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State duty to effectively investigate deaths in psychiatric institutions

Amnesty International has long been seriously concerned that the placement, living conditions and treatment of patients in many psychiatric wards and hospitals in Romania are in violation of international human rights standards and best professional practice in this field. In one of the most tragic recent incidents illustrative of such concerns, in the two first months of 2004, 17 patients died (13 in January and 4 in February) at a psychiatric hospital in Poiana Mare in southern Romania, most of them reportedly of malnutrition and hypothermia.

Following the deaths, Amnesty International issued an Urgent Appeal calling on Romanian government to immediately provide the hospital with adequate food, heating fuel and medication to prevent further deaths. The organization also stressed the importance of conducting a prompt, thorough, impartial and independent public investigation into the events, which would bring anyone reasonably suspected of committing a criminal offence to justice.

In its subsequent Memorandum to the government, Amnesty International reiterated its concerns that the situation in Poiana Mare was not an exception in the Romanian health care system, but an indication of how the placement, living conditions and treatment of patients and residents in many psychiatric wards and hospitals in Romania violated international human rights standards and best professional practice in the field, such as the prohibition of torture and inhuman or degrading treatment (Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and Article 3 of the European Convention on Human Rights (ECHR)), and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)).

Following various appeals and interventions by the international community, the living conditions at the hospital in Poiana Mare have reportedly improved. The Minister of Health also recently announced that Poiana Mare hospital will be closed. However, the situation of the investigations of those who died in the beginning of 2004 remained largely unaddressed by the Romanian authorities.

Investigations so far

June 2004 - an inquiry was initiated by the Prosecutor's Office attached to the Dolj Tribunal (regional prosecutor's office), who decided not to commence criminal pursuit of the events.

August 2004 - the Prosecutor's Office attached to the High Court of Cassation and Justice (State Prosecutor's Office) annulled the previous decision and ordered investigations of the cases of 17 deceased patients to be completed.

February 2005 - the State Prosecutor's Office closed criminal investigations having found no causal link between deaths of patients and inadequate treatment provided to them.

August 2005 - following objections from the human rights monitors, including Amnesty International, the State Prosecutor's Office ordered verification of the legality of previous decisions to close criminal investigations.

State duty to investigate the deaths in Poiana Mare hospital

It has been established through research conducted by Amnesty International, information received from its Romanian counterparts and the documents provided by the State Prosecutor's Office that:

- living conditions of patients of Poiana Mare hospital were similar to those amounting to inhuman and degrading treatment;
- cases of misdiagnosis of patients have taken place;
- inadequate medical treatment of patients has taken place on some occasions;
- reports about the cause of deaths of some patients were confusing and not properly established;
- the number of patients' deaths (around 100 deaths per a year in an institution with an average population of 500) compares unfavourably with other psychiatric institutions in Romania which experience five to six deaths a year.

Amnesty International believes that the above-mentioned factors warrant a prompt, impartial and effective investigation into deaths of Poiana Mare patients. However, the organization is concerned that the investigation undertaken by the Romanian authorities into deaths of patients in Poiana Mare hospital has so far been inadequate. Under international human rights law, the national authorities are obliged to conduct effective investigation when an individual's right to life has been violated by a governmental body or a private individual. Moreover, the state is under an exceptional duty to protect individuals who find themselves in a vulnerable position as a result of their placement in state custody, including medical care.

In the context of the events in Poiana Mare, Amnesty International believes that it is appropriate to emphasize the following elements of the investigation:

a. The apparent unwillingness or slowness in conducting the investigation:

Seventeen patients of Poiana Mare hospital died in January and February 2004. The criminal investigation by the regional prosecutor's office was initiated only in June 2004 and swiftly closed by the prosecutor. In August 2004, following repeated written objections from human rights organizations, the General Prosecutor's Office ordered a new investigation into Poiana Mare deaths. The decision not to proceed with the criminal case was announced in February 2005.

Amnesty International believes that the delays are contrary to the requirement to hold a prompt investigation.

b. The execution of autopsies:

The investigation uncovered that the medical records of patients were not duly kept at Poiana Mare hospital; cases of misdiagnosis of patients who later died were frequent; administration of medication to patients was not always correct or sufficient. All these circumstances demonstrate the need for a thorough post-mortem examination of patients in order to determine the exact cause of their deaths. Amnesty International believes that had adequate autopsies been performed on all patients of Poiana Mare who died in January-February 2004 in a timely manner, the findings regarding the cause of their deaths would have been more precise allowing the investigation to establish with certainty the exact cause of death of patients concerned. There is reasonable ground to suggest that investigations were not thorough.

c. The collection of evidence:

Conclusions of any investigation into a suspicious death must always be representative of the views of all interested parties. A decision based entirely on an expert opinion that contains only general evaluations, rather than technical findings, and completely disregards information from one of parties, may be found invalid. The family of the victim must be involved in the procedure to the extent necessary to safeguard their legitimate interests.

Amnesty International considers that reliance on evidence presented by only one party, i.e personnel of the hospital, is insufficient for the purpose of effective investigation. Failure to obtain evidence from all key witnesses, including NGO monitors that may hold relevant information, must be rectified by the Romanian authorities. There is a reasonable ground to suggest that investigations were not impartial.

d. Regarding the lack of public scrutiny:

It is understood that the investigation was conducted without properly informing the interested parties of the general public of its progress. This practice may be against the recognized standard, whereby the public interest warrants the widest possible exposure of investigations into deaths of vulnerable individuals who lost their lives as a result of the failure by public bodies to safeguard their welfare. Therefore, a lack of public scrutiny, including inadequate justification for the decision taken by the authorities is a factor that diminishes effectiveness of an investigation.

Amnesty International believes that the above-mentioned circumstances of deaths in Poiana Mare hospital, call for the highest degree of public scrutiny.

Some of the cases

The following are some of the cases of patients who died in Poiana Mare hospital in early 2004 and are used as an illustration of Amnesty International's concerns.

The death of Miorița Malacu

Miorița Malacu was admitted to Poiana Mare hospital in 1990 at the age of 18. She died at the age of 32 on 7 February 2004. The cause of death was initially given as acute myocardial infarct, which was determined without performing an autopsy or forensic examination of the deceased. The reasons given by the doctor for not performing an

autopsy was her reported lack of awareness of the procedure and lack of suspicion as to the cause of the patient's death. The legal-medical team that was later appointed to examine the death of Miorița Malacu was not able to do so on the basis of the existing medical records, therefore exhumation of the body was recommended. The subsequent autopsy of Miorița Malacu, performed on a date not known to Amnesty International, showed that the initially stated cause of death was not compatible with the symptomatology and the evolution of Miorița Malacu's illness. Septicaemia with multiple starting points and acute immune deficiency was suggested as the revised cause of death. This finding suggests that the personnel of Poiana Mare hospital had failed to diagnose and treat an infection that Miorița Malacu was suffering from, that ultimately led to her death.

The death of Pârjol Costea

Pârjol Costea, aged 48, was diagnosed with inflammation of the digestive tract after complaining of abdominal pain. Although the doctor admitted that the symptoms of abdominal pain and cardiac condition were very similar, Pârjol Costea was never tested or treated for a heart disease. He died on 5 February 2004 of alleged acute myocardial attack. The autopsy was never performed to determine whether misdiagnosis of the patient contributed to his premature death.

The death of Dumitru Ticu

Dumitru Ticu, aged 62, was kept in Poiana Mare hospital during 1996 – 2004 and was diagnosed with paranoid schizophrenia. The clinical file recorded that he had cardiac and pulmonary stasis from 8 December 2003 till 19 December 2003. He was later diagnosed with an infected cyst on the right side of the thorax. His general health deteriorated and he suffered from physical weakness, abnormally low body weight and lack of appetite. On 23 January 2004 he was sent to Calafat hospital to have the cyst operated and was returned to Poiana Mare the same day. He was kept under medical care until he died on 28 January 2004. The cause of his death was given as acute myocardial infarct but an autopsy was not performed.

The death of Maricica Barbu

Miricica Barbu, aged 34, died on 15 January 2004 in Section 3 Psychiatric Ward at Poiana Mare hospital after staying in the hospital since 1985. She was diagnosed with third degree retardation and infantile encephalon illness. During her time in the hospital the patient was unco-operative and restless and was therefore given sedatives and tranquilizers plus antibiotics for somatic affections. On 12 January 2004 a swelling appeared in the eye socket region. On 15 January 2004 her health degenerated and her breathing became irregular. She was given glucose, vitamins and antibiotics plus the usual sedatives but she died on the same day. No autopsy was performed although the law requires it.

The death of Ovidiu Falcan

Ovidiu Falcan, aged 34, was hospitalised in Section 1 Psychiatric Ward at Poiana Mare hospital after being diagnosed with paranoid schizophrenia. From 6 January 2004 onwards, communication with Ovidiu Falcan became difficult and the general condition of the patient worsened. He was therefore sent to Calafat Polyclinic for consultation. On

14 January 2004 he was sent to District Hospital Craiova, Emergency Service, where he remained under permanent observation and continued with the previous medication until 16 January 2004 when he was taken back to Poiana Mare hospital. His health did not improve and in spite of the treatment with antibiotics and vitamins, Ovidiu Falcan died on 1 February 2004. The autopsy found no signs of violence. The forensic report concluded that the death of Ovidiu Falcan was caused by acute cardiac respiratory deficiency.

The death of Viorel Cristinel Tranca and Ion Radu

Viorel Cristinel Tranca, aged 37, and Ion Radu, aged 70, were hospitalised for a long time in Section 2 Psychiatric Ward of Poiana Mare hospital with serious psychiatric problems. In January 2004 their health worsened and they were put on medication for respiratory deficiencies but they both died. In both cases an autopsy was performed to decide the cause of death. According to the medical report, Viorel Cristinel Tranca's death was caused by cardiac respiratory deficiency and bronchopneumonia. The external examination of the body identified two bruises on the left hand and the left knee which could have been caused by hard objects and could have needed two to three days of medical care, but they reportedly have nothing to do with the cause of death.

According to Ion Radu's medical report, the cause of his death was also cardiac respiratory deficiency and bronchopneumonia. There were some lesions on the left cheek and the left lower leg which could have been caused by a fall or contact with a hard object but have allegedly nothing to do with the cause of death.

The death of Maria Bestea

Maria Bestea, aged 66, died on 17 January 2004 in Section 3 Psychiatric Ward of Poiana Mare hospital, where she had been hospitalised since 1995 with chronic paranoid schizophrenia. Although compulsory by law, an autopsy was not performed because the doctor who was in charge at the time did not have any suspicions about the cause of death and was not familiar with the law. The investigation and the evaluation were made based on already existing medical reports. The medical report stated that Maria Bestea had an abnormal swelling of the oesophagus which made the intake of normal nutrition impossible. The normal nutrition was replaced by vitamins and intravenous glucose but a malnutrition syndrome appeared which affected internal organs. The report said these could have been the causes of cardiac insufficiency.

Conclusion and recommendations

In the view of the above, Amnesty International calls on the Romanian authorities to ensure that the investigations into the deaths of patients that occurred in January - February 2004 in Poiana Mare psychiatric hospital are effective and transparent. Specifically, Amnesty International urges the Romanian authorities:

1. to refrain from further delaying the investigations;
2. to respect the procedural guarantees under international human rights instruments for an independent, thorough and effective investigation;
3. to ensure that if appropriate, autopsies are performed by a qualified specialist to establish with certainty the medical history and causes of deaths of all patients of Poiana Mare hospital who died in suspicious circumstances in January – February 2004;
4. to ensure that all interested parties, including the families and friends of the

deceased persons, as well as independent monitoring organizations, are informed about the progress of the investigations;

5. to ensure that the findings of the investigation are based entirely on the facts and confirmed evidence that have been collected objectively and thoroughly;

6. to guarantee that the results of the investigation are made public in accordance with the principle of public scrutiny.

7. to ensure that relatives of the deceased have, where appropriate, access to reparation, including compensation.