

Romania

The case of Filip Mihai

Amnesty International's Concern: Amnesty International is concerned that Filip Mihai has been imprisoned for engaging in consensual homosexual acts between adults in private. Amnesty International is concerned that Filip Mihai is a prisoner of conscience.

Background: Amnesty International has recently received information from the Ministry of Justice on individuals detained in Romanian penitentiaries under Article 200, paragraph 1, of the Romanian Penal Code. This law, before it was amended by the Romanian Parliament on 1 October 1996, penalized sexual relations between consenting adults of the same sex by one to five years' imprisonment. According to the information supplied by the General Directorate of Penitentiaries, Filip Mihai, a 42-year-old prisoner in Poarta Alb_ penitentiary, was arrested on 9 November 1995. He was subsequently sentenced by the court in Constan_a to two years' imprisonment "for repeatedly engaging in sexual relations with another man". There is no indication in the information which we received that the acts took place in public.

Amnesty International considers individuals imprisoned solely because of their practice of consensual homosexual acts between adults in private to be prisoners of conscience. Amnesty International has urged

the Romanian authorities to release Filip Mihai immediately.

For over three years Amnesty International has urged the Romanian Parliament to abolish Article 200, paragraph 1, of the Penal Code and has criticized the draft of the recently adopted revision of this law. On 1 October 1996, the Romanian Parliament adopted the following version of Article 200:

1. Sexual relations between persons of the same sex, taking place in public, or producing a public scandal are punishable by one to five years imprisonment.

...

5. Enticing or seducing a person to practise same sex acts, as well as forming propaganda associations, or engaging in other forms of proselytizing with the same aim is punishable by one to five years' imprisonment.

Amnesty International is concerned that these provisions are vague and ambiguous and that their enforcement could lead to the imprisonment of people who would be considered prisoners of conscience. In the enforcement of Article 200, paragraph 1, arbitrary interpretation of “public scandal” could continue to lead to the prosecution and imprisonment of adults solely for engaging in consensual homosexual relations in private. The enforcement of paragraph 5 could result in the prosecution of persons solely for having exercised their universally recognized right to freedom of expression and the right to free assembly and association.