'accusation*) against this decision pointing out, *inter alia*, that neither his girlfriend nor the resident of his apartment block, who both claimed to have witnessed the police officer assaulting him on the stairs of the apartment block, had been interviewed. The court dismissed his appeal on 27 March 1992. In January 1993 Geneva's Police Court found Beat Schätti guilty of violence or threats against public officers; appeals up to the cassation section of the Federal Court were unsuccessful.

Allegations of ill-treatment in the Canton of Geneva: 1992 - 1994

Allegations of ill-treatment continued in 1992. Up to a total of a dozen formal judicial complaints of ill-treatment were reportedly made against the police over the 1991-92 period. None of these complaints resulted in the criminal convictions of police officers and an estimated total of three or four disciplinary sanctions were issued. According to public statements by the police, over the 1991-1992 period the IUML passed on to the Department of Justice and Police a total of 85 individual dossiers where detainees had arrived at Champ-Dollon prison with traumatic physical injuries.

Some of the prisoners in Champ-Dollon sought to protest publicly about their treatment by the police. On 30 June 1992 in an open letter addressed to the Geneva Public Procurator, a prisoner named Sebastian Hoyos, detained in Geneva's cantonal prison of Champ-Dollon, protested, apparently on behalf of "numerous co-detainees" against the "methods and brutality" used by Geneva police during initial interrogations. He alleged that violence was frequently used to force confessions and that police beat suspects "almost systematically". The letter drew attention to the specific case of a prisoner named Sefer Rexhepi to illustrate the problem, claiming that he had been violently beaten by police in Geneva's central police station (Carl-Vogt) before his transfer to Champ-Dollon prison on 25 June 1992. The letter was accompanied by a statement by Sefer Rexhepi, dated 25 June 1992, in which he confirmed that he had been beaten by three police officers in the police station and stated that he had offered no violence.

The Chief of Police indicated that the increase in the number of traumatic injuries recorded by the IUML corresponded to an increase in violent arrests. According to public

statements made by the police during 1993, as reported by the press, over 1991 and 1992 the police made a total of 8,331 arrests and had to use force on 126 occasions; 38 police officers were apparently injured in arrest operations.

In public statements made in February 1993 the Geneva section of the Swiss Human Rights League (*Ligue suisse des droits de l'homme*), which carries out between 120 and 150 annual prison visits to detainees in Champ-Dollon prison, stated: "We have received dozens of statements from people beaten at Carl-Vogt. The principal victims are dark-skinned foreigners".¹⁰ The League had apparently found that victims had very little chance of success if they lodged a complaint and that, in addition, lawyers generally advised against doing so; when such complaints were, however, made, the police frequently brought counter-charges of defamation.

A report published by the Association for the Prevention of Torture (APT)¹¹ in May 1993 stated, with reference to Geneva, that: "... every week new allegations of police brutality are reported in the press or communicated to APT's Secretariat in Geneva ... We are aware of a number of cases of ill-treatment inflicted at the time of arrest or during the *garde à vue* over the last few months, where the detainee did not put up any resistance. The officers who are responsible usually put pressure on the victim to convince him/her not to lodge a complaint; however, a few do so, but the inquiry results only exceptionally in a penal or administrative sanction".¹²

Reforms instituted in the Canton of Geneva following the ECPT's 1991 visit

The publication of the ECPT's report in January 1993 received widespread publicity in Geneva which had been singled out for particular mention in the report. At a press conference in March 1993 the Canton of Geneva's Department of Justice and Police outlined a series of reforms already under way, aimed at improving guarantees for the protection of human rights by the police.

¹⁰"Nous avons reçu des dizaines de témoignages de tabassés à Carl-Vogt. Les principales victimes sont les étrangers bronzés"

¹¹Formerly known as the Swiss Committee against Torture, founded in 1977.

¹²"... chaque semaine de nouveaux témoignages de brutalités policières sont rapportés dans la presse ou sont communiqués au secrétariat de l'APT ... Nous avons eu connaissance ces derniers mois de plusieurs cas de brutalités lors de l'arrestation, alors que l'interpellé n'opposait aucune résistance, ou pendant la garde à vue. Les agents responsables font généralement pression sur la victime pour la convaincre de ne pas porter plainte; certaines le font cependant, mais l'enquête n'aboutit qu'exceptionnellement à une sanction pénale ou même administrative."

These included improvements in the recruitment and training of police; the introduction of a permanent medical service attached to the police, provided by the IUML. Under this service, set up in October 1992, the police may call in an IUML doctor at any time to examine any detainee (or police officer) who displays or claims traumatic injuries. Any injuries found on a detainee may be recorded and the information passed on to the Chief of Police, with the detainee's consent. In the event of such a report, the police are expected to open an investigation and pass the dossier to the Procurator General. In addition, in their reports the police are required to note systematically whether they have been obliged to use force and in what manner. In the event of traumatic injuries being recorded on a detainee or of a detainee lodging a complaint, then, instead of a purely internal police inquiry, an individual independent of the police (currently a retired magistrate) undertakes the administrative inquiry. This may lead to disciplinary sanctions in addition to any criminal proceedings under way.

Although the reforms were broadly welcomed, there has also been criticism that they do not go far enough. It has been pointed out that the decision to call in the IUML doctors rests entirely with the police and that cases have occurred where detainees later found to have injuries have not been medically examined during *garde à vue*; it has also been pointed out that, although the police are now required to record whether and in what circumstances they have used force, there is apparently still no *requirement* to record, for example, the exact time of arrest, of arrival at the police station, or the length of interrogations. No full custody record is, therefore, apparently available to the lawyers of alleged victims of police ill-treatment; important evidence relating to the prisoner's treatment may also, therefore, be unavailable. The cantonal authorities also remain opposed to the introduction of access to a lawyer during the *garde à vue*. A bill put forward to the *Grand Conseil* (the canton's legislative authority) by three deputies during 1993, proposing the introduction of such a right, was unsuccessful.

Critics have also pointed out that, despite the reforms, allegations of ill-treatment continued to be made in the canton of Geneva during 1993 and 1994; some of the cases reported to Amnesty International are described below.

In January 1993 **Sidat Sisay**, a 44-year-old Gambian citizen, was employed by a British-based charity working in the Gambia. He had been suffering for some time from a neurological problem resulting in severe pain in his lower back and a weakness in his legs, making mobility difficult.

On 7 January the Director of Kololi Medical Clinic in the Gambia issued a medical certificate strongly recommending that he receive urgent treatment "before irreversible complications develop" and stated that if funds were available "this treatment should be sought either in the United States or Europe" as the necessary medical facilities were not

available locally. The charity paid for a return air ticket to the USA where relatives were prepared to fund his treatment.

He was due to enter a medical clinic in the USA on 1 February 1993 and left the Gambia on 30 January 1993. Sidat Sisay's account of his treatment in transit at Geneva airport is described in the following extract from a letter which he sent to the Swiss Federal Department of Justice and Police on 9 July 1993.

"On January 30th 1993 I left the Gambia for New York via Geneva on Swissair flight 245 and arrived at Geneva at about 5pm local time. According to my ticket, I was to spend the night at Geneva and take another Swissair flight to New York on Sunday January 31st 1993. However, when we disembarked at Geneva airport three frontier police officers stopped me at the entrance of the terminal building and asked me to go with them to their office. In their office, they went through my passport, medical papers, and other documents related to my treatment and finally told me that my passport was a forged one and they would not allow me to continue my journey to New York. A few minutes later, one of the officers went out of the office and the two officers asked me to take off my clothes, even my underwear. They started to ask if I dealt in drugs and when I replied no, they started to beat and kick me on my back, legs and sides. I told them to stop the assault for I was sick and I had done nothing wrong. After the assault, the two went out and left me completely naked in the office for about fifteen minutes. When the three officers came back, I was told to put on my clothes. At this point, both my bag and brief case were searched throwing my belongings on the floor. After the search one officer spoke on the telephone and immediately a man and a woman who were also officers but not in uniform came into the office. Now five officers confronted me.

The man and the woman looked through my passport and other documents and asked me several questions about my previous trips to Europe and the USA. They were convinced that I was the legal owner of the passport and they advised the other three officers to release me to continue my trip. I was then asked to pack my bag and take it to the Swissair transfer desk for check-in to New York on Sunday January 31, 1993. However, all my documents were still held by the police. On Sunday morning as I went to the office to collect my documents to check-in a police officer and a woman, who claimed to be the head of the Swissair ground staff at the airport, came to me and said that my trip to New York had been cancelled and I should follow them. With my painful body, I was taken nowhere other than a very cold cell where I was detained until 1.30pm on Tuesday, February 2 1993 when I was taken out and put on a plane back to Banjul, via Dakar".

In a letter dated 16 June 1993 the Director of Kololi Medical Clinic in the Gambia stated that an examination of Sidat Sisay on 8 March "confirmed painful and tender bruising of the right lower back and right lower chest; limitation of movement of flexion right knee joint further aggravating his underlying neurologic problem for which he was referred to the

United States". The Director concluded that in his opinion "... the nature of the injuries is consistent with his allegation that he was beaten several times on his back and sides with a blunt weapon".

After Sidat Sisay returned to the Gambia, Swissair agreed to issue a refund air ticket and he was admitted to a medical clinic in the USA for treatment at the end of April 1993. However, his extended absence from work on sick leave led to the termination of his employment. In his July letter to the Swiss Federal Department of Justice Sidat Sisay asked for financial compensation for his treatment at Geneva airport and its consequences. He also attached detailed documentation relating to his medical condition, treatment, travel and the termination of his employment.

In a letter dated 29 November 1993 the Head of the Canton of Geneva's Department of Justice and Police informed Sidat Sisay that an inquiry had concluded that his allegations were untrue. They acknowledged that he was given a body search but denied that he was stripped naked or beaten. They stated that his passport "presented certain anomalies and its authenticity had been in question" and that, because the USA frequently inflicts financial penalties if a passenger arrives there with a fake passport - his journey had been interrupted in his own interests; all the procedures followed were according to normal practice.

Sidat Sisay replied to this letter on 11 January 1994, maintaining his allegations of ill-treatment and offering to identify the officers involved in the incidents.

He sent a photocopy of the passport which he used on the journey of 30 January 1993, pointing out that, when drawing up his passport, the Gambian Immigration Department had entered his father's name (Saikouba) first, then his own name (Sidat), then the family name (Sisay). On collecting his passport he had pointed out that his own name should come first. The Immigration officers corrected this by hand, adding their official stamp and entering a note that the alteration had been carried out by them, again followed by their official stamp. In his letter Sidat Sisay stated that, in his view, if the airport police were not convinced of his ownership of the passport, then they should have checked with Gambian Immigration via the telex and fax facilities at their disposal; however, no such effort was apparently made.

In March 1993 it was reported that **Patricia Schweizer**, described as a 32-year-old prostitute by the press, had lodged a criminal complaint with Geneva's Procurator General, accusing the police of ill-treating her in the early hours of 19 February 1993.

She claimed that at around midnight on 18 February 1993 the police intervened in a heated and noisy argument which she was having with a male friend on a Geneva street. The man was taken to Bourg-du-Four police station and detained only briefly. However, Patricia Schweizer made her way there alone and said she took along her friend's identity

documents in the hope of securing his release. She said that when she arrived two officers ordered her to take an alcohol test which revealed that she had been drinking, as she herself acknowledged. She claimed that they then threw her in a cell and she knocked her head against the concrete bed and fell to the floor; she got to her feet and demanded an explanation for this treatment. She alleged that they told her to be quiet and three or four officers came into the cell and repeatedly kicked and punched her. She was released at 3.30am. No medical examination was apparently carried out during her detention.

On 20 February she was examined by a doctor at the cantonal hospital who reportedly found bruising around her eyes, to her knee and left forearm and a possible fracture to her forearm. An x-ray carried out on 16 March revealed a fracture to her right hand and two torn ligaments in her right wrist.

In a letter sent to the press in April in response to an account of Patricia Schweizer's allegations, the police denied her claims of ill-treatment. They stated that, by her own admission, after her friend was taken into custody she drank several glasses of strong alcohol "to give herself some courage". A short time later she arrived at Bourg-du-Four police station in a highly excited state, insulting and threatening the police officers. She was taken to an interview room and given an alcohol test which revealed a high alcohol intake. As she refused to give her name and details, a police officer took her handbag. Patricia Schweizer then tried to recover her bag but fell against a table and then started to beat so violently against the door that it became necessary to put her in a cell until the effect of the alcohol she had consumed had worn off. They claimed she kicked and punched the door of the cell for almost an hour.

The police announced that they intended to lodge a complaint against her on a charge of calumny.

At approximately 5pm on 11 April 1993, **N.T.**, a 58-year-old woman with partial hearing who was still recovering from multiple fractures and damage to the heart sustained during a serious accident the previous year, was stopped by police outside Geneva airport in connection with an alleged driving offence.

In a complaint lodged with the Procurator General on 13 May 1993 she claimed that after stopping her in her car, the police became annoyed when she could not hear what they were saying to her and dragged her out of her car by her wrists in a "very brutal way", ignoring her appeals for them to be careful of her left wrist as a fracture to her arm incurred during her accident had made the wrist very fragile. She said that their action caused her great pain and her wrist began to swell immediately. The judge of instruction who interviewed her the following day noted that she had "bruises and swelling to both wrists". A medical examination carried out on 14 April, after her release, also recorded bruises 5cms in diameter to her right and left wrists and a subsequent specialist examination on 15 April

diagnosed a fracture. The police subsequently stated they had pulled her out of the car by her shoulders.

The complainant alleged that during her questioning in the airport's police post, officers tried to force her to sign various documents by twisting her right wrist and forcing it down on the table. A request to contact her family was refused. She said that, after being placed in a cell, a female officer ordered her, in the presence of a male colleague, to remove her stockings and that when she refused the officer then lifted her dress and pulled at the stockings, knocking her over so that she fell onto one knee on the floor. She claimed that shortly after the male officer slapped her hard across the face, causing her lips to swell. The police subsequently stated that while the complainant was in the interview room she had thrown herself, of her own accord, against the door several times thus accounting for her swollen lips and the slight injury to her knee.

The complainant was subsequently transferred to the central police station (Carl-Vogt), arriving there at around 11.30pm. She claimed that on arrival an officer placed his right arm tightly around her neck, causing her great pain and near-asphyxia and, grasping her left arm with his left hand, dragged her along a corridor and threw her into a cell, striking her a heavy blow across the shoulder so that she fell full length on her right side against the cell's concrete bed. The medical examination of 14 April recorded seven bruises, measuring between 3 and 12cms in diameter along the right side of her body, including a bruise 7 cms in diameter on her right shoulder. The police later stated that she had insulted the accused officer and had refused to enter the cell; he had been obliged to take her by the arm and drag her down the corridor to make her enter the cell but had not struck her at any time. The police apparently offered no explanation for the bruising to her shoulder and right side.

Shortly after entering the cell she suffered heart palpitations and the officer who she claimed had struck her agreed to ask her family to supply her usual medication. All the medications for the various ailments from which she suffered were brought to the station. She said the officer insisted that she take five pills which he presented to her, even though she protested that one of them contained a stimulant unsuitable for heart palpitations. Her later request during the night for a painkiller from the medication brought by her family was refused. She said she spent the night on the concrete bed, which had no mattress and only a dirty cover.

At no point during her detention at the airport police post or the central police station was it suggested that she be examined by a doctor from the IUML (see above).

She claimed she was offered no food or drink from the time of arrest at around 5pm on 11 April until the morning of 12 April when a cup of coffee and a piece of bread were placed directly on the dirty floor of her cell before her transfer to the cantonal prison at around 11am; nothing further was apparently offered to her before her release from prison at 6pm.

In dismissing her complaint on 20 July 1993, the Procurator General indicated that her lack of cooperation had obliged the police to resort to the legitimate use of force, to the extent required in the performance of their duty and added that the officers involved had all stated that they had been insulted by her but that "in the interests of appeasement" he did not intend to pursue these complaints but that he would be obliged to do so if there were to be "further developments in this affair".¹³ An appeal lodged against the Procurator's decision was dismissed by the court (*Chambre d'accusation*) in December 1993; further appeals were awaiting examination by the Federal Court at the end of February 1994.

Michel Acquaroli, a 36-year-old Geneva architect, alleged that on 21 April 1993 two police officers entered his office and, without showing him any warrant or checking his identity, asked him to accompany them. He said that, after establishing that their visit concerned the settlement of an outstanding national insurance (AVS) payment of some 145 Swiss francs, he suggested settling the matter over the telephone, in view of the relatively small amount of money involved.

He claimed that when he moved towards the next room to make the call, one of the officers twisted his arm violently and pushed his knee into his back so that he fell to the floor. The other officer handcuffed his wrists behind his back; the first officer kept his arm pressed so tightly around his neck that he felt he was being strangled. His girlfriend, present throughout the episode, stated that he was fighting for breath, making a rattling noise in his throat, was blue in the face with his tongue hanging out and turning a purplish colour; the police ignored her pleas for them to stop. The occupant of a neighbouring office on the same floor stated that at the time of the alleged incidents she heard a woman shouting "Help" in the architect's office and the noise of falling objects. She was about to call the police when she saw the architect being dragged out of the room by two police officers and pulled roughly downstairs, bent in two, and taken across the road outside to the Fontenette (Carouge) police station located opposite his office.

From the police station the officers accompanied Michel Acquaroli to the relevant payment office which, in view of the small amount of the debt, agreed that the matter could be settled at a later date.

Michel Acquaroli was then taken back to the police station where he made a formal complaint against the police. He claimed that, while making his statement, the two officers who had assaulted him threatened him with imprisonment if he lodged the complaint.

¹³"*Dans un souci d'apaisement j'entends pas donner suite en l'état à ces plaintes mais je serai contraint de le faire si cette affaire devait connaître d'autres développements*"

He was examined by doctors from the IUML at 5.35pm who noted that he had alleged being assaulted by the police and that he showed signs of physical injury. He was examined by IUML doctors again on 23 April 1994. Their reports recorded a bruise measuring 2 x 1cms on his neck, a superficial wound 0.5cms long on his right wrist, a bruise 3 x 1.5cms on his left wrist, a laceration 4 x 5cms on his left shoulder, a bruise measuring 3 x 2cms on his right arm, a bruise 2 x 1cms to lower thorax and a superficial wound 3cms long on left arm. They also recorded that Michel Acquaroli indicated pains in his lower back and right thigh and pain in swallowing.

After his medical examination by the IUML on 21 April the police informed him that he was under arrest for resisting official actions (*opposition aux actes de l'autorité*), placed him in a cell and asked him to strip naked, for the apparently stated reason that they were afraid he might commit suicide. He was transferred to the central police station at approximately 11.30pm. When he experienced breathing difficulties during the night a doctor was called in to examine him and gave him an injection.

He appeared before the judge of instruction the next morning and released pending investigation on a charge of resisting official actions.

In public statements made to the press over the following days, the police indicated that when the two officers arrived at Michel Acquaroli's office, he insulted them and refused to accompany them. When they seized him by the arm, he became "hysterical" and fought violently so that the officers had no alternative but to resort to the use of force. The officers did not strike any blows but one of them had sustained a cut and strained ligaments to an elbow and the trousers of the other officer had been torn.

Michel Acquaroli and his girlfriend strongly denied the police version of events. His girlfriend said that when she went to the Fontenette police station during the evening of 21 April, some five hours after the alleged incidents, to make a statement concerning the arrest, she was repeatedly asked to say that Michel Acquaroli had refused to accompany the officers. She refused to do so. She added that when she saw the arresting officers at the station neither was wearing a bandage or appeared to have problems in moving an elbow; she had not noted any damage to the uniform of either officer as they left Michel Acquaroli's office. The alleged incidents were still under judicial investigation at the end of March 1994.

Hamid G, a 27-year-old Algerian, was arrested in Geneva on 20 January 1994 in connection with alleged drug-smuggling. He claimed he was taken to offices of the police drug squad located inside Geneva's Cointrin airport. When he appeared before the court (*Chambre d'accusation*) on 26 January he claimed that he had been tied to a seat, kicked and punched and struck with a baton by a police inspector, while three other officers looked on. No medical examination was apparently carried out during his detention. The accused officer lodged a complaint of calumny against Hamid G who also lodged a formal complaint

with the Public Procurator's office on 5 February. He accused the officer of assaulting him, causing him bodily harm, insulting him and abusing his authority. His complaint was supported by medical certificates issued by doctors at the cantonal prison which apparently recorded 11 bruises on his body. The Public Procurator reportedly opened an investigation into his complaint on 8 February 1994; an administrative inquiry was also opened by the police.

Allegations of ill-treatment reported in other cantons

In a paper published in July 1992 the Geneva-based Association for the Prevention of Torture (APT), summarized the findings of a study which it had carried out during 1991 into ill-treatment in places of detention in Switzerland. It stated that it had received several reports of ill-treatment by the police at the time of arrest and inside police stations from Basel, Berne, Geneva and Zurich. It concluded that victims "hesitate to complain about the ill-treatment inflicted (foreigners and recidivists fear retaliation; fear damaging their case) ... on the majority of occasions accused police officers emerge ... without a sentence or with a minimum sentence; the complainant is sometimes even sentenced for defamation, as he lacks proof".¹⁴ APT also commented that ill-treatment was often accompanied by "a xenophobic or homophobic attitude".¹⁵

The majority of the reports of ill-treatment known to Amnesty International have concerned the canton of Geneva (see above). However, occasional allegations have also been received from several other cantons.

Erak Svetlo, a Bosnian from former Yugoslavia, was arrested in **Berne** on **30 January 1992** in connection with alleged drug-trafficking. In April 1993 his wife, a Swiss citizen, wrote to the cantonal police headquarters (*Kantonale Polizeidirektion*) in Berne and to the Head of the Federal Office of Justice and Police in Berne about her husband's case and stated that at the time of his arrest he was insulted, hit on the back of the neck, and beaten and kicked by police officers who trampled all over him. She indicated that, as a result, he sometimes suffered from partial numbness at the back of his head and almost constant pain in the kidney area.

In a letter to Amnesty International his wife gave further details of the ill-treatment to which her husband alleged he was subjected. He told her that about 20 police officers were

¹⁴ "... hésitent à se plaindre de mauvais traitements (crainte de représailles pour les étrangers et récidivistes; crainte de nuire à leur cause) ... les agents interpellés ... s'en sortent la plupart du temps sans condamnation ou avec une condamnation minime; le plaignant est parfois même condamné pour diffamation, faute de preuve"

¹⁵"Ces procédés s'accompagnent souvent d'une attitude xénophobe ou homophobe"

involved. The police searched him but did not notice that there was a gun in his bag; when he told them it was there -

"He was elbowed, kneed, kicked, hit in the face with the pistol and constantly called a Yugoslav swine. Then he had to bend down and received more blows, particularly in the kidney area as this was more effective. Then they asked him to lie face down on the ground. There were so many policemen around him that he could barely manage to comply with the order. When he was lying on the floor ... they even stood on him and trampled over him. At times he was unconscious.

"Later in the car he had to bow his head, whereupon they gave him karate chops on the neck. When they saw his gold chain they choked him with it. When he said something about getting it from me, they then made insults about me, what a stupid whore I was, to marry a Yugoslav swine like him. Then in the building they tied his hands together and struck him again with their elbows, fists, knees and feet. They deliberately took him up in the lift and then down again, just so that they had more time to hit him and knock him against the walls of the lift."¹⁶

Trevor Kitchen, a 41-year-old British citizen resident in Switzerland, was arrested by police in **Chiasso (canton of Ticino)** on the morning of **25 December 1992** in connection with offences of defamation and insults against private individuals. In a letter addressed to the Head of the Federal Department of Justice and Police in Berne and to the Tribunal in Bellinzona (Ticino) on 3 June 1993 he alleged that two police officers arrested him in a bar in Chiasso and, after handcuffing him, accompanied him to their car in the street outside. They then bent him over the car and hit him around the head approximately seven times and carried out a body search during which his testicles were squeezed. He claimed he was

¹⁶"Er wurde geschlagen, mit Ellebogen, mit Knien, mit Füßen, die Pistole wurde ihm ins Gesicht geschlagen, und er wurde dauernd Jugoschwein genannt. Dann musste er sich bücken, und es wurden ihm noch mehr Schläge vor allem in die Nierenpartien verabreicht. Auf diese Weise wirkten sie noch mehr. Dann verlangten sie, dass er sich bäuchlings auf den Boden lege. Da die vielen Polizisten um ihn herum waren, konnte er dem Befehl fast nicht nachkommen. Als er dann am Boden lag ... sie seien sogar auf ihn gestanden und auf ihm herumtrampelt. Zeitweise sei er ohnmächtig gewesen.

"Später im Auto musste er den Kopf neigen, worauf sie ihm Handkantenschläge ins Genick gaben. Als sie seine Goldkette sahen, hätten sie ihn damit gewürgt. Als er etwas verlauten liess, dass er diese von mir habe, schimpften sie auch über mich, was ich für eine dumme Hure sei, ein solches Jugoschwein zu heiraten. Dann im Gebäude, hätten sie ihm die Hände gebunden und weiter geschlagen, wieder mit Ellebogen, Fäusten, Knien und Füßen. Sie seien extra zuerst mit dem Lift hinaufgefahren und erst nachher hinunter, dass sie länger Zeit gehabt hätten, ihn zu schlagen und ihn gegen die Liftwände zu stossen."

then punched hard between the shoulder blades several times. He said he offered no resistance during the arrest.

He was then taken to a police station in Chiasso where he was questioned in Italian (a language he does not understand) and stated that during the questioning "The same policeman that arrested me came into the office to shout at me and hit me once again around the head. Another policeman forced me to remove all of my clothes. I was afraid that they would use physical force again; they continued to shout at me. The one policeman was pulling at my clothes and took my trouser belt off and removed my shoe laces. Now I stood in the middle of an office completely naked (for 10 minutes) with the door wide open and three policemen staring at me, one of the policemen put on a pair of rubber surgical gloves and instructed me to crouch into a position so that he could insert his fingers into my anus, I refused and they all became angry and started shouting and demonstrating to me the position which they wanted me to take, laughing, all were laughing, these police were having a good time. They pointed at my penis, making jokes, hurling abuse and insults at me, whilst I stood completely still and naked. Finally, when they finished laughing, one of the policemen threw my clothes onto the floor in front of me. I got dressed."

He was transferred to prison some hours later and in his letter claimed that during the night he started to experience severe pains in his chest, back and arms. He asked a prison guard if he could see a doctor but the request was refused and he claimed the guard kicked him. He was released on 30 December 1993. Medical reports indicated that since his release he had been experiencing recurrent pain in the area of his chest and right shoulder and had been receiving physiotherapy for an injury to the upper thoracic spine and his right shoulder girdle.

In January 1993 the Swiss press reported that an Angolan national, identified by the initial **B**, resident in Geneva and married to a Swiss citizen, had alleged being ill-treated by a Swiss police officer when crossing the border between Germany and Switzerland at **Basel** on **5 January 1993**. In the absence of an Angolan Embassy in Switzerland, **B** had travelled to Germany to have his passport updated so that it would record his marriage which had taken place in 1992. According to **B**, the Swiss border police officer checking documents on the train between the German town of **Baden** and the Swiss border at **Basel** questioned the validity of this visa and asked him to accompany him to the police station at the Swiss border.

B claimed that at the station the officer threw his documents to the ground, pinned him against the wall, punched him twice in the face and threw him to the floor. **B** said he was then held in a cell for an hour before being released. On his return to Geneva his lawyer reportedly wrote a letter of protest on his client's behalf to the police authorities in **Basel**.

On the night of **22/23 July 1993** **A.B.**, a Swiss citizen of Moroccan origin, resident in **Fribourg** and employed in a Red Cross centre for asylum seekers, attended a jazz festival in the town centre. He later alleged to the press that he was walking home in the early hours of

23 July when a police car drew up alongside. Two police officers got out and immediately pinned him against the car, searched him and threw him into the car. He claimed that the officers offered no explanation and that he did not resist in any way.

He was then taken to a local police station where he was immediately placed in a cell. He alleged that two uniformed officers came into the cell and hit him for up to 10 minutes, kicking him in particular in the back and on his arm. He said they then forced him to strip naked and spat on him. At around 7am an inspector came to his cell and questioned him about a fight which had taken place near the jazz festival the previous night. A.B. stated that he knew nothing of this incident. He was released without charge after some four hours in custody, apparently after testimony by eye-witnesses to the fight had ruled him out as a suspect.

On 26 July 1993 he was examined by a doctor who issued a medical certificate which apparently recorded multiple bruising to his body, particularly to his arms and a thigh, dating back several days; pain in the region of the coccyx and neck and difficulty in moving his right shoulder. In statements made to the press the police authorities dismissed his allegations of ill-treatment as untrue.

On 28 July 1993 an attempt by A.B. to reach an out-of-court settlement with the police failed. He had asked the police to give him a written apology, to pay a symbolic sum of 200 Swiss francs' compensation to charity and to pay his lawyer's fees. In August 1993 he lodged two formal complaints against the police: a judicial complaint to the Public Prosecutor accusing the police of causing deliberate physical injury (*lésions corporelles simples*), punishable under Article 123 of the Swiss Penal Code, and an administrative complaint to the Head of the cantonal Department of Justice and Police.

S.B., a 20-year-old Algerian asylum-seeker, told Amnesty International that he was detained by **Zurich** police at around 10pm on **7 February 1994**, following an identity check. He alleged he was kicked and beaten by five police officers over a two-hour period in a police garage. He said that at about 2am he and an Algerian friend detained with him, who had also been beaten, were told they were being taken to a doctor. Three of the officers then took them for a 20 minute van journey. When they got out they found themselves in a forest. S.B. alleged he was again beaten by two of the officers and that when the third picked up a stick and threatened to kill him he ran off; a shot was fired at him. He said he hid for about half an hour until the police had left. He could not find his friend but discovered him in hospital two days later. A medical certificate issued on 10 February 1994 recorded multiple cuts and bruises on S.B.'s body.

Conclusions

Amnesty International investigated a number of reports made between 1990 and 1994 alleging that law enforcement officers had used deliberate and unwarranted physical violence against people in their custody. These reports mostly, but not exclusively, concerned the Canton of Geneva. Other organizations such as the Council of Europe's Committee for the Prevention of Torture have also reported receiving numerous such allegations, as well as non-governmental organizations such as the Association for the Prevention of Torture and the Swiss Human Rights League.

No official statistics on the total number of complaints of ill-treatment which have been made to or passed to the judicial or administrative authorities and their subsequent outcome are apparently available. Following its 1991 visit to Switzerland, the ECPT requested the Swiss authorities to supply statistics relating to complaints of ill-treatment during the *garde à vue* period (including the number of complaints rejected, the number of convictions and disciplinary sanctions issued and the number of complaints resulting in counter-charges of defamation or calumny)¹⁷ In its published response to the ECPT's report, the Federal Council stated that "unfortunately ... the majority of cantons do not keep such statistics".¹⁸

However, the allegations of ill-treatment have been made over a period of several years; they originate from different sources and their nature and content are largely consistent. Amnesty International considers that the number of allegations it has received, taken together with the conclusions of other reputable international governmental and non-governmental organizations, indicate a substantial cause for concern. Amnesty International is also concerned that judicial and administrative investigations into formal complaints of ill-treatment frequently appear to lack thoroughness and seldom result in disciplinary or criminal sanctions against law enforcement officers.

¹⁷ See - CPT/Inf (93) 3 - para 103

¹⁸ "Malheureusement ... la majorité des cantons ne tiennent pas de telles statistiques" (CPT/Inf (93)4 - Section 2.2 para 35)

