

ROMANIA

Unlawful use of firearms by law enforcement officials

Amnesty International's Concern

Amnesty International is concerned about the increasing number of reports in the past two-year period of apparently unlawful shootings by Romanian law enforcement officials. In several cases the victims were killed while in others the shootings resulted in the victims' serious injury. Amnesty International believes that firearms were used in circumstances which are prohibited by internationally recognized principles on the use of force and firearms. Amnesty International is concerned that investigations into most of these incidents were not impartial and thorough. The organization is also concerned that certain provisions of the Romanian Law on the Organization and Functioning of the Police which regulate the use of firearms are at variance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Essential criteria, justifying the use of firearms have been laid down in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, particularly in the following:

"Principle 4 - Law enforcement officials, in carrying out their duty, shall as far as possible apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

"Principle 9 - Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life".

Individual cases

Nicolae Sebastian Balint, a 23-year-old man, was shot and killed on 9 January 1995 by police officers in B_ile Herculane, a small town in south-west Romania. According to a newspaper report, at round 4.45am, Nicolae Sebastian Balint was observed by two police officers while sitting in a stolen car. When ordered to leave the car he reportedly tried to attack one of the officers with a screwdriver, throwing him to the ground, and started to run away. The police officers ran after him, ordering him to stop and then fired a warning shot. The next shot hit Nicolae Sebastian Balint as he was climbing a parapet on the bank of the river Cerna. He died on the way to the Or_ova hospital. The autopsy report established that he was shot in the back.

An investigation into the incident was initiated the same day and later taken up by the Bucharest Military Prosecutor. In February and November 1995 Amnesty International urged the Romanian authorities to ensure that this investigation was prompt and impartial. In November 1996 the General Prosecutor's Office informed Amnesty International that the investigation into the case had been completed and that the police officer responsible for the shooting of Nicolae Sebastian Balint would not be charged with any criminal offence. According to the results of this investigation,

the police officer saw Nicolae Sebastian Balint as he was attempting to break into a car. The officer reportedly called on him to surrender but Nicolae Sebastian Balint “refused, thrusting a screwdriver at the officer in an attempt to strike at him. The officer took shelter while Balint butted him with his head, making him fall to the ground”. Nicolae Sebastian Balint then ran towards the river, “an area with poor visibility”. The officer reportedly ordered him to stop and fired a shot in the air. He then shot twice at Nicolae Sebastian Balint. In the course of the investigation two witnesses testified about the circumstances surrounding the break-in of the car and the attack on the police officer. The prosecutor decided to suspend the investigation because Romanian law authorizes officers to use firearms “to immobilize or capture a suspect who resists or is attempting to resist with arms or other objects that are lethal or can cause bodily injury, as well as to immobilize someone who is attempting to flee after committing a crime”. However, the results of this investigation confirm Amnesty International’s concern that Nicolae Sebastian Balint, at the time of the shooting, had not been armed and had not threatened the life of the officer or anyone else.

Marcel Ghinea, a 17-year-old boy, was shot and wounded by police officers on an unspecified date in May or June 1995¹ in Voluntari, a village close to Bucharest. Marcel Ghinea and three other youths were reportedly attempting to steal goods from a car parked in front of a store. When a police patrol caught them in the act, they started to run away. One of the police officers fired two warning shots in the air and then shot and wounded Marcel Ghinea, who was later taken to the Bucharest Emergency Hospital.

In November 1995 Amnesty International urged the General Prosecutor of Romania to investigate the shooting of Marcel Ghinea. The General Prosecutor’s Office replied in April 1996 that the police officer who had fired the shots had not violated any law. According to the prosecutor’s response, Article 19, letter d, of Law Number 26/1994 on the Organization and Functioning of the Police, allows officers to use firearms “to apprehend suspects caught in a criminal act who try to escape and do not obey the order to remain still”. The official investigation did not establish, however, that Marcel Ghinea had been armed and that he was threatening the lives of the police officers or others at the time of the shooting, nor that he was attempting a particularly serious crime involving grave threat to life - circumstances which according to international standards can justify the use of firearms by law enforcement officers.

Marian Constantin Vi_an, an unarmed 26-year-old man, was shot and wounded on 25 August 1995 in Arad, a town in western Romania. According to a newspaper report, a police patrol, alerted by an anonymous phone call, caught Marian Constantin Vi_an while attempting to steal wheels from a car. One police officer called on Marian Constantin Vi_an to give himself up, upon which the suspect started to run away. The officer then fired two warning shots in the air before shooting at Marian Constantin Vi_an and wounding him in the right leg.

As in the two previous cases, in November 1995, Amnesty International urged the Romanian authorities to investigate the incident and inform it of its results. The Military Prosecutor of Timi_oara, who conducted the investigation, decided on 10 June 1996 not to bring any charges against the police

¹ The incident was reported on 3 June 1995 in the daily newspaper *Adev_rul*.

officer involved, as he considered the use of firearms in this case to be in conformity with the Law Number 26/1994.

Mihai Ciobanu, an unarmed man, was shot and wounded on an unspecified date in September 1995 in Bucharest². Mihai Ciobanu and an unknown number of accomplices were reportedly trying to steal from a parked car when they were caught by police officers. As they were running away, the police officers fired several warning shots in the air, and subsequently fired five bullets at the suspects. Three bullets hit Mihai Ciobanu in the left thigh and foot. Following extensive medical treatment he was reportedly not charged with any criminal offence. Although in November 1995 Amnesty International wrote to the General Prosecutor urging him to initiate an investigation into the shooting, no reply had been received by the end of January 1997.

Constantin Dragnea, Grigore T_nase and Tudorel T_nase, three unarmed men were shot and injured by police officers in the village of Mihai Vod_, in the municipality of Bolentin Deal near Bucharest. On the morning of 17 November 1995, at around 6.30am, some 10 to 20 (some eye witnesses stated as many as 30) armed police officers accompanied by dogs entered the courtyard belonging to the T_nase and Dragnea families. The police officers entered the house from where they reportedly dragged 62-year-old Grigore T_nase into the courtyard, pulling him by the hair. They told him that they had come to arrest his son, Tudorel T_nase, who was suspected of theft. When Grigore T_nase asked the police for a warrant, he was told by the commanding captain³ that they did not have one at the moment but would get it later. The officers then returned to the house where the rest of the T_nase family was sleeping, breaking the windows on the porch, tearing the curtains and spraying tear-gas into the rooms and firing guns at the outside walls. After Tudorel T_nase shouted that he was coming out, and as he came to the doorstep, he was shot in the pelvis. Grigore T_nase said that he heard the officer in command order his men to shoot again at Tudorel T_nase. While he was trying to shield his son he was shot in the stomach and leg. At about the same time, Constantin Dragnea, who was coming out of the house accompanied by two children, six and five years old, was shot in the leg.

The three men were taken to hospital in Bolentin Deal and then to a Bucharest hospital where they underwent surgical treatment. Grigore T_nase was reportedly released from hospital without being given any medical documentation or a forensic certificate. While in hospital he was questioned by a military prosecutor and made to sign a statement which, because he is illiterate, he could not read.

When Tudorel T_nase was operated on, one of his kidneys was removed and his right leg was set in a cast. Several days later he was transferred to Bucharest Prison Hospital and at the end of February 1996 he was taken to Coliba_i prison in Arge_ county. There he was visited by a representative of the Romanian Helsinki Committee (APADOR-CH) who told Amnesty International that he complained about severe pain in the pelvic area. After his right leg had been

² The incident was reported on 23 September 1995 in *Adev_rul*.

³ The identity of this police officer is known to Amnesty International.

immobilized for three months he could no longer support himself on it and was unable to walk without assistance from another person or the aid of a crutch.

In December 1995 and March 1996 Amnesty International wrote to the Romanian General Prosecutor, expressing its concerns about the inappropriate use of firearms and the alleged ill-treatment and urging him to ensure that Tudorel T_nase was provided with adequate medical treatment for the injury to his pelvis, including treatment which would lead to the restoration of function of his right leg to the maximum extent possible. No reply to these letters had been received at the time of publication of this report.

Marius Cristian Palcu, an unarmed man, was shot and killed on 2 May 1996 in Bucharest by police officers. The police had been looking for an armed soldier, who had earlier that day left his unit and killed two police officers. At around 10.30am, two police officers saw Marius Cristian Palcu, an unarmed soldier, called on him to stop and reportedly fired a warning shot. When Marius Cristian Palcu started to run away, he was shot in the back and died shortly afterwards. Two days later, Doru Ioan T_r_cila, then Minister of the Interior, said to the press when asked why the police had shot Marius Cristian Palcu and why they did not aim for the legs :

"Those are communist methods. Shooting into the air ten times, reading Human Rights, pleading to return to the unit and then shoot in the legs. The police officers who fired [i.e. at Marius Cristian Palcu] did so in a perfectly legal fashion and will not be disciplined."⁴

In May 1996, Amnesty International wrote to Minister of the Interior expressing its concern about the shooting and his reported statement. Such statements, the organization noted, apparently encouraged police conduct which is at variance with internationally recognized principles. In September 1996, the Deputy General Prosecutor informed Amnesty International that the Bucharest Military Prosecutor had indicted the police officer who shot Marius Cristian Palcu for murder. According to the prosecutor : "... in judicial practice, pointing a loaded gun without the safety catch on at the victim, followed by the tragic action, constitutes an intention to kill; this should be considered in view of the fact that the gun had been pointed at the upper part of the victim's body".

Mircea-Muresul Mosor, a 26-year-old Rom, was shot and killed on 9 May 1996 in the village of M_runtei in southern Romania. According to a report by the European Roma Rights Center⁵, police statements concerning the shooting revealed serious inconsistencies and were contradicted by the statement of the doctor and the family of Mircea-Muresul Mosor.

The official police report states that on 9 May, four police officers riding in a car passed two Roma men driving a horse cart and signalled them to stop. The men reportedly ignored this and drove on. The police car then pursued them. The Roma then abandoned the cart and started to run away. When the police car caught up with them, one police officer jumped out and tried to apprehend them. In the ensuing fight, one of the Roma reportedly punched the police officer, while

⁴ This statement was reported in *Cotidianul*, a Bucharest daily newspaper, on 4 May 1996.

⁵ European Roma Rights Center: *Sudden Rage at Dawn. Violence against Roma in Romania*, Country Reports Series Number 2, September 1996, pages 45-48.

the other, Mircea-Muresul Mosor grabbed a wooden stick. The officer, holding the other Rom and kneeling down, warned Mircea-Muresul Mosor not to approach him and pulled out his gun. He then fired a warning shot into the air and, when Mircea-Muresul Mosor reportedly lifted up his stick and was about to hit him, shot him. Mircea-Muresul Mosor was taken to a nearby hospital where he died.

However, according to the doctor at the hospital, Mircea-Muresul Mosor was already dead when he arrived at the hospital. A post mortem examination also revealed that the bullet which killed him had entered via his back, passing through his heart cavity and exiting through his chest. This contradicted the police allegations that he was facing the police officer and about to hit him with his stick.

In an interview with the European Roma Rights Center, a spokesman for the County Police Inspectorate in Slatina later alleged that Mircea-Muresul Mosor had hit the police officer on the head with a stick as he jumped out of the car. The police officer fell down and shot Mircea-Muresul Mosor who was running away.

An investigation into the shooting is reportedly being conducted by the military prosecutors in the General Prosecutor's Office in Bucharest.

Ionu Vlase : a 13-year-old unarmed boy, was shot and injured on 1 June 1996 in Mangalia, a town in eastern Romania on the Black Sea. At, at around 4.30pm a police officer reportedly shot six times at Isai Ia_ar, a criminal suspect, who, according to a police report, was threatening to throw a stone at the officer. Ionu Vlase, who was playing with some other children in front of the apartment block where he lives, was hit in the head by one of the bullets. The police officer then reportedly left the scene without assisting the injured boy who was later taken to hospital by his parents. Later he alleged that he had not been aware that anyone had been injured as a result of the shooting. However, witnesses to the incident claimed that the boy had been less than 30 metres away from the officer.

In June 1996 Amnesty International urged the Romanian authorities to investigate the shooting of Ionu Vlase as well as two other incidents described later in this report. Although no reply had been received by the end of January 1996, Amnesty International has learned that the Constan_a Military Prosecutor reportedly indicted the police officer responsible for the shooting and that the trial is due to begin on 25 February 1997.

Nelu Craitar (17), Alexandru Rezmives (30) and Zoltan Rezmives (32), three unarmed Roma, were shot and injured by public guardians⁶ in Colt_u in northern Romania. On 2 June 1996 at around 10pm, four public guardians were approaching the bus station in the Roma part of the village, when they were stopped by a group of people. The group was protesting about the beating of a young man, Roman Rezmives, who had been caught stealing cherries the previous day by some of their colleagues. The public guardians later claimed that the group was threatening to attack them and that they therefore had pointed their guns at the group and shot several times, injuring Nelu Craitar seriously in the neck, and Alexandru Rezmives in the leg. A third Roma man, Zoltan Rezmives was slightly injured in the face by stones chipped by a ricocheting bullet. All three men were taken to a nearby hospital where Alexandru Rezmives's leg had to be amputated.

⁶These are guards appointed by local authorities to maintain public order.

According to the public guardians' version of the events, they had only drawn their guns after one person from a large group of Roma had attacked them with a spade. After firing warning shots, they fired at the ground to scare the Roma, and the three men were injured because the bullets had ricocheted off the ground.

However, witnesses to the shooting⁷ alleged that there had been no organized group waiting for the public guardians but that a lot of people were outside because of the local elections which were held on that day. One of them, Alexandru Reznives, the brother of Roman Reznives, had approached the guardians to ask why his brother had been beaten. The public guardians then shot at him. Hearing the shots, more people ran outside and, seeing Alexandru Reznives lying on the ground, began to throw stones at the public guardians who in response shot at them, injuring two more Roma. One witness asked the guardians to stop shooting so that he could go and call an ambulance, but they reportedly ignored his request and continued shooting.

An investigation into the incident has been initiated by the District Prosecutor in Baia Mare. However, in an interview with the European Roma Rights Center, one prosecutor reportedly stated that, as the public guardians shot in self-defence, they had not committed any criminal offence.

Kerim A_im, an unarmed Rom, was shot and injured on 2 June 1996 in Medgidia, a town in eastern Romania, near the Black Sea. At around 3am, a police officer and a gendarme detained Kerim A_im and Dervi_Givan on suspicion of theft of a television set and some clothes. In front of the police station Kerim A_im and Dervi_Givan started to run away. According to the chief of police in Medgidia, the arresting police officer then pursued the two men in a taxi. When they caught up with them, the two suspects 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, Kerim A_im was taken to Poarta Alb_penitentiary pending an investigation. Amnesty International is not aware that an investigation into this incident has taken place.

Lauren_iu Ciobanu, a 29-year-old Rom from G_neasa, in Sectorul Agricol Ilfov, was shot and seriously injured in the evening of 11 February 1997 in Bucharest⁸. Two police officers reportedly observed Lauren_iu Ciobanu taking a radio-cassette-player from a parked car on Pantelimon street. When the officers attempted to apprehend the suspect, he reportedly took a screwdriver and swung it at one of the police officers. Lauren_iu Ciobanu then started to run away. The police officers then 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 making him fall to the ground. Lauren_iu Ciobanu was then taken to a hospital where he reportedly underwent several operations for injuries caused by the bullets to the lungs and kidneys.

Conclusions and recommendations

⁷ Both the commander of the public guardians and the Roma witnesses in Colt_u were interviewed by the European Roma Rights Center in June 1996.

⁸ The incident was reported on 14 February in *Cotidianul*, a Bucharest daily newspaper.

Romanian Law number 26/1994 on the Organization and Functioning of the Romanian Police regulates the use of firearms by all law enforcement officials and stipulates that :

"In case of absolute necessity and when other means of prevention or constraint are not possible, a police officer may resort to the use of force or fire arms, only under the conditions laid out in this law :

- a) in the course of defending himself or other persons from an attack which threatens life or health, as well as in the course of liberating hostages;
- b) in the course of repelling an attack aimed against the headquarters or other property of the police or against the means of forces protecting public order, assuming that the lives of those under attack are in imminent danger;
- c) in the course of guarding certain premises, area or persons for which the police officer is responsible;
- d) in order to apprehend an offender caught in the act who is attempting to escape and does not obey orders to stop;
- e) in order to apprehend an offender who is resisting by force or fire arms, or to apprehend offenders who are attempting to escape from the place of detention or are attempting to flee from a police escort."

In several of the cases described in this report, the Romanian authorities justified the use of firearms by referring to the provisions of Article 19, letter d, of this Law. Amnesty International is concerned that the use of firearms to apprehend unarmed suspects who did not threaten the lives of police officers or others, and who were not involved in particularly serious crimes posing grave threat to life, is at variance with the above cited internationally recognized standards. Therefore, legal provisions which condone inappropriate police conduct need to be brought into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Principles.

Amnesty International recognizes the fact that Romanian law enforcement officials must at times encounter great difficulties in making split-second decisions in complex situations, and that the organization has not had access to information regarding all the circumstances of these incidents. However, in all of the described cases, it is highly questionable whether the lives of law enforcement officials or others were endangered or whether non-violent means had been applied exhaustively to deal with the situation. All of the victims were unarmed at the time they were shot and were involved in or present at the scene of minor crimes. In all but one case, law enforcement officials outnumbered the suspects. In cases where witnesses were questioned about the shooting, their testimony contradicted the police's version of the events. Several shootings took place in situations where it was extremely likely that bystanders could be injured or killed.

Although Amnesty International has repeatedly asked the Romanian authorities for statistics on the number of police shootings which have been investigated by military prosecutors and on the results of these investigations, this information has to date not been made available to the organization. Amnesty International believes that the publication of regular statistical data on police shootings and deaths in custody would increase the accountability of law enforcement agencies and public awareness of policy and practice as regards the use of deadly force. Likewise, Amnesty International believes that the results of judicial investigations into the conduct of law enforcement officials, as well as the findings and recommendations of internal police investigations, wherever there are allegations of human rights violations, should be made available to the public. In the case of lethal police shootings, this would be in line with the United Nations Economic and Social Council Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions⁹, which also apply to situations where death results from "excessive or illegal use of force by a public official ... (Principle 1)". Principle 17 states, in part :

" A written report shall be made within a reasonable period of time on the methods and findings of such investigations. This report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection ..."

Judging by the information Amnesty International has received so far on the investigations that were carried out in these cases, the organization is concerned that law enforcement officials who have used firearms in disputed circumstances are often not held accountable for their conduct. This seems to be particularly true for the internal police inquiries which in several cases appear to have been conducted in a cursory manner, ignoring independent evidence and assuming as credible only the version of events as given by the law enforcement officials involved.

An example of one such investigation which Amnesty International has criticized is the case of Ioan Rus, an unarmed 24-year-old man, who was shot and killed on 6 August 1994 on the bank of the river Tur near Gher_a Mic_ in western Romania, after allegedly having been ill-treated by three police officers. The prosecutor from the nearby town of Satu Mare, who came to the scene of the incident to begin an investigation, reportedly ordered the victim's body to be moved from the scene of the shooting to the opposite bank of the river. The autopsy reportedly took place at that location. The Military Prosecutor of Oradea, who took over the case, decided to close the investigation in August 1994, without charges being pressed against any of the police officers involved. The officer who had shot Ioan Rus was reportedly disciplined by transfer to another location.

In March 1995 Amnesty International urged the Romanian authorities to reopen the investigation and ensure that it was conducted thoroughly and impartially and in accordance with the UN Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Amnesty International also stressed that this new investigation should examine the

⁹Resolution 1989/65 adopted on 24 May 1989.

conduct of the Satu Mare prosecutor at the scene of the crime who in moving the victim's body might have adversely affected the gathering of evidence.

Subsequently the decision of the Prosecutor was repealed and the investigation was reopened. On 31 May 1995, the police officer who had shot Ioan Rus was reportedly indicted for murder and his trial was scheduled to take place in September 1995. Amnesty International has learned that in December 1996, the Timi_oara Military Tribunal acquitted the indicted officer. The military prosecutor has appealed this decision. No information was available at the time of writing of this report on the reasoning of this court decision.

Amnesty International urges the Romanian authorities to ensure that all investigations into shootings by law enforcement officials resulting in death or injury are conducted in an impartial and thorough manner, and particularly to instruct law enforcement agencies to give the investigating and prosecuting authorities their full cooperation in order to establish the facts of every case, and bring any police officers suspected of inappropriate use of firearms to justice.

Amnesty International furthermore appeals again to the Romanian authorities to provide the police and other law enforcement officials with clear regulations and to initiate effective training programs on the use of firearms which will ensure that relevant international standards such as the ones cited above are observed and adhered to.

Finally, Amnesty International reiterates its appeal addressed in November 1996 to then newly elected Romanian authorities to revise Article 19, letter d, of Law Number 26/1994 so that it is consistent with United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.