

ROMANIA

Romanian authorities respond to Amnesty International's May 1995 report

In October 1995 the Romanian authorities released three reports prepared by the Ministry of the Interior, the General Prosecutor's Office and the Ministry of Justice. The three institutions, which are responsible for the enforcement of law in Romania, have in this way responded to Amnesty International's report *Romania: Broken commitments to human rights* (see AI Index: EUR 39/01/95)¹. This report, which was published on 22 May 1995, presented Amnesty International's concerns about continued violations of human rights in Romania, including the imprisonment of prisoners of conscience, the torture and ill-treatment of detainees, death in detention in suspicious circumstances and a nationwide pattern of police failure to protect the Roma minority from racist violence.

In its *Update to May 1995 Report* (see AI Index: EUR 39/19/95), published in September 1995, Amnesty International welcomed assurances given to its delegates by the General Prosecutor's Office and the Ministry of Justice to continue their cooperation with the organization. Amnesty International views the reports of these two institutions as evidence of this continued cooperation and welcomes this further opportunity to engage in a constructive dialogue with the Romanian authorities.

Amnesty International is, however, concerned that the report of the Ministry of the Interior confirms the organization's previous findings that the investigations into allegations of police abuse raised by Amnesty International have not been thorough and impartial. These investigations, carried out by the General Police Inspectorate, subordinated to this ministry, were apparently superficial and conducted solely to support the version of events of the police officers alleged to have committed human rights violations. The General Police Inspectorate did not initiate criminal investigations into the actions of the law enforcement officers in any of the cases presented in the May 1995 report. Disciplinary measures were taken in only one case where three officers were fined. To justify the excessive use of force by police officers the report, in some cases, described events in terms which are difficult to understand. For example, in the case of the killing of Ioan Rusu, the report states the following:

"Consequently, after legal warning, one of the policemen fired two shots in the air and then, as the poachers [three unarmed men - comment added] refused to submit themselves to the warning made, he executed firing into the legs of one of them, in accordance with the statutory rules. **As the victim was running while keeping his head bent down, the bullet hit into his skull and killed him on the spot.**"

¹ Hereafter referred to as the May 1995 report.

In the same case the General Prosecutor's report notes that, following their re-examination of the case, the officer responsible for the killing of Ioan Rusu has been indicted for manslaughter under Article 178, paragraph 2, of the Romanian Penal Code.

Amnesty International is also concerned about terms used in the report of the Ministry of the Interior to describe the victims of human rights violations who are of Roma origin. Maria Moldovan was described as "a notorious figure in her village, whose antisocial behaviour has often violated the basic principles of decency". Her son Costel Moldovan was "well known for his antisocial and violent behaviour[;] he is a notorious drunkard". Similarly Valentin and Mircea Loco are "notorious drunkards and brawlers". Emil and Maria Mac_u were described as "the two individuals [who] had crossed the border heading for Hungary and Germany to make money from begging".

Amnesty International believes that in the cases included in its May 1995 report of apparently arbitrary detention, beatings and other ill-treatment of Roma, as well as in incidents where the police failed adequately to protect the Roma minority from racist violence, such treatment was motivated by the victims' ethnic background.

The report of the Ministry of the Interior, a public statement of officials responsible for the conduct of law enforcement officers, should be used to clearly point out that human rights violations are absolutely unacceptable. Amnesty International is concerned that the references to Roma victims in this report are discriminatory and do not set a proper example to law enforcement officers in Romania who should protect the rights and freedoms of all people without discrimination.

As a State Party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) Romania is bound to ensure that all the rights guaranteed by those treaties are enjoyed by everyone in the country without discrimination on a number of grounds including race, colour, language, national or social origin, property, birth, or association with a national minority (ICCPR Article 2, ECHR Article 14). Amnesty International is concerned that the way in which the Roma victims have been described in the report of the Ministry of the Interior could lead to detention and ill-treatment solely on grounds of ethnicity as well as to failure adequately to protect Roma victims from racist violence.

On the other hand, the reports of the General Prosecutor's Office and the Ministry of Justice extensively examine cases described in the May 1995 report. In most cases of alleged torture or ill-treatment by police officers new investigations have been initiated. In some of the cases new information came to light following their re-examination by the

Military Division of the General Prosecutor's Office². The following is a case by case summary of the information presented in these reports. Some of the cases listed below also contain comments about Amnesty International's outstanding concerns.

The detention of Ionel Buzoianu and Nicolae Andrei for offending public authority under Article 238, paragraph 1, of the Penal Code³

Both reports present a factual description of the acts for which the defendants were charged, noting that there were no breaches of law or of the penal procedure by the authorities. This, however, has never been disputed. As noted in its May 1995 report, Amnesty International is concerned that some of the provisions of the Penal Code, including Article 238, paragraph 1, impose arbitrary and excessive restrictions on the peaceful exercise of the right to freedom of expression. In these cases it is the very enforcement of the law that leads to violations of this fundamental human right. Therefore, Amnesty International has repeatedly called for a revision of these provisions of the Penal Code in such a way as not to allow for the prosecution of persons like Ionel Buzoianu and Nicolae Andrei, who have peacefully exercised their right to freedom of expression. The General Prosecutor's Office and the Ministry of Justice failed to present any arguments to demonstrate that this law does not violate Article 30 of the Romanian Constitution, which guarantees the right to freedom of expression, or the provisions of international treaties ratified by Romania, including Article 19 of the ICCPR and Article 10 of the ECHR.

Imprisonment solely for homosexuality⁴

The report of the Ministry of Justice states the following: "According to the information communicated by the General Directorate of Penitentiaries, the total number of male individuals convicted during 1993-1994 under Article 200, paragraph 1, of the Penal Code is 14. Not a single one is still imprisoned [emphasis in original]."

However, at the time of the publication of this report Amnesty International had still not received any reply from the Ministry of Justice to its letter of 20 July about the release of Adrian Dabija and Ludovic Miklo⁵. Furthermore, on 21 September 1995 Amnesty International wrote to the General Prosecutor about the detention of 18-year-old C_t_lin

² Hereafter referred to as the Military Division.

³ See the May 1995 report, pages 6 - 8.

⁴ See the May 1995 report, pages 8-13.

⁵ See *Update to May 1995 Report* (AI Index: EUR 39/19/95) page 6.

Bucur and 23-year-old Ștefan Ciocârlan who were arrested in Focșani on the evening of 4 July 1995 and held in preventive detention in Focșani Penitentiary pending an investigation under Article 200, paragraph 1, of the Penal Code.⁶ The organization has received no reply to its letter.

The case of Cristinel Cozma, Alexandru Radu and Ion Doru Mancu⁷

Following the publication of its May 1995 report, Amnesty International received new information indicating that Cristinel Cozma, Alexandru Radu and Ion Doru Mancu may have been convicted solely for engaging in consensual homosexual acts between adults in private. The General Prosecutor's report states that the three men were sentenced for exerting force on L.C. "to engage in homosexual intercourse and sexual perversion". A review of the case by the General Prosecutor's Office established that "no consent whatsoever had existed between the victim and the aggressors, and (that) the victim was forced into anal and oral sex. Moreover, L.C. had offered resistance which was proved by forensic medical tests. The signs of violence on the victim were assessed as self-evidencing for a physical aggression".

However, according to the indictment of the Constanța Military Prosecutor of 26 January 1993 and the Bucharest Military Court decision of 2 March 1993, the alleged victim never testified before a prosecutor in the course of the investigation, or during the trial. The court file contains only a statement made by L.C. in the police station on the night of the incident. He was then taken to be examined by a physician on duty in the Tulcea County Hospital who stated that there was evidence to suggest that anal sex may have taken place. A forensic medical examination could not be performed because L.C. never came to the laboratory, which the prosecutor in the case considered as "a circumstance which made difficult the administration of evidence in the course of the criminal investigation".

Furthermore, the Constanța Military Prosecutor, following an investigation, found no evidence that Cristinel Cozma, Alexandru Radu and Ion Doru Mancu had been beaten by police officers after their arrest in January 1993. Amnesty International is concerned that this investigation, conducted by the same prosecutor who investigated the three men in 1993, could not be considered as full and impartial. It is urging the General Prosecutor's Office to initiate another investigation which should be carried out by an independent prosecutor.

The case of Gabriela-Ioana Gavril⁸

⁶ See *Raport asupra vizitelor a doi reprezentanți APADOR-CH la penitenciarele Focșani și Poarta Albă*, Bucharest, September 1995 (Report of the Romanian Helsinki Committee on visits to Focșani and Poarta Albă penitentiaries).

⁷ See the May 1995 report, pages 13 - 14.

The General Prosecutor's report states that a thorough inquiry into Gabriela-Ioana Gavril_'s complaint of ill-treatment established that: "in July 1994, the two policemen enforced in a defective manner an order issued by the prosecutor". In April 1995, the Bucharest Military Prosecutor decided not to initiate criminal proceedings in this case. However, the Military Division decided in August 1995 to order a further investigation into the case.

The case of Gheorghe and Dorin Anghel⁹

In November 1994, the Cluj Military Prosecutor's Office decided not to initiate criminal proceedings against police officers suspected of ill-treatment in this case. According to the General Prosecutor's report this investigation established that: "The Anghel family assaulted the policemen; however no charges could be pressed against them, for lack of full evidence". The Military Division, however, will further investigate this case and make public its results.

Amnesty International is concerned that any prosecutor's report should contain the above quoted statement, interpreting as a fact an act for which there is admittedly no evidence. It is indicative of a tendency among prosecutors to assess more favourably allegations presented by police officers.

The case of Ioan Rusu¹⁰

Amnesty International welcomes the decision to prosecute the police officer who is responsible for the killing of Ioan Rusu for manslaughter. Nevertheless, Amnesty International continues to call for a review of the procedures applied in the course of the initial investigation, particularly the way in which the autopsy was carried out.

The case of József Németh¹¹

The case is currently under investigation by the Bra_ov Military Prosecutor.

The case of Ion Neagu¹²

⁸ See the May 1995 report, pages 18 - 19.

⁹ See the May 1995 report, page 19.

¹⁰ See the May 1995 report, pages 19 - 20.

¹¹ See the May 1995 report, pages 20 - 21.

¹² See the May 1995 report, page 21.

In June 1995 the Braşov Military Prosecutor decided not to initiate criminal proceedings against police officers involved in the ill-treatment of Ion Neagu because of lack of evidence. However, the Military Division is currently re-examining the case.

The case of Nicolae Miroiu¹³

Information on this case has already been reported in the *Update to May 1995 report*. Amnesty International is still trying to confirm the information provided by the General Prosecutor's Office.

The case of Stan Oncel¹⁴

The General Prosecutor's report states that Stan Oncel "who was drunk had refused to present his identification documents, using dirty words and insults, had thrown [himself] at the policemen". He then reportedly hit Senior Sergeant R.G. In order to prevent further attacks, Sergeant U.G. then hit Stan Oncel on the head with the rifle butt. Amnesty International is calling for a full report of the investigation, particularly on methods used to establish that Stan Oncel had been drunk at the time of the incident and that he had attacked the police officer. It is calling again for an investigation of why medical treatment had not been provided to detainee Stan Oncel, whose jaw had been fractured. Amnesty International is also urging the General Prosecutor to assess whether the use of the rifle butt to hit Stan Oncel on the head was in accordance with Principle 4 of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which states that: "Law enforcement officials, in carrying out their duty, shall as far as possible apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result".

The case of Viorica Căprişă, Andrei Zănoană and Sorin Ciocăneanu¹⁵

The General Prosecutor's report states that "the investigation [carried out by the Iaşi Military Prosecutor] has shown that the policemen were not guilty". The Ministry of the Interior report, however, notes that the three police officers were disciplined "for lack of firmness". Therefore Amnesty International is calling for a full report of the prosecutor's investigation

¹³ See the May 1995 report, pages 21 - 22.

¹⁴ See the May 1995 report, pages 22 - 23.

¹⁵ See the May 1995 report, pages 23 - 24.

and urging the General Prosecutor to clarify whether the report of the Police Inspectorate was available to the Ia_i Military Prosecutor and if so, what the reasons were for not considering as a criminal offence the officers' failure to protect Viorica C_pri_a and the two journalists.

The case of Robert Radu¹⁶

The investigation in this case has been carried out by the Bucharest Military Prosecutor. After an intervention by the Military Division, 20 September 1995 was set as a deadline for the completion of the investigation.

The H_d_reni case¹⁷

The General Prosecutor's report states that "a number of measures have been ordered to ensure resolution of the case in compliance with the law". The Ministry of Justice report acknowledges that in its May 1995 report Amnesty International "gives a realistic account of the facts". Furthermore the Ministry of Justice discloses that on 21 July 1994 the Târgu Mure_ Prosecutor started an investigation against seven persons for murder, aggravated murder and destruction of property. This investigation has still not been completed. A separate investigation was initiated against two police officers, who were present in H_d_reni at the time of the incident, on suspicion of accessory to murder and destruction of property, as well as against the former Chief of Mure_ County Police Inspectorate on suspicion of inciting witnesses to give false testimonies "promising some of the accused that they would not be held criminally liable for the arson and destruction of some gypsies'¹⁸ houses". However, the Bucharest Military Prosecutor, finding no evidence to support these allegations, decided in August 1995 to suspend all charges against the three officers. Amnesty International is calling for a full report of this investigation to be made public.

Ill-treatment of Costel Moldovan and arbitrary detention of Maria Moldovan¹⁹

¹⁶ See the May 1995 report, page 24.

¹⁷ See the May 1995 report, pages 28 - 31.

¹⁸ This is the official way in Romania to refer to the Roma minority following a government decision adopted in May 1995.

¹⁹ See the May 1995 report, pages 31 - 32.

The General Prosecutor's report appears to refer to two women, both called Maria Moldovan, both residents of H_d_reni, as one person. The case of Maria Moldovan who was allegedly beaten by a police officer on 24 September after she tried to return to the village²⁰ was investigated by Târgu Mure_ Military Prosecutor, who in February 1994 decided not to initiate any criminal proceedings. Maria Moldovan appealed against this decision, naming "several witnesses who had knowledge of the circumstances in which she had been hit by police Major D.F. In June 1995 the Military Division adopted her appeal and another investigation by the Târgu Mure_ Military Prosecutor is currently under way.

However, the General Prosecutor's report failed to clarify the case of Maria Moldovan, who on 27 November 1993 complained about the beating by police officers of her son Costel Moldovan and who was arbitrarily fined under Law 61/91 for disturbing public peace. She was subsequently detained in prison from 15 to 17 June 1994. Apparently no investigation has taken place to determine the circumstances in which Maria Moldovan was ordered to pay the fine which led to her detention, or into reports that her son had been beaten on the same day on two separate occasions by police officers in H_d_reni.

Harassment of the Loco family²¹

An investigation by the Târgu Mure_ Military Prosecutor did not conclude that the police officers had committed any criminal offence. According to the General Prosecutor's report, on 24 December 1993 Valentin and Mircea Loco "who were drunk, blocked the traffic on the road which crosses their village... and made M.C. stop the car... sprayed teargas into the eyes of the driver and another person". They were subsequently fined for disturbing the peace under Article 2, letters b and t of Law 61/91. The investigation concluded that police officers did not ill-treat or otherwise harass members of the Loco family. The Military Division, following a review of this investigation, approved its findings.

Amnesty International is concerned to note that the reason to suspend the investigation into the conduct of the two police officers is reported by the Ministry of Justice in the following way:

²⁰ see May 1995 report, page 29.

²¹ The Ministry of Justice report notes that this is the correct spelling of the family name designated as Lac_ in the May 1995 report on pages 32 - 34. Amnesty International used the correct spelling when it first expressed concern about the case to the Minister of the Interior in June 1994. In his reply it was indicated that this family name should be spelled as Lac_ and therefore this error appeared in the May 1995 report.

"Based on the statements made by the Loco family, who declared that they had neither pressed any charges against the police nor asked any one else to report the case to Amnesty International, the prosecution ordered to cease criminal proceedings against the two policemen."

In its May 1995 report Amnesty International expressed concern about the harassment by the Romanian Intelligence Service²² of a leader of a Roma organization in this region, as well as the harassment of human rights monitors who had investigated ill-treatment of Roma in the area. Their reports to Amnesty International and other non-governmental human rights organizations were considered as defamatory of the Romanian state. The organization is concerned that members of the Loco family, following their meeting with a delegate of Amnesty International in May 1994, may have also been harassed by the authorities to make the above statements. Therefore Amnesty International strongly urges the Romanian authorities to respect their obligation under Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which commits Romania as a State Party to: "ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given".

Racist violence in Băcu²³

Amnesty International was concerned that the chief of Joi_a police and around 20 police officers did not adequately protect the Roma from violence. The organization's report of the case gave a detailed account of the police actions which it considered an inadequate response to the situation. In fact, the police chief was in the position to identify the people who were inciting violence but did not take any steps to prevent actions which resulted in placing at risk human lives, and in arson and destruction of property. When Amnesty International delegates met the Military Prosecutor of Romania on 24 May 1995 they specifically raised this issue, but he replied that he had not received any complaints to this effect. The Military Prosecutor was informed that Amnesty International had expressed its concerns about the case in a letter to President Ion Iliescu in February 1995 urging him to initiate an investigation into the police officers' conduct during the incident. The Military Prosecutor was asked to consider the May 1995 report as grounds for an *ex officio* investigation. Amnesty International continues to urge that such an investigation should take place.

The case of Emil and Virgil Mac_u²⁴

²² See the May 1995 report, page 5.

²³ See the May 1995 report, pages 34 - 36.

²⁴ See the May 1995 report, pages 36 - 39.

Amnesty International welcomes the decision of the General Prosecutor to take over the investigation in this case and to initiate criminal proceedings against police officers responsible for the beating and other ill-treatment of Emil and Virgil Mac_u.