

Romania

Amnesty International submission to the UN Universal Periodic Review

Second session of the UPR working group, 5-16 May 2008

Key words: renditions, discrimination against Roma, ill-treatment by police, mental health-care, violence against women, identity-based violations

In this submission, Amnesty International provides information under sections B and C (as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*¹):

- Under B, Amnesty International raises concern over outstanding ratifications of international human rights standards.
- Section C highlights Amnesty International's concerns about human rights violations in the context of counter-terrorism measures, identity-based violations, police ill-treatment and racism, violence against women, and failure to respect the rights of refugees.
- Each section sets out recommendations to address the areas of concern.

B. Normative and institutional framework of State

Ratification of International Instruments

1. *Amnesty International calls on Romania to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.*

Reporting to UN Treaty Bodies

2. *Amnesty International calls on Romania to submit, without further delay, all outstanding reports to the Committee against Torture, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on Economic, Social and Cultural Rights.*

C. Promotion and protection of human rights on the ground

Secret detention centres and renditions

3. There is strong evidence to suggest that Romania may have hosted a US detention facility on its territory in which individuals were secretly detained, outside the rule of law, and that persons unlawfully deprived of their liberty were flown into and over the territory of Romania in the context of the US-led programme of renditions and secret detention. It is also alleged that Romanian state agents knew of, acquiesced in and facilitated these human rights violations. Amnesty International is concerned about these allegations and the ongoing failure of the Romanian authorities to ensure a truly independent, impartial, effective and thorough investigation into them. These concerns are shared by the European Parliament's Temporary Committee on allegations of illegal activity in Europe by the US Central Intelligence Agency, and the Rapporteur on secret detentions of the Parliamentary Assembly of the Council of Europe, Senator Dick Marty.
4. The European Union's Justice, Freedom and Security Commissioner, Franco Frattini, wrote to the Romanian authorities in July 2007 about this issue; among other things, he reportedly highlighted Romania's obligations under the European Convention on Human Rights to establish whether the

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

allegations were true and to provide details about any probes. A reply by Romanian authorities was received by the European Commission on 15 November 2007, but has not been made public.²

5. *Amnesty International calls on the Romanian government to initiate an effective and independent, impartial and thorough investigation into allegations that a secret detention facility was operated on the territory of Romania, that individuals were secretly detained in this facility, outside of the rule of law, and that persons unlawfully deprived of their liberty were flown into and over the territory of Romania in the context of the US-led renditions programme. The scope, manner and findings of the investigation should be made public.*

Discrimination against Roma

6. Despite Romania's commitment to the Decade of Roma Inclusion in 2005 -- an initiative by governments, intergovernmental and non-governmental organizations and Roma civil society -- aimed at eliminating the marginalization of Roma -- Roma continue to suffer discrimination at the hands of both public officials and private individuals, including in the areas of housing, education, health care and employment.³ Amnesty International is also concerned about the negative ways that Roma are portrayed in Romanian media and in speeches by high-level politicians. In March 2007, President Traian Băsescu reportedly called a journalist a "dirty gypsy" and later apologized. In November 2007 the Minister of Foreign Affairs, Adrian Cioroianu, stated in a televised debate that he had considered "buying a piece of land in the Egyptian desert to send there all the people who tarnish the country's image".⁴
7. In February 2006, the European Commission against Racism and Intolerance (ECRI) published its third report on Romania, noting *inter alia* the scarce application or knowledge by officials or the public of anti-discrimination legislation or the body set up to apply it.⁵ ECRI expressed concern about the publication, at the local level, of derogatory articles on minorities, particularly Roma, and the absence of an appropriate response by the authorities. ECRI recommended that the authorities fully apply the anti-discrimination legislation and Criminal Code provisions on racial hatred, and train judges, prosecutors, lawyers, members of law enforcement agencies and border police in combating discrimination.
8. Similarly, in its conclusions about Romania's implementation of the Framework Convention for the Protection of National Minorities, adopted in May 2007, the Committee of Ministers of the Council of Europe expressed concern about "the reported public manifestations of hostility and intolerance in the media, as well as in the statements made by certain members of public authorities [towards Roma] and, in spite of improvements in this area, in the conduct of certain members of the police".⁶
9. The law aimed at prevention and punishment of all forms of discrimination was amended in June 2006 to meet the requirements of the EU's Racial Equality Directive. However, as of the beginning of February 2008, the Parliament had yet to approve the draft law on the protection of ethnic minorities.⁷

² See <http://www.eubusiness.com/news-eu/1195139826.1/> and <http://news.bbc.co.uk/2/hi/europe/7097253.stm>

³ These concerns were noted as well by the Council of Europe's Committee of Ministers in the context of its review of Romania's implementation of the Framework Convention on National Minorities, *Resolution CM/ResCMN(2007)8 on the implementation of the Framework Convention for the Protection of National Minorities by Romania* at para 1 (b)

⁴ See *Amnesty International Report 2006*, AI Index: POL 10/001/2006, *Amnesty International Report 2007*, AI Index POL 10/001/2007 and *Europe and Central Asia: Concerns in Europe & Central Asia bulletin: January - June 2006*, AI Index: EUR 01/017/2006, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July - December 2006*, AI Index: EUR 01/001/2007, *Amnesty International Report 2007*, AI Index POL 10/001/2007 and *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: January-June 2007*, AI Index: EUR 01/010/2007.

⁵ See ECRI, *Third report on Romania*, CRI (2006)3.

⁶ See *Resolution CM/ResCMN (2007)8 on the implementation of the Framework Convention for the Protection of National Minorities by Romania*.

⁷ See *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July - December 2006*, AI Index: EUR 01/001/2007 and *Amnesty International Report 2007*, AI Index POL 10/001/2007.

10. Amnesty International calls on the Romanian government:

- to take appropriate and effective measures to eliminate discrimination, including violence, against Roma and to ensure that Roma are afforded access to education, housing, healthcare and employment, without discrimination;
- to ensure that the Romani community can enjoy their human rights in a safe environment free from intimidation, racial hatred and violence;
- to train the police, prosecution authorities and the judiciary on how to address complaints of racially motivated crimes;
- to ensure that officials refrain from making public statements which could be interpreted as encouraging discrimination against or targeting of individuals because of their ethnic origin, and to ensure that manifestations of racism and racial intolerance in the Romanian media are effectively addressed.

Police ill-treatment and unlawful use of fire arms

11. Despite some positive legislative amendments and reforms, Amnesty International continues to receive numerous reports of ill-treatment and excessive use of force by law enforcement officials in Romania. Reportedly, many of the victims of ill-treatment and unlawful use of firearms by police belong to the Roma community.⁸

12. Several cases reported between 2004 and 2006 resulted in the death of individuals, or in infliction of grave injuries.⁹ Amnesty International believes that in many incidents firearms were used by the police in circumstances which are prohibited by international principles on the use of force and firearms, such as the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Amnesty International notes that the use of firearms by police officers in disputed circumstances is a long-standing concern which the Romanian authorities have failed to effectively address through impartial and thorough investigations.¹⁰

13. According to reports by the Romani NGO Romani-CRISS, in August 2006, five Romani individuals were subjected to physical abuse during a joint operation by Bontida village police and Cluj county gendarmerie. Two of the Roma were minors who were allegedly prevented from contacting their parents while held at the police station. Both the police and gendarmerie denied any abuses. A complaint lodged by the men is still pending.¹¹ In September 2006, violent clashes between police and members of the Romani community reportedly resulted in the injury of two policemen and 36 Romani women, men and children. Members of the Romani community claimed that Special Forces officers provoked the violence by using excessive force, including by firing rubber bullets and tear gas. The initial police investigation cleared the officers of any wrongdoing. In November 2006, following a visit by two members of the European Parliament, the General Police Inspectorate opened a preliminary investigation into the incident. In July 2007, an incident was reported in the Ciurea community, Iași county, where 35 police cars had reportedly been dispatched to look for individuals who were subject to arrest warrants. As the community gathered outside their homes, three persons (aged 24, 15 and 13) were shot by the police and had to be taken to the hospital.

⁸ See *Amnesty International Report 2005*, AI Index: POL 10/001/2005

⁹ See *Amnesty International Report 2005*, AI Index: POL 10/001/2005, *Amnesty International Report 2006*, AI Index: POL 10/001/2006, *Europe and Central Asia: Concerns in Europe & Central Asia bulletin: January-June 2006*, AI Index: EUR 01/017/2006, *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July-December 2006*, AI Index: EUR 01/001/2007, and *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: January-June 2007*, AI Index: EUR 01/010/2007.

¹⁰ Amnesty International has expressed its concerns about the practice of the unlawful use of firearms by law enforcement officials in Romania since 1997. See *Romania: Excessive use of firearms by law enforcement officials and the need for legal reform*, AI Index: EUR 39/003/2000, *Romania: Further reports of unlawful use of firearms by law enforcement officials*, AI Index: EUR 39/006/2003, *Romania: Continuing reports of unlawful use of firearms by law enforcement officials*, AI Index: EUR 39/001/2005, *Bulgaria and Romania: Amnesty International's Human Rights Concerns in the EU Accession Countries*, AI Index: EUR 02/001/2005.

¹¹ See *Amnesty International Report 2007*, AI Index POL 10/001/2007 and *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: July - December 2006*, AI Index: EUR 01/001/2007

Unlawful killings of demonstrators by Romanian members of UNMIK Civilian Police

14. An investigation by the UN Interim Administration Mission in Kosovo (UNMIK) Department of Justice into the deaths of two men and the serious injury of another during a demonstration on 10 February 2007 in Pristina, Kosovo, established that the deaths and injuries had occurred as a result of the improper deployment of out-of-date rubber bullets by members of the Romanian Formed Police Unit (FPU), who had been deployed to the largely non-violent demonstration. The reports of the investigation also criticised the complete breakdown of UNMIK police's command and control operation on 10 February 2007.
15. Eleven members of the Romanian Special Police Unit, who were reportedly in possession of information crucial to the investigation and had previously been questioned as witnesses by investigators, were repatriated from Kosovo on 21 March 2007.¹² The Romanian Ministry of Interior notified Amnesty International in July 2007 that the officers remained available to provide support to the authorities investigating the case, but considered that there was "no legal/judicial ground for the eleven Romanian gendarmes to return to Kosovo", as there was no pending criminal trial in Kosovo and the officers had provided information to the investigation. However, the authorities informed Amnesty International that a penal investigation had been opened and was being conducted by a military prosecutor in Romania.
16. In June 2007, UNMIK published a further report stating that "unnecessary and unjustified deaths" had been directly and proximately due to the improper deployment of the rubber bullets by at least one or perhaps two of the Romanian FPU members; the investigation had, however, been unable to identify further which member(s) of the FPU was responsible.¹³
17. *Amnesty International urges the Romanian government:*
- *to bring the legislation on the use of firearms by law enforcement officials in line with relevant international standards, including the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;*
 - *to train police officers to respect the principles of necessity and proportionality at all times when using any kind of force, consistent with international;*
 - *to ensure that thorough and impartial investigations are carried out into each incident in which a law enforcement official discharges a firearm and into allegations of ill-treatment by law enforcement officials; ensure that those responsible for contravening national and/or international standards are brought to justice in fair proceedings; ensure that victims of misconduct receive reparation; and ensure that the results of such investigations and proceedings are made public;*

 - *to return to Kosovo the 11 Romanian police officers who were repatriated in March 2007, or ensure that UNMIK officials are given access to them in Romania; ensure that any individual responsible for violations of law, regulations or standards is brought to justice in fair proceedings; and ensure that the families of the deceased victims and the injured victim receive adequate reparation.*

Concerns on Mental Health care

18. Amnesty International is concerned that the placement, living conditions and treatment of patients in many psychiatric wards and hospitals violate international human rights standards.¹⁴ In 2004, Amnesty International sent a Memorandum to the Romanian government urging it to immediately address the

¹² See Public statement: *Amnesty International calls for full transparency in UNMIK inquiry into deaths of Mon Balaj and Arbën Xheladini*, AI Index: EUR 70/002/2007, and Public statement: *Kosovo (Serbia): Romanian police and UNMIK must be brought to account for the deaths of demonstrators in Kosovo*, AI Index: EUR 70/010/2007.

¹³ *Second Report of the Special Prosecutor to the SRSG regarding the death and serious wounding of protestors during the 10 February 2007 demonstration in Pristina* (known as the Dean Report, dated 29 June 2007).

¹⁴ See CRJ & UNICEF, *Monitoring the rights of mentally disabled children and young people in public institutions, 2007 and Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: January-June 2007*, AI Index: EUR 01/010/2007
Amnesty International AI Index: EUR 39/001/2008

alarming situation in psychiatric wards and hospitals.¹⁵ The organization denounced the practice of subjecting individuals to involuntary psychiatric treatment without medical grounds and the deplorable conditions to which such persons were subjected.

19. In 2004, 18 patients were reported to have died in a hospital in Poiana Mare, most of them as a result of malnutrition and hypothermia.¹⁶ Despite the evidence suggesting that the deaths had occurred in suspicious circumstances (absence of medical records of patients, misdiagnosis and inadequate treatment, non-execution of a post-mortem examination to determine the cause of death), in February 2005, Romania's General Prosecutor decided to close the case of deaths in Poiana Mare, as a result of not having established a link between the deaths and the personnel's treatment of the patients. Following this decision, the Romanian Centre of Legal Resources (*Centrul de Resurse Juridice, CRJ*) filed a complaint requesting the re-opening of the case. In October 2007, the CRJ filed another complaint with the Prosecutor's Office of the Supreme Court against its decision to close the investigation.

20. *Amnesty International urges the Romanian government:*

- *to ensure that adequate standards for in-patient living conditions are established and maintained. Specific attention must be paid to patients' diet, hygiene and therapies, and ensuring adequate levels of staffing by medical and non-medical personnel with appropriate training;*
- *to ensure that all deaths of patients and residents in psychiatric units are properly recorded; and that the information is reported to and collected by national authorities and published; and that all deaths of persons in psychiatric wards and hospitals are thoroughly, independently and impartially investigated and any persons responsible for misconduct brought to justice.*

Identity-based violations

21. The lesbian, gay, bisexual and transgender (LGBT) community in Romania continues to suffer identity-based discrimination. A parade called the *Gayfest*, organized every year in May/June by the LGBT community, has been opposed by the Orthodox Church and the local authorities on several occasions.¹⁷ Those participating in the parade have been attacked by counter-demonstrators throwing eggs, stones and plastic bottles at the marchers, necessitating police protection.

22. *Amnesty International calls on the Romanian government:*

- *to ensure thorough, independent and impartial investigations into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity and to bring to justice those responsible in accordance with international standards of fair trial;*
- *to ensure that no authorities make public statements which could be interpreted as encouraging discrimination against or targeting of individuals because of their sexual orientation or gender identity;*
- *to actively promote the rights to freedom of expression, association and assembly without discrimination at all levels of government.*

¹⁵ *Romania: Memorandum to the government concerning inpatient psychiatric treatment* (AI Index: EUR 39/003/2004) and *Bulgaria and Romania, Amnesty International's Human Rights Concerns in the EU Accession Countries*, AI Index: EUR 02/001/2005.

¹⁶ A delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading or Punishment (CPT), created under the Council of Europe Convention for the Prevention of Torture, visited Poiana Mare hospital during its mission to Romania in June 2004 and raised similar concerns with the Romanian Ministry of Health.

¹⁷ See *Europe and Central Asia: Concerns in Europe & Central Asia bulletin: January - June 2005*, AI Index: EUR 01/012/2005, *Amnesty International Report 2005*, AI Index: POL 10/001/2005, *Europe and Central Asia: Concerns in Europe & Central Asia bulletin: January - June 2006*, AI Index: EUR 01/017/2006 and *Europe and Central Asia: Summary of Amnesty International's Concerns in the Region: January-June 2007*, AI Index: EUR 01/010/2007

Appendix: Amnesty International documents for further reference

Secret detention centres and renditions

Tomorrow's CIA vote in European Parliament should mark beginning of accountability, AI Index: IOR 61/005/2007

Amnesty International's reaction to Council of Europe's report on renditions, AI Index: IOR 30/013/2007

Poland and Romania: Take responsibility for secret detention sites, AI Index: EUR 37/003/2007

Unlawful use of fire arms

Public statement: *Amnesty International calls for full transparency in UNMIK inquiry into deaths of Mon Balaj and Arbën Xheladini*, AI Index: EUR 70/002/2007

Public statement: *Kosovo (Serbia): Romanian police and UNMIK must be brought to account for the deaths of demonstrators in Kosovo*, AI Index: EUR 70/010/2007

General background

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