

ROMANIA Consensual homosexual relations continue to be punished under amended legislation

On 10 September 1996, the Chamber of Deputies of the Romanian Parliament adopted the following amendment to Article 200 of the Romanian Penal Code:

1. *Sexual relations between persons of the same sex are punishable by six months to three years' imprisonment.*
2. *Sexual relations between persons of the same sex, taking place in public, or producing a public scandal, are punishable by one to five years imprisonment.*
- ...
6. *Enticing or seducing a person to practise same sex acts, as well as propaganda, associations or other forms of proselytizing with the same aim is punishable by one to five years' imprisonment.*

By the end of this week or the beginning of next week the Chamber of Deputies will vote on all the adopted amendments to the Penal Code, approving the revision of the law as a whole. Because some of the proposed amendments have been adopted earlier by the Romanian Senate in a different form, the Draft Law on the Revision of the Penal Code must be reviewed by a mediation committee composed of representatives of both chambers of the Romanian Parliament. Before the law comes into force the President of the Romania can refer it to the Constitutional Court for review.

A revision of the Penal Code, including Article 200, paragraph 1, began in the autumn of 1993. So far this process has not been successful. However it now seems likely that the parliament will vote on the law as a whole before its mandate expires on 16 October. Presidential and parliamentary elections are set for 4 November 1996.

According to information published by the Ministry of Justice in October 1995, 14 men were imprisoned under Article 200, paragraph 1, in 1993 and 1994. In 1995, Amnesty International called on the Romanian authorities to release five men who had been detained under this law and who were considered to be prisoners of conscience. All five were released later in 1995. Amnesty International has received reports that some of those detained under Article 200 have been subjected to ill-treatment. For further information, please see *Romania: Broken Commitments to Human Rights* (EUR 39/01/95) and *Romania: Continuing Reports of Human Rights Violations* (AI Concerns in Europe, July-December 1995, EUR 01/01/96).

BACKGROUND INFORMATION

Amnesty International considers individuals imprisoned solely because of their practice of consensual homosexual acts between adults in private to be prisoners

of conscience. Article 200, paragraph 1¹, of the Romanian Penal Code adopted in 1968, was reviewed by the Constitutional Court of Romania in 1994. The court ruling allowed for the prosecution of only those acts which were "committed in public or produced public scandal". However, the ruling did not provide guidelines for applying these standards, nor did it define "public scandal". Therefore the enforcement of the law continued to lead to imprisonment of adults solely for engaging in consensual homosexual relations in private.

In October 1993, Romania was accepted as a member of the Council of Europe on condition that it brought several aspects of domestic law and practice into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms. One of the conditions stipulated that the Penal Code should be amended so that homosexual acts in private between consenting adults were no longer penalized.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English, French, Spanish, German or in your own language:

- urging members of the Chamber of Deputies to reject the Draft Law on the Revision of the Penal Code when it is presented to them for the final vote:
- calling on the Romanian Parliament, that is, members of the Senate and the Chamber of Deputies, to ensure that future penal laws do not place individuals at risk solely because of their consensual homosexual acts between adults in private;
- urging the President and the Prime Minister of Romania to ensure that Romania respects its commitment to decriminalize homosexual acts in private between consenting adults, made in October 1993 when it became a member of the Council of Europe.

APPEALS TO:

D-lui Adrian Nastase
President of the Chamber of Deputies
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 Romania

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Telegrams: Adrian Nastase, Camera Deputa_ilor, Bucure_ti, Romania

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Salutation: Dear Mr Nastase

D-lui Oliviu Gherman
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Fax: + 40 1 312 08 28

Telegrams: Oliviu Gherman, Senatul României, Bucure_ti, Romania

Telex: 11916

Salutation: Dear Mr Gherman

D-lui Ion Iliescu
President of Romania

¹"Sexual relations between persons of the same sex are punishable by one to five years' imprisonment."

Pia_a Victorie

Bucharest

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Fax: + 40 1 312 11 79 / + 40 1 637 4776

Telegrams: Ion Iliescu, Pre_edintele României, Bucure_ti, Romania

Salutation: Your Excellency

D-lui Nicolae V_c_roiu

Prime Minister of Romania

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Romania

Fax: + 40 1 323 61 79

Telegrams: Nicolae Vacaroiu, Guvernul României, Bucure_ti, Romania

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Salutation: Dear Prime Minister

COPIES TO: diplomatic representatives of Romania accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 23 October 1996.