

Amnesty International

Statement to Working Session 4: Rule of law II, including:

Prevention of torture; Protection of human rights and fighting terrorism

In many countries in the EU, victims of torture and other ill-treatment, often race- or identity-based, are too frequently failed by justice systems which do not hold to account those charged with ensuring security and the rule of law. Obstacles to accountability include lack of prompt access to a lawyer, failure by prosecutors to vigorously pursue investigations, victims' fear of reprisals, low penalties imposed on convicted police officers, and the absence of properly resourced and independent systems for monitoring complaints.

Unlawful killings, beatings, racial abuse and excessive use of force by law enforcement officials are prohibited under international law in all circumstances. Yet in **France**, for example, reports of such human rights violations are rarely investigated effectively and those responsible seldom brought to justice. In **Austria** Amnesty International has documented racist abuse and ill-treatment by the police as well as a failure of the broader criminal justice system to treat migrants and members of ethnic minorities as they would the majority population – whether as victims, suspects or perpetrators of crime. There is a pattern throughout **Spain** of complaints of torture and other ill-treatment against law enforcement officials -- from national, autonomous and local police forces -- frequently being closed by investigating judges after minimal investigation. Such cases in Spain are not isolated incidents but examples of structural failings that affect all aspects of the prevention, investigation and punishment of such acts. In **Greece** the police response at the turn of this year to unrest following the shooting of a 15-year-old boy by a police officer was the culmination of a long entrenched pattern of serious human rights violations by law enforcement officials, including allegations of excessive use of force and firearms, torture or other ill-treatment, arbitrary detention and denial of prompt access to lawyers. The examples above, and also the shooting of Jean Charles de Menezes in the **UK** in 2005, demonstrate the ongoing pressing need for full and independent oversight of police activities, including systematic, prompt and thorough independent investigations where there are allegations of abuse.

The EU has yet to take collective responsibility for addressing violations of international human rights law taking place within its territory.

Amnesty International, along with the UN High Commissioner for Human Rights, European Parliament and Council of Europe, among others, has repeatedly called for European states to undertake effective and transparent investigations, to disclose their findings publicly and to implement remedial and preventive measures in relation to the role of their officials and the use of their territory in renditions and secret detentions. However, most governments have failed to seek accountability for these human rights abuses, either at the national level or through European institutions. An investigation into the existence of a secret prison in **Poland** was finally started in 2008, but the Polish authorities have attempted to ensure that the investigation's methods, evidence, and findings remain secret. Lithuania is the The ongoing prosecutions of **Italian** and **US** intelligence agents allegedly involved in the 2003 abduction and rendition of Abu Omar face serious obstacles due to restrictions on the evidence available to prosecutors on grounds of national security. A **German** parliamentary inquiry into German involvement in renditions concluded in July 2009, but to date no person has been held accountable. A German court had previously issued warrants for the arrest of 13 CIA agents, but the government refused to transmit these warrants. Other European states implicated in the CIA rendition and secret detention programme, including **Romania** and **Macedonia**, have done even less to ensure accountability for these abuses. **Lithuania** is the latest European country alleged to have colluded with the US government to secretly imprison and question terrorism suspects. Amnesty International urges the Lithuanian authorities to avoid the mistakes of other European governments and to conduct a full, effective, independent and

impartial investigation into the alleged role of Lithuanian officials and the use of state territory in connection with secret detention and enforced disappearance, and the possible involvement of Lithuanian state agents in other serious human rights abuses, including torture.

The change in administrations in the **USA** has brought some welcome developments in US detention policy in the context of counter-terrorism. President Barack Obama's order in January to close the Guantánamo detention facility within a year, and to end the use of long-term secret detention and so-called "enhanced" interrogation techniques by the Central Intelligence Agency, were positive early moves signalling a break from policies which had left the USA on the wrong side of its international human rights obligations.

However, much remains to be done. Nine months after the new administration took office, more than 200 detainees remain in Guantánamo. Because the US government continues to refuse to take into the USA any released detainee, some have been held even after US federal courts have ordered their release, while the USA seeks other countries to accept them.

Although the new US Attorney General has recently ordered a preliminary review into some interrogations of some detainees held in secret US custody, the review remains narrow, and accountability for the human rights violations, including the crimes under international law of torture and enforced disappearance, committed in the CIA rendition, detention and interrogation programmes is still absent.

Around 550 detainees are being held in indefinite military detention in the US air base in Bagram in Afghanistan, with no access to legal counsel or to the courts. Here the new administration has essentially adopted wholesale its predecessor's approach, and has even challenged a narrow US court ruling that a small number of Bagram detainees have the right to habeas corpus.

Amnesty International remains concerned that in **Turkey**, there has been an increase in reported cases of ill-treatment and torture. Reported ill-treatment has commonly occurred outside official places of detention before the official detention period has commenced and in addition, during pre-charge detention at police stations. It has also been frequently reported on arrival to prison after judges have issued the order that individuals be held in pre-trial detention. In October 2008 Engin Çeber died after being held in Metris Prison in Istanbul. The Minister of Justice issued a landmark apology to the family of Engin Çeber acknowledging that his death may have been due to torture. The trial of police officers and prison guards accused of torture and other offences relating to the death of Engin Çeber continues at the current time.

In **Kazakhstan**, despite the authorities' declarations and apparent efforts to reduce the use of cruel, inhuman or degrading methods of apprehension and detention, torture and other ill-treatment remain widespread and such acts are committed with virtual impunity. Beatings by law enforcement officers appear to continue to be routine, especially in pre-charge detention facilities, during initial interrogation, and in the street during apprehension or during transfer to detention centres. Few law enforcement officers have been brought to trial and held accountable for violations, including torture, despite scores of people alleging that they have been tortured in custody in order to extract a confession. Evidence based on confessions extracted under torture is still routinely admitted in court. Corruption in law enforcement and the judiciary is believed to contribute largely to a climate of impunity.

In **Kyrgyzstan**, Amnesty International was particularly concerned by allegations of torture and ill-treatment of 32 people accused and subsequently convicted of having organized the so-called "Nookat events" in October 2008. In November 2008 a court convicted 32 people, including a 17-year-old boy and two women, of "calling for the overthrow of the constitutional order", and sentenced them to prison terms of between nine and 20 years. Allegations that they were tortured to force them to confess were not taken into consideration by the court. They were accused of being members of Hizb-ut-Tahrir and of participation in violent protests in the town of Nookat on 1 October. A report by the Russian human rights organization Memorial published in January 2009 cast serious doubts on the safety of the

convictions of the 32 people and was critical of the official version of events. The report pointed to allegations of torture of the defendants, including women, in pre-trial detention, in order to force confessions. A public commission set up by the Ombudsman of Kyrgyzstan to investigate the events in Nookat largely confirmed the findings of the Memorial report.

In **Uzbekistan**, persistent allegations of widespread torture or other ill-treatment of detainees and prisoners continue. These reports stemmed not just from people suspected of membership of banned Islamic groups or of having committed terrorist offences but also from other groups, including human rights activists, journalists and former – often high-profile – members of the government and security forces. The failure by the relevant authorities to properly investigate such allegations remained a serious concern.

In the name of national security and the fight against terrorism, the Uzbekistani authorities continued to actively seek the extradition of members or suspected members of banned Islamic movements or Islamist parties, such as Hizb-ut-Tahrir and Akramia, from neighbouring countries as well as the Russian Federation. Most of the men forcibly returned to Uzbekistan were held incommunicado, thus increasing their risk of being tortured or otherwise ill-treated.

Amnesty International has concerns that torture and other ill-treatment continue to be widespread and systemic in **Moldova**, and the failure to carry out effective and impartial investigations into torture allegations creates a climate of impunity.

The actions of police officers during and after the demonstrations that followed the elections on 5 April 2009 revealed that recent legislative and organizational changes have had little influence on police practice, and that many of the safeguards are ineffective in practice. Hundreds of people were detained by police, many of them peaceful protestors, and many of them were subjected to beatings and other forms of ill-treatment.

The General Prosecutor informed Amnesty International in July 2009 that 96 complaints of torture and other ill-treatment had been received following the 7 April demonstrations, but that only 10 criminal cases against police officers are currently ongoing. Of these four are for torture, three for exceeding official duties, and three for other offences including robbery.

Recommendations:

Amnesty International calls on the participating states:

- to ensure that the measures taken by states to protect the lives and security of those within its territory, including from the threat of terrorism, comply fully with international human rights standards.
- OSCE and all participating states should use all means at their disposal, to ensure respect for the absolute prohibition of torture and other ill-treatment, including in the context of countering terrorism

Amnesty International calls on the OSCE:

- to keep reminding all participating states that human dimension commitments are matters of direct and legitimate concern to all participating states and do not belong exclusively to the internal affairs of the State concerned (Moscow Document, 1991)