

ROMANIA

@Broken commitments to human rights

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Background

Fundamental rights and freedoms in Romania are safeguarded by the Constitution of Romania, international treaties and domestic law. The Constitution, adopted in November 1991, contains provisions on most rights and freedoms recognized by the Universal Declaration on Human Rights and the main international treaties. International treaties ratified by Parliament become part of domestic law. Furthermore, international provisions take precedence "if there is [disagreement] between the pacts and treaties on fundamental human rights to which Romania is a party and domestic laws".¹

As a result, key international human rights treaties have been incorporated into domestic law. Romania is legally bound to honour many international treaties. These include the International Covenant on Civil and Political Rights (ICCPR)², the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and the International Convention on the Elimination of All Forms of Racial Discrimination.

Romania made a further commitment to protect human rights in October 1993 when it became the 32nd member of the Council of Europe. Romania was accepted as a member of the Council on condition that it brought several aspects of domestic law and practice into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The Council's Parliamentary Assembly adopted a resolution³ listing areas for improvement, of which the following were the most significant:

- Romania's policies on the protection of minorities should be based on the principles laid down in the Parliamentary Assembly Recommendation 1201 (1993);
- conditions of detention should be improved;
- freedom of expression and press freedom should be guaranteed;
- domestic legislation should be amended to ensure that government ministers could no longer instruct judges;

¹ Articles 11 and 20 of the Constitution of Romania.

² Ratified by Romania in 1974.

³ Parliamentary Assembly's Opinion number 178 (1993).

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- the Penal Code should be amended so that homosexual acts in private between consenting adults were no longer penalized;
 - the government should use all constitutional means to combat racism and anti-Semitism, as well as all forms of national and religious discrimination and incitement to such discrimination.

The Parliamentary Assembly's Political Affairs Committee and the Committee on Legal Affairs and Human Rights were to monitor progress towards meeting these conditions. The committees were to report at six-monthly intervals until all the conditions had been met.⁴

However, the rapporteurs of the two committees visited Romania only once, in March 1994. They concluded that although the highest authorities were ready to honour the obligations "the list of questions remaining open is long and the majority in Parliament slows down the implementation of reforms". The committees continue to monitor the situation in Romania.

In June 1994 Romania ratified the ECHR and declared that it recognized both the right of individual petition to the European Commission of Human Rights⁵ and the compulsory jurisdiction of the European Court of Human Rights⁶. In October 1994 Romania ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its two additional protocols.⁷ This opened the way for the European Committee for the Prevention of Torture to visit and monitor conditions in all places of detention.

Summary of Amnesty International's concerns

Grave human rights violations persist in Romania despite the undertakings that the Romanian Government gave the Council of Europe. There have been improvements in respect for human rights since the overthrow of President Ceau_escu in December 1989, but Amnesty International continues to receive reports of violations, including the

⁴Parliamentary Assembly Order 488 (1993).

⁵ ECHR Article 25.

⁶ ECHR Article 46.

⁷ The Convention came into effect on 1 February 1995.

imprisonment of prisoners of conscience, the complicity of local officials and police in violence against the Roma and failure to protect the Roma minority from racist violence, the torture and ill-treatment of detainees and deaths in detention in suspicious circumstances.

The Romanian Government has assured the international community that it is committed to upholding its international human rights obligations. However, it has failed to reflect this commitment in its national political institutions. This is an essential step towards legislative reform and towards ensuring that public and law enforcement officials respect human rights.

It is in the area of legislative reform that the gap between the government's public commitment to upholding human rights and progress towards that goal is most apparent. Parliament has not amended Article 19 of the Law on the Organization of the Judiciary. This establishes control over judges by the Minister of Justice through an inspectorate which can examine any aspect of a judge's work. Another shortcoming of the law allows the Ministry to influence court decisions. The president of the court, responsible for assigning cases to judges, is under the control of the Minister of Justice⁸. Such control is inconsistent with Romania's obligation under Article 14 (1) of the ICCPR, guaranteeing everyone charged with a criminal offence "a fair and public hearing by a competent, independent and impartial tribunal established by law" and under Article 6 (1) of the ECHR, which contains a similar guarantee, as well as the UN Basic Principles on the Independence of the Judiciary.

The parliamentary debates on the reform of the Penal Code and Penal Procedure Code began in the autumn of 1993 and continued throughout 1994. In December, having voted on all the individual amendments, the Chamber of Deputies rejected the draft law as a whole. It was then returned to the Senate for a second debate. Instead of guaranteeing freedom of expression, the proposed amendments to Article 168 (dissemination of false news), Article 236 (offences against insignia), Article 236¹ (defamation of the state or nation), Article 238 (offences against the authorities) and Article 239 ("outrage") would impose even greater restrictions on the right to freedom of expression.⁹ In a further debate on these amendments in March 1995, the Romanian Senate again adopted similarly restrictive provisions.

⁸ The situation is aggravated by the authorities' disregard of the legal requirements set in this law. On 14 July 1993, two weeks after the law came into force, the Minister of Justice relieved Corneliu Turianu of his duties as president of the Bucharest Court without instituting formal disciplinary proceedings.

⁹ See *Romania: Criminal Law reform on the wrong track* (AI Index: EUR 39/01/94), published by Amnesty International in March 1994.

The proposed revision to Article 200, paragraph 1, which criminalizes homosexual acts, is vaguely worded and could lead to the prosecution and imprisonment of adults engaging in consensual homosexual acts in private.¹⁰

Since 1993 a number of people have been adopted as prisoners of conscience by Amnesty International. Two people were charged with and held in pretrial detention as a result of the peaceful exercise of their right to freedom of expression.¹¹ In the same period at least 11 people have been imprisoned under Article 200, paragraph 1. Three prisoners of conscience have been convicted for disturbing public peace, apparently because of their ethnic origin.¹² The cases of some of these prisoners of conscience show that the police force and the judicial system have little regard for the constitutional rights of the defendants. They also highlight unacceptably poor administration in courts and places of detention, locally and nationally.

While the number of prisoners of conscience is lower than in the years prior to the overthrow of President Ceau_escu in December 1989, reports indicate that torture, beating and other forms of ill-treatment of detainees continue to be widespread. These human rights violations occur in the context of serious economic and social difficulties which affect most of the population, and a chronic lack of funds to maintain state and other public services. This is often used by the Romanian authorities to excuse human rights abuses by police officers. In addition, police officers have traditionally placed the protection of state interests above the universally recognized rights of individuals. Education and training designed to promote a human rights culture among public officials and law enforcement officers are therefore imperative.

The problem is further compounded by a pattern of impunity of law enforcement officers responsible for human rights violations. International standards require prompt, thorough and impartial investigations into reports of human rights violations by law enforcement officials. These standards are seldom fulfilled. Investigations are often unnecessarily obstructed and prolonged by inadequate methods of gathering evidence. Prosecutors do not exercise sufficient control over police officials who participate in investigations into alleged abuses committed by their colleagues¹³. The prosecuting

¹⁰ Ibid.

¹¹ Article 238, paragraph 1, of the Penal Code.

¹² Law 61/91.

¹³ *Separate investigations of alleged human rights violations by the police may be conducted by the police themselves, although by separate units. Sometimes the same police officers may be involved in both investigations.*

authorities also invariably give more weight to evidence in favour of a suspected police officer than evidence that supports the complainant's allegations. Finally, there is no judicial review of prosecutors' decisions not to charge police officers alleged to have committed human rights violations.

One of the major human rights issues in Romania today concerns violations against the Roma. The impunity of police officers and a pattern of inadequate police protection of Roma lives and property has encouraged further acts of racist violence. The Romanian authorities have failed to take all measures to ensure the rights and freedoms guaranteed by the Constitution and international treaties that apply to everyone without distinction of any kind "such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".¹⁴ As a State Party to the International Convention on the Elimination of all Forms of Racial Discrimination Romania is obliged to ensure "the right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution".¹⁵

Amnesty International welcomes the cooperation and information it has received from the Romanian authorities, particularly from the office of the General Prosecutor. National and local authorities have engaged voluntarily in an open dialogue with the organization. However, the Romanian Intelligence Service¹⁶ (RIS) considers monitoring of human rights as a threat to national security in some instances. In its annual report to the Romanian Parliament in November 1994 the RIS referred to activities of certain independent Roma non-governmental organizations "which, by falsification and denigration of the situation in our country, incited **actions affecting the image of Romania abroad**, and have at the same time instigated **destabilizing and unconstitutional acts**" [emphasis in original].¹⁷

Several people who contacted Amnesty International about human rights violations were subsequently harassed and intimidated by officials of the RIS, although they were not charged with any offence. Amnesty International recalls the commitment of states of the Organization for Security and Co-operation in Europe (OSCE) to:

¹⁴ Article 2 of the ICCPR.

¹⁵ Article 5 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination.

¹⁶ *Serviciul Român de Informații*.

¹⁷ *Raport referitor la îndeplinirea atribuțiilor ce revin, potrivit legii, Serviciul Român de Informații, pentru realizarea siguranței naționale* R nr. 18/15.10.1994.

"respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

"allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national and international sources as provided for by law."¹⁸

Restrictions on the right to freedom of expression

Provisions of the Romanian Penal Code that impose arbitrary and excessive restrictions on the peaceful exercise of rights to freedom of expression, assembly and association with others violate international treaties ratified by Romania.

Certain provisions of Articles 238 and 239 criminalize defamation of "a person engaged in an important state or public activity".¹⁹ Article 238, paragraph 1, punishes with six months' to three years' imprisonment anyone who "casts slurs upon the honour or publicly threatens" a person in such a position. Article 239, paragraph 1, states:

"Insult, libel, slander or threats made directly or by direct means of communication against a functionary whose duties involve the exercise of state authority, and who is performing his duties, or such insults made with regard to acts accomplished during the performance of his duties are punishable by three months' to two years' imprisonment."

These articles violate the right to freedom of expression recognized in Article 19 of the ICCPR. The reputations of public officials, including the President of the Republic, are adequately protected by other provisions of the Penal Code guaranteeing

¹⁸ Point (10) of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (CSCE, now the OSCE) adopted on 29 June 1990.

¹⁹ Article 160 of the Romanian Penal Code which is referred to in Article 238, paragraph 1.

the honour and personal integrity of individuals, as well as by civil actions which are available to anyone, regardless of status or function.

The case of Ionel Buzoianu

Ionel Buzoianu, a chauffeur working in Bucharest, lost his livelihood after being arrested in March 1993 and charged under Article 238 for offending public authority.

On 27 February 1993, at around 3pm, Ionel Buzoianu parked his car on the *Pia_a Presei Libere* (Free Press Square) in Bucharest. On the side of the car were painted the words: "The commander of the traffic police encourages his officers to take bribes so that he can buy a villa on *Bulevardul Primaverii*." In explaining why Ionel Buzoianu had been charged with offending public authority, the Bucharest-Sector I Prosecutor cited the testimony of two witnesses who stated that "small groups of citizens had gathered around the abandoned car and engaged in discussions leaving the site in amazement".

The indictment also states that on 24 March 1993 Ionel Buzoianu confessed to painting the offending words on the car. He apparently told the prosecutor that in February he had been stopped by a traffic police officer who allegedly demanded a bribe to return his driving licence. When Ionel Buzoianu told him that he would complain to the police commander the officer reportedly replied, "The commander wants to buy a villa on *Bulevardul Primaverii*."

Ionel Buzoianu was detained pending trial for 18 months. He was released on 1 September 1994 after being held for more than half of the maximum penalty for the offence with which he was charged. His trial is under way. The police commander is not known to have instituted an ordinary libel action against Ionel Buzoianu.

In October 1994, Amnesty International called on President Ion Iliescu to suspend the prosecution of Ionel Buzoianu. No reply has been received to date.

The case of Nicolae Andrei

Nicolae Andrei, a journalist from Craiova, was arrested on 14 February 1994 and charged with "casting slurs upon the honour"²⁰ of President Ion Iliescu. The charge was based on satirical articles written by Nicolae Andrei which were published in a special supplement of the magazine *Conflict* in late December 1993.

²⁰ Article 238, Paragraph 1 of the Penal Code.

Nicolae Andrei was detained for four days and then released on bail pending trial. The file was then referred to the General Prosecutor. In April the investigation department proposed to suspend the case. However, on 10 May the Deputy General Prosecutor decided to re-examine the file. It was eventually returned to the Dolj prosecutor in December. He found that "the articles written by the defendant, regardless of their literary form ... contain expressions which defame, insult and libel the constitutional institution of the Presidency of Romania". The prosecutor also assessed "the personality traits of the defendant" and found him to be "a confirmed oaf" who lacked journalistic training and experience and was therefore not familiar with "the types of expressions that can be used in criticising certain aspects of the life and activities of state leaders".²¹ In view of this the prosecutor decided to impose on Nicolae Andrei an administrative fine of 25,000 lei, the maximum amount provided by law. The President is not known to have instituted an ordinary civil action for libel against Nicolae Andrei.

Imprisonment solely for homosexuality

Article 200 of the Penal Code also contravenes international treaties ratified by Romania. This article allows for the arrest, prosecution and imprisonment of consenting adults engaging in homosexual acts in private. Paragraph 1 of Article 200 states that "sexual intercourse between persons of the same sex is punishable by one to five years' imprisonment". Paragraph 4 states that "propositioning or enticing an individual to an act provided for in Paragraph 1 is punishable by one to five years' imprisonment". Article 204 criminalizes all attempts to commit acts penalized by Article 200.

Amnesty International has repeatedly urged the Romanian authorities to repeal these articles and called for the release of prisoners convicted under them. Amnesty International considers individuals imprisoned solely because of their practice of consensual homosexual acts between adults in private to be prisoners of conscience.

On 4 October 1994 President Iliescu addressed the Council of Europe's Parliamentary Assembly in Strasbourg. In response to a question from a Danish member of the Parliamentary Assembly about the persecution and harassment of homosexuals in Romania, the president said that the law was being reviewed by parliament. "He said that there was not widespread support for homosexuals and that the position of the

²¹ Dolj prosecutor's Decision number 116/p/1994 of 10 January 1995.

church was well received by the people of Romania.²² He referred to educational and medical measures as a means of dealing with these problems."²³

In October 1994 the Chamber of Deputies voted not to amend Article 200, Paragraph 1, and to retain a prescription of all homosexual acts. This decision flouted Romania's commitment to the Council of Europe, whose Secretary General was then visiting Bucharest.

Subsequently, however, the Romanian Government demonstrated that it can influence parliamentary decisions when it considers it politically opportune. The following week the rejected revision was returned for a second vote and on 1 November 1994 the Chamber of Deputies decided to penalize sexual relations between persons of the same sex only if such acts were committed in public or "in conditions which disturbed public order".

In December 1994, having voted on all the individual amendments, the Chamber of Deputies rejected the draft law amending the Penal Code as a whole. It was then returned to the Senate for a second debate.

In February 1994 Amnesty International submitted its position on Article 200, paragraph 1, to the Romanian Constitutional Court which was reviewing a case of six men charged under this law. In May 1994 an Amnesty International delegate observed a public hearing in the Constitutional Court. Two months later the court decided that the provisions of Article 200, paragraph 1, were unconstitutional "to the extent to which they apply to sexual relations between freely consenting adults, which were not committed in public or did not produce a public scandal".²⁴ This decision was upheld on appeal and came into force in January 1995.²⁵ Although the decision modifies the enforcement of the law, it could still allow for the prosecution of freely consenting adults who engaged in homosexual acts in private if such acts "caused public scandal". This is such a broad term that it could lead to varying and contradictory judicial interpretations.²⁶

²² The Romanian Orthodox Church has publicly opposed the abolition of Article 200, paragraph 1.

²³ Council of Europe Parliamentary Assembly 1994 Session (Fourth Part) Twenty-fifth Sitting [AS (1994) CAR 25].

²⁴ Romanian Constitutional Court Decision number 81 of 15 July 1994.

²⁵ *Monitorul Oficial* number 14 of 25 January 1995.

²⁶ *Romania: "Public Scandal" Ruling Threatens Rights of Homosexuals (AI Index: EUR 39/WU 02/94), 20 July 1994.*

The case of Marius Aitai, Cosmin Hutanu and Ovidiu Chetea

In November 1993, according to official sources, 57 people were in prison on charges under Article 200 of the Penal Code.²⁷ Three were men imprisoned under the provisions of paragraph 1, which prohibits all sexual relations between persons of the same sex.

Marius Aitai, a 22-year-old prisoner in Gherla penitentiary, was sentenced in 1992 by the Dej court to 30 months' imprisonment for having sexual relations with another prisoner. Cosmin Hutanu, aged 21, was sentenced in 1993 by the Foc_ani court to 14 months' imprisonment and was imprisoned in Foc_ani penitentiary. Ovidiu Chetea, aged 20, was sentenced in 1992 by the Timi_oara court to 18 months' imprisonment. He had been serving his sentence in Oradea penitentiary.

It later emerged that Marius Aitai had been convicted under Article 200, paragraph 1, for an act he committed in prison while serving a six-year sentence for theft. In combining the two penalties, the Dej court had added six months to his original prison sentence. Amnesty International has urged the authorities to reduce Marius Aitai's sentence by six months.

Cosmin Hutanu and four other men were investigated under Article 200, paragraph 1, in July 1992. While he was abroad Cosmin Hutanu was tried and sentenced *in absentia* in February 1993 to 14 months' imprisonment for violating this article. His co-defendants were sentenced to corrective labour at their workplaces. Cosmin Hutanu was arrested and imprisoned in July 1993. He was conditionally released in March 1994.

In May 1994 the Romanian authorities responded to Amnesty International's concerns over the case of Ovidiu Chetea by denying that he was in prison. The Ministry of Foreign Affairs stated, "According to information received from the Ministry of Justice, there is no evidence of an inmate of that name in the penitentiary system." Furthermore, according to the same statement, the Timi_oara Court could not identify any person of that name to have been indicted or convicted by that instance.

However, the Ministry of Justice had reported, in November 1993, that Ovidiu Chetea had been sentenced by the Timi_oara Court under Article 200, paragraph 1, for "engaging in sexual relations with different persons of the same sex in the period 1987 - 1992". Independent reports subsequently confirmed that Ovidiu Chetea had been conditionally released from Oradea Penitentiary on 21 December 1993. The following

²⁷ Information compiled by the Directorate for Penitentiaries in the Ministry of Justice.

day, the penitentiary commander reportedly described Ovidiu Chetea as a "boy who did not fit in and kept crying all day". The prisoner's file indicated that he had begun serving his sentence on 14 March 1993.

Amnesty International also received a report of the Timi_oara Court case file number 5856/1992 and a copy of Penal Sentence number 1223 of 26 June 1992 which sentenced Ovidiu Chetea to 18 months' imprisonment under Article 200, Paragraph 1, in connection with Article 41, paragraph 2, and Article 42 of the penal code²⁸. His codefendants in the case were Nicolae Petrica_ and Nicolae Stupariu, who, on the same charges, received suspended sentences of two years and 18 months' imprisonment respectively.

The case of Florian Mu_at, Dorin-Alexandru Foia and Traian Pasca

The list of prisoners which Amnesty International received from the Ministry of Justice also contained information about Florian Mu_at and Dorin-Alexandru Foia, detained in Aiud penitentiary. Both men were, according to this information, sentenced to two years' imprisonment by the Alba Iulia court in June 1993.²⁹ They were serving concurrent sentences made up as follows: 18 months' imprisonment under Article 200, paragraph 2, for a homosexual act committed under duress; eight months' imprisonment under Article 192 for illegally breaking into a house; one year's imprisonment under Articles 208 and 209 for theft; and six months' imprisonment under Articles 33 and 34 which allow the increase of the longest concurrently served sentences.

Amnesty International has received a copy of the court's judgment which convicted Florian Mu_at and Dorin-Alexandru Foia, as well as Traian Pasca, of offences under Article 200 of the Penal Code. Although it made no reference to any specific paragraph of this article, the reasoning of the judgment unambiguously implied that all three co-defendants were convicted for a consensual homosexual act in private. Florian Mu_at and Dorin-Alexandru Foia were also found guilty of breaking into Traian Pasca's home and stealing his watch and dentures.³⁰

Traian Pasca, who was charged solely under Article 200 with engaging in consensual homosexual acts between adults in private, was released in November 1993 after serving half of his 18-month sentence.

²⁸ Articles 41 and 42 refer to continuous offences.

²⁹ Decision number 1569/1993.

³⁰ Interviewed in prison May 1994, they claimed to have taken the watch and the dentures as a practical joke.

Amnesty International has urged the authorities to review the convictions of Florian Mușat and Dorin-Alexandru Foia.

The case of Valentin-Walter Stoica

In December 1994 Amnesty International again received information from the Ministry of Justice on detainees convicted under Article 200. One of the prisoners listed, Valentin-Walter Stoica, is currently serving an 18-month prison sentence in Aiud penitentiary.³¹ It was unclear whether he had been sentenced under paragraph 1 of Article 200. Amnesty International urged the Minister of Justice to initiate a judicial review of Valentin-Walter Stoica's case.

In February 1995 Amnesty International received more information about Valentin-Walter Stoica.³² He was arrested for burglary in January 1992 and sentenced by Mediaș court to 30 months' imprisonment. In July 1992 he engaged in a homosexual act with Zoltan Ioan, with whom he shared a prison cell. Zoltan Ioan also engaged in a homosexual act with another prisoner, Haler Gheorghe. All three men were first disciplined by being held in solitary confinement for 10 days. They were then tried under Article 200, paragraph 1, in April 1993. According to the Alba Iulia court record,³³ the accused confessed to the charges and each were sentenced to 18 months' imprisonment.

Committing another crime while serving a prison sentence is considered to be recidivism, an offence under Article 37 of the penal code. In such cases, the courts are obliged to merge the penalty imposed for the latest conviction with penalties for previous convictions, so that the sentences are served concurrently. They may then increase the concurrent sentences.³⁴

Zoltan Ioan and Haler Gheorghe were released in 1993 and 1994 respectively. Valentin-Walter Stoica was released conditionally on 17 November 1993. Apparently the procedure for imposing concurrent prison sentences had not been applied in his

³¹ See *The case of Valentin-Walter Stoica*, AI Index: EUR 39/07/94, 13 December 1994.

³² *Update to the case of Valentin-Walter Stoica*, AI Index: EUR 39/02/95, 16 February 1995.

³³ Penal Sentence number 957/1993 of 26 April 1993.

³⁴ This procedure is contained in Articles 39, 34 and 35 of the Penal Code. Articles 34 and 35 prescribe the principal penalty, additional penalties and security measures in case of concurrent offences.

case. His 18-month sentence was still outstanding and his prisoner file contains a warrant for its execution.³⁵ It arrived nine months after the trial and only after he had already been released.

In August 1994 Valentin-Walter Stoica was arrested in Haghilag, a village in Sibiu county, and taken back to Aiud penitentiary to serve the outstanding 18-month sentence. Valentin-Walter Stoica was not aware of his legal rights and did not have legal counsel; he did not raise on appeal these violations of his rights under national law and international standards. Valentin-Walter Stoica was interviewed in detention by representatives of the Romanian Helsinki Committee and the International Gay and Lesbian Human Rights Commission in January 1995. He told them that his chances for conditional release after serving half of his sentence might have diminished because he was considered a recidivist.

In February 1995 Amnesty International called on the Romanian authorities to release Valentin-Walter Stoica immediately, as a prisoner of conscience.

Ill-treatment of Article 200 prisoners

Persons charged under Article 200 are also at risk of ill-treatment in detention.³⁶ Cristinel Cozma is serving a five-and-a-half-year sentence in Tulcea Penitentiary for offences under Article 200, paragraph 2 of the penal code³⁷. He was arrested with Alexandru Radu and Doru Mancu on 1 January 1993 in the bar of the *Sala Spaturilor* in Tulcea. Cristinel Cozma, Alexandru Radu and Doru Mancu were charged with forcing another man to engage in homosexual acts. All three were reportedly severely beaten with truncheons by police officers. Cristinel Cozma lost consciousness as a result. The men were beaten in the police station until a senior officer arrived.

Two days after his arrest, Cristinel Cozma was questioned by the prosecutor. He was then taken to a doctor for treatment of injuries inflicted by the beatings.

Cristinel Cozma and Alexandru Radu, who were then in military service, were transferred to a military police unit and questioned by a military prosecutor. Cristinel Cozma was taken to a military hospital for further treatment of his injuries. He and

³⁵ Penalty number 1348/1993, issued by the Alba Iulia court and dated 16 December 1993 (eight months after the passing of the sentence).

³⁶ See *Romania: continuing violations of human rights (AI Index: EUR 39/07/93), May 1993*.

³⁷ This provision concerns homosexual rape, homosexual relations with minors or other persons "who can not defend themselves or express their consent".

Alexandru Radu were tried by the Military Court in Constan_ a. A military officer was appointed to defend them. Cristinel Cozma and Alexandru Radu were sentenced to five and a half years' imprisonment and four and a half years' imprisonment respectively.

Cristinel Cozma claims that the homosexual acts on which the charges were based were consensual. The man they were accused of coercing was stopped by police officers in a routine identity card check after he left the bar. It is assumed that he informed the police that he had been coerced, although reportedly he did not testify against the defendants and was not interrogated as a witness during the trial.

In November 1994 Amnesty International wrote to the General Prosecutor of Romania expressing concern that Cristinel Cozma, Alexandru Radu and Doru Mancu might have been convicted solely for engaging in consensual homosexual acts between adults in private and that they were allegedly ill-treated by police officers following their arrest. The organization asked for copies of the civil and military court decisions on their cases and copies of the medical records of treatment which Cristinel Cozma received. No reply has been received.

Torture, ill-treatment and deaths in custody

Torture and ill-treatment of detainees is one of the most serious human rights problems in Romania. Lawyers and local non-governmental organizations monitoring human rights frequently report that the incidence of ill-treatment is high and that such cases are widespread. However, few detainees make official complaints of ill-treatment and only rarely are cases brought to court. But evidence points to a pattern of casual violence and illegal acts by police officers, with little redress for the victims. Only rarely are cases brought to court.

Torture and ill-treatment are criminal offences in Romania. Article 22 of the Constitution prohibits torture, inhuman or degrading treatment or punishment. In 1991 the penal code was amended to include a new offence punishing acts of torture with up to 15 years' imprisonment.

Law enforcement officials who are brought to court are usually charged under Articles 266 and 267 for illegal arrest, abusive search and ill-treatment. Amnesty International is aware of only one conviction under Article 267¹ prohibiting torture. In May 1994 police officer Gheorghe Br_ni_teanu was sentenced by the Bucharest Military Tribunal to 15 years' imprisonment for torturing a detainee, who died from his injuries.

The Ministry of Interior and the General Directorate of Prisons within the Ministry of Justice are organized like the military and in many ways have similar status. Therefore prosecution of law enforcement officials falls under the jurisdiction of the military courts.³⁸

Almost all reported cases of torture and other ill-treatment in detention occur in police stations and are perpetrated by police officers. Detainees arrested on criminal charges, who are ill-treated by police officers during the initial interrogation, are frequently coerced by the police into not making complaints, with promises that "things would be made easier" on the charges they face. When the court sentence does not reflect this "bargain", the defendants have no means of appeal.

Lawyers in Romania have told Amnesty International that police officers sometimes do not allow lawyers to speak to detainees in private. This denial of confidential communication with counsel is inconsistent with Principle 18 (3) of the UN Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment (UN Body of Principles), Rule 93 of the UN Standard Minimum Rules for the Treatment of Prisoners and Principle 8 of the UN Basic Principles on the Role of Lawyers. If the detainee does not engage a lawyer, the prosecutor leading the investigation will appoint one.³⁹ Under Article 137¹ the presence of a lawyer is obligatory during an interrogation of a person held under arrest. However, this is not the case when a suspect is called into the police station for questioning. Principle 7 of the UN Basic Principles of the Role of Lawyers states that "all persons arrested or detained, with or without criminal charge, shall have prompt access to a lawyer and in any case not later than forty-eight hours from the time of arrest or detention". Principle 18 (3) of the UN Body of Principles states that access to a lawyer must be granted without delay after arrest.

It is during such interrogations that the police officers often use force, intimidate and otherwise coerce the detainees into signing statements, in violation of international human rights standards. Even if the detainee changes his testimony later, before a prosecutor or during the trial, there are no legal provisions barring courts from considering statements signed without legal defence counsel. These statements are often assessed in conjunction with other evidence. The Supreme Court of Romania also

³⁸ *The Law on the Organization of Judiciary retains military prosecutors and courts as a parallel judicial system.*

³⁹ There is no legally binding mechanism where the prosecutor has to apply to the lawyer's association or another independent body. Many lawyers refuse to handle such cases. Local authorities delay the payment of fees, which in inflationary conditions makes for meagre remuneration.

considers such statements.⁴⁰ The admission of statements made under torture or ill-treatment violates Article 7 of the ICCPR and Article 15 of the Convention against Torture, as well as being inconsistent with Article 12 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. A group of independent lawyers based in Braşov (APADO) told Amnesty International that roughly 10 per cent of cases brought to the criminal courts will have serious errors in the investigations.

Some prosecutors interrogate the detainees without the presence of police officers involved in the investigation. Usually, however, the officer in charge of the case is present. In some cases, detainees have withdrawn the statements they were giving the prosecutor when the arresting officers entered the room.

Police officers often conduct investigations which should be performed by the prosecutor. Some military prosecutors investigating police abuses base their findings exclusively on information collected by special police officers, responsible for the internal investigations of complaints made against their colleagues. When military prosecutors conduct investigations themselves, they often display overt bias in favour of the police. In one recent case, the victim was interrogated by the military prosecutor with little respect for her personal dignity and social situation. In other instances questions were phrased in such a way as to clearly reflect the bias of the interrogator. Similar partiality is demonstrated by military prosecutors in assessing whether to indict the alleged perpetrator of ill-treatment.

Military prosecutors' decisions are final. They cannot be appealed in a court.⁴¹ The victims can only complain to a higher military prosecutor within the Military Section in the General Prosecutor's Office⁴². This provision violates a victim's right to an effective legal remedy.⁴³ It also violates a torture victim's right to redress and

⁴⁰ See "The case of Viorel Baciu" *Romania: continuing violations of human rights* (AI Index: EUR 39/07/93), May 1993.

⁴¹ The Romanian Government proposed to amend the Penal Procedure Code allowing a non-indictment decision to be appealed in the court. However, this proposal was rejected in February or March 1995 by the Juridical Commission of the Romanian Senate.

⁴² Article 275 of the Penal Procedure Code.

⁴³ Article 2 (3) (a) of ICCPR.

compensation.⁴⁴ Military prosecutors' decisions on cases of alleged torture and ill-treatment are only made available to complainants and their legal representatives.

Despite repeated requests, Amnesty International has been unable to obtain copies of military prosecutors' decisions. The organization has been equally unsuccessful in obtaining autopsy reports from official sources.⁴⁵ Without these documents it is difficult to examine the results and methods of an official investigation. The authorities' refusal to provide such documents casts doubts on whether the investigations were conducted thoroughly and impartially; is inconsistent another violation of Romania's obligations under international standards.⁴⁶ Moreover, the failure to make public autopsy reports and prosecutors' decisions in cases of death in custody after alleged torture is inconsistent with the authorities' obligation under the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. These principles set forth strict standards for thorough, prompt and impartial investigations in such cases, including the prompt completion of the investigation and immediate publication of the report. The report must: "include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it."⁴⁷

In many cases of alleged torture and ill-treatment by police officers the victims were subsequently charged under Law number 61 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order⁴⁸ (regulating misdemeanours and further referred to in this report as Law 61/91). In many cases investigated by Amnesty International police officers applied this law to justify excessive use of force.

⁴⁴ Article 14 (1) of the Convention against Torture which requires each State Party to "ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible".

⁴⁵ Copies are not made available even to members of the family of the deceased.

⁴⁶ Article 12 of the Convention against Torture.

⁴⁷ *Principle 17.*

⁴⁸ *Monitorul Oficial* of 27 September 1991.

Arbitrary implementation of this law even leads to deprivation of liberty.⁴⁹ A detailed study of Law 61/91 produced by *Asocia_ia pentru ap_rarea drepturilor omului în România - Comitetul Helsinki* (Romanian Helsinki Committee)⁵⁰ describes how the vague wording of some of its provisions leads to arbitrary decisions and claims that the law's appeals procedure and the provisions regarding the rights of defence violate international and European human rights instruments.

The lack of regulations concerning individuals' rights in pre-trial detention is inconsistent with international and European standards and is at odds with the constitutional right to the presumption of innocence.⁵¹ Lawyers and judges who spoke to Amnesty International claimed that they were not aware of the existence of such regulations. The Military Prosecutor of Romania told an Amnesty International delegate in May 1994 that these regulations are not classified as secret but said he did not have a copy of them. A senior official of the General Inspectorate of the Police in Bucharest said he had no authority to disclose these regulations to Amnesty International.⁵² In August 1994 the Ministry of Foreign Affairs sent Amnesty International a copy of Law number 23/1969 Concerning the Execution of Sanctions, adopted in 1969 and last amended in May 1973, which contains three articles on preventive arrest⁵³. The covering letter stated that "after December 1993 some new regulations have been adopted in order to improve the treatment of these people", but Amnesty International has not yet been provided with any of these new regulations.

The case of Gabriela-Ioana Gavrila

⁴⁹ See the case of Maria Moldovan on page 31 and the case of Emil and Virgil Mac_u on page 36 of this report.

⁵⁰ *Aspecte teoretice _i practice ale rela_iei poli_ie - persoane fizice, raport 1993-1994*, Bucharest, January 1994. This study also thoroughly examines the Police Law (Law 26/1994) which in certain situation allows for unconstitutional extension of deprivation of liberty without a prosecutor's warrant.

⁵¹ Article 23, point 8, of the Constitution of Romania.

⁵² He was also unable to provide any statistics concerning complaints about police abuses and administrative sanctions against police officers.

⁵³ The presumption is that these articles are still in force. Article 150 of the Romanian Constitution set a term of 12 months for the Legislative Council to examine the conformity of the legislation with the new constitution and to make appropriate recommendations.

Gabriela-Ioana Gavril_ was leaving her apartment in Bucharest on the morning of 4 July 1994 when two police officers came out of the lift and approached her. Major L.⁵⁴ told her that he had come to arrest her. When Gabriela-Ioana Gavril_ asked why she was being arrested, Major L. called her a prostitute and told his colleague to take her away. Gabriela-Ioana Gavril_ asked if she could telephone her mother to inform her that she had been arrested, but she was not allowed to go back into her apartment. Major L. reportedly kicked her in the abdomen, knocking her to the ground. She was punched in the back and on the head and then pulled into the lift, crying and shouting for help. The two officers threatened to keep beating her unless she kept quiet in front of people who were standing outside the building. Some of the people asked the police officers why she was crying for help; they replied that she was "a big criminal and a thief".

In the police car Gabriela-Ioana Gavril_ asked Major L. why she had been beaten and he reportedly replied, "You were beaten? Who witnessed this? Who is going to believe a prostitute like you?" She was then taken to the prosecutor's office to be questioned about the business affairs of her employers. She was released without charge. Later that day a forensic medical examination confirmed that the lesions on her body were the result of a beating. She then returned to the prosecutor accompanied by her employer and complained about the ill-treatment. The prosecutor reportedly expressed concern about the legality of her arrest and interrogation. There is no information, however, that the prosecutor initiated *ex officio* an investigation into the allegations.

Gabriela-Ioana Gavril_ suspects that her ill-treatment by the police officers and the criminal complaint against the firm where she works were motivated by the dismissal from the same enterprise of a temporary assistant.

The case of Gheorghe and Dorin Anghel

On the morning of the 1 August 1994 police officers N., G. and B. arrived by car at the home of Gheorghe Anghel in the village of Dobra, in _ugag commune. Gheorghe Anghel was away at the time.

Without a warrant or the consent of the family, the officers entered the Anghel home to serve a civil court ruling against Gheorghe Anghel. Mrs Anghel could not find her identity card and received a fine of 10,000 lei.⁵⁵

⁵⁴ Identities of all law enforcement officials designated with letters in this report are known to Amnesty International and to the Romanian authorities.

⁵⁵ Law 61/91.

Two days later, police officer G. returned again to serve Gheorghe Angel with the civil court decision. Gheorghe Angel explained that the ruling was not final and that an appeal was pending. The officer then reportedly grabbed Gheorghe Angel by the chest and struck him, breaking his spectacles. Hearing his cries for help, Dorin Anghel, his 22-year-old son, came into the courtyard. The police officer allegedly knocked him to the ground and kicked him several times.

Dorin Angel was later examined by a doctor in Alba Iulia who issued a medical certificate describing multiple body lesions caused by blows with a hard object, which were consistent with his account, and requiring eight to nine days' medical treatment. Amnesty International is unaware of any investigation of this incident.

The Case of Ioan Rusu

Ioan Rusu was shot and killed by police officers on 6 August 1994 on the banks of the river Tur. Only one shot was fired, hitting Ioan Rusu in the forehead just above the nose.

Villagers from Gherta Mica went to the scene of the shooting and were told that Ioan Rusu was a thief from another village who was trying to find transport to Satu Mare. The police officers, however, reportedly knew Ioan Rusu's identity and later claimed that he had been fishing without authorization and was suspected of using dynamite. Amnesty International is not aware of any evidence or allegations that Ioan Rusu was armed or posing a threat to the life of a police officer or anyone else.

The prosecutor from Satu Mare arrived to begin an investigation and reportedly ordered the victim's body to be moved from the scene of the shooting to the opposite bank of the river. The autopsy reportedly took place at that location.

The naked body of Ioan Rusu was then taken to his home; his clothes were never returned to the family. The people who prepared the body for burial claimed that there were visible signs of beating on both legs below the knees. One witness claimed that "there were bruises as if he had been kicked with boots".

The Military Prosecutor of Oradea reportedly decided not to charge the police officers involved in the incident. The officer who was under investigation for shooting Ioan Rusu has reportedly been disciplined by being transferred.

The killing of Ioan Rusu appears to have taken place in circumstances suggesting that it was an extrajudicial execution in violation of Ioan Rusu's right to life guaranteed by international treaties to which Romania is a party. These include the

ICCPR, which states that no one shall be arbitrarily deprived of his life⁵⁶ and the ECHR, which states that everyone's right to life shall be protected by law.⁵⁷

The case of József Németh

József Németh was on his way home after taking his son to start military service when he was reportedly assaulted by police officers. József Németh, from the village of Telechia, Brate_ commune, in Covasna county, arrived at Sfintu Gheorghe by train on 18 August 1994, just after midnight. He and a friend waited on a bench at the train station for the morning train. He was suddenly approached by three young police officers who asked him if he had stolen the shoes and clothes that he was carrying. He explained that these belonged to his son who had just started his army service in Babadag and that he was taking them home. József Németh was beaten by the three police officers who punched and kicked him. He was taken to the police station and fined 30,000 lei, for breaching public peace.⁵⁸ Later that day he was treated for the bruising which he suffered as a result of the assault and was issued with a medical certificate.

On 3 December 1994 the Police Inspectorate of Covasna county issued a statement denying that police officers had used force against József Németh. The Inspectorate stated that police officers had intervened after József Németh, who was under the influence of alcohol, had "caused a scandal and insulted a station cashier". No other investigation had apparently taken place.

The case of Ioan Neagu

Factory worker Ioan Neagu was dismissed from his job at S.C Fartec S.A., a factory in Bra_ov. He claimed unfair dismissal and took his case to court. Although the court upheld his claim, Ioan Neagu was not reinstated.

On 30 September 1994 at around 4.30pm Ioan Neagu went to S.C. Fartec S.A. which was to be visited by President Iliescu that afternoon. Before Ioan Neagu reached the main gate he was approached by factory guards, two of whom started to push him and ordered him to leave. A Bra_ov police officer also approached him. Ioan Neagu told the officer that he did not intend to cause any trouble.

⁵⁶ Article 6

⁵⁷ Article 2

⁵⁸ Law 61/91.

At around 4.50pm Ioan Neagu was standing some 25 metres from the entrance to the factory, where a crowd still waited to greet the president. He was suddenly surrounded by several police officers who reportedly punched and kicked him, tearing his shirt and trousers. He was dragged into a police car and taken to Braşov police station. There he was told that he would be charged with disturbing public peace and the police recorded his personal details. He was detained until 6.45pm, then released without charge. Amnesty International is unaware of any prompt and impartial investigation of this incident.

The case of Nicolae Miroiu

Nicolae Miroiu, from Buzău, went to the market in Ruşu to sell food and other produce on 8 September 1994. He went for a meal in a market restaurant with friends. Three police officers, one a Sergeant Major, were also in the restaurant. Sergeant Major G. and the other police officers were eating and drinking next to the entrance. As Nicolae Miroiu left the restaurant he asked one of the police officers to let him pass. The police officer then pushed and hit him. When Nicolae Miroiu turned to the other officers for help he reportedly was punched, kicked, and thrown out of the restaurant. Two days later Sergeant Major G. saw Nicolae Miroiu at the market and reportedly told him, "If you complain I will arrest you and take you to prison where you will be kept because I have many relatives."

Nicolae Miroiu was examined by a forensic medical specialist at the County Hospital when he returned to Buzău, who recorded that his right leg was fractured, he had a large bruise over his left eye and pains in the left side of his chest. These injuries are consistent with Nicolae Miroiu's account. The specialist estimated that Nicolae Miroiu would need 45 days' medical treatment. Nicolae Miroiu filed a complaint against the responsible officers in the County Police Inspectorate. Amnesty International does not know whether any investigation has taken place.

The case of Stan Oncel

Stan Oncel worked as a guard on the construction site of a housing block in the *Basinului Olimpic* area in Buzău. At around 10pm on 22 October 1994 he was approached by a police officer accompanied by a soldier. They asked him what he was doing at the construction site, but before he could reply the police officer reportedly punched him between the eyes, stunning him. When Stan Oncel tried to raise his arms to protect his head, the soldier reportedly struck him from the right side with the butt of his rifle and broke his jaw.

Stan Oncel fainted. When he regained consciousness he was in the police station, handcuffed, and with blood streaming down his neck. He was fined 20,000 lei for disturbing the peace⁵⁹ and then released. The police records allegedly state that he "regretted committing the act". Stan Oncel, however, refused to sign this record and disputed its content.

On 24 October 1994 Stan Oncel arrived at work at around 10.30am. Four hours later he was found lying unconscious on the ground. He was taken to the Micro XIV hospital where he was x-rayed and found to have a fractured jaw. No specialist was available to treat him. The following day he underwent private surgery. According to a certificate issued on the same day by a government forensic medical specialist, Stan Oncel had traumatic lesions and massive bruising of the face and a fracture on the right side of the jaw which necessitated surgical immobilization. These injuries required 45-50 days of medical treatment. Stan Oncel filed a complaint about the incident with the police commander in Buz_u.

In January 1995 Amnesty International urged the General Prosecutor of Romania to initiate a prompt, independent and impartial inquiry into Stan Oncel's complaint. The organization also expressed its concern that Stan Oncel was reportedly not provided with adequate medical treatment while detained in the police station in Buz_u. Principle 24 of the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment requires that:

"A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge."

Rule 24 of the UN Standard Minimum Rules for the Treatment of Prisoners contains a similar requirement.

The case of Viorica C_pri_a, Andrei Zanopol and Sorin _i_ei

Viorica C_pri_a, a city councillor in Gala_i, went to pick up her car where she had left it near the bus station in Mazepa, in Gala_i on 9 November 1994 at around 7.30pm. When she could not find it she called "Autobloc", a private company authorized to remove illegally parked vehicles, and was told that her car had been taken to the depot. She believed the firm's authorization had recently been revoked by Gala_i City Council.

⁵⁹ Law 61/1991.

Accompanied by two journalists from the newspaper *Ziua* and the magazine *Imparțial*, Andrei Zanol⁶⁰ and Sorin *i_ei*⁶¹, she went to the "Autobloc" depot, presented her credentials and asked to see the company's authorization to tow away illegally parked vehicles. The manager and three employees of "Autobloc" reportedly attacked Andrei Zanol, punching and kicking him and breaking his camera and cassette recorder. Viorica C_pri_a and Sorin *i_ei* were also beaten. Two police officers, who were present during the incident, reportedly made no attempt to intervene. Several other police officers then arrived in four police cars. They also reportedly refused to protect Viorica C_pri_a and the two journalists and did not allow them to call the police station or to go there to file a complaint until 10.30pm.

In January 1995 the Minister of Interior informed Amnesty International that following an investigation of this case three police officers had been disciplined for "lack of firmness and inadequate execution of their legal duty". Amnesty International asked the Minister for a copy of the report of the police investigation. The organization also asked whether the Military Prosecutor had investigated the allegations of ill-treatment. In April 1995 the Minister replied that he could not provide a copy of the report of the police investigation. Furthermore, the Military Prosecutor "was not informed because the police agents were not involved, as parties in conflict; they tried, without favourable result to settle the dispute".

The case of Robert Radu

On 10 January 1995 18-year-old Robert Radu was summoned to his local police station for questioning about an attempted rape. His parents accompanied him but left when the interview began at 8pm. The person who had filed the complaint against Robert Radu was reportedly present during the interrogation.

Robert Radu denied all the allegations made against him and officer S. reportedly beat him. Robert Radu was then given a pen and the officer dictated what he should write down as his statement. When Robert Radu refused to do this, officer S. took a club, beat him on the arms, head and legs and fractured the shin of his left leg. He then wrote down the statement as it was dictated to him. Since Robert Radu could no longer stand or walk, officer S. took him through the back exit and into his car. On the way to the hospital officer S. threatened to kill Robert Radu unless he said that he had injured himself falling down the stairs. Officer S. would in exchange close the file on the rape

⁶⁰ *Andrei Zanol was tortured by police in Galați in June 1993. See Romania: update to Amnesty International's concerns (AI Index: EUR 39/13/93, September 1993).*

⁶¹ *Ibid. for Sorin *i_ei*'s trial in violation of his right to freedom of expression.*

allegation by fining him 70,000 lei. The officer left the hospital immediately after Robert Radu was taken away on a stretcher.

On 12 January 1995 Robert Radu was visited in the hospital by Lieutenant G. and another officer to take his statement about the complaint that had been filed against him. They reportedly tore up the statement made under duress and said that they were opening a new file on the case. On the same day Robert Radu was examined by a forensic expert. The expert's report was not made public. However, according to a detailed report from the hospital, Robert Radu was admitted to the emergency ward with contusions covering his arms, chest and legs, and an open fracture of the tibia of his left leg.

In March 1995 Robert Radu was reportedly intimidated on several occasions by officer S. against whom he had filed a complaint.

The Roma - a catalogue of injustice

The 1990s have seen a rise of ethnic intolerance across Romania, with a particular impact on the Roma.⁶² A long history of racial prejudice and neglect for the needs of this community is evident not only in Romania, but throughout the region. Amnesty International has documented cases of imprisonment, beatings and other ill-treatment as well as failure of law enforcement officers to protect Roma from racist violence in Romania.

In 1994 at least three Roma, who were detained apparently solely because of their ethnic background, were considered to be prisoners of conscience. There were also cases of Roma who were subjected to beatings and other ill-treatment by law enforcement officers. Amnesty International believes that in most instances such treatment was racially motivated. The number of such acts is difficult to estimate. Most of the victims are not aware of their rights to file complaints, or if they are, believe that, as a result, their situation would only deteriorate. Some are openly threatened by law enforcement officers should they seek a judicial redress. Their position is further aggravated by their impoverished economic situation. In some instances they cannot

⁶² Although the latest census sets the Roma community in Romania at around 450,000 some estimates consider the actual number is closer to 2,000,000.

even afford to travel to the county centre to seek protection from higher authorities or to obtain a medical certificate for the injuries they have sustained.

Sometimes the victims are assaulted by law enforcement officers in public. This is particularly dangerous because it demonstrates official endorsement of racist attitudes and acts. Such conduct among police officers not only leads to human rights violations, but also leaves those most vulnerable to racist attacks without adequate protection.

Since 1990 many Roma communities throughout Romania have been subjected to incidents of racial violence. Amnesty International is concerned that in most of these incidents the authorities failed adequately to protect Roma lives and property. The pattern of police failure adequately to protect Roma is typified by events in Giurgiu county during 1991.

In April 1991 a mob attacked the Roma community in Bolentin Deal, after an ethnic Romanian was shot by a Roma. Although aware of the high risk of racist violence, police failed to prevent the mob from setting fire to 21 Roma houses and destroying another five. Five more houses were burned when some of the Roma tried to return to the village a month later.

In May 1991, 25 Roma houses were burned or destroyed in OGREZENI while police were reportedly patrolling the area. A few days later seven Roma homes were destroyed and four were burned in nearby Bolentin Vale in spite of the presence of a large police force in the village. In June 1991, six houses were destroyed and three burned in GISENI.

None of these incidents has been fully and impartially investigated.⁶³ There has been no investigation of the role of the police officers who were patrolling the villages during the violence and no disciplinary measures are known to have been taken against them.

⁶³ An investigation into the incident in Bolentin Deal begun in 1991 is still pending. The authorities have made little effort to gather evidence, including testimonies from victims and witnesses. By March 1994, according to the prosecutor then assigned to the case, only two victims had been interviewed.

Eight adults and three juveniles were charged in October 1993 for their involvement in the violence in OGREZENI but the trial is still continuing. In June 1993 three people from Bolentin Vale, convicted of firearms offences, destruction of property and theft, were given suspended sentences of six months' to one year's imprisonment. Twenty-five people were charged for their participation in the violence in GISENI and are now on trial.

This pattern of inadequate official protection and apparently discriminatory treatment of Roma is repeated throughout Romania. The responsibility for such conduct ultimately lies with the Romanian Government and other national authorities, including the General Prosecutor of Romania.

In January 1990, two hours after a call had been made by a local police officer, around 40 police officers came to the village of Turulung, in Satu Mare county, to intervene in anti-Roma violence in which 38 houses were burned down or otherwise destroyed. No measures were taken against the perpetrators of violence in the course of the police action and the investigation into the violence has not yet been completed.⁶⁴

During the events of 13-15 June 1990 in Bucharest the Roma community appeared to be singled out in a way which suggested official coordination. Groups of miners, sometimes accompanied by police officers, reportedly targeted Roma homes, savagely beating the inhabitants, and attacked suspected Roma in the streets. No official investigation into any of the incidents is known to have taken place.⁶⁵

In July 1990 in Călnic, in Alba county, local police officers reportedly participated in racial violence during which several Roma homes were damaged. In August 1990 in Huedin, in Cluj county, four police officers reportedly took no steps to protect a dozen Roma who were beaten by a crowd. There were reports that the mayor and local police in Mihai Kogălniceanu, in Constanța county, instigated anti-Roma violence in which 25 houses were burned down and another eight destroyed. In June 1991 in Plăiești de Sus, Harghita county, two days after an incident in which an ethnic Hungarian villager was stabbed, the Roma were told to leave the village within 12 hours. The mayor and local police took no steps to prevent anti-Roma violence in which 27 houses were burned down. In August 1991 local police in Vălenii Lăpușului reportedly failed adequately to protect the Roma from violence in which 19 houses were burned or destroyed in one neighbourhood and failed to take any measures to prevent violence spreading to another neighbourhood in which eight other houses were burned down. No investigation into the conduct of law enforcement officers in any of these cases is known to have taken place.⁶⁶

⁶⁴ *Human rights Developments in Romania*, 1994 Report of APADOR-CH, the Romanian Helsinki Committee.

⁶⁵ *Amnesty International Report 1991*.

⁶⁶ *Romania - Lynch Law: Violence against Roma in Romania*, Human rights Watch/Helsinki Vol. 6, No. 17 published in November 1994.

No one has been charged for an attack by soldiers on Roma in Bucharest in July 1992⁶⁷. In November 1994 the General Prosecutor informed Amnesty International that the soldiers, after being provoked, "spontaneously beat Roma with rubber truncheons" and that the decision of the Military Prosecutor not to indict anyone was considered legally justified.

No law enforcement officer has been charged for failing to protect the lives of three Roma killed during a racist riot in the Transylvanian village of H_d_reni in September 1993. This and a series of subsequent incidents in the village have been thoroughly documented by Amnesty International and other international and Romanian human rights organizations. The fact that they have taken place in spite of continuing scrutiny of international public opinion is an indication of the Romanian authorities' disregard for their commitment to uphold the human rights of all citizens. International concern, expressed after documentation of these human rights violations by Amnesty International and other national and international human rights organizations, may have prevented the situation in the village in autumn 1993 from further deteriorating.

As a State Party to the ICCPR Romania is bound to ensure that all the rights guaranteed by this Covenant are enjoyed by everyone in the country "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".⁶⁸ Furthermore, under ICCPR Article 2 (2), Romania has a positive obligation to ensure the rights guaranteed in the Covenant are implemented. The same ICCPR provision goes on to require States Parties to "adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant". The ECHR contains similar obligations in Articles 1 and 14. The provisions of the International Convention on the Elimination of all Forms of Racial Discrimination, cited earlier in this report, further specify obligations that States Parties had undertaken to "pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms".⁶⁹

The H_d_reni case

Racial violence erupted in the village of H_d_reni, Mure_County, which had a Roma community of around 170 people, in September 1993.

⁶⁷ *Romania: Continuing violations of human rights (AI Index: EUR 39/07/93), May 1993*

⁶⁸ ICCPR Article 2 (1).

⁶⁹ *Article 2 (1) of the ICCPR.*

It began on 20 September 1993 when a fight broke out between seven or eight Romanians and two Roma brothers, Rupa Lucian L_c_tu_ and Pardalian L_c_tu_. The L_c_tu_ brothers were threatened with pitchforks and Pardalian L_c_tu_ was injured in the head. Rupa Lucian L_c_tu_ then reportedly killed Ghe_an Cr_ciun by stabbing him in the throat with a knife.

After the killing the L_c_tu_ brothers fled to the house of Lucre_ia Moldovanu. Between 400 and 500 Romanians and ethnic Hungarians from H_d_reni and neighbouring villages gathered in front of the house and set fire to it.

When the L_c_tu_ brothers tried to escape from the burning house armed police officers arrested one of them and handcuffed him. The crowd grabbed the two men and started beating and kicking them. The police reportedly stood aside and took no steps to protect the L_c_tu_ brothers; they died on the way to the hospital. Witnesses who saw one of the bodies said that it was covered with bruises and cuts, and the limbs were contorted.

There was another man in the house, Mircea Zoltan, the brother-in-law of the L_c_tu_ brothers. After the crowd beat the brothers to death, Mircea Zoltan was too afraid to leave the house. He died in the fire; his charred remains were found the next morning.

Several reports indicate that a police force of around 50 arrived in the village an hour after the violence began but did not take adequate measures to prevent the crowd from setting fire to other Roma houses. Fire brigades from Tîrgu Mure_, Ludu_ and Tirnaveni were sent to H_d_reni to fight the fires. They were reportedly prevented by the crowd and some of the policemen from extinguishing the fires in Roma houses. One fire brigade did not attempt to extinguish the fire, saying that it was too late to save any property. The last Roma house was set on fire by the crowd at around 4am.

Thirteen houses were destroyed by the fire and four others were vandalized beyond repair⁷⁰. Houses which had not been destroyed by the fire were broken into, looted and heavily damaged.

It was also reported that members of the police force did not ensure the safety and protect the property of the fleeing Roma. According to a Rom who was forced to flee his home, "Police officers watched and laughed as a TV set and a video-recorder were stolen from my home."

⁷⁰ *The total number of the destroyed Roma homes is said to be even greater in some reports.*

All the Roma were forced to abandon their homes and hide in the surrounding fields. Most were not able to return to their homes until 27 September 1993 for fear of further attacks and lack of trust that the police would protect them.

Such fears were well grounded. On 24 September 1993 Maria Moldovan and Violeta Moldovan tried to return to their home in H_d_reni to collect some of their livestock. On the way to the village they were reportedly met by a police officer, whose identity is known to Amnesty International, and a villager who attacked and beat them, warning them not to come back.

The Romanian Government, in a statement of 23 September 1993, appeared to blame the Roma for causing the violence.

*"...the Roma families [were] **illegally settled in the area**. Their behaviour, culminating in the cold blood killing of a young man, stirred **the spontaneous reaction of the other inhabitants** of the village, both Romanians and Hungarians, degenerating into acts of violence."*
(emphasis added)

The government expressed its determination to restore law and order to the village, investigate the violence in H_d_reni and to bring to justice those found responsible.

On 28 September 1993 Amnesty International urged President Iliescu to ensure that the investigation examined the conduct of law enforcement officials in these criminal acts of racial violence. Allegations that they had failed in their duty to offer the fullest protection to citizens who were manifestly at risk should also be investigated. Amnesty International particularly urged the Romanian authorities to ensure a prompt, thorough and impartial inquiry into these incidents, conducted in accordance with international standards, such as the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

Nevertheless, Amnesty International continued to receive reports that the Roma community in H_d_reni was receiving inadequate protection from the police. In October villagers of H_d_reni organized public meetings to decide whether the Roma would be allowed to return. Some of these meetings were attended by local and government authorities.

In the afternoon of 29 October 1993 a group of about 20 Roma from H_d_reni tried to attend a meeting between the local authorities and a government representative.

The Roma were not allowed to enter the building. When the Roma asked to speak to Mr Muresan, the government representative, who had reportedly invited them to this meeting, they were told to wait outside. Then the village church bells tolled and a crowd of around 60 Romanian and ethnic-Hungarian residents of H_d_reni arrived, armed with pitch forks, sticks, whips and other objects, reportedly threatening to attack the Roma and chanting, "The bloody Gypsies have to leave."

The group of Roma turned to face the wall of the building to demonstrate that their intentions were peaceful and that they would not defend themselves if attacked.

At the time of this incident around 30 police officers were present in the village, including the chief of the Mure_ County Police and his deputy. Several police officers stood between the Roma and the armed villagers to prevent an attack on the Roma. No one, however, was disarmed or charged with any criminal offence following this incident. The armed residents of the village then met the local authorities and Mr Muresan. The Roma were not allowed to attend this meeting.

At a subsequent meeting organized by the Romanian authorities on 2 November 1993 a 25-member commission of H_d_reni residents was established to decide which Roma families would be allowed to continue to live in H_d_reni. Initially, no Roma were appointed to this commission, but after protests from members of the local Roma community, who were allowed to attend the meeting, two Roma were elected. The commission met on 3 November 1993. It reportedly decided that four Roma families should be allowed to stay in H_d_reni, and that 21 families should leave the village by 6 November. On 8 November 1993 an official of the Mure_ Prefect's office arrived in H_d_reni reportedly to prepare the legal grounds for the expulsion of Roma families. Some residents of H_d_reni have reportedly publicly threatened to attack the Roma again unless the commission's decision is carried out. Amnesty International is unaware of any steps taken by the authorities in response to these threats.

On 9 November 1993 Amnesty International expressed its concern to President Iliescu about the participation of the government and local authority representatives at meetings discussing the forcible expulsion of Roma from H_d_reni, as well as the blatantly inadequate police protection in situations where the lives and safety of the Roma in the village are at risk. Such acts demonstrated that the Romanian authorities were not protecting the rights and freedoms of all people without discrimination.

On 14 December 1993 a fight broke out between a Rom and a Romanian during which the latter suffered a cut above the eye. Around eight Roma families fled the village in fear of reprisals after the church bells tolled at 6pm as a sign for the villagers to gather. More Roma families left the village when the bells were rung again on the evening of 15 December 1993. The Ludu_ police reported that the situation in the

village was under control, but no one is known to have been charged with inciting violence.

As of the date of this report, the authorities have failed to investigate these incidents. No one has been charged to date for the killings of the three Roma, the destruction of property or the subsequent alleged ill-treatment of Roma by the police in H_d_reni.

Ill-treatment of Costel Moldovan and imprisonment of Maria Moldovan

On 27 November 1993 in H_d_reni at around 5pm, Costel Moldovan, a Rom, was returning home from the local mill with a bag of flour. In front of the House of Culture he was stopped by four police officers, one of whom asked him what he was carrying. He was then ordered to enter the House of Culture where the police officers reportedly punched and kicked him all over his body. Costel Moldovan believed that he was beaten because he had been helping to repair damaged Roma homes.

On the same day Maria Moldovan,⁷¹ Costel's mother, went to the police to complain about the beating. "They told me that he was not beaten and that Costel may have suffered injuries from a fall," she told an Amnesty International delegate. She returned accompanied by her son to confront the police officers again. They were then asked to show their identity cards. While Maria Moldovan went home to get her ID card the police officers again reportedly beat Costel Moldovan.

Maria and Costel Moldovan were each fined 10,000 lei for disturbing the public peace.⁷² The police report stated that Maria Moldovan had disturbed the public peace "by shouting that her son had been beaten".⁷³ Costel Moldovan paid his fine hoping in that way to prevent further harassment by police.

However, Maria Moldovan appealed against the fine to the Tîrgu Mure_ Court, initiating a judicial review of her case. A court hearing had been set for 26 August 1994. However, the same court apparently issued an arrest warrant for Maria Moldovan, converting the fine into 33 days' imprisonment. She was arrested on 15 June 1994 by

⁷¹ This is not the same Maria Moldovan who was allegedly ill-treated by a police officer on 24 September 1993, as described on p. 29.

⁷² Law 61/91.

⁷³ Number N/619947.

two local police officers, who knew of her appeal, and was imprisoned in the Tîrgu Mureş Penitentiary. The next day Costel Moldovan went to the court but did not find an arrest warrant in his mother's file. He did not have legal advice and he paid the fine after being told that his mother would not be released unless he did. Maria Moldovan was set free on 17 June 1994.

On 7 October 1994 the court dismissed Maria Moldovan's case because the fine had been paid. Costel Moldovan told an Amnesty International delegate that an officer from the General Police Inspectorate in Bucharest had come in the autumn of 1994 to investigate this case. The inspector had asked Costel to identify the officers who had allegedly beaten him. They were all still on duty in H_d_reni.

In June 1994 Amnesty International expressed its concern to the Minister of Justice that Maria Moldovan had been a prisoner of conscience and asked him to review the case. No reply has yet been received. Amnesty International is also not aware that any investigation into the ill-treatment of Costel Moldovan has taken place.

Harassment of Lac_ family

Police officers reportedly beat and otherwise ill-treated Roma in other parts of Mureş County during December 1993 and April 1994. Several members of the Lac_ family, who are Roma, were ill-treated by police officers in Valea Largă. One of the police officers who reportedly ill-treated members of the Lac_ family, Officer M., was previously posted in H_d_reni. He was on duty at the time of the racist violence on 21 September 1993. The Lac_ family believe they were targeted by Officer M. and the local police because they provided shelter to Persida Rostra_, widow of one of the victims of H_d_reni violence, who was not allowed to return to the village.

On the evening of 24 December 1993 Mircea Lac_, aged 19, and his cousin Valentin Lac_, aged 23, became involved in an argument in the village bar with another customer who reprimanded Valentin Lac_ for shouting. Four police officers, who were outside the bar in a car, tried to apprehend Mircea and Valentin who ran to their home around 50 metres away. Shortly afterwards, the police officers, including officer M., came to the house of the Lac_ family and started to question Elena Lac_, Mircea's mother. One officer reportedly attacked her, hitting her on the face and tearing her blouse. Another officer started to beat Liviu Lac_, a 12-year-old boy, and Corina Bîndula, Elena Lac_'s daughter-in-law. The police then handcuffed Mircea Lac_ and reportedly beat him all over his body. "He was placed between two wooden benches and the officers continued to beat him by hitting the top bench," Elena Lac_ told an Amnesty International delegate. She said that he was also hit with truncheons on the soles of his feet. The officers allegedly shouted, "We will kill you as well as all the other gypsies".

Mircea Lac_ was then taken to the police station where he was held for an hour and a half, after which he was released without being given any reason for his detention.

Occasional police harassment of the Lac_ family continued and on 10 April 1994 Elena and Mircea Lac_ visited Colonel Ioan Pop, chief of the Mure_ county police, and filed a complaint about the conduct of the police in Valea Larg_.

Valentin Lac_, Mircea's father, who also complained about the harassment to the local police, later received a summons from the court ordering him to pay a fine of 20,000 lei or face two months' imprisonment. On 22 April, at around 7pm, Valentin Lac_ went to the police station to inquire about the grounds for the fine. Officer M., cursing him, refused to answer. On leaving the station Valentin Lac_ was stopped by a local official and another police officer, whose identities are known to Amnesty International. Reportedly, the local official then started to beat Valentin Lac_ while officer M. and the other officer kicked him. A woman, who ran to the group to ask why they were beating Valentin Lac_, reportedly was slapped on the face and kicked. When Valentin Lac_ got up and tried to run away, officer M. drew his gun and fired after him.

On 20 June Amnesty International wrote to the Minister of Interior urging him to conduct a thorough and impartial investigation into the reported ill-treatment of members of the Lac_ family. In November 1994 the Ministry of Interior informed Amnesty International that the police in Valea Larg_ denied ill-treating any member of the Lac_ family. Valentin Lac_ had been fined under Law 61/1991, Article 2, letters a and _,⁷⁴ for acts committed on 24 December 1993. The authorities confirmed that officer M. had been chief of Che_ani local police in the same county. "His summary punishment and transfer, as head of local police, to Valea Larg_ occurred soon after the September 1993 events that took place in H_d_reni." Amnesty International has not received the report of any investigation which may have taken place into the alleged ill-treatment of Valentin Lac_ on 22 April and officer M.'s use of the firearm. Principles 11 (f) and 22 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials require reporting of the use of firearms and the establishment of effective review procedures for such incidents. This does not seem to have occurred.

⁷⁴ *Article 2 - the committing of any of the following constitutes a contravention, if they are not committed under such conditions that, according to penal law they constitute infractions:*

a) making obscene gestures or engaging in obscene actions or acts in public, uttering insults or offensive or vulgar expressions, threatening acts of violence against individuals or their property, actions which could disturb public peace and order or arouse the indignation of citizens or damage their dignity and honour or cause damage to public institutions;

) the refusal of a person to provide information establishing his identity, to legitimize it with an identification document, or to appear at police headquarters at the request of or on the basis of a justified invitation from the organs of penal prosecution or the organs for the maintenance of public order which are doing their job.

Racist violence in Bâcu

The most recent incident of anti-Roma violence in Romania occurred on 8 January 1995 in Bâcu, Giurgiu county. This village is situated only 23 kilometres south of Bucharest in a region with a history of similar incidents described earlier in this report.

Between 2 - 3am on 8 January 1995, in Bâcu, Joi_a commune, a fight broke out between four or five 15 to 19-year-old Roma and members of the D. family. When the Roma went into the house of Ioana _u_ui they were pursued into the courtyard by members of the D. family, one of whom fired from a shotgun hitting Marinache Meclescu and Maria Savu, a 64-year-old woman. The Roma then took the shotgun away and drove the injured to the Emergency Hospital in Bucharest where subsequently Maria Savu's left leg was amputated. Afterwards the shotgun was deposited and a complaint was filed with the General Inspectorate of the Police.

The chief of the Joi_a police, accompanied by around 20 police officers, came to intervene in Bâcu at around 4am on 8 January. He found that many of the Roma had already fled the village fearing an outbreak of violence by other villagers. The police chief reportedly saw that the villagers were "agitated and that some of them were inciting anti-Roma violence".⁷⁵ The same day at around 7pm the church bells tolled and a group of villagers gathered in preparation for violence. The police chief came to the church and casting a spotlight on the group was in a position to identify them. He reportedly thought that this action was sufficient to disperse them, but nevertheless he organized police officers to stand guard around the houses of the _u_ui and D. families to prevent possible arson or other attacks. The group, however, set fire to three other Roma houses and destroyed a fourth one, which was still under construction. None of the Roma whose houses were destroyed were implicated in the incident of the previous night. The police chief then sought reinforcement from gendarmerie troops and firemen, who reportedly arrived in the village shortly afterwards.

The Roma returned to their homes in Bâcu four or five days later after they were convinced that a gendarmerie unit would remain in the village to guard them. Some of them complained, however, that they were threatened and insulted by other villagers ("When the gendarmes leave we will show you!"), that they were afraid to send their children to school and that during their absence some of their homes were looted. The Giurgiu county prosecutor is reportedly investigating the incident in which the two Roma were shot, while the police are conducting an investigation into the arson and destruction of Roma property. However, no one has yet been charged with any crime.

⁷⁵ "Raport asupra evenimentelor din satul Bâcu", APADOR-CH, January 1995.

Amnesty International is concerned that law enforcement authorities in Bâcu on 8 January 1995, although in a position to identify instigators and prevent incidents of anti-Roma violence, did not take adequate measures to prevent actions which resulted in placing at risk human lives and in arson and destruction of property. All acts of inciting violence are prohibited by the Romanian Penal Code.⁷⁶ The people who rang the church bells on the evening of 8 January and urged those who gathered at the church in response to "make another Bolentin" had apparently committed a punishable offence. Law enforcement officers, a police chief and around 20 officers, who witnessed these acts did not take any measures against their perpetrators.

Amnesty International wrote on 21 February 1995 to President Ion Iliescu urging him to ensure that all necessary measures were taken to protect the Roma in Bâcu from any further racist violence; to promptly, thoroughly and independently investigate the incident in which Roma lives and property were placed at risk, as well as to investigate the conduct of law enforcement officers in failing adequately to protect them; to make public the findings of these investigations and to bring to justice all those responsible for human rights abuses.

Amnesty International also urges President Ion Iliescu to initiate an independent inquiry into all incidents in which law enforcement officials failed adequately to protect Roma lives and property in Romania since 1990. As soon as possible after the conclusion of its work this inquiry should issue a full public report on its methods, findings, conclusions and recommendations. Appropriate measures, including criminal prosecution, should be initiated against all those responsible for human rights abuses.

Amnesty International also appealed to President Ion Iliescu to exercise his powers under Articles 86 and 87 of the Romanian Constitution and to initiate a governmental review of the laws and other rules governing the conduct of and procedures employed by law enforcement officials in responding to and protecting against racist violence.

In April 1995 Romanian authorities acknowledged that " a group of villagers in Bâcu, agitated by the church bells, set fire to the houses of two Gypsies". In the course of this incident the law enforcement officials "intervened promptly to avoid the extension of the conflict". A police investigation identified 20 persons as participants to the arson. They were questioned "on charges of complicity to crime, incitement to public disorder and extolling crime, disorderly conduct, trespassing and destruction of private

⁷⁶ Penal Code, Chapter IV - Offences which threaten relations concerning common social life.

property". Amnesty International is not aware that an investigation of the police failure to protect Roma lives and property in Bâcu is taking place.

The case of Emil and Virgil Mac_u

Amnesty International believes that the number of cases in which Roma are subjected to torture and other ill-treatment as well as detention is greater than reported to Romanian authorities or human rights organizations. Many of the victims are not aware of their right to file complaints or have no faith that they would be investigated impartially. The case of Emil and Virgil Mac_u illustrates how human rights violations escalated following a complaint against a local police officer.

Police harassment of Emil Mac_u, a Rom, and members of his family in Victoria, Bra_ov county, began in August 1993. Nine months later, in April 1994, Emil and his brother Virgil were reportedly beaten and otherwise ill-treated and imprisoned for two months and 40 days respectively for disturbing public peace. Amnesty International considered them to be prisoners of conscience.

In the afternoon of 23 August 1993 Emil Mac_u had an argument with his upstairs neighbours whose faulty plumbing was leaking into the Mac_u apartment. A woman from the same neighbourhood complained to the police about Emil Mac_u's conduct and Sergeant G. came to investigate the incident. After the officer came into Emil Mac_u's apartment without a warrant Emil Mac_u told him that there was no need for his intervention since the leak had stopped. He refused to follow the officer to the police station for questioning.

Several days later Emil Mac_u received three fines all issued on the date of the incident, 23 August 1993: a 10,000 lei fine for "refusing to come to the police station after provoking a disturbance", a 2,000 lei fine for being "in a state of inebriation", a 25,000 lei fine for addressing insulting remarks to A. V. (mentioned as witness in the first two citations) and disturbing public peace. Although he did not believe himself guilty of these charges Emil Mac_u paid all three fines.

On 2 September 1993, Emil Mac_u addressed a letter to the Police Commander in Victoria, complaining that Sergeant G. had intimidated his family when he came to their apartment on 23 August 1993 and that the officer was under the influence of alcohol. He sent a copy of this letter to the State Secretary for National Minorities of Romania.

On 29 September 1993 Emil Mac_u and his wife were walking in the centre of the town when Police Commander M. stopped them and asked Emil to come to his office to discuss his complaint. Emil refused to go into the police station, saying that he

had submitted a complaint in writing and was expecting a written reply. The same day he was fined 10,000 lei for "refusing to come to Victoria police station to clarify a complaint concerning his person. He refused to give any information and to obey the request of the police officer."

Emil Mac_u paid this fine as well, in fear of more police harassment. This time he complained to the Mayor of Victoria who replied that the matter was entirely within police competence. The police, however, had still not replied to the first complaint.

In November 1993 Emil Mac_u went to Bucharest to the Romanian Parliament. He submitted his complaint and met the President of the Commission for Human Rights, Religious Affairs and National Minorities of the Chamber of Deputies. After the commission forwarded this complaint to the Ministry of Interior, Emil Mac_u received an answer from the Victoria police. The letter, which was dated 29 September (the day he was fined after refusing to come to the police station), explained that the police intervention on 23 August had been carried out legally and that he had been fined for committing several infractions. The fact that he had paid these fines proved that he "admitted his guilt because he would have, otherwise, contested the fines". The letter also stated that he was invited on 29 September "to clarify the situation but refused to accept this offer...We warn you to respect the law or we shall prosecute you in court."

Emil Mac_u was summoned again to come to the police station on 9 March 1994. No mention of any charges was made in this summons which was delivered to the Mac_u home by Sergeant G. and Captain D. Emil was not at home and his wife explained that he had nothing more to say to them and would not come to the station. Another summons was issued for 15 March 1994. On 21 March Sergeant G. together with a civilian waited in front of the house for Emil to come home. The next morning at 6am Captain D., Sergeant G. and another officer came to the Mac_u apartment and forced their way in, in spite of the protests of Maria Mac_u who asked to see a search warrant. The officers, without presenting a warrant, searched the apartment and manhandled and intimidated five Mac_u children who were still in bed. The next day the entire family went to the Romanian Parliament in Bucharest and told a member of the Commission for Human Rights that they feared to return to their home. The President of the Committee addressed another letter to the Minister of Interior. The Mac_u family stayed in Bucharest for three weeks.

On 17 April they returned to Victoria. At around 3pm Emil Mac_u with his brother Virgil and their wives went into town to buy some food. They were stopped by two police officers who asked Emil to come to the police station. He refused and went on into a store. They were shortly followed by Captain D., officers P. and G. and one other officer who locked the door of the shop. The policemen took hold of Emil and

Virgil and twisted their arms behind their backs. One of the officers pointed a gun at the women and said that he would shoot anyone who tried to resist arrest. Then the wives were forced out of the store. Maria Mac_u asked to see the arrest warrant and Captain D. showed her only the summons to the police station for Emil. This summons she saw was not signed by the prosecutor and did not carry his seal as an arrest warrant would have to. The entire incident had been recorded on videotape by an unidentified person in civilian clothes. The police then called the prosecutor and the police from F_g_ra_, a larger town nearby.

Following their arrest Emil and Virgil Mac_u were taken to F_g_ra_ and charged under Law 61/91 with disturbing the public peace. They were tried the next day in a summary procedure provided under Law 61/91, in the presence of a lawyer appointed by the court. The hearings were not public and the family could not attend. The wives were not allowed even into the corridor of the court building. The lawyer who represented the Mac_u brothers was summoned to the court house just before the hearing was about to begin. She was not allowed any time to speak to the defendants or to view the case file. During the hearing a witness, Liliana Dahi, the wife of the store owner, testified that neither of the defendants had resisted arrest. When told by the prosecutor that a "witness" had recorded the arrest on videotape the lawyer requested that this film be presented to the court as evidence. This request was rejected by the court with the explanation that it would take too long since the videotape was by then in the possession of the Bra_ov police department.

Emil and Virgil Mac_u were pronounced guilty of disturbing the public peace because "while on the terrace in front of the shop, waiting handcuffed for the prosecutor to arrive, around 200 people who had gathered were insulted by this sight". Emil was sentenced to two months' imprisonment and Virgil to 40 days'. On 20 April their appeal - request for re-examination and suspension of the sentence - was rejected by two judges of the same court which tried them earlier. Emil Mac_u served his sentence in the police station in F_g_ra_ while Virgil was detained in the Codlea Penitentiary.

Following his release on 16 June 1994 Emil Mac_u claimed that after his arrest, while waiting in the Victoria police station for the F_g_ra_ prosecutor to arrive, several police officers punched and kicked him all over his body. For five days following his arrest he reportedly suffered from fever and urinated blood as a result of the beating, but police officers in the F_g_ra_ police station refused to take him to a doctor for medical treatment. Police abuse stopped on 21 April 1994 after he was visited by a deputy of the Romanian Parliament and a member of its Commission for Human Rights.

Emil Mac_u told a representative of Amnesty International in November 1994 that he was continually harassed by people whom he suspects to have been instigated by the police. In one such incident on 31 October, at around 3.30am while waiting at a bus

stop in Victoria, Emil Mac_u was attacked and beaten by a man who allegedly told him that "officer P. told me to give you a good beating". Emil later reported the incident to the police, who told him that they could not take any steps unless there were witnesses.

Emil Mac_u had also been questioned by an official of the Ministry of Interior in connection with his arrest and ill-treatment in April 1994. One of the witnesses to the harassment of Mac_u family, Vioric__intireag, had reportedly also been questioned by the same official and asked how she was going to testify before the judicial authorities. Two days later she had reportedly been fined 10,000 lei "for being in a state of inebriation". She has appealed the fine.

A Ministry of Interior report on the Mac_u case, dated 26 October 1994, denied that the actions of the Victoria police on 22 March 1994 had been arbitrary. It also denied that an unauthorized search of the Mac_u apartment had taken place. "Two officers from Victoria police came to the Mac_u apartment and as no one answered the doorbell they left without entering the premises." This is in contradiction to a statement of a witness, contained in the court file, who testified that Maria Mac_u had opened the door of the apartment and that the police officers went in to verify whether Emil was there.

In March 1995 Emil Mac_u and his family decided to leave Victoria permanently and moved to Bucharest where they have no home or means to earn a livelihood.

Amnesty International's Recommendations

Amnesty International calls on the Romanian Government to comply with the following recommendations, demonstrating unambiguously its commitment to implementing Romania's obligations under human rights treaties and other international human rights instruments as well as its commitments on admission to the Council of Europe.

Recommendations regarding legislative and judicial reforms

Amnesty International urges the Romanian Government:

- to ensure that the Penal Code does not allow for imprisonment of persons who have exercised their right to freedom of expression without resorting to or advocating

the use of violence⁷⁷ or solely for engaging in consensual homosexual acts between adults in private.⁷⁸ *To release immediately and unconditionally prisoners of conscience and to suspend prosecutions under laws which Romania is committed to reform.*

- to amend Article 19 of the Law on the Organization of the Judiciary ensuring that the courts can effectively exercise their independence.
- to amend the Penal Procedure Code ensuring that police officers are subject to civilian courts of justice and not to military tribunals.
- to amend the code of Penal Procedure allowing a judicial review of the prosecutor's decisions following an investigation.
- to amend the Law Number 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order, to eliminate possibilities for arbitrary prosecutions and detention and to revise the appeals procedure ensuring that the appeal is an effective remedy, consistent with international standards.
- to adopt regulations regarding rights of persons in pre-trial detention which would be in conformity with their right to the presumption of innocence.
- to adopt regulations which would establish police complaint boards at county (*judeu*) level. These boards should consist of people of acknowledged independence and probity, from a representative cross section of the community, who are not members of the police force. They should be afforded all necessary power to monitor police activities and conduct investigations into complaints against police officers, in accordance with international minimum standards for commissions of inquiry, including cases where complaints have been filed with the competent prosecutor. The boards should at a minimum be given the power to: decide whether a case should be concluded or if an apology should be issued; recommend to appropriate authorities that adequate compensation be paid to the victim; and recommend whether criminal or disciplinary proceedings should be brought against the perpetrator.

⁷⁷ Article 238 - offences against the authorities, and Article 239 - "outrage", of the Penal Code and the proposed amendments to its Article 168 - dissemination of false news, Article 236 - offences against insignnia, Article 236¹ - defamation of the state or nation, as well as Articles 238 and Article 239 which may impose even greater restrictions on the right to freedom of expression than those already in force.

⁷⁸ *Article 200, paragraphs 1 and 4 of the Penal Code as well as the proposed amendment to Article 200, paragraph 1.*

Recommendations regarding torture and other ill-treatment of detainees

Amnesty International urges the Romanian Government:

- to establish an independent commission, empowered to conduct a full and impartial inquiry into all factors which facilitate torture and ill-treatment of detainees by law enforcement officers and to recommend preventive measures. Members of the commission should be chosen on the basis of their known impartiality, independence and competence. As soon as possible after the conclusion of its work the commission should issue a full public report on its methods, findings, conclusions and recommendations. The Romanian Government's response should also be made public. The commission should reconvene within a reasonable period to review steps taken by the authorities to implement measures aimed at eradicating torture and ill-treatment.
- to investigate promptly, impartially and thoroughly all allegations of police ill-treatment and to make public the findings of such investigations as soon as the reports are completed. These reports should thoroughly describe all the collected evidence and its assessment by the prosecuting authorities. All reports of forensic experts, which were made in the course of the investigation, should also be available to public scrutiny.
- to bring to justice those responsible.
- to ensure that the prosecutors exercise their legal competence to initiate investigations ex officio of all credible reports of torture or ill-treatment or whenever a person brought before them alleges torture or ill-treatment.
- to ensure that the prosecutors exercise control of police officers who are investigating reports or allegations of ill-treatment committed by other police officers. If the investigation establishes that the allegations of the complainant are credible it should be left to a court to assess the veracity of conflicting or contradictory testimony.
- to ensure that the complainant and witnesses are protected from all forms of ill-treatment and intimidation as a consequence of his or her complaint or any evidence given.
- to ensure that the court conducts a thorough investigation of all allegations of ill-treatment and that it does not admit statements made as the result of such

alleged ill-treatment unless the prosecution proves beyond a reasonable doubt that the statement was made voluntarily.

- to compensate victims of torture and other ill-treatment or their families.
- to organize effective training programs for all police officers aiming to ensure that they are given a thorough understanding of national and international human rights standards. These particularly include the following United Nations documents:
 - The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and
 - The Code of Conduct for Law Enforcement Officials and the Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials.

Recommendations regarding the effective protection of Roma from racist violence

Amnesty International calls on the Romanian Government:

- to establish a public commission of inquiry which satisfies international standards for such commissions to investigate all incidents in which law enforcement officials have failed adequately to protect Roma lives and property in Romania since 1990. Members of the commission should be chosen on the basis of their known impartiality, independence and competence. Such a commission should carry out its work in close consultation with representatives of the Roma community. As soon as possible after the conclusion of its work this inquiry should issue a full public report on its methods, findings, conclusions and recommendations. Appropriate measures, including bringing those responsible to justice and compensating victims or their families should be initiated.
- to initiate a review of the laws and other rules governing the conduct of and procedures

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Recommendations to the Council of Europe and the Organization for Security and Co-operation in Europe (OSCE)

Amnesty International urges the Council of Europe - particularly the Parliamentary Assembly and the Committee of Ministers - to ensure that Romania implements the reforms recommended by the Parliamentary Assembly to bring Romanian law and practice into line with the ECHR. In particular, the Committee on Legal Affairs and Human Rights and the Political Affairs Committee of the Parliamentary Assembly should ensure rigorous and continuing scrutiny of the human rights situation in Romania with clear recommendations concerning the restrictions on freedom of expression and the penalization of homosexual acts. It is especially the duty of the Committee of Ministers collectively to take whatever action is needed to ensure compliance.

The Council of Europe's program of cooperation and assistance to Romania is a vital method of building strong institutions and respect for the highest human rights

standards. It would be particularly important to continue or initiate programs for legislators, members of the judiciary, particularly those involved in the investigation of complaints of torture or other ill-treatment, and members of the police force. However, such a program is not a substitute for regular and rigorous scrutiny of a country's record, particularly if there are still outstanding human rights concerns at the time of admission into the Council of Europe.

The Council of Europe should continue to study problems faced by the Roma in Romania. Such efforts should particularly take into consideration proposals made by the participants of the Human Dimension Seminar on "Roma in the CSCE Region" organized in Warsaw in September 1994.

The OSCE participating states have built up a considerable body of commitments relating to Roma. Other human dimension commitments, such as guarantees of the right to freedom of expression or the prohibition of torture and other ill-treatment by law enforcement officials, apply equally to non-Roma and Roma in the OSCE region. The institutions of the OSCE now have an obligation to ensure that these commitments are implemented by the Romanian Government.

The 1994 Budapest Review Conference of the OSCE decided that human dimension issues will be regularly dealt with by the OSCE Permanent Council (which meets at least weekly in Vienna). The violations of human dimension commitments by the Romanian Government should be examined in the course of these discussions with the aim of urging the Romanian Government to take practical measures to change law and practice which are in contradiction with the international and European human rights standards.

The Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) has been directed by the Budapest Review Conference to act as a clearing-house for the exchange of information on Roma issues, including information on the implementation of commitments pertaining to Roma.⁷⁹ In playing its role the ODIHR should ensure that the administration of justice in cases of anti-Roma violence in Romania is one focus of the information stored and circulated. This information should be available to the Human Dimension Implementation Meeting which meets in October 1995 in Warsaw.

To the extent to which the ODIHR carries out training and assistance programs in Romania it should include programs relating to the functioning of the judiciary and the

⁷⁹CSCE Budapest Document 1994, Paragraph VIII. 23.

establishment of police complaint boards, as well as the setting up of effective procedures for law enforcement officials in responding to and protecting against anti-Roma violence.