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Romania: Death in suspicious circumstances of MARIAN PREDICĂ

Amnesty International's Concerns

Amnesty International has investigated yet another report from Romania about a death in custody in suspicious circumstances. Marian Predică died on 5 October 2003 at the Bucharest University Hospital where he had been brought from the Rahova Penitentiary Hospital. The organization is concerned that the government failed to ensure the protection of the internationally recognized fundamental right to life and freedom from torture and cruel, inhuman and degrading treatment or punishment; to take effective measures to prevent the death in custody of Marian Predică; and to carry out impartial, independent and thorough investigations into his death and to bring to justice those responsible.

The death in suspicious circumstances of Marian Predică

Marian Predică, born on 11 August 1983, was arrested on 20 March 2000 and sentenced to a prison term of one and a half years for stealing car radios and spare wheels. He was held at Ganesti correctional institution for minors and then sent to Rahova Penitentiary on 11 September 2003. According to the penitentiary director and doctor, on the morning of 1 October 2003 the detainee lost consciousness in the cell and appeared to have symptoms of epilepsy. Marian Predică was sent to the Rahova Penitentiary Hospital which referred him to the Bucharest University Hospital (also known as the Municipal Hospital) to be examined by specialists. On the way to the hospital the detainee had reportedly experienced another crisis and it was evident that his state was deteriorating. He was immediately taken to the Intensive Care Unit where he died on 5 October 2003. On the same day Rahova Penitentiary contacted the Bucharest Prosecutor in order to establish the cause and circumstances of the death. The preliminary inquiry carried out by the Penitentiary indicated that there were no suspicious circumstances regarding Marian Predică's death. On 26 January 2004, the military prosecutor, who would be responsible to investigate any offence committed by the penitentiary guards, decided not to initiate

any criminal proceedings and to refer the case to a civilian prosecutor for further examination.

The report of the post-mortem examination, a copy of which was obtained by Amnesty International, stated that Marian Predică's death was caused by violence. It identified a fracture of the nasal bone, brain haemorrhage, injuries on his lower lip, bruises on the face and on the left side of the chest and pelvic area and lesions on the left hand and leg. The report also noted that the traumatic injuries could have been caused by a blow in the facial region with a heavy object which caused him to fall onto a hard surface and that this had occurred several days before he was admitted to the hospital. It concluded that there was a direct link between the head injuries and the death and that these injuries required early specialist treatment.

According to information from Ion Predică, Marian's father, on 6 October 2003 at around 8.30am two police officers from Section 23 came to his home and asked him to go urgently to the Rahova Penitentiary. At the Rahova Penitentiary he was told by the doctor that his son had died and that his body was at the Municipal Hospital. He asked the doctor how it had happened and she reportedly replied that Marian Predică had slipped and had a brain concussion.

Ion Predică then went to the Municipal Hospital where his son's body was guarded in the hospital morgue by an officer of the Rahova penitentiary. Later that day a nurse told Ion Predică and his wife that Marian Predică had reportedly fallen to the ground and suffered a concussion. They were also informed that they could not take their son's body home as he was a detainee and was to be buried by the municipality.

On 7 October at around 7.30am Ion Predică went to the Institute of Forensic Medicine (*Institutul de Medicină Legală – IML*) to inquire about the cause of death of his son and was told that his son's body had not yet arrived. On the next day Ion Predică returned to the hospital but was unable to obtain any information about the cause of death of his son. At the Hospital Directorate he was told that this information was confidential because Marian Predică had died in detention¹. Together with his sons, Ion Predică went back to IML where the forensic doctor reportedly told them that on his son's body there had been signs of injuries suffered as a result of some violent act.

On 9 October 2003 Ion Predică, together with his wife, his son Marcel and another relative took Marian Predică's body from IML. None of them could recognize him as his face was disfigured and his hair had been shaved off. His hands had marks of handcuffs and his left hand had a lesion in the handcuffed area.

On 14 and 21 October 2003 Ion Predică attempted unsuccessfully to speak with the penitentiary director.

Ion Predică told a representative of Amnesty International that on 21 September 2003 he had visited his son at the penitentiary and that he was in good health and had no history of any illness which would require hospitalization or medical treatment. On 25 September 2003 Marian Predică attended a hearing at the Supreme Court for sentencing and he was still healthy. At the hearing he was sentenced to a term which was less than what he had already served but he apparently had another on-going case. Marian Predică and N.N², a co-defendant, apparently cheered at the sentence, which reportedly displeased the guards. N.N. was reportedly beaten following the hearing on 25 September 2003.

¹ In August 2003 the Ministry of Justice and the Ministry of Health issued a joint order regarding the establishment of joint commissions to analyse deaths that occur in the penitentiary system. According to this order, the "conclusions concerning the provision of services and medical treatment are a state secret".

² His identity is known to Amnesty International.

On 3 November 2003 a representative of Amnesty International visited Rahova Penitentiary and spoke to the director. The director said that Marian Predică had been brought from Jilava on 12 September 2003 and placed in Section 6. He was taken to hospital on 1 October 2003. Up to this time nothing unusual had happened to him. But on that date he appeared to have experienced an epileptic seizure and was taken to the surgical ward in the penitentiary hospital where it was decided to take the detainee to an emergency hospital. Manual resuscitation measures were reportedly taken but Marian Predică entered into initial stages of a coma. He was taken to the Municipal Hospital within an hour after the symptoms became noticeable. There were reportedly no external signs of injury and no signs of trauma. When questioned whether Marian Predică's hair had been shaved off as a disciplinary punishment, the director denied that such punishment is practical in the penitentiary. According to the director, his hair had been shaved in preparation for a brain scan at the Municipal Hospital. When the Amnesty International representative questioned the director why the family had not been notified that Marian Predică had been hospitalized, her reply was that there is no legal obligation to notify them in such circumstances. Their only duty is to provide the medical treatment.

Amnesty International's representative also spoke to N.N. who was arrested together with Marian Predică. They were initially held at Ganesti and then in Jilava. They were reportedly beaten by officers in Sector 10 Police Station in the course of the investigation before they were taken to Ganesti. He stated that Marian Predică was not an aggressive person and that it is unlikely that he would get into a fight with another detainee. After they were separated they exchanged letters. He is sure that Marian Predică was beaten by the special intervention unit in Rahova after the hearing in the Supreme Court. The special intervention unit – also referred to as the masked unit – reportedly raids cells of detainees and beats anyone who complains. After the hearing on 25 September 2003 N.N. had been playing in the waiting room with a piece of rope when two masked officers handcuffed him and held him by the arms and the neck. He was then returned to prison where he was taken to the barber and had his hair shaved off. At the time of the interview in November 2003, N.N.'s hair was very short. This is reportedly a usual punishment. Another detainee who reportedly asked for medical treatment during the night was taken out and his hair was shaved off. N.N. had reportedly also been beaten on another occasion when masked officers raided the cell and found some alcohol he had managed to buy for his birthday.

A recent ruling of the European Court of Human Rights (ECHR) has established that forced shaving of a detainee's hair may amount to degrading treatment prohibited by the European Convention of Human Rights under the provision of Article 3. The ECHR has found that "a prisoner whose head had been shaved forcibly would be very likely to experience a feeling of inferiority. Evidence of the treatment inflicted would also be immediately visible to others, including prison staff, co-detainees and visitors or the public, if the prisoner was released or brought into a public place soon afterwards". The Court further noted that "the forced shaving of detainees' hair was in principle an act which might have the effect of diminishing their human dignity or might arouse in them feelings of inferiority capable of humiliating and debasing them" (*Yankov vs. Bulgaria* [December 2003]).

Amnesty International is also concerned that the government is failing in its obligation to protect the right to life under Article 2 of the European Convention on Human Rights (ECHR). Because of its fundamental nature, full implementation of the right to life under the ECHR means that the state is under an obligation to protect the right to life and to provide an effective remedy in case of violation. Accordingly, the European Court of Human Rights has ruled that the state is under an obligation to respond diligently to any breaches, including not only by paying compensation, but also, when an individual

dies in suspicious circumstances, by ensuring that a thorough and effective investigation is carried out.

Amnesty International's Recommendations

Amnesty International urges the Romanian government:

- to ensure that an impartial and thorough investigation is conducted into the death in custody in suspicious circumstances of Marian Predică;
- to instruct law enforcement agencies to give the investigating and prosecuting authorities their full cooperation in order to establish the facts of this case;
- to instruct the Minister of Interior to conduct a thorough internal investigation into the Special Intervention Unit in order to identify alleged perpetrators of ill-treatment and intimidation;
- to make public full reports of the investigations and to bring to justice anyone suspected of having committed human rights violations;
- in order to prevent ill-treatment, to ensure that the rights of detainees are adhered to from the onset of custody. These include:
 - Ythe right to be informed of the reasons for arrest;
 - Ythe right to legal counsel;
 - Ythe right to inform family of arrest or detention and place of confinement;
 - Ythe right to be examined by a doctor and to receive adequate medical care.
- To instruct all places of detention, including correctional institutions for minors, that forced shaving of the head as a disciplinary measure is in breach of international law and should not be practiced.