

AI Index: EUR 39/02/94
EXTERNAL
26 May 1994

£Romania
@The case of Emil and Virgil Mac_u

Amnesty International's Concern: Amnesty International is concerned that the arrest and detention of Emil and Virgil Mac_u, from Victoria, Bra_ov County, for disturbing public peace may have been arbitrary and motivated by the defendants' ethnic background. Amnesty International is concerned that Emil and Virgil Mac_u may be prisoners of conscience.

Background: According to reports received by Amnesty International, in the afternoon of 23 August 1993, Emil Mac_u, a Rom, 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.¹ came to investigate the incident. After the officer came into his 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 23 August: a 10,000 lei fine under Law 61/91, Article 2, letter _, for "refusing to come to the police station after provoking a disturbance"; a 2,000 lei fine under Decree 76/75, Article 13, paragraph 1, for being "in a state of inebriation"; a 25,000 lei fine under Law 61/91, Art 2, letters a and d, 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.

Following this incident, on 2 September, 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 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 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 give more information on 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 under Law 61/91, Article 2, letter _, 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."

¹ The identities of officers involved in this incident are known to Amnesty International.

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 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 "under penalty of a fine". No mention of any charges was made in this summons. The summons 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. They suspected that following a recent change in the Ministry of Interior the complaint about police harassment might have been sent again to the Victoria authorities. Another summons was issued for 15 March, this time "under penalty provided in Law 61/91". Emil Mac_u claims that between 15 and 22 March he was followed by police. 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 members 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 a 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 by rejected by the court with the explanation that it would take too long since the video-tape is kept by the police department in Bra_ov.

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 is serving his sentence in the police station in F_g_ra_ while Virgil is detained in the Codlea Penitentiary.

Amnesty International also received a report that on 12 February 1994 Emil was involved in a fight in a bar with a man whose surname is St_lica, a driver for the local surgery. In this incident St_lica injured his leg. Emil Mac_u was also slightly injured, but did not go to a doctor to get a certificate. It is possible that the two summonses to the police station in March might have been in connection with this incident. However, Emil Mac_u was never informed verbally or in writing (usually the summons is issued by the prosecutor's office and not by the police) that there was an investigation into this incident. The police did not intervene at the time of the incident. When a representative of Amnesty International spoke to his lawyer on 17 May, Emil Mac_u had not been questioned by the police about his participation in this incident.

Amnesty International is concerned that the detention of Emil and Virgil Mac_u might represent a violation of Article 2 of the International Covenant on Civil and Political Rights, according to which Romania as a State Party is obliged to respect and "to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, 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". Amnesty International is also concerned that the arrest and detention Emil and Virgil Mac_u might be arbitrary and might represent a violation of Article 9 of ICCPR. Amnesty International considers that Emil and Virgil Mac_u might be prisoners of conscience and urges the Romanian authorities to initiate an impartial review of their case and to release them from detention if it is found that they have not committed any recognizably criminal offence.