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CIVIL AND POLITICAL RIGHTS, INCLUDING QUESTIONS OF  
FREEDOM OF EXPRESSION

The right to freedom of opinion and expression

Addendum

Summary of cases transmitted to Governments and replies received

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## Introduction

1. This addendum contains information received from 15 December 2001 to 31 December 2002.
2. The Special Rapporteur would like to emphasize that communications sent before 26 July 2002 were sent by his predecessor, Mr. Abid Hussain.

## SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

### A. COUNTRIES

#### Afghanistan

##### Communications sent

3. On 19 April 2002, the Special Rapporteur sent an urgent appeal concerning **Kabir Omarzai**, journalist at the Afghanistan national television and radio network, who was reportedly sanctioned by the Minister of Information and Culture at the request of Hamid Karzai, Afghanistan interim President, for a question he asked on the border problem between Pakistan and Afghanistan during a 2 April 2002 joint press conference held on the occasion of the visit of Pakistani President Musharraf. Mr. Karzai allegedly interrupted Mr. Omarzai and refused to answer the question -which was also cut from the report on the press conference- and it is reported that Mr. Omarzai was later notified that he was suspended from his duties for an unspecified length of time. Mr. Omarzai has allegedly been allowed to go to work, but cannot cover official events.

4. On 26 July 2002, the Special Rapporteur transmitted a letter of communication concerning **Mr. Ebadi**, an interpretator and assistant for the Boston Globe, who was allegedly attacked on 10 April 2002 in Soroobi, a district east of Kabul. This aggression was reportedly carried out by Afghan fighters working with United States special forces. The latter were said to have been present during the incident and did not intervene. Mr. Ebadi and A.R Laksmanan, a Globe reporter, approached a convoy of about 10 vehicles carrying United States special forces and Afghan fighters in order to interview American soldiers. A member of the American special forces is said to have made a sign to an Afghan combatant who reportedly ran towards the journalist and roughly shoved Mr. Ebadi. It is alleged that a soldier unlatched the safety of his rifle while other fighters began punching Mr. Ebadi in the face and kicking him. A soldier was said to have slapped him, knocking off his glasses while another soldier beat him with his rifle.

##### Communication Received

5. In reply to the communication dated 19 April 2002, the Government sent a letter on 22 May 2002, in which it indicated that **Mr. Omarzai** enjoys the rights of an Afghan citizen and that of a photojournalist. The Government added that a new press law has been adopted, which

protects the human rights of all Afghan journalists, and that international seminars were being organized in Kabul by NGOs defending the rights journalists.

### Observations

6. The Special Rapporteur thanks the Government of Afghanistan for its reply, but awaits a response to the communication dated 26 July 2002.

### Algeria

#### Communications envoyées

7. Le 4 février 2002, le Rapporteur spécial a adressé une communication au Gouvernement concernant la situation de **Ali Dilem, Salima Tlemçani, Sid Ahmed Semiane** et **Baba Ahmed Hichem**, tous quatre journalistes. Selon les informations qui sont parvenues au Rapporteur, Ali Dilem, caricaturiste au quotidien *Liberté*, aurait été entendu par la police le 25 janvier 2002 suite à une plainte déposée contre lui par le Ministère de la défense nationale après la publication d'un dessin publié le 29 novembre 2001 et jugé «diffamatoire et attentatoire à la considération de hauts responsables de la hiérarchie militaire». Salima Tlemçani, journaliste au quotidien *El Watan*, aurait fait l'objet de la même procédure suite à la publication d'une enquête, le 11 décembre 2001, où elle avait révélé l'implication d'un officier de l'armée dans une affaire de détournement d'un don de l'Union européenne destiné au secteur de l'habitat. Sid Ahmed Semiane, chroniqueur au quotidien *Le Matin*, aurait également été convoqué par la police le 29 janvier 2002, après qu'une plainte eut été déposée contre lui par le Ministère de la défense nationale pour diffamation. Baba Ahmed Hichem, directeur du quotidien *Le Matin*, se serait rendu le mercredi 30 janvier 2002 au commissariat central de police d'Alger afin de répondre à une convocation concernant la publication, le 5 janvier 2002, d'une caricature montrant un général de l'armée algérienne troquant toutes ses médailles et décorations contre un euro.

8. Le 4 avril 2002, le Rapporteur spécial a adressé un appel urgent au Gouvernement concernant 11 chefs d'accusation pour diffamation qui auraient été portés à l'encontre du quotidien *Le Matin*, et pour lesquels **Mohamed Benichou**, directeur, et Sid Ahmed Semiane, éditorialiste, comparaitront devant le tribunal le 9 avril 2002. Chaque chef d'accusation serait passible d'une amende allant jusqu'à 42 800 euros.

9. Le 28 mai 2002, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme, a adressé un appel urgent au Gouvernement concernant **Abderahmane Khelil**, responsable du Comité SOS-Disparus et membre de la Ligue algérienne de défense des droits de l'homme, qui avait été placé sous mandat de dépôt par le procureur de Bir Mourad Raïs à Alger, le lundi 20 mai 2002, pour «incitation à attroupement non armé» en vertu de l'article 100 du Code pénal. Khelil aurait été arrêté par la police le dimanche 19 mai, près de l'université de Bouzaréah, alors qu'il menait une enquête sur les arrestations d'étudiants par les forces de police le samedi 18 mai 2002, à la suite de manifestations contre la visite du chef de l'État, M. Abdelaziz Bouteflika, à l'occasion de la journée nationale des étudiants.

10. Le 26 juillet 2002, le Rapporteur spécial a adressé une communication au Gouvernement algérien concernant la situation de **Larbi Tahar**, un militant de la Ligue algérienne de défense

des droits de l'homme, qui aurait été arrêté à la suite de manifestations pacifiques à Labiod Sid Echikh les 4 et 5 octobre 2001 pour protester contre la dégradation de la situation économique et sociale dans la commune. Tahar aurait été arrêté une seconde fois, le 17 novembre 2001, et placé en détention préventive jusqu'à sa condamnation, le 23 mars 2002, à sept mois de prison par le tribunal d'El-Bayadh pour «incitation au rassemblement illégal, résistance aux forces de l'ordre et dégradation de bien privé» en vertu des articles 100 et 183 du Code pénal et à une amende de 5 000 dinars. Il semblerait que Tahar serait détenu dans une cellule réservée aux condamnés à mort et qu'à la suite d'une grève de la faim il aurait été hospitalisé à El-Bayadh, puis transféré à l'hôpital de Saïda le 29 mars 2002.

11. Dans la même communication, le Rapporteur spécial a informé le Gouvernement qu'il aimerait recevoir des informations sur les résultats de l'enquête sur l'assassinat de **Mourad Belkacem**, journaliste de Canal Algérie. Belkacem aurait été retrouvé assassiné à son domicile à Alger, le 26 juillet 2002, vers 22 heures. Selon les informations reçues, l'appartement de la victime aurait été saccagé, son véhicule ainsi que des documents auraient été volés.

12. Dans la même communication également, le Rapporteur spécial a attiré l'attention du Gouvernement sur une manifestation pacifique des familles de «disparus» le 3 juillet 2002 devant les bureaux de la Commission nationale consultative de promotion et de protection des droits de l'homme (CNCPPDH), manifestation qui aurait été dispersée violemment par la police algéroise. Il semblerait que certains manifestants auraient été traînés par les bras et battus avec des matraques. La police aurait également prévenu les familles de «disparus» de ne plus manifester à l'extérieur des bureaux de la CNCPPDH.

13. Le 26 juillet 2002 également, le Rapporteur spécial a adressé une communication au Gouvernement concernant la mort en garde à vue, en avril 2001, de **Mohamed Guermah dit Massinissa** et les manifestations qui ont suivi, lorsque plus de **80 manifestants** auraient été tués par la gendarmerie. Selon les informations communiquées, les gendarmes auraient tiré sur les manifestants non armés, et la justice ne serait pas encore intervenue dans cette grave affaire.

14. Le 26 juillet 2002 également, le Rapporteur spécial a adressé une communication au Gouvernement concernant la mort de plus de 10 personnes, y compris, semble-t-il, un enfant de 14 ans, et des dizaines de personnes blessées par les forces de sécurité, alors qu'elles participaient à des manifestations pacifiques contre la détérioration des conditions économiques et sociales dans le pays en Kabylie à la fin de mars et au début d'avril 2002.

### **Communications reçues**

15. Le 31 janvier 2002, le Gouvernement a envoyé une réponse concernant une communication du Rapporteur spécial relative à la suspension de l'hebdomadaire *El Mouaad*. Il est reproché à l'hebdomadaire d'avoir publié plusieurs articles qui ont été jugés par le procureur de la République comme étant un plaidoyer en faveur du terrorisme. La justice est saisie de l'affaire sur un double plan, administratif en ce qui concerne la suspension de l'hebdomadaire, et pénal pour le chef d'apologie de crimes qualifiés d'actes terroristes, fait prévu et réprimé par l'article 87 *bis* 4 du Code pénal.

16. Le 12 mars 2002, le Gouvernement a envoyé une réponse concernant Sid Ahmed Semiane, Salima Tlemçani et Ali Dilem. Il a informé le Rapporteur que le chef de diffamation est

prévu et réprimé par les articles 144 *bis* et 146 du Code pénal. En ce qui concerne Sid Ahmed Semiane, après une enquête préliminaire demandée par le procureur de la République aux services de la police judiciaire, il a été convoqué par la police judiciaire pour recevoir ses explications. Comme il n'a pas cru devoir répondre à la convocation, Semiane n'a pas été entendu par la police judiciaire. Son cas est toujours en instance au niveau du parquet de la République d'Alger-Centre. Suivant la même procédure, Salima Tlemçani, de son vrai nom Zineb Oubouchou, a été entendue par les services de la police judiciaire. Une fois l'enquête préliminaire achevée, Tlemçani a été renvoyée devant le tribunal d'Alger-Centre pour y être jugée le 25 février 2002. Après audition des parties, l'affaire a été renvoyée au 18 mars 2002. En ce qui concerne Ali Dilem, à l'instar de Tlemçani, il a été entendu par la police judiciaire et renvoyé devant le tribunal d'Alger pour y être jugé. Comme Dilem n'a pas comparu devant le tribunal, l'affaire a été renvoyée au 30 septembre 2002.

17. Le 22 mars 2002, le Gouvernement a répondu à une note du Rapporteur spécial du 15 juin 2001 relative aux amendements de la réforme du Code pénal. Ces amendements s'inscrivent dans la réforme globale de la justice algérienne qui a été confiée, en octobre 1999, à la Commission nationale de la réforme de la justice formée d'éminents experts. La révision partielle et urgente des lois régissant l'action judiciaire, y compris le Code pénal, découle du simple souci de combler un vide juridique. En effet, le Code pénal, qui a codifié la sanction de l'injure et de la diffamation, n'a rien prévu pour la protection des institutions et corps constitués contre de tels délits. Les nouvelles dispositions ne reflètent donc aucune intention de remettre en cause la liberté d'expression et sont conformes aux références universelles d'où elles puisent leur substance.

18. Le 8 juillet 2002, le Gouvernement a répondu à une note du Rapporteur spécial du 4 avril 2002 relative à Mohamed Benichou, directeur, et Sid Ahmed Semiane, éditorialiste du quotidien *Le Matin*. Suite à plusieurs plaintes en diffamation, le tribunal d'Alger-Centre a été saisi de cinq procédures judiciaires. Après l'audience publique du 9 avril 2002, l'affaire a été renvoyée aux 16 juillet et 3 décembre 2002. S'agissant de l'amende prévue par le Code pénal en matière de diffamation, celle-ci se situe, pour le journaliste, entre 609 et 3 048 euros et, pour le directeur, entre 6 090 et 30 480 euros.

19. Dans une lettre envoyée le 25 juin 2002, le Gouvernement a informé le Rapporteur spécial que, le 26 mai 2002, Abderahmane Khelil a été déclaré par le tribunal coupable de «provocation directe à un attroupement» en vertu de l'article 100 du Code pénal et condamné à six mois de prison avec sursis. Cette décision a fait l'objet d'un appel interjeté par quatre avocats du prévenu, qui a été libéré le jour même.

20. Le 23 octobre 2002, le Gouvernement a répondu à la communication envoyée par le Rapporteur spécial le 26 juillet relative à Larbi Tahar. Le Gouvernement indique que Tahar a été poursuivi devant la justice pour avoir été, par deux fois successives, l'instigateur et l'organisateur de deux émeutes qui ont eu lieu à El-Bayadh les 4 octobre et 17 novembre 2001. Tahar a été condamné par le tribunal à trois mois de prison avec sursis pour la première affaire, et par la cour d'appel de Saïda à sept mois de prison fermes pour la seconde affaire. Après avoir purgé sa peine, Tahar a été élargi le 18 juin 2002. Pendant la grève de la faim qu'il a observée pendant huit jours, le prévenu a été régulièrement suivi par un médecin.



21. Par la même communication, le Gouvernement a confirmé que Nacer Mounir Belkacem avait été retrouvé assassiné à son domicile à Alger. Le parquet de la République près du tribunal d'Alger avait requis l'ouverture d'une enquête, qui se poursuit à ce jour, et ordonné une autopsie.

22. Le Gouvernement a informé le Rapporteur spécial que la manifestation des familles de «disparus», le 3 juillet 2002 devant le siège de la CNCPPDH avait provoqué un important encombrement de la circulation et que c'est pour cette unique raison que la sécurité publique a dû disperser la manifestation.

23. Le 31 octobre 2002, le Gouvernement a répondu à la communication envoyée par le Rapporteur spécial le 26 juillet relative à la mort de Mohamed Guermah et la répression des manifestations qui avait causé la mort de plus de 80 personnes. En ce qui concerne la première affaire, le Gouvernement a informé le Rapporteur que le gendarme ayant occasionné, au sein de la brigade de la gendarmerie, les blessures ayant entraîné la mort du Guermah, avait été inculpé, placé sous mandat de dépôt et condamné le 29 octobre 2002 à deux ans de prison fermes. Concernant la deuxième affaire, 23 gendarmes, dont 5 officiers, avaient été déférés devant la justice militaire et placés sous mandat de dépôt sous divers chefs d'inculpation. À la date du 29 octobre 2002, 21 d'entre eux ont fait l'objet de condamnations fermes d'emprisonnement.

### **Observations**

24. Le Rapporteur spécial remercie le Gouvernement de ses réponses, mais note qu'aucune information n'a été fournie au sujet de Baba Ahmed Hichem.

## **Angola**

### **Communication envoyée**

25. Dans une communication datée du 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur les cas de **Manuel Vieira, Gilberto Neto, André Domingos Mussamo, Justin Pearce, Rafael Marques et Mora Jorge**, tous les cinq journalistes, et sur l'émission *Ponto de Vista*. Manuel Vieira, un correspondant de la station de radio catholique Radio Ecclesia, habitant à Lubango, aurait été convoqué par la Direction nationale des enquêtes judiciaires (Direcção Nacional de Investigação Criminal, DNIC) le 31 mai 2002 et interrogé au sujet d'un article dans lequel il mentionnait le taux de mortalité élevé dans les camps de démobilisation de l'UNITA. Selon les informations reçues, Vieira aurait cité le porte-parole de la Commission militaire conjointe, le général Francisco Furtado. Vieira a été interrogé par Matias Dala, le chef du département des affaires criminelles de la DNIC, qui lui aurait demandé quelles étaient ses sources d'information et comment le journaliste s'en était procuré un enregistrement. Vieira aurait indiqué que cette déclaration avait été faite au cours d'une conférence de presse. Dala aurait insisté pour que M. Vieira se rende à nouveau au poste de police le 3 juin avec une copie de l'enregistrement de la déclaration du général Furtado. Gilberto Neto, collaborateur de l'hebdomadaire *Folha 8*, aurait été arrêté le 7 juillet 2001 à l'aéroport de Malangue. Deux policiers l'auraient ramené à Luanda, en compagnie d'un chercheur français qui enquêtait sur l'impact de la guerre sur l'économie du pays. La police leur aurait confisqué leurs pièces d'identité, leur carte de presse, leur matériel professionnel et divers objets personnels, qui leur auraient été restitués plus tard. Le 18 août 2001, les services de l'immigration de l'aéroport de

Luanda auraient empêché Neto, en lui confisquant son passeport, de quitter le pays au motif qu'il faisait l'objet d'une procédure pénale depuis septembre 1999 à la suite d'un article sur un raid de la police à Radio Ecclesia. André Domingos Mussamo, correspondant au Kwanza-Norte de l'hebdomadaire *Folha 8*, aurait été menacé de mort au téléphone le 22 juin 2001. Des interlocuteurs anonymes l'auraient accusé d'être un espion de l'UNITA et auraient affirmé que, si le mouvement rebelle revenait dans la région, le journaliste serait tué. L'émission *Ponto de Vista*, sur l'actualité sociale et politique diffusée sur la station régionale Emissora Provincial, aurait été suspendue le 9 juin 2001 sur ordre du gouverneur de la province de Lunda-Norte. Les autorités auraient affirmé que cette émission est «contre le gouvernement». Justin Pearce, correspondant de la British Broadcasting Corporation (BBC), et Rafael Marques, journaliste free-lance, auraient été expulsés le 8 juillet 2001 du quartier de Boavista, dans la banlieue de Luanda, alors qu'ils voulaient faire un reportage sur une opération de relogement en dehors de la ville de milliers de résidents du quartier. Les deux journalistes auraient été menacés verbalement et physiquement, conduits en dehors de la zone et leurs pellicules leur auraient été confisquées. Rafael Marques aurait été retenu pendant une heure au commissariat de police local. Selon les informations reçues, Mora Jorge, un journaliste de Radio Ecclesia, aurait également été empêché de couvrir l'événement.

### **Observations**

26. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à la communication adressée au Gouvernement angolais.

27. Le Rapporteur Spécial réitère sa requête d'entreprendre une visite officielle en Angola comme indiqué dans sa lettre du 7 octobre 2002.

### **Argentina**

#### **Comunicaciones enviadas**

28. El 30 de septiembre de 2002, el Relator Especial, juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente con respecto al caso de la desaparición de siete personas (**Laura Borja, Inés Carpachi, César Jerónimo, Estela Gómez, Pablo Gómez, Franco Hilario y Claudia Rodríguez**), así como el arresto y la detención de cerca de 180 personas, como consecuencia de los enfrentamientos entre fuerzas del orden y unos manifestantes, durante una marcha pacífica que tuvo lugar el 20 de septiembre en San Salvador de Jujuy. El Relator Especial y el Presidente-Relator señalaron que la policía habría detenido a decenas de personas bajo los cargos de robo a poblado en banda, daños agravados, instigación a cometer delitos, intimidación pública, y que la policía habría sido reticente a dar a conocer el listado exacto con los nombres de las personas detenidas.

#### **Comunicaciones recibidas**

29. Por carta de fecha 17 de diciembre de 2002, el Gobierno de Argentina contestó a la comunicación del Relator Especial de fecha 30 de septiembre de 2002 y explicó que la

manifestación en San Salvador de Jujuy, en un principio pacífica, degeneró y que algunos participantes atacaron con piedras a las fuerzas policiales tan es así que un personal policial perdió la vista de un ojo. El Gobierno informó de que fueron detenidos y alojados en dependencias del Servicio Penitenciario de Jujuy 127 personas cuyos nombres detalló el Gobierno en un disquete adjunto a dicha carta. El Gobierno informó de que en fecha 5 de octubre de 2002, el juez actuante dispuso un sobreseimiento y 105 faltas de mérito, ordenando la libertad de todos los detenidos, salvo de uno de ellos que se encontraba cumpliendo condena de ejecución condicional por haber violado su libertad condicional. El Gobierno garantizó que durante su detención los interesados recibieron la visita de sus representantes legales, familiares y organizaciones de derechos humanos.

### **Observaciones**

30. El Relator Especial da las gracias al Gobierno de Argentina por su respuesta.

31. El Relator Especial da las gracias al Gobierno de Argentina por el seguimiento dado a su visita a Argentina, y en ese sentido haberle proporcionado información acerca de la evolución legislativa en materia de libertad de información.

32. El Relator Especial quisiera agradecer al Gobierno por su respuesta a la nota verbal del 1 de Julio 2002, enviada de conformidad con el párrafo 20 de resolución 2002/48 en el que la Comisión de Derechos Humanos invita a los Estados " a que presenten al Relator Especial observaciones sobre sus programas y políticas relativos al acceso a la información con fines de educación y prevención respecto de la infección por el virus de inmunodeficiencia humana (VIH)".

### **Armenia**

#### **Communication sent**

33. On 26 July 2002, the Special Rapporteur sent a communication concerning the reported award on 2 April 2002 by the National Committee on Television and Radio (NCTR), whose nine members are appointed by the President, of the frequency previously attributed to *AI+* station, launched in 1991 and known for its critical stance towards the Government, to the entertainment company *Sharm*, which has allegedly close ties with the Government. It was reported that under the Law on Television and Radio Broadcasting passed in October 2000, all television stations were required to reapply for their broadcast frequencies and in February 2002, NCTR announced that a public frequency tender would be held in April. On 1 April, the parent company of *AI+*, **Meltex**, reportedly petitioned the Economic Court to block the tender, citing procedural violations. It is reported that the appeal, scheduled for hearing on 16 April, was rejected. *AI+* station was reportedly forced off the air at midnight on 2 April.

#### **Communications received**

34. On 7 January 2002, the Government replied to the Special Rapporteur's communication of 20 August 2001 concerning **Vahagn Ghukasian** and **Rafik Tonoian**, and indicated that, with respect to the case of Vahagn Ghukasian that he was invited by the Chief Department of Criminal

Investigations to the Ministry of Internal Affairs in order to discuss the source of the information found in the brochure he published on the 27 October 1999 events. The Government indicated that Mr. Ghukasian met with the Head of the General Department of Criminal Investigations, Hrachia Haroutunian, and his Deputy, Karen Hakobian, who, contrary to Mr. Ghukasian's statement to the Military Procuracy on 30 June 2001 and to the diagnosis of the Yerevan regional clinic N.19, was not subjected to violence. On this basis, on 4 September 2001, the assistant to the General Prosecutor of Kentron and Nork - Marash communities stated that the criminal case of violence against Mr. Ghukasian was turned down for lack of sufficient evidence, and that Mr. Ghukasian was informed of this decision accordingly.

35. In the case of Rafik Tonoian, the Government indicated that on 3 July 1998, the Procuracy of Martuni region initiated a criminal case against him on the basis of article 75 of the Criminal Code for his refusal to perform military service, and that on 3 September, Mr. Tonoian was charged and put in detention as a precautionary measure. The Government further indicated that that on 28 August 2000, Mr. Tonoian applied to the Procuracy of the Gegharkounik regions, mentioning that he did not want to perform his military service for his religious belief, and on 28 September, the criminal case was brought before the court, which sentenced Mr. Tonoian to two years' imprisonment on 1 November 2000. The Government concluded that Mr. Tonoian did not submit any declaration that he had been subject to beatings by police officers.

36. On 5 November 2002, the Government replied to the Special Rapporteur's communication of 26 July 2002 concerning *AI+* station, indicating that the allegation in the Special Rapporteur's communication was inaccurate as the decision of NCTR was in compliance with the laws and regulations relating to television and radio broadcasting (i.e. article 4 of the Law on Television and Radio and article 30 of the Law on the Regulations of NCTR). The selection of the best company at the tender for the broadcasting license on the 37<sup>th</sup> frequency previously occupied by the Meltex, was carried out according to article 50 of the Law on Television and Radio and paragraph 16 of the 24 January 2002 Decision 4 of NCTR on the Adoption of the Rules for Tenders for the Television and Radio Broadcasting Licenses. Three companies participated in the tender for the broadcasting license on the 37<sup>th</sup> frequency, which was awarded to the company Sharm on the basis of the comparison of the packages presented at the tender by the participating companies. On 2 April 2002, NCTR informed the Ministry of Transport and Communication of the results of the tender, which requested Meltex to discontinue the radio relay transmission. As the request was not complied with, the *AI+* station was shut off the air on 3 April, as required by the law. In parallel, on 1 April, Meltex appealed to the Court of Economic Arbitration to annul the results of the tender for procedural violations relating to the announcement of the tender. The appeal was rejected by the Court on 26 April as having no bearing on the actual results of the tender. The Government also indicated that the claim that Sharm Company has "close ties with the Government" is without substance and is not supported by facts. Furthermore, the Government underlined that being critical of the Government had no bearing on the result of the tender, which reflects the proposals made by the participants and the quality and merits of those proposals. As a result of the tender, *AI+* station lost the right to broadcast only in the capital Yerevan, and could regain it by participating in another tender. Additionally, *AI+* station continues to broadcast in the regions of Armenia through *Hamaspayur* network and to operate as a media outlet by broadcasting through electronic media. Shortly after

the tender results were announced, the Public Television of Armenia proposed a daily, free allocation of broadcasting time to the news section of *AI+* to enable it to continue to be available to the general public, but the latter refused to accept the offer. Additionally, *AI+* could rent hours for broadcasting from any other television station that currently operates, as other television companies not holding licenses for frequencies do.

### **Observations**

37. The Special Rapporteur thanks the Government of Armenia for its replies and willingness to cooperate with his mandate.

### **Azerbaijan**

#### **Communication sent**

38. On 10 May 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the reported harassment, arrest and detention of members of the opposition who have engaged in holding protests against the Government. According to the information received, an attempt by the *Musavat* Party to hold a demonstration in Sumgait on 21 April 2002 calling for the resignation of President Aliev was violently prevented by the police, and 11 members of the Party were reportedly arrested and sentenced to different periods of detention. **Zahir Beydulla**, a member of *Musavat* was reportedly arrested the same week for participating in a protest and was subjected to torture during his detention at the police station. It was also reported that on 22 April, two activists from the *Azerbaijan Democratic Party (ADP)* and former members of parliament, **Zamina Dunyamaliyeva** and **Solmaz Alasgerova**, who participated in a 20 April demonstration criticizing the Government in Baku, were forcibly arrested by the police and taken to the 18th Police Station of the Narimanov District Police Administration, charged with "hooliganism" and transferred to the Narimanov district court where, in a closed trial that lasted several hours, Judge Basirat Akhundova sentenced them to six days of administrative detention. It was further reported that on 24 April, **Faina Kungurova**, a member of ADP, was arrested by the Sabayil police and taken to the Sabayil district court where Judge Alim Namazov sentenced her to 10 days in detention. It was alleged that the following day, the Chief of Sabayil District Police Directorate, Nazim Nagiyev, attempted to discredit Ms. Kungurova by claiming on television that she was Armenian, saying that it was a person "whose origin is related to the enemy nation" and unworthy of protection. Also on 24 April, the police reportedly carried out several arrests in order to prevent the 27 April opposition demonstration. On 26 April 2002, at least two activists of the *Movement of United Opposition* were reportedly arrested in Ganja. **Eldaniz Namozov**, a volunteer in the *Human Rights Center of Azerbaijan* and former member of the *Popular Front of Azerbaijan*, was reportedly also arrested in Ganja, taken to the Kapaz District Police Directorate and sentenced to five days in detention, without having access to a lawyer.

#### **Communication received**

39. On 18 December 2001, the Government replied to the Special Rapporteur's communication of 20 September 2001, concerning the reported attacks on at least 120 persons by policemen in Baku on 19 and 20 April 2001, including **Suleyman Mamedov, Amrali Babayev, Gulhar Pashaeva, Anvar Guliev** and **Vajif Hadjibeyli**.

40. The Government indicated that on 18 November 2000, in breach of public order, a group of individuals organized activities disrupting public order, deliberately damaged and destroyed property and resisted authority, using force. During the investigation of the criminal case opened in connection with these events, it was established that Anvar Djabril ogly Guliev, Tekhran Samir ogly Lyatifov, Ismail Alekper ogly Sadykhly, Farzali Ashraf ogly Gasymov, Sadyg Vagif ogly Samedov, Elhan Mamed ogly Gulamov and other inhabitants of the Shehi area, who had previously contrived a secret conspiracy, decided to organize some activities intended to disrupt public order and recruited several individuals to join them in this criminal undertaking. They were charged under various articles of the Criminal Code and remanded in custody.

41. The Government indicated that Gulhar Pashaeva was taken to the police station in Shehi on 18 November 2000 for disrupting public order during the events in that city and for failing to comply with the legitimate requests of the authorities, and was fined 110,000 manat on 20 November 2000 by the Shehi City Court. On 18 December 2000, Ms. Pashaeva reported to the procurator's office in Shehi that members of the Shehi municipal police force had used violence against her. Her statement was looked into by the procurator's office and a forensic examination was conducted, which found no signs of injury to her body. As the allegations were not corroborated, no criminal proceedings were instituted.

42. With regard to the case of Anvar Guliev, the Government indicated that he was taken to Shehi police station on 19 November 2000 for a serious breach of public order and failure to comply with the legitimate requests of the authorities. Criminal proceedings were instituted against him and he was sentenced to four years' deprivation of liberty. Guliev was not shown to have been beaten by members of the police force while the investigation was in progress or while he was being held at the police station.

43. The Government also mentioned that during the examination of reports that members of the police force had subjected Vajif Hadjibeyli to physical and mental violence, it was established that in April 2000 the *Democratic Congress Party*, which encompasses several opposition parties, applied to the Baky City Executive for permission to hold a rally on Fizuli Square on 29 April 2000. The Executive did not think the Fizuli Square was a suitable venue for a mass rally and recommended that the rally be held in the Motodrom stadium, but on 20 April, the *Democratic Congress Party* staged an unauthorized rally. During the standoff, 42 police officers were injured to varying degrees, 11 of the individuals most actively disrupting public order were detained, among them Vajif Hadjibeyli, and criminal proceedings were brought against them. A forensic examination established that Hadjibeyli had suffered slight bodily injuries. The pre-trial investigation did not, however, establish that the injury had been inflicted by a member of any law enforcement agency.

44. The Government further indicated that an investigation failed to corroborate reports that the editor-in-chief of *Khurriyat*, Suleyman Mamedov, was beaten by the deputy head of the main Baky police department during an unauthorized rally organized by the *Azerbaijan Democratic Party* on 19 and 20 April 2001, or that the chairman of that party's Nakhichevan department,

Amrali Babaev, was beaten during the unauthorized rally that the party staged in Nakhichevan on 30 April 2001.

### **Observations**

45. The Special Rapporteur thanks the Government of Azerbaijan for its replies and willingness to cooperate with his mandate. He, however, awaits a further reply to his communication of 10 May 2002.

## **Bahrain**

### **Communications sent**

46. On 26 July 2002, the Special Rapporteur sent a communication regarding the case of reporters from the Qatar-based satellite channel *Al-Jazeera*, who were reportedly barred from covering the municipal elections in Bahrain on 9 May 2002. On 10 May 2002, the Minister of Information reportedly told journalists that the Qatar-based satellite station was a medium for Zionist infiltration in the Gulf region, and was said to have added that Bahrain would never deal with *Al-Jazeera*.

47. On the same date, the Special Rapporteur sent a communication concerning reports that the Government blocked five web sites in July 2002, including the London-based Bahrain freedom movement's *www.vob.org*, the site *www.bahrainonline.org*, the online newspaper *Al-Manama* (*www.al-manama.net*), and the site of Islamic fundamentalist Abdel Wahab Hussein. The Information Minister reportedly justified the censorship saying that the Internet sites have become forums for the dissemination of dubious information, rumours and lies. The Minister apparently said he would consider lifting the restrictions if the content of the sites was changed.

### **Communications received**

48. In reply to the first communication, the Government replied in a letter dated 7 October 2002 that it is concerned about the impartiality and objectivity of the *Al-Jazeera* network's reporting on the Kingdom of Bahrain. The Government also noted that the network does not have either a correspondent or an office in Bahrain, and its correspondents have been found in the past to have violated provisions of the law, notably concerning entry into Bahrain. However, the Government underlined that no attempt has been made to prevent *Al-Jazeera* from broadcasting to Bahrain and that any person with the appropriate equipment can receive its transmissions.

49. Concerning the second communication, the Government replied in the same letter that the blocking of web sites is done in rare cases where such sites are found to undermine the moral, cultural or social values of the country or the laws, by for example inciting hatred or social unrest (under arts. 19 (3) and 20 of the International Covenant on Civil and Political Rights). The Government indicated that the sites mentioned in the Special Rapporteur's communication fall in the latter category and were aimed at undermining the democratic process in the country. On this basis, the cases brought to the courts by the owners of these web sites have been dismissed on the basis that they are violating the publications laws.

## Observations

50. The Special Rapporteur thanks the Government of Bahrain for its response.

## Bangladesh

### Communications sent

51. On 4 March 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning two journalists, **A. K. M. Musharraf Hussain** and **Abu Sawood Masud**, who reportedly received death threats on 27 February 2002. According to information received, A. K. M. Musharraf Hussain, the Jamalpur district correspondent for the daily *Ittefaq*, had reportedly received a death threat from members of the ruling Bangladesh Nationalist Party (BNP) after publishing two news items about the activities of Milon Ansari and Ajmeri Alam Sohan, both active members of the BNP. Abu Sawood Masud, staff reporter for the daily *Manav Zamin*, allegedly received a phone call during which he was threatened with death and warned not to report any further on a murder case he had been investigating. The Special Rapporteur indicated that he received reports that the secretary-general of the Chittagong branch of BNP, Dastagir Chowdhury, had warned journalists to stop “misreporting” on his party and its members.

52. On 26 March 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on arbitrary detention, concerning **Mr. Bahauddin Nasim**, special assistant to Sheikh Hasina, the leader of the opposition in Parliament and President of the Awami League, who was reportedly detained at Dhaka International Airport on 28 February 2002 while waiting to take a flight to the United States in order to receive a treatment for a heart condition. According to information received, Mr. Nasim was charged the same day for “tarnishing the image of the country abroad”, as he apparently was in possession of books and CDs containing images of torture against minorities in Bangladesh. It is also reported that on 20 June 2001, Mr. Nasim was charged for involvement in “terrorist attacks”, apparently referring to an incident in 1996 of gunshots to the motorcade of the then Prime Minister Khaleda Zia. On 1 March 2002, it is reported that a magistrate extended Mr. Nasim’s detention for an additional 10 days (five days for each case) before presenting him before the Metropolitan Magistrate's Court. On the same date, he was reportedly blindfolded and transferred to the Dhaka Cantonment, where he was interrogated by the Bangladesh Army Defense Force Intelligence's (DGFI) Joint Interrogation Team, which was allegedly attempting to force him to give evidence of ex-Prime Minister Sheikh Hasina’s personal implication in bomb incidents during her regime. Mr. Nasim was reportedly blindfolded for six consecutive days at the Dhaka Cantonment and detained in a dirty cell with no bed; he was allegedly tortured during his detention. According to the information received, Mr. Nasim's wife, Dr. Sultana Shamina Chowdhury, filed a writ petition on 10 March 2002, following which a Bench of the High Court Division of the Bangladesh Supreme Court ordered the authorities to arrange for medical treatment to be provided to Mr. Nasim by the medical college hospital in Dhaka.



53. The court also reportedly ruled that Mr. Nasim's wife, his brother Yemen and two lawyers should be allowed to meet with him. Despite the court's decision, Dr. Sultana Shamina Chowdhury and Nasim's brother were reportedly denied the right to visit Mr. Nasim until 13 March, and then under the surveillance of several officials. During her visit, Dr. Shamina Chowdhury reportedly noticed that Mr. Nasim had bruises on his face and wrists and could hardly walk, stand or even sit down. Mr. Nasim reportedly confirmed that he had been beaten, but he was not able to speak freely or to show his wife injuries sustained to his genitals, for which he has allegedly not received the medical treatment that was required by the court.

54. On 27 March 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on arbitrary detention, regarding **Dr Mohiuddin Alamgir**, who was reportedly arrested at Dhaka Zia International Airport on 15 March 2002 for investigation of allegations that he had instigated government officials and employees to join a rally against the then BNP government of Begum Khaleda Zia, in early 1996. The Special Rapporteurs indicated that it was brought to their attention that the current BNP Government had started disciplinary proceedings against more than 180 civil servants who joined the rally. They also indicated that, according to the information received, Dr. Alamgir was brought to court on 24 March 2002 following an application made on his behalf for the police to produce him before the court. He reportedly testified that while he was in police custody three masked men had beaten him with lathi (bamboo sticks) and glass bottles filled with water, and that he was beaten severely on his buttocks, feet and other muscular parts of his body, and was not allowed his medicine for diabetes. He reportedly asked the magistrate to record his statement, but the magistrate simply noted that he had been tortured and did not order an investigation.

55. On 25 April 2002, the Special Rapporteur sent another communication, jointly with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on arbitrary detention, concerning **Bahauddin Nasim** and **Dr Mohiuddin Alamgir**. The Special Rapporteurs indicated that Mr. Nasim was reportedly in ill-health due to torture to which he was allegedly subjected in detention and he required urgent examination by a medical board. The High Court reportedly ordered the police on 3 April to disclose where, and under what legal authority, they had held Bahauddin Nasim for seven days on remand and in their custody, in order "to ascertain whether the accused was subjected to any torture as alleged". According to the information received, the High Court also ordered that a new medical board should be set up to examine him, as there were grounds to believe that a previous medical board may not have recorded or disclosed the details of the alleged torture to the court. On 8 April 2002 a "stay order" was reportedly issued by the Appellate Division of the Supreme Court following an appeal by the Attorney-General on behalf of the Government, preventing the High Court from carrying out its directive. The Special Rapporteurs also indicated that Dr. Mohiuddin Alamgir, a diabetic, was also reportedly denied medical attention and was the target of an attempted attack by a man armed with a knife in his cell at Dhaka Central Jail on 14 April 2002. On 24 March, Dr Alamgir had allegedly testified before the High Court that he had been tortured, but the authorities had reportedly failed to investigate his allegation, or to provide him with adequate medical care.

56. On 30 April 2002, the Special Rapporteur sent a communication to the Government concerning information he received that a new bill on “The Jatiya Sangsad (Special Privileges and Powers) Act 2002” had been introduced in Parliament, and indicating that a certain number of concerns had been brought to his attention about some provisions of the proposed law, which seem to be in contradiction with international standards ratified by Bangladesh. In particular, it is reported that certain provisions of the draft bill introduce restrictions on the media publishing reports about certain matters of Parliament and make defamatory comments in the House or in the meeting of a parliamentary committee about the president, speaker, Supreme Court judges and parliamentarians a punishable criminal offence; that the proposed law classifies anyone other than politicians and parliament officials as “strangers” in the House and bars them from reporting on sensitive parliamentary issues; that it empowers the speaker to issue arrest warrants and even order arrest without a warrant; and that article 36 of the proposed act provides that a person, organization or head of the organization violating a provision of the law would face jail terms varying from two to seven years or a fine ranging between Tk 1,000 and 5,000, or both.

57. On 17 May 2002, the Special Rapporteur sent a communication regarding recurrent reports of attacks and death threats against journalists by supporters of the ruling coalition of the Bangladesh Nationalist Party (BNP) and the fundamentalist party Jamaat-e-Islam, according to which since October 2001, more than 80 journalists and photographers were attacked and threatened. For instance, on 2 May 2002, six daily newspaper journalists - **Delwar Hossain** (*Dainik Purbanchal*), **Sheikh Ahsanul Karim** (*Dainik Manab Zamin*), **Rezaul Karim** (*Dainik Ittefaq*), **Babul Sardar** (*Dainik Janakantha*), **S.M. Tajjudin** (*Dainik Prabartan*) and **Azadul** (*Dainik Runner*), reportedly received death threats from Sheikh Wahiduzzaman Dipu, secretary of the local BNP branch in the southwestern town of Bagerhat. He is also reported to have threatened to blow up the offices of one of the newspapers, *Dainik Purbanchal*, and some of his men allegedly went to the journalists' homes with guns and frightened their families. All the journalists reportedly made formal complaints. In another instance, it was reported that on 30 April 2002, **Jahangir Alam Akash**, a correspondent in Rajshahi for the daily paper *Dainik Sangbad*, was attacked and stoned by BNP activists on his way to a nearby village to cover the visit of a human rights group investigating repression by BNP supporters in the region. He was allegedly injured, but managed to escape and return to town, where the police reportedly refused to receive his formal complaint. The journalist had previously written articles about BNP repression of the region's minority Hindus. Then, it was reported that on 20 April 2002, **Neaz Mohammad Khan Bitu**, a correspondent in Brahmanbaria for *Dainik Dinkal* was attacked by members of the BNP's student arm, Jatiyatabadi Chattra Dal (JCD), after the paper had published an article that angered the local BNP secretary-general, Haji Syed Emran Reza. When Mr. Bitu went to lodge a complaint with the police, he was asked to write it down, but this was reportedly not accepted and the officer phoned Mr. Reza. It is reported that that evening, armed men sent by Mr. Reza broke into the offices of the daily *Dainik Projabandhu*, dragged the journalist outside and kicked, beat and stabbed him. He was left for dead and taken to hospital. Police reportedly arrested several suspects over the next few days, but Mr. Reza was not among them.

58. On 30 May 2002, the Special Rapporteur sent an urgent appeal concerning **Matiur Rahman Chowdhury**, editor-in-chief of the daily newspaper *Dainik Manabzamin*, and former President **Hussain Mohammad Ershad**, who were reportedly found guilty of contempt by the High Court on 20 May 2002. According to the information received, the court's two judges said

Mr. Chowdhury was guilty of contempt for publishing a secret conversation between Mr. Ershad and Justice Mohammad Latifur Rahman, in which Mr. Ershad had tried to get a favourable verdict in a case in which he was involved. The court reportedly criticized the sensational media coverage of a scandal involving senior judge Latifur Rahman, who resigned after the conversation appeared in *Dainik Manabzamin* and three other newspapers. Mr. Chowdhury and Mr. Ershad were reportedly sentenced, respectively, to one month and six months in prison. It is reported that, in addition to his jail sentence, Mr. Chowdhury was fined Tk 2,000 (roughly US\$ 35), while his wife, **Mahbuba Chowdhury**, the newspaper's publisher, was also fined Tk 2,000. It is reported that the three defendants have appealed the verdicts, so the sentences have not yet been applied.

59. On 26 July 2002, the Special Rapporteur sent an urgent appeal concerning the reported threat from the Government to prosecute the independent daily newspaper *Janakantha* for sedition, in an attempt to force it to reveal its sources for two articles about corruption in police appointments. According to information received, after the article appeared on 8 July 2002, the Interior Ministry sent the newspaper a letter accusing it of trying to demoralize the police and giving it two days to supply the names of the sources for the story. Four days after the ultimatum expired, the ministry reportedly repeated its demand in another letter. A third letter, dated 21 July, reportedly threatened the newspaper with prosecution under Articles 131 and 132 of the Criminal Code, which include provisions for heavy punishment for the crime of "sedition", and accused the newspaper of having tried again to demoralize the police by publishing another article about the purge of 36 police officers, because they were veterans of the 1971 war of independence.

60. On the same date, the Special Rapporteur sent a letter of allegation concerning the reported ban of the 4 April 2002 issue of the Hong Kong-based weekly *Far Eastern Economic Review*, for a cover story titled "Bangladesh: Cocoon of Terror" which described Bangladesh as besieged by Islamic fundamentalism, religious intolerance, militant Muslim groups with links to international terrorist groups, Islamic schools churning out radical students, middle-class apathy, poverty and lawlessness. The Information Ministry reportedly called the article a malicious report that would create hatred and division among the people of Bangladesh. The publication, sale, reprinting, and preservation of the magazine was allegedly declared to be illegal by the Ministry and the 4 April issue was apparently not available on newsstands in the country.

61. Another case in the same letter of allegation concerned the newspaper *The Daily*, whose licence was allegedly cancelled on 4 July 2002 by the Deputy Commissioner, after *The Daily* was said to have listed in its 26 March issue the name of the country's President as Justice Shahabuddin Ahmed, instead of Prof. A.Q.M. Badruddoza Chowdhury, and that of the Prime Minister as Sheikh Hasina, instead of Khaleda Zia. The Deputy Commissioner's office allegedly served two notices to the newspaper editor, on 27 March and 24 June 2002, explaining that *The Daily*'s licence was to be cancelled due to the incorrect printing of the names of the President and the Prime Minister and to the fact that the newspaper was reportedly not regularly distributed to the Deputy Commissioner's office. Hanif Ali Sheikh, the editor and the publisher of *The Daily*, apparently said that the error was unintentional and apologized twice the following day and allegedly dismissed the persons responsible of the error.

62. The third case reported in the same letter concerned **A.Q.M. Shakavat Hossain** of *Dainik Banglabazar Patrika*, **Halim Mohammad** of *Ajker Kagoj* and **Mumtaz Uddin** of *Dainik Matribhumi*, who were allegedly assaulted on 29 May 2002 by three traffic policemen when they caught the officers in the act of receiving a bribe from a driver, after which they were reportedly admitted to a clinic in Dhaka to be treated for their injuries.

63. On 24 October 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on the question of torture, concerning **Saber Hossain Chowdhury**, Political Secretary to Sheikh Hasina, the leader of the Awami League; Mr. Chowdhury who was reportedly detained on 20 October 2002 at Dhaka airport as he and his wife were boarding a flight to London. Their luggage, including three suitcases, a handbag and a laptop, were allegedly confiscated by the army. The next day, at about 3 a.m., **Sheikh Fazlul Karim Selim**, Member of Parliament and former Health Minister, was reportedly arrested by the army at his residence in Dhaka. It is reported that both men were arrested under section 54 of the Code of Criminal Procedure, which allows the police to detain people without a warrant for arrest. The men were allegedly held incommunicado in an undisclosed location until the evening of 21 October when they were produced before a court in Dhaka. It is reported that they were then sent to police custody for further interrogation and have not since been allowed to see a lawyer or their families.

64. On 27 November 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the reported arrest on 25 November 2002 of a four-member television crew, present in Bangladesh to prepare a programme about the political and religious situation in the country. According to information received, **Zaiba Malik** (journalist) and **Bruno Sorrentino** (cameraman) of the British TV company Channel 4, along with their interpreter **Pricila Raj** and driver **Mujib**, were arrested by police as they were about to cross the eastern border into India near Benapole. They were taken to Dhaka for interrogation on suspicion of subversive activities.

65. It was alleged that their arrest came after an intimidation campaign by state security police against the journalists and their two assistants. At the time the appeal was sent, it was not known whether they were still detained, and whether charges had been brought against them. It was also alleged that **Saleem Samad**, another journalist, was being sought by the police as he helped the Channel 4 team, that his home was being watched by state security agents, his family harassed and his phone cut off. Reports also indicate that directors of the Bangladesh Centre for Development, Journalism and Communication (BCDJC) have been also under surveillance and threatened for helping the foreign journalists.

66. On 2 December 2002, the Special Rapporteur sent another urgent appeal concerning the reported arrest on 29 November 2002 at 3 a.m. of journalist and Reporters Without Borders correspondent **Saleem Samad** for having assisted two journalists working for British television's Channel 4, Zaiba Malik and Bruno Sorrentino. It is reported that there has been no news of Mr. Samad since his arrest by plainclothes police at the Dhaka home of a friend, but he is believed to be detained in one of the buildings of the Detective Branch in Dhaka. It is further reported that **Sumi Khan**, a correspondent for the weekly *Shaptahik 2000* in the southeastern city of

Chittagong, was detained by police on 28 November for having met with the Channel 4 journalists.

67. On 24 December 2002, the Special Rapporteur sent, jointly with the Special Rapporteur on the question of torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, an urgent appeal concerning **Muntasir Mamun** and **Shahriar Kabir**, two journalists and human rights defenders, who were reportedly arrested on 8 December. While the authorities have allegedly not disclosed the reason for their arrests, it is reported that it is linked to the police investigation of the journalists Zaiba Malik, Bruno Sorrentino and Saleem Samad. According to information received, Mr. Kabir and Mamun were detained at the Dhaka Central Prison since 11 December, and Shahriar Kabir allegedly had a heart attack during his interrogation at the police station during the night of 10 to 11 December.

### **Communications received**

68. On 20 March 2002, the Government of Bangladesh sent a reply to the Special Rapporteur's communication dated 30 November 2001, sent jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Shahriar Kabir**, indicating that Mr. Kabir was arrested on 22 November 2001 on his return from Calcutta in India, under section 54 of the Code of Criminal Procedure under extraordinary circumstances. In the aftermath of the 1 October 2001 elections which saw the victory of a four-party coalition led by the Bangladesh Nationalist Party, there have been attempts by criminal elements and defeated political groups to stir up violence and create insecurity of members of minority groups. Mr. Kabir was found to be acting in this manner, and incriminating evidence was found confirming that during his stay in Calcutta he was engaged in such activities. Mr. Kabir was not denied his right to seek justice and to defend himself and he was not constrained in having recourse to all legal opportunities open to him for this purpose. The High Court Division of the Supreme Court observed that Mr. Kabir's arrest "under section 54 of the Code of Criminal Procedure was not illegal" in view of the powers given to the police under this particular section and that the "conduct of the authority cannot be considered to hold that the initial order of detention was mala fide". Mr. Kabir was released on bail and has full freedom to consult his lawyer.

69. On 18 April 2002, the Government sent a letter replying to the Special Rapporteur's joint communication with the Special Rapporteur on extrajudicial, summary or arbitrary executions dated 4 March 2002 concerning **A.K.M. Musharraf Hussain** and **Abu Sawood Masud**. The Government indicated that Mr. Musharraf Hussain received threats from one Palash on 27 February 2002, following the publication of two reports in the *Daily Ittefaq*, for which he made a general diary with the local police station but did not lodge a formal case. The matter was amicably settled the day after at the initiative of elders and eminent members of the local community. As the second case is concerned, the Gabtoli district in Bogra has not been able to trace any journalist by the name of Abu Sawood Masud, so the case seems to be baseless.

70. By letters dated 24 May, 2 July and 28 November 2002, the Government replied to the communication, sent jointly by the Special Rapporteur, the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 27 March 2002, concerning **Dr. Mohiuddin Alamgir**, and indicated that he had been arrested on 15 March 2002

and sent to the Dhaka Central Jail on 22 March, where he was placed under 30 day detention. Dr. Alamgir had been held in police remand for four days as granted by the court. Various cases had been brought against him, including a case of sedition of 8 April 2002 for allegedly instigating government employees to join an anti-Government rally to topple the Government in early 1996, a case dated 20 September 2001 for abetting attempted murder, for being physically present at the place of occurrence, and for four embezzlement cases. Several other government officials were also charged with anti-State activities in the same series of incidents. Dr. Alamgir was not subjected to any ill-treatment. The doctors of the jail hospital carried out regular check-ups, and he was allowed to meet regularly with his lawyers and family members. He was released on bail on 18 September 2002 and his case will follow the due process of law.

71. By letter dated 28 May 2002, the Government responded to the communications sent jointly by the Special Rapporteur, the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on arbitrary detention on 26 March and 25 April 2002, and indicated that **Mr. Nasim** had been taken into custody at Zia International airport on 28 February 2002, after US\$ 6'600 had been found on him and a number of booklets damaging to state interests. Two cases were lodged against him. He was produced before the court the following day and held in police custody for five days. Thereafter he was taken to the Dhaka central jail. On 23 March 2002, he was produced before the Metropolitan Session Judge Court, where he raised allegations of torture. Physicians at the Dhaka central jail had examined him earlier and had found no evidence of torture or illness. In jail, he was provided with medical assistance, including medication, and was allowed to meet regularly with his lawyers and family members.

72. By letter dated 28 November 2002, the Government replied to the Special Rapporteur's joint communication with the Special Rapporteur on torture dated 24 October 2002, and indicated that **Mr. Chowdhury** was released on bail on 20 November 2002. The cases brought against him were under investigation at the time the Government transmitted this response. The Government further assured the Special Rapporteur that the alleged victim has access to legal recourse, which he was exercising.

73. By letter dated 29 November 2002, the Government reported that **Sheikh Fazlul Karim Selim** was released on bail on 28 November 2002. The cases brought against him were under investigation at the time the Government transmitted this response. The Government further assured the Special Rapporteur that the alleged victim has access to legal recourse, which he was exercising.

74. On 29 November 2002, the Government replied to the Special Rapporteur's joint communication with the Chairman-Rapporteur of the Working Group on Arbitrary Detention dated 27 November 2002, concerning **Zaiba Malik, Bruno Sorrentino, Priscila Raj and Mujib**. It is reported that Ms. Malik and Mr. Sorrentino had applied for a visa in their capacity as journalists at the Bangladesh High Commission in London, and while their requests were being processed, they travelled to Rome and applied for a tourist visa at the Bangladesh Embassy there, where they indicated they were, respectively, an English teacher and an architect. They arrived in Bangladesh on 6 November 2002, where they travelled extensively and were helped with Selim Samad, representative of Reporters Without Borders in the country. They were arrested on 25 November 2002 by the Bangladesh Police from the Bangladesh-Indian border checkpoint,

Benapol, as they were about to cross to India, for violating the immigration law of the country and for submitting false information in obtaining their visa. At the time of arrest, the police found in their possession video cameras, a microphone, videotapes and incriminating documents that revealed their activities in Bangladesh.

## Observations

75. The Special Rapporteur thanks the Government of Bangladesh for its replies and its willingness to cooperate with the mandate. However, he awaits further responses to his communications dated 26 March, 25 and 30 April, 17 and 30 May, 26 July, and 2 and 24 December 2002.

## Belarus

### Communications sent

76. On 11 April 2002, the Special Rapporteur sent an urgent appeal concerning **Nikola Markevitch** and **Paval Mazheika**, respectively, editor-in-chief and reporter at the weekly *Pahonya* in Hrodno, who were reportedly accused of libelling President Lukashenko under article 367 of the Criminal Code in three articles published in the 4 September 2001 edition of *Pahonya* criticizing the President ahead of the 9 September 2001 presidential election. It was reported that they face up to five years in prison if convicted, but that their trial, which was due to begin on 9 April in the Leninsky District Court in Hrodno, was indefinitely postponed due to the judge's illness.

77. On 1 July 2002, the Special Rapporteur sent an urgent appeal concerning **Viktar Ivashkevich**, editor-in-chief of the *Rabochy* newspaper, who was reportedly charged on 20 June 2002 by the Prosecutor's office with criminally defaming President Lukashenko, on the basis of an article published in the August 2001 issue of *Rabochy*, entitled "A thief belongs to prison", accusing President Lukashenko and his administration of corruption. It was reported that, if convicted, Mr. Ivashkevich could face up to five years in prison.

78. On 26 July 2002, the Special Rapporteur sent a communication to the Government of Belarus concerning the following cases:

- a) It was reported that during a peaceful unauthorized demonstration organized on 14 February 2002 to protest against the Government, around 30 protestors, 16 of whom were reportedly minors, were arrested and taken into detention in Minsk. It was reported that while nearly all the minor demonstrators were released shortly after being taken to various police stations, a number of the other protestors were held overnight by the police. It was alleged that an officer at the Sovetsky Department of Internal Affairs handcuffed **Dmitry Dashkevich** to a radiator, hit him, and threatened and abused him verbally. It is reported that in the days following the demonstration, a number of the detainees received official court warnings or fines. The leader of the youth wing of the *Belarusian Popular Front*, **Pavel Severinets**, reportedly received the highest fine, the equivalent of US\$1800, while other detainees received fines of US\$125 to \$250. It was also reported that on 20 February 2002, the Sovetsky District Court sentenced one

protestor, 18-year-old **Vasily Parfiankov**, to 10 days' imprisonment under article 167, paragraph 1, of the Code of Administrative Infringements for having participated in two unauthorized protest actions in the course of one year;

b) It was reported that on the evening of 15 March 2002, the leader of the *Social Democratic Party*, **Nikolai Statkevich**, was detained by police officers for his role in organizing an unauthorized demonstration in Minsk the same day to mark the adoption of the Constitution on 15 March 1994. It was reported that police officers visited officials of the *Social Democratic Party* late in the evening on 15 March and ordered Nikolai Statkevich to accompany them to the Sovetsky Department of Internal Affairs, where he was reportedly charged under article 167, paragraph 3, of the Code of Administrative Infringements with organizing an unauthorized protest action, and held at the Okrestina police detention centre in Minsk until 18 March, when the Sovetsky District Court in Minsk sentenced him to 10 days' imprisonment;

c) It was also reported that on 24 March 2002, between 50 and 60 people were arrested in Minsk during the unauthorized Freedom Day demonstration, allegedly organized to coincide with the anniversary of the creation of the first Republic of Belarus in 1918 and to protest against President Alyaksandr Lukashenka, and that five of the detainees were later sentenced to periods of imprisonment of between 10 and 15 days. It was reported that among those detained were members of the opposition, including the deputy of the dissolved Belarusian parliament, **Ludmila Gryaznova**, the Deputy Chairman of the *Belarusian Popular Front*, **Vyacheslav Sivchik**, the leader of the *Belarusian Popular Front's Youth Front*, **Pavel Severinets**, human rights activist and journalist, **Valery Schukin**, and **Dmitry Bondarenko** from the human rights and pro-democracy initiative *Charter-97*. According to reports, approximately 25 of the 50 to 60 people detained were held overnight and in the following days, approximately 40 of the people detained during the demonstration were ordered to appear before the city's courts where they received fines or official court warnings, and five were sentenced to periods of imprisonment, including Vyacheslav Sivchik, Pavel Severinets, **Timofey Dranchuk**, **Viktor Daskevich** and **Viktor Kaveshnikov**, under the Administrative Offences Code;

d) It was reported that on 29 March 2002, the Ministry of Justice issued a "written warning" to a Minsk-based newspaper, *Narodnaya Volya*, for "spreading baseless allegations about the President of the Republic of Belarus" in a 20 March article entitled "The Big Wash" about the corruption of the President. It was reported that the Ministry of Justice wrote that "not only does the article misinform Belarusian citizens, it also insults the honour and dignity of the President", declared the article a violation of the Press Law and warned the newspaper that it would be closed down in case of a new violation;

e) It was also reported that on 3 April 2002, Judge Tatsyana Paulyuchuk fined worker **Leanid Achapouski** nearly 16 times his monthly wage for taking part in the 24 March 2002 demonstration to commemorate Freedom Day;

f) It was reported that during a peaceful protest against the trial of Nikolai Markevich and Pavel Mozheiko, organized by a group of journalists on 5 April 2002 in Grodno, police officers arrested thirteen journalists and detained them on the grounds that the picket had not been sanctioned by the city authorities. The detained journalists allegedly included several *Pagonia* staff members, a small number of freelance journalists and journalists from the independent newspapers *Barcnews*, *Belarusky Chas*, *Birza Infarmacyji*, *Dien*, *Glos znad Niemna*, *Nasha Niva* and *Navinki* and a journalist



associated with *Radio Racyja*. It was further reported that the detained journalists were brought before the Leninsky District Court in Grodno later the same day, and that six of them were sentenced to the following periods of imprisonment: **Stas Pachobyt** and **Andrey Piscalnik** to 10-day imprisonment; **Andrey Meleshko** to 8-day imprisonment; **Alyaksandr Dvorestkov** to 4-day imprisonment; and **Dmitry Egorov** and **Vitaut Rudnik** to 3-day imprisonment;

g) On 19 April 2002, a protest march in Minsk called "You Cannot Live Like This!", organized in response to violations of human rights in Belarus, was reportedly violently dispersed by special police forces with more than 100 participants reportedly arrested and taken to the police station, among whom several organizers of the demonstration - **Yury Khashchavatsky**, **Nikolai Khalesin**, **Valery Shchukin**, **Dmitry Bondarenka** and **Aleh Zhlutko**. Information received indicated that all the detainees were kept in a pre-trial detention centre in Akrestsin Street, where they were ill-treated. It is further reported that on 22 April 2002, the Savetski, Partyzanski and Centralny borough courts started the trials of the detainees, and that Yury Khashchavatski and Valery Shchukin were sentenced, respectively, to 10 and 15 days in prison. The detainees who asked for a lawyer were allegedly sent back to Akrestsin pre-trial detention centre, but were not able to contact a lawyer from there, and their trial was reportedly postponed to 23 April, during which Nikolai Khalesin and Dmitry Bondarenka were reportedly sentenced to 10 days in prison and Aleh Zhlutko to 4 days.

79. On 23 October 2002, the Special Rapporteur sent an urgent appeal concerning **Oksana Novikova**, a private entrepreneur, who was allegedly arrested on 17 October 2002 while she was distributing leaflets near the Oktyabrskaya Square in Minsk. It was reported that Ms. Novikova was searched and arrested on grounds that the leaflets "contained defamation and serious crimes accusations against the Belarussian President", under article 367, paragraph 2, of the Penal Code, under which she faces up to five years in jail or restriction of freedom if found guilty.

### **Communications received**

80. On 30 August 2002, the Government replied to the Special Rapporteur's communication of 11 April concerning **Nikolai Markevitch** and **Pavel Mozheiko** indicating that their criminal case was initiated on 5 September 2001 by the Grodno regional Prosecutor in relation to the publication of an article in issue No. 36 (532) of the *Pogonya* containing libellous references to the President of the Republic. The Government indicated that during the pre-trial investigation it was established that Pavel Mozheiko wrote an article in which he deliberately and falsely accused the President of the Republic of Belarus of murdering his political opponents and that the newspaper's editor-in-chief, Nikolai Markevich, published the said article. In the same issue, Nikolai Markevich published an article "It's not Lukashenka!" and an anonymous poem entitled "I promised! I promise! I will promise!", falsely accusing the President of the Republic of Belarus of genocide and of establishing a criminal organization. On 13 and 14 February 2002 Nikolai Markevich and Pavel Mozheiko were charged under article 367, paragraph 2, of the Criminal Code of the Republic with libel against the President of the Republic of Belarus and with allegations accusing him of committing grave crimes. During the court proceedings held on 24 June 2002 it was established that Nikolai Markevich had given instructions for the articles "We are holding elections", "It's not Lukashenka!" and the anonymous poem "I promised! I

promise! I will promise!” to be placed in the 4 and 13 September issues of *Pogonya* and on the newspaper’s Internet web site, thereby allowing deliberately false allegations defaming the President of the Republic of Belarus to be disseminated in the mass media. Nikolai Markevich and Pavel Mozheiko were found guilty of libel against the President (article 367, paragraph 2, of the Criminal Code) by the Leninsky district court of Grodno and sentenced, respectively, to two years and six months and to two years of restriction of freedom. The sentence of the Leninsky district court of 24 June 2002 was appealed to the Grodno regional court, which upheld the “guilty” verdict, but, pursuant to article 9 of the Amnesty Act, the Criminal Division ordered the journalists to be released “partially for a period of one year”. The terms of punishment of Nikolai Markevich and Pavel Mozheiko were thus reduced, respectively, to one and a half years and to one year of restriction of freedom.

81. On the same date, the Government replied to the Special Rapporteur’s communication of 1 July 2002 concerning **Viktor Ivashkevich**, indicating that the Minsk City Procurator’s Office initiated a criminal case against him on 28 August 2001 for libel against the President of the Republic of Belarus involving an accusation of particularly grave crimes under article 367, paragraph 2, of the Criminal Code, in relation to an article published in the *Rabochy* newspaper’s issue No. 36 (191) for August 2001, entitled “A thief belongs in prison”, which contained deliberately false information defaming the President of the Republic of Belarus and accused him of committing grave and particularly grave crimes, namely embezzlement on an especially large scale accomplished by abusing his official powers, exceeding his authority and official powers, as well as misapplying his authority and official powers. An investigation into the case established that the article was prepared and included in the mass media organ by the editor-in-chief of *Rabochy*, Viktor Ivashkevich, who also placed a fabricated photograph in the same issue with the intention of demeaning, in an improper manner, the honour and dignity of the President of the Republic of Belarus. Part of the print run was seized by the staff of the Procurator’s Office, and a ban was placed on the printing of the remaining part. On 25 June 2002, Viktor Ivashkevich was charged under articles 14, paragraphs 1 and 2, 367, paragraph 2, and 368 paragraph 1, of the Criminal Code. The criminal case was referred to the Pervomaisky district court in Minsk for consideration as to the merits, and arrangements were being made for the case to be tried.

82. On 25 November 2002, the Government replied to the Special Rapporteur’s communication of 26 July, with respect to the following cases:

- a) With regard to the unauthorized procession along Skorina Prospekt on **14 February 2002**, the Government indicated that on 23 January 2002 the Minsk City Executive Committee (Mingorispolkom) received an application to hold a procession and a rally for 1,000 people in Minsk from 5 to 7 p.m. on 14 February 2002. Mingorispolkom granted the applicants permission to hold the rally in Druzhba Narodov Park on 14 February 2002 from 5 to 6 p.m. In contravention of the established procedure, timetable and venue for the holding of a mass event, about 200 people gathered outside the Belarusian State Philharmonia building on F. Skorina Prospekt, and disregarding a warning not to engage in an unlawful act, proceeded along the pavements of city-centre street to Y. Kolas Square, where they were stopped by militia officers. During the procession, officers from Minsk’s Sovetsky District Internal Affairs Authority arrested **Mr. D. Dashkevich**, who was taken to the district police station and charged. Mr. Dashkevich subsequently filed a complaint with the Sovetsky District Procurator’s Office to the effect that militia officers

had committed unlawful acts in connection with his arrest. The allegations made in Mr. Dashkevich's complaint were examined by the District Procurator's Office and found to be baseless in fact and it was decided not to institute criminal proceedings because the militia officers had committed no offence. As to the legal assessment of Mr. Dashkevich's actions, Minsk's Sovetsky District Court decided to bring administrative proceedings against him for an offence under article 167, paragraph 1, (Infringement of the procedure for the organization and conduct of: religious, sporting, or mass cultural or other entertainment events; meetings, rallies, street processions and demonstrations; picketing) of the Code of Administrative Offences of the Republic of Belarus, under which an administrative penalty was imposed on Mr. Dashkevich in the form of a fine of 350,000 roubles. **Mr. P.K. Severinets** and **Mr. V.P. Parfyankov** were also detained for committing an offence under article 167, paragraph 1, of the Code of Administrative Offences and imposed, respectively, an administrative fine of 3 million roubles and a 10-day imprisonment by decisions of 19 and 20 February 2002 of the Minsk's Sovetsky District Court.

- b) As to the unauthorized protest action on **15 March 2002**, the Government indicated in this instance that on 26 February 2002, the deputy Chairman of the *Belarusian Social Democratic Party* applied to Mingorispolkom to hold a demonstration on 15 March 2002 to mark Constitution Day, to be attended by up to 10,000 people, which was approved by the Mingorispolkom. In violation of the procedure and venue specified by Mingorispolkom, approximately 300 people gathered on Y. Kolas Square, proceeded along the pavements, were stopped by militia officers and then dispersed. At 8 p.m. on 15 March 2002, **Mr. N.V. Statkevich** was detained by officers from the Minsk's Sovetsky District Internal Affairs Authority for organizing and holding the unauthorized procession, charged and placed in a special police cell at Mingorispolkom City Internal Affairs Authority pending examination of the case file by the court. As organizer of the event, Mr. Statkevich faced administrative prosecution under article 167, paragraph 2, of the Code of Administrative Offences, which concerns infringement by the organizer of a street procession of the established procedure for organizing and holding it and was sentenced on 18 March 2002 by the Minsk's Sovetsky District Court to an administrative penalty of 10 days' detention.
- c) Concerning the unauthorized procession of **24 March 2002**, the Government indicated that representatives of various political parties and voluntary associations planned to meet on 24 March 2002 to mark Liberty Day, without applying to Mingorispolkom for permission. On 24 March 2002, approximately 70 citizens, including **Mr. V. Shchukin**, gathered and proceeded to Lenin Street, where they were stopped by militia officers and subsequently dispersed. At the same time, approximately 500 citizens gathered in Y. Kupala Square, placed flowers by the monument to Yanka Kupala and tried to proceed to Y. Kolas Square, but were stopped by militia officers. Subsequently about 200 citizens made a repeat attempt to proceed to Y. Kolas Square along the pavement of F. Skorina Prospekt, but they were again stopped by militia officers. A total of 59 people were detained for participating in the unauthorized mass events. The law enforcement agencies charged a total of 45 people with administrative offences and the courts took administrative proceedings against the following citizens under article 167, paragraph 1, of the Code of Administrative Offences: V.V. Sivchik (sentenced to 15 days' administrative detention); T.V. Dranchuk (10 days' administrative detention); P.K.

Severinets (15 days' administrative detention); D.V. Dashkevich (10 days' administrative detention); V.A. Kavennikov (10 days' administrative detention), D.E. Bondarenko (fined 200,000 roubles); A. Achapovsky (fined 1.5 million roubles). No administrative proceedings were brought against Mr. V.A. Shchukin. Mr. Bondarenko, Mr. Kavennikov and Mr. Achapovsky lodged appeals with the Minsk City Court, which upheld the decisions of the lower court. On 29 March 2002, Mr. P.K. Znavets lodged a complaint with the Minsk Central District Procurator's Office regarding the bringing of unwarranted administrative proceedings against Mr. Sivchik and the unlawful actions of the judge of the Minsk Central District Court, Mr. N.M. Vaitsekhovich. The Procurator's Office carried out an inquiry and concluded that there were no grounds for protesting against the decision handed down by the court.

- d) Concerning the written caution to the *Narodnaya volya* newspaper, the Government indicated that on 21 March 2002, the Ministry of Information of the Republic of Belarus sent a written caution (No. 3) to the newspaper, stating that it was prohibited to breach the Press and Other Mass Media Act, which safeguards the exercise by Belarusian citizens of their constitutional right to freedom of speech, the press and information and defines the rights and obligations of mass media organizations. This was based on an article entitled "The Big Wash", which made unfounded allegations regarding the President of the Republic. In its caution, the Ministry of Information noted that the said article misinformed the public. In its decision of 13 June 2002, the Higher Economic Court of the Republic of Belarus dismissed a lawsuit brought by the editorial board of *Narodnaya volya* against the Ministry of Information seeking to have the caution issued on 21 March 2002 invalidated.
- e) Concerning the unauthorized picket of 5 April 2002, the Government replied that on 5 April 2002 an unauthorized picket was held near the Grodno Oblast Executive Committee building in support of Mr. Markovich and Mr. Mozheiko. **Mr. A.V. Meleshko, Mr. V.L. Rudnik, Mr. I.V. Chernyavka, Mr. A.T. Pisalnik, Mr. A.S. Pochobut and others** took part in the action. The Government indicated that administrative court proceedings were justifiably brought against these individuals under article 167, paragraph 1, of the Code of Administrative Offences for breach of the procedure for the organization and conduct of picketing.
- f) Concerning the unauthorized protest march on 19 April 2002, the Government indicated that **Mr. D.E. Bondarenko, Mr. T.V. Dranchuk, Mr. N.N. Khalezin, Mr. Y.I. Khashchevatsky and Mr. V.A. Shchukin** applied to Mingorispolkom to hold on 19 April 2002 a demonstration and rally with up to 1,000 participants on the general theme "March of Protest - This Is No Way To Live". On 4 April 2002, Mingorispolkom decided to authorize a rally of the requested number of people in Druzhba Narodov Park from 6 to 9 p.m. on 19 April 2002. At 6.30 p.m. on the appointed day, some 500 people gathered on Y. Kolas Square, proceeded along the pavement and then blocked the traffic. The procession was stopped by militia officers, whereupon the demonstrators attempted to retrace their steps, but failed to heed the militia officers' repeated demands to end the unauthorized event. Together with participants at the rally, Mr. D.E. Bondarenko, Mr. Y.I. Khashevatsky, Mr. V.A. Shchukin, Mr. O.A. Zhlutko and Mr. N.N. Kholezin were detained by internal affairs officers for a breach of public order, and the court decided that administrative proceedings should be brought against them and specified that the penalty of administrative detention should be applied. The Minsk Sovetsky District Procurator's

Office examined the statements received from V.A. Khodnevich, A.Z. Askerko, A.N. Gridyushko, V.K. Vadevich, I.V. Zakrevsky, G.F. Lepin and E.V. Shvaev, who were being held in the joint specialized police holding unit, to the effect that militia officers had acted unlawfully during the period of detention. On 17 May 2002, the Minsk Sovetsky District Procurator's Office decided not to institute criminal proceedings for lack of evidence that the militia officers had committed an offence. The Minsk Procurator's Office dismissed those statements and referred them for further examination to the Sovetsky District Procurator's Office, which also decided not to institute criminal proceedings against the militia officers. The Minsk City Court formulated a general conclusion concerning the administrative cases handled by the Minsk courts in connection with the events of 19 April 2002. The decisions handed down by the district courts were upheld.

83. On 25 November 2002, the Government sent a reply to the Special Rapporteur's communication of 23 October concerning **Oksana Novikova**, and indicated that on 17 October 2002, Oksana Novikova was arrested by police officers patrolling in the area of the Oktlyabrskaya underground station in Minsk for distributing leaflets that contained insults and defamatory remarks against the President of the Republic, together with accusations of particularly serious crimes. Criminal proceedings were instituted by the Procurator's Office of Central District in Minsk against Ms. Novikova under article 367, paragraph 2, of the Criminal Code. On 18 October 2002, Oksana Novikova was released from custody and on 27 October 2002 was charged with the offence covered in article 367, paragraph 2, of the Criminal Code of the Republic of Belarus. Investigations into the case were still in progress.

### **Observations**

84. The Special Rapporteur thanks the Government of Belarus for its replies and willingness to cooperate with his mandate.

## **Belgium**

### **Communication envoyée**

85. Le 6 juin 2002, le Rapporteur spécial a envoyé un appel urgent concernant MM. **Douglas De Coninck** et **Marc Vandermeir**, journalistes au quotidien *De Morgen*, qui auraient été condamnés le 29 mai 2002 à payer une astreinte de 25 euros par heure aussi longtemps qu'ils auraient refusé de dévoiler leurs sources suite à un article, publié le 11 mai, mettant en cause la Société des chemins de fer belges (SNCB). Dans cet article, les journalistes avaient révélé un dépassement de 250 millions d'euros dans le budget de la construction de la nouvelle gare TGV à Liège.

### **Communication reçue**

86. Le 17 juillet 2002, le Gouvernement belge a envoyé une réponse concernant la communication du Rapporteur spécial et a indiqué que, le 7 juin 2002, le tribunal de première instance de Bruxelles a rendu un jugement dans l'affaire concernant MM. **Douglas De Coninck**

et **Marc Vandermeir**. S'appuyant en particulier sur l'arrêt de la Cour européenne des droits de l'homme rendu le 27 mars 1996 dans l'affaire *Goodwin c. Royaume Uni*, le tribunal de Bruxelles a désigné la protection des sources journalistiques comme étant l'une des pierres angulaires de la liberté de presse. Par conséquent, le tribunal a décidé que le risque de voir les sources de presse divulguées était suffisant pour que la communication du document en question (audit interne) soit refusée par l'organe de presse concerné. Le Tribunal a de ce fait annulé l'ordonnance résolue le 29 mai 2002.

### **Observations**

87. Le Rapporteur spécial souhaite remercier le Gouvernement pour sa réponse et se réjouit de l'arrêt rendu par le tribunal de Bruxelles.

### **Botswana**

#### **Communication sent**

88. On 26 July 2002, the Special Rapporteur drew the attention of the Government of Botswana to information he had received concerning the case of **Radio Botswana**. Reportedly, the programme "Live-Line" was reportedly cancelled by the office of the Director of Information and Broadcasting 30 minutes before its scheduled time on 22 April 2002. According to information received, the programme was to feature a discussion about the scope of the reporting expected from public service media outlets, in which Modise Aphyanyane, the National Director of the Media Institute of Southern Africa, who has critical views on freedom of the press in Botswana, and in particular on the independence of the editorial process, was to participate.

#### **Observation**

89. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

### **Brazil**

#### **Communications sent**

90. On 21 December 2001, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal regarding **José Geraldo Torres da Silva**, a State Deputy sitting in the Pará state legislature, and **Julio Cesar dos Santos**, a suspect convicted of the killing of **Ademir Alfeu Federicci**, a leader of the grassroots organization *Movimento pelo Desenvolvimento de Transamazônica e do Xingu* who campaigned with José Geraldo Torres da Silva against a large-scale corruption surrounding the distribution of funds in government-sponsored projects in the Altamira area. It was reported that before his murder, Ademir Alfeu received many threats reportedly because of his condemnations of corrupt politicians and illegal loggers. It was alleged that Julio Cesar dos Santos, who is at present in the Penitenciária de Altamira prison, confessed to the police under torture to be the responsible of this murder, and that people linked to the killing of Ademir Alfeu tried to kill him.

91. On 3 June 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal regarding **Frei Anastácio Ribeiro**, state deputy and coordinator of the Pastoral Land Commission in Paraíba, northeastern Brazil. A plan to kill him was reportedly discovered in a police station in the state capital, João Pessoa. A civil policeman, who was attacked in an ambush in the municipality of Mogeiro, accused Frei Anastácio of plotting to kill him, although it was reported that Frei Anastácio only denounced the illegal activities of this policeman, who also works as a security guard for landowners in the region, and who was reportedly named in a recent report concerning rural violence in the state as a person involved with torture and acts of violence related to land disputes. The communication also reported on the case of eight rural workers from Mogeiro who were allegedly arrested and accused of planning the attack on the policeman, though there is no evidence against these men.

### **Observations**

92. The Special Rapporteur regrets that no reply had been received from the Government at the time the report was finalized.

## **Burkina Faso**

### **Communications envoyées**

93. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement du Burkina Faso sur des renseignements portés à sa connaissance concernant les cas de **Liermé Some**, **Sy Cheriff**, **Aboubakar Zida**, dit **Sidnaaba**, et du Centre national de presse Norbert Zongo. Liermé Some, directeur de l'hebdomadaire *L'Indépendant*, aurait été convoqué le 11 juillet 2001 à la Direction de la sûreté de l'État pour un interrogatoire de plusieurs heures. Il lui aurait notamment été reproché la publication d'un article intitulé «Le jour où Blaise Compaoré faillit perdre le pouvoir», dans lequel il est question du mécontentement des militaires qui auraient prévu de rejoindre la marche organisée par le Collectif contre l'impunité, le 30 juin 2001, et de prendre en otage le Premier Ministre jusqu'à «satisfaction de leurs revendications». Sy Cheriff, directeur de publication de *Bendré*, aurait été menacé par téléphone en octobre 2001, vraisemblablement par des militaires, après que son hebdomadaire avait publié un article critiquant une descente de soldats dans le quartier de Pissy (Ouagadougou) pour venger un militaire qui avait été battu lors d'une altercation avec des habitants. Aboubakar Zida, dit Sidnaaba, journaliste de la radio privée Savane FM, aurait été menacé plusieurs fois au cours de l'année 2001, vraisemblablement par des militaires. Le journaliste est connu pour ses revues de presse en moré, une langue locale, et, selon les informations reçues, des soldats l'auraient averti que «s'il traduit, il sera brûlé». Le 26 avril 2001, une centaine de policiers de la Direction de la compagnie d'intervention rapide auraient fait une descente au Centre national de presse Norbert Zongo et arrêté une douzaine de personnes, dont un journaliste et des étudiants. Ces personnes auraient toutes été relâchées dans la journée, une par une, sans aucune explication.

### **Observations**

94. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à sa communication.

## Burundi

### Communications envoyées

95. Le 26 juillet 2002, le Rapporteur spécial a envoyé une communication au Gouvernement du Burundi concernant **Gabriel Nikundana**, **Abbas Mbazumutima**, **Alexis Sinduhije** et **Jean-Claude Kavumbagu**. Gabriel Nikundana, journaliste de la station de radio Bonesha FM, et Abbas Mbazumutima, rédacteur en chef de la station, auraient été arrêtés respectivement les 12 et 15 mars 2001. Trois jours auparavant, la radio avait diffusé une interview d'Anicet Ntawuhiganayo, porte-parole des Forces nationales de libération, l'un des deux principaux mouvements rebelles du pays. Les deux journalistes auraient été accusés d'«incitation à la désobéissance civile», en vertu de l'article 44 de la loi sur la presse, et libérés le 16 mars après avoir payé une amende de 100 000 francs burundais (140 euros) chacun. Alexis Sinduhije, directeur de la station privée burundaise Radio publique africaine, aurait été interpellé le 19 octobre 2001 dans la soirée et relâché le lendemain après avoir payé une amende de 20 000 francs burundais (environ 27 euros). Selon les informations reçues, des officiers lui auraient reproché d'avoir eu un entretien avec des militaires sud-africains en mission au Burundi pour assurer la protection de personnalités politiques hutues de retour d'exil, alors que l'arrivée de ces militaires, la veille, s'était déroulée dans une très grande discrétion et qu'aucune information n'avait été donnée à la presse. Jean-Claude Kavumbagu, directeur de l'agence de presse privée *Net Press*, aurait été arrêté le 21 décembre 2001, conduit dans les locaux de la police judiciaire de Bujumbura et transféré quelques jours plus tard à la prison de la capitale. Il lui serait reproché d'avoir insulté le procureur dans une dépêche de l'agence de presse électronique *Le Témoin*, une agence clandestine qui diffuse des informations par courrier électronique. Le journaliste aurait été libéré le 28 décembre sur ordre du procureur. Le 16 mai 2002, le Ministre de la défense, le major-général Cyrille Ndayirukiye, aurait interdit aux médias de publier ou de diffuser des interviews de rebelles en déclarant que «la diffusion d'interviews des insurgés revenait à les aider dans leur effort de guerre». Cette décision serait intervenue quelques jours après qu'une radio privée eut diffusé une interview d'un chef rebelle que l'on croyait mort.

96. Le 13 novembre 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi, a envoyé un appel urgent au Gouvernement concernant la situation de **Léonidas Ntakaye**, secrétaire général du Parti pour le redressement national (PARENA), **Zénon Nimubona**, porte-parole du PARENA, **Christophe Hicintuka**, secrétaire exécutif du PARENA, **Innocent Nsabiyumva** et **Thierry Bizoza Ndayishimeye**, tous deux membres du PARENA, **Benoît Ndorimana**, un homme d'affaires, **Hilaire Ntahomvukiye**, un professeur d'université, **Elvis Kazungu**, étudiant, et au moins **trois autres étudiants**. Ils auraient tous été arrêtés entre le 1<sup>er</sup> et le 5 novembre 2002 et seraient actuellement détenus au secret à la Documentation nationale, à la Brigade spéciale de recherche et à la Police spéciale de roulage à Bujumbura. Tous seraient soupçonnés par les autorités d'être des membres ou des partisans du PARENA. Selon les renseignements reçus, Elvis Kazungu aurait été arrêté dans la nuit du 1<sup>er</sup> novembre. Des membres du Bataillon d'intervention l'auraient battu violemment sur la tête et sur les genoux et coudes tant qu'il nécessiterait des soins médicaux. Compte tenu de son état, le 11



novembre, une organisation non gouvernementale aurait cherché à le faire hospitaliser sans succès. Certaines des personnes susmentionnées auraient été accusées de «menacer la sécurité de l'État», de vouloir déstabiliser le gouvernement de transition, et de tentative d'assassinat du Président Pierre Buyoya et du Président de l'Assemblée nationale de transition, Jean Minani. Les étudiants dont les noms ne sont pas connus seraient soupçonnés d'avoir participé à des manifestations le 4 novembre. Au vu de leur détention au secret, des craintes ont été exprimées quant au fait que ces personnes risqueraient d'être soumises à des tortures et autres formes de mauvais traitements.

### **Observations**

97. Le Rapporteur spécial regrette de n'avoir reçu à ce jour aucune réponse à ses communications.

## **Cameroon**

### **Communications envoyées**

98. Le 26 juillet 2002, le Rapporteur spécial a envoyé une communication au Gouvernement du Cameroun concernant **Georges Baongla** et **Pius Njawé**. Georges Baongla, directeur de l'hebdomadaire *Le Démenti*, se serait vu infliger une peine de cinq années de prison pour corruption. Selon les informations transmises, Baongla aurait d'abord été arrêté le 22 août 2001 pour «publication de fausses nouvelles» à la suite d'un article du 14 août qui impliquait le Ministre de l'économie et des finances, Michel Meva'a M'Eboutou, dans un détournement de fonds. Ensuite, il semblerait que Baongla aurait été jugé à son insu *in absentia* en octobre 2001, et reconnu coupable d'une extorsion de 10 millions de francs CFA d'un officiel du Ministère de l'économie et des finances; il n'aurait été informé de la sentence qu'après le jugement rendu. Baongla aurait à nouveau été arrêté le 9 janvier 2002, traduit devant un juge deux jours plus tard et transféré à la prison centrale de Nkondengui à Yaoundé. Pius Njawé, directeur général du groupe de presse *Le Messenger*, se serait vu confisquer ses papiers d'identité le 16 juin 2002 par la police des frontières de l'aéroport international de Douala. Selon les informations reçues, il semblerait que lorsqu'il a présenté ses papiers à la police des frontières, l'agent aurait pris les documents – le passeport, la carte d'identité nationale et le permis de conduire – et il les aurait immédiatement remis au commissaire de l'aéroport de Douala.

99. Le 10 octobre 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent au Gouvernement du Cameroun concernant la situation de **Nchendze Henry**, **Edwin Limfouyuy**, **Joseph Jumrau**, **Thomas Kombau** et **Tobias Kougnso**, tous anglophones. Certains d'entre eux seraient membres du Southern Cameroon National Council et ils auraient été arrêtés sans mandat d'arrêt le 11 septembre 2002 à Kumbo par des membres des forces de sécurité. Ils auraient ensuite été transférés à la prison centrale de Bafoussam où ils auraient été soumis à des mauvais traitements. L'appel urgent attire également l'attention du Gouvernement sur la situation de **Agbor Nfaw Joseph**, âgé de 70 ans, **Enow John Enow**, âgé de 65 ans, **Tabé Daniel Agbor**, âgé de 50 ans, **Tambe Atem Valery**, âgé de 29 ans, **Ojong Samuel Ndip**, âgé de 29 ans, et **Shinyuy George**, tous anglophones. Ils auraient été arrêtés le 27 septembre 2002 à Mamfe par des membres des forces de sécurité car soupçonnés de

promouvoir la partition du pays. Ils auraient été transférés dans une prison dont les cellules ne contiendraient ni toilettes, ni douche et dans lesquelles ils seraient forcés de dormir à même le sol cimenté. Shinyuy George serait décédé des suites des traitements qu'il aurait subis après son arrestation. Selon les renseignements reçus, toutes les personnes susmentionnées pourraient être victimes de torture ou de mauvais traitements, et elles auraient été arrêtées dans le seul but d'intimider les membres des partis d'opposition anglophones comme des autres opposants aux politiques gouvernementales.

### **Communication reçue**

100. Dans une lettre datée du 28 octobre 2002, le Gouvernement a accusé réception de la communication du Rapporteur spécial datée du 26 juillet 2002 concernant Georges Baongla et Pius Njawé. Le Gouvernement affirme que Georges Baongla a été condamné, en qualité de représentant d'une société sans rapport avec la presse, à une peine de cinq ans de prison fermes pour une affaire d'escroquerie et mis en liberté provisoire en juin 2002 après six mois d'incarcération. De retour d'un voyage à l'étranger, Pius Njawé a refusé de faire la file au contrôle d'identité. Lorsqu'il a été rappelé à l'ordre, il a bien pensé de tenir des propos malveillants à l'égard de la police et ses documents ont été confisqués pour quelques minutes.

### **Observations**

101. Le Rapporteur spécial remercie le Gouvernement pour la réponse à sa lettre du 26 juillet 2002, mais regrette que son appel urgent, envoyé conjointement avec le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, n'ait pas reçu de réponse à ce jour.

## **Chad**

### **Communication envoyée**

102. Le 26 juillet 2002, le Rapporteur spécial a envoyé une communication au Gouvernement du Tchad concernant **Michaël Didama**, éditeur du journal *Le Temps*, qui aurait été condamné à six mois d'emprisonnement avec sursis et à payer des dommages et intérêts substantiels après avoir été reconnu coupable de diffamation en janvier 2001. La plainte contre Didama aurait été portée par l'un des neveux du Président Déby, après que des allégations eurent été publiées dans le *Le Temps* selon lesquelles un certain nombre de tentatives de coups d'État auraient été faites par des proches du Président Déby. Il semblerait également que les bureaux du journal *Le Temps* auraient été visités, le 25 janvier 2001, par des militaires, mis en colère par un article faisant état du nombre élevé de victimes suite à des affrontements dans le nord du pays. En outre, le Rapporteur a reçu des informations selon lesquelles le Haut Conseil de la communication aurait interdit, le 30 mars 2002, à toutes les radios privées, communautaires ou associatives, d'enregistrer, programmer et diffuser toute émission ou débat à caractère politique pendant la durée de la campagne précédant les élections législatives du 21 avril 2002. Il semblerait qu'une interdiction semblable avait été formulée au moment de la campagne des élections présidentielles de 2001, avec l'adoption de la décision n° 002/HCC/P/SG/2001, dont l'article 23 stipulait que «pendant toute la période de la campagne pour l'élection présidentielle de 2001, tout débat politique ou à caractère politique est interdit sur les ondes des radios privées, associatives ou communautaires».

## Observations

103. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à sa communication.

## Chile

### Comunicaciones enviadas

104. El 24 de enero de 2002, el Relator Especial envió un llamamiento urgente pidiendo información acerca de **Eduardo Yáñez** El Sr. Yáñez, empresario y panelista habitual del programa de debates *El Termómetro*, de la cadena Chilevisión, habría sido acusado de desacato contra la autoridad por la Corte Suprema e inmediatamente detenido después haber declarado durante ese programa que el sistema judicial de su país era "inmoral, cobarde y corrupto".

105. El 21 de noviembre de 2002, el Relator Especial transmitió otro llamamiento urgente en relación con la situación de Eduardo Yáñez, expresando su preocupación por que el tribunal superior habría confirmado, en día 29 de octubre, la acusación de desacato. El Sr. Yáñez podría cumplir hasta cinco años de prisión y recibir una multa de 15.000.000 de pesos, de acuerdo al artículo 263 del Código Penal chileno.

## Observaciones

106. Hasta la fecha no ha habido respuesta del Gobierno.

## China

### Communications sent

107. On 24 January 2002, the Special Rapporteur sent jointly with the Special Rapporteurs on torture and on violence against women and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, an urgent appeal concerning **Connie Chipkar**, a 61-year-old Canadian Falun Gong practitioner, who was reportedly arrested on Tiananmen Square on 23 January 2002 because she wore a sash that read "Falun Gong" and "SOS" and had begun to practise Falun Gong exercises. According to the information received, she was immediately arrested by a uniformed police officer and some police officers in civilian clothes, put into a police van and driven away in an unknown location.

108. On 25 February 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Xu Zerong**, a research associate professor at the Southeast Asia Institute of the Zhongshan University in Guangzhou, who was reportedly arrested on 24 June 2000 and charged on 25 July 2000 in connection with "the illegal publication of books and periodicals since 1993", for which he was reportedly sentenced in January 2002 by a Shenzhen Court to 13 years in prison (three years for "economic crimes" and 10 years on charges of "leaking state secrets" in connection with his alleged use of classified documents concerning

Chinese military operations during the 1950-53 Korean war). Mr. Zerong was reportedly detained incommunicado for the 18 months leading up to his trial and his place of detention at the time the urgent appeal was sent was allegedly unknown. It was reported that Mr. Zerong appealed his sentence.

109. On 9 April 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning information they received about the arrest of four workers' representatives, **Yao Fuxin, Xiao Yunliang, Pang Qingxiang,** and **Wang Zhaoming,** who were reportedly charged with "illegal assembly and demonstration" for their part in organizing protests in Liaoyang City, Liaoning province, during which up to 30,000 workers demonstrated in March against layoffs, alleged management corruption and insufficient severance pay. The Special Rapporteurs indicate in their communication that Yao Fuxin, who was detained incommunicado from 17 to 31 March – when he was allowed to call his family but not to receive visits, might have developed a heart condition due to ill-treatment during his detention and had to be taken to hospital for treatment.

110. On 11 April 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture on the case of approximately 20 Falun Gong practitioners in Changchun City, Jilin Province, including **Mr. Liang Zhenxing, Mr. Liu Chengjun, Ms. Zhou Runjun, Mr. Lei Ming, Mr. Zhao Jian, Mr. Yun Qinglin** and **Ms. Li Yanmei,** who have reportedly been detained during a security crackdown in Changchun City and charged with having tapped into the signal of eight major television stations, on 5 March 2002, in order to broadcast footage exposing the Chinese Government's alleged persecution campaign against Falun Gong practitioners. Reports also seem to indicate that local police officials have said that 15 other people have been arrested in connection with the same broadcast, without giving details about their names or whereabouts and that an official from the Changchun Re-education Through Labour Bureau has indicated that between 100 and 200 people have been detained since the broadcast and would probably be sent to a labour camp for between one to three years.

111. On 28 May 2002, the Special Rapporteur sent another urgent appeal jointly with the Special Rapporteur on torture concerning workers' representatives **Yao Fuxin, Xiao Yunliang, Pang Qingxiang** and **Wang Zhaoming,** who were reportedly still held in detention, although according to the information received, Yao Fuxin is believed to be seriously ill possibly due to ill-treatment. On 11 April 2002, his wife was reportedly allowed to visit him, for the first time since his arrest, at the Tieling City Detention centre, in northeastern China and she reported that he may have suffered several minor strokes since his detention, although he had no prior history of cardiovascular disease, and that he may not have received appropriate medical care. The communication also referred to **Gu Baoshu,** an activist involved in demonstrations, who was reportedly forcibly taken from his home on 16 April, severely beaten by the police and released after several hours of interrogation. He allegedly was threatened and harassed by the police following his demands for those responsible for his beatings to be investigated and his medical costs to be paid for by the Public Security Bureau. On 15 May 2002, **Wang Dawei's** whereabouts remained unknown as he has reportedly not been seen since mid-April after he travelled to Beijing from Liaoning Province to file a petition to the central authorities against the current situation at the Ferroalloy factory.

112. On 26 July 2002, the Special Rapporteur sent a communication concerning the alleged blocking by the Government on 1 July of the unencrypted signal transmitting BBC World through the Sinosat 1 satellite, following a report on BBC World about Falun Gong broadcast on 30 June and 1 July 2002. A spokesman for China's international television corporation allegedly told Agence France Presse on 5 July that some programmes of the BBC infringed rules on the transmission of foreign programmes in China.

113. The Special Rapporteur also referred to **Mr. Jiang**, a Chinese-born Canadian citizen and a freelance reporter, who was reportedly arrested on 3 June 2002 in Daqing, Heilongjiang province, by the authorities, while he was filming a documentary about labour unrest in Daqing for the United States broadcaster PBS, and deported from China on 5 June, as he was accused of making illegal video recordings.

114. In the same communication, the Special Rapporteur referred to the case of **Lee Sang-min**, a South Korean journalist, who was reportedly assaulted and beaten by the police on 13 June 2002 in Beijing, while reporting on an incident in which Chinese security personnel forcibly removed a North Korean asylum-seeker who had successfully entered the South Korea consulate in Beijing.

115. He also brought to the attention of the authorities the case of **Yoko Kaneko**, of her husband, a Japanese citizen, and of two other Japanese Falun Gong practitioners, who had reportedly travelled to Beijing on 23 May 2002 to peacefully appeal for the end of the regime's three-year campaign against Falun Gong practitioners. They were arrested by plainclothes police officers while they were walking to Tiananmen Square in the afternoon of 24 May, distributing Falun Gong materials that disclosed the situation of Falun Gong practitioners in China. It is alleged that they were taken to the Haidian District Public Security Branch, and Ms. Kaneko was detained and sentenced to 18 months of forced labour.

116. In the same communication, the Special Rapporteur referred to the case of **Sun Guilan** and 50 other Falun Gong practitioners, who were reportedly having a Falun Gong experience-sharing conference in Caijiapo, Qishan County, Shanxi province at the end of September 2001, when the police broke into the meeting place and reportedly arrested Ms. Sun and sent him to the Baoji City Detention Centre, where she allegedly started a hunger strike to protest. It is reported that she was force-fed by the military doctors of Baoji City No. 60 Hospital and suffocated to death because of the tube being inserted into her trachea.

117. He also brought to the attention of the Government the case of **Chen Yuqing**, who was reportedly detained on 1 October 2000 in the City No.1 Detention Centre by the Congtai District public security bureau, after he went to Beijing to appeal to the higher authorities for an end to the persecution of Falun Gong. Mr. Chen Yuqing was reportedly mistreated during his detention and he died on 18 October 2000.

118. Another case referred to by the Special Rapporteur in his 26 July 2002 communication is that of **Huang Qi**, owner of the web site *www.6-tianwang.com* established in June 1999, which was reportedly shut down by authorities at the end of February 2000 and relaunched in mid-March 2000 to feature comments and news articles on human rights abuses and government

corruption. It was alleged that on 3 June 2000 at 5 p.m., Huang Qi was delivered an oral summons for interrogation in his office by Chengdu's public security bureau, and that at 5:20 p.m., a dozen public security bureau officers broke into his office, raided the premises, confiscated notebooks, photographs, computers and apparently arrested Huang Qi, charged him with sedition and subversion for posting anti-Government articles on the Internet, and detained him on 3 June 2000 in Chungdu Sichuan province.

119. In the same communication, the Special Rapporteur reported that case of **Qi Yanchen**, a freelance journalist, who was allegedly arrested by police on 2 September 1999 at his office in Boton, a suburb of Cangzhou, accused of spreading messages via Internet and detained for 315 days. His computer, printer, fax machine and documents were reportedly confiscated by the police. On 30 May 2000, Qi Yanchen was reportedly prosecuted again for subversion before the Cangzhou people's court in relation to an article he allegedly wrote about the crackdown on the China development union and a story about the Falun Gong movement.

120. On 8 October 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Chen Shaowen**, an Internet essayist from Lianyuan in Hunan Province, who was allegedly arrested on 6 August 2002 on suspicion of "using the Internet to subvert state power". Chen Shaowen has written numerous essays and articles for various overseas Chinese-language web sites, including *Huang Hua Gang* magazine and Minzhu Luntan (Democracy Forum), on topics including China's unemployment problem, social inequalities, and flaws within the legal system. It is reported that Mr. Shaowen's case is still under investigation, and it is not clear whether he has been formally charged.

121. On 18 December 2002, the Special Rapporteur sent an urgent appeal regarding the proposal by the Government of the Hong Kong Special Administrative Region (HKSAR) to enact a **draft Bill on National Security**, which will be introduced to Parliament in February 2003, as required by article 23 of Hong Kong Basic Law. It is reported that the draft legislative text exceeds the requirements of article 23 of the Basic Law, by, inter alia, introducing new offences, and that definitions of treason, secession, sedition, subversion, theft of State secrets and foreign political organizations are extremely wide and vague and open to interpretation which, it is feared, might lead to unjustified restrictions to the right to freedom of opinion and expression. In particular, fears have been expressed that it will in effect not be possible for newspapers to publish information about government activities except for official press handouts. Furthermore, it is reported that the investigative powers of law enforcement under the draft bill will be significantly expanded, and that insufficient guarantees for an independent judicial monitoring might lead to possible abuses in the implementation of the provisions of the draft bill. Finally, concerns have been expressed that the draft bill does not include adequate guarantees and safeguards for the protection of the right to freedom of opinion and expression.

### **Communications received**

122. In a letter dated 21 November 2001, the Government of China replied to the concerns expressed in the Special Rapporteur's communication dated 3 September 2001. In this letter, the Government indicated that **Liu Haofeng** was assigned in May 2001 to three years' re-education through labour for acts disrupting the public order by the Shanghai Municipal Re-education

Through Labour Committee in a decision pursuant to the law. He is currently completing that assignment at the Xinkapu re-education through labour centre, Hunan province. During his stay at the centre, all his lawful rights are being respected, and in particular on 17 and 24 July, Liu's father and fiancée, respectively, visited him at the re-education centre.

123. In a letter dated 31 January 2002, the Government of China replied to the joint communication sent on 30 October 2001 by the Special Rapporteur with the Special Rapporteur on torture, concerning **Zhang Maoxing** and **Zhang Juan**. In this letter, the Government indicated that Zhang Maoxing was detained together with two other Falun Gong practitioners on 30 December 2000 by the Jiujiang Public Security Bureau in Jiangxi province on suspicion of obstructing law enforcement through the organization of a cult, and held at the Jiujiang Public Security Bureau's detention centre. Before his detention Zhang had already followed a variety of Falun Gong practices harmful to his health, and after being admitted to the detention centre, he began to fast in the hope of attaining the "ultimate fulfilment" advocated by "Falun Gong". In spite of repeated admonitions, he refused to eat and all attempts at rescuing his life by the detention centre and the local hospital, including intravenous infusions, failed. Zhang simply refused to cooperate and eventually died from multiple organ failure. The allegation that Zhang "was tortured to death" as contained in the communication simply does not tally with the facts. Zhang Juan, daughter of Zhang Maoxing, was detained together with her father on 30 December 2000 by the local public security organ on suspicion of obstructing law enforcement through the organization of a cult. Considering that her offences were minor, the local Re-education Through Labour Management Committee decided in March 2001 to assign her to two years of re-education through labour. In view of her outstanding conduct at the re-education centre, she was released on parole in August 2001 and is now living at home. The allegation in the communication that Zhang Juan "is near death after having endured brutal torture" has no factual basis.

124. In a letter dated 19 February 2002, the Government replied to the communication dated 25 October 2001 sent by the Special Rapporteur jointly with the Special Rapporteur on torture concerning **Huang Guodong**, in which the Government indicated that Huang Guodong was arrested on 9 February 2001 by the Mudanjiang public security authorities on tips from other citizens when he was carrying out illegal Falun Gong activities. He confessed to all of his offences, and during the investigation, he did not have any problems in sleeping and eating and was never subjected to any torture and other cruel, inhuman or degrading treatment or punishment. From 1 October 2001, however, he began to fast at Mudanjiang No. 1 detention centre, as his practice of Falun Gong had led him astray and he was trying to reach the so-called "ultimate fulfilment". Despite the guards' patient efforts to persuade him to eat, Huang, who is deeply influenced by Falun Gong fallacies, obstinately refused to take food and receive medical treatment and even went so far as to remove the intravenous needles on several occasions. On 29 October, he was sent to the Northern Hospital in Mudanjiang city for "electrolyte imbalance". A subsequent medical examination at hospital showed that his electrocardiogram, brain CT and chest (thoracic) X-ray results were all normal, but that he had a urethra infection. He is currently under intensive treatment at the relevant medical establishment.

125. In a letter dated 24 May 2002, the Government of China replied to the Special Rapporteur's communication of 1 November 2001 concerning **Zhu Ruixiang** and **Lü Xinhua**. In this letter, the Government indicated that Zhu Ruixiang had on many occasions, starting in October 2000, made use of the Internet to produce and disseminate materials designed to subvert the State's political authority. On 30 July 2001, the Shaoyang city procurator's office in Hunan province instituted legal proceedings against Zhu with the Shaoyang city intermediate people's court, on suspicion of the crime of subverting State political authority. On 11 September 2001, the Shaoyang city intermediate people's court ruled at first instance that the defendant Zhu Ruixiang had used the Internet to conduct activities that incited subversion of State political authority, that his activities had constituted the crime of inciting subversion of State political authority and that he should be punished in accordance with the law. In accordance with the relevant provisions of Chinese law, Zhu was sentenced to three years' fixed term imprisonment and stripped of his political rights for two years. His case is currently being considered at second instance. Lü Xinhua was engaged from September 1998 in organizing an illegal body, fomenting subversion of state political authority and conducting activities which disrupted public order. On 3 September 2001, the Wuhan city procurator's office in Hubei province instituted legal proceedings against Lü with the Wuhan intermediate people's court, on suspicion of the crime of subverting State political authority. On 14 November 2001, the Wuhan city intermediate people's court ruled at first instance, in accordance with the relevant provisions of the Chinese Criminal Code, that Lü's activities had constituted the crime of subverting state political authority and that Lü should be punished in accordance with the law. Lü was duly sentenced to four years' fixed-term imprisonment and stripped of his political rights for two years. During the trial, Lü candidly admitted all his offences and did not lodge an appeal after the verdict.

126. In another letter dated 24 May 2002, the Government of China replied to the Special Rapporteur's communication of 24 January 2002 concerning **Connie Chipkar** and indicated that Ms. Chipkar was on Tiananmen Square on 23 January at 2 p.m., where she was leading an illegal demonstration in favour of heretic beliefs, in violation of relevant Chinese laws and regulations. The police officers on the square rapidly obliged her to stop her activities and to leave the square in conformity with the law. On 24 January, Ms. Chipkar left China for Canada by plane.

127. In a letter dated 28 June 2002, the Government replied to the Special Rapporteur's communication dated 11 April 2002, concerning **Liang Zhenxing, Liu Chengjun, Zhou Runjun, Lei Ming, Zhao Jian, Yun Qinglin** and **Li Yanmei**. In this letter, the Government indicated that on 5 March 2002, Liang Zhenxing, Liu Chengjun, Zhou Runjun, Lei Ming, Zhao Jian, Yun Qingbin, Chen Yanmei and other adherents of Falun Gong, formed two groups, one in Changchun and the other in Songyuan, Qianguo county, in Jilin province, severed the local cable television transmission lines and illegally hooked up their own broadcasting installation, inserting Falun Gong audio and visual materials and seriously endangering public security. These activities by Liang Zhenxing and his associates were suspected of breaching articles 124 and 300 of the Chinese Criminal Code, constituting the crimes of sabotaging television broadcasting facilities and organizing and using a heretical sect to disrupt the application of state law. The public security authorities, acting on the basis of a large quantity of evidence in their possession and in accordance with the law, arrested the suspects for the commission of those offences. The case is currently being heard in accordance with the law. The allegations in the letter that some 100-200 people have been arrested in connection with this case and are very likely to receive



sentences of between one and three years in labour re-education camps have absolutely no basis in fact.

128. In a letter dated 13 December 2002, the Government replied to the Special Rapporteur's communication of 28 May 2002 concerning **Yao Fuxin, Xiao Yunliang, Pang Qingxiang, Wang Zhaoming, Gu Baoshu** and **Wang Dawei** and indicated that Yao Fuxin, who is not an employee of the Liaoyang city Ferroalloy factory, colluded with Xiao Yunliang, Pang Qingxiang, Wang Zhaoming and other associated employees of the factory, and that, in the course of events linked to the bankruptcy the factory, instigated and conducted a number of destructive activities, such as bursting into the local government building, blocking traffic and disrupting public order. This endangered public safety and property and the Liaoyang city public security authorities, acting in accordance with the relevant laws, conducted a number of criticism and re-education sessions for Yao and his accomplices. As these actions were in breach of relevant provisions of the Chinese regulations on the organization of assemblies and marches, on 27 March 2002 the public security authorities took Yao Fuxin, Xiao Yunliang, Pang Qingxiang and Wang Zhaoming into custody, in accordance with the law, and their case is currently in process. Since Yao and the three other suspects have been taken into custody, all their rights and interests have been protected, their state of health remains good and they have not been subjected to any form of torture.

129. In a letter dated 31 December 2002, the Government replied to the Special Rapporteur's communication of 8 October 2002 concerning **Chen Shaowen**, a former employee of the Hardware and Electrical Goods Company of the Hunan city Bureau of Commerce, who has been receiving funds from organizations abroad to conduct activities which imperilled Chinese State security since November 2001, which is in breach of the Criminal Code and the State Security Act. On 13 September 2002, with the approval of the Loudi city people's procurator's office in Hunan province, Chen was taken into custody, in accordance with the law, on suspicion of the offence of inciting subversion of the authority of the State and his case is currently undergoing further investigation.

### **Observations**

130. The Special Rapporteur thanks the Government of China for its replies and willingness to cooperate with his mandate. Replies from the Government to the Special Rapporteur's communications dated 9 April and 8 October 2002 were received on 13 and 31 December 2002, respectively, and were in the process of being translated at the time of drafting this report. The Special Rapporteur awaits further replies to his communications dated 25 February, 26 July and 18 December 2002.

131. Finally, the Special Rapporteur would like to reiterate his wish to undertake an official visit in the country, as expressed in his letter dated 7 October 2002.

### **Colombia**

#### **Comunicaciones enviadas**

132. El 20 de diciembre de 2001, el Relator Especial, junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con las amenazas y hostigamientos de las cuales habrían sido víctimas el 15 de diciembre de 2001, unos líderes del Sindicato de Trabajadores de las Empresas Municipales de Cali (SINTRAEMCALI) por parte de un hombre supuestamente relacionado con los paramilitares. En la comunicación se mencionó también el hecho que los sindicalistas de SINTRAEMCALI serían víctimas de este tipo de amenazas desde hace dos años y que en el mes de mayo del 2001, dos miembros del sindicato habrían sido asesinados sin que nadie fuera todavía detenido.

133. El 20 de febrero de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto a las amenazas contra . **Viviana María Villamil**, sus tres hijos y los miembros de SINTRAEMCALI. El esposo de la Sra. Villamil, el sindicalista Julio Galeano, fue asesinado el 11 de febrero de 2002 cuando llevaba a su esposa al trabajo en motocicleta, mientras que su esposa habría conseguido escapar. Esta agresión estaría relacionada con la participación de los Señores **Julio Galeano** y Viviana María Villamil en la ocupación pacífica del Centro Administrativo Municipal de Cali desde el 25 de diciembre de 2001 hasta el 31 de enero de 2002, contra la privatización de las empresas municipales de Cali. Durante la ocupación, miembros de SINTRAEMCALI y otros representantes sindicalistas habrían sido acusados por miembros de las fuerzas armadas de vinculación con los grupos armados de oposición. Además, el grupo paramilitar Autodefensas Unidas de Colombia (AUC) habría declarado que los miembros de SINTRAEMCALI eran “objetivos militares”.

134. El 17 de abril de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente sobre las amenazas de muerte que habría recibido el periodista **Carlos José Lajud**. Desde febrero de 2001, el Sr. Lajud y su esposa, Patricia Busito, habrían sido víctimas de varios actos de intimidación. El 4 de abril de 2002, el Sr. Lajud habría recibido una carta de pésame en la cual él y su familia habrían sido declarados objetivos militares y se les concedían tres días para dejar el país. Estas amenazas estarían relacionadas con la publicación por el Sr. Lajud de unos 20 informes de investigación sobre las nuevas ramificaciones establecidas en Bogotá por el Frente Armado Revolucionario Colombiano (FARC) y el Ejército de Liberación Nacional (ELN).

135. El 30 de abril de 2002, el Relator Especial envió un llamamiento urgente expresando preocupación por la seguridad del periodista **Daniel Coronell**, director del noticiario de televisión *Noticias Uno*. El Sr. Coronell habría recibido amenazas de muerte dirigidas a él y a su hija de 3 años, entre el 22 y 23 de abril de 2002. Los hechos se habrían dado en momentos en que se habrían producido diferencias entre el periodista y el candidato a la presidencia Álvaro Uribe, debido a una investigación divulgada por el noticiario el 21 de abril.

136. El 7 de junio de 2002, el Relator Especial envió un llamamiento urgente formulando preocupación respecto a la seguridad de las siguientes personas: **Carlos Pulgarín**, profesor de la Universidad de la Sabana de Bogotá y antiguo corresponsal del diario *El Tiempo* en el departamento de Córdoba; **Carlos Lajud**, periodista del canal de televisión CITY TV; y **César Mauricio Velásquez**, director del departamento de comunicación social y periodismo de la Universidad de La Sabana. Desde el mes de marzo de 2002, el Sr. Pulgarín habría recibido

constantes amenazas, presuntamente por parte de miembros del Ejército. A raíz de las amenazas, el Sr. Pulgarín habría salido por tercera vez del país. Asimismo, el Sr. Lajud habría dejado el país después de haber recibido constantes amenazas de muerte. El 19 de marzo de 2002, la secretaria del Sr. Velásquez habría recibido una llamada telefónica de un hombre identificado como un sargento retirado del ejército que le habría puesto en conocimiento un plan existente para asesinar a **Francisco Tulande**, director de la emisora Radio RCN; a **Alejandro Santo**, editor de la revista *Semana*; y a Carlos Pulgarín. El día 8 de abril, el mismo hombre habría vuelto a llamar para decir que el ataque era inminente y que el Sr. Velásquez estaba también incluido en la lista.

137. El 24 de junio de 2002 el Relator Especial envió un llamamiento urgente, junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, acerca del atentado contra la vida del Sr. **Luis Enrique Imbachi**, Presidente del SINTRAEMCALI. El 16 de junio, el Sr. Imbachi viajaba en su coche con su guardaespaldas en la avenida Ciudad de Cali cuando unos hombres desconocidos en dos motocicletas y un taxi le habrían seguido y habrían tratado de dispararle. Inmediatamente después del atentado, el Sr. Imbachi contactó con el Departamento Administrativo de Seguridad (DAS). Sin embargo, nadie le habría contestado.

138. El 5 de julio de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento sobre las amenazas contra el periodista **Josédil Gutiérrez**. El 29 de junio de 2002, poco después de que fuera asesinado **Efraín Alberto Varela Noriega**, director y propietario de la emisora Meridiano 70 en la ciudad de Arauca, se habrían recibido en la emisora dos llamadas en las que se amenazaba de muerte a Josédil Gutiérrez. Las llamadas provenían de una persona que se habría identificado como miembro de las AUC y habría concedido 24 horas al periodista para abandonar la ciudad. Pese a esto, el Sr. Gutiérrez habría preferido quedarse en la ciudad, por temor a que haya represalias contra alguno de sus cuatro hijos o su esposa. Mientras tanto, el Sr. Gutiérrez habría esperado protección del Estado. Estas amenazas podrían estar relacionadas con las actividades del Sr. Gutiérrez que trabajaba con el difunto Sr. Varela en el programa *Hablemos de Política*, que desde hacía un mes presentaba diferentes puntos de vista sobre los candidatos a la próxima elección de gobernador del departamento. En el mismo llamamiento, se llamó también la atención sobre el caso de otro periodista de la emisora, **Luis Eduardo Alfonso**, quien el 9 de marzo de 2002 habría recibido amenazas por alguien quien dijo pertenecer a las FARC. Además, se habría informado al Sr. Alfonso de que su nombre apareció en una lista que incluiría 350 nombres de personas que podrían ser ejecutadas por las AUC. Se supone que estas amenazas serían consecuencia del trabajo llevado a cabo por el Sr. Alfonso durante las elecciones presidenciales. Por último, el Relator Especial señaló que durante la campaña presidencial, varios políticos locales habrían denunciado ante el Ministerio de Comunicaciones a la emisora Meridiano 70 presuntamente con la intención de cerrarla.

139. En fecha 18 de julio de 2002, el Relator Especial envió un llamamiento urgente junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias expresando preocupación por la situación de inseguridad en la que parecían encontrarse **Ángela Muñoz Trujillo**, editora en el periódico *El Vocero en Barrancabermeja*, así como sus colegas. El 9 de julio de 2002, dos hombres desconocidos habrían detenido a Ángela Muñoz Trujillo en un semáforo cercano al centro de salud ECOPETROL, en Barrancabermeja diciendo: “Si te arriesgas mañana a sacar el periódico, en la tarde estarás velando a uno de tus colaboradores”. El 8 de julio, el comandante del grupo paramilitar Bloque Central Bolívar de las AUC, declaró en un

8 de julio, el comandante del grupo paramilitar Bloque Central Bolívar de las AUC, declaró en un periódico local que varios miembros de la prensa local y de los sindicatos eran objetivos militares. En el mismo llamamiento, se precisó que el temor por la seguridad de Ángela Muñoz Trujillo y de otros periodistas del departamento de Santander se había agudizado tras la muerte de **Mario Prada Díaz**, director del periódico mensual *Horizonte Sabanero*, ocurrida el 12 de julio cerca del municipio de Sabana de Torres, en el departamento de Santander, a manos de hombres armados que no habrían sido identificados.

140. El 26 de julio de 2002, el Relator Especial envió una comunicación acerca de presuntos casos de violaciones del derecho a la libertad de opinión y de expresión. **Álvaro Alonso Escobar**, corresponsal del diario *El Informador de Santa Marta* y director y propietario del semanario *La Región*, habría sido asesinado el 23 de diciembre de 2001 en su domicilio, en la población de Fundación, departamento de Magdalena, presumiblemente a raíz de sus denuncias de casos de corrupción política en la ciudad de Fundación. **Orlando Sierra Hernández**, subdirector del diario *La Patria*, en Manizales, murió el día 31 de enero de 2002, por un disparo en la cabeza recibido el 30 de enero en el camino al trabajo. El Sr. Hernández escribía una columna dominical donde subrayaba la corrupción del Gobierno y los abusos de derechos humanos cometidos por la guerrilla, los paramilitares y las fuerzas del Estado. El 30 de enero de 2002, un coche bomba habría explotado en las instalaciones del noticiero nacional *Caracol Televisión*, en Bogotá, causando daños materiales sin hacer víctimas. En febrero de 2002, **Claudia Gurisatti**, directora del programa de opinión *La Noche* del canal RCN, habría vuelto a salir del país atrás recibir amenazas contra su persona. **Juan Carlos Gómez Díaz**, locutor de la emisora *La Voz de Aguachica*, habría sido secuestrado el 1 de abril de 2002 y encontrado muerto a los dos días en el río Magdalena. El cuerpo de la persona que lo acompañaba, **Oscar Guerrero Gómez**, habría sido descubierto en iguales condiciones. Se supone que los autores de estos crímenes podrían pertenecer a las AUC, ya que Juan Carlos Gómez Díaz habría transmitido por radio un comunicado de prensa a favor de la campaña presidencial de Horacio Serpa, quien no es respaldado por las AUC. Víctor Omar Acosta, ex colaborador de diferentes periódicos y estaciones de radio, habría recibido tres disparos el 14 de mayo de 2002, en la ciudad de Yumbo. Hacía dos años que el Sr. Acosta habría dejado el periodismo pero su familia atribuye su muerte a sus investigaciones pasadas.

141. En fecha 29 de octubre de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias envió un llamamiento urgente en relación con **Cristóbal Guamanga**, miembro del Sindicato de Pequeños y Medianos Agricultores del Cauca (SIMPEAGRIC). El 17 de octubre de 2002, dos hombres armados habrían llegado a la casa de Cristóbal Guamanga exigiendo conocer su paradero. Al no encontrarlo en casa, habrían visitado las casas de otros miembros del sindicato, y en ellas lo habrían amenazado de muerte, de viva voz y por escrito. Cristóbal Guamanga habría sido uno de los organizadores de la huelga rural que tuvo lugar en Cauca el 16 de septiembre del 2002. Altos cargos de las fuerzas de seguridad y destacadas figuras políticas habrían calificado esta huelga de protesta organizada por la guerrilla. En el mismo comunicado se expresó preocupación por la seguridad de otros activistas agrarios y sindicalistas del departamento de Cauca.

142. El 28 de noviembre de 2002, el Relator Especial envió un llamamiento urgente expresando preocupación por la seguridad de distintas personas quienes habrían sido amenazadas

de muerte. El 11 de octubre de 2002, **Juan Maria Aguas Romero**, Secretario de Educación Nacional del Sindicato Nacional de Trabajadores de la Industria Minera y energética (SINTRAMIENERGETICA-CUT), en la Ciudad de Santa Marta, departamento de Magdale, habría sido alertado por parte del DAS de un posible atentado en contra de su vida. El 16 de octubre de 2002, en la Ciudad de Ibagué, las siguientes personas junto con sus familias habrían sido amenazadas de muerte por parte de los paramilitares: **Ever Tique Girón**, Secretario de Educación, **Eduardo Camacho Rugeles**, Secretario de Salud y miembro de la Comisión de Derechos Humanos de Colombia, **Pedro Edgar Galeano Olaya**, Secretario de Asuntos Cooperativos de la Junta Directiva del Sindicato de Trabajadores y Empleados Universitarios de Colombia (SINTRAUNICOL – CUT). Durante el mes de octubre 2002, el grupo paramilitar Bloque Capital, en la Ciudad de Bogotá, habría amenazado de muerte a **Gerardo Gonzáles**, fiscal, y a **Carlos Dimate**, **Antonio Guerrero**, **Demetrio Guerrero**, **Marcos Moreno** y **Diógenes Correa**, directivos del Sindicato de Pequeños Agricultores del Departamento de Cundinamarca (SINTRAGRICUN), filial de la Federación Nacional Sindical Unitaria Agropecuaria (FENSUAGRO - CUT). En el mes de octubre de 2002, en Bogotá, **Efraín Holguín**, **Fernando Trujillo Lozada** y **José Eduardo Villa Garzón**, directivos del Sindicato de Trabajadores de la Empresa de Acueducto y Alcantarillado de Bogotá (SINTRACUEDUCTO-CUT), habrían sido amenazados de muerte a través de llamadas telefónicas recibidas en sus respectivos domicilios. El día 17 de octubre de 2002, en la Ciudad de Popayán, Departamento de Cauca Oscar Alirio Sánchez, fiscal de la Subdirectiva CUT – Cauca, habría sido amenazado de muerte mediante una llamada telefónica a su celular por parte de los paramilitares. El día 29 de octubre de 2002, en la Ciudad de Bogotá, **Nicolás Acevedo Cuartas**, presidente de la Seccional Apartado, habría sido amenazado de muerte mediante una llamada efectuada a la sede nacional de la organización sindical Unión Nacional de Empleados Bancarios (UNEB-CUT).

### Comunicaciones recibidas

143. Por carta de fecha 12 de agosto de 2002, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 30 de abril de 2002 e informó de que el Programa de Protección de Periodistas y Comunicadores Sociales del Ministerio del Interior habría asignado al periodista **Daniel Coronell** un equipo de comunicación móvil y una escolta. Así mismo, el DAS dispuso de un acompañante por parte de la Policía Nacional, dos unidades por parte del DAS y una unidad de acompañamiento para su familia. Finalmente, la Fiscalía General de la Nación informó de que las denuncias por amenazas en contra del periodista Daniel Coronell y su familia fueron remitidas a la Oficina de Asignaciones de la Fiscalías Delegadas ante los jueces penales del circuito, para que se asigne a la unidad que le corresponda conocer de tales hechos.

144. Por carta de fecha 13 de agosto de 2002, el Gobierno de Colombia contestó a las comunicaciones del Relator Especial de fecha 17 de abril de 2002 y 7 de junio de 2002. El Gobierno informó sobre las acciones adelantadas por el Programa de Protección de Periodistas y Comunicadores Sociales del Ministerio del Interior. Al Sr. **Carlos José Lajud** se le habría asignado un equipo de comunicación móvil y una escolta. Se ofició al DAS para que le brinden acompañamiento permanente y se aprobó la petición de boletos aéreos internacionales para él y su esposa, así como un mes de ayuda humanitaria. Al Sr. **Carlos Pulgarin** se habría asignado tres ayudas humanitarias, tiquetes aéreos internacionales para él y su familia. Se ofició a la Oficina de Derechos Humanos de la Policía Nacional para que le brinden acompañamiento permanente. Al

Sr. **Cesar Mauricio Velásquez** se le asignó un servicio de escolta temporal. El Gobierno aseguró informar al Relator Especial acerca del resultado de las investigaciones y demás informaciones sobre los hechos denunciados.

145. Por carta de fecha 18 de octubre de 2002, el Gobierno de Colombia contestó a la comunicación del Relator Especial de fecha 28 de noviembre de 2001, e informó de que con relación al caso de **Carlos Giovanni Blanco Leguizamo**, el despacho del Procurador General de la Nación está adelantando la investigación disciplinaria, la cual se encuentra todavía en etapa de prueba.

146. Por carta de fecha 19 de diciembre de 2002, el Gobierno de Colombia contestó a las comunicaciones del Relator Especial de fecha 29 de octubre de 2002 y 28 de noviembre de 2002. El Gobierno informó de que había solicitado información acerca de las amenazas en contra de **Cristóbal Guamana** y otros miembros de varios sindicatos afiliados a la CUT. El Gobierno aseguró proporcionar al Relator Especial, el resultado de las investigaciones y demás informaciones sobre este caso.

### **Observaciones**

147. El Relator Especial da las gracias al Gobierno de Colombia por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fecha 20 de diciembre de 2001, y 20 de febrero, 24 de junio, 5 de julio, 18 de julio y 26 de julio de 2002.

## **Côte d'Ivoire**

### **Communications envoyées**

148. Le 26 juillet 2002, le Rapporteur spécial a envoyé une communication au Gouvernement de la Côte d'Ivoire concernant **Patrice Guéhi** et **Méité Sindou**, respectivement directeur de publication et rédacteur en chef du quotidien *Le Patriote*, qui auraient été condamnés, le 8 mai 2001, par défaut à trois mois de prison et à une amende de 100 000 francs CFA (152 euros) pour «diffamation», à la suite d'un article, paru en juin 2000, qui mettait en cause le président de la Ligue ivoirienne des droits de l'homme, Martin Bléou. Selon les informations reçues, ni les journalistes, ni leurs avocats n'ont été invités à comparaître au tribunal et les deux journalistes auraient appris leur condamnation par voie de presse. Par ailleurs, en juillet 2001, Patrice Guéhi et **Abdoulaye Sangaré**, directeur de la rédaction du quotidien *Le Jour*, auraient été menacés de mort, semble-t-il car ils détiendraient des «informations explosives» concernant le chef de l'État. Il semblerait que Guéhi aurait été averti que des agents de la Direction de la surveillance du territoire (DST) avaient décidé de les tuer, lui et sa famille. Il convient de noter que le journal *Le Patriote* est très proche du Rassemblement des républicains (opposition) d'Alassane Dramane Ouattara. Dans la même communication, le Rapporteur a attiré l'attention du Gouvernement sur le cas de **Douah Gouly**, journaliste du quotidien *Ivoir'Soir*, qui aurait été frappé par des agents du Groupement mobile d'intervention lors d'une manifestation de chauffeurs de taxi à Abidjan le 7 septembre 2001.

149. Le 24 octobre 2002, le Rapporteur spécial s'est associé au Président-Rapporteur du Groupe de travail sur la détention arbitraire et a attiré l'attention du Gouvernement sur la situation de **Gaël Mocaer**, un réalisateur indépendant de nationalité française, collaborateur de Radio France Outremer, qui serait détenu au siège de la DST à Abidjan depuis le 17 octobre 2002. Selon les informations reçues, Mocaer, qui dispose d'un visa valable jusqu'au 27 octobre 2002, aurait été interpellé à son hôtel par des agents de la DST. Personne n'aurait été autorisé à lui rendre visite depuis cette date, et il semblerait qu'aucune charge n'aurait été retenue contre lui.

### **Communications reçues**

150. En ce qui concerne la communication du Rapporteur spécial du 26 juillet 2002, précédée par un courrier sur le même sujet envoyé par le Rapporteur le 5 juin 2001, le Gouvernement a envoyé, en date 30 janvier 2002, une réponse dans laquelle le procès dont il est question est défini comme une action en justice entre deux parties privées, le président de la Ligue ivoirienne des droits de l'homme, Martin Bléou, contre deux journalistes, pour des faits de diffamation. Sur l'absence des prévenus au procès, le Gouvernement affirme que la citation à comparaître a été remise, comme les deux journalistes n'étaient pas disponibles, à un autre membre de l'équipe du *Patriote*. Le Gouvernement a également envoyé des coupures de presse et nombre d'extraits sur les lois relatives au cas en question.

151. Le 5 novembre 2002, le Gouvernement a informé le Rapporteur spécial que l'appel concernant Gaël Mocaer avait été transmis aux autorités ivoiriennes compétentes et la suite sera communiquée à la Commission dès que possible.

### **Observations**

152. Le Rapporteur spécial souhaite remercier le Gouvernement pour sa réponse sur le procès contre les journalistes du *Patriote*, mais regrette de n'avoir reçu aucune information sur les autres cas mentionnés dans ses communications.

153. Le 24 octobre 2002, le Rapporteur spécial et le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée ont exprimé, dans un communiqué de presse, leur vive préoccupation au sujet de la situation des droits de l'homme, et en particulier les relations entre communautés, en Côte d'Ivoire. Suite au conflit qui touche le pays depuis le 19 octobre 2002, les Rapporteurs ont déclaré avoir reçu des informations faisant état d'incitations à la haine ethnique et à la xénophobie par des médias et certains secteurs de la population à l'égard de groupes ethniques spécifiques du pays, et de certains ressortissants étrangers. Les Rapporteurs ont invité les autorités ivoiriennes à redoubler de vigilance sur les risques de conflits ethniques, et à prendre d'urgence les mesures nécessaires pour mettre un terme aux agissements actuels qui ne doivent pas être couverts par l'impunité, conformément aux obligations du Gouvernement ivoirien telles qu'elles découlent des instruments internationaux auxquels la Côte d'Ivoire est partie. Ils se sont par ailleurs joints aux appels qui ont été lancés par le Secrétaire général, le Représentant spécial du Secrétaire général pour l'Afrique de l'Ouest et le Haut-Commissaire aux droits de l'homme

pour exhorter les autorités ivoiriennes à faire en sorte que les médias et les secteurs de la population concernés s'abstiennent d'inciter à la haine ethnique et à la xénophobie et s'efforcent de rétablir un climat de coexistence pacifique entre toutes les composantes de la population.

## Croatia

### **Communication sent**

154. On 26 July 2002, the Special Rapporteur sent an urgent appeal following receipt of information that on 1 March 2002, the bank account of the independent weekly *Feral Tribune* was blocked, following two judicial sentences issued in October 2001 by the County Court of Zagreb, which condemned the newspaper to a fine of 34,900 euros for “moral damage” and “publishing cosmopolitan views and opinions”, under article 22, paragraphs 1 and 5, of the Law on Public Information and National Newspapers. It was reported that these decisions were based on two articles published, respectively, in 1993 and 1995, the first of which analysed the incompetence of Marica Mestrovic, daughter of the sculptor I. Mestrovic, to manage the Mestrovic Foundation, a responsibility which was given to her by the Tudjman administration, while the second criticised the anti-Semitism and pro-fascist attitudes of Zelsko Olujic, a lawyer with close ties to former President Tudjman. It was reported that at the time the communication was sent the newspaper had appealed against these decisions, but that the procedure which the Supreme Court had to follow did not allow to postpone the execution of the decisions.

### **Communication received**

155. On 26 September 2002, the Government replied to the Special Rapporteur's communication and indicated that this was a matter of enforcing final court decisions after all internal remedies had been exhausted. The concerned parties have, in addition, the possibility to appeal to the European Court for Human Rights. The Government also indicated that the practice of ordering enormous damages for mental anguish had been abandoned by the courts in Croatia.

### **Observations**

156. The Special Rapporteur thanks the Government of Croatia for its reply and willingness to cooperate with his mandate.

## Cuba

### **Comunicaciones enviadas**

157. En fecha 12 de marzo de 2002, el Relator Especial, juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente sobre el caso de **Jesús Álvarez Castillo**. El 4 de marzo de 2002, agentes del Ministerio del Interior y miembros de las Brigadas de Respuesta Rápida habrían golpeado al Sr. Jesús Álvarez Castillo, corresponsal de la agencia Cuba Press en Ciego de Ávila (Centro). Los hechos sucedieron cuando el Sr. Álvarez Castillo se disponía a cubrir un acontecimiento organizado por la Fundación Cubana de Derechos Humanos. El periodista habría sido alcanzado en las cervicales y



conducido al hospital. El 4 de marzo de 2002, **Lester Téllez Castro**, director de la Agencia de Prensa Libre Avileña, y **Carlos Brizuela Yera**, colaborador de la agencia Colegio de Periodistas Independientes de Camagüey, habrían sido golpeados y posteriormente detenidos por agentes de las fuerzas del orden, mientras se dirigían a visitar al periodista Jesús Álvarez Castillo. El 5 de marzo de 2002, agentes de la Seguridad del Estado se habrían presentado en el domicilio de Normando Hernández, director de la agencia Colegio de Periodistas Independientes de Camagüey, presumiblemente para detenerle. El periodista se habría dado a la fuga. El Sr. Hernández habría revelado en Radio Martí, una emisora con sede en Florida que emite para Cuba, las circunstancias de las agresiones contra Jesús Álvarez Castillo, Lester Téllez Castro y Carlos Brizuela Yera.

158. El 25 de abril de 2002, el Relator Especial, junto con el Relator Especial sobre la tortura y la Representante Especial del Secretario General sobre los defensores de los derechos humanos, envió un llamamiento urgente con respecto a **Juan Carlos González Leiva**, Presidente de la Fundación Cubana de Derechos Humanos. El Sr. González Leiva habría sido detenido el 4 de marzo de 2002 junto con otros siete activistas cuando realizaban un acto de protesta pacífica en Ciego de Ávila. Los periodistas **Jesús Álvarez Castillo**, **Carlos Brizuela Yera** y **Lester Téllez Castro** habrían sido detenidos mientras cubrían la protesta. Todos habrían sido golpeados por oficiales de la Seguridad del Estado, de la policía y por miembros de las Brigadas paramilitares de Respuesta Rápida. El Sr. González Leiva, invidente se encontraría muy enfermo y, a pesar de haber solicitado durante días que lo llevaran al médico, las autoridades policiales no habrían hecho caso al pedido. El Sr. **Lázaro Iglesias Estrada**, también miembro de la Fundación Cubana de Derechos Humanos y detenido mientras participaba en la misma protesta, habría sido golpeado y detenido por la Seguridad del Estado en el penal Cerámica Roja.

159. En fecha 2 de julio de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, envió un llamamiento urgente acerca de la situación del Sr. **Carlos Alberto Domínguez**, periodista de la agencia Cuba-Verdad. El Sr. Domínguez habría sido detenido el 22 de febrero de 2002 y acusado de desorden y mal comportamiento, después de su participación en una misa en honor de un preso político cubano. El Sr. Domínguez habría sido amenazado de muerte por un funcionario del Ministerio del Interior de nombre Ricardo.

160. En fecha 26 de julio de 2002, el Relator Especial envió una comunicación en relación con presuntos casos de violaciones del derecho a la libertad de opinión y de expresión. El Relator Especial hizo referencia al caso de **Juan Carlos Garcell Pérez**, periodista de la Agencia de Prensa Libre Oriental, que habría sido detenido y agredido el 3 de mayo de 2002, en el Hospital Juan Paz Camejo, municipio de Sagua de Tánamo, provincia de Holguín, cuando estaba entrevistando un familiar de un paciente del hospital como parte de una investigación que estaba realizando. En la noche del mismo día, la Policía y Agentes de Seguridad del Estado habrían allanado su casa y se habrían incautado de sus libros, documentos, cartas, revistas y archivos. El Sr. Pérez habría sido liberado la mañana siguiente, después de haber recibido una multa. En la misma comunicación, el Relator Especial hizo referencia a los casos de **Andrew Cawthorne** y **Alfredo Tedeschi**, corresponsal en La Habana y camarógrafo de la agencia Reuters, respectivamente. Los Sres. Cawthorne y Tedeschi habrían sido golpeados por la policía el 27 de febrero de 2002, y al Sr. Tedeschi le habrían robado su cámara. Otros corresponsales extranjeros que habrían llegado para cubrir el incidente habrían sido violentamente alejados por la policía.

Otro caso referido en la comunicación es el de Carlos Alberto Domínguez, periodista de la agencia independiente Cuba Verdad, quien habría sido detenido el 23 de febrero de 2002 en su domicilio por cuatro oficiales de la seguridad del Estado y sucesivamente trasladado al centro del Departamento Técnico del Interior (DTI) y acusado de “desorden público” y de “resistencia”. El Relator Especial expresó su preocupación por la salud del periodista, quien habría sido trasladado el 8 de mayo al hospital militar de Mariana, por sufrir de dolor de cabeza e hipertensión arterial. Último caso referido fue el de **Leonardo Miguel Bruzón Ávila**, presidente del Movimiento de Derechos Humanos 24 de febrero, quien habría sido detenido el 22 de febrero de 2002 y trasladado el 23 de marzo a la cárcel Melena Dos, ubicada en la provincia La Habana cuando, junto con otros siete activistas, protestaba pacíficamente por la agresión de agentes policiales a un periodista independiente.

### **Comunicaciones recibidas**

161. El Gobierno de Cuba contestó el 3 de junio de 2002 al llamamiento urgente del 12 de marzo de 2002. El Gobierno informó de que el Sr. **Jesús Álvarez Castillo** no fue agredido por la Brigada de Respuesta Rápida el 4 de marzo de 2002, sino que el Sr. Castillo, junto al Sr. Lester Téllez Castro, fueron retenidos y conducidos a una estación de policía por haber incurrido en un delito de desorden público. El Sr. Castillo se resistió de manera violenta a ser introducido en el vehículo policial que lo condujo a la estación, y al llegar a la misma se quejó de un supuesto dolor cervical, razón por la cual fue conducido inmediatamente a un hospital general, donde el doctor que lo examinó dictaminó que no existían lesiones de ninguna índole. El Gobierno informó de que **Lester Téllez Castro** y **Carlos Brizuela Yera** se encuentran en prisión preventiva por los delitos de desorden público, resistencia y desacato, en sus figuras gravadas. El Gobierno garantizó que el enjuiciamiento se llevará a cabo con todas las garantías del debido proceso. Por otra parte, el Gobierno señaló que ninguna de las agencias de prensa mencionadas en la comunicación del Relator Especial son conocidas por el Gobierno, y que las personas interesadas serían delincuentes comunes quienes se conceden de manera fraudulenta el título de “periodistas independientes”.

162. Por carta de fecha 1.º de septiembre de 2002, el Gobierno de Cuba contestó a la comunicación enviada el 2 de julio de 2002 y afirmó que el Sr. **Carlos Alberto Domínguez González** ha sido responsable de varios hechos constitutivos de delitos y que el 23 de febrero del 2002 fue detenido, tomando en cuenta su premeditada reincidencia y por su premeditado objetivo de violentar el orden público e interrumpir el normal desarrollo de actividades de interés social. El Gobierno añadió que el Sr. Domínguez nunca fue objeto de amenaza de muerte por un funcionario del penitenciario Valle Grande y que está recibiendo un tratamiento por sus padecimientos. El Gobierno subrayó además que el Sr. Domínguez no es periodista y que en Cuba no existe ninguna agencia de prensa con el nombre de Cuba-Verdad.

163. Por carta de fecha 11 de noviembre de 2002, el Gobierno de Cuba contestó a la comunicación enviada el 16 de agosto del 2001. El Gobierno informó de que la Sra. **Yoani Varona**, el Sr. **Leonardo Varona** y el Sr. **Roberto Rodríguez Rodríguez** han sido responsables de actos de alteración del orden público, ofensa a la dignidad de otros ciudadanos y atentados contra la propiedad ajena. El Gobierno ha afirmado que las autoridades intervinieron sólo para restablecer el orden y negó que las personas interesadas fueran víctimas de violencia, tortura o mal

trato por parte de las autoridades. El Gobierno informó también de que la Sra. **Belkis Barzaga** y el Sr. **José Luis Aguilar Hernández** fueron ambos detenidos debido a los actos ofensivos y agravios contra personas que participaban en la tradicional peregrinación religiosa el día 17 de diciembre del 1999. El Gobierno añadió que ni la Sra. Belkis Barzaga ni el Sr. Aguilar Hernández subieron violencia alguna por parte de las autoridades y que se encuentran ambos en libertad.

### **Observaciones**

164. El Relator Especial da las gracias al Gobierno de Cuba por sus respuestas, si bien espera respuesta a sus comunicaciones de fecha 25 de abril y 26 de julio de 2002.

165. El Relator Especial quisiera agradecer al Gobierno por su respuesta a la nota verbal del 1 de Julio 2002, enviada de conformidad con el párrafo 20 de resolución 2002/48 en el que la Comisión de Derechos Humanos invita a los Estados " a que presenten al Relator Especial observaciones sobre sus programas y políticas relativos al acceso a la información con fines de educación y prevención respecto de la infección por el virus de inmunodeficiencia humana (VIH)".

### **Czech Republic**

166. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States "to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection".

### **Democratic People's Republic of Korea**

167. The Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

### **Democratic Republic of the Congo**

### **Communications envoyées**

168. Le 9 avril 2002, le Rapporteur spécial a adressé un appel urgent au Gouvernement concernant **José Feruzi Samwegele**, 33 ans, journaliste à la chaîne publique Radiotélévision nationale congolaise (RTNC), qui a semble-t-il été interpellé le 3 avril 2002 au siège de la RTNC à Kinshasa/Lingwala par des éléments des Forces armées congolaises. Selon les informations reçues, M. Samwegele aurait été conduit et enfermé au cachot de la Détection militaire des activités anti-patrie à Kinshasa/Kintambo.

169. Le 28 mai 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement concernant **Dieudonné Karl Nawezi**, journaliste de la RTNC au Katanga, qui aurait été arrêté, le 7 mai 2002, à son domicile par deux agents de l'ANR, et serait depuis détenu dans un cachot de l'ANR à Lubumbashi, capitale de la province du Katanga. Nawezi serait accusé d'avoir fait de la propagande politique pour avoir montré, en vidéo, des supporters d'une équipe congolaise portant des t-shirts frappés à l'effigie d'un candidat politique.

170. Dans le cadre de la même affaire, le 14 juin 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo, a signé un appel urgent concernant **Édouard Kayimbo Sasula**, le chef de la division des sports et loisirs de la province du Katanga, qui aurait été appréhendé le 22 mai 2002 à Lubumbashi par l'ANR, transféré à Kinshasa et placé en détention au cachot de l'ANR/Roi Baudouin (ex-Lemera) à Kinshasa/Gombe. Depuis lors, ses proches à Kinshasa et à Lubumbashi n'ont plus de ses nouvelles. Étant donné sa détention au secret, des craintes ont été exprimées quant à son intégrité physique, en particulier au vu du fait que les personnes détenues au cachot de l'ANR/Roi Baudouin seraient fréquemment soumises à la torture.

171. Le 18 juillet 2002, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture, le Président-Rapporteur du Groupe de travail sur la détention arbitraire, le Rapporteur spécial sur l'indépendance des juges et des avocats et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo se sont associés pour envoyer au Gouvernement un appel urgent sur la situation de M<sup>e</sup> **Mpinga Tshibas**, qui aurait été arrêté par l'ANR/Mbuji-Mayi alors qu'il devait tenir une conférence de presse au cours de laquelle il aurait dû annoncer la création officielle de son alliance politique. Selon les informations reçues, M<sup>e</sup> Tshibas aurait été transféré dès son arrestation à Kinshasa, et ni le lieu de sa détention ni le motif de son arrestation n'auraient été communiqués. Des craintes ont été exprimées quant au fait que M<sup>e</sup> Tshibas puisse être l'objet de torture ou d'autres formes de mauvais traitement étant donné qu'il est détenu au secret, détention qui, si elle est prolongée, peut constituer un traitement inhumain, cruel ou dégradant.

172. Le 22 juillet 2002, le Rapporteur spécial a adressé un appel urgent au Gouvernement relative à l'arrestation, le 11 juillet 2002, des employés du quotidien *La Tempête des Tropiques* **Raymond Luaula, Bamporiki Shamira, Hiller Mutulua, Kabongo Mabika et Edo Kalimane**. Selon les informations communiquées, ces arrestations seraient liées à la publication, le 10 juillet 2002, d'un article de Bamporiki Shamira intitulé «Kinshasa a frôlé la catastrophe», pour lequel les services spéciaux de la police auraient voulu interroger Raymond Luaula en sa qualité de directeur de publication. Il semblerait également que tous les exemplaires du journal auraient été saisis.

173. Le 23 juillet 2002, le Rapporteur spécial a adressé un appel urgent au Gouvernement relatif à l'arrestation de **Raymond Kabala**, directeur de publication du quotidien *Alerte Plus*, qui aurait été arrêté le 19 juillet 2002 à Kinshasa/Kalamu par des hommes armés en civil. Selon les informations communiquées, il aurait été conduit le 20 juillet au Centre pénitentiaire et de rééducation de Kinshasa (ancienne prison centrale de Makala). Il semblerait que Kabala ait été arrêté à la suite d'un article publié dans *Alerte Plus* le 11 juillet intitulé «Mwenze Kongolo (Ministre de la sécurité et de l'ordre public) serait empoisonné», et démenti dans l'édition du lendemain. Selon les informations qui ont été communiquées au Rapporteur, Kabala serait

torturé quotidiennement pour qu'il révèle la source des informations publiées concernant l'état de santé du ministre Kongolo.

174. Dans le cadre de la même affaire, le 25 juillet 2002, le Rapporteur spécial, le Rapporteur spécial sur la question de la torture et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont signé conjointement un appel urgent concernant l'arrestation de **Delly Bonsange**, éditeur du quotidien *Alerte Plus*, qui aurait été arrêté le 22 juillet 2002 par des inspecteurs judiciaires du parquet de la cour d'appel de Kinshasa/Matete. Bonsange aurait passé la nuit dans un cachot de l'inspection provinciale de la police et aurait été entendu le 23 juillet au parquet de la cour d'appel de Matete au sujet de l'article intitulé «Mwenze Kongolo (Ministre de la sécurité et de l'ordre public) serait empoisonné».

175. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur des renseignements, portés à sa connaissance, concernant plusieurs cas décrits ci-dessous :

- a) Les problèmes auxquels feraient face les quelque 100 radiotélévisions associatives et communautaires opérationnelles en République démocratique du Congo en vertu de la loi n° 002/96 du 22 juin 1996 qui a mis fin au monopole de l'État dans le domaine de l'audiovisuel. Souvent, ces radiotélévisions sont mises sur pied et exploitées par des associations à but non lucratif ou par des communautés locales et seraient, semble-t-il, soumises à de lourdes procédures administratives, qui, selon les informations communiquées, ne seraient pas prévues dans la loi susmentionnée. Il semblerait en particulier que l'enregistrement d'une station de radio ou de télévision, qu'elle soit commerciale ou à but non lucratif, est soumis à une procédure de «déclaration préalable» très onéreuse, dont le montant dépasse les 8 000 dollars des États-Unis.
- b) **Badylon Kawanda**, journaliste à la radio diocésaine TOMISA émettant de Kikwit aurait été interpellé le 10 juin 2001 par des agents de l'Agence nationale de renseignement (ANR) alors qu'il recueillait, au marché central de la ville, les commentaires de la population sur la première visite de Joseph Kabila à Kikwit. Le journaliste aurait été libéré plus tard dans la journée.
- c) **Crispin Kalala Mpotoyi**, directeur de la Radio Télévision Débout Kasai, aurait été arrêté, le 10 octobre 2001, par les services spéciaux de la police nationale congolaise, conduit au cachot du parquet général de Mbujimayi et remis en liberté sous caution de 500 dollars le 13 octobre, pour «diffamation à l'endroit des autorités politiques et militaires ainsi que des dirigeants des sociétés d'exploitation de diamant minière du Bakwanga (MIBA) et SENGAMINES».
- d) **Narcisse Mungeye**, directeur de la radio TOMISA, aurait été interpellé en décembre 2001 par des agents de la Direction générale des migrations (DGM) et interrogé pendant trois heures, après que TOMISA eut retransmis en direct une messe au cours de laquelle le prêtre officiant avait cité Mobutu Sese Seko, Laurent-Désiré Kabila et Joseph Kabila, ce qui aurait été interprété par les agents de la DGM comme signifiant que Joseph Kabila n'était pas différent de ses prédécesseurs.
- e) **Edouard Nawej**, **Carlos Ngombe** et **Nalva Nawej**, journalistes à la radiotélévision MUTOSHI à Kolwezi dans la province du Katanga, auraient été arrêtés et détenus du 22 au 28 janvier 2002 par des agents de l'ANR/Kolwesi, au motif que MUTOSHI aurait

diffusé une émission datant de 2000 au cours de laquelle un militant des droits de l'homme avait déclaré que les agents de l'ANR, excepté le chef de poste, n'avaient pas qualité d'officier de police judiciaire.

f) **Félix Kabuizi**, directeur de publication du quotidien *La Référence Plus*, aurait été entendu pendant plusieurs heures le 19 juin 2002 dans les locaux de l'ANR, à la suite d'un article qui faisait état de la disparition de sept dirigeants du mouvement rebelle Rassemblement congolais pour la démocratie-Mouvement de libération après avoir été emmenés par des militaires.

g) Les responsables de Radio Fraternité Buena Muntu (RFBM), Radio Télévision Debout Kasai (RTDK) et Radio Télé Inter Viens et Vois (RTIV), **Ghislain Banza**, **Didier Kabuya** et **M. Katende**, respectivement directeur général par intérim de RFBM, directeur commercial de la RTDK et directeur des programmes de RTIV, se seraient vu intimer l'ordre, par un fonctionnaire de l'ANR, de ne plus diffuser d'informations sur Étienne Tshisekedi, président national de l'Union pour la démocratie et le progrès social (principal parti d'opposition) et président de l'Alliance pour la sauvegarde du dialogue intercongolais (ASD), qui est une structure regroupant les non-signataires de l'Accord de Sun City intervenu le 19 avril 2002 entre le président Joseph Kabila et le chef rebelle du Mouvement pour la libération du Congo, Jean-Pierre Bemba.

176. Le 27 novembre 2002, le Rapporteur spécial, la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo se sont associés pour adresser au Gouvernement un appel urgent concernant la situation de **Lucien Kahozi**, correspondant de la radio Voice of America (VOA) à Lubumbashi, qui aurait été menacé par les autorités militaires locales le 20 novembre 2002, et vivrait depuis dans la clandestinité. Selon les informations reçues, Kahozi aurait mis en contact la rédaction centrale de VOA à Washington avec l'abbé François Muyila Mbweni, qui aurait témoigné d'exactions des forces armées congolaises sur les populations du village d'Ankoro dans le Nord-Katanga, exactions qui auraient causé la mort d'une centaine de civils et la destruction de 1 200 maisons.

177. Le 4 décembre 2002, le Rapporteur spécial, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo ont signé conjointement un appel urgent concernant la situation de **Paulette Kimuntu** et **Kadima Baruani**, respectivement journaliste et cameraman à la chaîne privée de télévision Radiotélévision Kin-Malebo, qui auraient été interpellés le 2 décembre 2002 par des éléments des services spéciaux de la police nationale. Selon les informations communiquées, les deux journalistes auraient été conduits au cachot des services spéciaux de la police à Kin-Mazière. Les deux journalistes auraient été interpellés au moment où ils arrivaient devant l'ambassade d'Afrique du Sud pour filmer une protestation en rapport avec les négociations politiques congolaises qui se déroulent à Prétoria, en Afrique du Sud. Deux des organisateurs de cette protestation, Paul Nsapu et Sabin Banza, auraient été interpellés au même moment. Selon les informations reçues, les deux journalistes seraient encore en détention. Des craintes ont été exprimées quant au fait que leur vie puisse être en danger.

### **Communication reçue**

178. En date du 16 mai 2002, le Gouvernement de la République démocratique du Congo a envoyé une réponse relative à l'appel urgent du 9 avril 2002 concernant le cas du journaliste José Feruzi Samwegele. Le Gouvernement affirme que le journaliste a été interpellé et relâché rapidement après interrogatoire et qu'à l'heure actuelle Feruzi Samwegele prête normalement ses services à la chaîne RTNC/Kinshasa.

### **Observations**

179. Le Rapporteur spécial regrette de noter que, à l'exception du cas du journaliste José Feruzi Samwegele, le Gouvernement n'a répondu ni à ses appels urgents ni à ses communications.

## **Djibouti**

### **Communication adressée**

180. Le 26 juillet 2002, le Rapporteur spécial a envoyé une communication au Gouvernement concernant **Daher Ahmed Farah**, directeur de publication de l'hebdomadaire *Le Renouveau*, le journal du Parti du renouveau démocratique dont Ahmed Farah est le président, qui aurait été interpellé à son domicile, le 15 janvier 2001, par des agents de la brigade criminelle, après qu'une plainte eut été déposée contre lui par le préfet de Djibouti. Le journaliste aurait été aussitôt déferé au parquet, puis libéré après son inculpation pour «diffusion de fausses nouvelles et diffamation». Le juge aurait également ordonné la suspension provisoire de l'hebdomadaire *Le Renouveau* et interdit au directeur de publication de «sortir des limites du territoire de la République de Djibouti». Selon les informations reçues, *Le Renouveau* avait publié, le 11 janvier, un article qui dénonçait la destruction d'un marché sur ordre du préfet et l'accusait d'être responsable de la mort d'un boucher lors de cette descente de police. Le 30 mars 2001, Ahmed Farah aurait été reconnu coupable de «diffusion de fausses nouvelles » et condamné à 300 000 francs de Djibouti d'amende (environ 1 900 euros), alors que *Le Renouveau* aurait été suspendu pour trois mois. Par ailleurs, à la mi-juin 2001, Daher Ahmed Farah aurait été placé sous mandat de dépôt à la prison centrale de Gabode, en compagnie de deux agents du Trésor national, Hachi Abdillahi Ahmed et Mohamed Souguez Waiss, après que le Ministre de l'économie et des finances eut porté plainte suite à la publication, le 7 juin, des copies de deux mandats du Trésor national d'un montant total de 6 millions de francs de Djibouti (environ 40 000 euros) représentant une «avance exceptionnelle accordée au ministre». Le directeur du journal et les deux cadres du Trésor auraient été inculpés de «recel d'information» et de «détournement d'acte contenu dans un dépôt public», relâchés après 24 heures de détention et placés sous contrôle judiciaire dans l'attente de leur procès. Il semblerait que, le 3 août, le procureur de la République a interdit à Daher Ahmed Farah de quitter le pays, alors que le journaliste devait se rendre à Washington pour participer à une conférence.

### **Observations**

181. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à sa communication.

## **Dominica**

182. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States “to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection”.

### Dominican Republic

#### **Comunicaciones enviadas**

183. El 16 de diciembre del 2002, el Relator Especial, juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente en relación con la detención de **Gonell Franco**, director de prensa de la emisora Radio Marién, y de **Wildárico Núñez Corniel**, dirigente político. La detención de Gonell Franco y Wildárico Núñez Corniel podría estar relacionada con sus investigaciones sobre el tráfico de personas y productos agrícolas en la frontera haitiano-dominicana. Algunos agentes del Departamento Nacional de Investigaciones (DNI) habrían insistido para que les fueran entregadas las grabaciones del programa *A primera hora*, en el que Wildárico Núñez Corniel habrían hecho los señalamientos.

#### **Observaciones**

Hasta la fecha no ha habido respuesta del Gobierno.

### Ecuador

#### **Comunicaciones enviadas**

184. En fecha 7 de junio de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente expresando su preocupación por las amenazas de muerte recibidas por los siguientes miembros del partido Movimiento Democrático Popular (MDP): **Luis Villacís Maldonado**, **Stalin Vargas Acosta**, **Gustavo Terán Acosta** y **Ciro Guzmán Aldaz**. Stalin Vargas Meza, diputado del MDP, así como **Ciro Guzmán Aldaz**, representante nacional del MDP, habrían recibido amenazas de muerte el 20 de mayo de 2002. Luis Villacís Maldonado, quien era candidato para las próximas elecciones presidenciales, y Gustavo Terán Acosta, representante nacional del MDP, también habrían recibido varias llamadas amenazándoles de muerte. Los cuatro miembros del MDP habrían enviado el 28 de mayo una carta al Ministerio del Interior informándole de estos actos de intimidación, sin que a la fecha de envío del llamamiento hayan recibido respuesta alguna. Estas amenazas podrían ser relacionadas, en vísperas de las elecciones presidenciales, con la campaña del MDP en la cual criticaría fuertemente al gobierno actual.

185. El 23 de julio de 2002 el Relator Especial, juntamente con el Relator Especial sobre la tortura y el Presidente/Relator del Grupo de Trabajo sobre la Detención Arbitraria, envió un llamamiento urgente sobre la situación de **Luis Muñoz**, **Ivón Ramos**, **David Conrado**, **Juan Pablo Barragán**, **José Luis Proaño**, **Alberto Saltos**, **Stalin Saltos** y **Julia Butterfly**, esta última ciudadana norteamericana. Estas personas habrían sido arrestadas el 16 de julio de 2002



frente al edificio de la empresa OXIS, en Quito, mientras participaban en una manifestación pacífica contra la construcción de un oleoducto de crudos pesados. Parece que el arresto se produjo de manera arbitraria y violenta por un grupo de agentes de policía de Migración bajo el mando del coronel Noboa y dirigidos por el capitán Carlos Aillón. Las personas interesadas habrían sido detenidas en el Centro de Detención Provisional de Quito, sin recibir informaciones acerca de las razones de su detención y sin poder contactar sus familiares ni abogados.

### **Comunicaciones recibidas**

186. El Gobierno del Ecuador contestó el 26 de septiembre de 2002 al llamamiento urgente del 23 de julio del 2002 e informó que los manifestantes fueron detenidos por haber obstaculizado la vía pública e impedido el paso normal de vehículos y personas, hechos sancionables con dos días de prisión según el Código Penal ecuatoriano. Con respecto a la ciudadana norteamericana **Julia Butterfly**, el Gobierno informó de que por sus actividades incompatibles con su estatuto migratorio de turista, el 17 de julio de 2002 se inició la respectiva acción penal de deportación conforme al Código de Procedimiento Penal. El Gobierno añadió que las personas citadas en la comunicación no sufrieron ninguna clase de malos tratos, ni físicos, ni psicológicos.

### **Observaciones**

187. El Relator Especial da las gracias al Gobierno de Ecuador por su respuesta, si bien espera respuesta a su comunicación de fecha 7 de junio de 2002.

## **Egypt**

### **Communications sent**

188. On 27 March 2002, the Special Rapporteur sent an urgent appeal to the Government of Egypt concerning **Adel Hammuda**, journalist for the newspaper *Sawt al-Umma*, and **Essam Fahmy**, managing editor of the same newspaper. Both were reportedly sentenced on 21 March 2002 to six months' imprisonment each and fined 500 pounds for the publication of an article reporting on the allegedly questionable business practices of Nagib Sawiris, the president of the Egyptian telecommunications group Orascom. It is reported that Mr. Hammuda and Mr. Fahmy are free pending appeal.

189. On 14 May 2002, the Special Rapporteur sent an urgent appeal to the Government with regard to **Ahmed Haridy**, journalist and editor of the online daily newspaper *Al Methaq Al Araby*. Mr. Haridy was reportedly sentenced on 28 April 2002 to six months in prison after the Boulak Abu al-Aila Misdemeanour Court in Cairo found him guilty of defaming Ibrahim Nafie, editor-in-chief and chairman of *Al-Ahram* newspaper, in a series of articles published in May-June 2001 alleging that Mr. Nafie and several other senior managers of *Al-Ahram* were involved in financial malfeasance. It is reported that Mr. Haridy has appealed the court decision and that the appeal hearing is scheduled for July 2002.

190. On 24 May 2002, the Special Rapporteur on freedom of opinion and expression sent an urgent appeal, jointly with the Special Rapporteur on torture and the Special Representative of

the Secretary-General on human rights defenders, regarding nine activists who were reportedly arrested in May 2002 after they announced that they were organizing a peaceful demonstration to protest against massacres committed by Israeli troops in the occupied Palestinian territories.

**Manal Khaled**, an editor for an Egyptian TV station, and **Sameh Kamal**, a computer engineer, were reportedly arrested on 5 May 2002 in El Tahrir Square by several plain-clothes policemen. They were reportedly taken to Kasr El Neil police station and to the State Security Prosecution, where they were said to have been charged with possessing documentation and publications, reportedly a newsletter and other documents, of the Popular Committee of Solidarity with the Palestinian Intifada. **Ali Abd El Fatah**, Secretary-General of the Popular Committee of Solidarity with the Palestinian Intifada, three owners of a publishing house, **Gamal Mady**, **Ahmed Abd El Hafez** and **Khaled Souleman**, and two owners of a printing house, **Ahmed Ali**, and **Ashraf Ali**, were reportedly arrested, beaten and insulted at their homes on 14 May 2002 by members of the Alexandria State Security Investigation. They were said to have been brought before the Cairo State Security Investigation (report No. 517 of 2002 - Supreme State Security) and charged with publishing propaganda to disrupt public security. **Dr. Gamal Abd El Fatah Abd El Dayeim**, another activist from the Popular Committee of Solidarity with the Palestinian Intifada, was reportedly arrested on 13 May 2002 at his pharmacy on El Horeyia Street, in Hadayiek, El Maadi, by members of an anti-drugs force from the Directorate of Cairo Security. He was reportedly assaulted, beaten and insulted by the members of the security forces. He was then said to have been taken to the Security Directorate and brought before the El Basateen Prosecution (case No. 7341 of 2001- El Basateen Administrative). He was reportedly charged with selling expired medicines and with disseminating false news, propaganda and publications that disrupt public security. It is believed that the charge of selling expired medicine was used as a pretext to harass him for his political activities. He was reportedly released on 19 May 2002, on bail of LE 1,000, following instructions by the South Cairo Public Prosecutor.

191. On 25 July 2002, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture sent a joint urgent appeal concerning **Sayida Muhammad Gad al-Rab**, a 28-year-old law student, who was reportedly arrested on 14 July 2002 at her home in Cairo by members of the State Security Intelligence (SSI), accused of illegal political activities. It is reported that she is currently being held in incommunicado detention at an unknown location. Ms. al-Rab had been detained by the SSI in 1992 at the SSI headquarters in Cairo and allegedly tortured. She was released after two months. According to the information received, it is alleged that her husband, Muhammad Ghuneim, has been detained for almost a decade without charge or trial under emergency legislation, as an alleged member of an armed Islamist group. In view of the incommunicado nature of her detention, fears have been expressed that she may be at risk of torture or other forms of ill-treatment while in detention.

192. On 26 July 2002, the Special Rapporteur sent a communication to the Government regarding a number of alleged cases of violations of the right to freedom of opinion and expression:

- a) **Ahmed Haredi Muhamed**, editor-in-chief of *Al Methaq Al Arabi*, an electronic newspaper, was reportedly sentenced on 30 April 2002 by the Bolak Misdemeanour Court in Cairo to six months' imprisonment, ordered to pay an LE 1,000 fine and LE 2,000 in temporary administrative compensation after Ibrahim Nafe'e, the president of the Press Association, filed a misdemeanor case,

- No. 5155 of 2001, against Mr. Haredi, accusing him of publishing libellous statements against him on the Internet.
- b) On 27 June 2002, journalists who were covering parliamentary elections were reportedly harassed. They included **Hany Emara** and **Rida al-Shafie**, respectively reporter and cameraman with the United Arab Emirates-based Abu-Dabi TV, who were taken to the Raml Police Station and detained there for six hours. It is alleged that officials confiscated the tape from the camera and released the two journalists just when the polling stations were closing. Another case is that of two journalists for the German television ZDF, **Gihan Rushdie** and **Ayman Atef**, who were reportedly detained at a polling station, also in Alexandria, after police saw them filming confrontations between police and voters attempting to reach the polling station. It is reported that their film was also confiscated.
- c) On 30 June 2002, **Shohdy Surur** was reportedly sentenced to one year in prison for posting the works of his father, writer Nagib Surur, on the Internet. "Ummiyyat", a controversial poem, was among the works posted, after a warning that the language might cause offence. It seems that Shohdy Surur was arrested at the end of 2001, detained for three days before being released on bail, and charged with possessing "immoral booklets and prints". He has lodged an appeal, the hearing of which was reportedly to take place on 26 August 2002.

193. On 2 October 2002, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture sent a joint urgent appeal concerning **Mohamed Ahmed Abdo Hegazy**, a 20-year-old student at the Social Service Institution, who was reportedly charged with "spreading rumours that disrupt public security" (case No. 873 of 2002 - Supreme State Security) after the publication of his poetry. According to information received, the SSI in Port Said arrested Mr. Hegazy on 5 September 2002. It is alleged that he was handcuffed and blindfolded while at the SSI offices in Port Said and was ill-treated. On 7 September, he reportedly appeared before the State Security Prosecution, which decided that he would be detained pending investigations until 18 September. On 18 September, his detention was extended a further 15 days pending investigations and he was detained in Mazra'et Tora Prison. In view of the allegations that he may have been ill-treated at the time of his arrest, fears have been expressed that he may continue to be at risk of torture or other forms of ill-treatment.

### **Communication received**

194. In reply to a communication sent on 30 November 2001 concerning the arrest of Mr. Shahdi Surur (see also above communication dated 30 June 2002), the Government sent a letter, on 2 January 2002, in which it stated that Mr. Surur had been arrested under the terms of a warrant issued by the Department of Public Prosecutions for publishing on the Internet certain poems by his late father, the poet Naguib Surur, which offend public morals and religion, and mock the Egyptian People, Egypt historic national symbols and the Islamic nation. Mr. Surur was released on bail of 1,000 Egyptian pounds. The Government underlined that the vast majority of the late Naguib Surur's poetry had been published and is freely circulated in various forms. The competent Egyptian authorities believe that Mr. Surur's arrest was carried out in

accordance with due process of law and cannot be viewed as a violation of his right to freedom of opinion and expression as guaranteed under the Egyptian Constitution.

### **Observations**

195. The Special Rapporteur thanks the Government of Egypt for its reply regarding Mr. Surur, but awaits further information on his case as well as exhaustive replies regarding the other cases mentioned above.

## **El Salvador**

### **Comunicaciones enviadas**

196. El 27 de diciembre de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre los defensores de los derechos humanos, envió un llamamiento urgente en relación con la seguridad de **Beatrice Alamanni de Carrillo**, Procuradora para la Defensa de los Derechos Humanos (PDDH) y personal de su oficina. Desde el 16 diciembre de 2002, Beatrice Alamanni de Carrillo habría recibido varias amenazas de muerte anónimas a su oficina a través de facsímiles indicando “muerte a la procuradora”. Estas amenazas podrían estar relacionadas con la intervención de la Beatrice Alamanni de Carrillo en los incidentes ocurridos en el Penitenciaría Central La Esperanza, durante los que murieron dos agentes de la Policía Nacional Civil (PNC) y un reo. La Sra. Alamanni de Carrillo habría criticado públicamente la actuación y el operativo policial durante el amotinamiento. Asimismo, el director de la PNC y el Fiscal General de la República habrían acusado a la Sra. Alamanni de Carrillo de obstruir la acción policial y por ende la habrían responsabilizado por la muerte de los policías. Miembros de la PDDH estarían siendo hostigados e intimidados por miembros de la PNC desde que ocurrieron los hechos.

### **Observaciones**

197. Hasta la fecha no ha habido respuesta del Gobierno.

## **Equatorial Guinea**

### **Comunicaciones enviadas**

198. El 28 de enero de 2002, el Relator Especial envió un llamamiento urgente junto con el Representante Especial de la Comisión de Derechos Humanos encargado de examinar la situación de los derechos humanos en Guinea Ecuatorial en relación con los Srs. Santiago Ntutumu Mico, Santiago Abeso Ngomo, Baltasar Ndong Mba, Carlos Alogo Obono y José Tomas Ndong, militantes del partido de oposición Convergencia para la Democracia Social (CPDS), quienes habrían sido detenidos en Añisok el 21 de enero de 2002. De acuerdo con la información recibida, el Delegado de Gobierno de esta localidad, Sr. Hipólito Mba Sima, les habría acusado de mantener reuniones políticas. Desde esa fecha estarían detenidos sin haber tenido acceso a un juez.

199. El 7 de junio de 2002, el Relator Especial envió un llamamiento urgente en relación con las dificultades que enfrentaría la prensa en la cobertura del proceso que se abrió el 23 de mayo contra 144 personas acusadas de "atentado contra el Jefe del Estado, conspiración e incitación a la rebelión". Según la información recibida, algunos agentes de la guardia presidencial y de las fuerzas del orden estarían amenazando verbalmente a los periodistas de la prensa independiente, quienes están cubriendo el proceso en Malabo. Por otra parte, estarían teniendo dificultades para encontrar un lugar en la sala de audiencia, ya que los asientos estarían reservados prioritariamente a los periodistas de la prensa oficial. Los informes agregan que el 2 de junio, se habría prohibido asistir a la novena sesión del proceso al Sr. Rodrigo Angue Nguema, corresponsal de la Agencia France Press (AFP), de la British Broadcasting Corporation (BBC) y de la PanAfrican News Agency (PANA), por haber caminado por una acera "prohibida" por la policía. El martes 4 de junio, el periodista y presidente de la Asociación de la Prensa de Guinea Ecuatorial (ASOPGE), Pedro Nolasco Ndong habría sido expulsado del proceso. Los dos periodistas habrían sido interpellados por dos elementos de la seguridad presidencial al salir de la audiencia el 1.º de junio. Se les habría amenazado con prohibirles el acceso a la sala del Tribunal si continuaban teniendo contactos con los procesados y los observadores asistentes a este juicio. Además, el 29 de mayo, las fuerzas del orden habrían confiscado el material a un fotógrafo del periódico independiente *La Opinión*.

### **Comunicaciones recibidas**

200. En una comunicación con fecha 13 de febrero de 2002, el Gobierno respondió sobre la presunta detención de los Srs. Santiago Ntutumu Mico, Santiago Abeso Ngomo, Baltasar Ndong Mba, Carlos Alogo Obono y José Tomas Ndong, militantes del partido opositor CPDS. Afirma que la información suministrada por dicho partido es una simple especulación por no relatar la veracidad de los hechos ocurridos. Informa de que los días 15 y 20 de diciembre de 2001, los señores aludidos militantes del CPDS celebraron simultáneamente dos reuniones sin que fueran molestados por ninguna autoridad. La primera reunión fue en la plaza de Ayene con el Sr. Miguel Osa, jefe de la agrupación política, quien informó a sus militantes sobre su reciente viaje a España a cuenta del Partido. La segunda reunión se realizó en una vivienda privada. Al término de la misma, por la euforia de la información sobre el viaje del Sr. Osa a España, sumado a la alegría del mercadillo y por efectos de alcohol, los aludidos empezaron a amenazar de muerte a los militantes del Partido Democrático de Guinea Ecuatorial (PDGE) y más concretamente al Sr. Agustín-Angelín Ndong Nguema, quien denunció los hechos ante un juez, quien por mandamiento judicial requirió a los aludidos, por lo que el Delegado de Gobierno nada tuvo que ver con este caso.

### **Observaciones**

201. El Relator Especial agradece al Gobierno su comunicación y queda a la espera de su respuesta en relación con el llamamiento urgente enviado el 7 de junio de 2002.

### **Visita**

202. En seguimiento a la invitación que el Relator Especial recibió del Gobierno de Guinea Ecuatorial, éste visitó el país del 1 al 6 de diciembre de 2002. En este contexto, el Relator Especial quisiera señalar que el informe de su visita ha sido presentado en el 59.º período de sesiones de la Comisión con la signatura E/CN.4/2003/67/Add.2. El Relator Especial aprovecha la oportunidad para agradecer al Gobierno el apoyo que le brindó durante la realización de su visita. El texto completo del comunicado de prensa sobre la visita del Relator Especial a Guinea Ecuatorial se encuentra en el sitio Internet de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos: [www.unhchr.ch](http://www.unhchr.ch).

### Eritrea

#### **Communication sent**

203. On 9 April 2002, the Special Rapporteur on torture and the Special Rapporteur on freedom of opinion and expression jointly sent an urgent appeal to the Government of Eritrea concerning the start of a hunger strike by 10 journalists from privately owned media: **Yusuf Mohamed Ali**, editor of *Tsigenay*; **Mattewos Habteab** and **Dawit Habtemichael**, the editor and a journalist of *Meqaleh*; **Medhanie Haile** and **Temesgen Gebreyesus**; the deputy editor and a board member of *Keste Debona*; **Emanuel Asrat**, editor of *Zemen*; **Dawit Isaac** and **Fessehaye Yohannes**, of the newspaper *Setit*; **Said Abdulkader**, of the magazine *Admas*; and Seyum Tsehaye, freelance photographer. The 10 journalists began a hunger strike on 1 March, 2002, as a protest against their illegal detention and as a demand for “justice before a fair and independent court”. They have reportedly not been formally charged and were transferred to a secret place of detention on 3 April. One of the imprisoned journalist on hunger strike, Dawit Isaac, is said to be in the Halibet hospital as a result of being tortured in jail. According to information received on 18 September, 2001, the Government had ordered all privately owned media outlets to stop publication, reportedly arresting a dozen journalists after having accused them of publishing interviews with politicians who had publicly called for “democratic reforms”. In view of previous reports on the conditions of detention, alleging that they may amount to ill-treatment, and the state of health of some of the above-mentioned journalists, fears have been expressed that they may be at risk of torture or other forms of ill-treatment in view of the incommunicado nature of their detention.

#### **Observation**

204. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

### Estonia

205. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States “to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection”.

## Ethiopia

### Communications sent

206. On 25 March 2002, the Special Rapporteur sent an urgent appeal to the Government of Ethiopia concerning **Melese Shine**, editor-in-chief of the newspaper *Ethiop*, charged by the Fifth Criminal Bench of the Federal High Court with "publishing and disseminating information in the newspaper that defames and negatively affects the status of the Head of Government" and with "publishing an illegal article in collaboration with an outlaw". On 20 March 2002, Mr. Shine appeared before the Federal High Court and was denied bail. On this basis, he was remanded in custody at the Wereda 4 Police Station and was to have appeared in court on 26 March.

207. On 28 March 2002, the Special Rapporteur sent an urgent appeal to the Government concerning **Gezaw Taye Wordofa**, editor-in-chief of the Amharic weekly newspaper *Lamrot*, reportedly taken into custody on 15 March 2002 on charges of publishing and disseminating "immoral and indecent literature" in the April-May 2000 edition of the newspaper. It is reported that on 21 March, Mr. Gezaw appeared before the Criminal Bench of the Federal High Court, which set bail for the defendant at 2,000 birr. Mr. Gezaw has since been imprisoned for failing to produce bail.

208. In another urgent appeal sent the same day, the Special Rapporteur expressed his concern regarding **Berhanu Mamo**, editor-in-chief of the newspaper and magazine *Abyssinia*, who reportedly appeared before the Second Criminal Bench of the Federal High Court, on 22 March, on charges of violating the Press Proclamation. It is reported that Mr. Mamo has been released on bail of 1,000 birr and his case is still pending.

209. On 11 April 2002, the Special Rapporteur transmitted an urgent appeal to the Government concerning the conviction on criminal charges of **Lubaba Said**, former editor-in-chief of *Tarik*, an Amharic-language weekly. According to the information received, Ms. Said was jailed for a year by the Federal High Court on 3 April for publishing two articles in 1996 alleging that government security personnel had abandoned their posts. She was reportedly taken to the main prison in the capital on the same day. The Special Rapporteur emphasized that during the last two months, at least 10 journalists had been reportedly either summoned to court to face criminal charges or questioned by authorities because of their writing.

210. On 16 June 2002, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on torture jointly sent an urgent appeal to the Government regarding **Birru Bale**, a former senior civil servant, **Tamire Tessema**, **Tesfaye Adola**, **Basha Bariso** and others, including children, who are said to have been arrested after the police reportedly opened fire on peaceful demonstrators in the town of Awassa on 24 May 2002, killing an estimated 25 or more people. It is believed that all are held incommunicado, without charge or trial. According to the information received, the demonstrators had been unarmed and peaceful, carrying green branches and Ethiopian flags. Police acknowledged that 15 demonstrators and two police officers had been killed, and several more wounded. Many of those killed were students, including **Hameso Kieso**, **Bunara Gionamo**, **Tefesse Yeba** and **Sata Badacho**. In view of the incommunicado nature of the detention of the above-mentioned persons and others

arrested at the same time, fears have been expressed that they may be at risk of torture or other forms of ill-treatment.

211. In an urgent appeal sent on 27 June 2002, the Special Rapporteur reiterated his concern for the reported attack by the Ethiopian armed forces on 24 May 2002 against approximately 7,000 demonstrators living in Awassa and neighbouring towns inhabited by an ethnic minority called the Sidama. The armed forces reportedly intercepted the demonstration as it approached the Awassa town centre and, following a whistle signal, aimed mounted machine guns at the assembled crowd and indiscriminately opened fire on them. It is reported that 25 people, including 13 children, were killed and 26 people, including 7 children, were wounded and admitted to hospital for medical treatment. In addition, 36 people, including 3 children, were reportedly arrested and seem to be still detained without charges.

212. On 12 July 2002, the Special Rapporteur on freedom of opinion and expression, together with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted to the Government an urgent appeal in connection with **Kebede Mammo**, school director, and **Abebe Chimde, Mosissa Futasa, Kebede Humnasa, Dinsa Serbessa** and **Tesfaye Taressa**, all schoolteachers from the Basha Aboye secondary school in Gudar, Oromia region, who were reportedly arrested in Gudar on 5 July 2002. It is reported that they are being held incommunicado without charge in the prison of Ambo. In view of the incommunicado nature of their detention, fears have been expressed that the above-named persons are at risk of torture or other forms of ill-treatment. It is believed that their arrest is connected to the demonstrations by students in the Oromia region in March and April 2002, in particular the 24 March demonstration in Ambo, after which a number of people were reportedly arrested, on whose behalf an urgent appeal was sent by the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on torture, and on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 23 April 2002. According to information received, these people are still detained in the Ambo Palace prison in overcrowded conditions.

213. On 26 July 2002, the Special Rapporteur drew the attention of the Government of Ethiopia to a number of matters, including new information and further elaboration of the contents of urgent appeals concerning alleged cases of violations of the right to freedom of opinion and expression. The Special Rapporteur stated that during the past two years, the summoning of journalists to the Central Investigation Department, forcing them to give statements and bringing them to court on multiple charges had continued, and even increased recently. In addition, it was reported that the amount of bail being set by the courts for journalists had also increased.

214. For example, Melese Shine, on whose behalf the Special Rapporteur had sent an urgent appeal on 25 March 2002, was reportedly deported to the Addis Ababa prison on 26 March for being unable to pay 10,000 birr (US\$ 1,200) bail set by the Fifth Criminal Bench of the Federal High Court after he was charged with "printing and disseminating an illegal article in his newspaper".



215. Also, **Tsega Moges**, editor-in-chief of the newspaper *Zare News*, was reportedly charged with violating the Press Proclamation and the Penal Code. Apparently, he had to report on 26 March 2002 to the Central Investigation Department and give a statement to the police and was subsequently released on bail for 5,000 birr (US\$ 600).

216. Similarly, **Zekarias Tesfaye**, the publisher of the Amharic language weekly *Netsanet*, was reportedly arrested on 25 January 2002 by plainclothes police and security. He was then taken to the Central Investigation Department to give a statement and was released in the evening on bail of 5,000 birr (US\$ 600). He was allegedly accused of “defamation and publishing fabricated news in relation to business tycoon and investor Shekh Mohammed Al-Amoudi”.

217. According to information received, there have been a significant number of cases of journalists being arrested and detained for infractions relating to their work:

- a) **Bizunesh Kebede**, editor-in-chief of the magazine *Zegabi*, was reportedly released on bail on 23 January 2001, after being arrested in September 2000 for unknown reasons;
- b) **Tamrat Gemed**, editor-in-chief of the weekly *Seife Nebelbal*, was reportedly released on 6 February 2001 after being in detention since October 1997. It is reported that Mr. Gemed had been sentenced to one year in jail for spreading “false news”, but the court had refused to release him, on the pretext that he did not appear in court after being summoned in 1997, when in fact the journalist was already in jail at that time;
- c) **Garuma Bekele**, managing editor, and **Tesfaye Deressa**, editor-in-chief of the weekly *Urji*, were reportedly released on 10 May 2001 from the Addis Ababa central prison by order of the High Court for “lack of evidence”. According to information received, the two journalists were arrested in October 1997 and accused of “participating in terrorist activities” and “fabricating false information”, when the authorities claimed that they had contradicted an official statement that three men killed by the security forces in October 1997 belonged to the Oromo Liberation Front (OLF). It is also reported that in late May, **Solomon Nemera**, editor-in-chief of *Urji*, was also released. He had reportedly been arrested in November 1997, three weeks after his two colleagues, in connection with the same affair;
- d) **Tamrat Zuma**, director of the weekly newspaper *Atkurot*, was reportedly released from Kerchiele prison in Addis Ababa on 4 March 2002. He had been detained since 20 May 2001 on charges of slander and “inciting violence” after publishing articles quoting members of the opposition party and criticizing the management of a State-owned tannery, and containing an interview with a former general who announced the “imminent overthrow of the Government”;
- e) **Befikadu Moreda**, managing editor of the Amharic-language weekly *Tomar*, was reportedly arrested by the police in the south-western province of Benshangli on 13 February 2001, after the weekly had reported on 31 January demands by the Bert tribe for better representation of the different communities in the regional government. It is reported that the day after his arrest the journalist was

- officially accused of publishing articles that “could cause inter-ethnic conflict”; he was released on bail on 27 February;
- f) **Seifu Mekonnen**, journalist with the Amharic-language weekly *Mebrek*, reportedly disappeared on 20 April 2001 after he attended a conference convened by the Ethiopian Human Rights Council, during which leaders of the association had denied all responsibility for the riots that shook the capital on 17 and 18 April. He reappeared on 25 April and claimed to have been arrested by the police, blindfolded and held in secret in a police station;
  - g) **Asheber Bekele**, journalist with the Amharic-language weekly *Genanaw*, was reportedly arrested by police on 24 April 2001, along with young people suspected of participating in the April riots. He was released two weeks later, without explanation;
  - h) **Eyobe Demeke**, managing editor of the weekly *Tarik*, was reportedly arrested on 11 May 2001 and charged with publishing an article five years earlier, when he was out of detention on bail. He was released on 29 May;
  - i) **Daniel Gezzahegne**, deputy editor-in-chief of the magazine *Moged*, was reportedly arrested on 4 May 2001 and accused of publishing an article in 2000 in the now defunct magazine *Gemena* criticizing the activities of the Orthodox Church in northern Ethiopia. He was released on bail on 25 May;
  - j) **Merid Zelleke** and **Mengistu Wolde Selassie**, editors-in-chief of the weeklies *Satanaw* and *Moged*, respectively, were reportedly detained for several days in early July 2001 in Addis Ababa after being questioned by the police about articles published a few days earlier;
  - k) After publishing an article on the defection of certain members of the presidential guard, **Lubaba Said**, editor-in-chief of the newspaper *Tarik*, was reportedly arrested on 11 July 2001 and detained in Addis Ababa prison for spreading “false reports throughout the country, which could have a negative psychological effect on the armed forces”. The journalist was released on bail on 20 July;
  - l) **Zegeye Haile** from the magazine *Genanaw*, was reportedly arrested on 29 May 2001 and charged in connection with several press affairs. He did not attend the court hearing and was released the following day;
  - m) **Tsegay Ayalew**, former editor-in-chief of *Genanaw*, was reportedly arrested on 1 June and released later in the day after paying bail of 500 birrs (US\$ 60);
  - n) The managing editor of the Tigrinya weekly *Wogahta*, **Berhan Hailu**, was reportedly arrested on 6 July 2001. *Wogahta* newspaper is reportedly close to dissidents of the Tigre People's Liberation Front (TPLF), the main party in the ruling coalition. The journalist was released a few hours later.

218. In the same communication, the Special Rapporteur drew the attention of the Government to the case of **Tewodros Kassa**, the former editor-in-chief of the Amharic language weekly newspaper *Ethiop*, who was reportedly sentenced by the Federal High Court on 10 July 2002 to two years in prison after being convicted of having published three articles containing “false information that could incite people to political violence” and for having “harmed the reputation” of businessman Duki Feyssa.

### **Communications received**

219. On 24 June 2002, the Government of Ethiopia sent a letter to the Special Rapporteur in response to his urgent appeal dated 11 April 2002 concerning Lubaba Said, former editor-in-chief of *Tarik*. According to the Government, Ms. Said has been convicted and sentenced to one year of imprisonment by the Third Criminal Bench of the Federal Court, for publishing and disseminating fabricated news that has a negative psychological impact on members of the national defence forces and creates public disorder, in violation of the Press Law and the Penal Code.

220. On 9 August 2002, the Government replied to the Special Rapporteur's urgent appeal dated 27 June concerning riots in the town of Awassa. According to the Government, in spite of its efforts, a number of instigators agitated the people of Awassa, and the Sidama community especially, spreading rumors concerning the evacuation of the town. Although several senior members of the Sidama community intervened in order to avoid a confrontation, the demonstration ultimately clashed with the police. The Government also informed the Special Rapporteur that the police were finalizing their investigation into the ringleaders of the violence and the instigators. Finally, the Government stated that by no means were the Ethiopian Defence Forces involved in the confrontation and that these baseless allegations demonstrate the political motivation of the source of the information.

221. In a letter dated 19 November 2002, the Government of Ethiopia sent a letter to the Special Rapporteur concerning the cases of journalists about whom the Ministry of Justice had made inquiries. Several among them were mentioned in the Special Rapporteur's communication dated 26 July 2002. First of all, the Government underlined that the Ministry of Justice has the authority to investigate and bring to justice those individuals who have allegedly been involved in violating the country's Press Law. The Government also stated that only two journalists have duly been sentenced by court decision. All the others have not been arrested and most of the allegations are inconsistent and formally inaccurate. In all court proceedings, the defendants' right to legal counsel, the right to be informed of the charges brought against them and the right to appeal have been observed.

### **Observations**

222. The Rapporteur would like to thank the Government of Ethiopia for the replies it provided. Nonetheless, the Rapporteur would appreciate receiving comprehensive replies regarding all the cases he transmitted to the Government.

223. The Special Rapporteur would also like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

### **France**

### **Communications envoyées**

224. Le 26 juillet 2002, le Rapporteur spécial a adressé une communication relative à certains actes qui auraient été accomplis par des membres du syndicat CGT-Filpac. En février 2002, des membres de la CGT-Filpac auraient essayé d'interrompre la distribution d'un journal gratuit, *Metro*, faisant une descente dans une imprimerie près de Marseille et laissant plus de 50 000 exemplaires du quotidien sous la pluie. Il semblerait également que des vendeurs de rue de *Metro* auraient été agressés à Paris et à Marseille par des syndicalistes armés de couteaux et de pistolets. Le 14 mars 2002, des milliers d'exemplaires de *Metro* auraient à nouveau été soustraits à des distributeurs et jetés dans la rue à l'extérieur des bureaux de la compagnie à laquelle le quotidien appartient. Le 13 mars, des membres du même syndicat auraient volé et jeté dans la rue des copies du journal *20 Minutes*, une publication appartenant conjointement au groupe norvégien Schibsted et au groupe français Spir Communications et son actionnaire principal Sofiouest. Il semblerait que, à la suite de ces événements, un cinquième de l'édition de lancement de ce journal n'aurait pas pu être distribué. Il semblerait que des syndicalistes auraient également bloqué des camions de distribution les 18 et 19 mars, saisissant à nouveau des exemplaires du journal, alors que la police, qui avait semble-t-il l'ordre de n'intervenir qu'en cas de violences physiques, regardait.

225. Le 12 décembre 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants, a envoyé un appel urgent concernant la situation d'un enfant, âgé de 9 ans (le gouvernement français dispose du nom de l'enfant mais n'est pas indiqué dans ce rapport afin de protéger son identité). Selon les informations reçues, et comme l'indiquent plusieurs rapports de médecins et de psychologues pour enfants, ce garçon serait abusé sexuellement par son père, depuis qu'il a trois ans. À plusieurs reprises, il a été rapporté qu'il aurait été photographié et filmé par des tierces personnes alors que son père et un ami de celui-ci l'abusaient sexuellement en le menaçant avec un couteau, et que des photos de l'enfant auraient été reconnues sur deux cédérom comportant des images pédopornographiques. Selon les informations reçues, l'enfant n'aurait à ce jour pas été entendu par la justice, et ses propos n'auraient pas été pris en considération, à tel point qu'après des placements en foyer (dès novembre 1998), il a été confié à la garde de son père en juillet 2001. Depuis, il semblerait que l'enfant subirait des mauvais traitements de la part de son père et que son état physique et psychologique se serait dégradé.

226. Le 26 juillet 2002, le Rapporteur spécial a adressé une communication relative à certains actes qui auraient été accomplis par des membres du syndicat CGT-Filpac. En février 2002, des membres de la CGT-Filpac auraient essayé d'interrompre la distribution d'un journal gratuit, *Metro*, faisant une descente dans une imprimerie près de Marseille et laissant plus de 50 000 exemplaires du quotidien sous la pluie. Il semblerait également que des vendeurs de rue de *Metro* auraient été agressés à Paris et à Marseille par des syndicalistes armés de couteaux et de pistolets. Le 14 mars 2002, des milliers d'exemplaires de *Metro* auraient à nouveau été soustraits à des distributeurs et jetés dans la rue à l'extérieur des bureaux de la compagnie à laquelle le quotidien appartient. Le 13 mars, des membres du même syndicat auraient volé et jeté dans la rue des copies du journal *20 Minutes*, une publication appartenant conjointement au groupe norvégien Schibsted et au groupe français Spir Communications et son actionnaire principal Sofiouest. Il semblerait que, à la suite de ces événements, un cinquième de l'édition de lancement de ce journal n'aurait pas pu être distribué. Il semblerait que des syndicalistes auraient également

bloqué des camions de distribution les 18 et 19 mars, saisissant à nouveau des exemplaires du journal, alors que la police, qui avait semble-t-il l'ordre de n'intervenir qu'en cas de violences physiques, regardait.

### **Observations**

227. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à ses communications.

## **Gabon**

### **Communication envoyée**

228. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement du Gabon sur les renseignements portés à sa connaissance concernant les cas suivants. Le 15 février 2001, le Conseil national de la communication (CNC) aurait décidé de suspendre *La Griffé* et son supplément *Le Gri-Gri* et interdit provisoirement à **Michel Ongoundou** et **Raphaël Ntoutoume**, respectivement directeur de publication et rédacteur du journal, d'exercer la profession de journaliste. Selon le CNC, l'hebdomadaire satirique publierait des articles «frisant la provocation à l'encontre du président de la République». Ce serait la troisième fois en deux ans et demi que le journal *La Griffé* est suspendu. À la mi-novembre 2001, le directeur de publication du journal progouvernemental *L'Union*, **Germain Ngoyo Moussavou**, aurait été démis de ses fonctions par décret présidentiel après la publication de critiques virulentes à l'égard du Ministre de l'intérieur, Antoine Mboumbou Miyakou. Selon des informations reçues, le 23 décembre 2001, **Antoine Lawson**, correspondant local de l'agence de presse britannique Reuters, se serait fait confisquer son appareil-photo par des policiers, qui auraient détruit sa pellicule. Il semblerait que le journaliste prenait des clichés de policiers en train de faire évacuer un bar, alors que tous les points de vente d'alcool étaient censés être fermés le 23 décembre, date du second tour des élections législatives.

### **Observations**

229. Le Rapporteur spécial regrette que le Gouvernement gabonais n'ait pas répondu à sa communication.

## **Gambia**

### **Communications sent**

230. On 14 May 2002, the Special Rapporteur sent an urgent appeal to the Government regarding a new "National Media Commission Bill" which was passed on 2 May 2002 by the National Assembly. The Special Rapporteur expressed his concern over some aspects of the bill which he believed were in conflict with the fundamental right of freedom of expression, which is guaranteed by the Constitution of the Gambia and by numerous international instruments, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which the Gambia has ratified. In particular, the adoption of certain

provisions of the bill would allegedly give the National Media Commission the power to license journalists and media organs. According to the bill, the National Media Commission will have the powers of a court and will be able to adjudicate complaints brought against journalists and private media, and will have the power to close down publications. The Commission will further be able to force journalists to reveal their sources, implying that the Commission and its agents will have access to any physical material without having to apply for a judicial warrant. Moreover, the Chair of the Commission is to be appointed by the President and the Permanent Secretary of the Department of Information will be a member, and no appeal from its decisions will be possible. The proposed law reportedly requires all journalists in Gambia to register with the Commission. Failure to register is to be made a criminal offence punishable by a fine of not less than 5,000 dalasis. Failure to pay the fine will result in a three-month suspension of the licence of a media organization or a nine-month suspension for an individual. The bill would also give the Commission the power to issue warrants for the arrest of any journalist who ignores a summons to appear before it. The Commission will also be responsible for formulating a journalistic code of ethics.

231. On 26 July 2002, The Special Rapporteur sent a communication to the Government of Gambia concerning alleged cases of violations of the right to freedom of opinion and expression. **Peter Gomez**, editor-in-chief of the public-sector Radio Gambia, was reportedly dismissed in early January 2001. According to information received, although no reason was officially given for his dismissal, it seems to be related to Mr. Gomez's refusal to broadcast a statement by Fatou Jahumap-Cessay, Director of the Press and Public Relations in the Presidency, who accused the journalist of "reporting the president's words out of context" in a report claiming that the Head of State wanted to introduce Shariah in the Gambia. It was also reported that on 27 June 2001, three police officers in uniform assaulted **Alieu Badara Mansaray**, a reporter for *The Daily Observer*, then took him to the Bundung police station, where they hit him and broke his portable phone, after the journalist had reportedly witnessed an act of police corruption. While he was on his way to the Yundum barracks on 12 July to cover the trial of a former army commander, a journalist with *The Independent*, **Omar Bah**, was reportedly assaulted by soldiers, although he had been authorized by a senior officer of the barracks to attend the trial.

### **Observations**

232. The Special Rapporteur regrets to note that the Government of the Gambia has not sent any replies to his communications to date.

## **Georgia**

### **Communications sent**

233. On 15 July 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Representative on human rights defenders concerning reports of an attack against the *Liberty Institute* offices by 15 persons on 10 July 2002. It was reported that during the attack, several members of the Institute were injured, among them **Ms. Levan Ramishvili**, the Director of the

Institute, **Mr. David Zurabashvili, Mr. Sozar Subeliani**, correspondent of radio "Liberty", **Mr. George Meladze, Mr. Giga Prangishvili and Mr. Dali Tskitishvili**.

234. On 26 July 2002, the Special Rapporteur sent a communication reporting that the offices of the *Independent Association of Georgian Journalists (IAGJ)* were robbed on 8 July 2002. It was reported that, among other things, documents and papers, including project information, official letters received from the Ministry of Internal Affairs, internal reports and, most importantly, documents connected to investigations into violence against journalists and the Association's contact list, were stolen. It was also reported that IAGJ also lost in this robbery the electronic versions of these documents, including their entire database. This incident was alleged to be an instance of pressure and intimidation against the media.

### **Communication received**

235. On 30 July 2002, the Government replied to the Special Rapporteur's communication, and indicated that immediately after the attack the President issued an Ordinance on "Attacks committed against members of the Liberty Institute", indicating that criminal proceedings had been instituted, and a suspect had been apprehended.

### **Observations**

236. The Special Rapporteur thanks the Government of Georgia for its reply, and awaits a further reply to his communication of 26 July 2002.

## **Ghana**

### **Communications sent**

237. On 5 April 2002, the Special Rapporteur sent an urgent appeal to the Government of Ghana concerning the recent inter-clan clashes in the northern Dagbon area of the country. On 27 March, President John A. Kufuor had declared a state of emergency after Yakubu Andani II, a local tribal king, and some 40 other people were killed during feuding between rival clans. Under the 1994 Emergency Powers Act, the Government may censor any news from or about an area affected by a state of emergency; fears have therefore been expressed that the Government will use the state of emergency to censor critical or unfavourable reporting. According to the information received, on 30 March, the Minister of Information stated that some media had been making "highly inflammatory" reports, some of which were "carefully planned", and that "unless journalists are writing about an official press release, they are required to clear stories on the conflict in Dagbon with the Ministry".

238. In a letter to the Government sent on 26 July 2002, the Special Rapporteur reiterated his concerns regarding the media's right to freedom of opinion and expression in the context of the crisis in the Dagbon area.

### **Communications received**

239. In a letter dated 4 December 2002, the Government of Ghana informed the Special Rapporteur that, at the end of March 2002, President John A. Kufour had issued Executive Instrument No. 28 which required, inter alia, that all publications or reports on the conflict in the area under the state of emergency obtain prior clearance from the Commander of the Security Forces – not the Ministry of Information - maintaining law and order in the area, to forestall any inflammatory utterance. Because of the public controversy raised by the provision, the Government met with representatives of the media to work out a constitutionally acceptable basis for publications and reports in the context of the emergency. Shortly after, on 19 April, the President of the Republic issued Executive Instrument No. 30 which has in fact governed the operation of the emergency for the last nine months. In the new instrument the requirement of prior censorship was dispensed with; journalists now being asked to draft their reports within the framework of guidelines issued by a News Committee established by the Ministry of Information. These guidelines, aimed at ensuring respect for people of various traditions and cultural backgrounds, try to avoid inspiring morbid feelings in the reader. In an outstanding example of self-regulation, these guidelines have been scrupulously respected by the media and have significantly contributed to the maintenance of peace and the lowering of tensions in the emergency area.

### **Observation**

240. The Special Rapporteur would like to thank the Government of Ghana for its comprehensive reply to his communication.

## **Guatemala**

### **Comunicaciones enviadas**

241. El 31 de enero de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con la situación del Sr. **Romildo Peña Cruz**. El Sr. Peña Cruz, Secretario General de la Unión de Trabajadores Municipales de Puerto Barrios, habría recibido amenazas de muerte anónimas después de haber acusado al alcalde de Puerto Barrios de violaciones a los derechos sindicales de los trabajadores municipales y haber denunciado actos de corrupción en el municipio. El Relator Especial expresó su profunda preocupación por la vida del Sr. Peña Cruz, ya que el 5 de septiembre de 2001 el periodista **Mynor Alegría** fue asesinado en Puerto Barrio supuestamente tras denunciar indicios de corrupción en el municipio vecino de Izabal.

242. El 20 de febrero de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente con respecto a presuntas amenazas de muerte y otras agresiones contra periodistas en la ciudad de Guatemala. El 1.º de Febrero de 2002, **Carlos Víctor Hugo Hernández Rivas**, director de informativos radiofónicos *Impacto* (transmitido por Radio La Voz de Huehuetenango) y *Últimas Noticias* (transmitido por Radio Santa Fe, también de Huehuetenango), habría sufrido un registro ilegal de su oficina administrativa. Varios fiscales del Ministerio Público acompañados de miembros del



Servicio de Investigaciones Criminales (SIC) y de diez agentes de la Policía Civil Nacional habrían entrado por la fuerza en la oficina fuera de las horas autorizadas para esos registros y habrían registrado los archivos, supuestamente sin orden judicial. El Sr. Hernández Rivas habría presentado una denuncia ante la Procuraduría de los Derechos Humanos. **Arnulfo Agustín Guzmán**, director general de la emisora Radio Sonora, situada en la ciudad de Guatemala, habría recibido amenazas de muerte y sufrido un intento de secuestro a manos de un grupo de cuatro hombres armados la noche del 5 de febrero, delante de la emisora de radio. Los hombres huyeron cuando los vio un guardia de seguridad, pero dispararon contra el vehículo de la víctima. El 6 de febrero, **Deccio Serrano**, fotógrafo del periódico *Nuestro Diario*, y otro miembro de la prensa habrían sido agredidos por agentes de la policía municipal de tráfico (Emetra). Ese mismo día, **José Cándido Barrillas**, director de la Comisión de Libertad de Prensa de la Asociación de Periodistas de Guatemala (APG), situada en la ciudad de Guatemala, habría sido agredido y obligado a introducirse en un automóvil a punta de pistola y más tarde habría sido liberado. Finalmente, el mismo día la periodista **Ana Lucía Ramírez** habría sido agredida cuando viajaba en un autobús por un barrio de la ciudad, así como la periodista **Nery de la Cruz**, de Radio Sonora, quien habría sido agredida delante de las oficinas de la emisora de radio.

243. El 2 de abril de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con las presuntas amenazas de muerte contra los dirigentes de trabajadores rurales **Luis Chávez Gilmar Vallejos Velásquez** y **Eleodoro Chums**. Estas personas habrían recibido amenazas de muerte por teléfono, supuestamente en relación con sus actividades como miembros de la Coordinadora Nacional Sindical y Popular (CNSP) y como asesores de dos sindicatos de trabajadores rurales en los departamentos de Retalhuleu y San Marcos, en el altiplano noroccidental de Guatemala. En efecto, el 26 de febrero de 2002, unos 350 campesinos del departamento de San Marcos habrían ocupado tierras en conflicto de la finca de San Luis cuyo título de propiedad estaría disputado entre los mismos campesinos y la Asociación de Ganaderos del Sur Occidente de Guatemala (AGSOGUA). Estos campesinos reivindicarían el derecho de cultivar estas tierras conforme con el acuerdo socioeconómico de 1996 relativo a la situación agrícola según el cual "en el área rural es necesaria una estrategia integral que facilite el acceso de los campesinos a la tierra y otros recursos productivos, que brinde seguridad jurídica y que favorezca la resolución de conflictos". Según los tres dirigentes sindicales, es posible que los ganaderos sean responsables de las amenazas ya que quieren apropiarse también de estas tierras. Los Sres. Chávez, Velásquez y Chums habrían denunciado las amenazas proferidas contra ellos ante la Misión de Verificación de las Naciones Unidas en Guatemala (MINUGUA) y habrían asegurado que harían responsables a AGSOGUA y a las autoridades guatemaltecas de cualquier ataque que puedan sufrir.

244. El 15 de abril de 2002, el Relator Especial, juntamente con la Relatora Especial sobre Ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con la situación de amenazas e intimidaciones que sufrirían **Miguel Ángel Gómez**, representante del sindicato municipal de Chichicastenango, y **Macario Mejía González**, secretario general del Sindicato de Trabajadores del Comercio de Chichicastenango presuntamente por miembros del partido político gobernante, el Frente Republicano Guatemalteco (FRG). Miguel Ángel Gómez habría sido víctima de una serie de amenazas y de un presunto atentado contra su vida después de haber sido despedido ilegalmente en enero de 2002, y haber denunciado la corrupción del alcalde

y sus asociados. Tras ser despedido, Miguel Ángel Gómez habría presentado una denuncia ante la Fiscalía General y ante la MINUGUA. El Tribunal de Trabajo de Quetzaltenango habría ordenado su readmisión.

245. El 17 de abril de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, y la Representante Especial del Secretario General sobre los defensores de los derechos humanos, envió un llamamiento urgente en relación con la situación del periodista **David Herrera**. El 10 de abril de 2002 David Herrera iba a encontrarse con un periodista de la National Public Radio (NPR) estadounidense cuando habría sido capturado por cuatro hombres que describió como de estilo militar y quienes le habrían amenazado con matarlo. El Sr. Herrera habría conseguido escapar, aunque perdió todos los documentos que llevaba consigo, incluido su pasaporte. A consecuencia de lo sucedido, habría tenido que ser hospitalizado para recibir tratamiento psicológico y viviría escondido. Cuando intentó sacar un nuevo pasaporte y obtener un visado para salir del país, dos hombres armados lo habrían seguido. Se supone que todo ello estaría relacionado con el trabajo del Sr. Herrera en ayuda de periodistas y extranjeros que visitan Guatemala, muchos de ellos para investigar cuestiones de derechos humanos. En efecto, los agresores le habrían pedido cintas de entrevistas sobre cuestiones delicadas realizadas el día anterior con la ayuda del periodista americano de la NPR. Las autoridades guatemaltecas, antes de llevar una investigación y sin entrevistar ni a Herrera ni al periodista de la NPR, habrían declarado que dicha agresión había sido un mero robo de automóvil.

246. En fecha 26 de julio de 2002, el Relator Especial envió una comunicación acerca de presuntos casos de violaciones del derecho a la libertad de opinión y de expresión. **Abner Gouz**, del diario *El Periódico*, **Rosa María Bolaños**, del diario *Siglo XXI*, **Ronaldo Robles** y **Marielos Monzón**, de la *Radio Emisoras Unidas*, habrían recibido amenazas el 7 de junio de 2002. Un grupo autodenominado “los guatemaltecos de verdad” habría enviado un comunicado anónimo a la sede de la organización en que les habría calificado de “enemigos de la patria” y amenazado de “exterminarles”.

### Comunicaciones recibidas

247. Por carta fechada el 13 de diciembre de 2001, el Gobierno de Guatemala contestó a la comunicación del 9 de noviembre de 2001, informando acerca del asesinato del Sr. **Roberto Martínez**, fotógrafo del diario *Prensa Libre*, ocurrido el día 27 de abril de 2000. El Gobierno informó que la Policía Nacional Civil y el Ministerio Público investigaron sobre este asesinato y de forma inmediata detuvieron a los implicados, poniéndolos a disposición de los tribunales de justicia. El Gobierno subrayó que los que dispararon fueron agentes de seguridad privada que no actuaron en connivencia con autoridades gubernamentales ni ejecutaron el hecho con la aquiescencia o tolerancia de las autoridades gubernamentales.

248. En fecha 19 de diciembre de 2001, el Gobierno de Guatemala contestó a la comunicación del 9 de noviembre de 2001, enviando copia del informe del Gobierno sobre las medidas cautelares solicitadas acerca de los actos de hostigamiento y de persecución sufridos por la Sra. **Matilde González Izás** y familia. Según ese informe, el oficial a cargo de ese proceso está por el momento investigando las placas de los vehículos denunciados.

249. El 12 de junio de 2002, el Gobierno de Guatemala contestó a la comunicación del 20 de febrero de 2002 proporcionando las informaciones siguientes. El periodista **Deccio Serrano**, que fue agredido por agentes de la Policía Municipal de Tránsito, decidió no presentar ninguna denuncia habiendo recibido las disculpas del caso por el Sr. Fritz García-Gallont, alcalde municipal, y por el encargado de relaciones públicas de la Municipalidad de Guatemala. El periodista **José Cándido** afirmó personalmente que la agresión que sufrió fue por parte de delincuentes comunes y que no quiere que a eso se le dé un tinte político. En relación con la denuncia presentada por el periodista **Carlos Víctor Hugo Hernández Rivas** por el supuesto registro ilegal de su oficina administrativa, el Gobierno informó que la según la Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de Derechos Humanos (COPREDEH), el Juez Primero de Paz Penal de Huehuetenango manifestó que el 29 de enero de 2002 se presentó en su despacho el agente fiscal de la unidad contra robos a bancos y financieros de la Fiscalía contra el Crimen Organizado del Ministerio Público, con una orden de allanamiento, inspección y registro para la Oficina de Trámites Administrativos del Sr. Hernández Rivas, emitida por el Juez Octavo de Primera Instancia Penal de la ciudad de Guatemala. Por eso se procedió de acuerdo con la ley a tomar declaración a los fiscales y elaborándose el auto de aprobación para luego autorizar la orden de allanamiento que se ejecutó a las 2.05 horas de la tarde. De acuerdo con las investigaciones sobre ese caso realizadas por la Auxiliatura de la Procuraduría de Derechos Humanos de Huehuetenango, se decidió desestimar el expediente. En relación con el caso del periodista **Arnulfo Agustín Guzmán**, el Gobierno informó que el interesado manifestó a miembros de la COPREDEH que no consideraba la agresión y robo de su vehículo como hechos de carácter político sino como obra de delincuentes comunes. El Sr. Guzmán habría añadido que en la noche de los hechos el Ministro de Gobernación le llamó y le manifestó que iba a proporcionarle seguridad para su residencia, pero esto no se realizó. En relación con el caso del periodista **Nery de la Cruz**, el Gobierno indicó que el Señor Nery de la Cruz manifestó a miembros de COPREDEH que no denunció las amenazas de muerte recibidas porque consideró que esas fueron producto de la delincuencia común. En último, el Gobierno reportó que la COPREDEH todavía no ha podido ponerse en contacto con la periodista **Ana Lucía Ramírez**, porque la Sra. Ramírez ha cambiado de empleador en varias ocasiones.

### **Observaciones**

250. El Relator Especial da las gracias al Gobierno de Guatemala por sus respuestas, si bien espera otras respuestas a sus comunicaciones de fechas 31 de enero, 2 de abril, 15 de abril, 17 de abril y 26 de julio de 2002.

## **Guinea**

### **Communications envoyées**

251. Le 4 février 2002, le Rapporteur spécial et le Président-Rapporteur du Groupe de travail sur la détention arbitraire ont adressé un appel urgent au Gouvernement sur l'arrestation d'**Alcoumba Diallo**, fondateur et directeur de publication de l'hebdomadaire *L'Aurore*. Selon les informations parvenues, le 29 janvier 2002, Alcoumba Diallo aurait été

arrêté par les forces de l'ordre et conduit au troisième poste mobile de la gendarmerie de Kaloum. Il aurait été interrogé par l'aide de camp du Président de la République au sujet d'un article publié dans l'édition du 11 au 15 janvier 2002, qui affirmait que certains navires de la marine nationale appartiendraient à des membres de la famille du chef de l'État. Apparemment, selon la loi guinéenne, un journaliste accusé d'avoir commis un délit de presse disposerait de 20 jours avant d'être entendu. La loi lui garantirait en outre le droit de ne pas révéler ses sources d'information.

252. Le 26 juillet 2002, le Rapporteur spécial a souhaité attirer l'attention du Gouvernement sur les renseignements portés à sa connaissance concernant les cas suivants :

253. Le 14 février 2001, le tribunal de première instance de Conakry aurait condamné **Aboubacar Sakho**, directeur de l'hebdomadaire *Le Nouvel Observateur*, à 10 mois de prison et une amende de 1 million de francs guinéens (590 euros) pour la publication d'un article critiquant la décision du Ministre de la justice de relever certains magistrats de leurs fonctions. Le journaliste aurait été détenu à la prison centrale de Conakry pendant un mois avant d'être finalement libéré sur ordre des autorités. À noter que, le 25 janvier 2001, Aboubacar Sakho avait porté plainte contre le Ministre de la justice pour «menaces de mort publiques». Dans le cadre de la même affaire, le 27 février 2001, **Mandian Sibié**, correspondant de *L'Indépendant* à Fria (au nord de la capitale), aurait été arrêté et détenu quelques jours à la prison centrale de Conakry après avoir été accusé d'être la source d'information principale de l'article d'Aboubacar Sakho ;

254. Le 8 mai 2001, **Tibou Camara**, directeur de publication de l'hebdomadaire *L'Observateur*, aurait été arrêté par la police antigang de Conakry, devant le siège de son journal. Selon les informations reçues, il aurait été frappé par les policiers au moment de son arrestation. Il semblerait qu'il avait été condamné par le tribunal de première instance de Conakry, le 24 avril, à six mois de prison et à une amende de 1 million de francs guinéens (590 euros) pour «diffamation», suite à une plainte de Malick Sankhon, secrétaire général du Ministère du tourisme, qui avait intenté une action en justice contre l'hebdomadaire après la parution d'un article l'accusant de vouloir faire enlever Tibou Camara. Ce dernier aurait été libéré après quelques jours de détention ;

255. Le 27 juillet 2001, le Conseil national de la communication (CNC) aurait suspendu le journal *L'Aurore* pour trois mois. Après la parution d'un article qui qualifiait le président de la Commission éthique et déontologie du CNC «d'homme à la conscience coupable», l'organisme de régulation se serait senti diffamé et injurié. La carte de presse du directeur de publication lui aurait également été retirée pour trois mois.

256. Le 26 décembre 2002, le Rapporteur spécial a transmis un appel urgent au Gouvernement concernant **Boubacar Yacine Diallo**, journaliste et fondateur du bimensuel *L'Enquêteur*, qui aurait été arrêté le 19 décembre 2002 et qui serait détenu à la prison de Conakry. Selon les informations reçues, il serait reproché à M. Diallo d'avoir publié dans *L'Enquêteur* un article faisant état de la démission de l'inspecteur général des armées, le colonel Mamadou Baldé, qui aurait démenti cette information et accusé ses détracteurs de «vouloir l'enfoncer».

## Observations

257. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse de la part du Gouvernement guinéen.

## Guinea-Bissau

### **Communication envoyée**

258. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur le cas du journaliste du quotidien *Correio de Bissau*, **Joao de Barros**, qui aurait été interpellé le 17 juin 2002 par des agents de la sécurité et conduit aussitôt à la prison centrale de Bissau. Il lui serait reproché d'avoir critiqué le chef de l'État sur les ondes de la station de radio Bombolom, au cours d'une émission dans laquelle le journaliste aurait dénoncé «le gaspillage des fonds publics» qui servent plus à acheter des «voitures de luxe» aux dirigeants qu'à lutter contre la pauvreté de la population et affirmé que la corruption pourrait être à l'origine d'instabilité politique. Il semblerait que le journaliste aurait entamé une grève de la faim au lendemain de son arrestation.

### **Observations**

259. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse de la part du Gouvernement.

## Haiti

### **Communications envoyées**

260. Le 6 juin 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent concernant la situation de **Darwin Saint Julien**, du journal *Haiti Progrès*, et **Allan Deshommes**, de Radio Atlantik. Ces deux journalistes auraient été arrêtés par la police le 27 mai 2002 alors qu'ils couvraient une manifestation organisée par le groupe de travailleurs Batay Ouvriyè (Lutte ouvrière) à Saint Raphaël. Des hommes armés, vraisemblablement payés par un grand propriétaire terrien local, et des fonctionnaires locaux s'en seraient pris aux manifestants, faisant deux victimes. Sept personnes, dont les deux journalistes, auraient été arrêtées par la police, prétendument en vue d'assurer «leur protection». Darwin Saint Julien et Allan Deshommes seraient incarcérés au pénitencier national de Port-au-Prince. Les journalistes, ainsi que les cinq autres prisonniers, ne se seraient vu notifier aucun chef d'inculpation, alors que le délai d'incarcération sans chef d'inculpation ne peut excéder 48 heures et que le pénitencier national n'est censé abriter que des criminels ayant été jugés. Le maire de Saint Raphaël, Adonija Sévère, aurait justifié l'arrestation des sept hommes en affirmant que les manifestants et les journalistes étaient des terroristes. Des craintes ont été exprimées quant à la vie et la santé des personnes susmentionnées si elles ne reçoivent pas rapidement un traitement médical approprié, car elles auraient été grièvement blessées lors des affrontements ayant précédé leur arrestation et n'auraient pas reçu les soins médicaux nécessaires.

261. Le 29 novembre 2002, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, a adressé un appel urgent concernant des agressions contre la presse qui auraient eu lieu dans le nord du pays. Il semblerait que les locaux de Radio Étincelle aux Gonaïves auraient été incendiés dans la soirée du 24 novembre 2002, détruisant une partie de la station et de son matériel. Le directeur de Radio Étincelle, **Esdras Mondélus**, aurait reçu des menaces de mort de la part de membres d'organisations proches de Fanmi Lavalas, quelques jours plus tôt par téléphone, suite à

la couverture donnée à une manifestation de l'opposition. Il avait, semble-t-il, été obligé de suspendre les programmes de la radio les 21 et 22 novembre. Dans la même ville, sept journalistes de la presse privée, dont **Jean Robert François**, correspondant de Radio Métropole, **Fleurimont Henry**, correspondant de Radio Kiskeya, **Frantz Rénel Lebrun**, correspondant de Radio Ibo, Esdras Mondélus, ainsi que trois de leurs confrères, auraient été menacés de mort par ces mêmes organisations. De plus, il semblerait que quelques jours plus tôt, au Cap-Haïtien, deux journalistes de Radio Maxima, **Péguy Jean** et **Joël Joseph**, auraient également été agressés par des membres d'organisations populaires se réclamant du gouvernement Lavalas, qui leur reprochaient leur couverture de la manifestation de l'opposition du dimanche 17 novembre, qui demandait le départ du président Aristide et regroupait plus de 20 000 participants.

### **Communication reçue**

262. Le 10 juin 2002, le Gouvernement d'Haïti a répondu à la communication du 6 juin 2002 informant que les renseignements reçus avaient été transmis au Ministère des affaires étrangères pour les suites nécessaires. Le 15 juillet 2002, le Ministère a répondu, informant que MM. **Darwin Saint Julien** et **Allan Deshommes** avaient été libérés le 8 juin 2002 et que leur détention prolongée était due au manque de juges appelés à les auditionner. Le Gouvernement a précisé qu'il avait entamé une étude en vue de faire face au problème de la détention préventive prolongée.

### **Observations**

263. Le Rapporteur spécial remercie le Gouvernement haïtien pour sa réponse à la communication du 6 juin 2002. Cependant, il attend une réponse concernant la communication qu'il lui a adressée le 29 novembre 2002.

## **India**

### **Communications sent**

264. On 2 July 2002, the Special Rapporteur sent an urgent appeal expressing concern about the search carried out on 26 June 2002 at the head office of the web site *Tahelka.com* in New Delhi by approximately 20 officers from the Central Bureau of Investigations (CBI). The search was reportedly carried out on the same day that the web-site's editor-in-chief, **Tarun Tejpal**, was due to give evidence in an inquiry into allegations of corruption before the Venkataswami Commission, which was set up by the Government to investigate a corruption scandal uncovered by the web site in March 2001, reportedly leading to the resignations of Defence Minister Georges Fernandes and the president of the Hindu nationalist party, Bangaru Laxman. According to Kavin Gulati, the lawyer acting on behalf of the web site, as the inquiry had reportedly reached a "crucial stage in the cross-examination" of the witnesses, the date of the search was allegedly chosen "deliberately". It was further reported that the officers of the CBI also searched the home of one of the web site's journalists, Kumar Badal, who is allegedly accused by the CBI of having paid poachers to kill and film two leopards apparently belonging to a protected species in the Saharanpur jungle (in the northern state of Uttar Pradesh). According to the information received, the CBI has been unable to produce any documents relating to the case from among those seized

during the search. However, the officers reportedly confiscated documents concerning the founding of the web site, notably e-mails received from Shankar Sharma, owner of First Global, who provided the initial financing for the web site and today is in prison, although it is reported that no evidence has been produced against him.

265. On 15 July 2002, the Special Rapporteur sent a joint urgent appeal together with the Special Rapporteur on torture and the Special Representative on human rights defenders concerning **Partha Chettri, Maheshwar Dahal and Aditi Shah**, journalists, and **Moti Prasad**, a student, all Nepalese nationals, who were reportedly in detention and facing imminent deportation to Nepal where it is feared that they may be at risk of torture and other forms of ill-treatment. According to information received, the four were arrested by the Special Branch of the New Delhi Police at 5.30 p.m. on 11 July 2002, issued with "quit India" notices and were taken close to the border with Nepal for imminent deportation. It is believed that the four had been attending a meeting of the Akhil Bharatiya Nepali Ekta Samaj (India-Nepal People's Solidarity Organization, a public forum which has been publicizing human-rights violations committed by Nepalese security forces personnel), which is considered by the Indian and Nepalese authorities to be sympathetic to the Communist Party of Nepal (CPN - Maoist). A habeas corpus petition, requiring the detainees to be brought before a judge or into court, has reportedly been filed on their behalf in the High Court in New Delhi, which is said to have ordered the Home Ministry and Police Commissioner to stay the deportation until 15 July.

266. On 26 July 2002, the special Rapporteur sent a communication concerning journalists **Harsh Shah**, photographer with the daily *India*, **Harshyal Pandya**, journalist with the private television station ETV, **Pranav Joshi**, a cameraman with the private television station NDTV, **Dhimant Purohit, Sanjeev Singh, Amit Dave, Ashish Amin, Ketan Trivedi** and **Gautam Mehta**, who were allegedly attacked and beaten by police officers at Gandhi Ashram in the west of India on 7 April 2002, while they were covering two peace demonstrations which were disrupted by members of Gujarat Yuva Morcha, the youth section of the Bharatiya Janata Party (BJP, party in power). The first three were reportedly seriously wounded in the assault. It is reported that during the demonstration, the Deputy Commissioner of police told Pranav Joshi to stop filming, and when the latter asked the reason why, he was hit in the head and fell to the ground. Pranav Joshi was said to have been hospitalized and placed in intensive care.

267. On 25 October 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Representative on the situation of human rights defenders, concerning **Lachit Bordoloi**, journalist and Chairman of Manab Adhikar Sangram Samiti (MASS), a human rights organization operating in Assam, who had reportedly been the victim of threats to his life and other forms of intimidation, seemingly in relation to his activity as a journalist and a series of articles he published in September 2001 in the *Asomiya Protidin*, an Assamese daily published from Guwahati, Assam, in which the malpractices and corruption of Lungria Ding, the local Superintendent of Police of Nagaon, were allegedly reported.

### **Communications received**

268. On 17 April 2002, the Government sent a letter replying to the Special Rapporteur's communication dated 19 September 2001, in which the Government indicated that **Mr. Rajesh Bhattarai**, publisher of a Nepali newspaper, *Aaja Bholi (Siliguri)*, was arrested by the Sikkim Police in Siliguri, West Bengal, on 20 August 2001 in connection with Crime Branch Police Station First Information Report No. 2(10)2000, dated 3 October 2000, under Section 153-A/34 of the Indian Penal Code, 1860. Mr. Bhattarai was subsequently released on bail, and his case and two others was registered on 23 October 2001, pursuant to the Order of the Honorable High Court of Sikkim, passed in writ petition (c) No. 39 of 2000. The investigation of the case is in progress, and the two co-accused persons are still evading arrest and interrogation. The investigating officer, upon completion of the investigation, will file the final report in the court.

269. On 17 December, the Government of India replied to the Special Rapporteur's allegation dated 26 July 2002, and indicated that, upon receiving this allegation, the state Government immediately appointed Justice S.D. Dave, retired judge of the High Court of Gujarat, to inquire into the case and report. The police inspector in charge of Sabarmati Police Station, under which the Gandhi Ashram area falls, was suspended and the deputy commissioner of police and the police commissioner of Ahmedabad City, responsible for law and order in that area, were transferred to facilitate the impartiality of the inquiry. The report submitted by Justice Dave on 10 May 2002 indicate that two meetings were held on 7 April 2002 at Gandhi Ashram, one by Gandhians and one by "Save India" and that Ms. Medha Patkar, an activist who leads the agitation against the building of Sardar Sarovar Dam on the Narmada River, attended the second meeting. This provoked a group of demonstrators. After trying to maintain law and order for more than two hours to allow passage to Ms. Patkar out of the ashram, the police had to resort to force by a cane charge at the demonstrators. In the view of the Commission, the police had no other choice in order to save the life of Ms. Patkar, and it did not deliberately target journalists.

### **Observations**

270. The Special Rapporteur thanks the Government of India for its replies and its willingness to cooperate with the mandate. However, he awaits further responses to his communications dated 2 and 15 July and 25 October 2002.

## **Indonesia**

### **Communications sent**

271. On 26 July 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Zulkarnain Ismail** and **Abdul Muthaleb Abdullah**, who were reportedly arrested in the early hours of 25 July 2002 in Pidie District, Aceh Province and detained at Mereudu Police Sector, Polsek Mereudu. According to information received, Mr. Ismail and Muthaleb Abdullah were arrested by troops from the Siliwangi Military Command and members of the Police Mobile Brigade (Brimob), from the village of Rehng Krueng in Mereudu Sub-district, Pidie, Aceh, on suspicion of being members of the armed opposition group, the Free Aceh Movement (GAM), were believed to have been beaten during their arrest and did not have access to lawyers.



272. On the same date, the Special Rapporteur sent a communication concerning the reported refusal on 10 December 2001 of the Government to renew the working visa of **Lindsay Murdoch**, journalist and correspondent in Indonesia for the Australian newspapers *The Sydney Morning Herald* and *The Age*. According to information received, Mr. Murdoch applied for the renewal of his working visa when it expired on 10 March 2002, but the Foreign Ministry denied his application and reportedly suggested to the *Sydney Morning Herald* that a new correspondent be nominated to replace Murdoch, allegedly on the basis that the journalist wrote articles deemed objectionable by the authorities.

273. On 7 October 2002, the Special Rapporteur sent an urgent appeal to the Government concerning **Lesley McCulloch**, an academic specializing in the province of Aceh and the principal researcher on the province for the East-West Centre's project on internal conflicts in Asia, **Joy Lee Sadler** and their translator, were reportedly arrested on 11 September 2002 in the Province of Aceh and detained in the provincial capital Banda Aceh while, according to reports, Ms. McCulloch was conducting research for a book on Aceh. According to information received, the three of them were taken in for questioning over video footage and photographs in their possession relating to the separatist Free Aceh Movement, and were charged with carrying out "activities incompatible with tourist visas" under article 50 of the immigration law, which carries a sentence of up to five years' imprisonment. According to reports, on 19 September a spokesman for the Aceh police expressed a desire to "make an example" of the two women and thus pursue a custodial sentence. It is alleged that the authorities started to tighten their grip on both the separatist movement in Aceh and those documenting it, reportedly pledging to use strong security measures following the movement's refusal of an autonomy package, and harassing journalists for "biased reporting" in their coverage of the insurgency.

### **Observations**

274. The Special Rapporteur regrets that no reply from the Government has been received concerning his communications.

275. The Special Rapporteur requested, in October 2002, to undertake a visit in Indonesia in the context of his mandate, and he hopes that the Government will grant him an invitation.

### **Iran (Islamic Republic of)**

#### **Communications sent**

276. On 31 January 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on the independence of judges and lawyers concerning **Mohammed-Ali Dadkhah**, lawyer with the Tehran Bar and defender of prisoners detained on alleged political motives, who was reportedly condemned to five months' imprisonment and barred from exercising his profession for 10 years by the Tehran Court, after a hearing held on 28 January, reportedly held in camera. According to information received, Mr. Dadkhah was prosecuted in November 2001 while he defended prisoners detained for alleged political motives and journalists arrested during roundups in March and April 2001. It is reported that, during his defence speech, Mr. Dadkhah

was expelled from the Revolutionary Tribunal by its President, who lodged a complaint against him for slander and false declarations. Mr. Dadkhah has reportedly appealed his condemnation.

277. On 23 April 2002, the Special Rapporteur and the Special Rapporteur on torture sent a joint urgent appeal concerning the reported ban of the regional weekly newspaper *Chams-e-Tabriz* and sentencing of its editor, **Ali-Hamed Iman**, to eight months' imprisonment and 74 lashes on 16 April 2002 by a court in Tabriz. According to information received, Ali-Hamed Iman was found guilty of 15 offences, including "insulting religion and the Prophet", "trying to stir up ethnic tension", "insulting the leaders of the regime" and "publishing lies".

278. On 7 May 2002, the Special Rapporteur sent an urgent appeal concerning **Ahmed Zeid-Abadi**, journalist for the newspaper *Hamshahri*, who was reportedly charged in August 2000 with "insulting Supreme Leader Ayatollah Ali Khamanei and publishing lies against the Islamic establishment for the purpose of disturbing public opinion" after a series of lectures he gave in several Iranian universities. He was reportedly not convicted but spent seven months in prison before being released on bail. The authorities did not pursue the case until 2 May 2002, when Mr. Zeid-Abadi was reportedly sentenced to 23 months in prison, reportedly after an interview to the daily newspaper *Bonyan*, in which he condemned Palestinian suicide-bombings and said he supported Security Council resolutions 242 and 338 (the so-called land-for-peace resolutions), which the Iranian Government opposes.

279. On 10 May 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Siamak Pourzand**, a 70-year-old journalist and film critic, against whom it is reported that closed and unannounced proceedings began on 6 March 2002. He had reportedly been held incommunicado by the Iranian intelligence services since 29 November 2001 and denied access to his lawyer and to medical assistance since his arrest. Mr. Pourzand has reportedly been sentenced on 3 May 2002 to eight years' imprisonment on charges of "undermining state security through links with monarchists and counter-revolutionaries", allegedly on the basis on confessions believed to have been extracted under duress, and that his arrest might have been connected to his position as manager of the *Majmue-ye Farrhangi-ye Honari-ye Tehran*, a cultural centre for writers, artists and intellectuals, and for his articles critical to the Islamic regime.

280. On 15 May 2002, the Special Rapporteur sent an urgent appeal concerning **Mohsen Mirdamadi**, a member of Parliament and director of the leading reformist daily *Norooz*, who was reportedly convicted on 8 May 2002 by the Press Court of "insulting the State, publishing lies and insulting Islamic institutions" in articles his newspaper has published. It is reported that the Court sentenced Mr. Mirdamadi to six months in prison, banned him from practising journalism for four years, ordered him to pay a 2 million riyal (US\$ 1,149) fine, and banned *Norooz* from publishing for six months. Mr. Mirdamadi is reported to have appealed the court decision and remains free while awaiting the appeal.

281. On 26 July, the Special Rapporteur sent a communication to the Government concerning the reported 10 July 2002 decision by the Supreme National Security Council, headed by President Muhammad Khatami, to bar the media from publishing any information, whether

hostile or favourable, about the resignation of Ayatollah Jalaedin Taheri, the former leader of the Friday prayers in the city of Isfahan, after the reformist press published an open letter from Ayatollah Taheri in which he announced his resignation in protest of what he termed the “chaotic situation” in Iran, marked by “disappointment, unemployment, inflation, daily price rises, the gap between rich and poor, a sick economy, corrupt bureaucracy, bribery, embezzlement, growing drug use, official incompetence and weak political structures”. It is reported that he also accused those in power of using hardline thugs to enforce their rule and said that “society’s dregs and fascists” were acting as “philosophers, sheriffs and judges”. It is reported that on 11 July 2002, the Tehran Court 1410, known as the “press court”, suspended the daily newspaper *Azad* after it defied the 10 July ban, and that Deputy Culture Minister Shahan Shahidi-Moadab called on other publications to obey the censorship order, although it seems that several conservative newspapers that criticized Ayatollah Taheri’s resignation were not suspended.

282. In the same communication, the Special Rapporteur referred to the reported decision of 25 May 2002 of the Iranian judiciary to bar the country’s press from publishing articles about relations between Iran and the United States, after the reformist daily *Nowrooz* revealed that informal contacts may have been made between top-level Iranian and United States officials in Nicosia or Ankara in recent months. The authorities allegedly decreed that simply mentioning the subject would be an offence against national interests.

283. On 16 October 2002, the Special Rapporteur sent jointly with the Special Rapporteur on torture an urgent appeal concerning **Chini Maqsoud**, a factory manager, and **a group of artists from the Republic of Azerbaijan** whose names are unknown. It is reported that Chini Maqsoud and an unnamed man were arrested for organizing an annual office party in celebration of a religious festival and that Chini Maqsoud was sentenced to 74 lashes and dismissed from his post for four years by a court in Mashhad. A singer, who performed at the party, was also said to have been sentenced to 74 lashes and banned from singing for two years. According to the information received, a group of artists from the Republic of Azerbaijan was arrested shortly after 21 September for performing at the party and were reportedly detained and barred from leaving the country until further investigation.

### **Observations**

284. No reply from the Government has been received concerning the communications above.

285. The Special Rapporteur thanks the Government of Iran for the invitation granted to him and hopes to undertake the visit in the second half of 2003.

## **Iraq**

### **Communications sent**

286. On 8 May 2002, the Special Rapporteur sent a joint urgent appeal, together with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the situation of human rights in Iraq and with the Special Representative on human rights defenders, concerning **Safia Taleb Al Souhail**, publisher of the *Al Manar Al Arabi* newspaper and advocacy director

for the Arab and Islamic world at the International Alliance for Justice. She has reportedly received death threats while in Jordan, allegedly from the Iraqi Government's Al Moukhabart intelligence agency, warning that she would suffer the same fate as her father, Sheikh Taleb Al Souhail, former leader of the Bani Tamim tribe, who was assassinated by Iraqi diplomats in Beirut in 1994. Ms. Al Souhail's family in Beirut and Amman has reportedly also received death threats by telephone. It is believed that the threats came in retaliation for Ms. Al Souhail's denunciation of the human rights violations committed by the Iraqi Government, as well as her request to the Lebanese authorities to reopen her father's file, since the Iraqi perpetrators who admitted to the crime received diplomatic immunity.

287. It is reported that, on 9 March 2002, Ms. Al Souhail organized a conference in Jordan, calling for the impeachment of the Iraqi vice-president Ibrahim Al Douri and the Iraqi leadership. The Iraqi Government reportedly sent an eminent Lebanese personality as an intermediary, who offered to return to Ms. Al Souhail's family confiscated money and land in Baghdad in exchange for her silence, and added that a refusal would have serious consequences for her and her family. It is also reported that, following Ms. Al Souhail's contribution to a series of articles on her father's assassination published on 12 April 2002 in *Azzaman*, a London-based Arabic newspaper, a letter allegedly coming from the Beni Tamim tribe, was published in *Azzaman* on 24 April and on the Al Nahrain web site on 26 April. It threatened that, if anything happened to leaders of Beni Tamim tribe and in particular the Al Souhail family, it would be the responsibility of the author of these articles. It cited the assassination of Mr. Al Souhail as such act. According to information received, this letter is believed to have been sent by Iraqi intelligence, which has used the name of the Bani Tamim tribes in an act of intimidation against the opposition to the Iraqi regime.

288. In a 26 July 2002 communication, the Special Rapporteur referred to reports according to which, on 20 July 2002, Al-Jazeera television journalist **Diar al-Umari** was barred from working for 10 days, allegedly because the regime did not appreciate his reporting style, deemed by the Information Ministry to be "harmful to Iraq". These reportedly included the reporter's use of the term "ruling party" instead of "Arab Socialist Party" to describe the Ba'ath Party. According to information received, the television station decided to close its Baghdad office during the 10-day ban. The station has allegedly not received a reply to a letter it addressed to the Information Ministry seeking an explanation for the ban.

### **Communications received**

289. Dans une lettre datée du 4 juin 2002, le Gouvernement a répondu aux préoccupations exprimées dans la communication du 8 mai 2002, et a indiqué qu'après vérifications et enquête par les autorités irakienne, les allégations contenues dans la communication s'avèrent sans fondement.

290. On 15 August 2002, the Government replied to the Special Rapporteur's communication of 26 July, indicating that the correspondent of the Al-Jazeera channel, **Diyar al-Omari**, was suspended from his duties for a period of only two days for technical reasons between the aforementioned correspondent and the press centre of the Ministry of Information, which were

unconnected with questions of freedom of expression. The suspension measure did not apply to the activities of the Al-Jazeera office in Iraq.

### **Observations**

291. The Special Rapporteur thanks the Government of Iraq for its replies and its willingness to cooperate with the mandate.

## **Israel**

### **Communications sent**

292. On 22 January 2002, the Special Rapporteur sent an urgent appeal regarding the reported destruction of the *Palestinian Broadcasting Corporation* building in the West Bank city of Ramallah on 19 January 2002. According to the information received, Israeli forces allegedly entered the five-storey building, which housed administrative offices and broadcasting facilities for the Palestinian National Authority's Voice of Palestine radio station as well as studios for the official Palestinian Television. The forces reportedly confiscated the equipment and later detonated explosives, setting the building on fire and causing half of it to collapse. The Israel Defence Forces (IDF) reportedly termed the action a response to an attack by a Palestinian gunman in the city of Hadera on 17 January 2002, in which six were killed and dozens wounded at a banquet hall. Israeli forces have repeatedly accused Palestinian radio and television of inciting Palestinians to violence against Israel, a charge that Palestinians have allegedly rejected.

293. On 30 January 2002, the Special Rapporteur transmitted an urgent appeal concerning the reportedly decision taken on 15 January 2002 by the Government Press Office (GPO) and consisting in the refusal to renew the accreditation for about 70 Palestinian journalists working with international media organizations. GPO cards do not automatically guarantee entry into East Jerusalem or Israel but they allegedly facilitate the movement of journalists through military checkpoints, other obstacles to news gathering and government events.

294. On 4 April 2002, the Special Rapporteur transmitted an urgent appeal, concerning the reported announcement by the GPO that no foreign citizens would be allowed be in the closed zone and that anyone found there would be removed. Members of the media were also advised that their presence in the closed zone would be at "their own risk". Furthermore, journalists were reportedly warned that violators could be arrested and stripped of their credentials, or have their offices closed down. On 31 March, Israeli authorities also announced that they would begin enforcing existing rules under which journalists must submit reports about defence matters to a military censor, and that repeated violations could result in heavy fines and the closure of foreign media offices. Concern was also expressed about the fact that several journalists were allegedly prevented from entering Ramallah or moving freely within the city, including reporters from the French television station France 2, who were allegedly barred from entering Ramallah by Israeli forces, who reportedly threatened them, hurled a bottle at them and fired a shot in their direction on 29 March. Furthermore, on 1 April, Israeli troops reportedly expelled a CBS News television crew from Ramallah, and Boston Globe reporter **Anthony Shadid** was reportedly wounded by gunfire on 31 March while walking away from Palestinian National Authority President Yasser

Arafat's compound in Ramallah. Finally, the Special Rapporteur expressed concern about the fact that on 2 April 2002, an Israeli soldier in Bethlehem reportedly fired a shot at the car of Reuters photographer **Magnus Johansson**, which was identified as a press vehicle.

295. On 11 April 2002, the Special Rapporteur, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning 16 Palestinian journalists who were reportedly arrested on 4 April in the press centre in Bethlehem by the IDF and transported first to the District Coordination Office in Beit Jala and then to the military headquarters at Kefar Etzion near Bethlehem. Reports indicate that the journalists were blindfolded, had their hands and ankles manacled and were released three at a time from their handcuffs to eat. Three of the 16 journalists - **Said Ayyid** (from the Voice of Palestine), **Walid Abu Alia** (photographer from the Bethlehem-based Al-rouah television) and **Ahmad Mezher** (photographer from Al-Mahed television) were reportedly released on the afternoon of 4 April and it is reported that three others; **Mustafa Salah** (editor, Al-rouah television), **Ala Daoud** (technical operator, Al-rouah television), and **Ala al-Abed** (Palestine Broadcasting Corporation) were released the same evening. The 10 other journalists were reportedly still detained at the time the appeal was transmitted, and IDF allegedly indicated that they could not say when they would be released because terrorists had on earlier occasions used journalism as a cover, making it difficult to know whether the captured men were really journalists.

296. On 11 April 2002, the Special Rapporteur also transmitted a communication concerning **Ashraf Faraj** and **Jalal Ehmadi**, respectively an editor and cameraman with Al-rouah television, and **Maher Rumani**, a news presenter for the Ramallah-based Al-Manara radio station. Mr. Faraj and Mr. Ehmadi were taken into custody by Israeli forces on 3 April at a facility near Beitunia in the West Bank, after having been arrested at a makeshift media centre in Manger Square set up by a group of journalists to cover the events unfolding in the town of Bethlehem. At the time of writing the appeal they were reportedly still in custody. Mr. Rumani was reportedly detained by Israeli forces on or about 3 April 2002 and at the time of writing the appeal no information was available on his whereabouts.

297. On 19 April 2002, the Special Rapporteur transmitted an urgent appeal concerning **Mohamed Daraghme**, reporter for the Associated Press, who was reportedly arrested by Israeli forces in the West Bank city of Nablus on 17 April during an army sweep of his neighbourhood. At the time of writing the appeal, Israeli authorities had reportedly refused to divulge the location of Mr. Daraghme's detention, although they had allegedly agreed to expedite his release.

298. On 29 April 2002, the Special Rapporteur transmitted an urgent appeal, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Hussam Abu Alan**, a photographer for Agence France Presse (AFP), **Maher al-Dessouki**, host of the "Space for Opinion" talk-show on the Ramallah-based Al-Quds Educational television station, and **Kamel Jbeil**, a journalist. Mr. Abu Alan is reportedly being detained by the IDF since 25 April 2002. According to information received, Mr. Abu Alan was arrested together with Reuters cameraman **Mazen Dana** by the IDF at the Beit Einun checkpoint north of Hebron, while they were trying to reach a nearby village to cover the funeral of Palestinian militants killed by Israeli forces. Mr. Dana was released after three hours, but it is reported that Mr. Abu Alan was handcuffed, blindfolded and taken to an undisclosed location. Mr. al-Dessouki and Mr. Jbeil were

reportedly arrested on 18 April 2002 in Mr. Dessouki's brother-in-law's house and has since been detained without charge at the Ofer detention facility near Ramallah.

299. On 2 May 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, the Special Rapporteur on the independence of judges and lawyers and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, transmitted an urgent appeal regarding the arrest of **Marwan Barghouti**, a 43-year-old elected member of the Palestinian Legislative Council with parliamentary immunity. According to the information received, on 15 April 2002, Israeli forces in Ramallah detained Mr. Barghouti. Since his arrest, Mr. Barghouti was said to be prevented from sleeping and from receiving food, water and medical treatment. Furthermore, he was reportedly kept in complete isolation and was denied access to legal counsel, with the exception of a single meeting with his lawyer, on 16 April. He was reportedly prevented from seeing members of the International Committee of the Red Cross (ICRC). Finally, in view of the incommunicado nature of his detention and of the treatment he had allegedly been subjected to, fears have been expressed that Mr. Barghouti might be at risk of torture and other forms of ill-treatment while in detention.

300. On 23 May 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, transmitted a second urgent appeal regarding the situation of **Marwan Barghouti**. Following his arrest Mr. Barghouti was allegedly taken to the interrogation and detention centre at the Russian Compound (Moscobiya) to be interrogated by the Israeli General Security Service (Shin Bet), where he was reportedly tortured. As a result, he was admitted to the prison's clinic on 20 May 2002, and at the time the appeal was transmitted he was reportedly suffering from severe pain in his back and hands, a result of many hours in the so called "shabeh" position. Allegedly, his hands and legs were shackled to a small chair, angled to slant forward to prevent sitting in a stable position. Nails sticking out of the chair, on which Mr. Barghouti was reportedly forced to sit for prolonged periods, caused his back to bleed. He was reportedly also subjected to sleep deprivation, only being allowed to sleep for four hours a night, and has been kept in solitary confinement. Furthermore, it is believed that Shin Bet officials have also threatened Mr. Barghouti with the execution of his son, who they claimed is being held in Ashkelon prison, in order to force him to confess. They have also reportedly threatened to discredit him by accusing him of being a terrorist, to destroy him politically, and to kill him. They also told him that the Prime Minister himself had decided that he had to confess. In view of the extension on 19 May 2002 by the military court of Beit El of his detention by 12 days, fears have been expressed that Mr. Barghouti may continue to be at risk of torture and other forms of ill-treatment while in detention. Serious fears have been expressed concerning his life and health if he does not receive appropriate and prompt medical treatment.

301. On 27 May 2002, the Special Rapporteur transmitted a joint urgent appeal with the Special Rapporteur on torture concerning **Yusri el-Jamal**, a sound engineer with Reuters, **Ayman el-Kawasmi**, head of a local radio station, El Horriya, **Maher el-Dessuki**, journalist at the Ramallah-based Al-Quds Educational television, **Kamal Ali Jbeil**, journalist at the daily Al-Quds, and **Hussam Abu Alan**, photographer for AFP. Mr. el-Jamal was reportedly arrested by Israeli soldiers on 30 April 2002 outside the hospital in Hebron where he had gone, together with Reuters cameraman Mazen Dana, to film wounded people. They were allegedly blindfolded and handcuffed and taken to a district coordination office where they were forced to lie on the floor

for several hours without food or drink, and interrogated the next morning. Mr. Dana was freed, but Mr. el-Jamal was held as he was reportedly suspected of "aiding a terror organization". Mr. Kawasmi was reportedly also arrested on 30 April 2002 and taken, blindfolded and handcuffed, to the district coordination office from where it is reported that he was taken the next day to the Ofer detention centre. According to reports, Mr. Dessuki and Mr. Jbeil were arrested by Israeli soldiers on 18 April 2002 and were taken to the Ofer detention centre, while Mr. Abu Alan was arrested on 24 April near (see above). He is reportedly suspected of "aiding the Tanzim terror organization". It is reported that Mr. Abu Alan was visited by a lawyer at the Ofer detention centre on 21 May who told him that he was being put in administrative detention for three months. It is not known whether the other four received visits from lawyers. In view of the incommunicado nature of their detention at an unknown location, concerns were expressed that the above-named persons may be at risk of torture and other forms of ill-treatment while in detention.

302. On 30 May 2002, the Special Rapporteur sent an urgent appeal relating to the situation of **Suhaib Jadallah Salem**, a photographer with Reuters, who was reportedly arrested by Israeli soldiers on the evening of 22 May 2002 at a checkpoint in the Gaza Strip, as he was travelling in a Reuters vehicle towards the southern border town of Rafah. It is reported that the driver of the vehicle and at least one other passenger were also detained. According to information received, Mr. Salem was heading towards Egypt for a flight to join the Reuters team of photographers covering the Football World Cup in the Republic of Korea and Japan.

303. On 26 July 2002, the Special Rapporteur transmitted a communication concerning alleged cases of violations of the right to freedom of opinion and expression as follows:

- a) According to information received, on 9 February 2001 a photographer for the agency Gamma, **Laurent van der Stockt**, and a colleague from Reuters were covering demonstrations by Palestinian youths in Ramallah. The photographer was standing about 50 metres from Israeli soldiers when a live bullet reportedly hit him in the knee. The photographer was reportedly taken to a hospital in Jerusalem and then repatriated to France. He is said to have been bedridden for three months and to suffer from serious aftereffects. On the same day and in the same place, **Rebhi Ahmad Mohammed al-Kobari**, a Palestinian cameraman with the Palestinian television channel al-Sharq in Ramallah, was reportedly injured in the left knee by shrapnel after the Israeli army opened fire on demonstrators. The journalist was carrying his video camera and wearing a cap clearly marked "TV";
- b) According to information received, on 8 March 2001, in Gaza, Tsahal soldiers fired warning shots in the direction of three Reuters journalists, **Christine Hauser**, **Ahmed Bahadou** and **Suhaib Salem**. It is reported that the journalists, who wanted to film and take photos of an Israeli military installation in Netzarim, and were clearly identifiable by their equipment, had to throw themselves to the ground. The soldiers asked them to leave and one of them went over to the journalists to tell them that they were not allowed to be there;
- c) **Zakaria Abu Harbeid**, journalist with the local news agency Ramatan, was reportedly injured on 14 April 2001 at Khan Younis, in Gaza, while taking photos of Israeli soldiers shooting at Palestinians. It is reported that the journalist was hit in the hand and had to be hospitalized for several days;



- d) On 20 April 2001, **Laila Odeh**, Jerusalem correspondent for the United Arab Emirates channel Abou Dhabi TV, was reportedly interviewing people in the Rafah area whose homes had been destroyed by Israeli raids in Gaza a few days earlier. As the journalist and her crew were about to leave, Israeli soldiers reportedly shot in their direction. Ms. Odeh was hit in the thigh by a live bullet and immediately taken to Rafah hospital before being transferred to Al Shifa hospital in Gaza. It is alleged that the soldiers deliberately aimed at her;
- e) **Bertrand Aguirre**, correspondent for the French television channel TF1, was reportedly injured on 15 May 2001 while covering clashes in Ramallah between the Israeli army and Palestinian demonstrators. A bullet hit the journalist's bulletproof jacket, causing bruising. He was taken to Ramallah hospital for an examination. It is reported that the border guard opened fire at close, with live ammunition, firing at body height, when his own safety was not threatened in any way. It is said that in September the inquiry into this incident was closed, and that to justify this decision, Eran Shangar, director of the police internal affairs bureau, was said to have stated that "After examining the file, I decided not to prosecute the policeman for lack of evidence", although it is reported that three different television teams simultaneously filmed the scene, clearly showing an Israeli border guard getting out of his vehicle, taking aim and opening fire with live bullets at a distance of about 100 metres;
- f) On 24 April 2001, Israeli soldiers reportedly arrested four journalists from the Palestinian public-sector channel Palestinian Broadcasting Corporation (PBC) – **Ruba Al-Najar**, journalist, **Jaghoub Jaghoub**, cameraman, **Bilal Aburish**, production assistant, and **Samir Abid Rabbo**, sound engineer – while they were doing a report in Nablus on the West Bank. It is said that an army officer accused them of filming Israeli military positions and vehicles. After taking the journalists to the Karne Shermon colony, soldiers reportedly blindfolded them and their driver, **Hussein Al Gharnaoui**, interrogated them, searched them and viewed their videotapes. It is reported that after eight hours of detention Mr. Al-Najar, Mr. Jaghoub, Mr. Aburish and Mr. Abid Rabbo were released, but their driver was kept in detention on the pretext that he was involved in "hostile activities". In early May 2001 the head of the army education department, General Eliezer Stern, reportedly ordered the suspension of the Israeli army weekly BeMahaneh. It is reported that according to an army spokesperson, "articles in the newspaper (dated 4 May 2001) did not correspond to army standards". The article in question reportedly concerned a homosexual reserve colonel;
- g) During clashes on Temple Mount on 29 July 2001, nine journalists – **Nasser Atta** (ABC News), **Rachid Safadi** (Al Jazeera), **Atta Awassat** (Yedihot Aharonot), **Fatem Awalan** (Nile TV), **Gevara Bouderi** (Al Jazeera), **Mahfuz Abu Turk** (freelance, working mainly for Reuters), **Muna Qawasmi** (Al Ayyam), **Amar Awad** (Reuters) and **Nasser Abdel Jawad** (cameraman) – reportedly found themselves face-to-face with several hundred policemen after the demonstrators had fled or taken refuge in the mosque. The police, who had been about to charge, allegedly attacked the journalists and beat them with truncheons. Atta Awassat was hit reportedly with the butt of a rifle;
- h) It is reported that the armoured car of **Elizabeth Dalziel** of the I was hit by bullets during a shooting incident on 5 October 2001 between Israeli soldiers and Palestinians in Hebron in the Abou Sneineh district, one of the two parts of Hebron into which the Israeli army had made an incursion that day, killing five Palestinians. After the first bullet hit the

windscreen of the vehicle, clearly marked "TV" and "Press", the journalist tried to flee. It is said that at least five other bullets then hit the car, one of which burst a tyre. It is alleged that the shots came from Israeli positions;

- i) In the autumn 2001, **Ziad Abou Ziad**, member of the Palestinian Legislative Assembly and managing editor of the magazine Palestine–Israel Journal (edited jointly by Israelis and Palestinians), was reportedly banned from entering Jerusalem where the head office of his newspaper is situated. It is reported that a television crew from the Lebanese channel Al-Manar, owned by the Shiite Hezbollah movement, was shot at on 18 November 2001 by Israeli soldiers close to the border town of Kfarchouba. It is alleged that one Asian and several European journalists were present and shots were fired at their feet.
- j) On 13 December 2001, the Israeli army reportedly destroyed a Palestinian broadcasting installation in Ramallah. Palestinian radio and television had already stopped broadcasting the previous evening due to bombings. According to information received, Tsahal destroyed the Palestinian Broadcasting Corporation building in eastern Gaza on the morning of 21 February, after having taken out documents and the technical equipment. It is reported that Israeli authorities accused The Voice of Palestine of encouraging violence against Israel;
- k) It is reported that on 13 March 2002, **Rafaella Ciriello**, a freelance journalist working for the Italian daily Corriere della Sera, was shot six times in the chest by an Israeli tank-mounted machine gun near Rammallah's central Al-Manara Square. It is reported that Mr. Ciriello was covering the takeover of the city of Ramallah. He was reportedly taken to the hospital where he died before he could be operated on;
- l) On 29 March 2002, **Carlos Handal**, a Palestinian television cameraman working for the Egyptian station Nile TV, was reportedly shot by an Israeli soldier in Ramallah. It is reported that Mr. Handal was filming the Lions Square in Ramallah from the window of a minivan clearly marked "TV" when he was hit in the throat by a bullet that came through the windshield. It seems that other bullets hit the van. Mr. Handal was taken to the Arab Medical Centre and put in intensive care;
- m) According to information received, on 5 April 2002, IDF soldiers fired stun grenades at a group of at least two dozen reporters attempting to cover the pending arrival of United States Middle East envoy Anthony Zinni, who was to visit the compound of Yasser Arafat. It is reported that one of the six grenades hurled exploded under CNN reporter **Michael Holmes**. It is alleged that Israeli soldiers ordered the reporters to leave and then fired rubber bullets at their armoured vehicles. Some of the journalists reportedly had their accreditation cards confiscated by Israeli soldiers when they tried to return to the area;
- n) On 8 April 2002, several Israeli soldiers reportedly raided a building in Ramallah housing Nile TV and Abu Dhabi TV. It is reported that troops forced the journalists in the office to lie on the ground and knocked Nile TV cameraman **Raed al-Helw** to the ground. Soldiers are reported to have dismantled journalists' cell phones and threw the parts around the room and fired live rounds at a locked office door to gain access to the room. After 45 minutes, the soldiers reportedly left and searched the rest of the building, which houses several other foreign television stations;
- o) It is reported that on 9 April 2002, **Gilles Jaquier**, cameraman with the French television channel France 2, was wounded by a single gunshot near his shoulder, while he was reporting outside the West Bank city of Nablus;

- p) On 10 April 2002, Tokyo television reporter **Yuzuru Saito** was reportedly threatened in Bethlehem by Israeli forces, who confiscated a tape from his cameraman. According to information received, IDF troops also confiscated a tape from French cameraman **Vincent Benhamou**;
- q) On 20 April 2002, Israeli troops reportedly detained Reuters photographer **Mahfouz Abu Turk** at an army checkpoint while he and two colleagues were leaving the Jenin refugee camp. It is reported that after examining the journalists' press cards, the soldiers blindfolded Mr. Abu Turk and took him away in an armoured personnel carrier. A soldier reportedly said that the photographer was on a "list" and had to be "questioned". Mr. Abu Turk was allegedly held for 22 hours in a bus without food or water before being released and was never questioned;
- r) On 22 April 2002, IDF soldiers reportedly confiscated the press cards of 17 foreign and Palestinian journalists who had attempted to approach the Church of the Nativity in Bethlehem. It is reported that troops stopped them when the journalists, from news organizations including the Associated Press, Reuters, Al-Jazeera, the BBC and AFP, tried to approach the church. An officer allegedly told the group that it was a closed military area and ordered the journalists' press cards confiscated. It seems that most of the cards were returned later that day following protests from news organizations;
- s) It is reported that on 24 April 2002, the IDF arrested and detained Mazen Dana, a cameraman for Reuters, for three hours (see above). IDF troops reportedly stopped the journalist at the Beit Einun checkpoint north of Hebron when he tried to reach a nearby village to cover a funeral for Palestinian militants killed by Israeli forces. His camera was reportedly confiscated;
- t) **Mashhur Abu Eid**, a journalist for the official Jordanian news agency Petra, was reportedly arrested on 31 May 2002 and driven four days later to the border in a prison bus with his legs tied. According to information received, on 31 May, Mr. Abu Eid was arrested along with seven peace activists in the Balata Palestinian refugee camp, near Nablus, which was declared a closed military zone at the time of the Israeli incursion. It is reported that Mr. Abu Eid arrived in Israel on 27 May with the necessary press accreditation and first went to Nablus and then to Jenin on 30 May before going to the Balata camp where he wanted to film a gathering of Western peace activists who had come to inquire into the human rights situation inside Palestinian refugee camps. It seems that Mr. Abu Eid was accused of failing to respect a closed military area and resisting arrest. It is reported that he was successively detained in the Houwara Military Camp and in the Ariel Military Camp, near Salfit. On 2 June, the journalist is said to have refused to sign his deportation order and, along with the seven peace activists, asked to be allowed to appeal to the Supreme Court, to seek the annulment of his deportation order;
- u) On 24 June 2002, the armoured car of Reuters cameraman **Hamouda Hassan** and soundman **Abdel Karim Khadr** reportedly came under IDF gunfire at the entrance of the al-Amari refugee camp in Ramallah, although it was clearly marked as a press vehicle. Israeli soldiers then allegedly ordered the two journalists out of the car at gunpoint and detained them for about an hour and a half;
- v) On 26 June 2002, a single bullet reportedly pierced the side of the video recorder of cameraman Mazen Dana as he was filming from a window on the top floor of a three-storey apartment building in Hebron (see above). The journalist was filming the Israeli army's destruction of a Palestinian Authority security forces building about 300 metres

away and it is alleged that several Israeli soldiers were stationed about 150 metres from his location and that there was no exchange of gunfire in the vicinity of the building at the time of the shooting;

- w) It is reported that two Moroccan journalists, **Anas Bensalah** and **Hassan Bouchenni**, from Morocco's second public TV station, 2M, were arrested by two Israeli soldiers in Ramallah on 4 July as they were leaving President Arafat's headquarters. The soldiers reportedly asked them for identification and their passports and took them to the Palestinian Culture and Arts Ministry offices, which have been turned into a detention centre. It is said that they questioned them about the situation inside the headquarters, what he had said during their interview, and his physical and mental condition. The journalists were released five hours later without explanation;
- x) According to information received, Israeli soldiers were said to have raided the offices of the Jordanian radio and television in Ramallah. It is reported that the soldiers entered the premises on 8 July, threatened the journalists present with guns and searched their offices. The soldiers allegedly seized films, passports and press cards from the two journalists present, **al-Hoot** and **Akil al-Amr**, which were returned five hours later;
- y) It is reported that on 12 July 2002, Palestinian freelance photographer **Imad Abu Zahra**, aged 35, died in Jenin after being seriously wounded by Israeli army gunfire on 11 July. According to information received, on 11 July, after the curfew imposed on 21 June had been lifted, Mr. Abu Zahra and **Said el-Dahla**, a photographer from the official Palestinian news agency Wafa, both wearing clothes identifying them as members of the press, were in the centre of Jenin at around noon taking pictures of an Israeli armoured personnel carrier that had slammed into an electrical pole. It is reported that the two journalists were alone on the road, facing two Israeli tanks about 40 metres in front of them. When they started to take pictures, Israeli tanks allegedly fired on them without warning, wounding both in the legs, and continued to fire at them while they were trying to take shelter in a nearby building. Mr. Abu Zahra was more seriously hurt and lost a great deal of blood; for more than 25 minutes Israeli troops allegedly refused to allow an ambulance to get to him. He was eventually taken to hospital in a taxi, where he was put in intensive care and died a day later. It is reported that there had been no clash under way when the two journalists were hit;
- z) According to information received, on 15 July 2002 the Israeli army took over and shut down Palnet, the main Palestinian Internet service provider in the West Bank and Gaza Strip, for nearly a day. It is reported that Israeli soldiers went to Palnet's offices in Ramallah at 2.00 a.m., cut off all Internet connections and arrested the six staff technicians who were present, one of whom was allegedly still being held by Israeli intelligence officials as of 16 July at an unknown location. The Israeli army reportedly gave no reason for its actions; no equipment was seized and no damage was done during the action. It is said that the soldiers left on 15 July in the evening, and Internet connections were re-established during the night. According to information received, Palnet is the server for about 70 per cent of Palestinian Internet users, as well as for the Palestinian health service, schools and administration.

### **Communication received**

304. On 9 April 2002, the Israeli Government answered the communication transmitted by the Special Rapporteur on 3 April 2002, indicating that in addition to the 280 permanent foreign correspondents stationed in Israel, the current fighting had increased their number to about 1,000 by 5 April 2002. The Government reaffirmed its commitment to assuring freedom of the press and of movement at all times, stressing that it considers particularly important the presence of journalists from Arab and Muslim countries. The Government indicated that nonetheless, from time to time and in areas of combat, the IDF has deemed it necessary to restrict the freedom of movement of journalist in a limited way. The Government also indicated that only one journalist, a representative of the Abu Dhabi State Television, was asked to return his Israeli media credentials since one of his reports was considered unsubstantiated and as incitement to hatred of Israel.

### **Observations**

305. The Special Rapporteur would like to thank the Government for its reply concerning the communication sent on 3 April 2002, but he awaits further responses to 10 communications.

## **Italy**

### **Communications envoyées**

306. Le 26 juillet 2002, le Rapporteur spécial a adressé une communication relative au cas de deux journalistes, **Enzo Biagi** et **Michele Santoro**, qui auraient été accusés en avril 2002 par le Président du Conseil, Silvio Berlusconi, d'utiliser la télévision publique d'une manière criminelle. La nouvelle direction de la télévision publique RAI, récemment nommée par le Gouvernement, aurait écarté les deux journalistes et supprimé leurs programmes de la grille de programmation.

307. Le 26 novembre 2002, le Rapporteur spécial a envoyé un appel urgent concernant la situation du journaliste et sénateur **Raffaele Jannuzzi** qui aurait été condamné par le tribunal de Naples à deux ans et demi de prison pour diffamation. Le 20 novembre 2002, la justice aurait refusé d'accorder au journaliste, âgé de 74 ans, un régime de semi-liberté ou une assignation à résidence et il aurait dû être incarcéré dès son retour en Italie le 16 décembre. Il semblerait que la responsabilité pénale du journaliste est engagée, en sa qualité de directeur du quotidien *Il Giornale di Napoli*, pour des écrits parus entre 1987 et 1993, qui mettaient notamment en cause des magistrats chargés de la lutte antimafia. Auteur de nombreuses enquêtes sur la mafia, M. Jannuzzi avait en particulier pris la défense du présentateur de télévision Enzo Tortora, condamné en 1983 pour collusion avec la mafia, sur la base de témoignages de «repentis».

### **Communications reçues**

308. Le 31 octobre 2002, le Gouvernement italien a répondu à la communication concernant le cas des journalistes **Enzo Biagi** et **Michele Santoro**. Le Gouvernement a indiqué, d'une part, que le Président du Conseil, M. Berlusconi, a exercé son «droit à la libre manifestation des idées, reconnu à tous les citoyens». D'autre part, le Gouvernement a nié que les deux journalistes auraient été écartés de la RAI et que leurs programmes auraient été supprimés. En ce qui concerne

M. Santoro, le Gouvernement a expliqué qu'il continue d'être un employé de la RAI. Toutefois, le Conseil d'administration de cette dernière, au cours de sa séance du 30 août 2002, a chargé son directeur général de vérifier avec les directions de chaîne la possibilité de confier à M. Santoro un autre programme d'actualité remplaçant le programme *Sciuscià*, à condition que la grille de programmation le consentirait. Le Gouvernement a précisé que M. Santoro a contesté la légalité de la décision prise par le Conseil d'administration, en évoquant la violation des dispositions de protection des droits des travailleurs salariés. M. Santoro aurait en outre demandé réparation des dommages subis, prétendant que la cessation des émissions aurait été motivée par une discrimination politique. La RAI a répondu en évoquant, entre autres, l'inexistence de l'obligation de réaliser l'émission *Sciuscià* et niant toute intention discriminatoire de sa part.

309. En ce qui concerne le cas de M. Biagi, le Gouvernement a indiqué que la RAI a jugé que l'émission réalisée par ce journaliste n'était pas conforme à son «approche éditoriale» et que par conséquent elle a résilié son contrat avec M. Biagi dans le respect des délais contractuels. Le Gouvernement a précisé que, suite à une rencontre entre M. Biagi et les responsables de la RAI, les deux parties avaient trouvé un accord sur une nouvelle formule de collaboration, bien que M. Biagi n'ait pas donné suite à cette nouvelle proposition.

310. Dans une lettre datée du 3 décembre 2002, le Gouvernement italien a accusé réception de la communication du Rapporteur spécial concernant le cas de M. Jannuzzi et il a indiqué qu'elle avait été transmise aux autorités compétentes aux fins de suivi.

### **Observations**

311. Le Rapporteur spécial remercie le Gouvernement italien pour ses réponses et attend de recevoir des informations concernant le cas de M. Jannuzzi.

312. Le Rapporteur spécial remercie également le Gouvernement pour sa réponse à sa note verbale du 1er juillet 2002 envoyée en vertu du paragraphe 20 de la résolution 2002/48 dans lequel la Commission des droits de l'homme invite les Etats "à communiquer au Rapporteur spécial des observations sur leurs programmes et politiques en matière d'accès à l'information aux fins d'éducation sur l'infection par le virus de l'immunodéficience humaine (VIH) et de prévention".

### **Jordan**

#### **Communications sent**

313. On 22 March 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the arrest of **Toujan al-Faisal**, aged 53, former member of Jordanian Parliament, and **Hashem a-Khalidi**, editor of the weekly *al-Bilad*. It was reported that, on March 16, 2002, the State Security Court Prosecution ordered that Ms. al-Faisal be held for 15 days (renewable) on charges of "publishing material deemed harmful to the country's reputation and that of its citizens" as well as "tarnishing the Jordanian State", and that she was detained in Jweidah Prison in Amman. It was also reported that on 17 March 2002, the State Court prosecutor ordered the arrest of Mr. al-

Khalidi following the publication of an article in his newspaper column of 11 March, and that he was to be held for 15 days pending trial apparently on charges of “publishing false material deemed harmful to the country’s reputation and that of its citizens”.

314. On 26 July 2002, the Special Rapporteur sent a communication concerning **Hashem Khalidi**, editor of the weekly newspaper *Al-Bilad*, who had reportedly been investigated on charges of publishing false information and harming the honour and the reputation of the Government and its officials and detained for 15 days in mid-March 2002 by a state security court prosecutor, under charges based on an article he published, mentioning that unnamed officials with close personal connections to the insurance industry would benefit from a recent government decision to increase mandatory insurance rates on vehicles. **Tajeddin Hroub**, the newspaper’s owner, was said to be detained overnight for questioning in connection with Mr. Khalidi’s article. It is reported that under penal code amendments recently adopted, Khalidi and Tajeddin Hroub could face prison terms and be fined if they are convicted.

### **Observations**

315. No reply has been received concerning the Special Rapporteur’s communications from the Government of Jordan.

## **Kazakhstan**

### **Communications sent**

316. On 18 July 2002, the Special Rapporteur sent an urgent appeal concerning **Sergei Duvanov**, a journalist, who has reportedly been criminally charged on 16 July 2002 with defaming President Nursultan Nazarbayev. According to information received, Mr. Duvanov, who writes for several web sites financed by Kazakhstan's political opposition, was summoned to the office of the National Security Committee (KNB, successor of the KGB) in Almaty on 9 July in the morning and was informed that a criminal case was being brought against him by the General Prosecutor's Office for "infringing the honour and dignity of the President" which, under article 318 of the Criminal Code, carries a fine or a maximum three-year prison sentence. This was seemingly after a 6 May article, "Silence of the lambs", published on the opposition web site, which repeated allegations made in other media outlets claiming that the President and his associates were attempting to cover up illegal profits from oil deals and questioning the legality of the President’s actions in diverting US\$ 1 billion to a Swiss bank account in 1996. After his questioning on 9 July, Mr. Duvanov's flat and office were reportedly searched and his two computer hard drives were confiscated. He was allegedly again summoned to the KNB on 11 July and interrogated for four hours.

317. On 11 November 2002, the Special Rapporteur sent another urgent appeal, jointly with the Special Representative on human rights defenders, concerning **Sergei Duvanov**, chief editor of the news bulletin "Human rights in Kazakhstan and in the world" published by the Kazakhstan-based International Bureau for Human Rights and the Rule of Law (KIBHRL). Duvanov was reportedly taken into custody on 28 October 2002 and officially charged with rape on 6 November 2002. According to information received, the arrest of Sergei Duvanov occurred

just before he was supposed to travel abroad to discuss publicly the human rights situation in Kazakhstan. It is alleged that the charges brought against him are aimed at dissuading him from undertaking his activities in defence of human rights. It is reported that the arrest and detention of Sergei Duvanov followed a series of acts of intimidation: on 28 August 2002, he was reportedly attacked and severely beaten by three unidentified persons in front of his home in Almaty, shortly before he was scheduled to travel to Warsaw to attend the Organization for Security and Cooperation in Europe's annual human rights conference. On 9 July 2001, Mr. Duvanov was reportedly summoned to the Almaty office of the National Security Committee (KNB) and informed that a criminal case had been brought against him by the General Prosecutor's Office for "infringing the honour and dignity of the President".

### **Communications received**

318. In a letter dated 28 February 2002, the Government replied to the Special Rapporteur's communication of 30 November 2001 concerning **Mr. Daniar Rahmanovich Ashimbayev**, and indicated that on 12 January 2002, the case against him was closed due to failure to prove his guilt in committing the crime under part 1 of article 259 of the Criminal Code.

319. In a letter dated 26 December 2002, the Government replied to the Special Rapporteur's communications concerning **Mr. Duvanov**, and indicated that in June 2002, criminal proceedings were instituted against Mr. Duvanov in connection with the publication on the Internet of an article containing material insulting the head of State, which is a criminal offence under Kazakh law. During investigation by law enforcement bodies, the question of arresting the journalist did not arise, no charges were laid against him, he was able to pursue his professional activities to the fullest extent, and on 3 October, the proceedings were dropped. On 29 August 2002, the law enforcement bodies instituted criminal proceedings in connection with the beating of Mr. Duvanov by unknown persons, on the basis of a statement by the victim. An inquiry team was set up to conduct the investigation. It should be noted that a forensic examination showed that the journalist had suffered slight bodily harm, which did not prevent him from taking part in a Human Dimension Implementation Meeting in Warsaw in September. On 28 October 2002, criminal proceedings were instituted against Mr. Duvanov in connection with rape of a minor, on the basis of a statement made by the victim and her mother, as well as preliminary inquiries. On 31 October the journalist was detained for 10 days as a preventive measure in accordance with Kazakh legislation on criminal procedure and on 6 November Mr. Duvanov was charged under article 120 of the Criminal Code. The journalist denied the charges, but the testimony of the victim and of witnesses, material evidence gathered and the findings of biological forensic tests prove that the accused is guilty of the acts with which he is charged. On 9 November, Mr. Duvanov ended a hunger strike he had begun on 30 October.

320. The criminal proceedings against Sergei Duvanov were instituted in strict compliance with domestic legislation and did not contravene universally recognized international standards or judicial principles. The investigation is continuing, and compliance with the principles of transparency, objectivity and strict respect for the rule of law will be ensured. The journalist is being defended by V. Voronov, a lawyer from the Almaty city panel of counsel, S. Sarsenov, a lawyer from the "Besart" private chambers, and E. Zhovtis, a human rights specialist designated by the voluntary association "Kazakhstan International Bureau for Human Rights and the Rule



Law”. A public defence committee has been set up to support Mr. Duvanov. Accusations of hidden political motives in the measures taken against Mr. Duvanov, whose actions were clearly criminal in nature, are groundless.

### **Observations**

321. The Special Rapporteur thanks the Government of Kazakhstan for its replies and willingness to cooperate with his mandate.

## **Kenya**

### **Communications sent**

322. On 24 April 2002, the Special Rapporteur sent an urgent appeal to the Government of Kenya concerning **Victore Obure**, correspondent for the *East African Standard* in Garissa, who has reportedly gone into hiding because of fears for his safety after an arrest order was issued against him by the Criminal Investigation Department during the week of 15 April. The arrest was apparently ordered following the publication of an article reporting on the extortion by police of thousands of Kenyan shillings from citizens in Garissa during a crackdown on illegal immigrants in the city.

323. On 2 May 2002, the Special Rapporteur transmitted an urgent appeal to the Government concerning the reported introduction of the Statute Law (Miscellaneous Amendments) Bill in Parliament, which provides for the increase from 10,000 shillings (US\$ 129) to 1 million shillings (US\$ 12,863) of the bond publishers must pay to the Registrar of Societies to insure themselves against losses they may incur in libel or defamation suits. Publishers who fail to post the new bond face fines totalling 1 million shillings, a three-year jail sentence, or both, and recidivists risk five years in prison and a permanent ban from the publishing industry. In addition, distributors and vendors who sell publications that have not paid the bond could be fined up to 20,000 shillings (US\$ 257), imprisoned for up to six months, or both. The proposed bond seems prohibitive and would in effect silence critical publications. Apparently, the bill has had two readings in Parliament, where it met with opposition, and will go through a third reading, which has not yet been scheduled.

324. On 26 July 2002, The Special Rapporteur drew the attention of the Government to information he received concerning the following alleged cases of violations of the right to freedom of opinion and expression:

- a) Kenyan courts have an increasing tendency to award huge libel damages, which sometime can threaten the existence of media outlets. For example, the newspaper *The People Daily* and its former editor-in-chief, **George Mbugguss**, were reportedly sentenced on 22 March 2002 to pay 20 million shillings (approximately US\$ 300,000) to trade and industry Minister Nicholas Biwott for libel. In addition, it is reported that the newspaper was forbidden to publish further “libellous” material about him. This followed the publication of an article on 10 March 1999 which implicated Mr. Biwott, then Minister for the

- East African Community, in the allegedly corrupt award of a contract in the building of the Turwell hydroelectric dam to a French firm;
- b) The *Daily Nation* and the *Taifa Leo* newspapers were ordered to pay, on 7 September 2001, 10 million shillings (US\$ 150,000) to Judge Patrick Machira, who had complained of “malicious libel” in articles and photos published about a quarrel he had five years earlier. The same newspapers were again ordered in November 2001 to pay 10 and 20 million shillings respectively to two legal consultancy firms;
  - c) Over the past year, there have also been a number of reports of journalists arrested and detained. For example, **Asena Muyoma** and **David Matende**, respectively managing editor and editor-in-chief of the *Weekly Citizen*, were reportedly arrested by police on 10 July 2001 and held in police custody in Nairobi. They were accused of publishing an article reporting that a police superintendent and an assistant of the Minister for Education were responsible for political unrest. The two journalists were charged with “publishing unverified and alarming information” before being released on 26 July 2001;
  - d) Another journalist with the *Weekly Citizen*, **Tom Alwaka**, reportedly went to the Criminal Investigation Department (CID) on 21 September after receiving a summons. He was immediately detained in the Kenyatta police station and charged four days later with “stealing an official document”. The weekly had published news that a para-State company had misappropriated public monies. Mr. Alwaka was released on bail the same day;
  - e) On 24 July 2002, **Christopher Mwoki Kyandi**, publisher of and journalist with the tabloid *The Truth*, was reportedly sentenced to nine months in prison for “publishing false news” and sent to jail immediately. According to information received, in early July, *The Truth* published a story describing a sexual event on its front and back pages that caused a large number of people to descend on the area where the alleged event supposedly took place. It is reported that the police arrested Mr. Kyandi and seized 200 copies of the newspaper, and that, on 11 July, before a court, Mr. Kyandi pleaded guilty of writing and spreading the rumors.

### **Observations**

325. The Special Rapporteur regrets that no reply has been received from the Government to date.

#### **Kuwait**

326. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States “to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection”.

#### **Kyrgyzstan**

### Communications sent

327. On 25 January 2002, the Special Rapporteur sent an urgent appeal to the Government concerning the reported arrest of **Azimbek Beknazarov**, the chairman of the Parliamentary Committee on Court Reform. According to the information received, on 5 January 2002, Azimbek Beknazarov was reportedly arrested for abusing his power while serving as an investigator in a murder case in Djalalabad Oblast in 1995. However, it was alleged that Mr. Beknazarov had been targeted for his criticisms of the Kyrgyzstan border agreement with China and Uzbekistan, and that on 6 January 2002, 20 members of the lower chamber of the Kyrgyz Parliament wrote an open letter to President Akaev in which they condemned Mr. Beknazarov's arrest as politically motivated.

328. On 25 February 2002, the Special Rapporteur sent another urgent appeal concerning **Azimbek Beknazarov**, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention. In their communication, the Rapporteurs indicated that in the night of 14 February 2002, Mr. Beknazarov was allegedly attacked by two security officials wearing masks, who entered his cell during and beat him on the kidneys for several hours. The officials are said to have later forced him to write a statement denying that he was beaten and that he was being detained under good conditions. On 18 February 2002, a Parliamentary Commission, including deputies A. Madumarov, B. Asanov, D. Chotonov, as well as E. Korgoldoev (the coordinator of the Kyrgyz Committee for Human Rights for Jalal-Abad region), and a journalist from radio Azattyk, applied to the prosecutor of the region, the head of Direction of Internal Affairs of Jalal-Abad region as well as to the director of the Regional Department of Internal Affairs, for permission to visit Azimbek Beknazarov in detention. Although their requests were initially refused, two deputies from Parliament were eventually allowed to meet him in custody on 19 February, in the presence of three police officers, who allegedly pressured Mr. Beknazarov to state that nobody beat him. The deputies reported, however, that he was in very bad condition and that, when saying goodbye to them, he indicated that he feared for his life. Fears have been expressed regarding his health if he does not receive immediate and appropriate medical attention, and that he may continue to be at risk of torture and other forms of ill-treatment while in detention.

329. On 20 November 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Representative on the situation of human rights defenders concerning **Tursunbek Akunov**, Chairperson of the Human Rights Defence Movement of Kyrgyzstan, who was reportedly arrested on 16 November 2002 and sentenced the same day by the Lenin district court of Bishkek to 10 days' imprisonment for having taken part in a protest march. According to information received, on 16 November, approximately 1,000 protesters from Aksy, Kara-Kuldja, Uzgen, Nooken, Suzak and Tash-Komur of the Jalal-Abad provinces decided to gather in Bishkek to hold a march, asking for the identification and sanctioning of the persons responsible for the events of 17 March 2002 in the village of Aksy. Six people were allegedly killed there and 40 seriously injured during a demonstration protesting against the barring of former deputy Prime Minister Usen Sydykov from taking part in the Parliamentary elections. This followed a 27 October 2002 judicial decision, although he had won the first round in Kara-Kuldza district.

Concerns have been expressed that the arrest of Tursunbek Akunov might be related to his participation in this demonstration and his human rights activities.

### **Communications received**

330. In a letter dated 29 April 2002, the Government of Kyrgyzstan replied to the communications concerning **Mr. Beknazarov**, indicating that in November 2001, Mr. Beknazarov, a former prosecutor in the Toktogul district procurator's office and now a deputy in the legislative assembly of the Kyrgyz Republic, the Zhogorku Kenesh, when checking into some allegations in a murder case, had without initiating criminal proceedings, detained the suspect Zh. Kamchybekov as well as the brother of the victim, Zh. Mambetov. He compelled the latter to write a statement to the effect that he made no claims as to the murder of his relative, and illegally placed him in police custody for three days before releasing him. After illegally obtaining a statement from Zh. Mambetov, six days after the arrest of Zh. Kamchybekov, Mr. Beknazarov, in order to conceal a serious offence, released him from police custody and illegally decided not to initiate criminal proceedings. On 2 January 2002, Zh. Mambetov and K. Bukeeva made statements at the Jalal-Abad oblast procurator's office concerning the criminal prosecution of Mr. Beknazarov for abuse of his position in the form of an illegal refusal to initiate criminal proceedings relating to the murder of their brother and the arrest of Zh. Mambetov. On 4 January 2002 the oblast procurator's office initiated criminal proceedings against Mr. Beknazarov, who was arrested the next day on suspicion of having committed offences and accused of abuse of his position and exceeding his powers and authority. He was remanded in custody as a preventive measure, since he is the chair of a committee on juridical and legal matters in the legislative assembly by virtue of which he was able to exert pressure on the law enforcement and judicial authorities. On 29 January 2002, the criminal case was forwarded to the Toktogul district court for examination, and during the court hearing, Mr. Beknazarov challenged the competence of the court and the procurator. On 20 February 2002 the country's Supreme Court decided to forward the criminal case to the Kara-Kul city court in Jalal-Abad oblast. The court has now replaced the preventive measure against Mr. Beknazarov with a pledge not to travel abroad and halted the proceedings.

331. Concerning the demonstrations against the arrest of A. Beknazarov, on 10 January 2002 in the city of Bishkek, between five and 12 people declared a hunger strike. The security forces made no threats against these people and did not arrest them. On 20 January 2002, representatives of the Procurator-General of the Republic and the procurator of Pervomaisk district in Bishkek met these persons, whose main demand was that the preventive measure against A. Beknazarov should be changed. During the meeting, appropriate replies and clarifications were provided for all the questions and demands expressed. On 14 January 2002, 23 persons gathered near the legislative assembly building carrying placards in support of A. Beknazarov and later set off for the offices of the Procurator-General, where they remained a few hours before dispersing. 17 of these persons were issued with warnings, two were fined, three were placed in administrative detention for five days and one for 10 days by the Aksyi district court for committing offences under administrative law near the State administrative offices for Aksyi district in Jalal-Abad oblast. Six persons were cautioned against breaking the law by the district procurator's office, and five were issued warnings. D. Chotonov and B. Asanov, deputies in the legislative assembly, the Zhogorku Kenesh, held one-day hunger strikes in their offices on

14 and 15 January 2002, respectively. On 14 January 2002, Z. Sydykova held a one-day hunger strike in the editorial offices of the newspaper *Respublika*. T. Chynybekov was one of the persons who had declared a hunger strike. He was not detained, was not remanded in custody, and was not taken to the Internal Affairs offices. On 21 January 2002, N. Bekerdinov was cautioned by the procurator of Pervomaisk district in Bishkek against participating in unauthorized meetings. He was not arrested, and no search of his home was carried out. B. Tolobaeva is currently working in No. 4 city hospital in Bishkek as a doctor and she was not dismissed.

332. According to information provided by the Procurator-General, no one beat A. Beknazarov in police custody in Jalal-Abad City Internal Affairs Office either on the night of 13-14 February, or at any other time. This is confirmed by the statements made to the media by A. Beknazarov and by A. Erkebaev, the *toraga* (chair) of the legislative assembly.

333. In the same letter, the Government replied to the Special Rapporteur's communication of 23 November 2001 concerning **Samagan Orozaliev** and **Mr. Topchuev**, indicating that by decision of the Jalal-Abad city court on 1 November 2001, Orozaliev Samagan Myrzabekovich and Topchuev Myktaraly Zhsenbaevich were found guilty under article 170, part 3, paragraph 2, article 28 and article 170, part 2, paragraphs 1 and 2, of the Criminal Code of the Kyrgyz Republic (extortion) and, in accordance with article 59 of the Criminal Code, were sentenced to nine years' imprisonment (Orozaliev S.) and eight years' imprisonment (Topchuev M.) for the totality of the offences. In accordance with the court's decision, Orozaliev S., who previously worked as a correspondent of the Zaman creative association of the state television and radio company, was dismissed on 25 January 2001 by the president of the company by means of order No. 1-34. However, in April 2001, after his dismissal, but without returning his official pass No. 442, he took his Panasonic 3000 video camera and travelled to the city of Jalal-Abad in Mr. Topchuev's car, together with Murzaparov T. and Topchuev M, where they presented themselves as correspondents to several state employees, demanding sums of money from them in return for not showing negative parts of their interviews on television. Following a complaint submitted by the accused under the supervisory procedure, this case is currently before the Supreme Court and is being prepared for hearing.

### **Observations**

334. The Special Rapporteur thanks the Government of Kyrgyzstan for its replies and willingness to cooperate with his mandate, but awaits a further response on his communication of 20 November 2002.

### **Lebanon**

#### **Communications envoyées**

335. Le 17 mai 2002, the Rapporteur Spécial a envoyé un appel urgent au Gouvernement du Liban, concernant **Saada Allao**, journaliste au quotidien *As Safir*, qui aurait été traduite devant le Tribunal des imprimés le 8 avril 2002 et poursuivie pour "mépris à la justice et insinuation concernant une affaire devant la justice" suite à une plainte du Procureur Général. Il semblerait que cette accusation fasse suite à une série d'articles parus en novembre 2001, dans lesquels Mme

Allao avait mené une enquête sur la disparition d'une jeune fille à Beyrouth dans les années 1990. Dans un article paru le 14 novembre, la mère de la jeune fille disparue avait déclaré que l'enquête n'avait pas progressé depuis le dépôt de sa plainte plusieurs années auparavant, et qu'on lui avait précisé au tribunal que le dossier avait été perdu. Il a également été rapporté que la chaîne de télévision Future TV qui avait diffusé un reportage sur ce fait divers en juillet 2001, en citant également la mère de l'enfant, n'a pas été poursuivie. Mme. Allao risquerait trois ans de prison ou une amende de 20 millions de livres libanaises (environ 13 200 \$US ou 13 500 €) et comparaitra à nouveau devant le tribunal le 20 mai.

336. Le 26 juillet 2002, the Rapporteur Spécial a envoyé une communication au Gouvernement concernant **Tawfiq al-Hindi**, membre dirigeant du parti interdit des Forces Libanaises, qui aurait été condamné à quinze mois d'emprisonnement le 11 juillet 2002 par la Cour d'Appel militaire, après avoir été accusé sur la base de présomptions de contacts avec Israël et de transmission d'information à l'ennemi au détriment des relations entre le Liban et les Etats voisins. M. al-Hindi aurait été torturé afin de lui faire reconnaître ces accusations, qu'il aurait ensuite niées devant la Cour d'Appel militaire.

337. Dans la même communication, le Rapporteur Spécial attirait l'attention du Gouvernement sur le cas de six journalistes qui auraient été agressés par la police le 23 Mars 2002 dans le quartier de Marzraa à Beyrouth. **Wael Ladki**, photographe du quotidien *As Safir*, **Ali Lamaa**, photographe d'*Al Sharq*, **Muhamed Assi**, du quotidien *An Nahar*, **Samir** et **Saiid Baytamuni**, de la télévision LBC et **Khalil Hassan**, du quotidien *The Daily Star* se seraient rendus à Marzraa où un immeuble venant de s'effondrer aurait fait quatre victimes. C'est alors que Wael Ladki, photographiant le site de la catastrophe du haut d'un bulldozer, aurait été frappé au visage par plusieurs gendarmes, et Ali Lamaa aurait été brutalement poussé du bulldozer. Le flash de l'appareil photo de Khalil Hassan aurait été endommagé et ses pellicules confisquées par la force.

338. Le 19 novembre 2002, le Rapporteur Spécial a envoyé un appel urgent concernant le cas de la station de télévision Murr TV (MTV) et de la station de radio Radio Mont Liban (RML), appartenant au parlementaire de l'opposition chrétienne Gabriel Murr, qui auraient été fermées le 4 septembre 2002 sur décision du Tribunal des imprimés de Beyrouth. Le jour même, les locaux de MTV et RML auraient été encerclés, fouillés et fermés par les Forces de sécurité intérieure (FSI), sous la tutelle du Ministère de l'intérieur, qui auraient ce faisant brutalement expulsé les employés des deux stations. Le tribunal des imprimés aurait ordonné cette fermeture pour publicité électorale illicite en vertu de l'article 68 de la loi 171 du 6 janvier 2000, disposition qui n'avait jamais encore été appliquée par les tribunaux libanais. Il semblerait que la Cour d'appel du Tribunal des imprimés aurait rejeté le recours formé par MTV et RML le 21 octobre sur la forme et qu'aucun débat sur le fond n'aurait encore eu lieu. Il semblerait que les autorités libanaises auraient en parallèle interdit toute manifestation des opposants à la fermeture de MTV et RML.

339. Le 26 décembre 2002, le Rapporteur Spécial a envoyé un appel urgent, conjointement avec le Président-Rapporteur du Groupe de travail sur les détentions arbitraires, concernant **Hassan Ahmad Al-Nahas**, un homme d'affaires, qui aurait été arrêté le 9 décembre 2002 après qu'on lui aurait distribué des tracts à la mosquée de Saida dans laquelle il priait le 6 décembre. Il semblerait que Mr. Al-Nahas soit détenu au centre d'interrogation de la Sécurité Intérieure de Saida, et n'aurait pas été inculpé.

### **Communications reçues**

340. By letter dated 8 July 2002, the Government replied to the Special Rapporteur's communication of 17 May 2002, indicating that **Ms. Saada Deeb Allao** was referred on 16 April 2002 to the Court of Appeal. It considers publications cases in accordance with article 28 of the Publications Act issued by legislative decree No. 104 of 30 June 1977, as amended, for trial on the basis of articles 12 and 22 of the said decree in conjunction with article 53 of the new Penal Procedure Act and article 35, paragraph 2, of Law No. 382/94 on audiovisual media; and on the basis of article 386 of the Penal Code in conjunction with article 385, paragraph 1, of the Penal Code. The causes of her referral to the said court were, firstly, addressing the merits of a case still under consideration by the examining magistrates and disclosing the secret investigation in a manner affecting the proceedings and leading citizens to express opinions before the conclusion of the investigation. This is an offence subject, if proven, to the provisions of article 12 of the Publications Act and the penalties mentioned therein.

341. Secondly, she cast doubt on the integrity and validity of the system of justice, accusing it of inadequacy and delay in granting rights; this is an offence subject, if proven, to the provisions, including punishment, of article 386 of the Lebanese Penal Code, in conjunction with article 385, paragraph 2, of that code. Lebanese media laws do not allow the precautionary arrest of a journalist in order to prevent publication. Ms. Allao was not arrested and is being tried while at liberty. The proceedings in the case of Ms. Saada Allao are being conducted in a regular manner and in accordance with the established principles. The first public hearing took place on 20 May 2002 in the presence of the defendant, accompanied by her lawyer, Mr. Hasan Awadah. The hearing was also attended by attorney Myrna Jakkour, who had reportedly been retained by the head of the editors' syndicate, Mr. Milhim Karam, to defend Ms. Allao, whom the court decided to accept as defence attorney. At the hearing the prosecutor repeated the charges. The court began by examining the defendant, first explaining to her the charges against her. Attorney Awadah, her lawyer, requested a postponement of the examination until the television videotape had been viewed in a public hearing. After consulting with the prosecution, the court granted Mr. Awadah's request and postponed the hearing until 10 June 2002 in order to view, in a public hearing, the videotape containing the statements which constitute the subject of the complaint, examine the defendant, and proceed with the case. The said hearing was held, at which the videotape was shown and the defendant was examined. The hearing was then postponed until 8 July 2002 to hear the defence.

342. In a 24 October 2002 letter, the Government replied to the two communications of the Special Rapporteur dated 26 July 2002, and indicated that the persons referred to therein had been prosecuted and sentenced by military or judicial tribunals within their competence and in accordance with the laws in force, and that their rights for defense were respected during their prosecution.

### **Observations**

343. Le Rapporteur spécial remercie le Gouvernement pour sa réponse à sa note verbale du 1er juillet 2002 envoyée en vertu du paragraphe 20 de la résolution 2002/48 dans lequel la

Commission des droits de l'homme invite les États "à communiquer au Rapporteur spécial des observations sur leurs programmes et politiques en matière d'accès à l'information aux fins d'éducation sur l'infection par le virus de l'immunodéficience humaine (VIH) et de prévention".

344. Le Rapporteur spécial remercie également le Gouvernement du Liban pour ses réponses à ses communications et sa coopération avec son mandat. Il souhaiterait toutefois obtenir de plus amples informations concernant les cas soulevés dans sa communication du 26 juillet, ainsi que des informations en réponse à ses communications du 19 novembre et du 26 décembre 2002.

## Liberia

### **Communications sent**

345. On 15 February 2002, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on freedom of opinion and expression sent an urgent appeal to the Government of Liberia concerning the arrest of several journalists and the closure of the private publication *The Analyst*, after the Head of State, Charles Taylor, had reportedly declared a state of emergency on 8 February 2002. According to the information received, the Monrovia police reportedly arrested on 13 February 2002 at least four journalists from *The Analyst*, whose premises were reportedly closed by the police. **Stanley Sankor**, the director of the newspaper, and **James Llody**, journalist, were among those detained. The four men were reportedly arrested because of several articles considered against the peace process and have allegedly been detained in a cell at the police station in Monrovia. The Chief of Police, Paul Mulbah, had reportedly mentioned that the articles published were "against peace" and "poisoned the minds of the people".

346. On 30 April 2002, the Special Rapporteur, the Special Rapporteur on extrajudicial, summary or arbitrary execution, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture, the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers jointly sent an urgent appeal to the Government concerning **Tiawan Gongloe**, a human rights lawyer. According to the information received, on 21 April 2002, Mr. Gongloe was stopped in his car by the police and taken to the police headquarters. After briefly being questioned, he was allegedly stripped naked and then severely beaten throughout the night. The police officers allegedly threatened Mr. Gongloe, whom they called a dissident, with death. In the morning, he was reportedly unable to stand or sit. As a result of the treatment he received, Mr. Gongloe had difficulty in hearing from one ear, his left eye was swollen and bloodied and his head and body badly bruised. After pressure from lawyers, the police reportedly brought him to Cooper Hospital where he is said to be receiving treatment. Although no charges have been brought against him, Mr. Gongloe appears to have been arrested in connection with a speech he gave at a conference held in Guinea in March 2002 on peace in the Mano River Union, which was printed in *The Analyst*. Mr. Gongloe's speech dealt with ways in which civil society groups could play a role in the attainment of peace in the Mano River Union, and he also reportedly condemned the use of violence by the State. On the same day as Mr. Gongloe's arrest, the Government reportedly ordered the closure of *The Analyst*. Finally, fears have been expressed that Mr. Gongloe may be at risk of further torture or other forms of ill-treatment in view of the treatment he was allegedly subjected to.



347. In an urgent appeal dated 2 May 2002, the Special Rapporteur reiterated his concern on the reported closure under the state of emergency of the *The Analyst* by the Government on the grounds of national security. Apparently, the newspaper's offices were searched by the police on 26 April 2002. Their subsequent closure was ordered, according to Minister of Information. Reginald Goodridge, in order to undertake an investigation, as the newspaper is suspected of being "an agent for political detractors by inciting the public to create chaos" during the state of emergency. It is also reported that Police Chief Paul Mulbah said that the newspaper might not appear again.

348. On 22 May 2002, the Special Rapporteur sent an urgent appeal to the Government concerning the arrest of **Emmanuel Mondaye**, a reporter for the *Independent Inquirer*. According to the information received, Mr. Mondaye was detained on 11 May 2002, in the provincial city of Gbarnga, by State security forces. He is currently being held at the National Police Headquarters in the capital, Monrovia. Although no charges have been brought against him, Mr. Mondaye appears to have been arrested on his way to the city to report on fighting between Government forces and the Liberians United for Reconciliation and Democracy (LURD). It was reported that in towns close to Gbarnga, journalists were allegedly prevented from going beyond the Po River.

349. On 27 June 2002, the Special Rapporteur and the Special Rapporteur on torture sent a joint urgent appeal to the Government regarding **Hassan Bility**, editor of the *Analyst*, a newspaper that has allegedly been closed down twice in the past as a result of writing and publishing articles deemed critical of the Government. Mr. Bility was reportedly arrested on 24 June 2002, along with three other persons, by two men who are believed to belong to the Criminal Investigation Division of the Liberia National Police. At the time of his arrest, Mr. Bility was reportedly slapped and kicked before being shoved into a car and driven away. He is now allegedly held in incommunicado detention. He was apparently arrested on suspicion of operating a LURD terrorist cell in Monrovia. It is reported that he had been arrested, questioned and detained twice in the past and that on 13 May 2002 he received a death threat by telephone from a colonel of the Liberian National Police who accused him of writing against President Taylor. According to the information received, this threat came in relation to a speech by Taiwan Gongloe which was considered as threatening to the Government and its national security (see above).

350. On 12 July 2002, the Special Rapporteur and the Special Rapporteur on torture reiterated their urgent appeal in connection with the case of Hassan Bility, who had allegedly disappeared from State custody. According to information received, on 2 July, State lawyers failed for the second time to produce Mr. Bility for trial, claiming that he was not in State custody, although Information Minister Goodridge reportedly said on 25 June that Mr. Bility was undergoing investigation at the national security agency.

351. In his letter dated 26 July 2002, the Special Rapporteur drew the attention of the Government to the arrest, on 4 July 2002, of **Bobby Tapson** and **Sherrif Adams**, respectively senior reporter and judicial reporter for the newspaper *The News*, for their alleged role in an article entitled "Terror descends on Monrovia". According to the

information received, the report stated that dead bodies were being discovered on the streets of the capital. Apparently, after spending more than an hour in police custody, they were released after officials realized they were not involved in publishing the story. Subsequently, **George Bardue** and **Jerome Dalieh**, respectively reporter and editor at *The News*, were reportedly summoned to police headquarters to answer questions about their involvement in the news report. They were held for more than two hours before being released.

352. On 30 September 2002, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal regarding **Sheikh K.M. Sackor**, the Executive Director of Humanist Watch, a human rights non-governmental organization, who was arrested on 25 July 2002 and whose whereabouts have since then remained undisclosed. At the same time, the Special Rapporteurs reiterated their concern for the situation of Hassan Bility, who by then had been detained incommunicado for more than three months. While reports suggest that he had been moved to various places of detention, the authorities have consistently failed to make public where he is being held. Mr. Bility, who suffers from malaria, is allegedly still being denied access to medical care. **Mohammad Kamara** and **Ansumana Kamara**, who were reportedly arrested together with Mr. Bility on 24 June, are believed to be imprisoned at the National Security Agency, an official place of detention in Monrovia, where they have apparently been able to receive visits from their families. All four men have reportedly been accused of belonging to LURD. It is alleged that none of them has, however, been charged with any offence. Writs of habeas corpus filed by their lawyers have been blatantly disregarded. All four are now said to be under military jurisdiction for trial. In the same letter, the Special Rapporteur stated that he had received reliable information concerning the release without charge of **Moriah Sando Nyenetue** in early September. At the time of her arrest on 20 August, fears had been expressed that she may have been detained solely because of her connection with Hassan Bility.

### **Communication received**

353. On 18 February 2002, the Government of Liberia sent a reply to the Special Rapporteur concerning his urgent appeal dated 15 February. The Government stated that the information received by the Special Rapporteur was inaccurate as the journalists Stanley Sankor and James Lloyd had been questioned by the police on 13 February and released the same day. The Government also stated that there were no journalists detained by security forces belonging to the Government. Finally, it was emphasized that in accordance with article 87 of the Constitution of Liberia, "the writ of habeas corpus shall remain available and exercisable at all times and shall not be suspended on account of any state of emergency."

### **Observation**

354. The Special Rapporteur thanks the Government of Liberia for its communication, but awaits further response concerning his numerous communications.

## Libyan Arab Jamahiriya

### **Communication sent**

355. On 25 November 2002, the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint appeal to the Government of the Libyan Arab Jamahiriya regarding **Fathi el-Gahmi**, former Governor of Gulf Province. According to the information received, Mr. el-Gahmi was arrested in October 2002 by the security services and is currently detained without formal charges. It is alleged that his detention might be related to his advocacy activities for democracy and free speech.

### **Observations**

356. The Special Rapporteur regrets that no response has been provided to date.

## Madagascar

### **Communication envoyée**

357. Le 27 mai 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a adressé un appel urgent au Gouvernement de Madagascar concernant **Ali Sarety**, le responsable à Ambanja, dans la province d'Antsiranana (Diégo-Suarez), du comité de soutien à Marc Ravalomanana, le candidat présidentiel déclaré élu le 29 avril 2002. Ali Sarety aurait été arrêté par des membres de la sécurité du président sortant, Didier Ratsiraka, le 11 avril en compagnie de deux de ses gardes du corps. Il aurait par la suite été emmené au camp de gendarmerie Pardes, à Antsiranana, où il aurait été détenu jusqu'au 17 mai. Il y aurait été détenu sans avoir été inculqué en compagnie de 18 autres personnes arrêtées dans la province d'Antsiranana. Le tribunal de première instance de Diégo n'aurait trouvé aucun motif pour les inculper. Selon les renseignements reçus, Ali Sarety et ses deux gardes du corps auraient alors été transférés à Ambanja le 17 mai. Le tribunal de première instance d'Ambanja aurait ordonné la relaxe des deux gardes du corps et aurait inculqué Ali Sarety de possession illégale d'armes. Il serait actuellement traité au centre médicochirurgical de Saint-Damien, pour des problèmes neurologiques, probablement dus aux coups qu'il aurait reçus au moment de son arrestation. Seule l'intervention d'un spécialiste d'Antananarivo pourrait permettre un traitement médical adéquat. Les autorités locales refuseraient toutefois son transfert dans la capitale. Des craintes ont été exprimées quant à son état de santé s'il ne peut être examiné par un neurologue spécialisé.

### **Observations**

358. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à sa communication.

## Malawi

### **Communications sent**

359. On 1 July 2002, the Special Rapporteur sent an urgent appeal to the Government concerning reports that the Malawi Communications Regulatory Authority (MACRA) has warned the *Malawi Institute of Journalism* radio station (MIJ FM), a community radio used to train students, that it risks losing its broadcasting licence because of what MACRA describes as anomalies and bias in MIJ FM reporting. According to the information received, a letter dated 13 June 2002 from MACRA Director-General Evance Namanja accused MIJ FM of broadcasting editorial comments, newscasts, programmes and general coverage inconsistent with the provisions of the Communications Act and the station's broadcasting licence. However, it is reported that its licence requires the radio station to protect the interests of the community, encourage new and innovative programmes and promote community access to information, and that no clarification has been given as to what is meant by "anomalies" referred to in the letter.

360. On 26 July 2002, the Special Rapporteur drew the attention of the Government to information concerning the intervention, on 20 June 2002, of the police in the city of Blantyre to stop a series of public debates organized by the Lilongwe Press Club to discuss the proposed amendment to the Malawi Constitution regarding the limits on the President's term in office. According to the information received, the debates were supposed to be held in the three regional centres of Blantyre (South - 20 June), Lilongwe (Central - 21 June) and Mzuzu (North - 23 June) under the theme "The merits and demerits of changing section 83(3) of the Malawi Constitution". It is reported that 30 heavily armed paramilitary police accompanied by armoured vehicles sealed the Blantyre venue barely an hour before the debate, and turned away anyone who arrived. It is also reported that in parallel, Press Club Secretary-General Peter Kumwenda was called to the office of the manager of the Lilongwe Hotel, where two policewomen told him that the Lilongwe debate had been cancelled because it was a "threat to security", and that the issue would be discussed in Parliament and not at public debates. After an argument, the policewomen reportedly took Mr. Kumwenda to their regional office where Police Commissioner Lot Dzonzi and a Central Region commissioner confirmed the information given earlier by the policewomen.

### **Observation**

361. The Special Rapporteur regrets that he has not yet received any reply from the Government of Malawi.

## **Malaysia**

### **Communications sent**

362. On 6 May 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the reported arrest of 18 people near the Sheraton Kuala Lumpur. According to information received, 16 among them were reportedly held at Campbell Police Station, Kuala Lumpur, including three people from the organization *Alaigal*, namely **Ms. Mohanarani**, **Dr. Kumar Devaraj** and **Nathan**, the chairperson of the Livestock Committee Bukit Tinggi Estate, **A. Devindran**, three members of the Party Sosialis Malaysia, **Dr. Nasir Hashim** (President), **V. Selvam** (Central Committee; Indah Water Union Executive Secretary)

and **K. Ramasamy** (Chairperson of the Subang branch), five persons from the Plantation Workers Support Committee, **Sivami Subramaniam**, **Sevan Doraisamy**, **Vankat Rao Naidu**, **Eswaran Sengalrayan**, and **Ravi Chandran Muniandy**, two members from SUARAM, **S. Arutchelvan** (Coordinator) and **Choo Shin Chei**, and three members from WIMTECH, **Lee Siew Hwa**, **Shaharuddin Adnan** (video documentary-maker) and **Abdul Rahman Abdul Aziz**. The eighteenth person is allegedly an 8-year-old boy. On 1 May 2002, 150 people reportedly took part in the annual May Day march, which began in Chow Kit and was scheduled to end in Kuala Lumpur City Centre. After the demonstrators had walked for approximately 1.5 kilometres, a group of police officers from the Dang Wangi district are said to have attacked the assembled crowd, targeting the negotiators who were present at the front of the march. Several demonstrators were said to have been hurt. The police reportedly attempted to prevent demonstrators from getting into buses parked nearby when the attack began. An hour later, the buses were allegedly allowed to drive the demonstrators away, but negotiators were said to have been arrested.

363. On 30 September 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Min Wan Mat**, a 42-year-old former university lecturer at Malaysia Technology University (Universiti Teknologi Malaysia), who was reportedly arrested by the police on 27 September 2002 under the Internal Security Act (ISA). It is not known where he is being held and whether he has access to family or legal representation. The police are said to claim that Wan Min Wan Mat is a local leader of the Malaysian Militant Group (Kumpulan Militan Malaysia, KMM), which has allegedly links with the Islamist group Jemaah Islamiyah (JI), which is said to have plans to create a regional Islamic State through the use of force.

### **Communications received**

364. On 12 April 2002, the Government sent a letter replying to the Special Rapporteur's communication of 12 October 2001 concerning **Khairuddin Saad**, **Zulkifli**, **Mohamad Zulkifli**, **Mohd Zulkifli Mohd Zakaria**, **Mohd Salleh Said** and **Hazami Ishak**, indicating that they were arrested on 10 October 2001 under section 73(1) of the Internal Security Act (ISA) of 1960, as the police had credible grounds to believe that they were involved in militant activities that could threaten public order and internal security as members of the Mujahidin Group of Malaysia (Kumpulan Mujahidin Malaysia, KMM), which has been involved in unlawful acts to overthrow the Government by force. The six people were being detained at the Taiping Detention Centre for a period of two years pursuant to an order issued by the Home Minister under section 8(1) of Act 82.

365. In a letter dated 25 June 2002, the Government replied to the Special Rapporteur's communication of 17 November 2001 concerning **Dr. Badrul Amin Baharon**, indicating that he was arrested on 20 April 2001 and formally detained under section 8(1) of the ISA, on the ground of threat to national security. The due process of law has been respected in the arrest and the detention. On 3 November 2001, Dr. Badrul Amin Baharon made a representation to the Advisory Board, whereby his detention order was suspended in accordance with section 10 of the ISA and he was released from the Kamunting Detention Centre and placed under restricted

residence in Gombak District in Selangor in accordance with section 8(5) of the Act. There has been no evidence to substantiate allegations of mistreatment of the detainee during that period.

366. On 14 August 2002, the Government replied to the Special Rapporteur's communication of 6 May 2002 concerning **Ms. Mohanarani, Dr. Kumar Devaraj, Nathan, A. Devindran, Dr. Nasir Hashim, V. Selvam, K. Ramasamy, Sivami Subramaniam, Sevan Doraisamy, Vankat Rao Naidu, Eswaran Sengalrayan, Ravi Chandran Muniandy, S. Arutchelvan, Choo Shin Chei, Lee Siew Hwa, Shaharuddin Adnan and Abdul Rahman Abdul Aziz**. The 17 people were arrested by the Royal Malaysian Police personnel from Dang Wangi police station for having organized and participated in two illegal gatherings in Kuala Lumpur on 1 May 2002, and for having refused to disperse after repeated police orders to do so, under the Police Act 1967. There were no children arrested during the incident. The two gatherings were illegal, as the organizers failed to obtain the necessary police permit and as the gatherings disrupted the traffic and threatened public order. The 17 people were taken to the Dang Wangi Police Station for interrogation and investigations and were all released on bail on 2 May until 15 June when they were supposed to present themselves for further investigation. Although none of them turned up on that date, no action was taken against them, and the police transmitted their reports to the Deputy Public Prosecutor for follow-up. On 16 May, three of the arrested people, Mohanarani Rasiah, Dr. Mohd Nasir Hashim and Arutchelvan Subramaniam launched three separate police reports at Tun H.S. Lee police station and their complaints were made into Wangsa Maju Report 3653/02 and Dang Wangi Reports 12892/02 and 12893/02, which are under investigation by the Headquarters of the Royal Malaysia Police in Bukit Aman, Kuala Lumpur.

### **Observations**

367. The Special Rapporteur thanks the Government of Malaysia for its replies and willingness to cooperate with his mandate, but he awaits further response to his communication dated 30 September 2002.

## **Maldives**

### **Communication sent**

368. On 12 February 2002, the Special Rapporteur sent an urgent appeal to the Government, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Mohamed Zaki, Ismail Zaki, Ibrahim Luthfee, Naushad Waheed and two students**, who were reportedly arrested in Malé because of their alleged involvement in an Internet bulletin, *Sandhaanu*, reportedly containing articles critical of the Government. Mohamed and Ismail Zaki and Ibrahim Luthfee were reportedly arrested on 31 January 2002, and it is reported that during Mohamed Zaki's arrest, the police searched his home and took away his computer. Naushad Waheed and the two students were reportedly arrested on 9 December 2001. All the above-named, except Ibrahim Luthfee, are believed to be held in incommunicado detention and without charge at the Dhoonidhoo detention centre, on a small island approximately 5 kilometres from Malé. Ibrahim Luthfee's whereabouts are reportedly unknown.

### **Communications received**

369. In a 1 December 2002 letter, the Government replied to the Special Rapporteur's communication of 12 February 2002, indicating that the persons mentioned in the communication have not filed any complaints to any authority or court in the country although such complaints mechanisms exist for detained people, and therefore the allegations are false and baseless. Concerning **Mohamed Nasheed**, he was arrested for the theft of government property, charged under the Penal Code, tried in an open and fair trial and was found guilty as charged. He appealed his case to the High Court, which upheld the verdict of the Criminal Court. **Mohamed Zaki, Ibrahim Moosa Luthufee, Ahmed Didi and Fatimah Nisreen** were arrested for offences under the Penal Code; they were charged accordingly, tried in an open and fair trial and found guilty by the Criminal Court for having engaged in unlawful, illegal and subversive activities against the Government and defamation and other criminal offences.

### **Observations**

370. The Special Rapporteur thanks the Government of the Republic of Maldives for its reply and willingness to cooperate with his mandate.

## **Mauritania**

### **Communications envoyées**

371. Le 17 avril 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, a envoyé un appel urgent au Gouvernement de Mauritanie concernant **Mohammed Baba Ould Said, Bechir Ould El Hassen et Mohammed Fall Oumere**. Selon les informations reçues, Mohammed Baba Ould Said, résidant en France et en visite en Mauritanie, et Bechir Ould El Hassen, un homme d'affaires, auraient été arrêtés le 12 avril 2002 par la Direction de la sûreté de l'État, sous l'accusation d'implication dans la création d'un réseau de Conscience et résistance, un mouvement politique clandestin dont les dirigeants seraient basés hors de Mauritanie. Selon les mêmes informations, Mohammed Fall Oumere, directeur du journal *La Tribune*, aurait été arrêté le 13 avril 2002 dans la ville de Boutilimitt et transféré immédiatement à Nouakchott, après que *La Tribune* eut publié un article sur la visite en Mauritanie d'un dirigeant de Conscience et résistance. Ces trois personnes seraient détenues au secret au siège de la Direction de la sûreté de l'État à Nouakchott.

372. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur le cas du numéro 165 de l'hebdomadaire *La Tribune*, qui aurait été censuré par les autorités. Selon les informations reçues, ce numéro, daté du 2 juillet 2002, n'aurait pas obtenu l'autorisation d'impression du Ministère de l'intérieur, en vertu de l'article 11 de la loi sur la presse de 1991, selon lequel le Ministère de l'intérieur peut, par arrêté, «interdire la circulation, la distribution ou la vente de journaux qui portent atteinte à la crédibilité de l'État». Dans un tel cas, le Ministère n'est pas, apparemment, tenu de justifier sa décision et il lui suffit de transmettre au journal et à l'imprimerie une notification écrite. Il semblerait que cette censure soit liée à la présence dans cette édition d'un article intitulé «Élections du Conseil de l'ordre», qui critiquait la façon dont

s'était déroulée, le 27 juin, l'élection du bâtonnier de l'ordre national des avocats, en relatant la tentative avortée des autorités de saboter la victoire du candidat sortant, Mahfoudh Ould Bettah.

### **Observations**

373. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse aux deux communications transmises au Gouvernement mauritanien.

## **Mexico**

### **Comunicaciones enviadas**

374. El 21 de mayo de 2002, el Relator Especial envió un llamamiento urgente sobre los casos de **Alejandro Junco de la Vega**, presidente y editor del periódico *Reforma*, **Enrique I. Gómez**, periodista y **Humberto Padgett**, periodista. Los tres interesados habrían sido acusados de difamación como consecuencia de la difusión de un artículo que habría mencionado que Carlos Galán Domínguez, miembro de la Cámara de Diputados Mexicana, habría recibido pagos indebidos. El artículo destacó el hecho de que el Sr. Galán habría negado haber recibido los bonos. El Señor Galán habría denunciado los Sres. Junco de la Vega, Gómez y Padgett por difamación. En caso de condena, los Sres. Junco de la Vega, Gómez y Padgett podrían enfrentar una pena de hasta tres años de prisión.

375. El 24 de julio de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente acerca de la situación de: **Jesús Navarrete Castellanos**, sindicalista; **Evangelista Castellanos**, sindicalista y hermana del anterior; y **Axel Rivero Navarrete**, de trece años de edad y hijo de Jesús Navarrete Castellanos. Estas personas y sus familiares parecen haber sufrido diversos actos de hostigamiento y amenazas por su pertenencia al sindicato Coordinación Nacional de Electricistas (CNE), del cual los dos primeros son dirigentes. El Sr. Navarrete Castellanos habría sido amenazado el 28 de mayo por un dirigente del SUTRUM. El 12 de junio, Evangelina Castellanos habría recibido diversas llamadas telefónicas en su centro de trabajo, en las que se le decía que fuera inmediatamente al colegio de su hija porque algo serio le había sucedido. El 14 de junio, el hijo de 13 años de Navarrete Castellanos habría sido asaltado y despojado de las llaves de su casa y amenazado de muerte si contaba lo acontecido. El 17 de julio, un dirigente del SUTRUM habría amenazado a Jesús Navarrete Castellanos diciéndole: "No esté tan tranquilo. Podemos llegar a su casa". El 26 de junio, Axel Rivero Navarrete habría sido seguido al salir de la escuela con algunos amigos, por individuos que se desplazaban en una camioneta con vidrios polarizados. El 28 de junio un dirigente del SUTRUM recomendó a los miembros y simpatizantes de la CNE que debían cuidarse. Estas amenazas e incidentes habrían sido denunciados desde mayo de 2002 ante la Procuraduría General de Justicia del Distrito Federal (PGJDF), la cual sin embargo no parece haber iniciado ninguna investigación y ni siquiera habría contactado a las personas amenazadas.

376. Con fecha 26 de julio de 2002, el Relator Especial envió una comunicación expresando preocupación por presuntos casos de violaciones del derecho a la libertad de opinión y de expresión. El 3 de abril de 2002, la sede del semanario *Páginas* en Tuxtla Gutiérrez, Chiapas, habría recibido disparos de algunos individuos que también habrían amenazado al personal del



periódico. Se habría presentado una denuncia penal ante la Procuraduría General de Justicia de Chiapas y ante la Comisión Estatal de Derechos Humanos de Chiapas. **Fredy Martín Pérez López**, corresponsal del diario *El Universal* y de la agencia italiana ANSA, habría sido agredido supuestamente por agentes de policía, en San Cristóbal de las Casas, cuando asistía a enfrentamientos entre agentes de policía y la población indígena. **María Esther Martínez**, del diario *La Unión de Morelos*, habría sido detenida en la ciudad de Xochitepec el 11 de marzo de 2002. Acusada de “difamación” después de haber criticado a la Procuraduría del Estado y la Policía Ministerial, habría sido liberada el mismo día. **Raquel Urbán Hernández**, del semanario *Reporteros Informando*, que se edita en la ciudad de Ecatepec, habría sido detenida el 1 de abril de 2002, supuestamente a raíz de la denuncia por “difamación” presentada en enero de 2002 por Alejandro Gamiño Palacios legislador del Partido de Acción Nacional (PAN), en consecuencia de la publicación de la periodista sobre la presunta implicación del legislador en un caso de violación de un menor. La Sra. Urbán Hernández habría sido liberada el mismo día después de pagar una fianza de 2200 pesos.

### **Comunicaciones recibidas**

377. Por carta fechada el 14 de agosto de 2002, el Gobierno de México contestó a la comunicación del 21 de mayo de 2002. El Gobierno informó de que la Comisión Estatal de Derechos Humanos ha estado atenta al desarrollo de la denuncia interpuesta por el diputado Carlos Galán en contra de los señores **Junco de la Vega, Gómez Ordóñez y Padget**, observando que en todo momento las autoridades involucradas respeten el estado de derecho y que no se vea coartada la libertad de expresión.

378. El Relator Especial recibió una comunicación fechada el 11 de noviembre de 2002, en la cual el Gobierno de México contestó a la comunicación del 24 de julio de 2002. El Gobierno informó de que la Procuraduría General de Justicia del Distrito Federal (PGJDF) a continuación de la denuncia del Sr. **Jesús Navarrete Castellanos** por el delito de amenazas, libró un citatorio al Sr. Fuentes de Villar para que se presentara ante la PGJDF y que sin embargo el Sr. Fuentes del Villar no se había presentado todavía. El Gobierno añadió que están pendientes las siguientes diligencias a realizar: librar orden de presentación al Sr. Fuentes del Villar; esperar que el querellante presente sus testigos de los hechos y ratifique su escrito; y esperar información de psicología y las diligencias que se desprendan de éstas.

379. Por carta de fecha 19 de noviembre de 2002, el Gobierno contestó a la comunicación enviada en fecha 26 de julio de 2002, afirmando que algunos hechos resumidos en esta comunicación no son exactos. El Gobierno informó de que la Sra. **Raquel Urbán Hernández** no fue detenida de manera arbitraria o como acto de restricción a su libertad de expresión, sino con base en que las autoridades competentes encontraron elementos suficientes para considerarla presunta responsable del delito de calumnias cometido en agravio del Sr. Alejandro José Gamiño Palacios. El Gobierno añadió que fue dictado auto de libertad a la Sra. Raquel Urbán y que sigue en trámite el proceso judicial para determinar de manera definitiva su responsabilidad o su inocencia. En lo que se refiere al caso de la Sra. **María Esther Martínez Sotelo**, el Gobierno informó de que no fue detenida por haber criticado a la Procuraduría General de Justicia del Estado de Morelos, ni a la Policía Ministerial de esa entidad, sino por su probable responsabilidad en la comisión de delitos de difamación y calumnias en contra de Urss Minerva

Castillo Núñez. El Gobierno precisó que el proceso penal en contra de la Sra. Martínez Sotelo aún se encuentra abierto.

### **Observaciones**

380. El Relator Especial da las gracias al Gobierno de México por sus respuestas.

381. El Relator Especial quisiera agradecer al Gobierno por su respuesta a la nota verbal del 1 de Julio 2002, enviada de conformidad con el párrafo 20 de resolución 2002/48 en el que la Comisión de Derechos Humanos invita a los Estados " a que presenten al Relator Especial observaciones sobre sus programas y políticas relativos al acceso a la información con fines de educación y prevención respecto de la infección por el virus de inmunodeficiencia humana (VIH)".

## **Morocco**

### **Communication envoyée**

382. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur le cas de l'hebdomadaire français *VSD*, qui aurait fait l'objet de censure. Selon les informations reçues par le Rapporteur, le numéro du 7 mars 2002 de *VSD* n'aurait pas été distribué dans les kiosques marocains, car il aurait été retenu par la société de distribution Sochepresse. Il semblerait que cela soit lié à la publication dans ce numéro d'un dossier de plusieurs pages intitulé «L'homme qui ne veut pas être roi», qui dressait un portrait sans complaisance du roi et un bilan critique de plus de deux ans de règne. Le Rapporteur a été également informé que, le 12 mars 2002, le Parlement aurait approuvé le nouveau Code de la presse, qui, selon les informations reçues, maintiendrait la possibilité de condamner des journalistes à des peines pouvant aller jusqu'à cinq ans d'emprisonnement pour un délit de presse, y compris pour insulte contre le roi et la famille royale. Il semblerait également que l'article 29 du nouveau code permet au Gouvernement d'interdire les journaux marocains et étrangers s'ils portent atteinte à l'islam, la monarchie, l'intégrité territoriale du pays ou l'ordre public.

### **Communications reçues**

383. Le 2 janvier 2002, le Gouvernement a envoyé au Rapporteur spécial une réponse à sa lettre du 2 novembre 2001 concernant Ali Lmrabet, directeur de publication de l'hebdomadaire *Demain Magazine*. Le Gouvernement affirme qu'Ali Lmrabet a été poursuivi en vertu de l'article 42 du Code de la presse et condamné le 21 novembre 2001 par le tribunal de première instance de Rabat à une peine de quatre mois de prison fermes et une amende de 30 000 dirhams pour «diffusion de fausses informations portant atteinte à l'ordre public ou susceptibles de lui porter atteinte». L'intéressé a été poursuivi pour avoir publié de fausses informations sur la vente des palais royaux à l'État par feu le roi Hassan II et sur la mise en vente du palais de Skhirat par le roi Mohammed IV. L'affaire se trouve actuellement en appel.

384. Dans une lettre datée du 26 février 2002 traitant la même affaire, le Gouvernement a ajouté que, en application de l'article 76 du Code de la presse, le procureur général a ordonné

l'interdiction de la publication de l'hebdomadaire en question et ce, après le délai de 15 jours prévu à l'article susvisé, étant donné qu'Ali Lmrabet ne s'est pas acquitté du montant de l'amende à laquelle il a été condamné.

385. Le 6 mars 2002, le Gouvernement a envoyé au Rapporteur spécial et au Président-Rapporteur du Groupe de travail sur la détention arbitraire une réponse à leur appel urgent du 29 novembre 2001 au sujet des manifestations ayant eu lieu le 17 novembre 2001 dans la ville de Smara. Le Gouvernement a indiqué que la police judiciaire a pu identifier les responsables de graves actes de vandalisme et une procédure d'enquête préliminaire a pu être réalisée. Suite à quoi, 15 personnes ont été arrêtées. Le Gouvernement souligne que toutes les personnes ayant commis les actes susmentionnés sont majeures et bénéficient d'un procès où toutes les garanties juridiques sont assurées.

386. Dans une lettre du 25 mars 2002, le Gouvernement a fourni des informations complémentaires au sujet des manifestations du 17 novembre 2001 dans la ville de Smara. Les opérations visant à mettre la main sur les auteurs de troubles ont été effectuées par les forces de sécurité, mais la présence des hommes des Forces armées royales n'a pas été établie. Aucune plainte ou dénonciation émanant des victimes ou de leurs défenseurs et faisant état de torture n'a été communiquée au parquet, à l'exception de quelques plaintes émanant des familles des personnes inculpées. En outre, le juge d'instruction n'a constaté sur ces personnes la présence d'aucune trace pouvant résulter d'actes de torture. Le Gouvernement a ajouté que la plupart des perquisitions ont été opérées en toute légalité et le parquet n'a enregistré aucune plainte à ce sujet.

387. Le 21 novembre 2002, le Gouvernement a envoyé une réponse à la lettre du Rapporteur spécial concernant l'hebdomadaire français *VSD* qui avait fait, en mars 2002, l'objet de censure à cause d'un article sur le roi Mohammed IV. Le Gouvernement a indiqué que la censure de l'hebdomadaire *VSD* avait été permise par l'application de la loi du 15 novembre 1958, notamment ses chapitres 29 et 30, sur la presse. Cet instrument juridique a été par ailleurs réformé par le nouveau code de la presse adopté par le Parlement le 12 mars 2002, qui, en effet, maintient la possibilité de condamner des journalistes à des peines pouvant aller jusqu'à cinq ans d'emprisonnement pour des délits graves, comme la diffamation, contre des sujets sacro-saints pour l'État marocain.

### **Observations**

388. Le Rapporteur spécial remercie le Gouvernement pour ses correspondances. Il remercie également le Gouvernement pour sa réponse à sa note verbale du 1er juillet 2002 envoyée en vertu du paragraphe 20 de la résolution 2002/48 dans lequel la Commission des droits de l'homme invite les Etats "à communiquer au Rapporteur spécial des observations sur leurs programmes et politiques en matière d'accès à l'information aux fins d'éducation sur l'infection par le virus de l'immunodéficience humaine (VIH) et de prévention". Malheureusement, aucune référence à cette réponse n'a pu être mentionnée dans le rapport E/CN.4/2003/67 déjà établi à la réception de la lettre.

### **Myanmar**

### **Communications sent**

389. On 1 February 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Dr. Salai Than Tun**, retired rector of Yezin University, who was reportedly detained in December 2001 while distributing petitions calling the military Government to return power to civilian rule. He was allegedly handing out copies of his petition in front of Yangon Town Hall in his academic gown when he was arrested.

390. On 14 June 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Khin Maung Win (Sunny)**, a photographer and cameraman, who was reportedly transferred on 21 May 2002 to an undisclosed destination by Kalay prison's authorities, after he, together with Khun Myint Tun, an elected Member of Parliament of the National League for Democracy (NLD) and at least 25 prisoners held on alleged political charges were found guilty of starting a hunger strike in support of their demands for the release of all prisoners held on alleged political charges. It is reported that a protest movement had started on 16 May in that prison - where Sunny has been held since August 1997 after being sentenced to seven years' imprisonment for his part in making a video of an interview with Aung San Suu Kyi and smuggling it out of the country.

391. On 26 July 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture and the Special Rapporteur on the situation of human rights in Myanmar, concerning **U Win Tin**, a journalist serving the thirteenth year of a 20-year sentence for various subversion charges, including anti-government propaganda, in Yangon's Insein prison. According to information received, the health of U Win Tin was seriously deteriorating and he was not provided with the medications recommended by the prison doctor.

392. On 26 July 2002, the Special Rapporteur also sent a communication to the Government concerning reports that the Myanmar State Peace and Development Council (SPDC) issued an order prohibiting the press in Myanmar from referring to Thailand and to the term "Yodaya" or from publishing Thai advertisements, meaning that some publications will be forced to close down.

393. In the same communication, the Special Rapporteur also transmitted the case of the reported ban on 22 May 2002 by the Literary Scrutiny Board of the publication of the magazines *Living Color*, *Mhyar Nat Maung Mingalar* and *Kyi Pwar Yee* for the month of June. According to information received, the magazine *Living Color* published an advertisement of the MK Billiard Company, which is apparently in conflict with the Ministry of Sports. The magazine *Kyi Pwar Yee* used the word "Yodaya" in its latest issue, and *Mhyar Nat Maung Mingalar* published an advertisement on a page of the magazine that is usually reserved for SPDC propaganda.

394. In the same communication, the Special Rapporteur referred to the alleged ban on 12 July 2002 of 15 Thai journalists, reportedly working for the newspapers *The Nation*, *Bangkok Post*, *Thai Rath*, *Thai News*, *Daily News*, *Siam Rath*, *Matichon*, *Khao Sod* and an unidentified radio station, accused of propaganda against the authorities and of writing articles critical of the

Government of Myanmar which aim at damaging bilateral relations between Thailand and Myanmar, promote disunity among ethnic groups and belittle the policies of the SPDC.

### **Communications received**

395. On 21 March 2002, the Government replied to the Special Rapporteur's communication of 1 February 2002, indicating that **Dr. Salai Tun Than** was detained on 29 November 2001 for shouting anti-government statements at the Bandoola Park in Yangon, and for distributing seditious pamphlets in order to create public disorder and unrest. He was given a fair trial and after completion of the legal proceedings, was found guilty and sentenced on 5 February 2002 to seven years' imprisonment under section 5 (j) of the Emergency Provisions Act.

396. On 23 September 2002, the Government replied to the Special Rapporteur's communication dated 26 July 2002 concerning **U Win Tin** and indicated that he is serving three separate sentences at the Insein prison: a first three-year sentence dating from 3 October 1989 for abetting and hiding a person guilty of an illegal abortion and absconding from the law; a second 10-year imprisonment and hard labour sentence on 28 May 1001 by the Yangon Division Military Tribunal No. 4 for seditious statements under the Emergency Act; and a third seven-year sentence on 28 March 1996 under the Emergency Act for writing anti-government articles while he was in jail. He was admitted on 26 July 2001 to the prison ward of the Yangon General Hospital for heart problems and was discharged on 20 February 2002 after the medical doctor indicated that he did not need to be admitted in hospital. He is regularly visited by his family, has access to newspapers and was sent on 29 March 2002 to the Japanese Hospital in Yangon for consultations. He is allowed to take the prescribed medicine, and his health has improved and is now normal. Due to his age, U Win Tin has been allowed to stay in the prison ward of the General Hospital.

397. On 31 October 2002, the Government replied to the Special Rapporteur's communication dated 14 June, indicating that **Khin Maung Win (Sunny)** was sentenced on 15 August 1997 to seven years' imprisonment under article 5 (j) of the Emergency Provisions Act for making connection between the KNU insurgents and Daw Suu Kyi and collecting funds for the insurgents. He went on a hunger strike on 16 May 2002 in Kalay prison, but voluntarily stopped the strike the next day. He was transferred to Loikaw prison on 21 May 2002 in the context of an internal shuffle of prisoners by the Prison Department, and is regularly visited by the Myanmar Red Cross Society.

### **Observations**

398. The Special Rapporteur thanks the Government of Myanmar for its replies and willingness to cooperate with his mandate. However, he awaits further response to his communication of 26 July 2002.

## **Nepal**

### **Communications sent**

399. On 30 January 2002, the Special Rapporteur sent an urgent appeal concerning **Mrs. Anuradha Paudyal**, a journalist with the *Space Time Daily*, who was reportedly arrested on 19 January 2002 after a group of police and military searched her house in Katmandu for two hours without a warrant, allegedly for being suspected of supporting Maoists rebels.

400. On 5 February 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Bijay Raj Acharya**, publisher of the *Srijanashil Prakashan*, who was reportedly arrested at his home in Kathmandu on 9 January 2002 by a joint team of army and police officers and had his home searched and books taken away, allegedly on suspicion that through his work he may be supporting the aims of the Communist Party of Nepal (CPN - Maoist). It is reported that he was first taken to Singha Durbar police station in Kathmandu and transferred the next day to the Balaju Army Barracks where he was allegedly blindfolded, had his hands and legs tied and was subjected to electric shock treatment. After two days, he was reportedly transferred to Hanuman Dhoka police station, where he was permitted a visit from his relatives.

401. On 12 March 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention with respect to reports that on the evening of 3 March 2002, a dozen individuals abducted **Gopal Budhathoki**, editor of the weekly *Sanghu*, while he was returning to his home, after he was stopped by army vehicles. On 6 March 2002, the Prime Minister reportedly announced that the journalist had been arrested because the newspaper *Sanghu* had repeatedly published "fabricated" articles about the security forces for the sole purpose of "spreading rumours and demoralizing the army", notably about some financial irregularities related to helicopter purchases made by the Nepalese Army. The Prime Minister is said to have added that "publishing information of this kind is equivalent to directly collaborating with the terrorists". It is reported that the journalist was jailed probably in an army barracks and was not allowed to see his wife, Ram Kala Budhathoki.

402. On 21 March 2002, the Special Rapporteur sent an urgent appeal, jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on torture and the Special Representative on the situation of human rights defenders, regarding the reported arrest of **Shyam Shrestha**, editor of *Mulyankan Monthly*, **Dr. Mahesh Maskey**, a member of the central coordination committee of the Intellectuals' Solidarity Group, and **Pramod Kafle**, chairperson of the Group for International Solidarity (GRINSO-Nepal). They were reportedly stopped and detained on 16 March 2002 at 1 p.m. at the Tribhuvan International Airport (TIA) in Kathmandu by security personnel, while boarding a flight to New Delhi to take part in a conference on the current conflict between Maoist rebels and the Nepalese government. Although the military authorities acknowledged that they were in army custody in Kathmandu, their whereabouts were unknown at the time the communication was sent, and their families were not allowed to see them.

403. On 30 April 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture concerning the reported arrest on 26 November 2001 of the following journalists under the Terrorist and Disruptive Activities (Prevention and Control) Ordinance, 2001: **Om Sharma**, editor of the *Janadisha Daily*, **Govinda Acharya**, **Khil Bahadur Bhandari** and **Deepak**

**Sapkota**, respectively editor, executive editor and reporter for the *Janadesh Weekly*, and **Ishwor Chandra Gyawali** and **Manarishi Dhital**, respectively executive editor and reporter for the *Dishabodh Monthly*. It is reported that they were arrested because the publications they work for are seen as mouthpieces of the Communist Party of Nepal (Maoist), and were reportedly still detained at 22 April 2002.

404. In the same communication, the Special Rapporteurs expressed their preoccupation concerning **Sudarsan Raj Pandey**, editor and publisher of *Utthan Weekly* and *Terai Today* daily, who was reportedly arrested on 26 March 2002 whilst covering a story in the Bhaktapur region (Kathmandu valley) and held incommunicado as of 4 April 2002 at the Suryabinayak Army Camp in Bhaktapur, and **Lal Prasad Sharma**, reporter for the *Kantipur Daily*, who was reportedly arrested on 9 January 2002 for his reporting critical of the army.

405. On 24 May 2002, the Special Rapporteur sent an urgent appeal concerning **Krishna Sen**, editor-in-chief of the vernacular daily *Janadisha* and central representative for the Federation of Nepalese Journalists (FNJ), **Aatindra Neupane**, correspondent for the daily *Janadisha*, and **Sangeeta Khadka**, correspondent for the weekly *Jana Aahawan*, who were reportedly arrested on 21 May 2002 by security forces in Kathmandu on charges of being allied with Maoist rebels. According to information received, Mr. Sen, a central committee member of the Communist Party of Nepal (CPN, Maoist) and the former editor of the pro-Maoist weekly *Janadesh*, was arrested in a security sweep in Battisputali and is, according to security forces, the Maoist commander for Kathmandu in charge of the rebel outfit's operations in the capital.

406. On the same date, the Special Rapporteur sent an urgent appeal concerning **Tara Neupane**, a columnist for the weekly *Sanghu*, who was taken in custody by plainclothes police officers from the Kathmandu district office of the Federation of Nepalese Journalists (FNJ) at around 3:30 p.m. on 23 May 2002, and detained him at the Kathmandu Valley police office at Ratna Park, seemingly for his journalism work.

407. On 7 June 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Shanta Shrestha**, General Secretary of the Association for Promoting the Welfare and Honour of the Democratic Freedom Fighters (APWHDF) and a founding member of the Nepal Mahila Sangh (Nepal Women's Association), an affiliate to the Nepali Congress Party (NC), who was reportedly arrested at her residence at midnight on 31 May 2002 by army personnel, some in civilian dress. Her whereabouts and the reason for her arrest were unknown at the time the communication was sent, but it is believed that it might be linked to her activities in 1950 and 1990 during the pro-democracy movements, as well as in the APWHDF.

408. On 7 June 2002, the Special Rapporteur sent another urgent appeal jointly with the Special Rapporteur on torture, concerning **Som Bahadur Ghale Tamang**, an indigenous-rights activist and General Secretary of the Nepal Tamang Ghedung (Tamang indigenous peoples' organization), who was reportedly arrested by the police at his home in Dhumbarahi, Kathmandu, at midnight on 2 June 2002, the day after he was involved in a peaceful demonstration for indigenous rights. At the time the communication was sent, the whereabouts of Som Bahadur Ghale Tamang were not known.

409. On 18 June 2002, the Special Rapporteur sent an urgent appeal concerning **Krishna Prasad Gautam**, publisher of *Chandeswari*, of the dailies *Sandhyakalin* and *Prabhatkalin*, the weekly *Janasatta* and several other monthly magazines, who was reportedly arrested on 2 June 2002 in Kathmandu by security forces and taken to the district police office in Hanumandhoka where he was detained without charges.

410. On 21 June 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Pramod Kumar Shrestha**, who was reportedly arrested on 9 May 2002. According to information received, a plainclothes police officer came to his home saying that the police had called him to the area police office in Kohalpur for inquiries, from where he was reportedly taken away by the army for questioning. It is reported that no information was available on Mr. Shrestha's whereabouts at the Chisipani army camp and the office of the Chief District Officer. The reasons for Mr. Shrestha's arrest were not known, although he is reportedly a member of the Communist Party of Nepal-United Marxist Leninist (CPN-UML).

411. On the same date, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Bipin Bhandari, Dil Bahadur Rai, Ramhari Rupakheti, Shusila Thapa** and **Nita Gautam**, all students, who were reportedly arrested by the police on 17 June 2002 in Kathmandu. It is reported that neither the whereabouts nor the reasons for the arrest of these people were known at the time the communication was sent, although information received indicates that they are all members of the All Nepal National Independent Students' Union (Revolutionary), which has reportedly been declared a restricted organization after the state of emergency was declared.

412. On 12 July 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Binod Tiwari**, an assistant editor for the newspaper *Ekyabaddata*, and **Meena Sharma**, editor, who were reportedly arrested by security forces on 24 May 2002. According to information received, Mr. Tiwari was released a few hours after his arrest and re-arrested at 6 p.m. on 29 May at his office in Sundhara, Kathmandu, where two computers, a fax machine and press material were confiscated. It is reported that Meena Sharma was detained at the Central Jail in Kathmandu and Mr. Tiwari at the Soraw Khutte police station in Thamel, Kathmandu, and that he was questioned at the army headquarters in Tundikhel on several occasions since his arrest and may be in need of medical attention as a result of the treatment he was subject to while being interrogated. It is believed that the authorities have targeted the newspaper *Ekyabaddata* as it is deemed critical of the Government and supports the aims of the Communist Party of Nepal (Maoist).

413. On 25 July 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Dhana Bahadur Gurung**, a pro-Maoist journalist and secretary of the Federation of Nepalese Journalists' (FNJ) Kathmandu Section and FNJ Council member, who was reportedly arrested by plainclothes security officers on 19 July 2002 at his



office in Dili Bazar. Mr. Gurung's whereabouts were unknown at the time the communication was sent.

414. On 26 July 2002, the Special Rapporteur sent a communication to the Government, expressing his preoccupation that, since the declaration of the state of emergency on 26 November 2001, press freedom guarantees were said to have been suspended and it is alleged that more than 100 journalists have been arrested and detained. It is also reported that, since the declaration of the state of emergency, half a dozen publications allegedly linked with the Nepalese-Maoist Communist Party - namely *Janadisha*, *Dishabodh*, *Yojana*, *Jana Aahwan* and *Janadesh* - have been closed down. The Nepalese Prime Minister has reportedly indicated that this wave of arrests and publication closings were intended "to put an end to terrorist propaganda once and for all" and that "from now on, no one will be permitted to incite violence". In addition, there has been a growing number of reports of raids that have been made by the police and army on local publications' newsrooms.

415. In the same communication, the Special Rapporteur brought to the attention of the Government the following cases:

- a) **Chandra Man Shrestha**, a managing editor at *Janadisha*, who was reportedly arrested on 27 December 2001 without any indication from the authorities on his case;"
- b) The reported arrest and detention by security forces of nearly 40 journalists on 29 November 2001 in the Rupandehi district. **Basant Pokhrel**, a reporter for *Jana Sangharsha* in Rupandehi, was allegedly released on 17 December 2001. **Sitaram Shaha** and **Pawan Shreshta**, two reporters working with *Janakpur Awaj* in the Siraha district, were also said to have been imprisoned and released five days later. In the Uydapur district (in western Nepal), **Baikuntha Dahal**, a freelance journalist, has apparently been in custody since 29 November 2001;
- c) **Shankar Khanal**, a correspondent who worked with the State-owned radio station Radio Nepal and the *Space Time* daily, **Ganga Bista**, a correspondent with the Nepalese State-owned television and local newspaper *Chautari Times*, and **Indra Giri**, a *Samacharpatra* correspondent in the Sankhuwasabha district (in eastern Nepal) were reportedly arrested on 2 December 2001. It is reported that Indra Giri was freed four days later, and the other two were allegedly tortured as the security forces were trying to make them reveal the names of their Maoist contacts in the district. According to information received, Shankar Khanal was released on 2 March 2002 after members of the National Human Rights Commission visited the Sankhuwasabha district, but it is alleged that Ganga Bista remained in custody;
- d) The reported arrest on 5 December 2001 of **Bin Bahadur Kunwar**, a journalist with *Janarajya* and **Anjan Kumar Himali**, a reporter working for *Janagunasho*, who were said to be still in custody as of 10 March 2002, although it is not known whether charges were brought against them;
- e) The reported arrest by security forces on 6 December 2001 of **Sama Thapa**, editor of the local weekly *Yugayan* in Tikapur (Kailai district) and **Chitra Chaudhari**, the assistant managing editor of the local weekly *Nawacharcha*. It is reported that after being interrogated by the police for several days, Mr. Chaudhari was jailed in an army barracks, while Mr. Thapa was held in the police force's Regional Unit building;

- f) On 13 December, Rupahendi district police reportedly arrested **Dil Sahani**, a journalist and member of the Federation of Nepalese Journalists (FNJ), who was allegedly still being detained as of 10 March 2002;
- g) The reported arrest on 21 December 2001 of **Kamal Baral**, editor of the *Swaviman* weekly published in Pokhara by members of the security forces at his home in Kaski. Several days later, soldiers reportedly arrested **Janardan Biyogi**, *Swaviman* assistant managing editor in Pokhara and a third *Swaviman* contributor, **Bishwaprakash Lamichane**. All three were believed to be held by Nepalese armed forces in this western district as of 10 March 2002;
- h) In the Surkhet district, two reporters for the *Surkhet Post*, **Bishnu Khanal** and **Liladhar Gautam**, were reportedly arrested at the end of December 2001 and supposedly still in custody as of 10 March 2002;
- i) On 26 December 2001, **Badri Prasad Sharma**, editor of the local weekly *Baglung*, was reportedly arrested in his home, officially indicted on 18 January 2002 and allegedly held in solitary confinement in the district prison ever since;
- j) On 3 January 2002, security forces members reportedly questioned **Hari Baral** of the *Bijayapur* daily and still detained him two months after his arrest;
- k) On 9 January 2002, **Bijay Raj Acharya**, director of the publishing house *Sirjanshil Prakashan*, was reportedly arrested by security forces and allegedly tortured during his detention; he was reportedly freed on 19 March, but had to report to the police once a week;
- l) It is reported that, on 23 January 2002, **Bishwa Raj Poudel**, a journalist with *Chure Sandesh*, was arrested and accused of supporting the Maoists, and that authorities have not disclosed information about his case since;
- m) The reported arrest by soldiers of **Kumar Rawat**, managing editor of the monthly *Mul Prabaha* and the weekly *Mahima* on 24 March at his home in Kathmandu;
- n) Reports that on 16 March 2002, the newsroom of the *Naya Yugbodh* daily, published in the Dang district (in western Nepal), was raided by plainclothes police and **Narayan Prasad Sharma**, a journalist, arrested and interrogated for an hour in an army barracks; and
- o) Reports that **Krishna Sen**, editor of the daily *Janadisha* and former editor of *Janadesh* publications considered by the Government to be supportive of the banned Maoist rebel movement, allegedly died while in police custody at Kathmandu's Mahendra police station, after being severely tortured. Further reports indicated that on 22 June 2002, Mr. Sen's body was taken to the Birendra police hospital in the Maharajgunj area of Kathmandu, where doctors apparently said that he died of gunshot wounds in the stomach and chest. His body was said to have been cremated at the Pashupatinath temple.

416. On 4 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning **Mukunda Gajural**, the Secretary of Jibanpur Village Development Committee, **Saligram Sapkota**, a staff member of Tribhuvan University, **Nirmal Dhakal**, a civil servant, **Uttam Phuyal** and **Dinas Dhakal**, two farmers, and **Gita Dhakal**, a health worker, who were reportedly arrested on 29 September 2002 at Gagal Fadi Village Development Committee in Kathmandu by army personnel from the Sundarijal army post. It is believed that the six people have been taken to Tokha army camp, where they were being held incommunicado at the time the communication was sent. It is reported that a group of around 40

to 50 armed army personnel, accompanied by about 15 people in civilian dress, surrounded the village early morning, entered houses in the village and arrested those named above. Appeals by human rights activists are said to have been made to the army authorities at the camp to release or acknowledge detention of the six detainees, but the authorities have not responded and have not disclosed the reasons for their arrest, although it is reported that the six are active members of the main opposition party, the Communist Party of Nepal-United Marxist Leninist (CPN-UML).

### **Communications received**

417. On 22 March 2002, the Government replied to the Special Rapporteur's communication dated 7 June 2001 concerning **Yubraj Ghimire, Binod Raj Gyawali** and **Kailash Sorohiya**, indicating that on 13 June 2001 a case of sedition was filed against them through the District Attorney Office in a special court in Kathmandu. Mr. Ghimire was released on bail of 2,000 rupees and Mr. Gyawali and Sorohiya were released on ordinary bail in August 2001, and their case was later withdrawn as per decision of 17 August 2001.

418. On 2 April 2002, the Government replied to the Special Rapporteur's communication of 12 March 2002 concerning **Gopal Budhathoki**, indicating that he was released on 26 March 2002.

419. On the same date, the Government replied to the Special Rapporteur's communication of 21 March 2002 concerning **Shyam Shrestha, Mahesh Maskey** and **Pramod Kafle**, indicating that they were released on 26 March 2002.

420. On 30 September 2002, the Government sent a reply to the Special Rapporteur's communication of 21 June 2002 concerning **Bipin Bhandari, Dil Bahadur Rai, Ramhari Rupakheti, Shusila Thapa** and **Nita Gautam**, indicating that the first five people were not arrested by the police and that Nita Gautam was in detention at the Central Jail in Kathmandu.

421. On 13 November 2002, the Government sent a reply to the communication sent by the Special Rapporteur on 18 June 2002 concerning **Krishna Prasad Gautam** and indicated that Mr. Gautam was arrested while he was selling a book entitled *Details of Massacre of Royal Palace Incidents*, containing misleading and false news that sought to spread hatred towards the King and the Royal Family. He was placed in police custody by order of the Special Court in Kathmandu on 2 June 2002 and released on bail by the same court on 10 June.

### **Observations**

422. The Special Rapporteur thanks the Government of Nepal for its replies and willingness to cooperate with his mandate, but he awaits further response to his communications of 30 January, 5 February, 30 April, 24 May, 7 and 21 June, 12, 25 and 26 July and 4 October 2002.

## **Niger**

### **Communications envoyées**

423. Le 27 mai 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement du Niger concernant l'arrestation de **Abdoulaye Tiémogo**, directeur de la publication *Le Canard Déchaîné*, **Abarad Mouddour Zakara** et **Sanoussi Jackou**, respectivement directeur et propriétaire de la publication *La Roue de l'Histoire*. M. Zakara a, semble-t-il, été arrêté et placé en garde à vue le 18 mai 2002, suite à une plainte pour «diffamation» du Ministre du commerce, Seïni Oumarou, alors que Sanoussi Jackou, également président du parti d'opposition, le Parti nigérien pour l'autogestion, aurait été arrêté le 17 mai pour cette même affaire. Quant à Tiémogo, il aurait été placé en garde à vue le 17 mai, une semaine après avoir animé un débat sur la station de radio privée Tambara FM, au cours duquel Jackou avait accusé le Premier Ministre, Hama Amadou, d'exercer une discrimination ethnique et régionaliste dans la nomination des hauts fonctionnaires de l'État. Les trois hommes auraient été placés en détention provisoire à la prison civile de Niamey le 21 mai, dans l'attente de leur jugement prévu le 24 mai. Ils risquent une peine de six mois à deux ans de prison.

424. Le 24 juin 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement concernant Abdoulaye Tiémogo, directeur de la publication *Le Canard Déchaîné*, pour qui un appel urgent avait déjà été envoyé le 27 mai 2002, qui aurait été arrêté le 18 juin 2002 suite à une plainte ultérieure du Premier Ministre, Hama Amadou, pour «diffamation». D'après les informations reçues, Tiémogo aurait été placé en garde à vue, le 18 juin, par la police judiciaire de Niamey. Cette fois, le Premier Ministre aurait porté plainte contre lui après s'être senti «diffamé et injurié» par trois articles publiés dans *Le Canard Déchaîné*, dans lesquels il semblerait que le journaliste accusait notamment Amadou de vouloir corrompre le président de l'Assemblée nationale pour conserver son fauteuil de Premier Ministre. Selon les informations reçues, M. Tiémogo aurait été arrêté trois fois depuis octobre 2001 et aurait passé deux mois en prison, dans tous les cas, semble-t-il, après qu'un membre du Gouvernement eut porté plainte contre lui pour diffamation.

425. Le 26 novembre 2002, le Rapporteur spécial et le Président-Rapporteur du Groupe de travail sur la détention arbitraire ont envoyé un appel urgent au Gouvernement concernant **Ibrahim Manzo** et **Cissé Omar Amadou**, respectivement journaliste et directeur commercial du *Canard Déchaîné*, qui auraient été arrêtés le 20 novembre 2002 et conduits dans les locaux de la police judiciaire, où ils seraient toujours détenus. Cette arrestation serait liée à la publication d'un article intitulé «Le chef d'état-major aurait-il ordonné l'arrestation de Mahamadou Issoufou [l'un des principaux responsables de l'opposition nigérienne]?», mais, selon les informations reçues, les chefs d'accusation contre les deux journalistes ne seraient pas connus.

### **Communications reçues**

426. Le 9 août 2002, le Gouvernement a envoyé au Rapporteur spécial une lettre en réponse à son appel urgent du 24 juin 2002 concernant le cas du journaliste Abdoulaye Tiémogo. Le Gouvernement a indiqué que Tiémogo a été poursuivi et arrêté suivant la procédure prévue à l'article 70 de l'ordonnance n° 99-67 du 20 décembre 1999 portant régime de la liberté de la presse et à l'article 65 du Code de procédure pénale. Le tribunal a condamné Tiémogo à huit mois d'emprisonnement fermes, 50 000 francs CFA d'amende et 1 million de francs CFA de dommages et intérêts à la victime, Hama Amadou. Cette condamnation est, dans son principe, fondée sur le fait que les propos publiés par Tiémogo sont mensongers et relèvent de l'injure et

de la pure diffamation, puisque l'accusé n'a pas pu apporter la preuve des faits par lui allégués, déclarant simplement avoir publié dans son journal des faits rapportés par la rumeur publique.

427. Le 30 septembre 2002, le Rapporteur spécial a reçu une lettre du Premier Ministre, M. Hama Amadou, par laquelle le chef du Gouvernement a voulu attirer l'attention du Rapporteur sur un certain nombre d'éléments complémentaires, y compris la Constitution du 18 juillet 1999 et la loi portant régime de la liberté de la presse. En outre, le Premier Ministre a souligné que, en ce qui concerne spécifiquement les droits à la liberté d'expression, le Niger dispose d'une loi très libérale qui régit le monde de la communication et qui accorde autant de protection à la liberté du journaliste dans l'exercice de son métier qu'à celle du citoyen relativement à la déontologie de la presse. Il n'y a donc pas une velléité de la puissance publique de réprimer la liberté d'opinion ou d'expression, car la liberté de la presse est essentielle dans le renforcement de la démocratie au Niger.

### **Observations**

428. Le Rapporteur spécial remercie le Gouvernement pour les communications envoyées, mais souhaiterait recevoir, dans un délai raisonnable, des réponses concernant les autres cas portés à l'attention du Gouvernement.

## **Nigeria**

### **Communications sent**

429. On 18 October 2002, the Special Rapporteur and the Special Representative of the Secretary-General on human rights defenders sent a joint urgent appeal to the Government of Nigeria concerning two members of the Civil Liberties Organization (CLO) based in Lagos, **Isioma Ojugbana** and **Ijeoma Nwachukwu**, who are currently the victims of pressure and harassment by the State Security Services (SSS). A member of the SSS allegedly visited the offices of CLO on 4 October 2002 to ask Miss Ojugbana and Miss Nwachukwu to follow him immediately to the SSS headquarters. This visit was reportedly followed up, on the same day and on 8 October, by phone calls from SSS members, including the director, ordering Miss Ojugbana and Miss Nwachukwu to present themselves to SSS authorities. Some of these phone calls were alleged to be threatening in nature. According to the information received, the women are being targeted because they are the authors of a text documenting human rights violations in Nigeria. That text has recently been published in a book entitled *Hope betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria* published by the World Organization against Torture and the Nigerian NGO, the Centre for Law Enforcement Education. In addition, it appears that copies of this book sent to Nigeria for local distribution have been retained by customs officials in Lagos.

430. On 27 November 2002, the Special Rapporteur sent to the Government an urgent appeal concerning reports that the Kaduna offices of the Lagos-based newspaper *This Day* were partially burned down by angry mobs on 20 November 2002, and that on the same day, all the copies of the newspaper were burned in a warehouse. According to information received, this followed an article published in the newspaper which contained remarks deemed insulting to the Prophet

Muhammad. It seems that several Muslim groups protested against the article, and that the Supreme Council for Shariah Implementation said that the paper had "declared total war on Islam" and that Muslims should "declare the same on the paper". Furthermore, the Special Rapporteur said that he had received reports that on 23 November 2002 the SSS had taken in the managing editor of *This Day*, Nduka Obaigbena, for questioning and it is alleged that he has not been allowed to return to work. Reports have also been received that the Government of the State of Zamfara announced that a fatwa was issued on 26 November 2002 against Isioma Obasanjo Daniel, the journalist who wrote the article. A Zamfara state government spokesperson reportedly underlined that while the fatwa was not directly issued by the Government, the latter supported it.

### **Observation**

431. The Special Rapporteur regrets that no reply had been received from the Government at the time this report was finalized.

### **Norway**

#### **Communication sent**

432. On 26 November 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Special Rapporteur on violence against women, sent an urgent appeal regarding **Siamak Ghonchehe**, a 37-year-old Iranian citizen from Saghaz, Iranian Kurdistan, his wife and his two children, aged 8 and 14, who were reportedly facing imminent and forcible repatriation to the Islamic Republic of Iran. Mr. Ghonchehe allegedly fled Iran with his family and arrived in Norway on 29 July 2001, where he reportedly sought asylum. According to the information received, a few months earlier, three of his friends belonging to the same political party as he, the Kurdistan Democratic Party of Iran, whose members are believed to be frequently persecuted, were reportedly arrested. Fears have been expressed that these persons may have been subjected to ill-treatment while in detention. He reportedly decided to leave Iran in order to avoid the same fate. Mr. Ghonchehe's request for asylum was denied by the Immigration Appeals Board on the grounds that he did not present any documented proof of his political involvement in Iran. It is alleged that he can appeal this decision but that he would nonetheless be deported pending the review of his case. In the light of reports of allegations of torture committed against other supporters of the Kurdistan Democratic Party of Iran, fears have been expressed for the physical integrity of Mr. Ghonchehe and his family if they were returned to Iran.

#### **Observations**

433. The Special Rapporteur regrets that no reply had been received from the Government.

434. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States "to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection".

## Pakistan

### Communications sent

435. On 4 March 2002, the Special Rapporteur sent an urgent appeal to the Government concerning the reported resignation of **Shaheen Sehbai**, the editor of the newspaper *The News*. It is reported that Mr. Sehbai had reportedly sent a letter to Mr. Shakeelur Rehman, publisher and editor-in-chief of *The News*, alleging that he was leaving his post under pressure from the Government, and indicating that the Government was pressing Mr. Rehman to fire him and three other reporters, namely Kamran Khan, Amir Mateen and Rauf Klasra because their reporting had angered officials. Mr. Sehbai was reportedly held responsible for a 17 February 2002 article written by Kamran Khan dealing with the prime suspect in the abduction of slain reporter Daniel Pearl.

436. On 16 May 2002, the Special Rapporteur sent an urgent appeal concerning **Amardeep Bassey**, a British citizen of Indian origin and investigations editor at the *Sunday Mercury* newspaper, and his two Pakistani guides, **Naoshad Ali Afridi** and **Khitab Shah Shinwari**. It is reported that Mr. Bassey was arrested on 10 May 2002 at the Afghan-Pakistan border post of Torkham, while he was returning from Afghanistan, on suspicion of espionage, as he allegedly failed to obtain an exit visa before leaving Pakistan for Afghanistan, where he was invited by the United Kingdom's Foreign Office to cover the activities of British peacekeeping forces. At the time the communication was sent, the three men were reportedly detained in the Landikotal prison and interrogated by members of the Pakistani Inter-Services Intelligence Agency.

437. On 7 June 2002, the Special Rapporteur sent an urgent appeal concerning **Rashid Butt**, a journalist for the local daily newspapers *Bakhabar* and *Lashkar*, who was reportedly arrested at his office in Quetta (Balochistan), on 1 June 2002, and taken into custody in accordance with articles 500, 501 and 502 of the Criminal Code and article 16 of the Maintenance of Public Order Act (MPO). It is reported that a First Information Report was filed against him, and that Quetta Chief of Police Abid Ali stated in the local press that the journalist was arrested for trying "to create panic by publishing a baseless article" [...] "against law-enforcing agencies", which he criticized for their incompetence in dealing with the problems experienced by the province in maintaining public order.

438. On 26 July 2002, the Special Rapporteur sent an urgent appeal concerning **Muzaffar Ejaz**, the managing editor of the daily *Jasarat*, who was reportedly abducted by Inter-Service Intelligence (ISI) officials on 25 July 2002 as he was leaving his office, interrogated and released the following morning. According to information received, Mr. Ejaz's abduction followed a week of harassment after the publication of an article in his newspaper about ISI Colonel Ehtesham Zamir. It is reported that Mr. Ejaz received a phone call at his office from a person who identified himself as Colonel Amjad of the ISI, requesting a meeting with him and that on 17 July, Mr. Ejaz met with another ISI officer, Colonel Zaki, who reportedly wanted to know the name of the reporter who wrote the article and the source of the news.

439. The offer of Mr. Ejaz to publish a retraction was not accepted, and when Mr. Ejaz refused to provide the desired information, Colonel Zaki reportedly warned him that he knew of "many other ways to find out" and asked him to provide him with the information requested. It is reported that when Mr. Ejaz reached his office, he received a phone call from an unidentified person who wanted to know if he had reached the office "safely", and asked again for the reporter's name. Mr. Ejaz reportedly told the anonymous caller that he had consulted his editor-in-chief, who had advised him not to yield to the demand, which made the caller angry. In parallel, it is reported that the newspaper received a refutation of the story from the official Press Information Department, which was published. According to information received, Colonel Zaki called Mr. Ejaz again on 19 July and insisted that he name the reporter who wrote the story. It is reported that Mr. Ejaz was subsequently followed by persons on motorcycles on 21 July, who were believed to be members of intelligence agencies. On 24 July, Colonel Amjad reportedly called Mr. Ejaz, denying that those who were following him were his men and clarifying his position, since kidnappings and murders are common in Karachi, and he did not want his men to be blamed "if anything happened".

440. On the same date, the Special Rapporteur sent a communication concerning the following cases:

- (a) On 15 April 2002, a dozen journalists were allegedly assaulted by the police in Faisalabad. It was reported that a rally was staged at the Iqbal stadium to promote an upcoming referendum to prolong the presidency for five more years, during which journalists were said to have walked out in protest of remarks by the Punjab Governor hostile to the media. As the journalists left the rally held in Faisalabad, baton-wielding police officers allegedly assaulted them reportedly injuring 23 journalists, namely: **A.R. Shuja, Tahir Rasheed**, and **Tasneern** of the newspaper *Khabrain*; **Ibrahim Lucky** of the new agency Online Lahore; **Mian Aslam** of the newspaper *Business Report*; **Methabuddin Nishat** of the newspaper *Ghareeb*; **Sarfraz Sahi** of the newspaper *Insaaf*; **Malk Naeem** and **Ashfaq Jahangir** of the newspaper *Parwa*; **Naseer Cheema** and **Muhammad Bilal** of the newspaper *Current Report*; **Hamid Raza** of the newspaper *Juraat*; **Ramzan Nasir** of the newspaper *Tehrik*; **Mayed Ali** of the daily *The News*; **Roman Ishsan** of the daily *Jang*; **Nasir Butt, Ziaullah**, and **Khalid** of the newspaper *Pakistan*; **Mian Saeef** of the newspaper *Ausaf*; **Jawed Saddiqui** of the daily *Musawad*; **Saeed Qadri** of the daily *Din*; **Mian Rifaat Qadri** of the Pakistani news agency News Network International; and **Jawed Malik** of the newspaper *Soorat-i-Hal*;
- (b) The reported assault on 30 April 2002 of **Mr. Swati**, a PTV public television channel cameraman, by supporters of President Pervez Musharraf in front of a polling station in Abbottabad (Pakistan's North-West Frontier province), accusing him of not filming the actions of President Musharraf's sympathizers long enough. One of the aggressors reportedly threatened the cameraman with a revolver when he was lying on the ground and other journalists and opposition parties' activists were said to have intervened to stop the journalist from being shot dead; and



- (c) The reported sealing for one month of the offices of two newspapers, *Evening Special* and *Morning Special*, on 17 July 2002, by the Government of the Province of Sindh. It is reported that the police raided the offices of both newspapers on the orders of the provincial Home Department and that the police arrested **Aqeel Najmi**, editor of the *Evening Special* and **Hanif Dawami**, editor of *Morning Special*, under the claim that the two newspapers published obscene pictures and used vulgar language in their reports, despite repeated warnings to stop from the Government.

### Observations

441. The Special Rapporteur regrets that no reply from the Government has been received concerning the above communications.

## Panama

### Comunicaciones enviadas

442. El 22 de mayo de 2002, el Relator Especial envió un llamamiento urgente acerca de tres casos de presuntas violaciones del derecho a la libertad de opinión y de expresión. **Miguel Antonio Bernal**, abogado y periodista responsable del programa *Alternativa* en la emisora Radio Exitosa, habría recibido una denuncia por el delito de calumnias e injurias interpuesta el 6 de febrero de 1998 por José Luis Sosa, el entonces Director de la Policía Nacional. El Señor Bernal habría hecho una entrevista televisiva condenando la matanza de cuatro presos en el centro Isla de Coiba 5, presuntamente por policías el 28 de enero de 1998. De resultar condenado, el Sr. Bernal podría cumplir una pena de hasta 24 meses de prisión. **Ubaldo Davis**, presentador de televisión y director del semanario humorístico *La Cáscara News*, habría también sido enjuiciado por los mismos motivos en la misma fecha, después de haber sido denunciado en septiembre de 2001 por Winston Spadafora, ex ministro de Gobierno y Justicia, como consecuencia de la publicación en el *Cáscara News* de un material humorístico sobre un presunto romance del Sr. Spadafora. Por último, el 14 de mayo de 2002, **Mónica Palm**, periodista del diario *La Prensa*, habría recibido una denuncia por “delitos contra el honor” interpuesta por Mayor Alfredo Alemán. La señora Palm no habría sido informada por cuál de sus artículos está denunciada. De resultar condenada también podría cumplir una pena de hasta dos años de cárcel.

### Observaciones

443. Hasta la fecha no ha habido respuesta del Gobierno.

## Perú

### Comunicaciones enviadas

444. El 9 de abril de 2002, el Relator Especial envió un llamamiento urgente expresando su preocupación acerca de la presunta amenaza de muerte recibida el 26 de marzo de 2002, por la Sra. **Mabel Cáceres Calderón**, periodista y directora del quincenario *El Búho* de Arequipa. La

Sra. Cáceres Calderón habría recibido una caja anónima en su oficina de la Universidad Nacional de San Agustín (UNSA) que contenía una nota que decía: “Ya llegó tu hora” y los restos de un animal muerto. Esta amenaza se habría producido un día después de la intervención de la Contraloría General de la República en la UNSA. Supuestamente, en diciembre de 2001 y en enero de 2002, la Sra. Cáceres había ya sido víctima de amenazas de muerte, después de la publicación de artículos sobre presuntas irregularidades cometidas por las autoridades de la UNSA. La Sra. Cáceres habría entregado personalmente evidencias de tales supuestas irregularidades a un miembro del Congreso Nacional.

445. En fecha 22 de abril de 2002, el Relator Especial, juntamente con la Relatora Especial sobre Ejecuciones extrajudiciales, sumarias o arbitrarias, envió un llamamiento urgente en relación con las amenazas de muerte de las cuales habría sido víctima el periodista **Hugo Gonzales Hinostroza**. Desde el mes de septiembre de 2001, el Sr. Hinostroza habría recibido amenazas telefónicas, en las cuales se le advertía que se marchara del país y dejara de hablar de contaminación en la ciudad de Atupa. Supuestamente estas amenazas estarían relacionadas con los artículos que el Sr. Gonzales Hinostroza publicó en el periódico *Liberación* donde se informaba de que la compañía Minera Barrica Misquichica estaría contaminando el medio ambiente con cianuro en Atupa. En uno de sus artículos, el Sr. Gonzales Hinostroza añadió que la compañía habría tratado silenciar unas víctimas de envenenamiento con cianuro. En otro artículo reportó que el Gobernador de Atupa habría acusado a los miembros de la comisión a cargo de investigar los casos de envenenamiento de ser traidores porque habrían publicado un informe disculpando la compañía minera de toda responsabilidad.

446. El 26 de julio de 2002, el Relator Especial envió una comunicación sobre el caso del Sr. **Darwin Paniagua**, periodista de la radioemisora *La Voz de la Selva*, en ciudad de Iquitos, quien habría sido agredido el 14 de mayo de 2001 cuando cubría los acontecimientos del paro nacional convocado por las principales asociaciones sindicales del país. El periodista, se encontraba a poca distancia de las instalaciones del sindicato Unido de Trabajadores de la Educación del Perú (SUTEP) cuando habría sido agredido físicamente por miembros del frente patriótico de Loreto (FPL).

### **Observaciones**

447. Hasta la fecha no ha habido respuesta del Gobierno.

## **Philippines**

### **Communication sent**

448. On 26 July 2002, the Special Rapporteur sent a communication to the Government, calling its attention to the following cases:

(a) The reported violent dispersion by 500 policemen of workers of Nestlé-Cabuyo participating in a protest action at the company's gate on 28 June 2002. It is reported that the policemen used batons, teargas and water cannons to chase the demonstrators and that 26 strikers and supporters were wounded during the fight, including **Felicísimo Pastolero**. The Nestlé guards allegedly chased the workers, even when they had already retreated to nearby

communities, and threw stones at them, damaging the windows of some of the houses in the community. It is further reported that a security guard fired shots on 30 June 2002 in the air in order to terrorize the residents and stop them from supporting the strike of the workers;

(b) **Benjaline “Beng” Hernandez**, a journalist who was reportedly shot dead along with two local young people on 5 April 2002 by soldiers of the Philippine army’s 12th Special Forces unit on the island of Mindanao, while they were investigating the implementation of the peace process in the Arakan valley in Cotabato province. The army reportedly said that Benjaline Hernandez and the local young people were caught in crossfire between troops and rebels, but it is alleged that Benjaline Hernandez was wounded during the crossfire, and then killed by the soldiers; and

ii) © **Edgar Damalerio**, journalist for the DXKP public radio station and editor of the local publication *Zamboanga Scribe* in Pagadian, who was allegedly killed on 13 May 2002 as he was driving home from work in a jeep with two colleagues. Witnesses allegedly identified a police officer as the gunman and it was reported that the suspect was questioned by the authorities and then released;

### **Observations**

449. No reply from the Government has been received concerning the above communications.

## **Poland**

### **Communication sent**

450. On 26 July 2002, the Special Rapporteur sent a communication to the Government with respect to reports that on 17 July 2002, two popular local radio stations' licences were not renewed by the broadcasting authority, Krajowa Rada Radiofonii i Telewizji (KRRiT – National Broadcasting Council – NBC), and that *Radio Blue* in Kracow and *Twoje Radio* in the south-western town of Walbrzych - will have to shut down in application of this decision. It was reported that the frequency of *Radio Blue*, which has been broadcasting for seven years, was assigned by KRRiT to another station, ESKA, which had not yet extended its broadcasts to Krakow. It is reported that the decisions of KRRiT are final.

### **Communication received**

451. On 13 November 2002, the Government replied to the Special Rapporteur’s communication, indicating that NBC, in accordance with the Broadcasting Act of 29 December 1992, grants licences to radio stations for seven years; the extension of a licence is not provided for in the law, but only the granting of new licences. The procedure therefore grants the same rights to both the existing user of the frequency and new applicants. An announcement was published on 18 December 2001 by the Chairman of NBC indicating that the frequency MHz97.7 in Krakow was available (*Radio Blue* frequency), for which there were two applications: from *Radio Blue* and from *Radio ESKA*. The applications were considered by NBC on 21 March 2002, and, after having first refused to grant the frequency to either applicants granted it on 20 June 2002 to *Radio ESKA*, which was confirmed by the NBC Chairman’s final decision of 7 October 2002 (published on 23 October).

452. On 23 October 2001, an announcement was made that the frequency used by *Twoje Radio* was available. *Twoje Radio* was the only applicant, but on 20 December 2002, NBC refused to grant it the frequency, as confirmed by a decision of the NBC Chairman of 28 March 2002. *Twoje Radio* appealed against this decision, which was upheld. *Twoje Radio* then appealed against this decision to the Supreme Administrative Court on 21 August 2002.

### **Observations**

453. The Special Rapporteur thanks the Government of Poland for its reply and willingness to cooperate with his mandate.

### **Portugal**

454. The Special Rapporteur would like to thank the Government for the transmission of information with regard to his note verbale of 1 July 2002 pursuant to paragraph 20 of resolution 2002/48 in which the Commission on Human Rights invited States "to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection".

### **Qatar**

#### **Communication sent**

455. On 22 November 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Firas Nassuh Salim Al-Majali**, a Jordanian national working as a journalist with the Qatari television Network, who was reportedly sentenced to death on 22 October 2002 by the Criminal Court of Doha after being convicted of taking part in espionage activities in Qatar. It is reported that Firas Al-Majali was arrested on 8 January 2002 and held incommunicado since.

#### **Observations**

456. No reply from the Government has been received concerning the above communications.

### **Republic of Korea**

#### **Communications sent**

457. On 26 March 2002, the Special Rapporteur sent an urgent appeal concerning **Dan Byong-ho**, President of the Korean Confederation of Trade Unions (KCTU), who was reportedly sentenced on 18 March 2002 by the Seoul Court of First Instance to two years' imprisonment for his role in coordinating a general strike that took place on 21 June 2001, after being found guilty on all five charges laid against him by the Prosecutor's Office, including "conspiracy to interfere

in business", "obstruction of the enforcement of law" and "violation of the trade union/industrial relations law". Mr. Byung-ho had already been imprisoned for his involvement in the defence of workers' rights but had been released in August 1999 under a presidential amnesty and returned to jail in August 2001 in order to serve the remaining two months and four days of his sentence (until 3 October 2001), following an agreement between the Korean Government and KCTU. On 28 September 2001, the Korean authorities had reportedly issued another arrest warrant, enabling them to hold him in detention for a further period for investigation and trial.

458. On 20 November 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the reported arrest on 11 September 2002 of **241 striking hospital workers** and the imprisonment of **seven union leaders** on 15 November. It was reported that, on 11 September, 3,000 riot police raided three hospitals owned by the Catholic Church of Korea, where striking workers were participating in sit-ins as part of a dispute over pay and conditions of work that started in April 2002 between hospital workers and their employer. It is reported that following the police raid the management of the hospitals refused all the union's proposals of meeting in order to resume the negotiations and put an end to the dispute. According to the information received, management referred 573 union members to disciplinary proceedings, issued dismissal notices to 20 key union leaders and began to hire new staff to replace the striking workers. It is also reported that police summons were issued against 93 unionists.

### **Communications received**

459. On 21 December 2001, the Government replied to the Special Rapporteur's communication of 2 November 2001 concerning **Dan Byuong-ho**, indicating that he was arrested and imprisoned on charges of leading illegal labour-related activities. After being granted a general presidential amnesty in August 1999, Mr. Dan was released, but he continued to lead more than 10 illegal strikes and violent demonstrations from December 1999 and July 2001, leading the authorities to repeal the suspension of execution previously granted to him and to return him to prison to serve the remaining of his sentence. The Government also indicated that, as to the alleged agreement of 2 August 2001 between the KCTU and the Government, the latter never agreed to stop bringing new charges against Mr. Dan in connection with KCTU's campaign in 2001.

460. On 6 August 2002, the Government sent a letter replying to the Special Rapporteur's urgent appeal of 26 March 2002, in which the Government indicated that Mr. Dan was sentenced to two years by the Seoul District Court on 18 March 2002 and to 18 months' imprisonment by the Seoul Higher Court at the appeal trial, and that the case was pending in the Supreme Court for the second appeal trial. In its letter, the Government provides details of the charges and the Court's rulings, a chronology of Mr. Dan's case.

### **Observations**

461. The Special Rapporteur thanks the Government of the Republic of Korea for its replies and willingness to cooperate with his mandate. However, he awaits a further response to his communication of 20 November 2002.

## Republic of Moldova

### **Communication sent**

462. On 25 October 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding reports that the offices of the *Accente* newspaper in Chisinau were raided on 9 October 2002 by the security forces, allegedly sequestering computers, the photograph library, cameras, dictaphones and other equipment and temporarily detaining three employees of the newspaper. It was further reported that the 10 October 2002 issue of *Accente* was banned and that journalists of the newspaper received death threats. It was alleged that the reported threats and attacks and the raid by the security forces followed the newspaper's investigation of, and reporting on alleged corruption cases involving former Interior Minister Vladimir Turcanu, now Ambassador to Moscow, and an investigation into the participation of top officials in organ trafficking.

### **Observations**

463. The Special Rapporteur regrets that no answer has been received from the Government to his communication.

## Romania

### **Communication sent**

464. On 31 January 2002, the Special Rapporteur sent an urgent appeal concerning Ovidiu Cristian Iane, who was reportedly arrested at his home on 23 January 2002 after the police had allegedly searched his home and confiscated his computer and some unlicensed programmes, detained for three and a half days and charged with disseminating false news that could potentially endanger national security and damage international relations. It was also reported that the police found evidence that Mr. Iane was the originator of a widely circulated email, entitled "Armageddon II", an anonymous report compiling a series of corruption accusations against the Prime Minister.

### **Communication received**

465. In March 2002, the Government replied to the Special Rapporteur's communication and indicated that the investigation of the case of Mr. Iane focused on the dissemination of false information, as the prosecution found that the document "Armageddon II" which he published on the Internet denied the democratic character of the Government and was defamatory to the Government. After further investigation, the Prosecutor decided to release Mr. Iane.

### **Observations**

466. The Special Rapporteur thanks the Government of Romania for its replies and willingness to cooperate with his mandate.

## Russian Federation

### Communications sent

467. On 31 January 2002, the Special Rapporteur sent an urgent appeal to the Government relating to information he received on 11 January 2001 concerning the closing down of the independent television station *TV6*, known for its critical attitude towards the authorities. It was reported that the closure of *TV6* reportedly followed an arbitration decision of compulsory liquidation by the Moscow Supreme Court.

468. On 10 April 2002, the Special Rapporteur sent an urgent appeal concerning **Igor Zotov**, deputy editor-in-chief of the daily *Nezavisimaya Gazeta*, who was reportedly charged with criminal libel on the basis of an article published on 27 November 2001, citing anonymous sources in the Federal Security Service (FSB) and other law enforcement bodies, reporting that three Moscow judges accepted bribes from the lawyers of Anatoly Bykov, a prominent businessman on trial for attempted murder. Mr. Zotov was reportedly accused of libelling Moscow City Court chairperson Olga Yegorova and two federal judges from Moscow's Meshchansky Intermunicipal Court, V. Nikitin and N. Kurdyukov; he could face up to four years in prison if convicted. It was reported that, on 5 December 2001, *Nezavisimaya Gazeta* published a letter from the businessman's attorneys repudiating the article's allegations, which, according to Russia's Law on Mass Media, constitutes a retraction. In December 2001, the Moscow Prosecutor's Office launched a criminal libel investigation against *Nezavisimaya Gazeta* and on 29 March 2002, the Prosecutor's Office notified Zotov of its intent to press criminal libel charges against him and summoned the journalist to appear on 1 April. According to other information sources, the charges were brought after the *Nezavisimaya Gazeta* published an article by Mr. Zotov on 7 March 2002 on a film blaming the FSB for bombings throughout Russia in 1999, which President Putin claimed to have been carried out by Chechen rebels.

469. On 10 April 2002, the Special Rapporteur sent an urgent appeal concerning reports that the newspaper *Novaya Gazeta* could be ordered closed by the Basmanny District Court of Moscow, following proceedings to seal the paper's property initiated a week earlier by a bailiff. It was reported that these proceedings were the result of an award of damages in a recent libel suit against the newspaper, after a financial institution, Mezhprombank, sued the publication in Moscow's Basmanny Court claiming that one of its business deals had collapsed because of a December 2001 article in *Novaya Gazeta* reporting that Mezhprombank was implicated in a scandal involving Russian money laundering through the Bank of New York. It was further reported that *Novaya Gazeta* maintained that its reporting was accurate and contended that documents procured by the paper, but which were refused as evidence by the court, demonstrated that it was not to blame for the collapse of the bank's business deal. In February 2002, the court reportedly ordered *Novaya Gazeta* to pay 15 million roubles in damages to the bank, but as a small publication, *Novaya Gazeta* would be driven to bankruptcy if forced to pay. According to further information received, the newspaper sought to open a criminal fraud case against Mezhprombank with the Moscow Prosecutor's Office to prove its innocence, but it was alleged that the case file containing all documents disappeared. It was further alleged that *Novaya Gazeta*

might have been deliberately targeted for its investigative journalism, which includes coverage of high-profile corruption cases and its critical stance on Russia's war in Chechnya.

470. On 1 July 2002, the Special Rapporteur sent an urgent appeal to the Government concerning **Grigory Pasko**, a journalist with the *Boyevaya Vakhta*, a newspaper published by the Russian Pacific Fleet. It was reported that on 25 June 2002 the Military Collegium of the Russian Supreme Court upheld Mr Pasko's 25 December 2001 conviction for treason - based on the charge that he intended to leak classified information about the Russian Pacific Fleet's dumping of nuclear waste in the Sea of Japan to Japanese news outlets - and his sentencing to four years' imprisonment. It was further reported that Mr. Pasko is currently serving his jail term in Vladivostok and that his lawyers intend to appeal this decision to the Presidium of the Russian Supreme Court.

471. On 26 July 2002, the Special Rapporteur sent a communication to the Government concerning the following cases:

- a) The case of **Natalia Skryl**, an economic reporter for the newspaper *Nashe Vremia*, in Rostov-on-Don, who was reportedly killed on 8 March 2002 near her home in Taganrog, allegedly in connection with her investigations into the activities of large firms in the region;
- b) On 11 March 2002, there was an attempted murder against **Sergei Solovkin**, a correspondent for the newspaper *Novaya Gazeta* in Sochi, and his wife, allegedly linked to recent articles he wrote on corruption in the Krasnodar region;
- c) On 31 March 2002, **Valery Batuyev**, a reporter specialized in the question of Chechnya for *Moskovsky Novosti*, was reportedly murdered at his home in Moscow;
- d) **Sergei Kalinovski**, editor-in-chief of *Moskovski Komsomolets-Smolensk* and animator for the SCS television station, who disappeared on 14 December 2001 and whose body was found on 1 April 2002 in a forest near Smolensk, was reportedly assassinated as a result of his investigations into organized crime, local politics and corruption;
- e) On 29 April 2002, **Valery Ivanov**, editor of the newspaper *Tolyatinskoye Obozreniye* in Togliatti was reportedly shot eight times in the head at point-blank range. It was believed that Mr. Ivanov's murder was connected to his work on local organized crime, drug trafficking and official corruption;
- f) It was also reported that on 14 June 2002, **German Galkin**, deputy editor of the newspaper *Vecherny Chelyabinsk* in Chelyabinsk and correspondent for the Moscow-based daily *Kommersant*, was attacked by two men. The attack was allegedly connected to Mr. Galkin's critical coverage of local officials;
- g) On 7 July 2002, legal action was reportedly initiated against **Olga Cherubina**, editor-in-chief of the local government newspaper *Nyaryana Vinder*, in the autonomous region of Nenets, for "abusing her position". It was reported that that Ms. Cherubina was fired a week earlier when one of her reporters, **Alexei Vasilivetsky**, asked President Putin at a press conference held on 24 June 2002 a question about the involvement of Nenets Regional Governor, Vladimir Butov, in corruption. President Putin promised he would raise the matter with General State Prosecutor Vladimir Ustinov, who issued a warrant for Mr. Butov's arrest the day after;



- h) The reported case of a legal action taken against **Dina Oyun**, editor-in-chief of the web site *Tuva-Online*, after she denounced electoral fraud in the small Siberian republic of Tuva at the above-mentioned press conference, held at the Kremlin on 24 June 2002.

### Communication Received

472. On 20 June 2002, the Government replied to the Special Rapporteur's communication of 10 April 2002 concerning **Igor Zotov** and *Nezavisimaya Gazeta*, and indicated that on 20 December 2001, the Moscow City Procurator's Office instituted criminal proceedings after looking into a complaint filed by Ms. O.A. Egorova, President of the Moscow City Court, concerning the publication on 27 November 2001 in the newspaper *Nezavisimaya Gazeta* of an article entitled "Million-dollar recognizance to stay put", written by Alina Tarasova. In the article, which describes the circumstances surrounding the remittal of a criminal case against Mr. A.P. Bykov from the Tushino Intermunicipal Court to Moscow's Meshchansky Court, the author calls into question the validity of the transfer of the case. She alleges that Mr. Bykov's lawyers contacted the Meshchansky Court judges, Mr. N.V. Kurdyukov and Mr. V.F. Nikitin, offering them a bribe of \$1 million to change the preventive measure at the stage of preparation of the case for hearing, and that Judge Egorova was involved in this affair. Judges Egorova, Nikitin and Kurdyukov denied these allegations, and Mr. Bykov's lawyers stated that, although they had repeatedly petitioned to have the preventive measure taken against their client changed, they offered no bribes to the judges. The chief editors of *Nezavisimaya gazeta*, including Mr. Zotov, testified that A. Tarasova did not work for the newspaper and that they did not know who took the decision to publish the article. In this case, Mr. Zotov's status was that of a witness, and as such was served with a subpoena to appear at the Moscow City Procurator's Office on 1 April 2002 to give evidence, but was unable to attend because he had been admitted to hospital. Developments regarding the publication of this article were watched closely by the Ministry of the Press, Television and Radio Broadcasting and Mass Communications Media, which ensures that the media are allowed to operate freely. The investigation of the case was proceeding in accordance with the criminal procedure legislation currently in force.

473. On 4 July 2002, the Government replied to the Special Rapporteur's communication of 1 July concerning **Grigory Pasko**, indicating that on 25 June 2002 the Military Division of the Supreme Court of the Russian Federation upheld the conviction of military correspondent G. Pasko by the military court of the Pacific fleet on the charge of espionage for Japan. The court found Mr. Pasko guilty of having committed a crime against the State.

474. On 11 July 2002, the Government replied to the Special Rapporteur's communication of 31 January concerning the television channel *TV6*, indicating that the Supreme Court did not consider the winding-up of the Moscow Independent Broadcasting Corporation (founder and broadcaster of *TV 6*) because the case did not fall within the Court's jurisdiction. It also indicated that the decision to close down the Corporation was taken by the Moscow Arbitration Court on 27 September 2001 on the basis of suits brought by the Lukoil-Garant Non-State Pension Fund, a non-commercial organization, and upheld by order of the appeal section on 26 November 2001. There were no legal grounds for appeal in the form of a petition for judicial supervision against the decision of the Moscow Arbitration Court, since the Presidium of the Supreme Arbitration Court had considered the case under the judicial supervision procedure and found it lawful and

well founded. The Government also underlined that the case of *TV 6* was a business dispute between shareholders in a private broadcasting company which was settled in the highest arbitration body in the land on the basis of current legislation.

475. On 30 September 2002, the Government sent a letter replying to the Special Rapporteur's communication of 19 June 2002 concerning *Novaya Gazeta*, in which it clarified that the International Industrial Bank (Mezhprombank) sued the editorial office of the *Novaya gazeta* and the journalist **O.A. Lurye**, after the publication in November 2001 of Mr. Lurye's article entitled "Putin loves to ski. So what's Pugachev got to do with it?" in *Novaya gazeta* No. 86 (729). The plaintiff held that the article contained misinformation and false statements injurious to its business reputation, and petitioned the court to force the defendants to publish a retraction of the information they had disseminated, and pay compensation in the order of 30 million roubles, a sum equal to the losses sustained by the bank owing to the withdrawal of a deposit, the cancellation of a contract and the payment of a fine that resulted from the publication of the article. By the decision of Basmany Intermunicipal Court in Moscow of 28 February 2002, upheld by the decision of the civil division of Moscow City Court of 24 April 2002, the information published by the newspaper was found to be untrue. The court ordered the newspaper to publish a retraction and pay damages of 15 million roubles and stamp duty of 226,000 roubles. In its reply, the Government provides details about the assessment of the case by the court, leading to the conclusion that there was a direct causal relationship between the defamatory information disseminated and the losses incurred by the plaintiff. On 6 June 2002 the court bailiff received two writs of execution concerning the protection of Mezhprombank's business reputation and the recovery of 15,226,000 roubles from *Novaya gazeta*, as a result of which enforcement proceedings were initiated. However, on 24 and 27 June 2002, the enforcement proceedings were terminated because the court bailiffs' service received a request from Mezhprombank to return the writs of execution.

476. On 30 September 2002, the Government sent another reply to the Special Rapporteur concerning his communication of 26 July 2002, giving clarifications regarding the following cases:

- a) The circumstances of the murder of **Natalya Vladimirovna Skryl**, an economics reporter for the newspaper *Nashe vremya*, were being investigated by the Taranrog Procurator's Office (Rostov Oblast). The attackers have still not been identified and are still being sought, and the main theory being pursued by the investigation is that Ms. Skryl was killed in connection with her work;
- b) The attempted murder of **Sergei Alekseevich Zolovkin**, a correspondent for the newspaper *Sochi*, was being investigated by the Adler District Procurator's Office in Sochi, which established that the perpetrator was A.K. Minasyan, who was hired for this purpose by an individual named Andrei, whose identity was being ascertained. The theory that the attempted murder was organized in connection with Mr. Zolovkin's work is being followed up. The criminal case and indictment of Mr. Minasyan have been transmitted to the Krasnodar Territory Court for consideration;
- c) The murder of **Valery Nikolaevich Batuev**, a correspondent for the newspaper *Moskovskie novosti*, was unconnected with his work; in the course of the investigation of this criminal case, which was instituted on 31 March 2002 by Preobrazhensky Inter-district Procurator's Office in Moscow, it was established that the crime was

- committed by one S.V. Zdorovtsev, who killed Mr. Batuev with the motive of robbery. The investigation of this criminal case is nearing completion and will be forwarded for consideration by the court;
- d) In the course of investigating the criminal case involving the murder of **Sergei Arturovich Kalinovsky**, editor-in-chief of the newspaper *Moskovsky komsomolets – Smolensk*, it was established that Mr. Kalinovsky had connections with criminal elements. The investigation of the case was continuing, and the main working hypotheses are that the murder was connected with the personal life of the deceased or his work as journalist;
  - e) The murder of **Valery Evgenyevich Ivanov**, editor-in-chief of the newspaper *Tolyattinskoye obozrenie* and a deputy in the city дума, was being investigated by the Tolyatti City Procurator's Office (Samara Oblast). The principal theory pursued by the investigation is that Mr. Ivanov's murder was linked with his work as journalist, because in his articles about criminal gangs operating in the city he cited the names of the gang leaders. Mr. Ivanov also presented episodes of the television series "Criminal Russia", in which he cited specific crimes and named the gangs involved. Other leads are also being followed up, for example to do with Mr. Ivanov's business dealings and his personal life;
  - f) The reasons for the assault on **German Evgenyevich Galkin**, deputy editor of the newspaper *Vecherny Chelyabinsk*, were being investigated by the central investigative department reporting to the Chelyabinsk Oblast Central Internal Affairs Administration. The principal hypothesis being followed up by the investigation is that Mr. Galkin was attacked in connection with his work;
  - g) The criminal case concerning **Olga Vadimovna Cheburina**, editor-in-chief of the newspaper *Naryana-Vynder*, was investigated by the department of the Federal Tax Police Service for the Nenets Autonomous Area. The investigation aimed to elucidate the circumstances surrounding Ms. Cheburina's embezzlement of one million roubles from the newspaper *Naryana-Vynder*, and her payment of a fine of 5,000 roubles by order of the court bailiffs service for the Nenets Autonomous Area from funds belonging to the newspaper. Criminal proceedings against Ms. Cheburina were dropped;
  - h) The law enforcement bodies of the Republic of Tuva have not instituted criminal proceedings against **Dina Oyun**, chief editor of the web site *Tuva-on-Line*.

## Observations

477. The Special Rapporteur thanks the Government of the Russian Federation for its replies and willingness to cooperate with his mandate. In this connection, he would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

## Rwanda

### Communications envoyées

478. Le 4 février 2002, le Rapporteur spécial et le Président-Rapporteur du Groupe de travail sur la détention arbitraire ont envoyé un appel urgent au Gouvernement du Rwanda concernant l'arrestation et la détention de **Laurien Ntezimana**, fondateur de l'Association Modeste et

Innocent (AMI) et lauréat du prix de la paix Pax Christi International 1998, et **Didas Muremagingo**, son collaborateur. Selon les informations reçues, Laurien Ntezimana aurait été arrêté par des éléments de la police dans la ville de Butare le 26 janvier 2002 et aucun mandat d'arrêt ne lui aurait été présenté. Selon les informations reçues, Ntezimana et Muremagingo auraient été arrêtés pour être interrogés sur la revue *Ubuntu* (Humanité) publiée par l'AMI, qui milite pour la réconciliation. Apparemment, Ntezimana aurait été détenu à la brigade de police en compagnie de son collaborateur Didas Muremagingo avant d'être transféré le 29 janvier 2002 à la prison de Butare. Il semble que Ntezimana avait déjà été arrêté et dû s'expliquer à plusieurs reprises auprès des services de renseignements du Front patriotique rwandais à propos de ses liens présumés avec l'ex-président du Rwanda, le pasteur Bizimungu, actuel président du Parti démocratique pour le renouveau (PDR).

479. Le 13 juin 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement concernant plusieurs citoyens rwandais, **Agnès Bazubafite, Jean-Claude Nshimyumukiza, Obed Nsengiyumva, Jean-Damascène Kazimanyi, Bareberaho, Mwunguzi, Bazimenyera, Évariste Ntakirutimana, Aloys Bizimana, Suzanne Mukabigega, Ndisebuye de Gisenyi, Philémon Munyaneza, Charles Nshimyumukiza, Grégoire Uzabakirihó, Jean-de-Dieu Nyamucakomeye, Valens Munyaneza, Joseph Gasasira, Emmanuel Ngayaberura, Damascène Ndahayo et Damascène Nsengimana**, qui auraient été arrêtés au cours des derniers mois, semble-t-il pour leur appartenance supposée au PDR-Ubuyanja et leurs liens avec le pasteur Bizimungu et Charles Ntakirutinka. Ces derniers, respectivement ancien président du Rwanda et ancien ministre des travaux publics sous le parti dirigeant (Front patriotique du Rwanda), auraient été arrêtés les 19 et 20 avril 2002 pour avoir formé le PDR-Ubuyanja en mai 2001 (qui fut interdit en juin 2001). Ils seraient depuis détenus à la prison centrale de Kigali et accusés d'atteinte à la sûreté de l'État – accusation passible d'une peine de 10 ans de prison – et d'association de malfaiteurs. Selon les informations reçues, les 20 personnes susmentionnées risqueraient d'être intimidées et maltraitées afin d'être forcées à incriminer Bizimungu et Ntakirutinka et leurs alliés politiques.

480. Le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement concernant l'expulsion décrétée par les autorités de Kigali, le 19 mai 2002, du directeur ougandais de l'hebdomadaire *Rwanda Herald*, **Asuman Bisiika**, qui vivait au Rwanda depuis 1994. Selon les informations reçues, cette expulsion serait liée à la publication par le *Rwanda Herald* d'articles critiques envers les autorités. Il semblerait que Bisiika a été reconduit à la frontière ougandaise par la police, qui lui aurait laissé 10 minutes pour rassembler ses affaires avant d'être remis aux gardes frontière ougandais.

481. Le 30 juillet 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement concernant **Robert Sebufirira, Elly MacDowell Kalisa et Godfrey Munyaneza**, respectivement rédacteur en chef et journalistes de l'hebdomadaire *Umuseso*, qui auraient été arrêtés par la police et emprisonnés à la prison centrale de Kigali les 17 et 18 juillet 2002. Selon les informations reçues, le 17 juillet, vers 22 heures, les journalistes auraient été les témoins accidentels de l'intervention d'agents de police envers un fauteur de troubles près d'un bar du quartier Kiyovu. À l'arrivée des renforts militaires, toutes les personnes présentes, dont les journalistes, auraient été interpellées. Robert Sebufirira aurait, quant à lui, été arrêté le lendemain alors qu'il venait déposer son témoignage. Il semblerait que les accusations contre les

journalistes soient les suivantes: ingérence dans le travail des agents de la police, rébellion et casse du matériel. L'hebdomadaire ne paraîtrait à nouveau qu'à la libération de son rédacteur.

### Observations

482. Le Rapporteur spécial regrette de n'avoir à ce jour reçu aucune réponse à ses communications de la part du Gouvernement rwandais.

### Saudi Arabia

#### Communications sent

483. On 18 January 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions concerning reports that at least 17 persons belonging to the Ismaili community, among whom **Duhayman Muhammad al-Hatila** and **Mish'il al-Hussain Barman bel-Harith**, might have been at risk of imminent execution for having participated in demonstrations. It is alleged that these 17 people were arrested together with hundreds of others in April 2000 in connection with demonstrations by members of the Ismaili religious community in Najran following the closure of their mosque by government security forces, during which at least two people were allegedly killed and many others wounded when the police broke up the protest and carried out the above mentioned arrests.

484. On 19 and 25 February 2002, the Special Rapporteur sent two urgent appeals, jointly with the Special Rapporteur on torture for the first appeal, and jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on arbitrary detention for the second appeal, concerning **Sheikh Ahmad Turki al-Sa'ab**, **Hamad 'Ali Daseeny al-Hutailah**, and **Hamad Qulayan al-Zbeyd**, all members of the minority Shi'a Muslim community, who were believed to be held in incommunicado detention in relation to an interview with the *Wall Street Journal*. Sheikh Ahmad Turki al-Sa'ab, who is said to be a leading member of the Ismaili branch of the Shi'a Muslim community in Saudi Arabia, was reportedly arrested in Najran, in the South West of the country on 15 January 2002. Around 4 February, Hamad 'Ali Daseeny al-Hutailah and Hamad Qulayan al-Zbeydi, were reportedly also arrested in Najran. These arrests are believed to be connected with an interview that Shaikh Ahmad Turki al-Sa'ab gave to a foreign journalist, in which he reportedly expressed some criticism of the Saudi Arabian authorities' policy towards the Ismaili community in the country and during which Hamad 'Ali Daseeny al-Hutailah reportedly acted as an interpreter. The reasons for Hamad Qulayan al-Zbeydi's arrest were unknown, but he is believed to have also been present during the interview.

485. On 25 March 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the reported arrest of **Abdul Mohsen Musalam**, a poet, and firing of **Mohammed Mokhtar al-Fal**, editor-in-chief of the newspaper *Al-Madina*. According to information received, Mr. Musalam wrote a poem entitled "The corrupt on Earth", criticizing the Islamic judges for taking bribes and ruling unjustly to please "tyrants", published on 10 March in the Government-owned newspaper *Al-Madina*. It is reported that both Mohammed Mokhtar al-Fal and Abdul Mohsen Musalam were

interrogated in the Ministry of the Interior. Mr. Musalam was allegedly jailed and it is not clear whether charges have been brought against him or whether he will formally be tried. After his interrogation, Mr. al-Fal was reportedly fired from *Al-Madina* newspaper on the order of the Ministry of the Interior.

486. On 28 March 2002, the Special Rapporteur sent an urgent appeal concerning the reported censorship by the Ministry of Information against the Saudi-owned, London-based newspaper *Al-Hayat* on 21 March 2002, after the publication of an article criticizing the ministry for not allowing the Saudi press to publish the content of a meeting between the Minister of Information and editors of daily newspapers. It is reported that, according to the 21 March decision, *Al-Hayat* will have to be read by Ministry censors before it can be printed in Saudi Arabia.

487. On 26 July 2002, the Special Rapporteur sent a communication to the Government relating to **Dr. Bob Arnot**, journalist for the United States cable television newschannel MSNBC, who was said to have his reporting materials confiscated on 21 April 2002 by security officials at the Riyadh airport. It is reported that Dr. Arnot was escorted off a flight to Dubai by security officials who demanded video footage that he had gathered during his reporting trip to Saudi Arabia, and that the officials, after the journalist declined to surrender his footage, proceeded to confiscate 18 videotapes and a laptop computer.

### **Communications received**

488. On 3 December 2002, the Government sent a reply to the Special Rapporteur's communications of 19 and 25 February 2002 concerning **Shaikh Ahmad Turki al-Sa'ab**, **Hamad 'Ali Daseeny al-Hutailah**, and **Hamad Qulayan al-Zbeyd** and indicated that these people were detained on suspicion of entering into contact with dubious foreign bodies and jeopardizing the country's security and interests. The Government also indicated that, after being questioned, those against whom there was sufficient evidence for charges to be brought against them were referred to the competent court.

489. On the same date, the Government replied to the Special Rapporteur's communication of 25 March 2002 concerning **Abdul Mohsen Musalam** and **Mohammed Mokhtar al-Fal**. It indicated that Mr. Musalam was detained on the basis of a civil action brought against him after he wrote a poem published by *Al-Madina* newspaper, then questioned and released on 3 April 2002. Mr. al-Fal was dismissed by the newspaper on contractual grounds due to his failure to respect the regulations governing his profession, in particular the Press and Publications Act and the Press Institutions Act. He is allowed to lodge an appeal at any time against this decision.

490. On 27 May 2002, the Government replied to the Special Rapporteur's communication of 28 March concerning the newspaper *Al-Hayat*, indicating that the Government does not impose prior censorship on newspapers and magazines published in the Kingdom, and that, as the newspaper *Al-Hayat* is not considered a Saudi newspaper, it enjoys the same facilities as other newspapers published outside the Kingdom. It is distributed on the day of its publication, as the regulations permit the printing of copies for distribution without any interference with their editorial content.

## Observations

491. The Special Rapporteur thanks the Government for its replies and willingness to cooperate with his mandate. However, he awaits further response to his communications of 18 January and 26 July 2002.

## Senegal

### Communication envoyée

492. Le 2 mai 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement du Sénégal sur la situation de **Mamadou Oumar Ndiaye** et **Pape Ndiaye**, respectivement directeur de publication et reporter à l'hebdomadaire dakarais *Le Témoin*, qui auraient été condamnés par le tribunal régional de Dakar à quatre mois de prison fermes et à une amende de 2 millions de francs CFA pour «diffamation», suite à une plainte du directeur de l'école catholique Sainte Marie de Hann, Victor Cabrita, dont la gestion avait été mise en cause dans un article du *Témoin* de septembre 2001. Les informations qui ont été communiquées au Rapporteur indiquent que les avocats de Pape Ndiaye ont l'intention d'interjeter appel de cette condamnation.

### Communications reçues

493. Le 8 janvier 2002, le Gouvernement a envoyé une lettre au Rapporteur spécial sollicitant de plus amples informations, concernant une communication précédente du Rapporteur, sur les violations supposées du droit à la liberté d'expression qui auraient été commises à l'encontre des journalistes Moussa Diop et Cheikh Dieng.

494. Dans une autre lettre, en date du 25 mars 2002, le Gouvernement a indiqué que tant Cheikh Dieng que Moussa Diop ont été victimes des échauffourées occasionnées, apparemment, par les militants du Parti démocratique sénégalais pendant la campagne pour les élections législatives de 2001. Les deux journalistes, après avoir rencontré de hauts responsables du parti susmentionné, ont renoncé à porter plainte formelle tandis que la gendarmerie n'a procédé à aucune enquête et, par conséquent, il n'y a pas eu de procédure. Selon le Gouvernement, les faits concernant les deux journalistes ne paraissent pas constituer des violations du droit à la liberté d'opinion et d'expression. La meilleure preuve que ce droit fondamental est respecté au Sénégal est la prolifération des journaux et publications de toute sortes, dont la création et la diffusion ne sont soumises à aucune condition contraignante.

## Observations

495. Le Rapporteur spécial remercie le Gouvernement pour les informations transmises, mais note qu'il n'a à ce jour reçu aucune communication concernant les cas de Mamadou Oumar Ndiaye et Pape Ndiaye.

## Singapore

### Communication sent

496. On 4 November 2002, the Special Rapporteur sent an urgent appeal to the Government, jointly with the Special Rapporteur on torture, concerning **Chee Soon Juan**, Secretary General of the Singapore Democratic Party, who was reportedly sentenced to a prison term of five weeks on 8 October 2002, following a rally he organized on 1 May 2002 to promote workers' rights. According to information received, his conditions of detention were extremely poor and his wife encountered difficulties in exercising her visiting rights. It is reported that Chee Soon Juan was refused permission to organize the rally on 1 May on the grounds that it presented potential law and order problems and that, in protest, Mr. Chee reportedly proceeded to hold the rally outside the gates of the presidential palace, where he was arrested along with another organizer, **Ghandhi Ambalam**. He was reportedly sentenced under the Public Entertainment and Meeting Act, to a fine of S\$ 4,500 (US\$ 2,540), which he refused to pay, or to a prison term of five weeks. Mr. Ambalam was released following the payment of S\$ 3,000 by his family.

### **Communication received**

497. On 25 November 2002, the Government replied to the Special Rapporteur's communication and indicated that Mr. Chee applied to hold a rally on 1 May 2002 at the Presidential residence and office, which was refused as on that day, the Istana grounds were to be opened to the public and a large crowd was expected. Mr. Chee made a public statement at entrance of the Istana and was arrested after he refused to leave; he was prosecuted, found guilty and fined S\$ 4,500, which he refused to pay and chose to go to jail. The Government underlined that the conditions of detention of Mr. Chee met the basic needs of all inmates. Mr. Chee received medical attention and spoke with a Visiting Justice during his detention. The Government also indicated that Ms. Chee's visiting rights were not impeded, and she visited him three times during his detention.

### **Observations**

498. The Special Rapporteur thanks the Government for its reply and willingness to cooperate with his mandate.

## **Slovenia**

### **Communication sent**

499. On 26 July 2002, the Special Rapporteur sent to the Government of Slovenia a communication concerning reports that since the attack against **Miro Petek** in February 2001, which was reportedly connected to his investigative journalism and his revelations of corruption in Slovenia, the police have failed to prosecute a single individual, which is allegedly linked to the lack of independence of some members of the local police force, pressure and intimidation against some police officers, members of the judiciary, local authorities and their families, and lack of resources of local prosecutors, which undermine the conduct of a full and independent investigation. It was further reported that six journalists were sued for their coverage of Miro Petek's case.



### **Communication received**

500. On 31 October 2002, the Government of Slovenia replied to the Special Rapporteur's communication, providing him with details on the on going investigations. In relation to the Special Rapporteur's allegations, the Government indicated that the preliminary criminal proceedings were conducted by the Prosecutor's Office within its territorial jurisdiction, as stipulated by the Code of Criminal Procedure. The Government underlined that a group of Prosecutors cannot succumb to the influences of the local environment or other pressures by the local community, and that the Prosecutor's Office did not establish that the investigation of this case was hindered by a lack of resources. Given the interest of the media in this case, the Government emphasized that the case was still in its preliminary phase, and that owing to the confidentiality of the proceedings, no concrete data could be provided. The Government also indicated that there was no problem of independence of, or pressure on, the police, which were cooperating with the Regional Public Prosecutor's Office in this case. On the basis of information gathered, the Government indicated that it is possible that the assault was associated with Mr. Petek's investigative journalism.

### **Observations**

501. The Special Rapporteur thanks the Government for its reply and willingness to cooperate with his mandate.

## **Solomon Islands**

### **Communication sent**

502. On 13 February 2002, the Special Rapporteur sent an urgent appeal concerning reports that the country's only daily newspaper *The Solomon Star* was subjected to extortion by a member of national Government. According to information received, on 23 January 2002, the newspaper published an editorial about the conduct of the Minister for Economic Reform and Structural Adjustment and MP for North Malaita, Daniel Fa'afunua, alleging that he assaulted a taxi driver in a drunk and disorderly manner at the Central Market in the capital, Honiara, on 19 January 2002. On 24 January 2002, a group of men reportedly entered the newspaper's office in Honiara's Chinatown, saying that they were sent by the Minister to demand Sol\$ 5000 (approx US\$ 1,000) "compensation" for what the newspaper had published. It was further reported that the publisher **John Lamani** and the associate editor **Ofani Eremae** were then escorted by this group of men allegedly to see the Minister, and were instead taken to a private building in an industrial area in suburban Honiara, where the Minister reportedly awaited them and allegedly confirmed the demand for compensation. The two newspaper staff reportedly gave the requested amount of money and were warned not to publish any further articles about the Minister.

### **Observations**

503. The Special Rapporteur notes that no reply has been received regarding the above communication.

## Spain

### **Comunicación enviada**

504. El 31 de octubre de 2002, el Relator Especial envió un llamamiento urgente acerca de la decisión del Gobierno vasco de revocar la autorización emitida para la realización de dos marchas de protesta convocadas por particulares en Bilbao y San Sebastián (en fecha 7 y 8 de septiembre de 2002) para protestar por la suspensión de las actividades de Batasuna. A raíz de esta revocación se encontraría la decisión del Juez del Juzgado Central de Instrucción n.º 5 de la Audiencia Nacional, Baltasar Garzón, que habría ordenado en fecha 26 de agosto de 2002 la suspensión (por tres años) de todas las actividades públicas y privadas y el cierre de los locales de la agrupación política Batasuna, así como de las organizaciones Torturaren Aurkako Taldea (TAT) y Etxerat, por la alegada vinculación de las mismas a la estructura terrorista ETA. El Juez Baltasar Garzón habría recordado a la Consejería Vasca de Interior que su auto de 26 de agosto declara ilegales las manifestaciones que “directa o indirectamente estén impulsadas o inspiradas por Batasuna o por sus miembros o dirigentes”.

### **Comunicación recibida**

505. Por carta de fecha 11 de diciembre de 2002, el Gobierno de España contestó al llamamiento urgente transmitido el 31 de octubre. El Gobierno aseguró que el auto de 26 de agosto de 2002 ha sido dictado con todas las garantías del procedimiento penal y es susceptible de impugnación a través de los recursos procedentes. El Gobierno subrayó que el respeto al principio de independencia de los tribunales impide cualquier actuación administrativa que suponga una alteración, desviación o modificación de las resoluciones judiciales dictadas por ellos. En este sentido, el Gobierno afirmó que la actuación de la Consejería Vasca de Interior consistió en el estricto cumplimiento del auto de 26 de agosto, y se practicó con todas las garantías y con la posibilidad de ser impugnada a través de los recursos pertinentes.

### **Observaciones**

506. El Relator Especial da las gracias al Gobierno de España por su respuesta.

## Sri Lanka

### **Communications sent**

507. On 2 July 2002, the Special Rapporteur sent an urgent appeal concerning **A. J. A. Abeynayaka**, a journalist for the *Divaina*, who was reportedly threatened after he reported on the court proceedings of the torture of 18-year-old Lalith Rajapakse at the Kadana police station and on the death of Bernard Silva of Welisara while he was in custody in the same police station three years ago.

508. On the same date, the Special Rapporteur sent another urgent appeal concerning reports that in the recent past journalists have been increasingly facing direct and indirect threats and intimidation from opposing political parties and groups at times of political and civil violence,

especially related to elections and ethnic interests. For example, on 23 June 2002, **Sarath Yatawara**, Kurunagala correspondent of the Sri Lanka Rupavahini Corporation (state-owned TV station), was allegedly threatened by the Wariyapola Police Station officer-in-charge while he was covering a road accident in which two children were killed. On 26 June 2002, the house of **P. Sathsivanamdham**, Muttur reporter for the Tamil daily *Weerakesaree* and correspondent for the BBC Tamil service, was reportedly attacked by an unidentified group of individuals, amidst Tamil-Muslim clashes in the area as he was filing a report to the BBC Tamil service on the day's developments in the area. In the recent past, a number of other journalists have reportedly been intimidated by opposing political parties and groups at times of political violence, especially related to elections and ethnic interests.

### Communications received

509. By letters dated 10 October and 13 December 2002, the Government replied to the Special Rapporteur's communication of 28 September 2001, and provided information in relation to **Subramaniam Thiruchelvam**, **Upendra Chithral Alwis**, **Aiyathurai Nadesan**, **Nellai G. Nadesan**, the television channel **TNL**, **Victor Ivan** and the **Free Media Movement**.

510. Concerning **Subramaniam Thiruchelvam**, the Government indicated that he was arrested by the Terrorism Investigation Division (TID) of the police for collecting funds for the Liberation Tigers of Tamil eelam (LTTE). Following his arrest, he was detained at the TID under a Detention Order issued in terms of the Emergency Regulations, during the investigation into his involvement in terrorist activities. He admitted that he had links with the LTTE. At the end of the investigation, he was produced to a judicial medical officer, presented to a magistrate and was remanded. The TID forwarded its notes of information to the Attorney-General, who decided that the available material was inadequate to present an indictment against the suspect, who was then released from detention.

511. Regarding **Upendra Chithral Alwis**, the Government reported that he recorded a complaint at Police Headquarters, which was recorded by the Superintendent of the Police. He was not able to produce witnesses to corroborate his version of the incident and the police were unable to proceed with the inquiry.

512. The Government also reported that, after the publication of a news report by **Aiyathurai Nadesan**, he was invited for a discussion by the Acting Brigade Commander of Batticaloa, who explained the relevant facts. Mr. Nadesan was not arrested, interrogated or detained, and he did not complain to a court of law.

513. The Government provided information concerning **Nellai G. Nadesan**, indicating that prompt and detailed investigations were conducted by the police into the attack but the perpetrators could not be identified. The Magistrate Court of Batticaloa was briefed on the investigation.

514. As far as the case presented on the television channel **TNL** is concerned, the Government indicated that a request was made by the Director of Information to TNL to voluntarily refrain

from telecasting the layout of the proposed official residence of the President, and TNL's management complied with the request.

515. Regarding the case of **Victor Ivan**, the Attorney-General entered a plea of Nollie Proseu in relation to all cases of criminal defamation pending in the courts against Mr. Ivan, following the repeal of the provisions of the Penal Code concerning criminal defamation.

516. Concerning the case of the **Free Media Movement**, the Government reported that none of the 10 journalists attacked were able to name any of the perpetrators of the attack, which undermined the credibility of the identification parade organized by the complainants when they published pictures of the alleged attackers in the press. The latter denied their culpability.

517. By letters dated 10 October and 13 December 2002, the Government replied to the Special Rapporteur's communication of 10 October 2001 and provided information concerning the following cases: **Arul Sathiyanthan**; the newspapers *Lankapida*, *Divaina*, *The Daily Mirror*, *The Island* and *The Sunday Leader*; the newspaper *Uthayan*; the newspapers *Sunday Leader* and *Irida Peramuna*; the television programme "Sandeshaya"; **Mr. Srivagan** and **Mervin Maheshan**; and **Keerthi Kalamegam**. Concerning **Arul Sathiyanthan**, the Government denied the facts in the communication and indicated that he was arrested and detained for one night on 28 May 2000 was a matter not linked to any terrorist activity.

518. Regarding the case of the newspapers, the Government indicated that the letters of warning sent to the newspapers *Lankapida*, *Divaina*, *The Daily Mirror*, *The Island* and *Sunday Leader*, and the ban of *Uthayan* and *Irida Peramuna*, were issued under Regulation 14 of the Emergency Regulations No. 1 of 2000. The Government also indicated for information that these relations were later amended, as they lapsed with the lifting of the emergency on 4 July 2001.

519. With respect to the television programme "Sandeshaya", the Government reported that it was suspended due to the censorship imposed on media reports covering the conflict in the Northern and Eastern Provinces; it is now aired daily on the Sri Lanka Broadcasting Corporation.

520. In relation to the case of **Mr. Srivagan** and **Mervin Maheshan**, the Government indicated that no action was possible into the alleged threat, as the journalists refused to lodge a complaint at the Batticaloa police station and stated that they did not receive any direct threats from any police officer.

521. Concerning **Keerthi Kalamegam**, the Government indicated that it had not been able to locate him to record his version of the events.

522. On 13 December 2002, the Government provided information in reply to the Special Rapporteur's communication of 1 October 2001 concerning **Atputharajah Nadarajah**, **Mylavaganam Nimalarajan** and **Anthony Mariyadasan**. As concerns **Mr. Nadarajah**, the Government confirmed the facts as presented in the Special Rapporteur's communication and indicated that the investigations of the Criminal Investigations Department (CID) under the direction of the Inter-ministerial Standing Committee on Human Rights, have failed to identify the perpetrators; the facts of the case have been reported to the Magistrate Court.

523. Concerning **Mr. Nimalarajan**'s case, the Government reported that investigations were conducted by the CID under the direction of the Inter-ministerial Standing Committee on Human Rights. Suspects belonging to the Eelam Peoples' Democratic Party (EPDP) were arrested in connection with the incident and additional suspects are being sought. The CID also obtained statements from all security personnel manning checkpoints close to the victim's residence at the time of the incident, in order to ascertain their complicity in the attack.

524. Regarding the case of **Mr. Mariyadasan**, the Government indicated that, although an investigation was carried out by the CID under the direction of the Inter-ministerial Standing Committee on Human Rights, no suspect has been arrested. However, the investigators concluded that the most probable motive for the murder could have been the victim's professional activity with the government-owned broadcasting station and his reporting on news in the areas of the Vanni district not controlled by the government security forces. The most plausible suspects would then be anti-government rebels from the LTTE.

525. Also on 13 December 2002, the Government replied to the Special Rapporteur's communications of 2 July 2002 concerning **A. J. A. Abeynayaka, Sarath Yatawara** and **P. Sathsivanamdham**. With respect to the case of **Sarath Yatawara**, the Government indicated that the relevant police officers were served with a charge sheet on 6 September 2002 and disciplinary proceedings are expected to commence soon. As the case of **P. Sathsivanamdham** is concerned, the Government replied that two suspects in the attack had been arrested and granted bail, and the next hearing of the case was to be held on 4 December 2002.

526. On 26 December 2001, the Government replied to the Special Rapporteur's communication of 27 October 2000 concerning **Mylvaganam Nimalarajan** and indicated that the police, backed by army personnel, commenced criminal investigations into his murder as soon as it received information about the incident on 19 October 2000. The next day, the Officer-in-charge of the Jaffna Police Station filed a preliminary report with the Magistrates' Court, which started a Magisterial Inquest. Upon the conclusion of this inquest, the Senior Superintendent of Police of the Jaffna Peninsula commissioned a team of police officers to conduct detailed investigations. On 18 April 2001, the Inspector General of Police directed the Criminal Investigation Department (CID) to take over the investigation, the progress of which is being monitored periodically by the Inter-ministerial Working Group on Human Rights Issues and reported to the Jaffna Magistrate.

## Observations

527. The Special Rapporteur thanks the Government for its replies and willingness to cooperate with his mandate. However, he awaits further response to his communications of 28 September 2001, with respect to **A.S.M. Fasmi; S.M. Gopalratnam; Saman Wagarachchi** and **Sujeewa Gamage; Iqbal Athas; P. Seevagan, Roy Denish, Saman Wagaarachchi** and **D. Sivaram** and the newspapers *Ravaya* and *Athavan*; of 1 October 2001, with respect to **Rohana Kumara**; and of 10 October 2001, with respect to **Elmo Fernando; R. Thurairatnman; Namal Perera** and **Sinha Ratnatunga**.

528. The Special Rapporteur would also like to thank the Government for its notification that the Parliament passed in June 2002 legislation repealing the offence of “criminal defamation” in the criminal code. The Special Rapporteur wishes to express his satisfaction at this progressive step towards a more independent media and a fuller exercise of the right to freedom of opinion and expression.

## Sudan

### **Communications sent**

529. On 24 January 2002, the Special Rapporteur on torture, the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal to the Government of the Sudan concerning **Hassan Al Sayeir**, who was reportedly arrested by security forces in Niyala city, where he works as a tax officer, on 10 January 2002. From there, he was reportedly taken to a security forces detention centre where he has been denied visits from his family and his lawyer. It is believed that he is asthmatic and requires medication. However, despite the family’s attempts to have the medication delivered to him, security forces are said to have refused to accept it. Furthermore, the Special Rapporteurs received information regarding **Ibrahim Albashier Musa**, a student at Niyala University and member of the Democratic Front of Sudanese Students, a coalition of democratic and communist students, who was reportedly arrested on 5 January 2001 by security forces in Niyala city. It is reported that he was then forced to return daily to the security offices for interrogation between 5 and 12 January, and that nearly every day he was subjected to various forms of ill-treatment. On 12 January, security forces are said to have arrested and detained him; he remains in detention. Finally, the Rapporteurs received information regarding **Hussain Adam Suliman**, a teacher at the Ed Da’ein Secondary School, who was reportedly arrested on 5 January 2002, by security forces in Ed Da’ein city. It is believed that he remains in incommunicado detention at an undisclosed location. According to the information received, all three men were arrested by security forces for alleged involvement in the regional distribution of a public communiqué by the Communist Party, which condemned the Government’s policy regarding famine issues and tribal conflict in the Darfur region. In view of the incommunicado nature of their detention, fears have been expressed that they may be at risk of torture or other forms of ill-treatment while in detention, and that prolonged incommunicado detention can in itself constitute cruel, inhuman or degrading treatment.

530. On 30 May 2002, the Special Rapporteur, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government concerning **Yasir Ramadan** (25 years old), **Abdullah Hamad** (25 years old) and **Adam Issa** (26 years old), all students and members of the Umma party, who were reportedly arrested by the Sudanese security forces on 16 May 2002 in Nyala. According to the information received, the three students were arrested at the house owned by Mr. Ramadan’s relatives, where they were assisting student members of the Umma party and the Ansar sect from different universities to establish a student union. It is reported that the three students have not been charged and are currently being held incommunicado at an undisclosed location. In view of the incommunicado

nature of their detention, fears have been expressed that they may be at risk of torture while in detention.

531. On 13 June 2002, the Special Rapporteur, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government concerning the following three members of international Islamic organization, Monazmat Aldawa Al Islamiya (MDI - the Organization of Islamic Call):

(a) **Dr. Alamin Mohamed Osman**, the 62-year-old MDI Secretary-General, who was reportedly arrested in Almanshiya on 10 June. Security officers reportedly told Dr. Osman that he was being arrested by order of the Vice-President. No charges have reportedly been brought against him. According to the information received, Dr. Alamin is being held on suspicion of belonging to the banned People's National Congress (PNC), which was established in 2000 following a split in Sudan's ruling party in December 1999. Dr. Alamin is reportedly being detained at the Security Headquarters in Khartoum and it is unknown whether he had access to his lawyer;

(b) **Abd Alaziz Fadl Almuola**, the organization's administrative manager, who was reportedly arrested on 10 June 2002, and **Salah Babiker Asmali**, the organization's finance manager, who was reportedly arrested on 11 June 2002. Both men are thought to have been arrested on suspicion of belonging to the PNC and being supporters of Mr. Al Turabi. The whereabouts of both of these men remain unknown. In view of the incommunicado nature of their detention, fears have been expressed that the above-named persons may be at risk of torture or other forms of ill-treatment.

532. On 21 June 2002, the Special Rapporteur, the Special Rapporteur on torture and the Special Rapporteur on the situation of human rights in the Sudan sent a joint appeal to the Government regarding **Dr. Toby Madut**, a member of the Democratic Forces Front (JAD), a non-registered political party advocating democracy in the Sudan, and co-chairperson of the Sudanese Human Rights Group (SHRG), a local non-governmental organization which monitors human rights violations in the country. Dr. Madut is also a prominent advocate of the rights of Southern Sudanese and internally displaced people living in Khartoum. On 17 June, the security services from Haj Yusif on the outskirts of Khartoum reportedly visited Dr. Madut at the clinic where he works. He was reportedly arrested the following day and taken to an unknown place of detention. His arrest may be linked to his participation a few days earlier in a meeting of the JAD. He has been arrested and questioned several times before by the security services. In view of the incommunicado nature of his detention in an unknown location, fears have been expressed that he may be at risk of torture or other forms of ill-treatment.

533. On 24 June 2002, the Special Rapporteur, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government concerning **Professor El Amin Mohamed Osman**, Secretary General of Aldawa Al Islamiya, **Abdul Atiz. Fadl El Mula, Mohamed Mumin, Salah Asmali, Dr. Issa Buhra, Halima Abdul Daym, Ismail Mustafa, and Mubarak** (first name unknown), all senior staff members of the same organization. It is reported that Prof. Osman, Abdul Atiz. Mr. El Mula and Mr. Mumin were arrested by the security services on 12 June 2002 and others on 17 June 2002. All of them

are believed to be currently detained incommunicado and, as far as the Special Rapporteur has been informed, no charges have been brought against them yet. Prof. Osman, who is suffering from diabetes and hypertension, was reportedly not allowed to bring his medication to the place of detention. It is thought he may be held at the security office in Khartoum North but his whereabouts have not been confirmed. According to the information received, Aldawa Al Islamiya is an international religious organization preaching the precepts of Islam and working on activities relating to charity, development and education. It is alleged that its staff members may have been arrested on suspicion of being closed to the PNC, which was banned in February 2001 by the Government. In view of the incommunicado nature of their detention at an unknown place, fears have been expressed that the above-named persons might be at risk of torture or other forms of ill-treatment. Moreover, in view of the health condition of Prof. Osman, fears have been expressed for his life and health if he does not receive appropriate and prompt medical care while in detention.

534. On 25 July 2002, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government regarding **Salah Mohamed Abdel Raham**, a community leader for the Rizeigat tribe involved in tribal peace initiatives (People to People Peace Dialogue), who was reportedly subject to arbitrary arrest and incommunicado detention by the Sudanese Security Forces in Darfour on 9 July 2002.

535. According to the information received, at the time of his arrest, Mr. Raham was engaged in convening a tribal reconciliation conference between the Rizeigat and the Dinka from Bahr el-Ghazal. In order to convene this conference, Mr. Raham had reportedly travelled to Dinka areas, some of which are located in regions controlled by the Sudan People's Liberation Army (SPLA). No warrant was served at the time of his arrest and Mr. Raham, and 26 other detainees, who are reportedly facing the death penalty, have since been transported to Port Sudan via Wad Meddani. Furthermore, Mr. Raham has allegedly not been seen since his initial arrest. His family has reportedly tried to obtain details of his whereabouts and have asked to be allowed to visit him, but their requests have reportedly been denied. Mr. Raham was allegedly tortured by the security forces in 1997, and suffers from poor health and recurrent back problems and pain as a result. His family fears for his well-being and believes that his life is threatened whilst he remains in detention.

536. The Special Rapporteur, in a letter dated 26 July 2002, drew the attention of the Government of the Sudan to information he received concerning the alleged confiscation, on 12 and 13 July 2002, of the front and back pages of the 13 July issue of the independent Arabic-language daily *Al-Horreya (Freedom)* which were reportedly seized by security officials at the newspaper's printer in Khartoum. According to information received, they said that they would return the seized pages as soon as they had looked at them. However, it is reported that they had not been returned by the next morning, so the newspaper was not published that day. It is believed that the seizure might have been prompted by the expected publication in the issue of a critical article about recent divisions within the main northern opposition party, Umma.



537. On 29 October 2002, the Special Rapporteur, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government regarding **Ahmed Isameldin**, aged 25, **Amnuel Abeigel**, aged 26, **Mao Rominio**, aged 28, **Yaser Mohamed Abdallah**, **Hisham Ali**, a third-year student in civil engineering, **Ahmed Al Amir Mohamed**, a third-year student in mechanical engineering, **Musaab Abulhassan**, a first-year student in engineering, **Talal Abdulrahman**, a third-year student in civil engineering, **Ahmed al Azhari (Al -Zaeem)**, **Yasir Mohamed Abdelrahman**, **Abdullah Hassan Gaafar**, a fourth-year student in civil engineering, **Digheim Osman**, a second-year student in electronic engineering, **Mohamed Abdullah**, a second-year student in engineering, **Alrashir Tamim Al Dar**, **Mutasim Ahmed**, a fifth-year student in chemistry, **Abbas El Jack**, a second-year student in civil engineering, **Abu Median Hamdan**, a fifth-year student in chemistry, **Mahmoud Satti**, a second-year student in engineering, **El Naeim Ali**, a fifth-year student in agriculture, **El Shaffie Ibrahim**, a fourth-year student in construction, **Omer Hassan**, a second-year student in civil engineering, **Mohamed El Tayib**, a second-year student in civil engineering, and a number of other students. They were reportedly arrested by the security forces between 19 and 24 October 2002 and are said to be currently held at various security offices. On 19 October, security officers reportedly surrounded the University of Bahr-El-Ghazal, which is situated in a suburb of Khartoum. Tear gas and plastic bullets were allegedly used to disperse students. Mr. Isameldin, Mr. Abeigel, Mr. Rominio and 11 other students were arrested at that time. The next day, the 11 were released, after reportedly being beaten while in custody. The arrests apparently followed an earlier violent clash between students and two security officers at the university. Between 22 and 24 October, there were additional clashes between students from the University of Khartoum and riot police, armed with sticks and rubber bullets. Many students, including those named above, allegedly remain in security force detention. Furthermore, it is reported that Mr. Al Dar was beaten at the time of his arrest at the university by security forces, was bleeding, and lost consciousness before being taken to the security offices. Mr. Mohamed is said to have a bullet lodged in his right leg and was thus arrested at Khartoum Hospital, and Mr. Ahmed is said to have a bullet lodged in his shoulder. Fears have been expressed that those remaining in custody may be at risk of torture or other forms of ill-treatment and may not receive prompt and appropriate medical attention.

538. On 20 November 2002, the Special Rapporteur and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal concerning the reported arrest, by State security officials, of **Sid Ahmed Khalifa**, editor-in-chief of the daily newspaper *Al-Watan*, and his son **Adil Sid Ahmed Khalifa**, a journalist from the same newspaper. According to information received, the editor was arrested a few hours after criticizing, at a press conference, the seizure of an issue of his own newspaper and those of two others published in Khartoum, *Al-Sahafa* and *Al-Horriya*. It is reported that State security police seized copies of *El-Watan*, *Al-Sahafa* and *Al-Horriya* during raids on their printing plants on the night of 8 to 9 November 2002. The three newspapers carried reports about university clashes that had occurred in late October, despite a written warning by State security police on 4 November not to report on the events. It is alleged that Adil Sid Ahmed Khalifa was threatened by security officials with reprisals if he published further reports about the clashes at the university. The Special Rapporteur was also informed that Sid Ahmed Khalifa was arrested on 9 November 2002 when

he and his son responded to a summons by State security officials. The editors of the other two newspapers were summoned as well, but were released after being questioned.

539. On 25 November 2002, the Special Rapporteur, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the situation of human rights in the Sudan sent a joint urgent appeal to the Government concerning reports on the injuring of 25 University of Khartoum students, at least 11 of whom were reportedly subsequently arrested, and the arrest of at least nine other students, some of whom were allegedly tortured in detention. According to the information received, on 12 November 2002, an Islamic student militia group said to support the Government, together with a new unit of armed security forces called the "City War Forces", raided student halls in the campus of the Faculty of Education at Khartoum University in Omdurman. Members of the militia group and the armed security forces reportedly beat the students, randomly using iron bars, guns and iron chains, injuring several students, 14 of whom were admitted to hospital. The names of those injured are: **Mujahid Yousif** (third-year physics, who reportedly sustained serious injuries to the eyes and back and head injuries which required five stitches); **Mohamed Ahmed Fadl AlMoula** (third-year French, reportedly sustained broken ribs and severe head injuries and was admitted to the hospital unconscious after being beaten with gun butts); **Usma al Amin Alrayah** (third-year English literature, reportedly sustained severe head injuries); **Omar Abdelrahman** (third-year French, reportedly sustained back injuries); **Musa Al Adam Alshiekh** (third-year English literature, reportedly sustained neck and back injuries); **Walid Alhaj Mustafa** (third-year English literature); **Muhasab Anwar Muhasab** (fourth-year mathematics); **Alshafieh Alamin** (third-year French); **Amar Abdelsalam** (second-year mathematics); **Alyaghout Issa** (second-year geography); **Osman Mohamed Osman** (fourth-year chemistry); **Abdelgadir Musa Mohamed** (second-year Arabic); **Awad alGied Mohamed** (second-year geography); and **Mohamed Abdulla** (fourth-year English literature). It is also reported that in another incident on 13 November 2002, the same security units raided student hostels at Shambat (the campus of the Faculties of Agriculture and Forestry, and of Veterinary Sciences), after which 11 students were admitted to hospital with serious injuries. Security forces allegedly arrested these 11 injured students at the hospital, along with nine other students who had accompanied them to hospital. According to information received, those who were injured from Shambat campus and later arrested from the hospital are as follows: **Gorashi Hamid** (second-year animal husbandry); **Omar Osman** (third-year animal husbandry); **Fatah Alrahman Aldaw** (second-year veterinary sciences); **Alamin Barkat** (second-year veterinary sciences); **Gosai Osman** (second-year veterinary sciences); **Husham Ahmed** (fifth-year veterinary sciences); **Ahmed Izaldin** (fourth-year agriculture, reportedly sustained fractures of the leg and shoulder and head injuries); **Yasir Jamieh** (third-year animal husbandry); **Sohail Mohamed Osman** (second-year animal husbandry); **Faris Alhassan** (third-year animal husbandry; and **Nusaiba Abdelrahim** (second-year Agriculture). The nine students who took them to hospital and who were reportedly arrested from the hospital are: **Ahmed Ali Abdelrahman** (third-year agriculture); **Muhnad Abdelrahim** (fourth-year agriculture); **Ahmed Mohamed Osman** (third-year animal husbandry); **Yosif Mohamed Abdulla** (second-year animal husbandry); **Abdelrahman Shamo** (fifth-year animal husbandry); **Sami Mohamed Osman** (fifth-year animal husbandry); **Omar Aljozouli** (fifth-year animal husbandry); **Walid Atta** (fifth-year animal husbandry); and **Altayib Abu Algasim** (fifth-year animal husbandry). It is reported that all of the above-named students were taken first to Omdurman East police

custody cells and were later transferred to security forces offices in Al Sahafa East in Khartoum, where they were allegedly tortured. A number of them were taken to the offices of the District Attorney for Crimes against the State for interrogation.

### **Observation**

540. The Special Rapporteur notes with deep regret that the Government sent no reply to his urgent appeals.

## **Swaziland**

### **Communication sent**

541. On 14 June 2002, the Special Rapporteur on freedom of opinion and expression sent an urgent appeal to the Government of Swaziland concerning the official publication of the Internal Security Bill 2002. According to information received, the draft law, which complements the 1973 Decree that banned political parties in the Kingdom, seeks to make it illegal for people to wear any political colours, display flags or participate in political rallies. It also provides that members of the public who suffer property damage during a march or demonstration, regardless of who is responsible, can sue the organizers of the march. Among other sanctions, a fine of 10,000 emalangeni (approx. US\$ 1,000) is foreseen for desecrating the national flag and a year in jail for refusing to follow a police order. According to the information received, the Attorney-General ,Phesheya Dlamini, whose office drafted the Internal Security Bill, told the State-owned Swazi-TV that the bill is an anti-terrorism measure. However, reports indicate that the bill may be aimed at preventing any protest campaign against the constitutional process. The Constitution, which is to be drafted by September, would reportedly impose a permanent ban on opposition politics and expand royal powers, and many civil society groups have indicated that they would start a mass action to protest against such provisions.

### **Communication received**

542. On 13 August 2002, the Government of Swaziland provided the Special Rapporteur with a reply to his urgent appeal dated 14 June 2002 concerning the draft Internal Security Bill. With regard to the allegation that the bill was aimed at preventing any protest campaign against the constitutional process, the Government explained that the process followed an open and public debate. Further consultations were held with the people through a national forum and a series of meetings at the level of the various constituencies. Contributions stating individual views were also made. It is also worth noting that throughout the process there was no outcry of professional malfeasance on the part of the commissioners. In addition, the report of the Constitutional Review Commission, referred to in the Special Rapporteur's letter dated 14 June, was based on the findings made over a five-year period. Finally, the Government stated that the bill was being debated upon in the National Parliament through the constituencies. In so doing, the rights of all people to freedom of expression and opinion are protected.

### **Observation**

543. The Special Rapporteur would like to thank the Government of Swaziland for the reply to his urgent appeal date 14 June 2002.

### Syrian Arab Republic

#### **Communications sent**

544. On 18 January 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Riad Sairafi, Ahmad Sairafi and Jamal al-Masri**, relatives of **Mamun al-Humsi**, a member of Parliament arrested on 9 August 2001. The three were believed to have been arrested on 26 December 2001 after they applauded Mamun al-Humsi at the latest hearing of his trial in the Damascus Criminal Court. They were reportedly held in 'Adra Prison, apparently without access to lawyers or their family. Mamun al-Humsi was reportedly put on trial before the Criminal Court in Damascus on 30 October and charged with offences including "attempting to change the constitution by illegal means". On 26 December, the judge rejected Mamun al-Humsi's lawyers request to call 20 defence witnesses to testify, on the grounds that the testimony would be "unnecessary and counterproductive". When Mamun al-Humsi shouted angrily at the decision, Riad Sairafi, Ahmad Sairafi and Jamal al-Masri reportedly applauded and continued shouting in support of al-Humsi after they had left the court building. They were allegedly arrested in the street by members of military intelligence, accused of provoking "public disorder". At the time that the communication was sent, they had not been brought before a judge for interrogation.

545. On 29 January 2002, the Special Rapporteur sent an urgent appeal concerning the satirical weekly newspaper *Addomari*. According to information received, on 21 January 2002 Ali Farzat, the newspaper's owner, decided to suspend the publication following the introduction of new conditions for its distribution, through which the authorities are demanding that the newspaper be distributed through the state company that reportedly sought to collect 40 per cent of the newspaper's earnings.

546. On 22 April 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on torture and the Special Representative of the Secretary-General on the situation of human rights defenders, concerning **Dalilah Aref**, a former dean of the faculty of economics of Aleppo University and reportedly an active member of the preparatory committee of the Civil Society Forum, which campaigns for human rights, political participation and freedom of expression in Syria. He was reportedly arrested in September and charged by the Supreme State Security Court with, inter alia, attempting to change the Constitution by illegal means. He was reportedly taken from his cell in Sednaya Prison the first week of April 2002 to a hospital in the capital Damascus where he was allegedly diagnosed a deep vein thrombosis, but was reportedly returned to prison before receiving any medical treatment.

547. On 24 June 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Musallam Shaykh Hasan**, a leading member of the Syrian Kurdish Democratic Unity Party, who was reportedly arrested on 7 May 2002 by members of the political security forces and was detained in the town of Ayn al-Arab, close to Aleppo in northern Syria, on charges of distributing Kurdish political literature. He was reportedly taken to the

Aleppo Political Security Department and later transferred to a detention centre in the capital, where he was reportedly held in incommunicado detention.

548. On 19 December 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, the Special Representative on human rights defenders and the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding the following case: on 10 December 2002, the Syrian Kurdish Democratic Unity Party (SKDUP) reportedly held a peaceful demonstration with some 200 participants before the National Assembly in Damascus, in the framework of which **Hassan Saleh** and **Marwan 'Uthman**, leading members of the SKDUP, presented a memorandum to the President of the National Assembly reportedly demanding greater protection for the rights of people of Kurdish origin living in Syria. Reports indicated that, the following day, members of the security forces searched both men's houses in Qamishli and 'Ayn al-Arab in northern Syria. It was further reported that Hassan Saleh's son, **Siamant Saleh**, and Marwan 'Uthman's brother, **Ahmad 'Uthman**, were taken from the houses, interrogated by members of the security forces and released after five hours. On 15 December, Hassan Saleh and Marwan 'Uthman were reportedly detained in an unknown location following an invitation for a meeting at the Ministry of the Interior.

### **Communications received**

549. On 2 April 2002, the Government replied to the Special Rapporteur's communication of 13 August 2001, concerning **Mamum al-Homsi**, indicating that the security authorities learned that he had committed grave offences against the security of the State and the public authorities, and supplied that information to the Prosecutor General, who ordered that no legal proceedings should be taken against Mr. Al-Homsi, as he is entitled to parliamentary immunity in accordance with article 67 of the Constitution. After reviewing Mr. Al-Homsi's file, the Prosecutor General submitted a report to the Minister of Justice requesting that the President of the People's Assembly grant the judicial authority permission to institute legal proceedings; the President of the Assembly gave his permission and Mr. Al-Homsi was arrested for questioning. Mr. Al-Homsi was permitted to engage 10 lawyers and he was visited by lawyers, members of his family and friends and provided with medical care, medication and treatment free of charge. Mr. Al-Homsi was found guilty as charged during an open trial and exercised his right of appeal to the Court of Cassation, which is currently reviewing his case.

550. Le 25 septembre 2002, le Gouvernement a répondu à la communication du Rapporteur Spécial en date du 24 juin 2002 concernant **Musallam Shaykh Hasan**, en indiquant que ce dernier appartenait à une organisation secrète non autorisée et a été arrêté en train de distribuer des tracts incitant à la déstabilisation politique. Le Gouvernement précise qu'il a été déféré devant la justice le 12 juin 2002 et son procès était en cours.

### **Observations**

551. The Special Rapporteur thanks the Government for its replies and willingness to cooperate with his mandate. However, he awaits further replies to his communications of 18 and 29 January, 22 April and 19 December 2002.

### Tanzania (United Republic of)

#### **Communication sent**

552. By a letter sent on 26 July 2002, the Special Rapporteur drew the attention of the Government to information he had received concerning alleged cases of violations of the right to freedom of opinion and expression of the following persons:

- (a) **Nshala Rugemeleza**, president of the Lawyers' Environmental Action Team (LEAT) and **Tundu Lissu**, a LEAT lawyer, were reportedly charged with "sedition against the Government" and were to be tried on 31 May 2002. According to information received, the charges are linked with statements by LEAT in favour of an independent investigation into the Bulyanhulu massacre of August 1996, when 50 miners were allegedly killed during the eviction by force of thousands of miners from the Bulyanhulu area. **Augustine Mrema**, leader of the opposition Tanzania Labour Party, who has also asked for an independent investigation into the Bulyanhulu events, has reportedly been charged together with Mr. Rugemeleza and Mr. Lissu. It is reported that if the defendants are found guilty, they could face up to two years' imprisonment;
- (b) **Abduel Kenge**, journalist at *The Express*, was reportedly arrested and held in police custody for four hours on 21 May 2002 for allegedly having addressed Vice-President Ali Mohamed Shein in a manner not befitting the latter's status. According to information received, while Mr. Kenge was attending the official release of a book entitled *The Nyerere Legacy and Economic Policy Making in Tanzania* at the University of Dar es Salaam, where the Vice-President was the guest of honour, he attempted to approach the Vice-President for a comment and was prevented from doing so by the Vice-President's bodyguard. Mr. Kenge was reportedly escorted from the reception hall, and outside the bodyguard told two senior police officers to place Mr. Kenge under arrest for harassing the Vice-President. Mr. Kenge was reportedly released after four hours without any charges being pressed.

#### **Observation**

553. No reply has been received from the Government to date.

### Thailand

#### **Communications sent**

554. On 24 January 2002, the Special Rapporteur sent an urgent appeal concerning the reported ban of the Hong Kong-based *Far Eastern Economic Review*. It was reported that on 7 January 2002, the chief of a police department that oversees press affairs explained that the order banning the sale and distribution of the 10 January issue of the magazine was based on the 1941 Publications Act, which allows censorship statements or articles that "might lead to social and national disorder". It seems that the incriminated article was a one-paragraph item in the magazine's "Intelligent" section that commented upon reported tensions between the Government and the Royal Palace.

555. On 27 February, the Special Rapporteur sent an urgent appeal concerning the proposed expulsion of two employees of the *Far Eastern Economic Review*, **Shawn Crispin**, the

magazine's bureau chief, and **Rodley Tasker**, correspondent, by the immigration authorities. It was reported that on 22 February 2002, Shawn Crispin and Rodley Tasker received an official notice revoking their visas for being allegedly considered a threat to national security. The notification was reportedly related to the 10 January article which commented upon reported tensions between the Government and the Royal Palace.

556. On 26 July 2002, the Special Rapporteur sent a communication to the Government concerning the following cases:

- (a) Radio programmes produced by the Nation Multimedia group were allegedly banned by the Government on 4 March 2002 for unreasonable criticism of the Government, after an interview of **Prasang Soonsiri** during which he reportedly criticized the Government's reaction to the 10 January article of the *Far Eastern Economic Review*;
- (b) The reported decision by the authorities on 28 June 2002 to declare two journalists from Myanmar personae non gratae in Thailand. **Maung Maung**, editor-in-chief of the daily *New Light of Myanmar* and **Ma Tin Win**, author of a series of articles on the Thai monarchy that were deemed to be "insulting", were reportedly banned from the country;
- ii) © At the end of June 2002, **Khin Maung Soe**, a reporter from Radio Free Asia, was reportedly arrested and interrogated by the police while he was investigating the rape of a refugee from Myanmar by Thai policemen; and
- iii) (d) On 16 July 2002, the National Security Council reportedly banned foreign journalists from entering the refugee camps along the border with Myanmar, following critical articles on how these camps are run, after the authorities criticized the press for fostering tensions between Thailand and Myanmar by reporting on the refugees' criticisms of the Myanmar authorities.

### **Communications received**

557. On 27 March 2002, the Government sent a letter replying to the Special Rapporteur's communications of 24 January and 27 February 2002, indicating that the banning of the sale and distribution of the *Far Eastern Economic Review* pertained only to the 10 January 2002 issue of the magazine, which featured an article referring to the Royal family and the Prime Minister and were grounded on the authorities' duty to maintain national unity, public order and social order. Other issues of the magazine published prior to and subsequent to that edition are allowed to circulate freely. Following the publication of this article, the authorities revoked the visas of Rodney Tasker and Shawn Crispin; the two journalists submitted an appeal to the Immigration Bureau and apologized to the Thai people. Taking into account this apology, the Immigration Bureau re-instated their visas, and they were not expelled.

558. On 15 October 2002, the Government sent a reply to the Special Rapporteur's communication dated 26 July 2002. Concerning the discontinuation of the **Nation Group radio programme**, the Government indicated that the allegation was inaccurate, as there was no banning of the Nation Multimedia Group's programme "*Miti Khao 90.5 Keb Tok Jak Nation*" (News Dimension 90.5 Additional Commentaries from the Nation). Instead, the discontinuation of the latter and replacement by another programme, "*Miti Khao 90.5 Chuang Sai Trong Jak Hong Khao*" (News Dimension 90.5 Hotline from Newsroom), was initiated by a private company with which the Nation Multimedia Group was under contract. The Government added

that the discontinuation resulted from the commercial concerns of a private company to change the orientation of the programme and it cannot be held to have represented any sort of political intervention over the presentation of news and information.

559. Concerning the journalists **Maung Maung** and **Ma Tin Win**, the Government indicated that, since 2 May 2002, the official daily *New Light of Myanmar*, of which U Maung Maung Aye is the editor-in-chief, published articles from Ma Tin Win displaying the negative intention to tarnish the image of Thailand and its monarchy. A formal protest was issued by the Ministry for Foreign Affairs via diplomatic channels on 6 June 2002 to the *New Light of Myanmar*, which did continue to publish articles by Ma Tin Win. The authorities considered the articles under the Publications Act B.E. 2484 (1941) and the Immigration Act B.E. 2522 (1979) and on 9 August 2002 a committee comprising the Royal Thai Police and the Ministry of the interior decided that Ma Tin Win's actions had violated the law and Ma Tin Win should be declared *persona non grata*. As for U Maung Maung, the authorities were still reviewing evidence of the case. The Government underlined that this decision was not related to the political atmosphere between Myanmar and Thailand.

560. Concerning the arrest of **Khin Maung Soe**, the Government indicated that, after investigation into this allegation by the Royal Police, there was no report of such an arrest.

561. Finally, the Office of National Security Council of Thailand (ONSC) clarified that, as a norm, entries and departures from border areas where shelters for displaced persons from Myanmar are located have to be authorized. Under normal circumstances, journalists are authorized access to these areas, but when there is tension and the possibility of armed clashes, such access is more closely monitored on a temporary basis for security reasons.

## **Observations**

562. The Special Rapporteur thanks the Government of Thailand for its replies and its willingness to cooperate with his mandate.

## **Togo**

### **Communications envoyées**

563. Le 22 avril 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement du Togo au sujet de la saisie, le 17 avril 2002, des copies de l'hebdomadaire *Le Regard*, pour un article contenant un communiqué d'un parlementaire, membre du parti au pouvoir Rassemblement du peuple togolais (RPT), demandant des réformes internes au sein du RPT. Cette saisie aurait été effectuée en vertu des dispositions du Code de la presse adopté en janvier 2002, qui permet aux autorités de censurer les publications et émissions contenant des informations «offensives» ou «controversées». Selon les informations communiquées, c'est la quatrième fois que des copies de cet hebdomadaire ont été saisies au cours de la dernière année. La police aurait en particulier saisi la quasi-totalité de l'édition du 9 avril 2002, qui contenait un article sur la participation du Premier Ministre, Agbeyome Kodjo, à la session de la Commission des droits de l'homme. La police aurait également saisi, le 4 avril 2002, 2 000 exemplaires du



journal *La Tribune du Peuple* sur ordre du Ministre de l'intérieur, M Walla, qui accusait cet hebdomadaire pro-opposition d'avoir publié des commentaires offensifs dans un article alléguant que deux membres des forces armées togolaises avaient agressé un mécanicien accusé de vol. De même, le 8 avril 2002, la police aurait saisi la plupart des copies de l'hebdomadaire *Motion d'Information* après qu'un article eut allégué qu'une douzaine d'étudiants militants d'opposition avaient échappé à une arrestation.

564. Parallèlement, le Rapporteur spécial a reçu des informations faisant état de harcèlement et d'intimidation de journalistes par les autorités. **Lucien Messan**, éditeur de *La Tribune du Peuple*, qui venait d'être libéré de prison après avoir été détenu cinq mois sous inculpation de fraude, a semble-t-il reçu des menaces de mort après qu'il eut indiqué que le Ministre de la défense lui avait demandé de révéler ses sources. **Kodjo Afatsao Siliadin**, éditeur de *La Tribune du Peuple*, et **Abass Derman Mikaila**, éditeur du *Regard*, auraient été forcés de se cacher pour ne pas être arrêtés après la saisie de leurs journaux respectifs. Le 7 février 2002, l'équipement de Radio Victoire aurait été saisi par des agents du Ministère de l'intérieur, empêchant la radio d'émettre, au motif que sa licence temporaire avait expiré, alors que certaines informations semblent indiquer que les positions critiques de Radio Victoire vis-à-vis du Gouvernement auraient motivé cette saisie.

565. Le 13 juin 2002, le Rapporteur spécial a envoyé un appel urgent au Gouvernement concernant **Basile Agboh**, directeur de publication de l'hebdomadaire *Le Scorpion*, qui aurait été interpellé, avec l'un de ses reporters, le 5 juin 2002, par la police de Lomé. Le lendemain, le reporter aurait été libéré, mais M. Agboh a semble-t-il été transféré à la prison civile de Lomé. Il serait accusé «d'atteinte à l'honneur» pour avoir publié un article affirmant que le Premier Ministre, Gabriel Kodjo, avait confirmé avoir reçu des «menaces ouvertes de mort venant du lieutenant-colonel Ernest Gnassingbé». Selon *Le Scorpion*, le fils aîné du chef de l'État reproche au Premier Ministre d'avoir apporté son soutien à un responsable du parti au pouvoir critique envers la politique d'Eyadéma. Le fils du président de la République aurait nié les faits et aurait porté plainte contre l'hebdomadaire.

566. Par sa lettre envoyée le 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur la saisie, ordonnée le 4 avril 2002 par le Ministre de l'intérieur, des exemplaires du journal *La Tribune du Peuple*, pour «commentaires désobligeants». Cette décision aurait été motivée par un article paru le 3 avril s'indignant des mauvais traitements infligés à un forgeron accusé de vol par trois agents des Forces armées togolaises. À la suite de cette décision, le rédacteur de l'article et directeur du journal, Kodjo Afatsao Siliadin, aurait décidé d'entrer en clandestinité.

567. Le 19 novembre 2002, le Rapporteur spécial a transmis au Gouvernement un appel urgent au sujet d'informations sur l'inculpation de **Claude Améganvi**, éditeur du journal *Nwayo*, actuellement en prison pour quatre mois, qui aurait été accusé de divulguer de fausses informations, de diffamation et de troubler l'ordre public, accusations portant une peine maximale de cinq années d'emprisonnement. Selon les informations communiquées, les récentes accusations contre Améganvi font suite à la publication d'un article dans l'hebdomadaire *Le Nouvel Écho* d'août 2002, dans lequel figuraient des spéculations sur la richesse personnelle du Président Gnassingbé Eyadéma. Depuis, il aurait été prouvé qu'Améganvi n'est pas l'auteur de

cet article, qui serait le président du mouvement politique MO5 actuellement en exil, Eloi Koussawo, selon les propres dires de ce dernier. Il semblerait que les accusations contre Améganvi s'ajoutent aux poursuites contre deux autres journalistes dans la même affaire: **Julien Ayi**, éditeur du *Nouvel Écho*, qui aurait été condamné à quatre mois de prison et à une amende de 100 000 francs CFA le 16 septembre, et l'éditeur en chef du *Nouvel Écho*, **Alphonse Névamé Klu**, contre lequel un mandat d'arrêt aurait été lancé et qui se cacherait pour échapper à une arrestation.

### Communications reçues

568. Le 23 janvier 2002, le Gouvernement du Togo a transmis une lettre en réponse à l'appel urgent envoyé par le Rapporteur spécial le 2 novembre 2001 concernant Abdoul-Ganiou Bawa, Rigobert Bassadou, Alphonse Klu et Folivi Akiya. En ce qui concerne Bawa et Bassadou, journalistes de l'hebdomadaire *Échos d'Afrique*, le Gouvernement a indiqué qu'ils ont été interpellés sur plainte du préfet de Dankpen pour avoir porté atteinte à son honneur en publiant un article intitulé «Escroquerie à Dankpen: le Préfet détourne 1 130 000 CFA». Les prévenus ont par ailleurs reconnu avoir publié une fausse nouvelle ayant porté atteinte à l'honneur du préfet de Dankpen. La publication *Nouvel Écho*, dont le directeur est Alphonse Klu, a publié de fausses nouvelles portant atteinte à l'honneur d'une haute autorité. Klu a recouvré la liberté après avoir reconnu que les rumeurs avaient été sa seule source d'information et présenté ses excuses dans les médias. L'hebdomadaire *Motion d'Information* a publié un article portant atteinte à l'honneur du chef de l'État qu'il a traité de «pyromane et assassin». Les services techniques du Ministère de l'intérieur, de la sécurité et de la décentralisation en matière de presse ont invité, en vain, le directeur de l'hebdomadaire, Folivi Ayika, à se présenter pour fournir les preuves de ses allégations. Sentant sa culpabilité établie, Ayika a préféré s'adresser aux chancelleries étrangères et à Reporters sans frontières.

569. Le 16 juillet 2002, le Gouvernement a envoyé une lettre en réponse à l'appel urgent du 22 avril 2002 du Rapporteur spécial concernant la saisie par les autorités togolaises de plusieurs journaux et le harcèlement de leurs éditeurs. Le Gouvernement a indiqué que le Code de la presse et de la communication confère des pouvoirs de police au Ministère de l'intérieur, de la sécurité et de la décentralisation. Le Ministre peut donc, suivant les dispositions des articles 86, 87, 88 et 97 du Code, procéder par arrêté à la saisie des exemplaires de toute publication mise en vente, distribuée ou exposée au public. Ainsi, des exemplaires de l'hebdomadaire *Le Regard* (n° 276, daté du 16 au 22 avril 2002) ont été saisis le 17 avril 2002 au motif que l'hebdomadaire avait publié, sans en avoir été autorisé, une correspondance qu'un cadre d'un parti politique avait personnellement adressée à ses collègues. Par ailleurs, d'autres hebdomadaires, qui après la mise en garde adressée au *Regard* ont procédé à la publication de cette correspondance, ont vu leurs exemplaires saisis. Quant à *La Tribune du Peuple*, un autre hebdomadaire, elle a publié une information certes vraie, mais dont les commentaires tendaient à imputer les faits à l'ensemble de l'institution militaire. La faute étant personnelle, les deux militaires auteurs des exactions ont été sanctionnés et radiés de l'armée. Sur l'entrée en clandestinité du directeur de publication du journal *Le Regard*, le Gouvernement a souligné que ce directeur a fait, le 2 mai 2002, une communication sur l'état de la presse à l'occasion de la Journée mondiale de la liberté de la presse dans un hôtel de la capitale, en présence du représentant du Ministère de l'intérieur, de la sécurité et de la décentralisation. Les informations relatant des cas d'intimidation et de

harcèlement des journalistes Lucien Messan, Kodjo Afatsao Siliadin et Abass Derman Mikaila sont fausses et procèdent d'une stratégie de ces journalistes visant à s'assurer de l'impunité au regard de la presse et de la communication. Enfin, s'agissant du cas de Radio Victoire, le Gouvernement a affirmé que ladite radio a continué à émettre alors même que son autorisation provisoire avait expiré. En conséquence, selon les textes en vigueur, et malgré les multiples rappels à l'ordre de la haute autorité de l'audiovisuel, ses équipements ont été régulièrement saisis.

### **Observations**

570. Le Rapporteur spécial souhaite remercier le Gouvernement togolais pour les informations envoyées, mais il reste dans l'attente de réponses ultérieures concernant la totalité des cas soumis au Gouvernement.

571. Le Rapporteur spécial remercie également le Gouvernement pour sa réponse à sa note verbale du 1er juillet 2002 envoyée en vertu du paragraphe 20 de la résolution 2002/48 dans lequel la Commission des droits de l'homme invite les Etats "à communiquer au Rapporteur spécial des observations sur leurs programmes et politiques en matière d'accès à l'information aux fins d'éducation sur l'infection par le virus de l'immunodéficience humaine (VIH) et de prévention".

## **Tunisia**

### **Communications envoyées**

572. Le 4 février 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture et le Rapporteur spécial sur l'indépendance des juges et des avocats, a envoyé un appel urgent concernant **Hamma Hammami**, le président du Parti communiste ouvrier tunisien (PCOT), et trois de ses camarades, **Abdeljabar Maddouri**, **Samir Taamallah** et **Ammar Hamroussia**, qui se sont présentés le 2 février 2002 à l'ouverture de leur procès après avoir passé plusieurs années dans la clandestinité. En août 1999, Hamma Hammami, Abdeljabar Maddouri et Samir Taamallah avaient été condamnés par contumace par la cour d'appel de Tunis pour appartenance au PCOT à neuf ans et trois de mois de prison. Ammar Hamroussia avait, lui, été condamné en 1997 à deux ans de prison et avait décidé de sortir de la clandestinité lors de l'ouverture du procès de ses trois camarades. En janvier 2002, leurs avocats avaient fait appel de la décision d'août 1999. Selon les informations reçues, la police aurait massivement investi la salle d'audience et aurait violemment molesté les quatre inculpés susnommés, en particulier dans les cellules du palais de justice lors des interruptions d'audience qui auraient eu lieu à trois reprises. Suite à ces débordements, les 200 avocats constitués auraient pris la décision de se retirer du procès pour dénoncer la gravité de l'intervention policière. Le Conseil de l'ordre national des avocats aurait appelé à une assemblée générale le 5 février et envisagerait d'organiser une grève générale à partir du 7 février. Au terme de l'audience, le tribunal aurait confirmé les peines de prison fermes pour Hamma Hammami et Samir Taamallah. Abdeljabar Maddouri, maintenu sans explication dans les cellules du palais de justice pendant l'audience, aurait été condamné à une peine supplémentaire de deux ans pour outrage à magistrat. À leur sortie du palais de justice, ils auraient été emmenés dans un fourgon de police pour une

destination que les sources policières et judiciaires ont refusé de préciser. Des dizaines de personnes auraient été arrêtées et blessées, dont au moins trois journalistes étrangers. La fille cadette d'Hamma Hammami aurait été frappée et Ammar Hamroussia aurait été arrêté en pleine rue et aurait subi des violences malgré l'intervention des personnes présentes. Le matériel de trois journalistes (Radio France Internationale, France 3 et Arte) aurait été saisi. De plus, Samir Taamallah serait dans un état de santé préoccupant. Des craintes ont été exprimées concernant les quatre personnes susnommées quant au fait qu'elles risqueraient d'être soumises à la torture et autres formes de mauvais traitement lors de leur détention au secret dans un lieu tenu confidentiel.

573. Le 6 juin 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme, a envoyé un appel urgent au Gouvernement tunisien concernant **Zouhair Yahyaoui**, le fondateur et principal animateur du site Internet TUNeZINE, qui aurait été arrêté le 4 juin 2002 sur son lieu de travail. Il aurait ensuite été conduit à son domicile, où sa chambre aurait été fouillée et son matériel informatique confisqué. Les six policiers en civil qui ont pénétré dans sa maison n'ont présenté aucun document ni donné le motif de leur intervention. Depuis son arrestation, sa famille n'aurait reçu aucune nouvelle et le lieu de sa détention reste inconnu. Étant donné que Zouhair Yahyaoui est actuellement détenu au secret dans un lieu inconnu, des craintes ont été exprimées quant au fait qu'il risquerait d'être soumis à la torture et autres formes de mauvais traitement lors de sa détention. Selon les informations reçues, le site Internet TUNeZINE, qui serait censuré en Tunisie, est un site de diffusion d'informations sur la situation des libertés fondamentales en Tunisie et dispose de deux forums de discussion libre. À la veille du référendum du 26 mai 2002 portant sur la réélection du président de la République, une conférence nationale virtuelle aurait en particulier été organisée. TUNeZINE aurait par ailleurs été l'un des premiers sites à diffuser la lettre ouverte du juge Mokhtar Yahyaoui, le 6 juillet 2001, dans laquelle ce dernier critiquait le manque d'indépendance du pouvoir judiciaire.

574. Le 25 juin 2002, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur la question de la torture, a envoyé un appel urgent au Gouvernement sur la situation de **Moncef Chaker**, un ancien professeur, qui avait été condamné à deux ans et neuf mois de prison en 1991 après avoir été accusé d'appartenir au mouvement islamiste non autorisé Ennahda. Moncef Chaker aurait été arrêté dans la matinée du 31 mai 2002 dans le village de Bakalta sur la côte est de la Tunisie. Selon les informations reçues, Chaker aurait été arrêté dans la quincaillerie dans laquelle il travaille; les hommes qui l'ont arrêté l'auraient ensuite emmené chez lui, où ils ont indiqué à sa famille qu'ils étaient des policiers. Ils auraient fouillé sa maison, confisqué un ordinateur et emmené Chaker. Alors qu'en vertu de la loi il aurait dû être présenté devant un juge trois jours après son arrestation (six jours sur demande du procureur général) ou libéré, aucune nouvelle n'aurait été reçue à son sujet depuis et le lieu de sa détention ne serait pas connu. Selon les informations parvenues, Chaker aurait récemment été un utilisateur régulier de l'Internet, y compris des sites interactifs qui seraient sur la «liste noire» des autorités tunisiennes. En raison de sa détention au secret dans un lieu inconnu, des craintes ont été exprimées quant au fait qu'il risquerait d'être soumis à la torture et d'autres formes de mauvais traitement.

575. Par sa lettre du 26 juillet 2002, le Rapporteur spécial a attiré l'attention du Gouvernement sur **Jean-Pierre Tuquoi**, journaliste du quotidien français *Le Monde*, qui se serait vu refuser l'entrée sur le territoire tunisien le 16 mai 2002. Selon les informations reçues, Tuquoi, journaliste spécialisé sur le Maghreb, a été refoulé à l'aéroport de Tunis-Carthage alors qu'il était venu couvrir le référendum sur la Constitution du 26 mai 2002. Il semblerait que, dans un communiqué officiel, les autorités tunisiennes auraient motivé leur décision comme suit: Tuquoi «s'est toujours illustré par sa mauvaise foi systématique et manifeste, ses invectives et son hostilité déclarée à l'égard de la Tunisie et son acharnement à lui nuire».

### **Communications reçues**

576. Le 22 août 2002, le Gouvernement a envoyé une réponse à l'appel urgent du 6 juin 2002 concernant Zouhair Yahyaoui. Le Gouvernement a indiqué que Yahyaoui a été jugé pour l'utilisation frauduleuse des lignes téléphoniques spéciales du cybercafé dans lequel il travaillait, après qu'une plainte avait été déposée par les propriétaires du café. Le tribunal de première instance de Tunis, se basant sur les aveux du prévenu et sur les documents saisis, le 20 juin 2002 a condamné Yahyaoui à un total de deux ans et quatre mois d'emprisonnement, réduits à deux ans en appel. Le condamné, qui purge actuellement sa peine à la prison civile de Tunis et reçoit régulièrement la visite des membres de sa famille, s'est pourvu en cassation dans les deux affaires.

577. Par sa lettre du 19 novembre 2002, le Gouvernement, en réponse à la lettre envoyée par le Rapporteur spécial le 26 juillet 2002 concernant le cas de Jean-Pierre Tuquoi, a indiqué que ce journaliste s'est distingué depuis plusieurs années par une attitude systématiquement hostile à la Tunisie en toutes circonstances. Selon le Gouvernement, ses articles sont invariablement truffés de contrevérités et insinuations, voire d'épithètes diffamantes, mais aussi de propos injurieux et de tentatives répétées de désinformation en vue de nuire à la Tunisie. Le Gouvernement mentionne également les poursuites judiciaires engagées contre ce journaliste et le journal *Le Monde* par la présidente de l'Association des usagers des médias d'Europe, Brigitte Murat, à la suite de la réédition d'un ouvrage hostile à la Tunisie en 1999.

### **Observations**

578. Le Rapporteur spécial tient à remercier le Gouvernement pour ses réponses, mais il espère recevoir, dans les meilleurs délais, une réponse sur l'autre cas soumis à l'attention des autorités tunisiennes.

## **Turkey**

### **Communications sent**

579. On 6 February 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal concerning **Medeni Alpkaya**, teacher and board member of the teachers' trade union Eitim-Sen. According to the information received, Mr. Alpkaya was reportedly arrested on

3 February 2002 after giving a talk at a meeting of the Haber-Sen trade union in Diyarbakir. He has been allegedly held at the Anti-Terror Branch of Diyarbakir Police Headquarters. He was also allegedly detained because he has criticized the repression by the authorities against students who request Kurdish language education. Finally, Mr. Alpkaya had reportedly been detained and ill-treated by the police several times in the past. In view of previous reports according to which he was allegedly tortured while in detention, fears have been expressed that he may be at risk of torture and other forms of ill-treatment.

580. On 25 March 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, transmitted an urgent appeal concerning the events that occurred during the celebration of Newroz, the Kurdish New Year. In Mersin, where the celebrations were reportedly banned by the local governor, the participants were forcibly dispersed by police officers using tanks, water cannons, tear gas and plastic bullets. Reportedly, some of the demonstrators fought back with sticks and rocks. **Mehmet Sen** died after a tank reportedly crushed him against a wall, while **Ömer Aydin** reportedly died as a result of being crushed by the crowd. Furthermore, more than 100 demonstrators and 41 police officers were reportedly injured. At the moment the appeal was transmitted, 230 persons who participated in the Newroz celebration were believed to be in police custody. In the district of Topkapi, Istanbul, police officers reportedly also used water cannons, tear gas and plastic bullets to disperse the crowds and some people apparently responded by throwing rocks at the police officers; 546 individuals were reportedly detained as they tried to gather in a public square to celebrate Newroz and 81 of them were reportedly still in custody at the time the appeal was sent. Since these 81 persons were allegedly ill-treated upon arrest, the Special Rapporteur expressed concern about the possibility that they could still be at risk of torture and other forms of ill-treatment. Finally, it was reported that 24 of the persons released lodged a complaint with the Human Rights Association (IHD) stating that they were beaten by police officers.

581. On 27 March 2002, the Special Rapporteur sent an urgent appeal concerning the decision of the Radio and Television Supreme Council to order *Gun-TV* off the air for one year after it broadcast Kurdish-language songs. It is reported that this order was "temporarily" suspended on 22 March 2002 by the No. 8 Administrative Tribunal in Ankara.

582. On 2 April 2002, the Special Rapporteur sent an urgent appeal concerning **Melih Pekdemir**, a writer and publisher, who reportedly appeared before the Istanbul Supreme Court on 27 March 2002 to appeal against a three year and nine month sentence passed on 13 September 2001 following his trial for criticizing the Government's policy on the Kurdish community and human rights abuses against Kurds in his book *Kürtlerin Baris Yürüyüsü: Öcalan Devlet Mi?*. Mr. Pekdemir was accused under the Anti Terror Law. At the time the communication was sent, Mr. Pekdemir was free pending appeal. He was reportedly also facing charges for the book *Fethullah' in Coplan (Fetullah's Truncheons)*, a critique of Muslim fundamentalism by Zübeyir Kindira which Mr. Pekdemir edited for the Su Yayinlari publishing house.

583. On 11 April 2002, the Special Rapporteur sent an urgent appeal concerning the case of **Burak Bekdil**, journalist at the *Turkish Daily News*, who published on 28 August 2001 an article critical of the judiciary entitled "Turkey's de iure untouchables" which appeared in Mr. Bekdil's regular "Equilibrium" column in the newspaper. Reportedly Mr. Bekdil was summoned to the

State Prosecutor's Office on 25 September 2001 and was charged with "insult to the State and its institutions" under article 159 of the Penal Code, an offence which carries a maximum sentence of six years' imprisonment. On the day the urgent appeal was sent, a third trial hearing on this case was taking place.

584. On 15 May 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal related to **Yusuf Basboga, Ahmet Ökten, A. Kerim Koçhan, Mikail Bülbül, Mahsun Ilen, Faruk Kiliç, Nurettin Demir, Zübeyir Avcı, Mahmut Kuzu, A. Aziz Yücedag, Lokman Koçhan and Sermin Erbas**, members of the Egitim-Sen teachers' trade union, who were reportedly arrested by police in the town of Kiziltepe on 7 May 2002 for having been involved in a campaign for education in the Kurdish language. At the time the appeal was transmitted they were allegedly detained at the Anti-Terror Branch of Mardin Police Headquarters and fears were expressed that they could be at risk of torture or other forms of ill-treatment in view of the allegations received. It was also reported that since November 2001, hundreds of people have been arrested after they submitted petitions to their schools or universities, asking either for courses on the Kurdish language, or for their education to be in Kurdish. Although a recent constitutional amendment guarantees the right to submit such petitions, the police or gendarmerie has reportedly detained many petitioners. Some have been expelled from their schools or universities.

585. On 15 May 2002, the Special Rapporteur sent an urgent appeal concerning the introduction of a *draft "Supreme Radio and Television Board Bill"* in Parliament, which reportedly provides for exorbitant fines if broadcasters are found to violate a wide range of Turkish laws which have in the past allegedly been used to punish journalists for expressing their opinions. The fines range from 5 billion lira (about US\$ 4,000) to 250 billion lira (about US\$ 190,000), with a 50 per cent increase for repeat offenders. Broadcasters convicted three times within a single year could have their licences revoked. In addition, it is feared that the bill would spell financial disaster for smaller, local stations unable to cope with the prospect of debilitating fines. In addition to these penalties, it is reported that the draft bill also imposes tight legal restrictions on Internet content.

586. On 23 May 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers, sent an urgent appeal related to the situation of **Salih Yilar**, a member of the legal pro-Kurdish party HADEP, who was reportedly detained and taken to the Anti-Terror Branch of the Diyarbakir Police Headquarters on 14 May 2002, where he was allegedly tortured. Reportedly, Mr. Yilar was blindfolded, interrogated about his activities with HADEP and asked to act as an informer, and that when he refused to sign a statement, he was taken into an adjoining room, where he was tortured (electric shocks to his toes, cigarettes burns on his cheeks and left knee, dumping of cold water on his back). Mr. Yilar reportedly lost consciousness and awoke in the Diyarbakir State Hospital, where he was treated for injuries including deep razor blade cuts to his left arm and on his chest and abdominal region, and a swelling at the back of his head. According to information received, as soon as Mr. Yilar regained consciousness, and while he was still in hospital, the police pressured him again to sign a statement, telling him that whoever had assaulted him had been drunk, and repeatedly suggesting that it was HADEP members who

had attacked him. It is reported that the police then took him and his brother, who had come to visit him, to another police station, where officers reportedly refused to accept him as a prisoner after seeing that he had been tortured. He was taken back to police headquarters, where he was told that if he did not sign the statement he would be taken into custody again the next day. He refused to sign, and was released. Later on, lawyers came to his home to take a statement, and 15 minutes after the lawyers left, the police allegedly arrived and arrested Mr. Yılar and his brother, took them to police headquarters, threatened that the next time they would take both the brothers and their lawyers into custody, and pressured Mr. Yılar again to sign a prepared statement, telling him that the next time he was taken into custody he would not be heard from again. They were then released. On 16 May, Salih Yılar was reportedly taken to the Prosecutors Office by his lawyers, where a prosecutor reportedly refused to take his statement about the torture he had suffered.

587. On 14 June 2002, the Special Rapporteur sent an urgent appeal concerning **Mr. Aksoy**, a journalist and owner of the local newspaper *Olusum*, in the south-eastern town of Gaziantep, who was reportedly jailed on 29 May 2002 in the town's Nizip Prison, by order of the state prosecutor, for alleged "separatist writings" and "offending the reputation of the State". It is reported that he described the State as "fascist" in an article entitled "Deniz, Hüseyin, Yusuf", which paid tribute to three prominent figures of the "1968 generation".

588. On 14 June 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, transmitted an urgent appeal regarding **Bayram Bozyel**, Deputy Chairman of the pro-Kurdish Rights and Freedom Party (HAK-PAR), **Mehmet Eren**, a member of the board of the Diyarbakir branch of HAK-PAR, **Kemal Aras**, also a Board member of the board of the Diyarbakir branch of HAK-PAR, and 17 other individuals, at least 12 of whom are HAK-PAR members. At the time the appeal was transmitted they were believed to be detained in Diyarbakir, south-east Turkey. They were reportedly detained during police raids on their homes in Diyarbakir at around 1 a.m. on 12 June 2002. The police reportedly confiscated a large number of books and notes. The detainees are being held at the Anti-Terror Branch of police headquarters in Diyarbakir. In view of previous reports alleging torture of persons detained at the Anti-Terror Branch of Diyarbakir police headquarters, fears have been expressed that the above-mentioned persons may be at risk of torture and other forms of ill-treatment.

589. On 12 July 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, sent an urgent appeal referring to the situation of: **Necati Abay, Sonnur Salamer, Nadiye Gürbüz, Ali İhsan Topçu, Remziye Turun, Gökçen Arabul, Mustafa Arabul, Altan Koman, Gökhan Özdemir, Seçil Gültekin, Nuran Doan, Özgür Çubuk, Burcu Gümü, Mülge Molval, and Murat Güner**. These people were reportedly arrested during a police raid on the offices of the weekly *Yeniden Atilim (New Advance)* on 10 July 2002. During the raid, police officers allegedly confiscated technical equipment and the newspaper's archives and destroyed computers and part of the office. At the time the appeal was sent, the 15 persons were reportedly detained at the Anti-Terror Branch of police headquarters in the borough of Aksaray in Istanbul. It was also reported that the offices of the Union of Female Labourers and "Dayanisma" (Solidarity) were raided by police at the same time, as part of an operation against leftist circles. In view of previous report of ill-treatment in similar circumstance, fears have been



expressed that the above-mentioned persons may be at risk of torture or other cruel and inhuman treatment.

590. On 26 July 2002, the Special Rapporteur transmitted a communication concerning the following alleged cases of violations of the right to freedom of opinion and expression:

(a) On 8 January 2001, 28 children were reportedly arrested following a street demonstration to protest against prison conditions in the context of the continuing "F-type" prison crisis, questioned without the presence of lawyers and detained. It is reported that the majority of these children came from internally displaced families, were illiterate and could not understand Turkish, the language in which they were reportedly questioned and their confessions drafted. Thirteen of these children, aged between 12 and 17 years, were reportedly charged with supporting the Kurdistan Workers' Party (PKK) and with facilitating their activities by having participated in an unauthorized demonstration, a charge carrying mandatory terms of imprisonment of three to five years. All of the 13 children who were charged reportedly remained in custody until 17 January, when seven of the youngest were released on bail; the remaining six were reportedly kept in custody until 15 February before being released on bail. It is alleged that the children over the age of 15 years were detained with adults. According to information received, their trial proceeded in the State Security Court in Diyarbakir. The first hearings were reportedly held on 17 January, 5 February and 5 April 2001; the last was allegedly adjourned to 6 June, in order to determine the understanding of the nature of the offences of the children between 12 and 15 years old. It is further reported that additional hearings took place on 13 September and 27 December 2001 and 7 March 2002. The Special Rapporteur would appreciate receiving additional information on the outcome of this case;

(b) According to information received, Kurdish-Swedish author **Mehmet Uzun** and his publisher **Hasan Öztoprak** were tried on 29 January 2002 at the State Security Court of Istanbul, in relation to the publication of a book entitled *To Create a Language*, in which Mr. Uzun is interviewed about Kurdish literature and language. Mr. Uzun and Mr. Öztoprak were reportedly charged with "incitement to separatism" and the book was banned;

(c) On 3 April 2002, writer **Selma Koçiva** and her publisher, **Muammer Akyüz**, of the *Tum Zamanlar* Publishing House, reportedly went on trial on charges of incitement to hatred and enmity under article 312 of the Turkish Penal Code, a provision allegedly often used to penalize those who write on minority issues. Ms. Koçiva's book, *Lazona the Reality of the Laz People*, on the Laz minority group, was reportedly confiscated at the end of January 2002;

(d) It is reported that **Abdullah Keskin**, head of the Istanbul-based Avesta publishing house, was tried on 3 April 2002 in the Istanbul State Security Court. According to information received, Mr. Keskin was charged under article 8 of the Anti-Terror Law with "disseminating separatist propaganda" in connection with a book entitled *After Such Knowledge, What Forgiveness? - My Encounters in Kurdistan*, a book about the Kurds written by retired *Washington Post* correspondent Jonathan Randal. It is reported that the State prosecutor's indictment cited several passages from the book that contained references to "Kurdistan";

(e) On 15 May 2002, the Government reportedly pushed measures to reform Law 3984 of April 1994 setting the Radio and Television Supreme Council (RTÜK) through Parliament. Under these measures, the Council will now include representatives of the National Security Council (MGK), which is chaired by the Head of State and made up of the country's military chiefs), the State-controlled High Council of Education (YÖK), the Prime Minister and members of Government, in addition to the two main media organizations. Furthermore, RTÜK's scope is

expanded by adding to its powers the issuing of warnings, the levying of fines, censorship of programmes and suspension of broadcasting. The fines are on average 1,000 times higher than they used to be. In addition to heavy fines, operators of media that continue to broadcast in defiance of RTÜK's decisions will face between six months and two years in prison;

(f) On 6 June 2002, **Alp Ayan**, a psychiatrist and member of Human Rights Foundation of Turkey (HRFT) in Izmir, and **Mehmet Barindik**, Aegean Regional Representative and board member of the LIMTER-IS trade union, were reportedly sentenced to one year's imprisonment by Criminal Court No 4. According to information received, Mr. Ayan and Mr. Barindik are active members of the "Izmir Platform Against Cells" established on 6 June 2000 by a group of 30 non-governmental organizations in order to denounce the conditions of Mr. Barindik read a press statement to encourage the public to react to this situation through slogans calling for the freedom and dignity of prisoners. According to the information received, the Ministry of Justice decided to open a case against them in this connection under article 159 of the Criminal Code for "having insulted the Ministry of Justice". The prosecutor's office claimed that the slogans and statements made could be interpreted as questioning the Ministry's responsibility for incarcerating the concerned prisoners. It is further reported that the defendants were acquitted on 20 April 2001 by Izmir Criminal Court of First Instance No. 8, as the Court decided that they had only exercised their civil rights through a press statement. However, on 6 June 2002, Criminal Court No. 4 reportedly decided that even though the name of the Ministry was not mentioned openly, "there were statements in the press statement that without doubt implied the Ministry of Justice" and convicted Mr. Ayan and Mr. Barindik under article 159 of the Criminal Code;

(g) On 13 June 2002, **Memik Horuz**, publication director of the far-left magazine *İşçi Köylü*, was reportedly sentenced to 15 years' imprisonment for "belonging to an illegal armed organization", following the publication in the magazine *Özgür Gelecek* in November 2000 of interviews with members of a banned organization, the armed wing of the Turkish Marxist-Leninist Party (TKP/ML TIKKO). According to information received, Ankara's State Security Court No. 2 sentenced Mr. Horuz under article 168 (2) of the Criminal Code, and he was then sent to the city's Sincan Prison on 18 June 2002. It is alleged that the only evidence that the court considered to reach its conclusion were the article and the testimony of an alleged former TKP/ML TIKKO member, Erol Cetin, who claimed Mr. Horuz was a member of the party and had taken part in some training exercises, although the defence produced alibis for every date and fact put forward by Mr. Cetin;

(h) Reportedly, 10 July 2002, writer **Omer Asan** appeared in the Istanbul State Security Court in connection with his book, *The Culture of Ponctus*, about the Pontic minority. According to information received, Mr. Asan was charged with "separatism" and his book was confiscated.

591. On 28 October 2002, the Special Rapporteur transmitted an urgent appeal concerning **Dogan Ozgüden**, editor-in-chief of the Info-Türk news agency, **Emin Karaca**, a freelance journalist and writer, and **Mehmet Emin Sert**, editor of the magazine *Türkiye'de ve Avrupa'da Yazın*, who were reportedly indicted on 27 September 2002 by a criminal court in Istanbul and charged with "insulting the army" under article 159 of the Penal Code. According to information received, the charges followed the publication of an article by Mr. Ozgüden entitled "30 years later" and another one by Mr. Karaca entitled "Reminiscences of 30 years", articles published in the magazine *Türkiye'de ve Avrupa'da Yazın* and marking the thirtieth anniversary of the execution of three leaders of the far-left movement, Progressive Youth. The Special Rapporteur was informed that the trial of the journalists was to start on 26 November 2002 and that if the

journalists were found guilty under this provision of the Penal Code, they could be sentenced to one to three years' imprisonment.

592. On 13 November 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, transmitted an urgent appeal regarding **Ridvan Olcasöz, Fahri Kini, Semsettin Solhan** and **Ramazan Akman** who were allegedly beaten by members of the village guard militia in the neighbourhood of Yüceli in Kiziltepe, Mardin Province, on 3 November 2002. The four men were reportedly acting as election observers on behalf of the legal pro-Kurdish political party DEHAP. All of them reportedly needed hospital treatment for injuries sustained during the beating. On 4 and 7 November **Salahattin Örnek** and **Savas Yıldız**, villagers from the same area, were also reportedly beaten by a group of village guard militia and had to be taken to Kiziltepe state hospital for treatment. **Alaatin Ari**, from the village of Bugday in Mardin Province, has allegedly received death threats from the local gendarmerie after he talked to a visiting delegation of election observers from Norway shortly before the elections. It is reported that he had complained that local villagers had been pressured by the gendarmerie not to vote for DEHAP but for the Turkish nationalist political party, the Nationalist Action Party (MHP).

### Communications received

593. On 8 January 2002, the Turkish Government replied to the joint urgent appeal of 18 October 2001 concerning the situation of the **Kiliç family**. The Government explained that on 17 October 2001, in the context of a security operation against the terrorist organization PKK, two terrorists lost their lives and one women terrorist, Selma Kiliç, was wounded. Because of security reasons, 18 members of the Kiliç family, including 13 children, were taken away from the place where these events occurred. They were taken to the Silvan Security Directorate in order to establish their identity and afterwards to the hospital. The Government added that none of the medical reports of these persons indicated any trace of ill-treatment or torture. Fifteen persons, including the children, were released the same day, while three of them (Resit Kiliç, Kasim Kiliç and Adil Kiliç) were taken into custody on the grounds of aiding and abetting the terrorist organization PKK. The Government said that on 24 October 2001, the Diyarbakir State Security Court Public Prosecutor's Office decided to release these three persons, pending their trial. However, this decision was overruled and these persons were sent to prison on 29 October 2001. The Government said that the medical reports of these persons did not indicate any trace of ill-treatment or torture.

594. In a communication dated 28 January 2002, the Government transmitted additional information to the communication it sent on 29 November 2001, in response to the joint urgent appeal of 3 September 2001. The Government explained that since it was decided that the demonstration in Ankara would not be held on 1 September 2001, the chairman and administrators of the Bingöl, Sanhurfa and Siirt People's Democracy Party (HADEP) branches asked their members not to participate in any demonstration. The Government added that the security forces did not inflict any restrictions on those who wanted to travel to Ankara. As far as **Gurbert Yalçin** is concerned, the Government explained that he was taken into custody in Mardin on 31 August 2001, due to his activities with the PKK, and later arrested by the relevant court and sent to prison. In relation to the case of **Abdurrahman Tasçi**, Chairman of the

HADEP Siirt Central District, the Government stated that he was taken to the police station on 31 August 2001 at 11 a.m. since he refused to show his identity card and he was released the same day at 1 p.m., after his statement was taken.

595. In reply to the joint urgent appeal transmitted on 25 March 2002, the Government provided on 22 July 2002, information on the events that occurred during the Kurdish New Year's Day. The Government explained that on 21 March 2002, in Istanbul, several groups disrupted public order by blocking the roads and since they refused to disperse, the security forces intervened. Eighty-one persons who forcibly resisted the security forces were taken into custody and released the next day. The Government added that none of their reports indicate any trace of ill-treatment or torture. The Government indicated that similar events occurred in Mersin, where a group of people gathered and shouted slogans supporting the terrorist organization PKK. Since they did not disperse and started throwing stones and sticks, the security force intervened. The Government indicated that 74 security officers and six civilians were injured and two demonstrators died. The Government explained that **Mehmet Sen** died in an accident under the ruins of a wall which was hit by a police vehicle and that the case on his death was pending at the time the communication was sent. As far as the death of **Ömer Aydın** is concerned, the Government indicated that it was the result of a heart attack and that the investigation pertaining to his death was under way at the time the communication was transmitted.

596. In a communication dated 21 June 2002, the Government replied to the urgent appeal transmitted on 2 April 2002 concerning the case of **Melih Bekdemir**, author of the book *Kürtlerin Baris Yürüyüşü: Öcalan Devlet Mi?* The Government indicated that Mr. Bekdemir was sentenced to three years and nine months' imprisonment on 18 September 2001 on the grounds of aiding and abetting the terrorist organization PKK. He was, however, acquitted of spreading separatist propaganda through publication but as an appeal was filed, the case is pending at the Supreme Court of Appeals. The Government also indicated that no legal action was taken against Mr. Bekdemir for having editing the book *Fethullah' in Coplan*

597. On 26 June 2002, the Government replied to the Special Rapporteur's urgent appeal dated 11 April 2002, concerning the case of **Burak Bekdil**. The Government explained that a lawsuit was filed against Mr. Bekdil on the grounds of insulting the judiciary and security forces under article 159 of the Turkish Penal Code, through his article published in the *Turkish Daily News* on 21 September 2001. On 17 May 2002, Mr. Bekdil was acquitted of insulting the security forces while he was sentenced to one year and eight months' imprisonment for insulting the judiciary. The court decided to suspend the execution of the sentence as an appeal was filed.

598. On 26 June 2002, the Government replied to the urgent appeal transmitted by the Special Rapporteur on 27 March 2002 and concerning the situation of Gun-TV. The Government indicated that Gun-TV had already been suspended for one day in January 1997 and for 90 days in October 1998, because it violated article 4 (g) of Law No. 3984 which prohibits broadcasts inciting the public to violence, terrorism, ethnic discrimination and hatred, as well as article 4 (a) of the above-mentioned law, which stipulates that no broadcasts shall be against the independence and the indivisible integrity of the its territory of the State and nation. The Government explained that on 6 and 7 February 2002, the Supreme Council of Radio and Television (RTÜK) decided to suspend the broadcast of Gun-TV for one year beginning on 22

March 2002. The Government stressed that this decision was not taken because of broadcasting Kurdish songs, as alleged, but because of the separatist expressions which these songs contained, in violation of article 4 (a) and (g) of the above-mentioned law. Finally, the Government indicated that Gun-TV filed a suit against RTÜK; the case was pending and Ankara Administrative Court No. 8 had suspended implementation of RTÜK's decision in the meanwhile.

599. On 8 August 2002, 7 November 2002 and 13 December 2002, the Government provided information about cases reported in the Special Rapporteur's communication sent on 26 July 2002, concerning the case of **Mehmet Uzun**, author of the book *Bir Dil Yaratmak*, and his publisher, **Hazan Öztoprak**. The Government indicated that a lawsuit had been filed against Mr. Öztoprak on the grounds of inciting people to hatred and enmity on the bases of race. He was finally acquitted on 20 June 2002. On the other hand, no lawsuit was filed against Mr. Uzun for the said book.

600. In relation to the situation of **Abdullah Keskin**, publisher of Jonathan Randal's book *After Such Knowledge, What Forgiveness? My Encounters in Kurdistan*, the Government said that a lawsuit had been filed against this publisher on the grounds of disseminating separatist propaganda through publication and that he was finally sentenced to a TL 830,466,000 fine.

601. Concerning the case of **Selma Koçiva**, author of the book *Lazona: Laz Halk Gerçekliği Üzerin*, and the publisher **Muammer Akyüz**, the Government indicated that a lawsuit had filed against the latter on the grounds of disseminating separatist propaganda through publication, and that there was no case or investigation against Ms. Koçiva.

602. As far as the **Supreme Council of Radio and television (RTÜK)** is concerned, the Government explained that a new law had been adopted by the Parliament on 15 May 2002 which liberalizes transmission and retransmission rules, introduces further transparency in the media ownership, prevents monopolization and ensures professionalism in the composition of the RTÜK. The Government also said that the President ratified the law even while he appealed to the Constitutional Court for the annulment of certain provisions on the grounds that they are in conflict with some articles of the Constitution. Finally the Constitutional Court decided to stay some provisions regulating the election of board members, the levying of some fines and media ownership.

603. As far as **Alp Ayan** and **Mehmet Barindik** are concerned, the Government indicated that they were sentenced to one year's imprisonment on 10 June 2002 on the grounds of insulting the Ministry of Justice; however, an appeal was filed.

604. Finally, concerning **Memik Horoz's** case, the Government said that he was apprehended on 18 June 2001 on the basis of the confessions of a member of an illegal armed extreme-left terrorist organization (TKML/TIKKO), and that it was established that he had participated in the activities of this organization since August 2000. The Government said that he was sentenced to 15 years' imprisonment by the Ankara State Security Court, but an appeal had been filed and the relevant process was under way at the time the Government transmitted its communication.

605. By a communication dated 22 August 2002, the Government replied to the urgent appeal sent by the Special Rapporteur on 14 June 2002. It explained that **Ahmet Aksoy**, editor of the *Olusum* newspaper, was arrested on 29 May 2002 on grounds of disseminating separatist propaganda on behalf of a terrorist organization through his article published in the paper issue of 27 May-11 June 2002. The Government also said that at the time of writing the case was pending. On 10 October 2002, the Government transmitted additional information concerning this case, indicating that Mr. Aksoy was released on 8 August 2002 and acquitted on 17 September 2002.

606. On 26 August 2002, the Government replied to the joint urgent appeal sent on 14 June 2002, indicating that **Bayram Bozyel, Mehmet Eren, Nevzat Karakeçi, Evin Sitki, Hakan Karaaslan, Burhan Deniz, Pasa Akdogan, Zana Budak, Ümit Tektas, Ömer Mavlay, Ali Haydar Firat, Kemal Aras, Mehmet Sait Bozyel, Ramazan Eren, Muhyettin Kaya, Mehmet Selim Akgök, Nuran II, Naci Eren, Suphi Iskan Ekinci, Resan Tantekin, Abdulbari Karhan, Sergir Budak and Mahmut Yigitel** were taken into custody on 12 June 2002 on grounds of membership of the terrorist organization, the “Kurdistan Socialist Party” (PSK). On 15 June 2002, Mr. Eren was arrested while the others were released pending trial. On 21 June Mr. Eren was released. The Government added that the Public Prosecutor’s Office had issued a warrant for their houses to be searched by the police and it was established that they had had military and political training abroad. The Government also said that none of the medical reports on the above-mentioned persons indicate any trace of ill-treatment or torture.

607. On 6 November 2002, the Government replied to the joint urgent appeal of 23 May 2002 concerning the case of **Salih Yilar**. The Government indicated that Mr. Yilar was taken into custody on 18 March 2002 on grounds of aiding and abetting the terrorist organization PKK. He was released on 21 March 2002 and a decision of non-prosecution was rendered due to lack of evidence. On 14 May 2002, the security forces found Mr. Yilar on Silvan Road with cuts on his left wrist and his abdomen. He was taken to the Diyarbakir Stare Hospital and the following day he was invited to the Directorate of Security where he stated that he had attempted to commit suicide. The Government said that an investigation was initiated concerning Mr Yilar’s complaint alleging that he had been tortured. The Government indicated that in the course of this investigation, no evidence or witness was found. Finally, the Government stressed that the description of the party HADEP as “pro-Kurdish” is incorrect, since political parties in Turkey are not divided along ethnic lines and they cannot be established or pursue activities aiming at creating discrimination on any basis.

608. In a communication dated 11 September 2002, the Government replied to the joint urgent appeal transmitted on 15 May 2002. As a general remark, the Government explained that the right to education and petition are secured by the Turkish Constitution and that by a legislative change adopted by the Turkish Grand National Assembly on 3 August 2002, legal restrictions on the learning of different languages and dialects traditionally used by Turkish citizens were removed. Concerning the situation of **Yakup Basboga, Ahmet Öktem, Abdülkerim Koçhan, Mikail Bülbül, Mahsun Bilen, Faruk Kiliç, Nusrettin Demir, Zübeyir Avcı, Mahmut Kuzu, Abdülaziz Yücedag, Lokman Koçhan and Sermin Erbas**, the Government indicated that they were taken into custody in Mardin/Kiziltepe on 7 May 2002 and arrested by the court on 10 May 2002 on the grounds of violating the Anti-Terror Law. The Government said that the procedures

regarding their detention and arrest were carried out in full compliance with the provisions of the relevant legislation. The Government indicated that Faruk Kiliç, Abdülaziz Yücedag, Nusrettin Demir, Sermin Erbas, Mahmut Kuzu and Ahmet Öktem were released on 13 May 2002, while Yakup Basboga, Lokman Koçhan, Abdülkerim Koçhan, Zübeyir Avci, Mahsun Bilen, Mikail Bülbül, were released on 3 June 2002. None of these persons had been detained solely for exercising the right of petition and judicial investigations had been initiated on the ground of non-compliance with the laws. The Government added that while few cases are pending, in the majority of the cases, rulings of non-prosecutions had been rendered.

### **Observations**

609. The Special Rapporteur thanks the Government of Turkey for its replies and its willingness to cooperate with the mandate; however he awaits further responses to his communications dated 6 February 2002, 15 May 2002, 12 July 2002, 28 October 2002 and 13 November 2002.

## **Uganda**

### **Communications received**

610. On 7 May 2002, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on violence against women sent a joint urgent appeal regarding **Susan Nabukenya** and **Margie Kyeyune**, who were said to be detained in Kampala Central police station in Kampala, on the grounds of their alleged sexual orientation. On 26 April 2002, a broadsheet newspaper, *Red Pepper*, is said to have reported that on 25 April 2002, the two women had arranged a private "engagement" ceremony presided over by a pastor. The women are said to have been arrested on 1 May, reportedly under paragraph 140 of the Penal Code, which stipulates that "Any person who has carnal knowledge of any person against the order of nature" is subject to 14 years' imprisonment. They are said to have been released on 3 May, but were reportedly rearrested several hours later after criticism of their release. It is believed that they may soon be transferred to a local police station. Fears have been expressed that the two women may be subjected to torture or other forms of ill-treatment, especially of a sexual nature, in police custody.

611. On 17 October 2002, the Special Rapporteur and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning reports that the premises of the newspaper *The Monitor* were raided by three dozen police officers and that the newspaper had been closed. According to information received, the security forces searched, locked and sealed the premises of *The Monitor* on 10 October 2002, following the publication on the same day of an article alleging that an army helicopter was shot down by the Lord's Resistance Army, a rebel group that has been fighting the Government for at least 16 years in northern Uganda. It is reported that the security forces took computers, diskettes, tapes, documents and mobile phones away with them and that the authorities have given no indication as to when the newspaper may publish again. In addition, it is reported that **Frank Nyakairu**, the author of the article, is being detained in Gulu Central Police Station and that he has not yet

been brought before a court to answer charges since his arrest on 11 October 2002. He has reportedly been accused of publishing "a false report which is likely to cause fear and alarm to the public or to disturb the public peace". Charles Onyango Obbo, managing editor of *The Monitor*, was reportedly also taken into police custody on 15 October for questioning over the article and for publishing information prejudicial to national security and the publication of false news. He was released on police bond the same day and was reportedly due to appear in court on 16 October. Two other editors of *The Monitor* were reportedly also summoned for questioning by the security forces for the same offences, were released on police bond and were also due to appear in court on 16 October.

### **Observations**

612. No reply from the Government has been received to date.

### **Ukraine**

#### **Communications sent**

613. On 24 April 2002, the Special Rapporteur sent an urgent appeal to the Government of Ukraine concerning **Oleg Liachko**, editor-in-chief of the weekly *Svoboda*, who was reportedly arrested on 15 April 2002 by the police in Cherkassy, while he was going to the State Prosecutor's Office to answer allegations of libel against a "senior official" from the Chief State Prosecutor's Office. It was reported that he was charged with "abuse of authority", "violating the right to privacy" and "resisting the police", and that despite the decriminalization of libel in September 2001, the State Prosecutor's Office has been demanding heavy penalties against media criticism of powerful public figures.

614. On 12 July 2002, the Special Rapporteur sent another urgent appeal to the Government concerning **Viktor Vorotnikov**, editor-in-chief of the newspaper *Grani*, who was reportedly harassed and threatened after the publication on 14 June 2002 on the Internet issue of *Grani* of an article by journalist Sergej Romanovskogo entitled "Apocalypse", which described the business dealings of the secretary of the Council for National Security and Defense of Ukraine (CNSDU), Yevgenily Marchuk, an ex-KGB general, including the smuggling of Ukrainian weapons to war zones embargoed by the United Nations Security Council. It was reported that, following the publication of the article, Mr. Vorotnikov was contacted by telephone and ordered to appear before the Security Service of Ukraine, and that on 19 June, Vassily Sitarom, acting chairman of CNSDU, demanded that Mr. Vorotnikov publicly withdraw the allegations made in the article, or else he would be "destroyed", and asked for his private address and for that of Mr. Romanovskogo. It was further reported that since then Mr. Vorotnikov received telephone threats and was followed.

#### **Communication received**

615. On 22 April 2002, the Government of Ukraine replied to the Special Rapporteur's communication of 4 September 2001 concerning **Aleksey Movsesyan**, and provided the following clarifications: on 26 August 2001, Aleksei Sergeevich Movsesyan, a cameraman with



the *Efir-1* television station in Lugansk, was at a discotheque in Lugansk, where he got into a dispute with two unknown young men, which then turned into a brawl. Members of the crime scene investigation team identified and detained all those involved in the incident, and the Oktyabrsky district investigation section of the Lugansk oblast department of the Ministry of Internal Affairs of Ukraine opened a criminal case with regard to this matter under part 2 of article 296 (Hooliganism) of the Criminal Code of Ukraine. The case was sent to the Oktyabrsky District Court in Lugansk on 5 November 2001 and the hearing was to take place in April 2002. No evidence was found during the investigation that the dispute was related to Mr. Movsesyan's professional activity.

### **Observations**

616. The Special Rapporteur thanks the Government of Ukraine for its reply, and awaits further answers to his communications of 24 April and 12 July 2002.

### **United Kingdom of Great Britain and Northern Ireland**

#### **Communications sent**

617. On 14 May 2002, the Special Rapporteur sent an urgent appeal concerning **Alex Thomson** and **Lena Ferguson**, reporters, who have allegedly been ordered by Judge Saville to name the five former soldiers whose information helped them to report in 1997 on an incident that had occurred 20 years previously, when soldiers opened fire on Catholic demonstrators in Northern Ireland killing 13 people ("Bloody Sunday"). Reportedly, Judge Saville has threatened Mr. Thomson and Ms. Ferguson with jail for contempt if they refuse to comply.

### **Observations**

618. The Special Rapporteur regrets that no reply has been received from the Government.

### **United States of America**

#### **Communications sent**

619. On 30 May 2002, the Special Rapporteur sent an urgent appeal concerning **Paul Trummel**, a 69-year-old semi-retired Seattle-based freelance journalist, who was reportedly imprisoned for contempt of court by Superior Court Judge James Doherty, who claims that he is not a legitimate investigative reporter because he edits and publishes his own work. Mr. Trummel was reportedly imprisoned in February 2002 for breaching an injunction forbidding him to write about a residence where he lived for two years and about which he has complained in his own newsletter and web site. These writings have led to a long-running legal battle with the residents and management of the residence. It was also alleged that Mr. Trummel was placed in solitary confinement on 23 May 2002 to deny him access to the prison telephone.

620. On 26 July 2002, the Special Rapporteur sent a communication concerning the following alleged cases of violations of the right to freedom of opinion and expression:

(a) According to information received, only a few hours after the 11 September 2001 attack, agents of the FBI went to the offices of Internet service providers **AOL, Earthlink and Hotmail** to instal, without an order from a judge, their “Carnivore” programme on the servers to monitor the e-mails of all their customers. It is reported that this Internet monitoring was formalized only on 24 October 2001 when the House of Representatives passed the Patriot Act, allowing the FBI to install “Carnivore” on any Internet service provider, to monitor all e-mail messages and keep track of the web-surfing of people suspected of having contacts with a foreign Power, without the permission of a judge. It is reported that the order, which was reportedly signed by President Bush, eases the rules governing telephone tapping by the Government;

(b) **Ian Austin**, a photographer for the Aurora Quanta Productions Agency, was reportedly arrested on 28 September 2001 and freed three days later without charge, after he had entered the security area established around the ruins of the World Trade Centre after the 11 September attacks. It is also reported that journalists from the *Dallas Daily News* had their accreditation cancelled after one of the paper's photographers was arrested and accused of “misconduct”;

(c) Reportedly, from the first day of the military's operation “Enduring Freedom” in Afghanistan on 7 October 2001, the Pentagon has tried to control the filming of the war by signing an exclusive contract with the firm Space Imaging, preventing the company from “selling, distributing, sharing or providing” pictures taken by the Ikonos civilian satellite to the media, which were thus deprived of pictures of the pictures of the bombardments taken by this satellite. According to information received, a dozen media organizations covering the military operations were prevented several times from doing their work by United States Special Forces troops and at least five journalists and media assistants were beaten or threatened with death by United States soldiers or their Afghan allies;

(d) According to information received, in mid-September 2002, the State Department, which is represented on the board of the Government-controlled radio station Voice of America, asked other board members not to allow an interview with Taliban leader Mullah Omar to be broadcast on 21 September. “Voice of America is not the voice of Mullah Omar and not the voice of the Taliban,” allegedly said State Department spokesman Richard Boucher. “It would be inappropriate to spend taxpayers' money to broadcast the comments of the leader of the movement protecting the terrorists responsible for the September 11 attacks”. It seems that extracts from the interview were part of a more general report that also included comments by United States officials and an expert on Islam and the position of the Northern Alliance, and that Mullah Omar had said in it that he did not think Osama bin Laden was behind the attacks. It is reported that the programme finally went out on 25 September and that two months later, the station's managing editor, Bob Reilly, asked his editors to comply with a congressional bill barring the station from broadcasting interviews with “any official of nations that sponsor terrorism or any representative or member of terrorist organizations”;

(e) On 12 November 2001, it is reported that United States troops bombed and seriously damaged the Kabul offices of the Qatari TV station Al-Jazeera, and that in February 2002, the Pentagon refused to open an inquiry into the bombing, saying the building was suspected of harbouring al-Qa'idah militants and was therefore a military target. On 10 October 2001, Secretary of State Colin Powell reportedly said that Al-Jazeera was giving an “undue amount of time and attention to vitriolic and irresponsible statements”. According to information

received, on 3 October Secretary Powell called on the ruler of Qatar, Sheikh Hamad bin Khalifa al-Thani, the station's main shareholder, to make it change its news coverage;

(f) According to information received, Pakistani journalist **Hayatullah Khan**, a correspondent for the Pakistani daily *The Nation* in Mir Ali (a tribal zone in the North Waziristan Agency) was held by United States troops for four days, along with his two guides and his driver, in the eastern Afghan province of Paktita. It is reported that he had set out on 2 July 2002 to report on the activities of al-Qa'idah and the Taliban along the border between Pakistan and Afghanistan. The next day, he and his team reportedly went to a United States military camp to interview military officers, but, as he was showing his identification and press card, he was arrested, handcuffed, and locked up in a dirty two-square-metre cell. It is alleged that, deprived of water, his hands and blindfolded, he was interrogated by United States and British officers who accused him of passing on information to terrorist organizations, notably al-Qa'idah, on the basis of names and phone numbers of Afghan and Pakistani religious leaders they found in his confiscated address book. It is further alleged that at one point, the soldiers told him he should be "prepared to die". He was reportedly released on 7 July, but has allegedly had kidney trouble since his five days of detention in difficult conditions;

(g) Reportedly, a British photographer, **Steve Morgan**, and **Jorge Torres**, a Spanish cameraman working mainly for the Mercury Press International Agency, were arrested on 14 July 2001 while covering a protest by 15 Greenpeace militants against the testing of the new United States anti-missile shield at Vandenberg Air Force Base (California). The protest forced a delay in the test. The two journalists and the Greenpeace militants were reportedly arrested and held in Los Angeles, and risk being jailed for up to 11 years and fines of up to \$500,000 if found guilty of "conspiring to violate a safety zone" and "trespassing and failure to obey an order". It is reported that Mr. Torres was freed on bail on 17 July and Mr. Morgan five days later;

(h) Reportedly, **Vanessa Leggett**, a writer and freelance journalist, spent 165 days in detention, after being convicted on 19 July 2001 for contempt of court by a federal grand jury in Houston (Texas) for having refused to give the court her notes and tapes of interviews made while investigating the April 1997 murder of a Texas millionaire's wife with the aim of writing a book about it. Two appeals courts reportedly upheld her conviction on grounds that journalists could not refuse to testify before a grand jury;

(i) Reportedly, on 17 July 2002, a free-distribution newspaper, *The Free Observer*, its editor, **Edward H. Powers Jr.**, and publisher, **David Carson**, were convicted of criminal defamation in the State of Kansas. According to information received, they could be jailed for up to one year if their appeal fails. The criminal charge was said to have been brought against the newspaper after it reported that Mayor Carol Marinovich and her husband, Wyandotte County District Judge Ernest Johnson, should live in the county where they hold office, while claiming that they actually lived in the nearby and more affluent Johnson County.

## Observations

621. The Special Rapporteur regrets that no reply had been received from the Government.

## Uruguay

### Comunicaciones enviadas

622. En fecha 23 de octubre de 2002, el Relator Especial, juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la independencia de magistrados y abogados, envió un llamamiento urgente expresando su preocupación por las amenazas de muerte que el periodista **Daniel Cancela** habría recibido. El origen de estas amenazas se encuentra supuestamente en una serie de reportajes realizados por el Sr. Cancela y que tratan de la corrupción en la Dirección de Cárceles. Estos reportajes culminaron en el procesamiento judicial de tres altos funcionarios de esa dependencia. Cabe mencionar en este sentido que habrían sido víctima de amenazas también **Pablo Eguren**, el juez a cargo de la causa, **Luisa Scelza**, la comisaria de inteligencia encargada del operativo, y dos reclusos que habrían servido como testigos, uno de los cuales ya habría sufrido una agresión física.

### **Comunicaciones recibidas**

623. El 20 de diciembre de 2002, el Gobierno de Uruguay contestó al llamamiento urgente del 23 de octubre de 2002. El Gobierno informó de que al conocimiento de las amenazas contra el Sr. **Daniel Cancela** y el **Juez Eguren**, el Ministerio de Interior ofreció en ambos casos custodia policial y que sin embargo esta fue rehusada. De igual manera, ambos declinaron presentar denuncia judicial respecto a las amenazas recibidas, lo que no permite determinar en la práctica las responsabilidades penales correspondientes. En lo que se refiere a las amenazas recibidas por dos reclusos, el Gobierno afirmó que la justicia competente en materia penal se encuentra investigando los hechos

### **Observaciones**

624. El Relator Especial da las gracias al Gobierno de Uruguay por su respuesta.

## **Uzbekistan**

### **Communications sent**

625. On 7 January 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture, the Special Rapporteur on violence against women and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning the reported arrest of more than **20 women** on 26 December 2001 in Tashkent. They were protesting against the alleged torture and ill-treatment of their relatives, who were convicted for their participation in the *Hizb ut-Tahrir* party, and demanding their release. It was reported that after two hours of demonstrating, members of the militia forced the women into a bus and allegedly took them to the Shaihantahur regional Department of Internal Affairs of Tashkent. At the time the communication was sent, the whereabouts of the women was unknown.

626. On 15 March 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, concerning **Oleg Sarapulov**, freelance journalist and deputy executive director of the Union of Independent Journalists of Uzbekistan (UIJU), who was reportedly arrested on 6 March 2002 by Yakasaray district Internal Affairs Department (IAD) employees in Tashkent and

allegedly brought to the Yakasaray district IAD. It was reported that on 9 March, Ruslan Sharipov, UIJU President, went to the Yarasaray district IAD, where the militia captain on duty informed him that Mr. Sarapulov was not being held there. When, the day after, he asked for information concerning Mr. Sarapulov's place of detention, he allegedly learnt that Mr. Sarapulov had probably been sent to the office of the Special Receiver for the Homeless (OSRH), although Aleksandr Kim, director of the OSRH, allegedly refused to cooperate with Mr. Sharipov and declared that all queries should be addressed to the Yakasaray district IAD.

627. On 3 June 2002, the Special Rapporteur sent an urgent appeal, jointly with the Special Rapporteur on torture and the Special Representative on the situation of human rights defenders, regarding **Yuldash Rasulov**, member of the Kashkadarya regional department of the Human Rights Society of Uzbekistan (HRSU), who was reportedly arrested by the Ministry of Interior (MVD) forces on 24 May 2002 and put in detention in the basement of the MVD. It was further reported that, on 27 May 2002, Talib Yakubov, Chairman of HRSU, **Nakhtiyor Khamraev**, Chairman of the Jizzak regional department of HRSU, and **Yodgor Turlibekov**, member of HRSU Kashkadarya department, decided to hold a peaceful picket near the building of MVD, against the unlawfulness of Mr. Rasulov's arrest and detention. While M. Yakubov was asked by Colonel Tashmatov to enter into a building to talk with him, the other two were reportedly arrested by the police and transferred to the Yakkasaray Regional Department. According to the information received, when M. Yakubov learned what happened, he went to the Yakkasaray Regional Department of Interior and obtained the release of the three detainees.

## Observations

628. The Special Rapporteur regrets that no reply has been received to his communications.

## Venezuela

### Comunicaciones enviadas

629. El 22 de abril de 2002, el Relator Especial envió un llamamiento urgente con relación a la utilización que el gobierno y sus partidarios estarían haciendo de las cadenas nacionales en las programaciones televisivas y radiales. El 11 de abril, el Presidente Hugo Chávez habría acusado a los medios de comunicación locales de conspiración en favor del derrumbamiento de su Gobierno y habría así suspendido los canales privados de televisión, justificando su decisión por la "campaña de difamación" propagada por esas emisoras. El presidente Chávez se habría fundado en el artículo 192 de la Ley Orgánica de Telecomunicaciones, que establece el principio de la "cadena", un sistema que permite a las autoridades apropiarse del tiempo de antena del conjunto de las radios y de los televisores que disponen de una concesión estatal. El gobierno ya habría recurrido a las "cadenas" en distintas ocasiones anteriores. En la misma comunicación, el Relator Especial expresó su preocupación por el hecho de que el Gobierno estuviera supuestamente utilizando los recaudadores de hacienda locales y nacionales como formas de intimidación contra los medios de comunicación. En este sentido, la agencia oficial de prensa Veneres estaría haciendo una campaña de difamación en contra de algunos periodistas, tales cuales **Ibéyise Pacheco**, **Patricia Poleo** y **José Domingo Blanco**. El Relator Especial expresó también su preocupación por la seguridad de los periodistas en Venezuela. En efecto, el 11 de

abril de 2002, **Jorge Tortoza**, periodista, murió y otros tres habrían sido heridos mientras cubrían los violentos enfrentamientos entre opositores y partidarios del presidente Chávez, en el centro de Caracas. Desde esta fecha, canales de televisión privados no estarían cubriendo los acontecimientos en el país por miedo de ataques por partidarios de Chávez contra sus empleados u oficinas.

630. El 5 de julio de 2002, el Relator Especial envió un llamamiento urgente sobre el secuestro de **Fabio Cortés**, propietario del diario *La Nación* en San Cristóbal, el 29 de junio de 2002. Tres hombres armados habrían entrado en su casa mientras desayunaba con su familia; los agresores habrían encerrado la esposa y los hijos del Sr. Cortés en una habitación, para poder secuestrar al periodista.

631. El 26 de julio de 2002, el Relator Especial envió una comunicación en relación con presuntos casos de violaciones del derecho a la libertad de opinión y de expresión. **Yelitza Izaya Yáñez**, periodista del diario *El Nacional*, habría sido acusado públicamente de desacato el 6 de enero de 2002 por el gobierno, a raíz de su artículo sobre las protestas en contra de la visita del presidente en la región de Catia. Al día siguiente, miembros del Movimiento de la Quinta Republicano (MVR) habrían cercado las oficinas de *El Nacional* por dos horas bloqueando la entrada y salida de los periodistas. El 10 de enero *El Nacional* habría hecho una denuncia ante la Comisión Interamericana de Derechos Humanos a fin de garantizar la seguridad de sus periodistas para ejercer sus labores. El diario *Así es la Noticia*, en Caracas, habría sufrido un atentado el 31 de enero de 2002, cuando una bomba habría explotado ante el local del diario provocando algunos daños materiales. Poco tiempo antes, la dirección del diario habría recibido una llamada telefónica anónima en la que se criticaba su línea editorial crítica con el Gobierno. Además, cerca de la sede del periódico, se habrían encontrado panfletos acusando a los periodistas de *Así es la Noticia* de llevar una política antigubernamental y de servir a la "oligarquía". **Ibeyise Pacheco**, director del periódico *Así es la Noticia* y editorialista en el diario *El Nacional*, habría recibido amenazas supuestamente por partidarios del presidente Chávez.

632. El 19 de diciembre de 2002, el Relator Especial envió un llamamiento urgente en relación con las crecientes amenazas y agresiones en contra de periodistas que informan sobre las manifestaciones en Venezuela. El 19 de noviembre de 2002, la reportera **Zaida Pereira** y el camarógrafo **Eduard Escalona**, ambos periodistas del canal estatal Venezolana de Televisión (VTV), habrían sido objeto de un acto de agresión mientras trataban de dar cobertura informativa a una manifestación de la oposición en la zona caraqueña de Altamira. El 3 de diciembre de 2002, los periodistas **José Antonio Dávila**, **Rafael Fuenmayor**, **Luis Alfonso Fernández** y **Fernando Malavé**, junto con otros periodistas, habrían sido agredidos cuando informaban sobre la violenta disolución de una manifestación de la oposición en el distrito de Chauo, en Caracas. Fernando Malavé habría sido herido de gravedad por arma de fuego, y otros habrían sido heridos con balas de goma y porras. El 4 de diciembre, partidarios del Gobierno habrían atacado a varios periodistas en la ciudad de Barquisimeto, mientras daban cobertura informativa a una protesta de la oposición. **José Rodríguez**, fotógrafo del diario de Barquisimeto *El Impulso*, habría sido golpeado con un objeto contundente en la cabeza y habría sufrido una conmoción craneana. Los siguientes periodistas, fotógrafos y camarógrafos habrían sido golpeados en dichos ataques: **Clara Reverol**, reportera del canal caraqueño *Televén*, **Martín Urteaga**, fotógrafo del diario de Barquisimeto *El Informador*, y **Julio Torres** y **Gustavo Escalona**, camarógrafos de Venevisión.

**Cristian Rodríguez**, reportera del canal de Barquisimeto Promar TV, y su camarógrafo, **José Barreto**, **Yelina Torrealba**, reportera del canal de Barquisimeto Telecentro, y su camarógrafo, **Miguel Ángel López**, **Erika Paz**, reportera del canal capitalino RCTV, y su camarógrafo, **Samuel Sotomayor**. Las noches del 8 y el 9 de diciembre se habrían celebrado protestas a gran escala organizadas por partidarios del gobierno ante periódicos y emisoras de radio y televisión favorables a la oposición. En incidentes repartidos por todo el país, esas dos noches los manifestantes habrían amenazado a periodistas y habrían atacado oficinas de los medios de comunicación. La noche del 8 de diciembre también se habría celebrado una protesta de partidarios de la oposición ante la sede de *Canal 8*, la emisora de televisión estatal. Según la información recibida, se habrían realizado disparos aunque nadie habría resultado herido.

### **Comunicaciones recibidas**

633. El 25 de septiembre de 2002, el Gobierno de Venezuela transmitió al Relator Especial copia de un informe elaborado por la Dirección de Protección de Derechos Fundamentales del Ministerio Público acerca de las investigaciones que se realizan sobre el secuestro del Sr. **Fabio Cortés**, propietario del diario *la Nación* de San Cristóbal. Por carta de fecha 21 de octubre de 2002, el Gobierno de Venezuela contestó al llamamiento urgente del 5 de julio de 2002, informando que el Cuerpo de Investigaciones Científicas, Penales y Criminales ha iniciado las investigaciones a fin de determinar la comisión del delito, así como los presuntos responsables, del secuestro del Sr. Fabio Antonio Cortés Niño. El Gobierno añadió que tendrá informado al Relator Especial una vez se tenga mayor información en merito.

### **Observaciones**

634. El Relator Especial da las gracias al Gobierno de Venezuela, por su respuesta, si bien espera otras respuestas a sus comunicaciones de fechas 22 de abril, 26 de julio y 19 de diciembre de 2002.

## **Viet Nam**

### **Communications sent**

635. On 25 January 2002, the Special Rapporteur sent an urgent appeal concerning **Bui Minh Quoc**, journalist and member of the Dalat dissident group, who was reportedly placed under house arrest on 12 January 2002 in Dalat following his investigation on the situation in the regions which border China and a meeting with a group of dissidents from Hanoi a day earlier. It was reported that on 8 January 2002, Mr. Quoc was detained at the Thanh Tri (a Hanoi suburb) and allegedly questioned by the police for three days, and that more than 300 of his documents were confiscated.

636. On 18 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning **Tran Khue**, a writer who was reportedly detained following a police search of his home on 8 March 2002 in Ho Chi Minh City, in relation to an open letter that Mr. Khue sent to the Chinese President Jiang Zemin during his visit to Vietnam in February, which criticized the border agreements between Viet Nam and China. It was reported that, on 10

March 2002, Mr. Khue sent a message via his cellular phone to a friend indicating that he was in danger and there have reportedly been no signs of Mr. Khue since then.

637. On 25 April 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Son Hong Pham**, a doctor and sales representative for a pharmaceutical company, who was reportedly arrested on 29 March 2002 following the translation and publication on the Internet of an article entitled "What is democracy?", which previously appeared on the web site of the United States embassy in Viet Nam. It was reported that Colonel Le Van, a member of special police unit P4-A25, called Son Hong Pham at his residence on 25 March and ordered him to report to the special unit, where the latter was reportedly questioned about his translations of articles from the American embassy's web site. Shortly afterwards, his home in Hanoi was reportedly searched by eight members of the special unit, who confiscated computer equipment and personal papers, which Son Hong Pham reportedly claimed unsuccessfully on 26 March, after which he published an open letter on the Internet protesting the illegal search of his home and the confiscation of his personal belongings. It was reported that Son Hong Pham was still detained on 15 April.

638. On 24 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture concerning **Nguyen Vu Binh**, a former journalist who worked for almost 10 years for *Tap Chi Cong San (Journal of Communism)* before joining an independent opposition party in January 2001 called the Liberal Democratic Party. He was reportedly arrested at his home in Hanoi on 20 July 2002 and held incommunicado at the local precinct where he was interrogated before being released. It was reported that officers searched his computer, read his e-mails, and printed out personal documents. On the morning of 21 July, police are reported to have detained him again and his whereabouts were unknown at the time the communication was sent. It is believed that this is linked to an open letter written on 6 July 2002 by Binh and 16 other writers, retired government officials and relatives of detained journalists, supporting political reforms and calling for the release of several prisoners held on alleged political charges, including Pham Hong Son and Le Chi Quang.

639. On 26 July 2002, the Special Rapporteur sent a communication to the Government concerning the following cases:

(a) On 18 June 2002, the Prime Minister reportedly signed a decree reaffirming that only top Communist Party and Government officials, city mayors and vice-mayors, state-run media organizations and foreign businesses and residents, were allowed to access international television programmes transmitted by satellite into Vietnam;

(b) On 20 June 2002, the Head of the Communist Party's Central Ideology and Culture Board, Nguyen Khoa Diem, instructing the media not to "expose secrets, create internal divisions or hinder key propaganda tasks", reportedly banned them from reporting on the corruption case involving the Nam Cam criminal gang in Ho Chi Minh City, which resulted in the arrests of at least 93 people, including police officers and two state prosecutors;

© A circular was reportedly issued in June 2002 by the Prime Minister, calling on the Ministry of Culture and Information, the Post Office and local People's Committees to monitor Internet cafés. It was reported that Viet Nam's 4,000 Internet cafés were instructed to monitor their customers' online activities to prevent them from accessing "politically and morally



objectionable” web sites, “reactionary documents” or “State secrets”, which reportedly can be broadly defined as including basic economic data or unsanctioned political reporting;

(d) In March 2002, the authorities reportedly suspended the press cards of **Le Van Nuoi**, **Huynh Son Phuoc** and **Duong Thanh Truyen**, three editors of the *Tuoi Tre (Youth)* daily, because of a survey they published in January 2001 suggesting that United States President Bill Clinton was more popular with young people than the Government’s own leaders, and 120,000 copies of the newspaper were reportedly removed from kiosks and destroyed;

(e) Reports that in January 2002, Vice-Minister of Culture Nguyen Khac Hai signed “Decision 12/QD-BVHTT” giving police and cultural inspectors the power to confiscate and destroy four books written by prominent dissidents: *Diary of the Good and Bad* by former Communist Party member **Tran Do**; *Dialogue 2000* and *Dialogue 2001* by scholars **Tran Khue** and **Nguyen Thi Thanh Xuan**; *Meditation and Aspiration* by geophysicist **Nguyen Thanh Giang**; and *A Few Words before Dying* by **Vu Cao Quân**, as the books reportedly violated the Publishing Law;

(f) In June 2001, **Lt. General Tran Do**, head of the Communist Party Central Committee’s Ideology and Culture Department until 1999, when he was expelled for circulating open letters requesting free elections and party reform, was reportedly arrested in Ho Chi Minh City. It was reported that the police forced his car to the roadside and took him to the Tan Binh district police station where they allegedly confiscated 83 pages of his *Mémoires*, containing his analysis of the Vietnamese Communist Party’s Ninth Congress in April 2001. He was reportedly accused of spreading “documents with subversive contents” and placed under house arrest at his home in Hanoi;

(g) In April 2001, **Vu Cao Quân**, a member of the Communist Party for over 40 years, was reportedly arrested in Hai Phong after meeting in Hanoi with Lt. General Tran Do and other critics of the Communist Party, after being summoned for questioning by the police several times in February 2001 for organizing a meeting to discuss democratic reforms. It was reported that the police ransacked his home, confiscated books and personal letters and threatened his wife and children. He was reportedly detained for 10 days and released without charge and was said to be still under surveillance at the time the communication was sent; and

(h) **Ha Sy Phu**, a biologist, and **Mai Thai Linh**, a former city council deputy chairman, were reportedly placed under “administrative detention” under Decree 31/CP by the local authorities in Lam Dong Province on 12 February 2001, for sending articles overseas via the Internet, after being accused of “making contact with reactionaries living abroad to sabotage Vietnam and demand the overthrow of the socialist regime and the leadership of the Communist Party”.

640. On 2 October 2002, the Special Rapporteur sent another urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning **Nguyen Vu Binh**. It was reported that the police entered Mr. Nguyen's home during the evening of 25 September in order to carry out a search, confiscated some of his personal belongings, arrested him and placed him in detention in prison B 14 in the district of Thanh Tri. Mr. Nguyen was allegedly put under house arrest on 20 July 2002 and had to report daily to the police. He reportedly joined 20 other writers and dissidents in August in signing a petition addressed to the Government, calling for legal reforms and for the establishment of an independent anti-corruption agency, which is believed to be the reason for his arrest, together with the online publication in September of one of his critical essays, "Some thoughts on the China-Vietnam Border Agreement".

### Communications received

641. On 5 April 2002, the Government responded to the Special Rapporteur's communication of 18 March 2002, and indicated that **Mr. Tran Khue** was never arrested or detained.

642. On 21 May 2002, the Government replied to the Special Reporter's communication of 25 April 2002 regarding the case of **Son Hong Pham**. In this respect, the Government indicated that Son Hong Pham was arrested on 27 March 2002 presumably for his unlawful acts; the arrest was carried out in the framework of the domestic legal proceedings, for further investigations and trial.

643. On 29 May 2002, the Government replied to the Special Rapporteur's communication of 25 January 2002 concerning **Bui Minh Quoc**, and indicated that the allegations in the communication were inaccurate; **Bui Minh Quoc** was put under administrative probation on 15 January 2002 by the competent authority in Dalat due to his illegal possession of classified and anti-government documents, and investigations were conducted to identify the source of the documents, as is the normal procedure.

644. On 30 October 2002, the Government sent a letter to the Special Rapporteur in response to his communication of 26 July 2002. With respect to the case of the ban by the head of the Communist Party's Central Ideology and Culture Board to the media from reporting on the corruption case involving the Nam Cam, the Government indicated that in a periodic meeting with the media in June 2002, Mr. Diem reminded the press to conduct objective coverage and truthful investigation of the case and to avoid providing inaccurate assessment or information which might hinder the investigation process.

645. In the case of the reported decree signed by the Prime Minister, the Government indicated that the June 2002 Decree and Circular is not a ban on Internet access, which is booming in the country. The Government also underlined that any country has the full right to apply measures consistent with its laws or moral values to protect state secrets as well as to limit access to morally objectionable web sites.

646. As for the cases of **Le Van Nuoi**, **Huynh Son Phuoc** and **Duong Thanh Truyen**, the Government replied that their press cards are not suspended but they haven't completed their application requirements for the new press cards.

647. In the case of **Tran Do**, the Government indicated that his *Mémoires* were confiscated by a Decision (12/QD-BVHTT) of the Minister of Culture and Information for violation of article 22 of the Law on Publication and article 7 of the Government Decree No. 79 CP on implementing the Law on Publication. Mr. Tran Do is not under tight surveillance.

648. On 13 November 2002, the Government replied to the Special Rapporteur's communications of 24 July and 2 October 2002 concerning **Nguyen Vu Binh**, and indicated that he was arrested for his acts in violation of article 80 of the Criminal Code and that he will be tried when the investigations are completed.

## Observations

649. The Special Rapporteur thanks the Government of Viet Nam for its replies and willingness to cooperate with his mandate. He awaits, however, further response to the cases of **Vu Cao Quân, Ha Sy Phu** and **Mai Thai Linh**, as referred to in his communication of 26 July 2002.

650. The Special Rapporteur would like to reiterate his request to undertake an official visit in the country as expressed in his letter dated 7 October 2002.

## Yemen

### Communications sent

651. On 10 June 2002, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on torture concerning **Abdul-Rahim Mohsen, Ibrahim Hasan** and **Khaled Salman**, respectively journalists and editor-in-chief at the daily *Al-Thawri* (the opposition Socialist Party's newspaper), who were reportedly sentenced on 4 June 2002 to five-month suspended prison sentences, after having been charged by the Ministry of Information with incitement to "religious sedition" and "harming national unity", following the publication of a series of articles in February 2002. It was reported that, while Mr. Salman and Hasan were released after the sentence, Mr. Mohsen, who was arrested on 23 May, remained in custody at the time the communication was sent, and that the Ministry of the Interior refused to disclose details of where Mr. Mohsen was being detained and for what reason. It was alleged, however, that he was incarcerated in connection with articles in which he criticized government corruption, human rights violations and the wave of arrests that followed the 11 September 2001 terrorist attack on the United States. In this context, it was also reported that, on 30 April 2002, Interior Minister al-Alimi and Information Minister Hussein Daifallah al-Awadi warned journalists against propagating false information that could damage the image and interests of the country, the former declaring that "only the Interior Ministry is authorized to make statements about the country's security".

652. On 3 July 2002, the Special Rapporteur sent an urgent appeal concerning **Ibrahim Hussen**, a journalist with *Al-Thawri*, who was reportedly arrested on 21 June 2002 by secret police at the offices of the opposition Yemeni Unionist Party in Sana'a, after allegedly criticizing the Government, and forcibly taken to secret police headquarters. It was reported that Mr. Hussen's arrest may be linked to articles he wrote criticizing a government report on human rights and accusing the authorities of corruption.

653. On 3 July 2002, the Special Rapporteur sent an urgent appeal concerning **Faisal Mukarram**, a reporter for the London-based *Al-Hayat* daily, **Ahmed al-Hajj**, a reporter with the Associated Press, and **Khaled al-Mahdi**, a correspondent for Deutsche Presse Agentur, who were reportedly summoned on 9 July 2002 by a state prosecutor and accused of violating article 103 of the press law. This law bans journalists from publishing "any secret document or information that might jeopardize the supreme interests of the country or expose any of its

security or defense secrets" and carries a maximum sentence of one year in prison. It was reported that the accusation stemmed from articles that they wrote about a 4 July 2002 incident in which Deputy Army Chief of Staff Ali Salah was injured when his helicopter came under fire from local tribes in the al-Jouf region in north Yemen.

654. On 26 November 2002, the Special Rapporteur sent an urgent appeal jointly with the Chairman-Rapporteur of the Working Group on Arbitrary Detention regarding **Aref Mohsen al-Khewani**, a journalist and officer in the armed forces, who was reportedly arrested and imprisoned on grounds of "mental illness" and jailed in Sana'a central prison in October 2002 without being charged or tried. It was alleged that his arrest might be linked to his activities as a journalist for opposition newspapers.

### **Communications received**

655. In a letter dated 8 November 2002, the Government of Yemen replied to the Special Rapporteur's communication of 10 June 2002 concerning **Abdul-Rahim Mohsen, Ibrahim Hasan** and **Khaled Salman**, and indicated that the three men were arrested on the order of the public prosecutor's office and accused of violating the press and journalism law; they were charged with undermining national unity, provoking discord between factions and regions and stirring up dissension among the people. The accused were free and were held in custody, in a regular jail, only for the period of interrogation on the request of the public prosecutor and were allowed visits by their families and lawyers during their detention. The civil court in Sana'a is examining their case.

### **Observations**

656. The Special Rapporteur thanks the Government of Yemen for its reply and willingness to cooperate with his mandate. He further awaits replies to his communications of 3 and 30 July, and 26 November 2002.

## **Yugoslavia**

### **Communication sent**

657. On 26 July 2002, the Special Rapporteur sent an urgent appeal to the Government in relation to the following cases:

- a) It was reported that *Radio Free Europe's* journalist **Natasa Odalovic** was interrogated on 14 July 2002 by the police about an article she wrote based on claims made by Aleksandar Tijanic, the President's media advisor, against the Serbian Prime Minister, Zoran Djindjic. In the article entitled "Cage looking for a bird", Ms. Odalovic reportedly said Mr. Tijanic turned a blind eye to "contract killings" ordered by Prime Minister Djindjic through his secretary Beba Popovic;
- b) Reports according to which **Vladimir Radomirovic**, editor of the Belgrade weekly *Reporter*, was summoned to the police for interrogation in the morning of 15 July 2002, during which he reportedly refused to disclose the author's name and sources of a text alleging that the Government's communications bureau once housed surveillance

equipment. It is reported that the ground for the interrogation was an article entitled "Surveillance centre in government building", published in the magazine on 2 July 2002 and signed "*Reporter team*" and that the District Public Prosecutor, Rade Terzic, had asked the police to check *Reporter's* claims and its sources.

### **Communication received**

658. On 13 November 2002, the Government replied to the Special Rapporteur's communication by indicating that the two journalists mentioned had been summoned for police interrogation at the Department of Criminal Police of the Secretariat of Internal Affairs of Belgrade at the request of the District Public Prosecutor, in order to obtain information to corroborate the accuracy of the article published by **Natasa Odalovic** the newspaper *Danas* and of the article published in *Reporter*. The Government indicated that the lawyers of the two journalists were present during their respective interrogations, and underlined that the procedure was conducted with a view to collecting data and facts related to several criminal offences.

### **Observations**

659. The Special Rapporteur thanks the Government of Yugoslavia for its reply and willingness to cooperate with his mandate.

## **Zambia**

### **Communications sent**

660. On 14 June 2002, the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning **Emmanuel Chilekwa**, managing editor of the newspaper *The People*, his assistants **Shadreck Banda** and **Kings Lweendo**, and student journalist **Jane Chirwa** who were reportedly arrested on 5 June 2002 and formally charged with "defamation of the President". It is reported that on 28 May, the police ordered Mr. Chilekwa to report to police headquarters in Lusaka the next day for questioning in connection with an article published in his newspaper's 25-31 May issue, which alleged that President Levy Mwanawasa was suffering from Parkinson's disease. The police reportedly informed Mr. Chilekwa that he was being investigated in connection with a complaint of "defamation of the President". On 31 May, Mr. Chilekwa and his colleagues were reportedly picked up, assaulted and verbally abused while being interrogated. According to information received Mr. Chilekwa, Mr. Banda and Mr. Lweendo are being detained at Longacres Police Post and Ms. Chirwa is detained at Lusaka Central Police Station. It is reported that on 7 June, they were denied bail by Lusaka Principal Resident Magistrate Frank Tembo. Thus, Mr. Chilekwa and his co-accused have been remanded in custody. Furthermore, it seems that the move by the police follows a complaint by President Mwanawasa who blamed his political opponents within the ruling Movement for Multiparty Democracy (MMD), whom he said wanted to tarnish his reputation and that of his five-month-old administration. Under section 69 of the Penal Code, it is an offence for anyone to "bring hatred, ridicule or contempt to the reputation of the president, to publish any defamatory matter, whether in writing, print, word

of mouth, or any other form or manner". A conviction carries a jail term of up to three years without the option of a fine.

661. On 26 July 2002, the Special Rapporteur drew the attention of the Government of Zambia to information he received concerning alleged cases of violations of the right to freedom of opinion and expression as follows:

(a) On 17 April 2002, **Owen Miyanza**, a photojournalist from the privately owned newspaper *The Monitor*, had his camera briefly seized and film confiscated by police after he took pictures of opposition party supporters protesting at a police station in Lusaka. According to information received, the incident took place in the corridors of the Lusaka Central Police station as Mr. Miyanza was taking snapshots of opposition United National Independence Party (UNIP) President Tilyenji Kaunda, who had been summoned to the police station for questioning, and of his supporters, who had invaded the police station in an apparent show of solidarity with their leader. A police officer reportedly saw Mr. Miyanza taking pictures inside the station, grabbed his camera and forced him into one of the offices, where he was allegedly kept for about 20 minutes while police decided what to do with him. He was then reportedly ordered to accompany the police to a film processing shop in town to develop the film, and when the film was developed, the police apparently decided to keep the pictures taken both outside and inside the station, claiming the film included pictures of sensitive areas of the police station. Lusaka Division Police Commanding Officer Francis Kabonde reportedly said that his office was holding Mr. Miyanza's pictures and that he will release only those that he feels do not put the nation's security at risk;

(b) On 6 June 2002, several newspaper vendors were reportedly violently attacked and injured by a group of people believed to be members of the ruling MMD, in what is believed to be an attempt to stop them from selling newspapers believed to be critical of President Mwanawasa. The group reportedly attacked vendors selling the privately owned publications *The Post*, *Today* and *The People* in the Lusaka city centre and surrounding areas. One of the vendors, **Julius Mulenga**, was reportedly forced into a minibus used by the attackers and severely beaten. Another vendor, **Robby Chasaya**, reportedly had his hands slashed with a knife and sustained a broken tooth. Other vendors reportedly had cuts on their heads, faces and hands;

(c) Masautso Phiri, editor of the newspaper *Today*, was briefly detained by a Lusaka magistrate on 10 June 2002. According to information received, on 17 May, Magistrate John Njapau found Mr. Phiri in contempt of court for publishing an article commenting on a matter that was before the court. It is reported that Mr. Phiri was then summoned to appear before the magistrate on 4 June to show why he should not be jailed for the alleged offence. In his 10 June ruling, the magistrate reportedly said that by publishing the article, Mr. Phiri was in contempt of court. After the ruling, Mr. Phiri applied for an adjournment because his leading defence lawyer was out of town; the magistrate granted the request, but ordered that Mr. Phiri be remanded in custody until his lawyer was present in court. Mr. Phiri's lawyer applied later for bail, which was granted, and he was released about two hours later. The case has reportedly been adjourned until 26 June.

## Observations

662. No reply from the Government has been received to date.

## Zimbabwe

### **Communications sent**

663. On 7 February 2002, the Special Rapporteur sent an urgent appeal concerning **Sally Sara**, an Australian journalist who was allegedly denied entry to the country as a journalist. This decision was reportedly taken after the passage by the Zimbabwe Parliament of the Access to Information and Protection of Privacy Bill. The bill denies foreign journalists accreditation for long periods and non-specific events. It was further reported that on 23 January 2002, the Department of Information and Publicity Permanent Secretary George Charamba had reportedly said in the State-owned newspaper, *The Herald*, that the request by the Australian Broadcasting Corporation to send a reporter to Zimbabwe was not genuine.

664. On 8 February 2002, The Special Rapporteur, jointly with the Special Rapporteur on torture and the Chairman-Rapporteur of the Working Group on Arbitrary Detention, sent an urgent appeal to the Government concerning **Gertrud Ntombemi**, a member of the Movement for Democratic Change (MDC), **Abednico Bhebhe** and **Peter Nyoni**, both MDC members of Parliament, and 33 MDC supporters who are reportedly being held incommunicado without charge at a local police station in Nkayi district, Matabeleland North. On 6 February 2002, according to the information received, they were in a road convoy on their way to a rally prior to the presidential elections on 9 and 10 March, when they found the road blocked by boulders. Those inside the cars were then allegedly dragged out and beaten before being taken to the local police station. Thirty men were locked up in one cell and six women in another, in conditions which are said to amount to cruel and degrading treatment. They were allegedly initially denied food and drink, despite the hot weather. It is said that they are being denied access to medical treatment despite reports that some are suffering from serious wounds, including Mr. Bhebhe who is reportedly in critical condition as a result of a head wound. In view of the incommunicado nature of their detention and the fact that some have allegedly been ill-treated upon arrest and need medical attention, fears have been expressed that the persons referred to above may continue to be at risk of torture or other forms of ill-treatment while in detention.

665. On 28 March 2002, the Special Rapporteur sent an urgent appeal concerning **Sikumbuzo Dube**, a 25-year-old Zimbabwean poet reportedly facing a one-year prison sentence and a Z\$ 20,000 fine for writing and reciting a poem ridiculing President Robert Mugabe, which is a crime under the Public Order and Security Act, signed into law by President Mugabe shortly before the March 2002 presidential elections. Mr. Dube was reportedly remanded in custody for his trial scheduled on 3 April.

666. On 4 April 2002, the Special Rapporteur sent an urgent appeal concerning **Geoffrey Nyarota**, journalist and editor of the newspaper *Daily News*, who has reportedly been threatened by the Minister of State for Information and Publicity with prosecution under the new Access to Information and Protection of Privacy Act, in connection with a 22 March article reporting that the joint African, Caribbean, Pacific and European Union (ACP-EU) Parliamentary Assembly passed a resolution calling for a fresh presidential election in Zimbabwe at a meeting held in South Africa on 21 March. It is reported that in a letter to Mr. Nyarota, the Minister asked that

the newspaper make an apology for the "deliberate falsehood" or face legal action under the terms of section 80(1) (a) (b) of the above-mentioned Act, dealing with the abuse of "journalistic privilege".

667. On 18 April 2002, the Special Rapporteur sent an urgent appeal concerning **Dumisani Muleya** and **Iden Wetherell**, respectively journalist and news editor at the *Zimbabwe Independent*. Mr. Muleya was reportedly arrested on 15 April and released later the same day, after being charged with criminal libel for a 12 April article alleging that the brother of the First Lady, Grace Mugabe, had asked his sister to intervene to resolve a labour dispute in which he was involved. It is reported that Mr. Muleya was additionally charged on 16 April of abusing "journalistic privilege" and publishing "falsehoods" under section 80 (b) of the Access to Information and Protection of Privacy Act, which prescribes a fine or jail sentence of up to two years. Mr. Wetherell was reportedly arrested on 17 April charges of having published the above-mentioned article, which was dismissed as untrue by the Department of Information and Publicity.

668. On 19 April 2002, the Special Rapporteur sent another urgent appeal concerning **Geoffrey Nyarota**, who was reportedly arrested on 15 April 2002 in the *Daily News* offices, for an article claiming that the Government has rigged President Mugabe's victory in the disputed presidential election the previous month and accusing the registrar general, Tobaiwa Mudede, of manipulating the results of the election in favour of Mr. Mugabe. Mr. Nyarota was reportedly released three hours after his arrest, after being charged under the Access to Information and Protection of Privacy Act, which prescribes fine or jail sentence of up to two years for journalists who "fabricate" or "manufacture" news or "abuse journalistic privilege".

669. On 3 May 2002, the Special Rapporteur and the Chairman-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal concerning the arrest of **Lloyd Mudiwa** and **Collin Chiwanza**, journalists with the *Daily News*, and **Andrew Meldrum**, correspondent for *The Guardian* newspaper in United Kingdom. According to the information the Special Rapporteur received, Mr. Meldrum, a United States national who is a permanent resident of Zimbabwe, was arrested on 1 May 2002. Mr. Mudiwa and Mr. Chiwanza were reportedly arrested on 30 April and were to appear in court on 2 May. The three journalists are said to be currently detained at the central police station in Harare. They have allegedly been charged with "abuse of journalistic privilege" which, under the Access to Information and Protection of Privacy Act, carries up to two years' imprisonment and a fine of Z\$ 100,000 upon conviction. The Special Rapporteur was informed that all three journalists had reported on the alleged beheading of a woman by militants of the ruling ZANU-PF (Zimbabwe African National Union Patriotic Front party), an event that has not yet been confirmed by reliable sources.

670. On 21 May 2002, the Special Rapporteur sent an urgent appeal concerning the arrest of three staff members of the weekly *The Standard*, **Bornwell Chakaodza**, editor-in-chief, **Farai Mutsaka** and **Fungayi Kanyuchi**, both journalists. According to the information received, the three individuals were arrested on 16 May 2002 by the Criminal Investigations Department for allegedly "abusing journalistic privileges by publishing falsehoods". They were reportedly detained at the main police station in Harare. They were allegedly targeted for two articles: in the first article, entitled "Deadly riot gear arrives", Mr. Mutsaka allegedly stated that Zimbabwe



had bought anti-riot tank from Israel, while in the second article, entitled "Police in sex for freedom deals?", Mr. Kanyuchi reported that some policemen were releasing prostitutes in exchange for sex. Mr. Chakaodza was charged because he was technically responsible for publishing the articles.

671. On 6 June 2002, the Special Rapporteur sent an urgent appeal concerning **Stenford Moyo** and **Wilbert Mapombere**, respectively president and secretary of the Law Society of Zimbabwe, who were reportedly arrested on 3 June 2002 on charges of writing subversive letters to the MDC Secretary-General Welshman Ncube, who dismissed the allegations, and British diplomats. Mr. Moyo and Mr. Mapombere were released the same day and rearrested the next. It is not clear whether the two men have appeared in court yet. According to information received, the arrest of Mr. Moyo and Mr. Mapombere may be related to the critical position adopted by the Law Society against partisan judges.

672. On 19 June 2002, the Special Rapporteur sent an urgent appeal to the Government concerning the arrest of around **85 demonstrators** on 17 June. According to information received, police attacked and arrested demonstrators for "illegal demonstration" during a rally organized by the MDC in central Harare. It is reported that heavily armed police officers fired tear gas and baton charged several hundred demonstrators, and that several of those arrested suffered serious injuries. It is reported that 62 members of the MDC were charged at a court in Harare and released later the next day. They were to go back to court on 20 June for a remand hearing.

673. On 11 July 2002, Special Rapporteur sent an urgent appeal to the Government concerning **Chris Gande**, a reporter from the *Daily News* in Bulawayo, who was apparently charged under section 80 (1) (b) of the Access to Information and Protection of Privacy Act for allegedly writing "falsehoods" with regard to the participants in a gala held in memory of a former Vice-President.

674. By his letter dated 26 July 2002, the Special Rapporteur drew the attention of the Government to information he received concerning alleged cases of violations of the right to freedom of opinion and expression of the following persons:

(a) On 14 January 2002, an all-night vigil at the Zimbabwean Parliament organized by journalists working for the independent media in Zimbabwe was cut short as police threatened to use force if the journalists defied an order to vacate. According to information received, the vigil was organized to protest the Access to Information and Protection of Privacy Bill, which was set to be passed on 15 January. As more and more truckloads of police and intelligence officers continued to arrive at the Parliament building, the journalists decided to call off the protest. **Edwina Spicer** and **Jackie Cah**i, journalists, were reportedly arrested on 25 February 2002, accused of filming State House, which is a prohibited area under the Protected Areas Act, and held for 20 hours at Harare central police station. According to information received, Ms. Spicer and Ms. Cah*i* were filming Morgan Tsvangirai, leader of the MDC, as he went to the Morris Depot police station, which is near State House, where he was summoned to answer to charges of plotting to assassinate the President. Ms. Spicer and Ms. Cah*i* were reportedly charged with "failing to comply with the directive as to movement or conduct in a protected area", but as no

such directive seems to have been published, the Senior Public Prosecutor refused to prosecute them and they were released;

(b) Around 1,400 people were arrested during the presidential election of 9 and 10 March 2002 and detained without charge in overcrowded conditions. According to information received, those arrested were opposition party polling agents (responsible for monitoring vote counting), independent election observers and Zimbabwean citizens perceived to be supporters of the MDC;

(c) On 20 March 2002, two vendors of *The Daily News* were reportedly assaulted and their newspapers were destroyed in the town of Rusape. It is believed that the attacks were carried out by 15 young ZANU-PF party workers and purported war veterans. Twenty-year-old vendor Tongai Manomano and 28-year-old **Munyaradzi Mupingo** were attacked and forced to walk to the ruling party's offices in the town, where they were allegedly asked why they were selling the newspaper "in an area where the newspaper was banned". It is further reported that they were later taken to the war veterans' office, where they were beaten with sticks and sjamboks (whips) on the soles of their feet and all over their bodies, and where money from the sale of the newspapers was allegedly taken from them;

(d) On 26 March 2002, the Book Café, which was founded in 1995 with the purpose of promoting cultural activities and artists through discussions and workshops, was barred by the police from holding any political discussions unless it sought clearance under the Public Order and Security Act (POSA). It is reported that since the enactment of POSA, police have issued orders that they have a right to grant or refuse permission to any group suspected of being political;

(e) Police and supporters of ZANU-PF have allegedly been harassing and assaulting people living in Chimanimani, in the eastern province of Manicaland, believed to be supporters of the MDC, as well as human rights defenders and other observers, in what is alleged to be an attempt to prevent news from getting out. It is also reported that those trying to document violence have also been targeted. **Talance Barara**, a member of the MDC, was reportedly arrested on 5 April 2002 by Chimanimani police as he and three other MDC members were on their way to photograph the site of a burned-out homestead belonging to an MDC supporter. He was reportedly released 24 hours later. **Michael Shane Kidd** was reportedly arrested on 6 April 2002, apparently because he had given the camera to Mr. Barara. His lawyer, who allegedly arrived at the police station on the day he was arrested, was not able to see him until the following morning. On 8 April, a court reportedly ordered that Mr. Kidd be released and a subsequent medical examination confirmed that his eardrum was ruptured. Following a complaint lodged by Mr. Kidd at a different police station, the senior officer in charge of Chimanimani was reportedly charged with assault but was not suspended from duty;

(f) Patrick Jemwa, a Zimbabwe Broadcasting Corporation cameraman, was reportedly beaten by soldiers and seriously injured on 6 April 2002 while he was filming a march organized by the civic organization the National Constitutional Assembly, in Harare. It is reported that Mr. Jemwa sustained serious injuries and was taken to the Avenues Clinic, where he received treatment before being discharged;

(g) On 26 April 2002, the home of the senior Central Intelligence Organization officer in Chimanimani was firebombed and the following day 19 people were arrested by the police, including Talance Barara and Michael Shane Kidd, who were allegedly detained until 14 May when a court granted them bail. On 28 April, two lawyers reportedly tried to see them in the police station and were threatened at gunpoint by a senior police officer and the CIO officer

whose home was burnt. The next day another lawyer reportedly managed to see Mr. Kidd and Mr. Barara, who had allegedly been tortured;

(h) **Tipason Madhobha**, a 25-year-old polling officer for opposition leader Morgan Tsvangirai in Gokwe during the March presidential election, was reportedly murdered and his body was found on 2 May 2002 in a stream. According to information received, Mr. Madhobha had been missing since 10 April, after he left his home with four neighbours to look for stray cattle. It is reported that when the five of them were in Manokore village, about 15 km from Mr. Madhobha's village, Kufazvinei, they were told by an elderly man that ZANU-PF youths in Ganye did not tolerate any strangers and they risked being attacked. According to information received, ZANU-PF youths were camped at Ganye Secondary School in Fundikwa village, where Mr. Madhobha was found dead;

(i) **Brian Mangwende**, a reporter with the newspaper *The Daily News*, was allegedly arrested by police officers from the Law and Order Section and the Criminal Investigations Department in the eastern border city of Mutare on 10 May 2002, and was detained for two hours on allegations of having written a false story about the victimization of schoolteachers working in rural areas. It seems that the police did not charge him and did not record a statement from him;

(j) Geoffrey Nyarota, editor-in-chief of the newspaper *The Daily News* (see above), was arrested on 20 May 2002 around 10 a.m. at the newspaper's offices for "publishing falsehoods" and breaching provisions of the Access to Information and Protection of Privacy Act. He was reportedly released five hours later after he was charged under section 80 (1)(b) of the Act;

(k) **Bornwell Chakaodza** and **Fungayi Kanyuchi**, respectively editor and entertainment editor of the weekly English-language newspaper *The Standard*, were arrested on 28 May 2002 on allegations of having written falsehoods. It is reported that the arrest is connected to an article entitled "The private media's burden" that appeared in the newspaper on 26 May, which criticized the manner in which the police handled journalists. It is reported that Mr. Chakaodza and Mr. Kanyuchi had to sign warned and cautioned statements in the presence of their lawyer and were released immediately afterwards;

(l) The broadcasting station Joy TV closed down on 31 May 2002, after its lease agreement with the Zimbabwe Broadcasting Corporation was cancelled on the grounds that the agreement violated the 2001 Broadcasting Services Act. Joy TV was leasing TV2, a second station owned by the State-controlled ZBC, which is now the sole broadcaster in the country, and although the 2001 Act purportedly regulates the entry of other broadcasters into the industry, no private station has yet been licensed to date;

(m) On 5 June 2002, the Minister of State for Information and Publicity, Jonathan Moyo, reportedly appointed a Media Commission to regulate the operations of the industry, as provided for in the Access to Information and Protection of Privacy Act. According to information received, the Commission is made up of supporters of ZANU-PF: Tafataona Mahoso, chairperson, Rino Zhuwarara, Sephath Mlambo, Pascal Mukondiwa, Jonathan Maphenduka and Alpinos Makoni. It is alleged that journalists and media outlets were not consulted in the process of making the appointments, although section 40 (2) of the Act clearly states that "The Board shall consist of no fewer than five members and not more than seven members (at least three of whom shall be nominated by an association of journalists and an association of media houses)"

(n) The Government reportedly announced on 19 June 2002 an amendment to the Access to Information and Protection of Privacy Act, requiring that owners of media outlets and journalists pay exorbitant fees in order to operate and work in Zimbabwe. According to information

received, the new law stipulates that domestic media must pay an application fee of Z\$ 20,000 (approximately US\$ 360) and a registration fee of Z\$ 500,000 (US\$ 9,000) and foreign media will be charged an application fee of Z\$ 2,000 (US\$ 36) and a registration fee of US\$ 10,000. In addition, it is reported that Zimbabwean correspondents for foreign media are required to pay an application fee of US\$ 50 and an accreditation fee of US\$ 1,000, foreign journalists will be charged US\$ 600 for temporary accreditation and local journalists will be required to pay an application fee of Z\$ 1,000 (. US\$ 18) and an accreditation fee of Z\$ 5,000 (US\$ 90);

(o) According to information received, at a time of a major food crisis in Zimbabwe, authorities and ZANU-PF supporters allegedly withhold food aid from people believed to be supporting the opposition to President Mugabe. It is reported that distribution of food packages has been halted by the authorities in several areas known to be opposition strongholds, and it is said that there has been interference with relief programmes by local officials and ZANU-PF militants. It is reported that similar acts of discrimination occurred in the towns of Masvingo and Gutu, as well as in Kwekwe, Norton, Plumtree, Beitbridge, Victoria Falls, Chipinge, Kariba and Tsholotsho, north of Bulawayo;

(p) Since the March presidential elections, militia, using the lists of names and addresses of those who acted as polling officers for the MDC, have allegedly attacked, abducted and destroyed the homes of middle-ranking opposition officials. Further reports state that militia resort to rape and sexual torture to intimidate and “punish” those perceived as opposition supporters, in particular in the towns of Kwekwe, Chinhoyi and Gokwe, as well as in Mashonaland Central Province and in Masvingo. It is also reported that dozens of people are being held in illegal detention in some 50 militia camps around the country, reportedly for “re-education”, where some are allegedly beaten and tortured.

676. On 18 October 2002, the Special Rapporteur, jointly with the Special Rapporteur on torture, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the right to education, sent an urgent appeal regarding 627 teachers who were reportedly dismissed on 14 October 2002 by the Public Service Commission, an organism mandated to manage the hiring, promotion and dismissal of public servants in Zimbabwe. It is reported that the teachers had been on strike since the previous week, asking for a long-awaited wage increase that would compensate for their loss of purchasing power following the inflation and devaluation of the Zimbabwean dollar. **Raymond Majongwe**, the Secretary-General of the Progressive Teachers' Union of Zimbabwe (PTUZ), was arrested for picketing, allegedly threatening teachers who were not involved in the strike. According to the information received, he was injured during his 48 hours in police custody and appeared before the court with a torn shirt and injuries to one eye and an arm. On 16 September, he was reportedly re-arrested. Two other leaders of the PTUZ, **Innocent Moyo** and **Enoch Paradzayi**, were also arrested on 15 October on charges of disturbing public order. The three are believed to be currently held incommunicado. Fears have thus been expressed that they may be at risk of torture or other forms of ill-treatment.

### **Communication received**

677. The Government of Zimbabwe sent a letter to the Special Rapporteur on 7 June 2002, in reply to his urgent appeal dated 6 June 2002. In that letter, the Government rejected the

contents of the Special Rapporteur's appeal and stated that the arrest of Stenford Moyo and Wilbert Mapombere was considered lawful by the High Court of Zimbabwe.

**Observations**

678. The Special Rapporteur would appreciate receiving information on his other communications submitted to the attention of the Government.

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