

# ROMANIA

## A summary of human rights concerns

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# ROMANIA:

## A summary of human rights concerns

### INTRODUCTION

The general elections held in November 1996 brought to power President Emil Constantinescu and a broad coalition of opposition parties. In casting their votes, the majority of Romanians apparently had high hopes for speedier reforms of a crumbling economic and social-welfare system, for an end to widespread corruption and rule by unfulfilled promises. The international community had equally high expectations of the new government, formed by the Democratic Convention<sup>1</sup>, the Social Democratic Union and the Democratic Union of Hungarians in Romania.

In the past 18 months the Romanian authorities appear to have been more successful in persuading their partners abroad that they are firmly on course to ensure a more prosperous future for their country than domestic public opinion, which currently views the political situation at home with less enthusiasm and growing scepticism. The government's major achievements appear to be in the field of international relations. Improved relations with its neighbours, particularly Hungary, and the signing of a treaty with Ukraine in June 1997, brought Romania closer to its foreign policy goals: admission into the North Atlantic Treaty Organization and the European Union. Another notable achievement was the government's program to fight corruption, where the investigations focused on the granting of loans by state banks without following proper procedures or ensuring guaranteed payment<sup>2</sup>. Also, a large number of senior police officers had been replaced on suspicion of corruption or for failing to thoroughly investigate corruption cases. But divisions in the

governing coalition which led to continuing disputes, two cabinet reshuffles, and uncertain prospects for the future, are slowing down economic reforms and contributing to the deterioration of economic conditions. Coalition party bickering keeps the government from undertaking essential political and institutional reforms.

The change of government and other national authorities has not significantly affected the observance of basic human rights in Romania. Amnesty International remains 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 reports of human rights violations including the imprisonment of prisoners of conscience, torture and ill-treatment of detainees as well as police shootings in

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<sup>1</sup>An alliance of opposition groups among which the most influential is the National Peasant Party.

<sup>2</sup>In the spring of 1997, several leading

bankers were arrested or were under investigation.

disputed circumstances<sup>3</sup>. Legislative reforms that would safeguard some fundamental rights and freedoms were not introduced in 1997 in the Romanian

After the elections in November 1996 Amnesty International published an open letter<sup>4</sup> to the newly-elected Romanian authorities urging them to place human rights concerns at the forefront of their policies, to strengthen human rights protection and to promote respect for the rights of all in Romania, regardless of race, ethnic background, gender, political beliefs and other individual differences. The lack of response from the authorities to the organization's letter, together with recent comments made by government officials in the media<sup>5</sup>, appear to indicate that the new authorities share the view repeatedly expressed by their predecessors: that human rights violations occur only infrequently and randomly, and are effectively dealt with by the judicial and other competent authorities.

Amnesty International is also concerned that the Romanian authorities<sup>6</sup> have frequently failed to provide the organization with information and comments it has requested in specific cases. This confirms what appears to be a pattern in

Parliament, and in view of the current political situation the eventual success of any current proposals is uncertain.

the authorities' dialogue with Amnesty International: although the organization's representatives have repeatedly been assured that Romanian authorities welcome exchanges with the organization, the responses of the latter to specific concerns frequently contain no relevant information.

In most public institutions the changes following the November 1996 elections have affected only the highest officials while the conduct of their subordinates appears to remain the same. A change in the mentality of those representing the state, so that they would consider the protection of fundamental rights of individuals as the ultimate state interest, is yet to take place. Old attitudes still prevail among the majority of civil servants, the judiciary, public prosecutors and law-enforcement officers. In the present economic circumstances, institutional reforms are apparently not high on the government's agenda. However, a comprehensive institutional reform and long-term training designed to promote a

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<sup>3</sup>Amnesty International's concerns in all these areas have been documented in a series of reports including *Romania: Continuing violations of human rights* (AI Index: EUR 39/07/93), published in May 1993; *Romania: Broken commitments to human rights* (AI Index: EUR 39/01/95), published in May 1995; *Romania: Update to May 1995 Report* (AI Index: EUR 39/19/95), published in September 1995; *Romania: Romanian authorities respond to Amnesty International's May 1995 Report* (AI Index: EUR 39/22/95), published in October 1995; *Romania: Ill-treatment of minors: Gheorghe Notar Jur, Ioan Ötvös and Rupi Stoica* (AI Index: EUR 39/18/96), published in October 1996; and *Romania: Unlawful use of firearms by law enforcement officials* (AI Index: EUR 39/01/97), published in March 1997.

<sup>4</sup>See *Romania: Open letter from Amnesty International to the President, the Government and the Members of the Parliament* (AI Index: EUR 39/22/96), published by Amnesty International in November 1996.

<sup>5</sup>See interviews with Gavril Dejeu, Minister of the Interior, General Nicolae Berechet, Chief of the General Police Inspectorate, and Virgil Ardelean, Director General of the Bucharest Municipal Police published in *România Libera* on 2 February 1998.

<sup>6</sup>The Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs and the General Prosecutor of Romania.

human rights culture at all levels are the only way to successfully change this mentality and establish a truly democratic state where the rule of law safeguards civil and political as well as social, economic and other basic rights of each and every individual.

At the same time, the protection of basic human rights in Romania is not solely in the competence of national authorities. The international community shares the responsibility to ensure that Romanian laws and practices are consistent with Romania's international commitments and obligations. In view of Romania's membership of the Council of Europe and the Organization for Security and Cooperation in Europe, as well as over the years Amnesty International has urged Romania to bring a number of laws into line with its international human rights commitments. These include the provisions of the Penal Code and the Code of Penal Procedure, Law number 46/1996 Concerning the Preparation of the Population for Defence, Law number 3/1970 Concerning the Protection Regime of Certain Categories of Minors<sup>7</sup> and Law number 26/1994 on the Organization and Functioning of the Romanian Police. However, this is not a comprehensive list of laws and regulations which affect the exercise of civil and political rights and are at variance with provisions contained in international human rights treaties which Romania has ratified. The organization takes position only on legislation that affect rights included in its mandate. Since 1993, *Asociația pentru apărarea drepturilor omului în România - Comitetul Helsinki* (Romanian Helsinki Committee), a local non-governmental organization which monitors Romania's compliance with the human rights provisions of the Helsinki

<sup>7</sup>This law was replaced by Government Ordinance number 25/1997 Concerning the Protection of Children in Difficulties until a new law on this matter is promulgated.

<sup>8</sup>See *Aspects of the evolution of human*

as its aspirations to join the European Union, the regional inter-governmental organizations have a particularly important role to play.

This report summarizes some of Amnesty International's most important concerns in Romania today. Its two appendices document cases of shootings, deaths in custody, torture and ill-treatment which the organization has urged Romanian authorities to promptly and thoroughly investigate.

### LEGISLATION AT VARIANCE WITH INTERNATIONAL STANDARDS

Final Act and its Follow-up Documents, has published extensive reports on legislation in force as well as draft bills which violate the Romanian constitution and the country's international legal commitments.<sup>8</sup>

**Law number 140/1996 Concerning the Amendments to the Penal Code** came into force in November 1996. Article 200, paragraph 1, of the amended Penal Code prohibits homosexual relations between consenting adults "if the act was committed in public or has produced public scandal". Paragraph 5 of the same law makes it an offence, punishable by sentence of one to five years' imprisonment "to entice or seduce a person to practise same-sex acts, as well as to form propaganda associations, or to engage in other forms of proselytizing with the same aim". Amnesty International is concerned that these provisions lead not only to the continued imprisonment of adults solely for engaging in consensual homosexual relations in private, but that they could also lead to the imprisonment of

*rights in Romania and Reactions of APADOR-CH*, annual reports for 1993, 1994, 1995, 1996 and 1997.

individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association.

Several other amendments to the Penal Code also impose excessive restrictions on the right to freedom of expression. Article 168 prohibits “communication or dissemination, by any possible means, of false news, facts or information or forged documents, if committed with the intent to impair the security of the Romanian state or its international relations”. Article 236 considers as a criminal offence “public acts committed with the obvious intention to defame the state or a nation”. Amnesty International believes that the formulation of these provisions is vague and ambiguous and that their implementation could result in the prosecution of persons solely for having

**Law number 141/1996 Concerning the Amendments to the Penal Procedure Code** which also came into force in November 1996 failed to include provisions for an effective legal remedy for complainants to protest the prosecutor’s decisions concerning investigative measures or the results of the investigation. According to Article 275, all appeals concerning these decisions are addressed to superior prosecutors. Therefore, a victim of police torture or other ill-treatment has no judicial recourse and no effective legal remedy to challenge a prosecutor’s decision not to charge an officer suspected of an offence. This also violates a torture victim’s right to redress and compensation.<sup>9</sup>

The revised Penal Procedure Code also failed to give civilian courts of justice

<sup>9</sup>Article 14(1) of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 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

exercised their universally recognized right to freedom of expression. Provisions of Article 238, paragraph 1, and Article 239, paragraph 1, which criminalize defamation of public officials, could also lead to infringements of the right to freedom of expression. This could particularly affect the right of journalists in Romania to impart information and ideas without interference by public authority, but also the right of other Romanians to receive such information and ideas. A public official who considers her/himself defamed can resort to civil actions which anyone, regardless of status or function, can resort to in order to protect her or his reputation. Such actions, however, should not be used to stifle criticism of state authorities or to intimidate those who voice legitimate concerns about the actions or practices of state authorities.

the right to try cases involving police officers and prison guards. These continue to be examined by military tribunals.

**Law number 23/1969 Concerning the Execution of Sanctions, and Regulations Concerning the Execution of Sanctions and Preventive Arrest**, which were issued by the Ministry of the Interior in 1969 and last amended in 1973, are still in force. Their provisions concerning individuals’ rights in pre-trial detention are inconsistent with the constitutional right to the presumption of innocence<sup>10</sup> and with international standards. The internal rules for places of detention, which have reportedly been modified over the last few years, are not available to the organization<sup>11</sup>. In September 1997, during a visit to the Jilava penitentiary in Bucharest, a

means for as full rehabilitation as possible”.

<sup>10</sup>Article 23, point 8, of the Constitution of Romania.

<sup>11</sup>In August 1994 the Ministry of Foreign Affairs stated in a letter to Amnesty International that, in addition to the above-

representative of Amnesty International was informed that all correspondence sent by detainees to the Romanian authorities is read by prison officials “who ascertain that the letters are addressed to the competent institutions”. The organization was concerned that a letter addressed in June 1997 to the Minister of Justice had been returned to the detainee because the prison authority considered his complaint to be within the competence of another institution. In another case, in December 1997, Amnesty International expressed concern to the Minister of Justice that a detainee, who had complained about ill-treatment, had been placed on “restrictive regime” for 12 months as a punishment following a disciplinary procedure in which he had reportedly not been heard and where the possibility of appeal was limited to a review by the disciplinary board of the General Directorate of Penitentiaries. In November 1997 Amnesty International asked to receive copies of all regulations pertaining to people held in detention which are presently in

Certain provisions of **Law number 46/1996 Concerning the Preparation of the Population for Defence**, promulgated in June 1996, and of the **Governmental Decision number 618 of 6 October 1997** regarding alternative service, are at variance with internationally recognized principles on conscientious objection to military service. This law provides for an alternative service only for those individuals who on religious grounds refuse to perform armed military service. The alternative service is envisaged to last 24 months, twice the length of ordinary military service. Provisions regarding procedures for exercising this right and for the organization and implementation

mentioned provisions, “after December 1993 some new regulations have been adopted in order to improve the treatment [of detainees]”.

<sup>12</sup>After the State Secretariat for Religious Denominations issued in March 1997 a decree to municipalities prohibiting non-recognized churches and religious associations

force. No reply had been received at the time of writing of this report.

In many reported cases of torture and ill-treatment by police officers, the victims were subsequently charged under **Law number 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order** (regulating misdemeanours and hereafter referred to as Law 61/91). References to the application of this law appeared to justify excessive or unwarranted use of force by law enforcement officers. The terms used in proscribing some of the offences in Article 2 are vague and ambiguous. For example: Article 2, paragraph 1, letter a, prohibits “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”. Terms “dignity” and “honour” are not defined by this or any other law in force.

of alternative service, are contained in the above-mentioned government decision. According to Article 6, applications for alternative service have to be submitted to the recruiting boards and should indicate the religious faith of the applicant. Paragraph 3 of this article authorizes the State Secretariat for Religious Denominations to confirm to the county military authorities whether “the church or religious group mentioned in the application prohibits their adherents to carry arms”<sup>12</sup>. The governmental decision fails to provide any legal remedy should the application for alternative service be rejected. Although there is a provision for submitting

from building places of worship, it reportedly came to light that only 215 of 385 associations and religious foundations operating in Romania were considered as state-recognized under a law adopted in 1948.



applications for military service during alternative service, the governmental decision contains no provisions for applying for alternative service after induction into military service, or following its completion, or after being assigned to the reserve units. This would impose yet another restriction on the exercise of the right to conscientious objection to military service.

Amnesty International believes that conscientious objection to military service arises not only from religious but also from ethical, moral, humanitarian, philosophical, political or other similar motives. The length of alternative civilian service should not be such as to constitute a punishment for a person's conscientiously held convictions. Amnesty International considers the length of alternative service prescribed by Law number 46/1996 to be punitive. The organization recognises that a person may change their conscientiously held beliefs over time, and considers that this should be recognised in national legislation, as recommended by the United Nations and the Council of Europe<sup>13</sup>. The organization considers conscientious objectors who are denied the right to carry out an appropriate alternative service, and who are imprisoned

According to the provisions of Article 19, letter d, of **Law number 26/1994 Concerning the Organization and Functioning of the Romanian Police**, an officer is permitted to use firearms "to apprehend a suspect who is caught in the act and attempts to escape without obeying an order to stay at the scene of the crime". Amnesty International is concerned that this law is at variance with principles 4 and 9 of the UN Basic Principles on the Use of Force

<sup>13</sup>See the United Nations Commission on Human Rights Resolution 1989/59 of 8 March 1989 and Resolution 1993/84 of 10 March 1993 as well as Recommendation No. R (87) 8 of the Committee of Ministers to Member States of the Council of Europe.

as a consequence, to be prisoners of conscience.

The enforcement of Law number 3/1970 Concerning the Protection Regime of Certain Categories of Minors allowed police to keep minors suspected of a criminal offence in custody for up to 30 days. It did not define the procedures to be followed by police officers who take minors into custody; placed no obligations on officers to inform parents or guardians of this measure; imposed no restrictions on the police to question minors held in such custody; nor did parents or guardians have the right to an effective appeal against the police decision to detain a minor.<sup>14</sup> In June 1997 the Romanian Government adopted **Urgent Ordinance number 25/1997 Concerning the Protection of Children with Difficulties**, which replaced Law number 3/1970 and which will remain in force until a new law on this matter is promulgated. Although Amnesty International has no information on how this ordinance is enforced in practice, the above-described failings of Law number 3/1970 have not been addressed by provisions which would safeguard the rights of the child and the parents from abusive police conduct.

and Firearms by Law Enforcement Officials. The organization has documented a number of cases in which this law was invoked by Romanian authorities to justify the use of firearms to apprehend unarmed suspects who did not threaten the lives of the police officers or others, and who were not involved in particularly serious crimes posing grave threat to life. It urged the Romanian Government to initiate a revision of this law<sup>15</sup>.

<sup>14</sup>See, *Romania: Ill-treatment of minors: Gheorghe Notar Jr, Ioan Ötvös and Rupi Stoica* (AI Index: EUR 39/18/96), published in October 1996.

<sup>15</sup>See *Romania: Unlawful use of firearms by law enforcement officials* (AI Index

**Law number 15/1996 Concerning the Status and Regime of Refugees in Romania**, which was promulgated in April 1996, does not comply with the 1951 Convention relating to the Status of Refugees. In 1996 Amnesty International documented cases of the *refoulement* or threatened *refoulement* of asylum-seekers<sup>16</sup>. In November 1996 Amnesty International called on the Romanian authorities to abolish the 10-day time limit for applying for asylum in Article 6 of Law number 15/1996, and to ensure that minimum procedural standards for refugee determination are introduced, such as ensuring that asylum-seekers have their applications heard individually, with adequate interpretation facilities, and that the decision-makers are properly trained in international refugee and human rights law. The organization also urged the Romanian authorities to end the practice of prolonged detention of asylum-seekers and summary deportations from Otopeni Airport and that legislation dealing with border entry is amended to conform to international standards. Amnesty International is concerned that its recommendations have not been observed and that the situation of asylum-seekers in Romania has, in fact, deteriorated. The organization is currently investigating a number of recently reported cases of *refoulement* or threatened *refoulement* of asylum-seekers.

More recently, in June 1997, the Ministry of Foreign Affairs wrote to Amnesty International that it had been informed by the GDP about one detainee (hereafter referred to as I.P.), who was held

EUR 39/01/97), published in March 1997.

<sup>16</sup>See Amnesty International's urgent actions with the following AI Index numbers: EUR 39/04/96 of 8 March 1996, EUR 39/05/96 of 4 April 1996 and MDE 24/13/96 of 7 August 1996.

<sup>17</sup>The ministry was in this way

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## IMPRISONMENT OF PRISONERS OF CONSCIENCE

Amnesty International considers individuals imprisoned solely because of their homosexuality, including the practice of consensual homosexual acts between adults in private, to be prisoners of conscience. The organization's concerns about the provisions of Article 200, paragraphs 1 and 5, of the Penal Code, are described above. Since 1993 Amnesty International has appealed to the Romanian Parliament to revise this law and has frequently requested information from the Romanian authorities about people who are detained under Article 200. Starting in November 1993, the General Directorate of Penitentiaries (hereafter referred to as GDP) - an institution which operates within the Ministry of Justice - occasionally released information about people who were held in detention under Article 200 at the time when its list was compiled. Accurate and comprehensive statistics on convictions under this law have never been available. In October 1995 the Ministry of Justice reported<sup>17</sup> that "the total number of male individuals convicted during 1993-1994 under Article 200, paragraph 1, of the Penal Code is 14" and that no one was still imprisoned at the time. Amnesty International responded by questioning the accuracy of this information in light of new cases reported to the organization<sup>18</sup>.

under Article 200, paragraph 1, at the beginning of February 1997. In August 1997 Amnesty International wrote to the Minister of Justice requesting additional information on the conviction of I.P. The

responding to Amnesty International's report *Romania: Broken commitments to human rights* (AI Index: EUR 39/01/95).

<sup>18</sup>See *Romania: Romanian authorities respond to Amnesty International's May 1995 report* (AI Index: EUR 39/22/95), published in October 1995.

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organization also asked for information about other people currently detained under Article 200, and for details of all convictions under this law in 1995 and 1996. In December 1997 the Minister replied that Amnesty International's information about the conviction of I.P. was false and that he had, in fact, been convicted for murder and homosexual rape (Article 200, paragraph 2). The Minister also informed the organization that he intended to propose the abolition of Article 200, paragraph 1. However, the information which Amnesty International had requested about persons currently in detention and previously convicted under this law, which would have indicated the full extent to which the law had been applied in the past, was not sent to the organization. In February 1998 Amnesty International repeated its request for information and additionally asked for statistics on the enforcement of this law in 1997 as soon as it becomes available.

After it had written to the authorities Amnesty International received a letter from the Director General of the GDP, dated 26 January 1998. This contained the following statistics on persons who had been detained under Article 200, paragraph 1: "In 1995 [there] were 12 persons and in 1996

In December 1997 Amnesty International learned about the imprisonment of Mariana Cetiner, who was convicted under Article 200, paragraph 5, of the Romanian Penal Code for attempting to seduce another woman<sup>19</sup>. In August and September 1995 Mariana Cetiner, a 40-year-old woman, had been sharing an apartment in Alba Iulia with X and another woman. She had reportedly loaned a large sum of money to X, with whom she shared a room and who subsequently filed a criminal complaint against her claiming that Mariana Cetiner had on several occasions expressed

only one person. **In 1997 we do not have such kind of offender in prison**" (emphasis added). Yet, according to information given to a representative of Amnesty International by a director in the GDP in Bucharest on 8 September 1997, three persons were detained at the time in Romanian penitentiaries under Article 200, paragraph 1. Two men, P.C. and R.M., were held in Poarta Alb\_ penitentiary under pre-trial arrest and the organization's representative interviewed them in the penitentiary on 15 September 1997. Another person, who was held in Ia\_i penitentiary, had been sentenced under this law, as well as for assaulting a police officer, and was serving a total of 18 months in prison. In November Amnesty International wrote to the General Prosecutor of Romania seeking clarification about the charges made against P.C. and R.M. A copy of this letter was sent to the Minister of Justice for his information. No reply had been received at the time of writing of this report. However, the organization received information in December 1997 that P.C. and R.M., who had been detained on 26 May 1997, had been released and are at liberty.

affection for her, revealing her homosexual orientation and feelings towards her to a number of other people. On 6 October 1995 Mariana Cetiner was arrested and held in pre-trial detention. In May 1996 she was indicted under Article 200, paragraph 4, of the Penal Code then in force, which made it an offence punishable by one to five years' imprisonment to entice or seduce another person of the same sex, and under Article 192, paragraph 1, for trespassing on private property. On 17 June 1996 Alba Iulia court found Mariana Cetiner guilty of both charges and sentenced her to three years'

Commission.

<sup>19</sup>The information on this case was received from Human Rights Watch and the International Gay and Lesbian Human Rights

imprisonment. In January 1997, ruling on her appeal, Alba court acquitted Mariana Cetiner of all charges. She was released on 15 January 1997 from prison, where she had been held since her arrest. However, on 6 May 1997, following an appeal by the public prosecutor, Alba Iulia Appellate Court reversed the decision of Alba court and ordered Mariana Cetiner to serve the remainder of the three-year prison sentence. In convicting her under what had latterly become paragraph 5 of Article 200, the court concluded that: "The submitted evidence confirms without doubt that the accused committed an offence provided for in the final paragraph of Article 200, by attempting to seduce X, the victim, to practice sexual acts between persons of the same sex, and this fact became known to other people, who were indignant at the attitude of the accused, provoking sentiments of repulsion". Ten days later Mariana Cetiner was re-arrested and began serving the remainder of the sentence.

Amnesty International urged President Emil Constantinescu to immediately and unconditionally release Mariana Cetiner. On 15 January 1998 President Constantinescu received a delegation of Human Rights Watch and the International Gay and Lesbian Human Rights Commission and reportedly stated that he would consider pardoning a number of prisoners currently held under Article 200, paragraphs 1 and 5. The information about the identity of the persons concerned or about their release was not available to Amnesty International at the time of writing of this report.

#### **TORTURE AND ILL-TREATMENT BY LAW ENFORCEMENT OFFICERS**

Since the early 1990s Amnesty International has been receiving allegations that Romanian law enforcement officers have used excessive or unwarranted force in restraining or arresting people, or have

deliberately subjected detainees in their custody to ill-treatment or to other cruel, inhuman or degrading treatment or punishment. In a number of incidents reported to the organization, the extent of the injuries suffered by victims was so severe, and the evidence that they were inflicted deliberately or repeatedly or intended to cause intense suffering so overwhelming, that Amnesty International referred to them as cases of torture. Medical evidence shows that the injuries suffered by detainees have been consistent with their allegations that they had been punched, kicked or struck with a truncheon. In many cases adequate medical treatment was not provided to victims who suffered injuries from ill-treatment or, as officially claimed in a number of cases, in incidents prior to their arrest.

The consistency and regularity of the reports Amnesty International has received over a period of several years have led the organization to conclude that the problem of police ill-treatment, which in some cases amounts to torture, is not one of just a few isolated incidents, but rather a serious human rights problem which Romanian authorities have failed adequately to address. In 1997 Amnesty International documented 21 incidents of torture or other ill-treatment, four of which took place in the previous year. The organization is also monitoring investigations in over 20 other cases which had been raised with the Romanian authorities before 1997.

In the majority of cases the victims were suspected of a criminal offence or a misdemeanour punishable under Law number 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order. In some instances, ill-treatment of Romani victims was apparently racially motivated. However, relatively few victims made official complaints, either because they feared further harassment or because they did not believe that the

perpetrators would be brought to justice. With alarming frequency many of those who have filed complaints have subsequently been charged with assaulting the police

Amnesty International's findings and recommendations concerning allegations of police torture and ill-treatment recently received strong confirmation from the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment (hereafter referred to as CPT), the Council of Europe's international committee composed of independent experts who make spot checks in places of detention<sup>20</sup>. On 18 February 1998 the Romanian Government permitted the publication of *The Report to the Romanian Government on the visit to Romania carried out by the European Committee for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment (CPT) from 24 September to 6 October 1995 and Responses of the Romanian Government*<sup>21</sup>. With regard to the police stations visited, the report concludes 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". The CPT report stressed that the police officials themselves could provide the best guarantee against ill-treatment by unequivocally rejecting any resort to ill-treatment. It therefore recommended that a very high priority should be given to human rights training of police officials at all levels. The CPT also noted that the role of the prosecutors is equally important in the prevention of ill-treatment and recommended that the General Prosecutor issue directives on the methods

officer against whom the complaint had been made.

### ***The CPT report***

prosecutors need to adopt when they receive complaints of police ill-treatment, or when they observe - or receive other information - that the person before them has been subjected to ill-treatment.

Other CPT recommendations include: the rights of all detained persons to inform, without delay, a relative or another person of their choice of their situation; any possibility exceptionally to delay the exercise of this right should be clearly circumscribed in law, made subject to appropriate safeguards and strictly limited in time; and measures which need to be taken to guarantee that all people deprived of liberty have access to a lawyer from the very outset of custody, with means to exercise this right effectively. Furthermore, meetings with a lawyer, appointed by the state if necessary, should be held in private and the lawyers should have the right to be present during the interrogation. Persons deprived of their liberty should be informed about their right to medical assistance and should, from the very outset of custody, have the right to be examined by a doctor of their choice. All persons deprived of their liberty, in the first 24 hours, should be examined by a doctor (or a trained nurse who reports to a doctor) and if necessary be subjected to a thorough medical check-up. All medical examinations should be performed out of sight or hearing of police officers and the results of every examination, as well as any relevant statements by the detainee and the doctor's consultations, formally recorded by the doctor and made

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<sup>20</sup>The Convention for the Prevention of Torture, Inhuman and Degrading Treatment or Punishment (1987) established this committee to monitor the observance of the Convention.

<sup>21</sup>Published 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.

available to the detainee and his lawyer. Doctors should immediately inform the responsible prosecutor about any traces of violence resembling ill-treatment that might be observed in the course of an examination.

The CPT report further noted that there are no legal provisions to ensure that all persons deprived of their liberty should be informed about their rights. In view of the lack of precise provisions concerning the conduct of interrogations, the CPT recommended that the Romanian authorities establish a code of practice for police

Concerning the penitentiaries visited, the CPT recommended that high priority should be given to improving conditions of detention, particularly to considerably reducing overcrowding.

### *Investigations*

Amnesty International is equally concerned that investigations into allegations of torture and ill-treatment appeared 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 (Convention against Torture), as well as Article 7 of the International Covenant on Civil and Political Rights, to which Romania is a party. Most recently, this finding is confirmed by two reports published by the Ministry of the Interior in 1997. In March 1997 Amnesty International received from the Ministry of the Interior a report *Documentar cuprinzând situațiile de fapt în cazurile și aspectele semnalate de membri ai Amnesty International în 1996* ("Document about the factual situation in cases and other observations made by members of Amnesty International in 1996") regarding a number of cases which the organization had urged the Romanian authorities in 1996 to investigate promptly and impartially. In a

interrogations<sup>22</sup>. A single and comprehensive custody record should also be kept for each person detained.

Conditions of detention in the municipal police stations which were visited by the CPT in Bucharest, Cluj-Napoca and Timișoara, were described as "at best mediocre, but often deplorable". These conditions "could justifiably be designated as inhuman and degrading".

four-page letter to the authorities in April 1997 Amnesty International expressed its concern to the report's authors that in the majority of the cases described in the 1996 Report, investigations appeared not to have

<sup>22</sup>Including audio-recording of the

interrogation.

been prompt and impartial<sup>23</sup>. Amnesty International did not receive any of the requested information or comments about its outstanding concerns about investigations described in the Ministry's report.

In January 1998 Amnesty International received a second report from the Ministry of the Interior under a similar title<sup>24</sup> concerning the cases which the organization had raised in 1997. In February 1998 Amnesty International wrote

Amnesty International is concerned that these reports confirm what appears to be a pattern in the Romanian authorities' <sup>25</sup> dialogue with the organization. An initial response from the Romanian authorities, containing no information relevant to the concerns raised, is apparently considered to be sufficient proof of efforts to comply with the Romanian Government's international human rights commitments. Such official replies most frequently focus on the allegations that the complainant had committed a criminal offence or a misdemeanour. These allegations are invariably described as if all relevant circumstances had been duly established by an independent judicial body, which is not the case. In some cases concerning Romani complainants or other members of minority groups that are subjected to publicly vented intolerance<sup>26</sup>, the replies contain libellous comments and crude attempts at character assassination which are intended to discredit the complainants. On

to Prime Minister Victor Ciorbea expressing concern about investigations into allegations of police torture and other ill-treatment and enclosing specific comments regarding cases mentioned in the second report. **Appendix 1** describes the organization's outstanding concerns about investigations into allegations of police shootings, deaths in custody, torture and ill-treatment, which were the subject of the two Ministry of the Interior reports.

the other hand, official replies frequently fail to explain how the complainants suffered injuries, which are often very grave and have been documented by forensic medical experts.

In the vast majority of cases the organization's subsequent efforts to obtain from the competent authorities substantive information regarding their investigations have failed to produce the desired results. At the same time Amnesty International has received from other sources information that indicates that investigations into allegations of torture or ill-treatment are unnecessarily prolonged, making the gathering of evidence more difficult, sometimes practically impossible; that investigative methods which do not ensure the impartiality of the results are frequently used; and that only occasionally do these investigations end in the indictment of those suspected of human rights violations. Moreover, the Romanian legal system has no provisions for victims of

<sup>23</sup>A copy of this letter was also sent to the Minister of Justice, the Minister of Foreign Affairs, and the Deputy Military Prosecutor of Romania, for their information.

<sup>24</sup>*Documentar cuprizând situa\_ iile de fapt în cazurile \_i aspectele semnalate de membri ai Amnesty International în 1997* ("Document about the factual situation in cases and other observations made by members of Amnesty International in 1997"), published by the Ministry on an unspecified date in 1997.

<sup>25</sup>The Ministry of Justice, the Ministry of the Interior, the Ministry of Foreign Affairs and the Office of the General Prosecutor.

<sup>26</sup>See *Romania: Romanian authorities respond to May 1995 report* (AI Index: EUR 39/22/95), published in October 1995 and *The alleged ill-treatment of Simion Lupescu, M\_d\_lin Mocanu, Adelina Matei and Victor Safta* (AI Index: EUR 39/03/97), published in May 1997.

alleged human rights violations to effectively appeal the results of the investigations into their complaints<sup>27</sup>. All these failings were described in detail in Amnesty International's 44-page report, *Romania: Broken commitments to human rights* (AI Index: EUR 39/01/95), published in May 1995 (hereafter referred to as the May 1995 Report), which contained extensive recommendations regarding legislative and judicial reforms, the investigation of allegations of torture and other ill-treatment by law enforcement officials, as well as the effective protection of Roma from racist violence. **Appendix 2** documents recently recorded cases which the organization has urged the Romanian authorities to promptly and impartially investigate.

### ***Roma - justice delayed, justice denied***

The plight of the Romanian Romani community<sup>28</sup> in the 1990s has been

In its May 1995 Report Amnesty International stated that in its view the relatively small number of official complaints by Romani victims resulted from their lack of awareness of their legal rights or their belief that, should they complain, their situation would only further deteriorate. Amnesty International has repeatedly protested about the harassment of victims who had filed complaints. These acts have never been officially acknowledged by the authorities and no information has been made available regarding the steps they have taken to ensure the safety of the complainants and witnesses. Amnesty International believes that the apparent impunity of law enforcement officers and the

extensively documented by local and international human rights monitors. Amnesty International in its May 1995 Report presented cases of imprisonment, beatings and other ill-treatment and criticized the failure of law enforcement officers to protect Roma from racist violence in Romania. The response of the Romanian authorities to the May 1995 Report was inadequate. They failed to provide satisfactory information on the cases of two Romani men and one woman who had been detained in 1994, apparently solely because of their ethnic background, and were considered to be prisoners of conscience. The authorities also failed to provide Amnesty International with information which would indicate that any of the law enforcement officers suspected of ill-treating those Roma whose cases Amnesty International had documented in its report had been brought to justice or that the victims have received adequate compensation.

increasingly difficult social and economic situation of the vast majority of the Romani people has resulted in even fewer complaints of ill-treatment being made in the period after the publication of the May 1995 Report.

In the early 1990s, tens of Romani communities throughout Romania were subjected to incidents of racial violence. Amnesty International is concerned that in most of these incidents the authorities failed adequately to protect Romani lives and property. In the past two years the authorities have made some progress in bringing to justice a number of those who perpetrated these violent acts. However, the conduct of the police in such incidents has

<sup>27</sup>As noted earlier in this report on page 3 describing the failings of the Penal Procedure Code reform.

<sup>28</sup>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.



never been fully and impartially investigated. No one has been charged for an attack by soldiers on Roma in Bucharest in July 1992<sup>29</sup>. Similarly, 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, for failing adequately to protect Roma in Băcu on 8 January 1995, or in M\_gurele, Bucharest, on 14 June 1996.

In its May 1995 Report, Amnesty International urged the Romanian Government to establish a public commission of inquiry to investigate all incidents in which law enforcement officials failed adequately to protect Roma lives and property in Romania since 1990. It also urged the Romanian authorities to initiate a 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, and to make public specific measures that it intends to implement following such a review. No comment regarding these recommendations has been received. The failure to investigate these human rights violations is not only a breach of Romania's international commitments: when governments fail to take lessons from their past mistakes they risk repeating them. The repercussions of the Romanian authorities' failings will affect those most vulnerable: the Romani victims of human rights abuses.

- to amend the Penal Procedure Code to ensure that police officers and prison guards are subject to civilian courts of justice and not to

## AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Amnesty International urges 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 made on admission to the Council of Europe. These were outlined in detail in the Council of Europe's Parliamentary Assembly Recommendation 1201 (1993) and Resolution 1123 (1997).

### *Recommendations regarding legislative reforms*

Amnesty International urges the Romanian Government:

- to ensure that the Penal Code does not allow for the imprisonment of persons who have exercised their right to freedom of expression without resorting to or advocating the use of violence<sup>30</sup> or solely for engaging in consensual homosexual acts between adults in private<sup>31</sup>. To release immediately and unconditionally all prisoners of conscience and to suspend prosecutions under laws which Romania is committed to reform;

military tribunals, and to provide for a judicial review of the prosecutor's decisions following an investigation;

authorities, and Article 239 - "outrage", of the Penal Code.

<sup>31</sup>Article 200, paragraphs 1 and 5, of the Penal Code.

<sup>29</sup>See *Romania: Continuing violations of human rights* (AI Index: EUR 39/07/93), published in May 1993.

<sup>30</sup>Article 168 - dissemination of false news, Article 236 - defamation of the state or nation, Article 238 - offences against the

- to adopt regulations regarding the rights of persons in pre-trial detention which would be in conformity with their right to the presumption of innocence. To revise Law number 23/1969 Concerning the Execution of Sanctions and Regulations Concerning the Execution of Sanctions and Preventive Arrest, ensuring that all provisions, particularly those regarding the rights of people deprived of liberty, as well as disciplinary measures and procedures, are consistent with international standards;

- to amend Law Number 61/91 on Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order, in order to eliminate the possibilities for arbitrary prosecutions and detention, and to revise the appeals procedure ensuring that an appeal is an effective remedy, consistent with international standards;

- to amend Law number 46/1996 Concerning the Preparation of the Population for Defence and Governmental Decision number 618 of 6 October 1997 on alternative service so that the provisions regarding the grounds for application, the length of alternative service and restrictions on applying for alternative service are not at variance with internationally recognized principles;

- to revise Urgent Ordinance number 25/1997 Concerning the Protection Regime of Certain Categories of Minors and to implement recommendations made by Amnesty International in its report *Romania: Ill-treatment of minors: Gheorghe*

*Notar Jr, Ioan Ötv\_s and Rupi Stoica* (AI Index:EUR 39/18/96);

- to revise Article 19, letter d, of Law number 26/1994 Concerning the Organization and Functioning of the Romanian Police so that it is consistent with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

- to revise Law number 15/1996 Concerning the Status and Regime of Refugees in Romania so that it complies with the 1951 Convention relating to the Status of Refugees, and to abolish the 10-day time limit for applying for asylum.

#### ***Recommendations regarding torture and 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 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 and not coerced;

- 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.

- to establish an additional mechanism to those already in place for examining and responding to alleged police ill-treatment by adopting regulations which would set-up complaint review boards at county (*jude\_*) level as permanent, independent oversight bodies. Established in accordance with international standards, such as the UN Principles Relating to the Status

of National Institutions <sup>32</sup>, these boards should:

- maintain uniform and comprehensive statistics on complaints about ill-treatment by officers. These figures should include information on the number of complaints of ill-treatment made against
- be empowered to monitor and review the progress and results of investigations into such complaints and to recommend whether in individual cases criminal and/or disciplinary charges should be brought against any of the officers involved and whether compensation should be awarded to any of the complaints;
- perform a continuous assessment of the measures adopted by the police authorities to prevent the use of excessive force or deliberate ill-treatment.

police officers over a specified period of time, the steps taken in response to each complaint and the outcome of any criminal and disciplinary investigations conducted into alleged police ill-treatment;

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<sup>32</sup>See the Amnesty International document *Proposed Standards for National Human Rights Commissions* (AI Index: IOR

40/01/93), published in January 1993.

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## Appendix 1

### **Shootings, deaths in custody, torture and ill-treatment cases to which the Ministry of the Interior responded in its reports received in March 1997<sup>33</sup> and January 1998<sup>34</sup>**

#### ***Death in suspicious circumstances of Ion Axente***

On 29 January 1996 in Piscu, Gala\_i county, Ion Axente reportedly tried to intervene in a fight in a bar between police officer J.M. 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. Several people in the bar witnessed this incident. 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 Gala\_i where he died on 13 June 1996 without having regained consciousness. After her husband was hospitalized, Gabriela Axente went to the Gala\_i 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 been harassed and were afraid to testify about the incident.

The 1997 Report stated that the investigation of the Military Prosecutor confirmed the findings of the police

inquiry into the incident. Amnesty International 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.

#### ***Death in custody of Gabriel Carabulea***

On 13 April 1996, 26-year-old Gabriel Carabulea was detained by police officers in Section 14 Police Station in Bucharest, and later transferred to the Section 9 Police Station. The local public prosecutor had issued a preventive detention order for five days, which was later extended to 30 days for the investigation of fraud allegations. On 16 April Gabriel Carabulea was taken to the Bucharest Prison Hospital. His wife, who had come to the Section 9 Police Station, witnessed two police officers carry her husband to a car. The prison hospital refused to admit Gabriel Carabulea and he was then taken to Fundeni Hospital where he was admitted to the cardiac reanimation ward. His notice of admission to the hospital states that he was diagnosed with blood clots in his lung, a cardiac insufficiency in his right heart chamber and bruising to his genitalia. Gabriel Carabulea died on 3 May. His death certificate gave the cause of death as

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<sup>33</sup>Hereafter referred to as the 1997 Report.

<sup>34</sup>Hereafter referred to as the 1998 Report.

advanced pneumonia. However, photographs of Gabriel Carabulea's body showed massive bruising on his genitals, chest and head. Also, before his death Gabriel Carabulea twice spoke to his wife

The 1997 Report contained contradictory information about this case. It repeatedly stated that Gabriel Carabulea had suffered chest, abdominal and head injuries in a road accident which took place immediately before his arrest. It also noted that these injuries had been established following his admission to hospital on 16 April 1996. On the other hand, in support of the claim that Gabriel Carabulea had not been ill-treated by police officers who questioned him, the report refers to the testimonies of two detainees who were medically examined in the police station at the same time as Gabriel Carabulea, following his arrest on 13 April 1996. The report noted that they did not observe any physical injuries or hear Gabriel Carabulea complain of any pain or ill-treatment by police officers. In April 1997 Amnesty International asked to be informed whether written records were made of this medical examination in the police station, and whether this examination took note of injuries which Gabriel Carabulea allegedly suffered in the 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. The organization also requested to receive information about the road accident in which Gabriel Carabulea had reportedly been injured.

#### *The shooting of Kerim A\_im*

On 2 June 1996 in Medgidia, at around 3am, a police officer and a gendarme detained Kerim A\_im and Dervi\_Givan, both Roma, on suspicion of theft of a television set and some clothes. In front of the police station Kerim A\_im and

and another relative and told them that he was severely beaten by police officers who wanted him to confess to crimes with which he was charged.

Dervi\_Givan started to run away. The arresting officer then pursued the two men in a taxi. When he caught up with them the two Roma started to run in different directions. The police officer then reportedly called after Kerim A\_im to stop and fired four shots, hitting him in the leg. After he was examined by a doctor in Medgidia, Kerim A\_im was taken to the Poarta Alb\_ penitentiary pending an investigation.

The 1997 Report similarly described the circumstances of the police shooting, noting that the police officer who shot at Kerim A\_im had been under investigation by the Constan\_a Military Prosecutor who concluded that "the use of the service firearm was legal". In April 1997 Amnesty International requested a copy of the investigation report and reiterated its position that international principles do not permit the use of firearms in the above-described circumstances.

#### *The shooting of Lauren\_iu Ciobanu*

On the evening of 11 February 1997, in Bucharest, two police officers reportedly observed Lauren\_iu Ciobanu, a 29-year-old Rom from G\_neasa, taking a radio-cassette player from a parked car. When the officers attempted to apprehend the suspect, he reportedly swung a screwdriver at one of the police officers and then started to run away. The police officers reportedly called on him to stop and fired two warning shots from their guns. As Lauren\_iu Ciobanu continued to run, one of the officers shot at him three times bringing him to the ground. He was taken to hospital where he reportedly underwent several operations for injuries caused by bullets to the lungs and kidneys.

The 1998 Report similarly describes the circumstances in which the police shot at Laurențiu Ciobanu. In February 1998 Amnesty International reiterated its concern that the use of firearms in such circumstances (at the time of the shooting the suspect did not threaten the lives of the police officers or others and was not involved in a particularly serious crime posing grave threat to life) is prohibited by internationally recognized *The reported ill-treatment of Virgiliu Ilie*

On 15 January 1994 Virgiliu Ilie, a 15-year-old minor, was arrested and taken into custody on suspicion of being a member of a group which organized thefts from cars. For over three weeks he did not see a lawyer and when he was finally brought to a court-appointed lawyer they could not talk in private. He was detained for a total of 74 days in a police station, the Bucharest Penitentiary Hospital and the Dolj County Police Lockup. On 17 February 1994, after examining Virgiliu Ilie to test the development of his power of reasoning, the "Mina Minovici" forensic medical centre in Craiova established that his "ability to reason was underdeveloped"<sup>35</sup>. The forensic medical centre in Bucharest concluded that his "ability to reason was low". Nevertheless, the prosecutor refused to release Virgiliu Ilie. His mother was not given permission to visit him until 24 March, when she obtained permission from the office of the General Prosecutor to visit Virgiliu in the Bucharest

principles on the use of force and firearms. The organization repeated its call for a revision of Article 19, letter d, of Law number 26/1994 on the Organization and Functioning of the Police, so that it is consistent with United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Penitentiary Hospital. On 29 March the General Prosecutor revoked the arrest warrant and released Virgiliu Ilie, but the charges against him were not dropped.

His mother, who saw him the morning after his arrest, said that she had seen blood on his face and had heard screams in the police station when she had been to inquire what had happened to her son. The second time she saw Virgiliu was on 20 January at the prosecutor's office where Virgiliu had been taken in handcuffs. His hands were swollen and red. On 4 March she saw him in Craiova Court, where he looked very weak. During some four hours in the courtroom he was held with his hands handcuffed behind his back. In January 1995 Virgiliu Ilie retracted everything that he had stated previously in connection with the car thefts. He maintained that he had been forced to confess by the beatings and threats he had received during police detention. During interrogations conducted by four police officers he was told that he would be released after signing

<sup>35</sup>According to Article 99 of the Romanian Penal Code, a minor between the ages of 14 and 16 is criminally liable only if it is proven that he or she wittingly committed the act (crime). A psychological examination ascertains whether the minor's power of reasoning is adequately developed to discriminate between ordinary and criminal acts. A minor's ability to reason legally needs to be established before any measures of

criminal investigations are undertaken against him. According to Article 50 of the Romanian Penal Code: "If an act proscribed by the penal law is committed by a minor, who at the time of commission did not fulfil the required legal conditions to be liable for penal acts, it does not constitute an offence."

a confession which would be dictated to him and which would conform with the statement made by another detainee whose identity is known to Amnesty International. He was forced to kneel on a chair and was beaten on the soles of his feet and hands with rubber truncheons. Virgiliu Ilie\_ stated that he was repeatedly beaten by cell-mates who told him that they had been ordered to do so. Despite his age he was detained in the Dolj County Police Lockup together with adults. On admittance to the Bucharest Prison Hospital he was diagnosed as anaemic and having a severe bacterial skin infection covering his whole body. On 30 January 1995 Virgiliu Ilie\_ and his mother complained to the Military Prosecutor about the ill-treatment and the illegal arrest and detention but have still not received any answers.

In September 1997 a representative of Amnesty International discussed this case in the Military Prosecutor's Department of the General Prosecutor's Office. He was told that the decision of the Craiova Military Prosecutor not to indict suspected officers was taken on 11 January 1996. This decision was quashed and the results of a fresh investigation were expected by 15 September 1997. Assurance was given to Amnesty International that the Military Prosecutor's Department would take over the investigation should Craiova Military Prosecutor again fail to charge the suspected officers. No other information on this investigation had been received at the time of writing of this report.

#### ***The reported ill-treatment of Ioan Ro\_ca and Marian-Lucian Ro\_ca***

On the morning of 16 September 1995 in Bucharest, Ioan Ro\_ca together with his wife and two sons went to visit his property consisting of a small house and a plot of land in Alexandru B\_l\_cescu Street number 19. The house had been

The 1997 Report stated that the complaint about police ill-treatment was still under investigation by the Craiova Military Prosecutor. In April 1997 Amnesty International expressed concern about the effectiveness of this investigation, which appears to be unnecessarily long and in apparent disregard of the principle that the passage of time makes the gathering of evidence more difficult. In the meantime Amnesty International was informed by Virgiliu Ilie\_ that in March 1997 he had been sentenced to two and a half years' imprisonment reportedly on the basis of the statement made in the police station. He has appealed the court ruling.

occupied by a tenant of the previous owner and there had apparently been a dispute over his entitlement to continue to occupy the house. On arrival the Ro\_ca family was confronted by three armed men in plain clothes who claimed that they were employees of the Police General Inspectorate. They reportedly started to push Ioan Ro\_ca and insult him. Several minutes later a patrol from Police Section number 14 arrived. Together with the men in plain clothes the police officers allegedly beat Ioan Ro\_ca on the head and the abdomen and threatened him with firearms if he did not leave the property. He was then taken to the police station where the beating continued.

Marian-Lucian Ro\_ca, one of Ioan Ro\_ca's sons, as well as Gheorghe Buc\_e, Constantin Hu\_anu, Mihai Hri\_u, Aurel Stefanov and Lucian Cre\_u, all of whom were at the site of the incident, were also taken to the police station to give statements. They were reportedly beaten and threatened when police officers demanded that they should testify how Ioan Ro\_ca had attacked police officers in



the courtyard of Alexandru B\_l\_cescu Street number 19.

Ioan Ro\_ca was detained for 24 hours while Marian-Lucian Ro\_ca and the five other men were released after around 10 hours. On 17 September Ioan Ro\_ca was taken to the prosecutor who released him without pressing charges.

A forensic medical certificate issued to Ioan Ro\_ca on 18 September described bruising and lesions requiring 14 to 16 days of medical treatment. Ioan Ro\_ca also underwent an operation to his nose in the Co\_ea Hospital for injuries which he reportedly suffered as a result of the ill-treatment. Marian-Lucian Ro\_ca was also issued with a forensic medical certificate for bruising and lesions which required five to six days of medical treatment.

On 23 October 1995 Ioan Ro\_ca filed a complaint about the ill-treatment

In April 1997 Amnesty International asked to receive a full report of the police investigation. The organization was concerned that Ioan Ro\_ca, regardless of how he had suffered the above-described injuries, had been detained for 24 hours without being provided by the police with adequate medical treatment. According to Ioan Ro\_ca, who in a statement to Amnesty International commented on the 1997 Report, the two officers present in the courtyard at the beginning of the incident were officers of *Serviciu de paz\_ \_i protec\_ie* (Protection and Guard Service, which is responsible for the security of high state officials and state institutions), and not ordinary police officers. Until the arrival of the two police officers from Sector 14 police station, no one present in the yard resorted to any form of violence.

with the Military Prosecutor of Bucharest, naming officers who were responsible<sup>36</sup>. In May 1996 Amnesty International urged the Romanian authorities to promptly and impartially investigate Ioan Ro\_ca's complaint.

The 1997 Report claimed that Ioan Ro\_ca and Marian-Lucian Ro\_ca refused to identify themselves and pushed and hit the officers who had been summoned to intervene in a land dispute. One of the officers was reportedly injured and unable to work for 16 days. It also stated that Ioan Ro\_ca and Marian-Lucian Ro\_ca suffered injuries prior to the arrival of the police. The police filed a complaint against Ioan Ro\_ca for assaulting the police officer. An investigation into this, as well as Ioan Ro\_ca's complaint of ill-treatment, was under way.

Ioan Ro\_ca also claimed that his son, Marian-Lucian Ro\_ca, was beaten inside the police station while detained for approximately 10 hours.

### *The reported ill-treatment of Marius Popescu*

On the evening of 21 February 1996 Marius Popescu was detained by two police officers in Buz\_u. The following day at around 1am Marius Popescu came home with injuries to his head and upper lip and unable to speak to his mother or sister. He was immediately admitted to the municipal hospital where he was treated for a contusion of the left side of the brain and aphasia (loss of speech). On 26 February he was transferred to an emergency hospital in Bucharest. According to a forensic medical certificate

<sup>36</sup>Their *identity is known to*

*Amnesty International.*

issued in March 1996, Marius Popescu's head injury which provoked the aphasia resulted from severe blows with a hard object to the back of the head.

Marius Popescu's mother and sister found a police statement (*proces verbal*) in the pocket of his shirt, which was issued the night of 21 February<sup>37</sup> and which ordered him to pay a fine of 20,000 lei (about US\$ 10) on the grounds that "under the influence of alcohol Marius Popescu refused to give information to establish his identity". While Marius Popescu was still in hospital, Cristina G\_leanu, his sister, was called to Buz\_oiu police station. There the two police officers who had detained and fined him reportedly destroyed in front of her their copy of the police statement and told her that Marius Popescu should do the same and that he would not need to pay the fine. They also claimed that they saw Marius Popescu after he had fallen to the ground in the vicinity of a bar. They took him to the police station when he could not produce his identity card and, after issuing the fine, released him.

In April 1996 Cristina G\_leanu filed a complaint with the Military Prosecutor in Bucharest, who subsequently informed her that the case would be investigated by the Ploie\_ști Military Prosecutor. In February 1997 the two officers suspected of having ill-treated Marius Popescu reportedly demanded

### ***The reported ill-treatment of Camelia Rosu and Carmen Efta***

On 17 June 1996 around 70 police officers in Bucharest raided a yoga class organized by *Mi\_carea de Integrare Spiritual\_ în Absolut* (Movement for the Spiritual Integration in the Absolute), commonly

again that he should destroy his copy of the police statement.

The 1998 Report stated that a police patrol had found Marius Popescu beaten and lying on the ground and then took him to the police station where he was fined for aggressive conduct towards the police. Amnesty International expressed concern that this was in apparent contradiction with the copy of the order to pay the fine which was found on Marius Popescu after his release and which was issued to him on the night of the incident "for refusing to give information establishing his identity". Furthermore, the results of the investigation also appeared to contradict the available medical evidence established on his admission to the municipal hospital. In February 1998 Amnesty International asked for information on the methods used in the investigation to establish what capacity Marius Popescu, as an unarmed person with the above-described injuries, would have had to deliberately demonstrate violent conduct and obstruct police officers in carrying out their duty. The organization also asked for information on why the investigation, which established that Marius Popescu's serious injuries had been suffered prior to his arrest, failed to establish any responsibility on the part of the officers who took the detainee to the police station and failed to provide him with adequate medical treatment.

known as *M.I.S.A.*, and checked the identity cards of all people present. Carmen Efta and Camelia Rosu were standing next to a man who was videotaping the police action. A police officer who tried to take away the camera reportedly hit Carmen Efta while another officer slapped Camelia Rosu in the face.

<sup>37</sup>The name of the police officer who signed this statement is known to Amnesty

International.

According to medical certificates, Camelia Rosu suffered bruising on the right temple, forehead and cheekbone and bruising and lacerations on her upper arms and left hand while Carmen Efta sustained bruising on the left cheekbone, left knee and left hand.

The 1997 Report made no reference to allegations that the two women were ill-treated by police officers. In fact, it is not clear whether the Ministry of the Interior is claiming that they were not even present at the scene of the police action. The report stated that the aim of the police action had been to check the identities of people attending the exercises. In that context it is noted that "Camelia Rosu and Carmen Efta were not among the people in the above mentioned group whose identity documents had been checked by police officers". In April 1997 Amnesty International asked the Ministry of the Interior for clarification on another incident in which members of *M.I.S.A.* were reportedly subjected to police ill-treatment occurred on 10 March 1997. At around 6am in Bucharest a police patrol entered by force a house which belongs to Catrina Nicolae, President of *M.I.S.A.* The officers took the identity cards of all the people in the house and told them that they would be taken to Section 18 Police Station. More *M.I.S.A.* members from another house on the same street were also ordered to come to the police station. Simion Lupescu, who is a law student, persistently complained that the police action was illegal. While around 20 people were being pushed by the police into a bus, an officer reportedly hit Simion Lupescu on the chest and the back several times and then handcuffed him. The same officer then grabbed M\_d\_lin Mocanu, who had just arrived in front of the house and who was attempting to leave the scene of the incident. He allegedly punched M\_d\_lin Mocanu on the chest, abdomen and back before pushing him onto the bus. At the police station the

this point and called for a full and impartial investigation into Camelia Rosu and Carmen Efta's complaint about police ill-treatment. This investigation should take into account all the evidence collected by Camelia Rosu and Carmen Efta, including a videotape recording made at the time of the incident which documents their discussion with a police colonel.

The 1998 Report repeats the information which had already been published on this case in the 1997 Report, without any reference to the organization's subsequent comments and requests for information.

***The reported ill-treatment of Simion Lupescu, M\_d\_lin Mocanu, Adelina Matei and Victor Safta***

detained *M.I.S.A.* members were held for over four hours. They were told that those who did not have proper registration of residence in Bucharest would have to sign a police statement and would be fined. When some of the detained protested, an officer reportedly approached Adelina Matei, a medical student, kicked the table she had been sitting on and hit her in the abdomen. Police harassment and intimidation continued as the detainees refused to sign police statements and asked to speak to a lawyer. They were individually taken to be fingerprinted and photographed. The officer who escorted them was followed by a police dog who was not on a lead or muzzled. When Simion Lupescu refused to be fingerprinted, the same officer who had ill-treated him earlier reportedly took him by the collar and slapped and punched him, and also threatened him with further ill-treatment if he should fail to cooperate. Victor Safta was also reportedly slapped and kicked by police officers when he refused to sign a police statement. Prior

to their release at around 11am, 16 people were issued with fines for improper registration of residence, which they have subsequently appealed to the municipal court. Simion Lupescu was examined by a forensic medical expert on the same day and given a medical certificate which described bruises and lesions on his chest and back, injuries which are consistent with his allegations of ill-treatment.

The 1998 Report states that the police action was aimed at establishing the identity of those residing in houses which belong to *M.I.S.A.* M\_d\_lin Mocanu was reportedly fined under Law number 61/1991 for obstructing police officers in the performance of their duty. However, no information is given about the circumstances in which this offence was allegedly committed. The other three complainants were reportedly fined for breach of regulations regarding the registration of residence. As in the case of Camelia Rosu and Carmen Efta, the report makes no reference to the allegations that the four members of *M.I.S.A.* were ill-treated by the police.

Regarding the two separate ill-treatment complaints by members of *M.I.S.A.*, both the 1997 and the 1998 Reports contain allegations about its founder (who is not a complainant or in any way relevant to the ill-treatment complaints under review here) which appear libellous and promote an intolerant public attitude to *M.I.S.A.* In April 1997 and in February 1998 Amnesty International expressed concern that this practice of the Ministry of the Interior, apparently intended to discredit the complaints of some human rights victims,

was in violation of the internationally recognized right to freedom from discrimination.

### ***The reported ill-treatment of Gheorghe Notar Jr, Ioan\_tv\_s and Rupi Stoica***

On 7 July 1996 at around 4.40pm police officers took into custody 17-year-old Gheorghe Notar Jr. One officer reportedly hit him with a truncheon on the neck, making him fall down several steps. Gheorghe Notar Jr was then taken to the police station together with 15-year-old Ioan\_tv\_s and 16-year-old Rupi Stoica, who had been detained earlier. In the police car the three youths were reportedly slapped and beaten by two police officers. At the police station, as Gheorghe Notar Jr was climbing the steps, he was hit again on the back, making him fall and briefly lose consciousness. The alleged beating of the three youths continued intermittently as they were interrogated in a changing room at the station. They were questioned about an incident involving another minor that had occurred earlier that afternoon and which the police reportedly considered to be an act of robbery. The officers did not inform the boys' parents about their being in custody, nor ensure that a lawyer was present at the interrogation. The three minors were held in custody for five days in the Centre for the Protection of Minors<sup>38</sup>. In the course of their detention they were taken to the police station and interrogated on several occasions by police officers without the presence of a lawyer or the minors' parents. In October 1996 Amnesty International urged the Romanian authorities promptly and impartially to investigate the alleged ill-treatment of the three boys and called on

provisions of Law number 3/1970 Concerning the Protection Regime of Certain Categories of Minors. Concerns about this law are presented on page 5 of this report.

<sup>38</sup>In October 1996 Amnesty International published a report *Romania: Ill-treatment of minors, Gheorghe Notar Jr, Ioan Ötvös and Rupi Stoica* (AI Index: EUR 39/18/95) presenting, in addition to a detailed description of the case, an analysis of certain

the Romanian Government to revise the law to ensure that it contains recommended

The 1997 Report stated that an investigation into the allegations that the three minors had been ill-treated was under way. It was noted that “the checks which have already been carried out confirm that the two officers who investigated the minors have acted properly, respecting legal procedures (the Penal Procedure Code and Law Number 3/1970)”. Furthermore, the report claimed that “the investigation to which the minors had been subjected respected their right to defence (an ex-officio lawyer, Kiralyhalni \_tefan, presented his power of attorney, reference number 1971, issued by the Bar of Mure\_ Country on 15 July 1996)”. In response, in April 1997, Amnesty International asked for detailed information about these checks, the authorities which conducted them and whether the results of these inquiries have been confirmed by the investigation of the Târgu Mure\_ Military Prosecutor. The organization also pointed out that the date of issue of the power of attorney clearly indicated that the lawyer had been appointed three days after Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were released from the Centre for the Protection of Minors where they were held in custody for five days<sup>39</sup>.

In September 1997 a representative of Amnesty International discussed this case in the Military Prosecutor’s Department of the General Prosecutor’s Office. He was told that the decision of the Târgu Mure\_ Military Prosecutor not to charge any of the suspected officers had been quashed and that the case was sent for further

provisions safeguarding the rights of the child and the parents.

investigation. Assurances were also given that the Military Prosecutor’s Department would take over the investigation should a second attempt by the Târgu Mure\_ Military Prosecutor fail to result in an indictment. However, in October 1997 the organization was informed by the Military Prosecutor’s Department that the investigation against three officers suspected of ill-treatment of the three minors had been suspended. No reasons for this decision were given and no report of the investigation was provided.

#### *The reported torture of Eugen Gale\_*

On 16 December 1996 at around 12pm, Eugen Gale\_ was arrested in the municipal courthouse in Buz\_u. He was waiting for a court hearing to which he had been summoned as a victim who had suffered bodily injury in a property dispute with his uncle and aunt. However, two police officers took Eugen Gale\_ to a prosecutor who ordered that he should be held under arrest pending an investigation for causing bodily injuries to the accused parties in the dispute before the court. Eugen Gale\_ was then taken to the police lock-up where two police officers<sup>40</sup> reportedly beat him with fists and handcuffs and kicked him all over the body, forcing him to sign a statement confessing to the charges. Eugen Gale\_ lost consciousness during the beating. According to a medical certificate issued after his release on 23 December 1996, Eugen Gale\_ also suffered burns from a

<sup>39</sup>Gheorghe Notar Jr, Ioan \_tv\_s and Rupi Stoica were released on 12 July 1996 and not on 15 July as stated in the 1997 Report.

<sup>40</sup>The names of the two police officers are known to Amnesty International.

cigarette or a lighter and lesions on the soles of his feet which resulted from *flacara* (beatings on the soles of the feet with a blunt object).

The 1998 Report stated that police resorted to force in order to restrain him at the time of his arrest. There was no information about the methods allegedly used to restrain Eugen Gale\_ and whether he had suffered any injuries as a result. There was also no information about any evidence obtained in the investigation for *The reported ill-treatment of D\_nu\_Iordache*

On 3 February 1997 at about 6am two police officers came to the Iordache family home in Bucharest and carried out a search without presenting a warrant or obtaining the family's written consent. After an hour, the police took D\_nu\_Iordache to the Section 14 Police Station for questioning. He was released two days later, on 5 February 1997, although the police are authorized to keep a suspect in detention for only 24 hours. On the same day D\_nu\_Iordache was treated in the Emergency Hospital for a broken jaw and contusions on the chest. He claimed that he had been beaten by many police officers in the police station and that his jaw broke after he was hit with a club.

The 1998 Report contains only information about allegations concerning criminal offences which were the grounds for D\_nu\_Iordache's arrest and detention. In February 1998 Amnesty International expressed concern that there is no information about the circumstances in which he suffered a broken jaw and contusions on the chest while he was detained in the Bucharest Section 14 Police Station. The organization asked for a full report of the investigation into D\_nu\_Iordache's complaint which is reportedly being conducted by the Bucharest Military Prosecutor.

Eugen Gale\_'s alleged attempt to resist police officers at the time of his arrest. In February 1998, in noting the shortcomings of the report, Amnesty International also expressed concern that the investigation which dismissed Eugen Gale\_'s complaint apparently failed to establish how he had suffered injuries which were described in a medical certificate issued after his release.

#### *The reported torture of Daniel Neculai Dediu*

On 7 February 1997 in Ungureni, Bac\_u county, Daniel Neculai Dediu, a 26-year-old man, was arrested and held in detention in the local police station for 24 hours. He claims that the local police chief and his deputy severely beat him in order to force him to confess to breaking into a village bar. The officers reportedly beat and kicked Daniel Neculai Dediu in the abdomen, and then hit him with truncheons on the back. When Daniel Neculai Dediu refused to confess to the burglary, one officer hit him with a wooden chair until it broke. Later he hit the detainee on the back with a metal chair. Daniel Neculai Dediu then wrote a statement, which was dictated to him, in which he "confessed" to the charge and to threatening with an axe a police officer who came to apprehend him. The medical certificate issued to Daniel Neculai Dediu on 10 February describes four large bruises on both sides of the chest, bruising of the right arm, extensive bruising on the back and lesions on the left knee.

The 1998 Report describes in detail offences which Daniel Neculai Dediu had allegedly committed and which were the subject of his interrogation when he was reportedly ill-treated by police officers. The report describes these

events as if these allegations had been duly established by an independent judicial body. It also states that Daniel Neculai Dediu's complaint about police ill-treatment is currently under investigation by the Bac\_u Military Prosecutor. Yet according to the information given to a representative of Amnesty International by the Military Prosecutor's Department in the Office of the General Prosecutor in September 1997 in Bucharest, this On 13 May 1997 at around 10am, in a café in Br\_ila, a man who was later identified as a police officer reportedly offered to "sell" Costic\_Naz\_ru, the 63-year-old proprietor of the café, commutations for fines. Costic\_Naz\_ru refused because he believed that he was being set up following several false accusations that he bought merchandise in violation of his license to operate a small café. At around 12am five men in plain clothes presented themselves as police officers but refused to show their badges. One of the men reportedly hit Costic\_Naz\_ru, causing him to fall to the ground, and he was dragged to a police car. Costic\_Naz\_ru was told that he was suspected of buying stolen goods and organizing illegal gambling, and was taken to the police station on Gala\_i Street. During the interrogation he was allegedly beaten on the nape of the neck and on the head. The officers demanded that he should write a statement confessing to the charges. His request to speak to a lawyer was refused. He was detained for three hours and then released without being charged with any criminal offence. Two days later he was examined by a forensic medical expert who established bruising on the neck, the left shoulder, the left arm and the left side of the chest.

The 1998 Report states that Costic\_Naz\_ru hit a police officer causing

<sup>41</sup>The incident took place in Curtea de Arge\_, a neighbourhood in M\_gurele. For a detailed account of the incident see *Concerns*

investigation was completed on 20 August 1997 and the suspected police officer was charged for "the illegal arrest and abusive investigation". However, written confirmation of this information had not been received at the time of writing of this report.

#### ***The reported ill-treatment of Costic\_Nazaru***

him an injury described as "a bruise". The injury reportedly required four to five days of medical treatment. The report also notes that Costic\_Nazaru was subsequently charged with assaulting a police officer under Article 239, paragraphs 2 and 3 of the Penal Code. In February 1998 Amnesty International expressed concern that no information was given about evidence on which this charge is based and that the report also failed to provide information about how Costic\_Nazaru sustained injuries described in the medical certificate. The organization requested a full report of the investigation into Costic\_Nazaru's complaint which is reportedly being conducted by the Ploe\_ti Military Prosecutor.

#### ***The failure of the police to protect Roma from racist violence in M\_gurele***

In June 1996 police officers in M\_gurele<sup>41</sup>, a suburb of Bucharest, failed adequately to protect Romani lives and property from racist violence. A conflict between the majority population and the Roma escalated following a fight in the local bar. Two days later the local police were warned by a Romani human rights activist about the preparations for an attack on the Romani community. The police chief together

*in Europe: January - June 1996* (AI Index: EUR 01/02/96).

with 10 to 15 officers came to the neighbourhood that evening at 11.30pm, when a large group of people started to break windows and doors on Romani houses forcing the Roma to abandon their homes. One house was set on fire. The local police reportedly took no steps to prevent the violence and protect the victims. Calm and order in the neighbourhood were re-established only following an intervention by a police unit from the centre of the capital. Amnesty International expressed concern to the General Prosecutor of Romania that the local police, although in a position to identify instigators and prevent incidents of anti-Romani violence, apparently failed to take adequate measures to prevent actions which resulted in placing at risk human lives and in arson and destruction of property. The organization called for an investigation into the conduct of the police officers who failed adequately to protect the Roma, to publish the results and to bring to justice those found responsible.

The 1997 Report stated that the police action to re-establish order at the time of the violence had been successful and that there had been no evidence of their failure to adequately protect the local Romani community: "We stress that in this case, as well as in other cases of this nature, the police intervention to maintain order was carried out in accordance with national and international legal norms". In April 1997 Amnesty International asked for information about all relevant circumstances of the police intervention, particularly the time of their arrival at the scene of the violence and measures that were taken to stop it (including the number of people who were identified as perpetrators of anti-Romani violence and whether they had been charged with any offence). Amnesty International also urged the Romanian authorities to ensure that their investigation took into account videotape recordings made by an "Antena 1" television crew at the scene of the violence.

## Appendix 2

### Recently received reports of police torture and ill-treatment

The following reports about police torture and ill-treatment were received by Amnesty International in the period from August to December 1997. The organization urged the Romanian authorities to promptly and impartially investigate these reports, to make public the results and to bring to justice those found responsible for human rights violations.

#### *The reported ill-treatment of Pantelimon Zai\_*

On 20 February 1996 Captain D. and Officer M.<sup>42</sup> visited the home of Pantelimon Zai\_, a game warden in Ta\_ca, and, without presenting a warrant, took him to the office of the Arms and Ammunition Department of the Piatra Neam\_ County Police Inspectorate for questioning about a hunt which had taken place on 27 January 1996.

Pantelimon Zai\_ states that, at the hunt, he had observed some police officers of the Arms and Ammunition Department, who had allegedly killed two wild goats without permission and had injured a third

International.

<sup>42</sup>The full names of the police officers and witnesses are known to Amnesty



which he was later, in accordance with gaming regulations, forced to shoot. Pantelimon Zai\_ had filed a complaint about the incident to his superiors in the Administration Department of the game park, and had the wild goat, which he had shot, inspected by a veterinarian.

Pantelimon Zai\_ was interrogated by Major S., Chief of the Arms and Munition Department, and Captain N., from the criminal investigation department, who reportedly accused him of poaching during the hunt. Major S. allegedly punched Pantelimon Zai\_ twice in the head, causing him to bleed from the nose and mouth. He was then taken to another office where Captain N. reportedly forced him to perform squat thrusts while holding a spare car tyre. After several repetitions Pantelimon Zai\_ inadvertently dropped the tyre, at which point Captain N. reportedly threw a glass of water over him and then threw a cup of coffee in his face and tore the hunter's badge from his chest. Captain N. then apparently punched him, causing him to fall to the ground, and then kicked him in the back and abdomen. After this, Pantelimon Zai\_ was forced to sign a statement, without being allowed to read it first. Another officer took Pantelimon Zai\_ to the toilet, helped him wash himself and gave him some bread and soup. Later Captain N. allegedly beat

Pantelimon Zai\_ was subsequently charged and tried in Piatra Neam\_ for poaching. He was convicted reportedly on the basis of the statement he made under duress and sentenced to six months' imprisonment. He has appealed against this sentence and is currently at liberty.

### ***The reported ill-treatment of Adrian Matei***

On the evening of 9 January 1997 Adrian Matei was stopped in the street, not far from his home in Bucharest Sector 1, by two police officers asking to see his

him again with a stick on the left leg. He was held at the station for 24 hours.

On the same day, the police questioned a witness, G., who had accompanied Pantelimon Zai\_ on the hunt. Officer M. asked him to write a statement about the incident and is then alleged to have repeatedly punched him on the back. G. took the statement and ran out of the office but was later apprehended. He finally made a statement implicating Pantelimon Zai\_ in poaching, as an officer of the County Police Inspectorate had suggested. G.'s wife was waiting in the corridor outside the office where G. was being questioned. She heard Pantelimon Zai\_ being beaten and Major S. and Captain N. shouting and then observed, after leaving the building, some of the beating through a window.

On 26 February Pantelimon Zai\_ was examined by a medical forensic expert and a certificate describing his injuries was submitted to the Bac\_u Military Prosecutor, along with his complaint of ill-treatment. In November 1996 the prosecutor decided to suspend the investigation and not to charge the suspected officers. Pantelimon Zai\_ has appealed against this decision but has not received a reply to date.

identity card. As he did not have it with him, he suggested that they accompany him home. Adrian Matei claims that the officers proceeded to hit him, put him in handcuffs and take him to the police station in Bucharest Sector 5, where they continued to ill-treat him until he lost consciousness. The police officers eventually took him out of the police cell and reportedly abandoned him somewhere near his home. A medical certificate issued on 10 January 1997 records multiple bruising over his body, including severe bruising of the genitals, left eye and jaw.

On 14 January Adrian Matei complained about the ill-treatment to the Commander of Sector 5 Police Station. However, on 24 January Adrian Matei received by post a fine for 300, 000 lei (US\$ 38) under Law 61/91<sup>43</sup> for disturbing the peace. The fine had been issued by one of the police officers involved in the alleged ill-treatment incident of 9 January. Adrian Matei appealed the fine in court and also filed a complaint against the two officers with the Bucharest Military Prosecutor. Adrian Matei was subsequently charged with "slandorous denunciation" under Article 259 of the Criminal Code, punishable by up to five years' imprisonment.

#### ***The reported torture of Ioan Bursuc***

On 27 January 1997 at around 7.45pm in Piatra Neam\_, in the café of the Democratic Party, Ioan Bursuc was asked by two traffic police officers to present his identity card. They reportedly addressed him in a casual manner, which in Romanian is considered to be an impolite form of address, and Ioan Bursuc, feeling offended, replied using the same form of address. The officers then allegedly hit him on the head with a rubber truncheon, handcuffed him, beat him on the way to the police car and took him to the police station. The alleged beating continued at

On 23 February 1997 authorities of the Jilava Penitentiary in Bucharest intervened to re-establish order, following a week-long hunger-strike organized by prisoners as a peaceful protest against overcrowding and other poor conditions. Colonel S.<sup>44</sup>, an official in the General Administration of Penitentiaries in the Ministry of Justice, was reportedly in charge of the

the station, where Ioan Bursuc was dragged by his hands, face-down, along the ground, and six other officers hit and kicked him. At 2am Ioan Bursuc's wife, Laura Bursuc, who is a lawyer, came to the police station and, finding him semi-conscious, insisted that he be taken to the county hospital. From there, several hours later, he was transferred to the neuro-surgical department of Ia\_i Hospital No.3, and was diagnosed as having "acute injuries to the skull and brain and an injury to the eye retina". Ten days later he was transferred to Târgu Mure\_ Hospital where he was treated for "a swelling of the brain, the effects of angina aggravated by trauma, and tearing of the anus".

Ioan Bursuc filed a complaint about the torture to the Bac\_u Military Prosecutor, naming the eight police officers responsible. However, on 31 January 1997 the Piatra Neam\_ police filed a criminal complaint against Ioan Bursuc for assaulting a public official, under Article 239, paragraph 2, of the Penal Code, stating that, on the night of the incident, Ion Bursuc had hit two police officers and a watchman.

#### ***Reported torture and ill-treatment of detainees in Jilava Penitentiary in Bucharest***

intervention to stop the protest. Most of the guards who participated in this action wore balaclavas and were armed with truncheons and wooden batons. In at least one instance a tear-gas canister was activated before officers entered a room where they allegedly indiscriminately beat, punched and kicked the prisoners who were inside. The following accounts are

<sup>43</sup>Law 61/91 concerns Sanctions for Violations of Norms of Social Coexistence and Public Peace and Order, and regulates misdemeanours and minor offences.

<sup>44</sup>The full name of the officer is known to Amnesty International.

derived from the testimonies of three prisoners who suffered severe ill-treatment:

Gi\_\_ Ilie stated that the beatings lasted intermittently from 11pm to 6am and that he suffered injuries to the left leg and the back of the neck, as well as bruising all over the body. After the beating he was taken, together with a group of other prisoners, into the courtyard where they were ordered to pick up small pieces of broken glass with their bare hands. Gi\_\_ Ilie was then transferred to another section of the prison where he received some medication and treatment for his injuries. He subsequently filed a complaint about the ill-treatment and in June was questioned by the Bucharest Military Prosecutor, who reportedly initiated an investigation.

Vasile Viorel stated that on 23 February at around 7pm he and some other prisoners were ordered to leave room number 43 and move to another room. Guards then reportedly took a number of his personal belongings which were not subsequently returned to him or sent to his

On the evening of the guard's action, George N\_\_stase Bobancu, together with many other prisoners, was taken from room number 90 in section 5 to the reception area. They were held in small rooms and forced to lie on the cement floor. George N\_\_stase Bobancu shared a room with six or seven other prisoners. Later in the evening, between 50 and 60 prisoners were taken to the courtyard where they were beaten by around 70 officers, most of whom wore balaclavas. They were punched, kicked and beaten with wooden batons, which were apparently the legs of

home. The prisoners were ordered to prepare for the evening roll-call, but at 8pm masked guards came into the room and reportedly indiscriminately beat them with truncheons and wooden batons. They were ordered to crawl under the beds and four guards who remained on duty intermittently hit the prisoners with truncheons. Later, guards came and took Vasile Viorel and two other prisoners into a long corridor which was lined on both sides with guards who beat them all over their bodies. Vasile Viorel, who lost consciousness as a result of the beating, was taken to a prison surgery, where it was established that his left leg was broken and that he had suffered head and kidney injuries. Instead of receiving adequate medical treatment he was taken to room number 86 in section 5, where he was left to lie naked on a concrete floor until 6am. For four days he was reportedly refused medical treatment. On 27 February his broken leg was finally immobilised with a plaster cast. He filed a complaint about ill-treatment to the Bucharest Military Prosecutor but has not been contacted about it or received any acknowledgement of its receipt.

chairs and tables produced in the penitentiary work shop. George N\_\_stase Bobancu claims that he was beaten all over his body, and as a result of the beating suffered a fractured breastbone. After the beating he was carried on a blanket to an infirmary where he stayed for two weeks. When he returned to the penitentiary he was disciplined with six months on "restrictive regime"<sup>45</sup>, during which time his rights to receive packages, visits and correspondence were suspended. Fifteen days later he was transferred to the penitentiary hospital where he remained

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<sup>45</sup>Article 21 of Law No. 23/1969 Concerning Enforcement of Punishments provides for a three to 12-month long disciplinary measure called "restrictive

regime", during which time a detainee is held in a special ward or penitentiary.

until mid-October. George N\_ște Bobancu claims that he was refused specialist treatment for the fractured breastbone and that he continues to experience pains in the chest. On his return to the penitentiary he was again subjected to the "restrictive regime" and is currently held in a small cell, room 604 in section 6, with 14 other prisoners.

In May George N\_ște Bobancu filed a complaint about ill-treatment to the Bucharest Military Prosecutor but has not been questioned about it or been informed about the results of any investigation. Amnesty International is aware that at least three other prisoners who were reportedly ill-treated on 23 February have also filed criminal complaints.

#### *The reported ill-treatment of Vasile Holindrariu*

On 13 March 1997 at around 10am in Piatra Neam\_, police officer O. came to Vasile Holindrariu's home, in the suburb of Anexa V\_șeni, to summon him to the police station for questioning on suspicion of theft of some chickens. At the police station, Vasile Holindrariu was reportedly beaten by officer O. and Major C., who punched him in the face and kicked him in the abdomen. Another officer who was reportedly present at the time of the beating, Major P., had apparently at an earlier date received a complaint by Vasile Holindrariu about police corruption and abuses committed by a local charitable foundation.

Vasile Holindrariu was released the same day, 13 March, without being charged with any offence. When he returned home at about 7pm his mother and wife saw the bruising on his face and back that he had reportedly sustained as a result of the beating. The following day Vasile Holindrariu was reportedly examined by a doctor, whom he told about the beating, but

who refused to issue a medical certificate explaining that the injuries were not sufficiently serious.

Subsequently, Vasile Holindrariu was summoned to the police station 12 times in writing and nine times verbally. The written orders did not specify the reasons for the summonses but were apparently aimed at intimidating him and forcing him to withdraw two complaints about police corruption that he had filed with the Ministry of the Interior in Bucharest. In August 1997 Vasile Holindrariu filed a complaint about the police ill-treatment with the Bac\_u Military Prosecutor.

#### *The reported ill-treatment of Olga Pu\_șnei*

On 24 April 1997 at 10.10am on Aurorei Street in Piatra Neam\_, Olga Pu\_șnei, a 44-year-old woman, was reportedly ill-treated by a police officer who came to her home. Two officers who came to her home were accompanied by a relative of one of the officers, who had been the lodger of Olga Pu\_șnei for two weeks. A dispute had arisen between them over rent payments and Olga Pu\_șnei had kept some of the lodger's belongings until the alleged debt was settled.

When Olga Pu\_șnei refused to allow the officers into her home because they would not present a warrant, one of the officers stuck his foot in the door and kicked it open. He reportedly pushed Olga Pu\_șnei violently against the wall of the corridor, squeezing her upper arms and hitting her head against the wall. The other officer closed the door apparently to prevent her cries for help being heard by the neighbours. After the two officers left the apartment, Olga Pu\_șnei went to the police station to complain and was told that the officers had acted on a complaint of illegal seizure of property. The following day Olga Pu\_șnei was examined by a

medical forensic expert, who issued a medical certificate describing a large haematoma on the back of the right arm, with bruising in the surrounding area, and two bruises on the front of the same arm.

***The reported ill-treatment of Ioana Enu\_\_***

Ioana Enu\_\_, a 48-year-old woman, was reportedly ill-treated by police officers on 1 May 1997 at her home in Berceni, a village close to Bucharest. She had been fined 100,000 lei (US\$13) in May 1996 for disturbing the peace under Law 61/91, following a long-standing dispute with her neighbours, two of whom are reportedly police officers. Ioana Enu\_\_ had contested the fine and subsequently lodged an appeal against a court decision which had confirmed it. However, before the court decision had come into force, and following the intervention of the county police, the fine was replaced with 10 days' imprisonment. Ioana Enu\_\_ also appealed against the legality of this decision.

On 1 May 1997, between 5.30 and 6am, Sergeant Major P.<sup>46</sup> and another officer came to Ioana Enu\_\_'s house at I. C. Frimu Street Number 343 in Berceni, and ordered her to accompany them to the police station. Ioana Enu\_\_ refused to do so because the officers did not have a warrant for her arrest. Shortly afterwards Ioana Enu\_\_ left her house, intending to go to the nearest public telephone to call her. On 25 June 1997 at around 10pm in Basarabi, 14 kilometres from Constan\_a, 10-year-old Costic\_ was apprehended by two policemen in a kiosk which he had entered through a hole in the roof. The owner of the kiosk, who arrived shortly before the police and established that two

Olga Pu\_nei filed a complaint about the ill-treatment and the illegal house search with the Bac\_u Military Prosecutor.

lawyer. In the street she saw a police vehicle and the two officers who had tried to arrest her. They reportedly tried to seize her, causing her to fall to the ground, and proceeded to kick her whilst pulling her towards the car. Alexandrina Tone, one of a number of villagers who witnessed the incident, called on the officers to stop the beating. Ioana Enu\_\_ managed to run into the house of the T\_nase family, pursued by Officer P., who was subsequently asked to leave by the T\_nase family, as he did not have a search warrant.

Since this incident there have been no other reports of attempts to illegally apprehend Ioana Enu\_\_. On 17 July 1997 she filed a complaint about her ill-treatment by the police officers with the Bucharest Military Prosecutor. In August 1997 Amnesty International urged the General Prosecutor of Romania to promptly and impartially investigate this case. In September the Ministry of the Interior issued a reply stating that no ill-treatment by police officers had taken place.

***The reported torture of 10-year-old Costic\_***<sup>47</sup>

ice-creams were missing, allegedly pulled the boy by the ears, reprimanding him for the break-in. The police patrol took Costic\_, on suspicion that he was also implicated in a number of other burglaries in the neighbourhood, to five or six addresses, asking people if they recognized

the confidentiality of the boy's real identity.

<sup>46</sup>The full names of the police officers are known to Amnesty International.

<sup>47</sup>Amnesty International is protecting

the boy. When he was asked for his home address, Costic\_ gave the name of the street but omitted to say that he lived in Constan\_a. He was then taken to a street with the same name in Basarabi. After Costic\_ failed to recognize his home the officers became angry. They questioned him about other people who were involved in the break-in and stopped the car at a bridge and held him by his head and legs suspended over the railing, threatening to drop him. Costic\_ was then taken to the police station where in the course of an interrogation he was told to take off his underpants and bend over with his head reaching his knees. He was beaten with a truncheon and punched and kicked. Later a sheet of paper was put on the palms of both hands which were then repeatedly struck with a truncheon. Costic\_ claims that the three officers who took part in the beating were Sergeant R.<sup>48</sup>, an officer who drove the police vehicle, and a public guard. Two women who wore gendarme or guard uniforms were present during a part of the beating. Sergeant R. reportedly threatened Costic\_ with his gun and also threatened to subject him to *rotisor* (a well-known torture method where the detainee, whose hands and feet are tied, is suspended on a pole between two chairs and then beaten, causing the body to swing). After the beating he was asked for his home telephone number and he was taken into a bare room with a concrete bed.

Costic\_'s mother spent the afternoon and evening searching for her son. She had checked the hospitals and the municipal police before giving his photograph to the local newspaper to be published the following day with an article on his disappearance. At 3.30am she received a telephone call informing her that her son was at Basarabi police station.

When she arrived at the station an hour later and saw that her son's hands were swollen and that there was an injury on the top of his head, Costic\_'s mother asked for an explanation and to speak to the commander. However, she was not allowed to wait in the station for the commander to arrive later that morning. The full extent of Costic\_'s injuries became apparent only after he arrived home and was undressed, revealing countless weals on his buttocks and thighs. At 7am he was taken to a forensic medical expert who issued a certificate describing in detail injuries that the boy had suffered all over his body. He was also photographed the same morning before his mother took him to Basarabi Police Station where he told Commander Mitocaru Vasile how he had been beaten.

On 27 June Costic\_ was admitted to the Constan\_a County Hospital where he was treated for three days. A neurologist advised a full examination of the boy's head injuries. This only took place on 20 August when it was established that he had suffered "a generalized swelling of the brain". The same month a psychiatric examination was also carried out after the boy started suffering from facial ticks, vertigo attacks and manifestations of personality disorders.

On 4 July Costic\_'s mother filed a complaint with the Constan\_a Military Prosecutor about the torture of her son. An investigation is in progress. She had not been aware of any criminal proceedings against her son until in September she received a document from the public prosecutor informing her that an investigation for theft had been suspended because Costic\_ is a minor below the age of 14 and not criminally liable under Romanian law.

<sup>48</sup>The full names of the police

officers are known to Amnesty International.

In October Amnesty International urged the Romanian authorities to promptly and impartially investigate the reported torture of 10-year-old Costic\_, to make public the results and to bring to justice those responsible for human rights violations. In January 1998 two police officers and three public guards were brought to trial before the Bucharest Military Tribunal. The officers were On 4 July 1997 at around 8pm in Mangalia police station Belmondo Cobzaru, a 24-year-old Rom, was reportedly beaten by police officers. He had voluntarily presented himself at the police station in order to explain an earlier incident in which he had broken into his girlfriend's apartment, in the presence of her neighbours, fearing that she had attempted to commit suicide. He was accompanied to the police station by a friend, who then informed the Cobzaru family of his whereabouts. Belmondo Cobzaru claims that he was severely beaten at the police station by Sergeant Major G. and Officer C<sup>50</sup>. Four plainclothes officers observed the beating and took no steps to prevent or halt it. Sergeant Major G. and Officer C. reportedly punched Belmondo Cobzaru in the head until his nose started to bleed and he was thrown to the ground and kicked. A newspaper was placed on the back of his neck (apparently to prevent signs of injury) and he was hit with a wooden stick. Before he was released, Belmondo Cobzaru was forced to sign a statement saying that he had been beaten by his girlfriend's brother-in-law and some other men. At around 10.30pm he was allowed to leave the station and told to return the next morning with his father, who is the leader of a local Romani organization.

<sup>49</sup>This offence is punishable by one to five years' imprisonment. The prosecutors did not charge the suspected officers with torture under Article 267<sup>1</sup>, paragraph 2, which provides for a punishment of three to ten

charged for abusive investigation under Article 266, paragraph 2, of the Penal Code<sup>49</sup>, one public guard was charged for complicity in this act and two other guards were charged with false testimony under Article 260, paragraph 1, of the Penal Code.

### ***The reported ill-treatment of Belmondo Cobzaru***

Belmondo Cobzaru was met outside the station by the friend who had accompanied him, and went to her house. Later that evening he was admitted to Mangalia hospital and then transferred to the neurosurgical ward of Constan\_a County Hospital, where he was treated for head injuries. He was released on 7 July and was examined by a forensic medical expert, who issued a certificate describing bruising around the eyes, on the third and fourth fingers of the right hand, chest, right thigh and leg. On 21 July 1997 Belmondo Cobzaru filed a complaint about police ill-treatment with the Constan\_a Military Prosecutor.

### ***The reported ill-treatment of Dumitru Aura\_Marcu and his wife Mariana Marcu***

On the evening of 20 July 1997 Dumitru Aura\_Marcu and his wife Mariana Marcu went to a café in their home village of R\_zvad, with their 9-year-old son and two nephews. They became involved in a dispute with Dumitru's sister and her husband about a debt owed to the Marcus. Dumitru Aura\_Marcu got into his brother-in-law's car, reportedly to prevent him from driving home as he had consumed

years' imprisonment.

<sup>50</sup>The full names of the police officers are known to Amnesty International.

alcohol. However the brother-in-law went to a nearby police station to complain.

Two police officers then came to the café and reportedly sprayed Dumitru Aura\_ and Mariana Marcu with a paralysing gas. One officer allegedly hit Mariana Marcu on the chin, causing her to fall to the ground. Dumitru Aura\_ was handcuffed and then punched all over his body on the way to the police station. In the front yard of the police station Dumitru Aura\_ Marcu was handcuffed to a metal signpost while the officers went inside. Mariana Marcu later came to the police station and one of the officers released Dumitru Aura\_ Marcu without charging him with an offence.

Two days later Dumitru Aura\_ Marcu was examined by a forensic medical expert, who issued a certificate describing fractures of two left ribs and multiple bruises and lesions on the back, requiring 15-16 days of treatment. The Marcus did not seek an examination or medical certificate for Mariana Marcu's injuries because the cost of such an examination is 67,500 lei (US\$10), a considerable sum of money for a family of limited income.

Several days after the incident, Dumitru Aura\_ and Mariana Marcu received fines of 500,000 lei (US\$65) each, under Law No. 61/91 for disturbing the peace. They appealed against these fines at the municipal court in Târgovi\_te and filed a complaint about the police ill-treatment with the Ploie\_ți Military Prosecutor and with the Târgovi\_te police, to whom they also gave a written statement. A witness to the incidents in the café was later summoned to the police station in R\_zvad and was reportedly threatened by police officers not to testify about the incident.