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EXTERNAL



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ROMANIA: MARIANA CETINER - PRISONER OF CONSCIENCE

Amnesty International Concerns:

Amnesty International is concerned that Mariana Cetiner, who was convicted under Article 200, paragraph 5, of the Romanian Penal Code for attempting to seduce another woman, has been imprisoned solely because of her homosexuality. The organization is also concerned that Mariana Cetiner was reportedly ill-treated by prison guards in the Târgșor penitentiary.

Background: According to information from Human Rights Watch (HRW) and the International Gay and Lesbian Human rights Commission (IGLHRC), Mariana Cetiner, a 40-year-old woman, was arrested on 6 October 1995 in Alba Iulia and held in pre-trial detention for reportedly attempting to seduce another woman. In May 1996 she was indicted under Article 200, paragraph 4, of the Penal Code then in force, which made it an offence punishable by one to five years' imprisonment to entice or seduce another person of the same sex, and under Article 192, paragraph 1, for trespassing on private property. On 17 June 1996, Alba Iulia court found Mariana Cetiner guilty of both charges and sentenced her to three years' imprisonment. In January 1997, ruling on her appeal, Alba court acquitted Mariana Cetiner of all charges. She was released on 15 January 1997 from prison, where she had been held since her arrest. However, on 6 May 1997, following an appeal by the public prosecutor, Alba Iulia Appellate Court reversed the decision of Alba court and ordered Mariana Cetiner to serve the remainder of the three-year prison sentence. In convicting her under what had latterly become paragraph 5 of Article 200, the court concluded that: "The submitted evidence confirms without doubt that the accused committed an offence provided for in the final paragraph of Article 200, by attempting to seduce X, the victim, to practice sexual acts between persons of the same sex, and this fact became known to other people, who were indignant at the attitude of the accused,

provoking sentiments of repulsion”. Ten days later Mariana Cetiner was re-arrested and began serving the remainder of the sentence.

In August and September 1995, Mariana Cetiner had been sharing an apartment in Alba Iulia with X and another women. She had reportedly loaned a large sum of money to X, with whom she shared a room and who subsequently filed a criminal complaint against her. X subsequently claimed that Mariana Cetiner had on several occasions expressed affections for her and that a number of people found out about Mariana’s alleged homosexual orientation and her approaches. In October 1995 Mariana Cetiner, accompanied by a man, reportedly returned to the apartment to seek the return of her money. She left the apartment after its owner went to call the police, who on the following day arrested Mariana Cetiner.

Amnesty International considers individuals imprisoned solely because of their homosexuality, including the practice of consensual homosexual acts between adults in private, to be prisoners of conscience. The provisions of Article 200, paragraph 1, of the Penal Code, which was amended in October 1996, prohibit homosexual relations between consenting adults “if the act was committed in public or has produced public scandal”. Paragraph 5 of the same law makes it an offence, punishable by sentence of one to five years’ imprisonment “to entice or seduce a person to practise same sex acts, as well as to form propaganda associations, or to engage in other forms of proselytizing with the same aim”. In its *Open letter from Amnesty International to the President, the Government and the Members of the Parliament* (AI Index: 39/22/96), published in November 1996, Amnesty International had expressed concern about the revised provisions of Article 200, paragraphs 1 and 5 of the Romanian Penal Code, because their vague and ambiguous wording could continue to lead to the imprisonment of adults solely for engaging in consensual homosexual relations between adults in private, as well as to the imprisonment of individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association. Amnesty International urged the Romanian authorities to reconsider these and a number of other amendments to the Penal Code and to initiate their legislative revision in order to ensure that they are consistent with Romania’s legal obligations under international human rights treaties.

Furthermore, Amnesty International is concerned about a report that Mariana Cetiner has been ill-treated by prison guards in Târgșor penitentiary. In June 1997 representatives of HRW and IGLHRC interviewed Mariana Cetiner in Târgșor penitentiary. She told them how an officer had beaten her the day before because she had filed a complaint: “He handcuffed me and pulled me out of my cell by the hair. I have much to say but it is forbidden. When you leave, I will have big problems”. She had a large bruise on her right thigh and her knee was bandaged.

If confirmed, the alleged ill-treatment of Mariana Cetiner would represent a violation of Romania's international treaty obligations. These include Article 7 of the International Covenant on Civil and Political Rights and Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which state that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

As a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Romania is bound to initiate a prompt and impartial investigation whenever an individual has alleged that torture or other ill-treatment has occurred or, even if no complaint has been made, there are reasonable grounds to believe that such ill-treatment has occurred.

Amnesty International's Recommendations:

Amnesty International considers Mariana Cetiner to be a prisoner of conscience and urges the Romanian authorities to immediately and unconditionally release her. Amnesty also continues to urge the Romanian authorities to repeal the provisions of Article 200, paragraphs 1 and 5, ensuring that no one is imprisoned solely because of their homosexuality. Amnesty International appeals to the Romanian authorities to initiate a full and impartial investigation into allegations of ill-treatment of Mariana Cetiner by prison guards during her detention, to make the results of the investigation public and to bring to justice anyone found responsible for human rights violations.