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Romania: Deaths in custody in suspicious circumstances

Amnesty International's Concerns

Amnesty International has in the last 18 months continued to receive reports from Romania of deaths in custody in suspicious circumstances. In most of the cases, people died after allegedly being ill-treated or subjected to excessive use of force while being restrained by police officers during arrest or in custody. There have also been cases where the inadequacy of the treatment received by detainees while in police custody has led to allegations of neglect, either in the form of failing to provide adequate medical attention which might have resulted in the subsequent death or failing to carry out resuscitation. Amnesty International is concerned about the government's failure to ensure the protection of the internationally recognized fundamental right to life and freedom from torture and cruel, inhuman and degrading treatment or punishment; its failure to take effective measures to prevent deaths in custody; and its failure to carry out impartial investigations into such deaths and to bring to justice those responsible.

Torture and ill-treatment of detainees

Amnesty International is concerned about the lack of progress in the protection of some fundamental human rights guaranteed by the Constitution of Romania, international treaties and domestic law. The organization continues to receive numerous reports of human rights violations including torture and ill-treatment of detainees, as well as police shootings in disputed circumstances. The consistency and regularity of the reports of police torture and ill-treatment which Amnesty International has received over a period of several years underline the organization's concern that this is a serious human rights problem which the Romanian authorities have failed adequately to address. Over the years Amnesty International's findings

have received strong confirmation from international mechanisms set up to monitor torture and cruel, inhuman and degrading treatment or punishment. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), which visited Romania in September and October 1995, concluded *inter alia* that “persons detained on suspicion of committing a crime, at the time of arrest and/or in the course of interrogation, face a not inconsiderable risk of being subjected by the police to ill-treatment, which is sometimes severe ill-treatment, even torture”¹. The ECPT again visited Romania in 1999 but the government has still not allowed the publication of its report. The United Nations Special Rapporteur on torture published a report in November 1999 on his visit to Romania in April of the same year to inspect police lock-ups and prisons. He noted that “there is a consistency in the allegations that leads him to believe that ill-treatment does in fact occur”. He concluded that “there are persistent, albeit sporadic, cases of police abuse” and that ill-treatment by police was a more serious problem in rural communities, and that Roma were at a higher risk than others. He noted that most reported ill-treatment occurred in the first 24 hours in detention and proposed additional controls to protect detainees during this period².

Amnesty International is equally concerned that investigations into allegations of torture and ill-treatment appear not to have been prompt and impartial, as required by Article 12 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Failure to protect the right to life

Amnesty International is also concerned that the government is failing in its obligation to protect the right to life under Article 2 of the European Convention on Human Rights (ECHR). Because of its fundamental nature, full implementation of the right to life under the ECHR means that the state is under an obligation to protect the right to life not only substantially, but also procedurally, and to provide an effective remedy in case of violation. The European Court of Human Rights has developed substantial case-law on these issues.

The European Court of Human Rights has found that persons in custody are in a vulnerable position and the authorities are under a duty to protect them. The authorities must be accountable for any injuries suffered in custody, and particularly if an individual dies (*Salman v Turkey* [1993]). The obligation to secure the right to life, which in certain circumstances calls for positive action on the part of the state, is capable of requiring an active measure to save life when the authorities have taken a person into their custody (*X v FRG* [1985] and *Rebai v France*). The authorities are required to do all that could reasonably be expected of them to avoid a real and immediate risk to life which they knew about or ought to have known about.

Procedurally, and in order to provide the victim and his/her family with an effective remedy under Article 13 of the ECHR, the European Court has ruled that the state is under an obligation to respond diligently to any breaches, including not only by paying compensation, but also, when an individual dies in suspicious circumstances, by ensuring that a thorough and effective investigation is carried out, capable of leading to the identification and punishment of those responsible and including

¹Published in Strasbourg on 19 February 1998 (reference number CPT/Inf (98) 5) in French. Quotations cited in this report are unofficial translations of the original.

²See *Report of the Special Rapporteur on the question of torture. Visit to Romania. 23/11/99*. (Ref: E/CN.4/2000/9/Add.3).

effective access for the complainant to the investigatory procedure (*Kaya v Turkey* [1998] and *Aydin v Turkey* [1998]).

In *Jordan v UK* [2001], the European Court of Human Rights outlined the essential features of an investigation under Article 2 of the ECHR: it must be independent; effective; reasonably prompt; capable of public scrutiny; and capable of involving the next of kin of the deceased to the appropriate extent.

Recent cases

Death in suspicious circumstances of Mircea Chifan

On the morning of 13 December 2000 in Vicovul de Jos, Suceava county, the police arrested Mircea Chifan and took him to the Radau□i police lock-up. The previous evening, under the influence of alcohol he had reportedly assaulted his wife, who took refuge with their three children in a neighbouring house. Mircea Chifan then broke some of the neighbours' windows, cutting both hands. Mircea Chifan, who was 47 years old, had reportedly suffered from a psychiatric condition for which he had been treated in specialized institutions, most recently in the summer of 2000. According to his family he also suffered from a chronic stomach ulcer.

Following his arrest he was tried on misdemeanour charges under Law 61/91 and sentenced to 30 days' imprisonment. At some point during the court proceedings Mircea Chifan tried to escape and was subsequently restrained by police officers who allegedly used excessive force. On 15 December 2000 he was taken to the Suceava county police lock-up where he was found dead in the morning of 26 December 2000.

The autopsy of Mircea Chifan's remains was performed by Dr Nicoleta T□nase, from the Suceava Forensic Medical Laboratory, on 27 December 2000 in the absence of any representatives of the Prosecutor's Office. Dr T□nase observed that the deceased had three broken ribs and injuries on the head. These injuries were less than a week old and would therefore have been suffered by Mircea Chifan while he was held in custody. The autopsy reportedly also established purulent fluid in the thorax and blood clots in the heart. When interviewed by representatives of *Asocia□ia pentru apararea drepturilor omului în România - Comitetul Helsinki* (APADOR-CH, Romanian Helsinki Committee) Dr T□nase claimed that the cause of death had been cirrhosis of the liver. She also reportedly stated that it appeared that Mircea Chifan had not received any medical assistance while in detention, prior to his death, and that she did not receive from the police authorities any of the detainee's medical documents. According to Romanian law anyone held in detention should be examined by a doctor within 24 hours following the arrest and a medical form should be completed.

Mircea Chifan's children and four brothers attempted on several occasions to visit him in the Radau□i and Suceava lockups. They were refused each time with the explanation that the detainee was violent. However, the family believed that they were not allowed to see Mircea Chifan because of the visible injuries that he may have suffered as a result of ill-treatment by police officers. The Ministry of Justice informed Amnesty International in July 2001 that the B□c□u Military Prosecutor was conducting an investigation into the death of Mircea Chifan. At the time of writing of this report the results of this investigation have not been made public.

Death in suspicious circumstances of Valentin Carolin Stanciu

An article published in *Ziua*, a Bucharest daily newspaper, on 2 February 2001 reported on the death of 20-year-old Valentin Carolin Stanciu who had been in detention in Bucharest section number nine police station. He was arrested on 29 January on suspicion of having committed a theft from a car and was held in detention in the Bucharest section number nine police station. On 1 February at 4am, because he was reportedly experiencing respiratory problems, he was taken to *Sf. Pantelimon* hospital where he died shortly afterwards. Hospital sources reportedly revealed that Valentin Carolin Stanciu had been suffering from drug dependency.

In April 2001 Amnesty International wrote to the Romanian authorities raising the concern that the death of Valentin Carolin Stanciu might have resulted from lack of adequate medical treatment following his arrest and asked the Romanian authorities for a full report of the investigation. The organization also urged the authorities to ensure that the investigation determined whether Valentin Carolin Stanciu had been examined by a doctor following his arrest, and if so what medical treatment had been prescribed for his drug dependency, and whether the conditions in the police station were adequate for the administration of the prescribed treatment. The Ministry of Justice informed the organization in July 2001 that an investigation into Valentin Carolin Stanciu's death was being conducted by the Bucharest Military Prosecutor. No other information about this case has been received by the organization at the time of writing of this report.

Death in custody of Ioan Bregariu

According to press reports published in July 2001, two officers of Cugir Police are under investigation by the Cluj-Napoca Military Prosecutor for the murder of a worker of *UM Cugir*, a local enterprise. On the morning of 29 June 2001 the lifeless body of Ioan Bregariu, a Cugir factory worker, was discovered in Dealul Dumbravei (Dumbraveni hill), on the outskirts of Cugir.

The County Police Inspectorate began an official inquiry after the son of the victim claimed that his father had been beaten by a police officer. As the family suspected that he had not died of natural causes they requested an autopsy. Forensic medical experts reportedly established that the death had resulted from violence. It was noted that Ioan Bregariu's breast bone had been broken by the blows he allegedly received during police interrogation.

According to a statement by the General Police Inspectorate, on the evening of 27 June 2001 the owner of an enterprise in Cugir complained to the police about the loss of building materials for a house that was under construction. Two officers³ were assigned to investigate the case. After they arrested the suspect, the two police officers took him to the police station where they began the initial questioning. When Ioan Bregariu allegedly confessed to the theft, he was taken to an unspecified location to hand over the stolen bricks and then released.

Ioan Bregariu's release in such circumstances would have been highly unlikely given that the practice is to remand a suspect who has "confessed" while in custody, for questioning by the prosecutor. It is also uncertain why the officers suspected that the theft had been perpetrated by Ioan Bregariu. According to information provided to Amnesty International, the officers

³Their names are known to Amnesty International.

reportedly brutally beat Ioan Bregariu with truncheons and kicked him over the whole body during the interrogation, apparently because he did not "confess" to the crime.

The Alba County Police Inspector has reportedly demoted the Chief of Cugir Police and ordered an investigation into the conduct of the Cugir police officers. According to information received by Amnesty International, the Chief Inspector of the Romanian Police stated in a press release that he would not tolerate such acts which violate the law and harm personal integrity. No other information about the investigation into the death of Ioan Bregariu was available to the organization at the time of writing of this report.

Death in suspicious circumstances of Dumitru Grigora

On 6 July 2001 Dumitru Grigora, a 35-year-old father of four children, was arrested by two police officers, following a complaint that he had been violent to his wife. He was taken to a local police station in Rchitoasa, Bacu county. His wife stated that as he was escorted to the car she saw officers hitting her husband on the back of his head and in the ribs. The police officers told her that she should go to the Rchitoasa police station the following morning.

Later that evening a man who lives opposite the local police station heard screams and an officer shout: "Tell me! By morning I will have killed you anyway". After the screams stopped, he saw a police officer, who appeared agitated, come out of the police station. The following day he learned that a man had died at the police station during the night. In the early morning hours, according to the nurse on duty in the local surgery, the officers who brought the body of Dumitru Grigora stated that he had become ill while making a statement, that they had transported him immediately to the local surgery, and that he had died on the way to the Bacu hospital.

An autopsy carried out on 7 July 2001 at the Bacu Department of Forensic Medicine established that Dumitru Grigora's death was caused by "multiple organ insufficiency" resulting from an acute inflammation of the pancreas with bleeding. Two days later when Dumitru Grigora's wife and father were allowed to see his body they observed that his head and body were covered with bruises and other injuries. They refused to take the body for burial, demanding a second autopsy. Following their repeated appeals, the Prosecutor's Office agreed that a second autopsy should take place in Iași on 31 July 2001. The results of this examination were apparently in contradiction with the initial findings. The death of Dumitru Grigora almost provoked a revolt against the police by the Rchitoasa residents. A large group of villagers reportedly called for the dismissal of the mayor, believing that he would protect the police officers allegedly no matter what the allegations were. After the death of Dumitru Grigora, one of the officers allegedly involved, although demoted from the position of chief, reportedly continued to work in the village. The second officer was reportedly transferred to another commune where he was in charge of guarding the court house. In October 2001 it was reported that the two officers suspected of involvement were being held in custody pending an investigation into Dumitru Grigora's death.

Suspicious death in custody of Constantin Ro

According to information published in Romanian newspapers *Ziua* and *Evenimentul Zilei*, Constantin Ro, who had been held in preventive detention in Timi County Police Inspectorate, died in the Jilava Penitentiary Hospital on 13 March 2002. Constantin Ro was under investigation for being an accomplice to theft as well as an accessory to taking bribes. He was reportedly part of a group of nine people who were apprehended on 6 February 2002 by the police while attempting to steal

residual petrol from a station in Lovrin. Constantin Roșca and six others were arrested and held in preventive detention although he stated that he was suffering from tuberculosis. His state of health reportedly suddenly deteriorated on 8 March 2002 and he was taken to Bucharest to the Jilava Penitentiary Hospital, around 560km away from Timișoara where Constantin Roșca had been held. He reportedly died within 45 minutes of arrival although all resuscitation measures had been taken.

On 13 March 2002 his body was delivered to the family who could hardly recognize him. His right hand was reportedly broken and there were bruises on his face. His wife reportedly said : “Costica was suffering from tuberculosis and has had lung surgery. However, in detention he was not given appropriate medical treatment ... I think that he must have been beaten in detention to have been so disfigured”⁴. It is unclear why it was necessary to take Constantin Roșca on such a long journey to be treated in view of the fact that Timișoara hospital can provide the emergency medical treatment available in Bucharest. Deputy Chief of Timiș County Police Inspectorate Colonel Ioan Roibu reportedly stated: “If the family of the deceased wishes to take legal action it is their prerogative, however we do not feel responsible. If the death is indeed suspicious then the investigation should be carried out by the police inspectorate where it occurred.”

Death in suspicious circumstances of Mihai Iorga

In early 2002, 32-year-old Mihai Iorga was fined 800.000 lei (about US\$ 25) for disturbing public peace. Since the fine was considered too high for a family of modest means, the court decided that he could do 62 hours’ community work instead. Nicola Iorga, Mihai’s brother, and a neighbour told APADOR-CH representatives that Mihai Iorga did approximately half of the decreed hours. It was unclear why the mayor’s office decided to interrupt the execution of the sentence, but it appears that the authorities did not recognize the hours already worked. Consequently, the Ploiești Court converted Mihai Iorga’s original fine into 40 days’ imprisonment.

On 12 March 2002 Mihai Iorga was taken from a friend’s house to the Ploiești police lock-up from where he was supposed to be taken to the penitentiary the following day. According to three letters (two of which had not been signed) received by the family, Mihai Iorga was initially placed in room number 3 where Viorel Davidoiu was the chief detainee⁵. He reportedly beat Mihai Iorga brutally. The next day Mihai Iorga was taken to the Ploiești hospital from where he was returned reportedly without receiving treatment. Mihai Iorga was then placed in room number 36, where the chief detainee was Florin Davidoiu, who also reportedly beat Mihai Iorga with a hammer, until he lost consciousness. One of the letters claimed that the police officers, irritated by the second incident, then took Mihai Iorga’s body outside the cell and beat him as well. All three letters indicate that the police knew what was happening in the cells but did not take steps to protect Mihai Iorga. Furthermore, the police are suspected of encouraging the perpetrators and ordering his beating. Mihai Iorga died on 22 March 2002 in the Floreasca Hospital in Bucharest where he had been brought four days earlier from the police lock-up “in a deep coma”. The family was not told about the death until a few days later.

Reportedly the first police statement was that Mihai Iorga had died because of an “alcoholic coma” although it is unclear how he would have obtained alcohol while being held in police detention. The second police statement alleged that Mihai Iorga had been beaten by another detainee, Florin Davidoiu, because he had withdrawal symptoms and became violent. A post-mortem

⁴ Moarte suspecta in penitenciar (A suspicious death in the penitentiary), *Evenimentul Zilei* online, Bucharest 14 March 2002.

⁵ A detainee who is appointed to maintain internal order in return for special privileges. Control is often maintained by threats and physical violence.

examination took place on 25 March 2002 establishing without any doubt that the death had been caused by violence. The forensic physicians reportedly concluded that Mihai Iorga had suffered “a powerful brain trauma with lesions” as well as several broken ribs. The chief forensic physician of the Forensic Medical Institute stated that Mihai Iorga “had been beaten”. The family and the neighbours who attended the funeral confirmed that the body of the deceased was unrecognizable because of the blows to the head and over the whole body.

Several days following the death of Mihai Iorga, the brothers Viorel and Florin Davidoiu, both of whom were chief detainees, were transferred to the Mîrghineni and Ploieşti penitentiaries respectively. It was reported in the Romanian press on 30 March 2002 that Prime Minister Adrian Nastase had asked Minister of the Interior Ioan Rus to investigate the case. General Florin Sandu, General Inspector of the Police, was quoted as stating that military prosecutors were already working on an investigation. The Military Prosecutor of Ploieşti completed an investigation against the police officers and the medical staff of the police lock-up in a record time of two weeks following the murder of Mihai Iorga, and decided that there were no grounds to initiate a criminal investigation.

Failure to investigate effectively⁶

Amnesty International is concerned that investigations by Romanian authorities into deaths in custody in suspicious circumstances are not always thorough and impartial as required by international standards. The following are some of the cases which the organization brought to the attention of the General Prosecutor of Romania in the past. They also illustrate the authorities’ failure to provide Amnesty International with information about all aspects of the cases as well as the results of the official investigations.

In February 1995, in a village pub, **Ion Puşoi**⁷ and his brother Marcel were involved in a dispute with police officer I⁸. After the officer reportedly assaulted Marcel, Ion Puşoi intervened to stop the fight. The following day several police officers came to Ion Puşoi’s house and took him to the station where he was reportedly brutally beaten before being released. On the same day he went into hiding while Marcel Puşoi left the village. On 4 April 1995, during the night, a group of around 10 officers apprehended Ion Puşoi in a field close to his house and reportedly beat him. He was then shot in the chest. A photograph of the deceased taken before the funeral shows bruises or lacerations on the right temple and his nose. The Ministry of Justice informed Amnesty International in May 1999 that when police officers found Ion Puşoi armed with a metal crowbar in his hiding place, he refused to surrender and instead attacked them before running away. The officers allegedly aimed at his feet, but given the uneven surface of the field and Puşoi’s movements, one of the bullets hit him in the back and caused his death. Amnesty International received a similar reply in March 2001 regarding the police shooting of Radu Marian⁹.

Gabriel Carabulea died in police custody on 3 May 1996. His death certificate gave the cause of death as advanced pneumonia. However, photographs of Gabriel Carabulea’s body showed

⁶According to Article 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, each member state has to ensure that its *“authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction”*.

⁷See *Romania: Deaths in suspicious circumstances of Toader Elinoiu and Ion Puşoi*, AI Index: EUR 39/01/99.

⁸The identity of the officer is known to Amnesty International.

⁹See *Concerns in Europe: July-December 1999*, AI Index: EUR 01/01/00

massive bruising on his genitals, chest and head. Also, before his death Gabriel Carabulea twice spoke to his wife and another relative and told them that he had been severely beaten by police officers who wanted him to confess to crimes with which he was being charged. Responding to Amnesty International in 1997, the Ministry of the Interior gave contradictory information about this case. As a result, the organization in April 1997 asked to be informed whether written records were made of the medical examination in the police station referred to in the Ministry's report, and whether this examination took note of injuries which Gabriel Carabulea allegedly had suffered in an earlier road accident. If this had been the case, Amnesty International would be concerned that Gabriel Carabulea had not promptly received adequate medical treatment and that this might have contributed to his subsequent death. In spite of repeated requests, the Romanian authorities have not provided Amnesty International with this information. Gabriel Carabulea's brother has filed an application on this case with the European Human Rights Court in Strasbourg and the decision of the court is pending.

On 29 January 1996 in Piscu, Galați county, **Ion Axente** reportedly tried to intervene in a fight in a bar between police officer J.M.¹⁰ and another man. The officer took Ion Axente outside and reportedly pushed him, making him fall to the ground. He then allegedly sprayed tear-gas in Ion Axente's face and kicked him in the head. Later Ion Axente was found semi-conscious in the courtyard of his house. When he went into a coma that evening he was taken to *Sf. Apostol Andrei* hospital in Galați where he died on 13 June 1996 without having regained consciousness. After her husband was hospitalized, Gabriela Axente went to the Galați Police Inspectorate and filed a complaint about the incident. The results of an initial investigation reportedly established that Ion Axente stumbled at the entrance of the bar and fell to the ground, injuring his head. In November 1996 Amnesty International urged the General Prosecutor of Romania to promptly and thoroughly investigate the death of Ion Axente. The organization also expressed concern that officer J.M. was still on duty in Piscu, and that witnesses had reportedly been harassed and were afraid to testify about the incident.

The Ministry of the Interior in a report received by Amnesty International in 1997 stated that the investigation of the Military Prosecutor confirmed the findings of the police inquiry into the incident. Amnesty International then asked to receive the full report of the prosecutor's investigation as well as a copy of the autopsy report. The organization also expressed concern that the continued presence of officer J.M. in the village not only obstructed a thorough and impartial investigation, but appeared to be in violation of Article 13 of the Convention against Torture which prohibits the harassment of the complainant and witnesses. The Romanian authorities failed to disclose the full report of the prosecutor's investigation or the autopsy report.

Another case of reported police ill-treatment apparently resulted in the death of 42-year-old **Toader Elinoiu**¹¹. On 14 August 1998, in the evening, Toader Elinoiu went to the centre of Nereju, in Vrancea county. Later he was seen vomiting in front of a shop. Police officer A.¹², who had observed this, reportedly punched Toader Elinoiu and slapped him on the face. He then reportedly told the shopowner to take Toader Elinoiu behind the house and "deal with him". The following day Toader Elinoiu went to the home of Anica Asaftei, his sister. He told her about the beating and complained about head-aches and severe pains in the back and the chest. The following morning, between 5 and 6am, she found him dead and immediately informed the police. In a press statement released on 17

¹⁰The identity of the officer is known to Amnesty International.

¹¹See *Romania: Deaths in suspicious circumstances of Toader Elinoiu and Ion Pușoi*, AI Index: EUR 39/01/99.

¹²The identity of the officer is known to Amnesty International.

August the Vrancea Country Police Inspectorate claimed that Toader Elinoiu had died as a result of drinking surgical spirit and that “there were no signs of violence” on the body of the deceased. When the body of Toader Elinoiu was returned to the village for the funeral, journalists who reported the incident managed to photograph and film the injuries on the body of the deceased. Subsequently, it was unofficially reported that the autopsy had established that Toader Elinoiu had suffered three fractured ribs. In January 1999 Amnesty International published a report about the case urging the Romanian authorities to thoroughly and impartially investigate the death in suspicious circumstances of Toader Elinoiu. The case of Toader Elinoiu's death has been forwarded to the Bacau Military Prosecutor's Office but no other information about any investigation or its results have been received at the time of writing of this report.

Recommendations

Amnesty International once again urges the Romanian authorities:

- to ensure that impartial and thorough investigations are conducted immediately into all reported cases of deaths in custody in suspicious circumstances;
- to instruct law enforcement agencies to give the investigating and prosecuting authorities their full cooperation in order to establish the facts of every case;
- to make public full reports of the investigations and bring to justice anyone suspected of having committed human rights violations;
- in order to prevent ill-treatment, to ensure that the rights of detainees are adhered to from the onset of custody. These include:

Ythe right to be informed of the reasons for arrest;

Ythe right to legal counsel;

Ythe right to inform family of arrest or detention and place of confinement;

Ythe right to be examined by a doctor and to receive adequate medical care.

Amnesty International also appeals to the Ministry of the Interior

- to publicize regular statistics on the number of cases of torture and ill-treatment, including the number of cases which resulted in the prosecution of suspected officers.