

Bulgaria and Romania

Amnesty International's Human Rights Concerns in the EU Accession Countries

The present briefing paper focuses on Amnesty International's concerns in relation to specific areas of inadequate human rights protection in Bulgaria and Romania.

Amnesty International takes no position *per se* on the accession of Bulgaria and Romania to the European Union. However, recognizing that the accession process has contributed to the improvement of the human rights framework in these countries, the organization urges the European Union to continue to monitor the countries' adherence to universal human rights standards. In particular, Amnesty International is focusing on issues such as the treatment of persons with mental disabilities, discrimination against Roma communities, and ill-treatment by law enforcement officials.

BULGARIA

The political criteria for accession to the European Union were laid down by the Copenhagen European Council in June 1993 and require that the candidate country has achieved "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities."

The European Commission concluded in its 1997 Opinion on Bulgaria's application for EU membership that Bulgaria had set up democratic institutions and was continuing to respect human rights and freedoms in accordance with Copenhagen political criteria. Police impunity and discrimination against Roma were the main areas of concern. In its 2004 Regular Report the European Commission, along with recognizing Bulgaria's efforts to guarantee protection of human rights to all individuals under its jurisdiction, continued to highlight outstanding human rights concerns, namely, ill-treatment by the police, conditions of detention and the situation of Roma.

Amnesty International notes significant positive developments in Bulgaria's framework of human rights protection, namely, in addressing discrimination and mental health reform. There are, however, continued concerns about the implementation of policies and continued violations of human rights of Roma, individuals in police custody and persons with mental disabilities.

Rights of persons with mental disabilities

Among the positive developments is the new Law on Health that entered into force on 1 January 2005 and dedicates Chapter 5 to the question of mental health. The new law stipulates that the treatment of persons with mental disabilities should be based, among others, on

principles of deinstitutionalization of patients and participation of non-governmental organizations in the process of treatment and social adaptation of individuals.

In addition, the new National Policy on Mental Health for 2004-2012, based on principles of human rights, a holistic approach and the fight against stigmatization and discrimination, and the detailed National Plan of Action for implementation of the Policy, have both contributed to the gradual improvement of the situation of mentally disabled persons in Bulgarian state institutions. It is also hoped that the two PHARE projects, on “Improvement of quality of life of people with mental disabilities”, and “Deinstitutionalization through provision of community based services for risk groups” will reflect the need to protect and promote the rights of all people with mental disabilities in Bulgaria.

Despite these positive changes, Amnesty International remains concerned that people with mental disabilities, who are placed in social care homes, are still not effectively protected from physical and mental abuse and provided with services in line with international human rights standards and best professional practice.

In order to provide safeguards against abuses of people with mental disabilities in social homes, and to improve their living conditions and care, Bulgaria must employ a comprehensive approach to ensure the affected persons are treated with humanity and respect, are protected against discrimination, exploitation and degrading treatment, and allowed their basic human rights under international law.

Dragash Voyvoda

As a result of Amnesty International’s action on poor living conditions and inadequate medical treatment of patients in Bulgarian social care homes and psychiatric hospitals launched in 2002¹, the hospital of Dragash Voyvoda in northern Bulgaria has been closed in August 2002 and its residents have been transferred to other institutions.

However, despite the slight improvement in material conditions for former residents of Dragash Voyvoda, many of Amnesty International’s concerns remain outstanding. None of the institutions the residents had been transferred to provides them with appropriate care, including adequate medical treatment and the men continue to be exposed to a considerable risk of physical and mental abuse. At least two men died as a result of inadequate safeguards to protect residents of social care homes from abuse by other residents.² The current situation of former residents of Dragash Voyvoda in social homes illustrates the failure to appropriately and effectively address the needs of the vast majority of people with mental disabilities, such as the need to put in place rules and procedures that would ensure that users of social care services are effectively protected from abuse.

¹ *Bulgaria: Far from the Eyes of the Society. Systematic Discrimination against People with Mental Disabilities* (AI Index: EUR 15/005/2002).

² Yoncho Filipov Lazarov died in Govezhda facility on 24 February 2004; Vasil Malinov died in Batoshevo social care home on March 2003. For more information, see *Bulgaria: Failings in the provision of care*, AI Index EUR 15/002/2005.

A delegation of the International Helsinki Federation (IHF) that visited Bulgarian psychiatric hospitals and social care homes concurred with Amnesty International's opinion that the institutions still lack facilities for adequate treatment and care for persons with mental disabilities.³

Dzhurkovo

Amnesty International has previously voiced its concerns about the treatment of underage residents of Dzhurkovo, the remote mountain institution caring for 70 children with mental disabilities. Until recently, living conditions in Dzhurkovo were so poor they amounted to cruel, inhuman or degrading treatment and resulted in deaths of six children and one 18-months-old from hypothermia, malnutrition and lung diseases in December 1995 – March 1997. The criminal case in the Plovdiv District Court against three members of staff of the institution regarding their indirect involvement in the deaths ended on 18 May 2005 in the acquittal of all three suspects. The Court failed to establish a causal link between the children's deaths and negligent performance of duties by the members of staff. It nevertheless declared that the inhumane living conditions in the institution were a result of neglect by the state that left the administration of Dzhurkovo without the means to pay for food and heating.

In 2004, Amnesty International reported that in spite of certain improvements in the furnishings and general care in Dzhurkovo, little has changed in the life of most children. Their needs remain inadequately assessed due to shortage of personnel and children's superficially drafted individual programmes. Rehabilitation and education of children of Dzhurkovo remains Amnesty International's outstanding concern.

Amnesty International is concerned that the tragedy in Dzhurkovo is an example of a violation by Bulgaria of customary international law, namely, the UN Convention on the Rights of the Child (1989). In particular, the provisions relating to the state duty to ensure to the maximum extent possible to the survival and development of the child (Article 6) and the recognition of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27), were violated.

Procedural rights in criminal proceedings and ill-treatment by the law enforcement authorities

Amnesty International notes the adoption on 25 August 2005 of the new Penal Code that aims at reforming the pre-trial phase of criminal jurisdiction to guarantee speedy, objective and transparent trial for all individuals. In addition, the Code of Criminal Procedure amended in April 2004 widens defendants' eligibility criteria for legal aid.

In 2004 the European Court of Human Rights issued a significant number of decisions concerning violations of the right to liberty and security of person and such procedural rights

³ See "Conditions in Prisons and Detention Facilities", report by the International Helsinki Federation, released on 4 April 2005.

of individuals in criminal proceedings as the right to a hearing within a reasonable time and the right to fair trial.⁴ In addition, the European Court of Human Rights delivered in 2004 a number of judgments concerning poor conditions of detention and the failure of authorities to conduct effective investigations into allegations of police ill-treatment⁵.

Amnesty International continued to receive reports of ill-treatment by law enforcement officials that in some instances amounted to torture (*see annex for the case of Boris Daskalov*). Many incidents resulted from the authorities' failure to respect such procedural rights of detainees as the right to be questioned in the presence of a lawyer.

Furthermore, allegations of excessive use of force by enforcement officials that led to deaths or serious injuries of individuals have been reported to Amnesty International (*see annex for cases of Kiril Stoyanov and Boris Mihailov*). This has been the consequence of the Bulgarian authorities' continuing failure to revise legal provisions on the use of firearms and to ensure that investigations into reported incidents are carried out independently and impartially.

Amnesty International's findings about ill-treatment in custody by the law enforcement authorities have been supported by recent reports produced by international monitors. In particular, the UN Committee against Torture expressed concern about "the absence in domestic law of a comprehensive definition of torture" and "numerous allegations of ill-treatment of persons in custody, in particular during police interviews, which may amount to torture and which disproportionately affect the Roma", as well as "the extremely poor material conditions prevailing in detention facilities"⁶.

In its 2004 report on places of detention in Bulgaria, the IHF found that the conditions of detention were inhuman in several detention facilities under the Ministry of Justice, especially in Plovdiv and Nova Zagora. According to the IHF, there were no effective mechanisms to deal with complaints of ill-treatment and inter-prisoner violence in Bulgaria. The quality of medical care, that is not integrated with the national healthcare system, was inadequate. In several facilities, prisoners were not offered any activities and had very limited contact with the outside world.

Discrimination against Roma

Allegations of ill-treatment and excessive use of force by the police disproportionately affect the Roma. Throughout 2004, Amnesty International has been regularly receiving reports about alleged indiscriminate arrests and ill-treatment of Roma by the police (*see annex for the case of Assen Zarev*).

In July 2005, the Grand Chamber of the European Court of Human Rights upheld the earlier decision of the Court in the landmark case of *Nachova vs. Bulgaria* that concerned a killing in 1996 by a major of the military police of two unarmed Romani men who had deserted from

⁴ See for example, *Belchev v Bulgaria* (ECHR Application 39270/98), *Hamanov v Bulgaria* (ECHR Application 44062/98), *Djanzozov v Bulgaria* (ECHR Application 45950/99).

⁵ See for example, *Toteva v Bulgaria* (ECHR Application 42027/98), *Iorgov v Bulgaria* (ECHR Application 40635/98).

⁶ UN document CAT/C/CR/32/6 of 11/06/2004, para 5.

the army. The Court unanimously found the Bulgarian state responsible for the deaths of the two men as well as the failure to conduct an effective official investigation, in violation of Article 2 (the right to life) in conjunction with Article 14 (prohibition of discrimination) of the European Convention for Protection of Human Rights and Fundamental Freedoms (ECHR). The Court held that the regulations whereby the military police was permitted to use lethal force when arresting unarmed individuals for a minor offence, were disproportionate and unnecessary, and constituted arbitrary deprivation of life.

According to the regional NGO European Roma Rights Centre, the Bulgarian courts were quick to put the Law on Protection from Discrimination, which was adopted in December 2003, to practical use and to issue a series of landmark judgments in cases of discrimination against Roma. The most recent is the decision of 27 June 2005 in the case of a group of Romani individuals who were refused service by the staff of a restaurant in Blagoevgrad, whilst non-Romani customers who arrived after them were served. Under the new Law, the respondent had to rebut the inference of discrimination by proving that the Romani customers were not treated differently because of the racial element, which he failed to do. The discrimination was therefore established.

Despite the positive effect of the anti-discrimination law in some cases, racist assaults on Roma by non-state actors have been on the increase in Sofia since 2004. The assaults have been usually perpetrated by youths, belonging to so-called “skinhead” groups, aged between 16 and 23. Often the incidents were not effectively investigated. Local human rights organizations have called for better policing in Romani neighbourhoods and known meeting-places of “skinheads”.

In January 2005 the European Commission against Racism and Intolerance (ECRI) published its third report examining racism, xenophobia, anti-Semitism and intolerance in Bulgaria⁷. The ECRI concluded that there were still stereotypes, prejudices and discrimination against minority groups, particularly Roma, as well as against immigrants, refugees and asylum-seekers. ECRI also highlighted the problem of segregation of Roma children in schools. The vast majority of children from the Roma community receive substandard education in ethnically segregated schools. In October 2004 the National Assembly rejected a draft law to establish a fund for the educational integration of children from ethnic minority communities, aimed to ensure equal access to education.

Forced evictions in Sofia

In September 2005, Amnesty International expressed its concern in relation to the forced evictions of over 150 ethnic Roma from Vuzrazhdane municipality of Sofia. On 31 August 2005, at least 24 Romani homes in Hristo Botev municipality of Sofia were demolished leaving some 150 Roma homeless. Following the demolitions, Eva Seizova, the head of Vuzrazhdane municipality of Sofia, issued a warning to Romani inhabitants of Serdika district to abandon their illegally constructed houses within seven days as more demolitions were

⁷ CRI (2004) 2.

planned for 27 September. However, on 26 September the Sofia District Court ordered the execution of the demolition order to be stopped pending the resolution of the dispute over property in Vuzrazhdane. Reportedly, the authorities had not planned to provide those affected by eviction orders either with compensation or with alternative accommodation.

Amnesty International reminded the Bulgarian authorities that many international instruments, most importantly, Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights, binding on Bulgaria, oblige the states to respect the right to adequate housing, including the prohibition of forced evictions. The organization called on the authorities to respect human rights of those affected with evictions, giving special consideration to the most vulnerable groups, including children, women and disabled persons.

Racism in politics

In the general election that took place on 25 June 2005, the far-right party Ataka (Attack), which stood on a racist platform aimed against the Roma and Turkish minority, came fourth with eight per cent of the votes, claiming 21 seats in Bulgaria's 240-member parliament. Amnesty International considers the rapid rise in their support a worrying trend. Ataka's ideology includes such issues, as the return of the death penalty; the denial of the Holocaust; and xenophobic propaganda.

In August 2005, the Bulgarian Roma party Euroroma approached the national media watchdog, the Council for Electronic Media, over a programme of the private TV channel SKAT that broadcast Ataka leader Volen Siderov propagating anti-Roma remarks. The leader of Euroroma, Tzvetelin Kanchev, pointed out that such remarks were intensifying ethnic tensions in the country and might lead to serious conflicts.

Specific recommendations:

Regarding protection of persons with mental disabilities, Amnesty International urges the Bulgarian authorities to ensure that:

- an independent mechanism is established with the view to conducting prompt, thorough and impartial investigations into incidents of ill-treatment of residents of social homes and psychiatric institutions;
- opportunities for reintegration into the community are provided to persons with mental disabilities, aiming at the highest rate of deinstitutionalization possible;
- children with mental and developmental disabilities are given thorough and appropriate individual assessments, adequate medical care and rehabilitation, in accordance with the best interests of the child, as laid down in the Convention on the Rights of the Child, to which Bulgaria is a party.

Regarding procedural rights in criminal proceedings and prevention of ill-treatment, Amnesty International recommends that Bulgarian authorities to take measures to ensure that:

- the law enforcement officials are provided with necessary training in the use of firearms in accordance with international human rights law and standards;
- the specialized human rights committee set up in the National Police Department, which is responsible for monitoring police conduct in its interaction with the general public, thoroughly and publicly investigates all allegations of excessive use of force by the police, especially these involving the use of firearms.

Regarding elimination of discrimination and racially motivated violence against Roma, Amnesty International calls on the Bulgarian authorities to guarantee that:

- racist motives are treated as an aggravating circumstance of a crime, and the penalty commensurate with the offence;
- the policy of zero tolerance towards racist anti-Roma behaviour is established and implemented;
- those affected with evictions are provided with meaningful participation in the identification of adequate alternative accommodation, adequate remedies including respect for due process in the determination of eviction notices, and the right to a degree of security of tenure for all irrespective of the "legality" of residence, as stipulated in the General Comment 7 of the UN Committee on Economic, Social and Cultural Rights.

ROMANIA

In its 1997 Opinion on Romania's application for EU membership, the European Commission concluded that there remained a number of shortcomings with regard to respect for fundamental rights in accordance with the Copenhagen political criteria, namely, in the field of police impunity, Roma integration and children's rights. The 2004 Commission Regular Report encouraged Romania's efforts at deepening and consolidating the stability of its institutions but expressed concern regarding such outstanding human rights issues as trafficking in human beings, police violence and rights of persons with disabilities.

Protection of persons with mental disabilities

Amnesty International considers that people with mental disabilities, who are in a vulnerable position as the result of their placement in psychiatric hospitals, require particular protection with regard to their physical and intellectual integrity as well as their human rights.

Amnesty International notes with satisfaction the steps of the Romanian government taken to implement the reform of the mental health system and willingness authorities to include Amnesty International as one of stakeholders of the debate on mental health.

However, the situation in Romania's psychiatric institutions and the prospects for better treatment of people with mental disabilities remains difficult in spite of the constructive dialogue the Amnesty International has managed to establish with the Romanian authorities.

In 2004, Amnesty International produced a Memorandum to the Romanian government urging it to immediately address the alarming situation in psychiatric wards and hospitals.⁸ The organization stated that the placement of people for involuntary psychiatric treatment who have not been charged with any criminal offence or people who have been placed in hospitals on non-medical grounds amounts to arbitrary detention and denial of fair trial rights, including Articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) and Articles 5 and 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), both ratified by Romania. The reported living conditions in many of the psychiatric wards and hospitals, the ill-treatment of patients, methods of restraint and enforcement of seclusion, the lack of adequate habilitation and rehabilitation or adequate medical care as well as the failure to investigate impartially and independently reports of ill-treatment would amount to violations of Article 7 of the ICCPR and Article 3 of the ECHR which prohibit torture or inhuman or degrading treatment or punishment. The denial of adequate medical care for people with mental disorders and intellectual disabilities, placed in psychiatric wards and hospitals in Romania, would also be in violation of Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) which sets out the right to the enjoyment to the highest attainable level of physical and mental health.

To the organization's knowledge, the system whereby an independent statutory body composed of the representatives of the Ministry of Health and the Prosecutor's Office would pay regular unannounced visits to psychiatric hospitals and monitor living conditions and treatment of patients has not yet been established in Romania. This is one of Amnesty International's most important outstanding concerns regarding the rights of people with mental disabilities in Romania.

Duty to conduct an effective investigation regarding deaths in Poiana Mare

Amnesty International has been monitoring the developments concerning the psychiatric hospital in Poiana Mare in southern Romania where 17 people died of malnutrition and hypothermia in January and February 2004. The living conditions in the hospital were deplorable, and the patients' needs for primary medical care were not being met⁹. Despite the evidence suggesting that the deaths occurred in suspicious circumstances (absence of medical records of patients, misdiagnosis and inadequate treatment, non-execution of a post-mortem

⁸ *Romania: Memorandum to the government concerning inpatient psychiatric treatment* (AI Index: EUR 39/003/2004).

⁹ 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.

examination to determine the cause of death), the Romania's General Prosecutor decided in February 2005 to close the case of deaths in Poiana Mare after failing to establish the link between the deaths and the personnel's negligible treatment of the patients. Following the decision of the General Prosecutor, the Romanian Center for Legal Resources filed a complaint against this decision requesting the re-opening of the criminal investigation. In September 2005, the General Prosecutor notified Amnesty International that the legality of the earlier decision to close the investigation was being reviewed. The organization welcomes this move by the General Prosecutor and urges the Romanian authorities to re-evaluate the tragic events in Poiana Mare in light of Romania's obligation under international law to conduct effective investigation into suspicious deaths of people in state care.

In its resolution of 16 December 2004 on Romania's progress towards accession, the European Parliament "[was] alarmed by the continuing reports concerning cases of ill-treatment at police stations, prisons, and mental hospitals; calls on the Romanian authorities to investigate effectively all abuses and bring to justice those responsible for human rights violations". The Parliament "[expressed] its deep concern at the fact that people with mental disabilities are subjected to arbitrary detention in mental hospitals and at the inadequacy of conditions and lack of appropriate care in many mental hospitals and other residential institutions for people with mental disabilities; call[ed] on Romania to address this situation as a matter of the utmost urgency and to ensure that hospitals and institutions have adequate resources for treatment and living conditions".¹⁰

Procedural rights in criminal proceedings and ill-treatment by law enforcement authorities

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.

The demilitarization of the Romanian police force was carried out in 2002 pursuant to two laws adopted by the parliament. However, the objective of the demilitarization, i.e. improvement of accountability and transparency of law enforcement officers, has not been fully met. Most importantly, the law failed to revise provisions which allow police officers to shoot at suspects avoiding arrest who are not posing a threat to life. As a result, Amnesty International continued to receive reports of ill-treatment and misconduct by police officers, including excessive use of firearms and unnecessary detention.

Another important step towards improvement of conditions of detention was the adoption in June 2004 of a new Law on Prisons, which came into force in June 2005. The new law removes prisons from the supervision of the prosecutor and places each of them under the direct supervision of a specially designated judge.

Demilitarization of the penitentiary system that was completed in 2004 pursuant to the Statute of Civil Servants of the National Administration of Penitentiaries was expected to improve

¹⁰ P6_TA(2004)0111.

the standards of conditions of detention and raise the professional standard of the personnel. All allegations of abuse by the prison staff would be investigated by civil prosecutors who would replace military prosecutors in this task. The impact of the reform has not yet been evaluated.

The existing Code of Criminal Procedure was adopted in June 2003 and was fully implemented by January 2004. The IHF reported that the new Code eliminated, as of the end of September 2004, the extraordinary appeal procedure, which the General Prosecutor could use to reverse the final court judgment. In addition, the Code limited the period of pre-trial detention to a maximum of six months and introduced the right to remain silent. However, the right of the defence counsel to participate in preliminary investigation interviews is still absent from the Criminal Code.

Arrest and detention of individuals for an unspecified period of time (called “leading to a police station” (*retinerea in arestul politiei*) and provided for in Articles 143-144 of the Code of Criminal Procedure) have been used as a tool of intimidation. The organization received reports from individuals who reportedly have been detained overnight, ill-treated by law enforcement officials during that time and released the next day without being charged.

Several cases reported in 2004 resulted in the death of, or the infliction of grave injury, on individuals (*see annex for cases of Laurențiu Capbun, Nicușor Șerban and Marius Silviu Mitran*). Amnesty International believes that in many incidents, firearms were used by the police in circumstances which are prohibited by internationally recognized 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. The organization is concerned that the use of firearms by police officers in disputed circumstances is a long-standing problem which the Romanian authorities have failed to effectively address through impartial and thorough investigations. To Amnesty International’s knowledge, there are neither official statistics on the number of incidents in which police officers resorted to firearms nor information about investigations into cases which resulted in death or injury.

Ill-treatment of children

Amnesty International continues to monitor alleged ill-treatment of children by the police in Romania and lobby Romanian authorities on a number of cases which took place between late 2003 and 2004 and were reported by Amnesty International (see annex for the case of C. B.)¹¹. None of these cases where children sustained physical injuries of various degrees has been properly investigated, nor have the results of investigation been made public. In many cases the authorities claimed that the children either self-inflicted the injuries or that they had the injuries prior to their arrest, which contradicts the victims’ statements.

Racism and discrimination against Roma

¹¹ *Romania: More ill-treatment of children* (AI Index: EUR 39/008/2004).

Romania, set to join the European Union in 2007, has the largest Romani community in Europe. Despite the close scrutiny by the EU, as well as by the Council of Europe and non-governmental organizations of Romania's treatment of Roma minority, Amnesty International considers the continued discrimination against the Roma to be an issue of utmost concern.

In July 2005, the European Court on Human Rights, in a landmark decision concerning Roma rights, obliged Romania to pay € 238,000 in compensation (and additional € 262,000 in the course of the friendly settlement) to the Roma affected by the 1993 attacks in Hădăreni, where on the night of racial violence, three Roma were lynched by villagers, and Roma houses were vandalized and set on fire. Twelve years after the attacks, the High Court of Bucharest moved to comply with the decision of the European Court of Human Rights and ordered seizure of property from perpetrators in the Hădăreni attacks in order to compensate the victims. The actions of the police, who arrived in Hădăreni to execute the High Court sentence, provoked an outburst of racist speech directed at Roma by Romanian media and politicians, including the leader of the Great Romania People's Party.

The European Roma Information Office (ERIO) reported an increase in racist remarks made against the Roma in the media in the first half of 2005. The neutral terms of "rom" or "rrom" are reportedly only used in the articles addressed to the wider audience in the pan-European context, whilst pejorative terms such as "tigan" and "piranda" are increasingly used in the context of crime, police involvement and scandals.

The mayor of the southern city of Craiova has been fined twice (€700 altogether) by the National Council for Fighting Against Discrimination (CNCD, the statutory body in charge of monitoring the application and observance of legal provisions on preventing, sanctioning and eliminating all forms of discrimination by public and private institutions, persons and companies) for racist remarks expressed on two occasions (20 April and 4 May 2005). The reaction of the authorities to the incidents was initially slow, and action was taken only after a petition to the authorities by the Media Monitoring Group and European Roma Information Office. Although the mayor was forced to resign from his position as the vice-president of the party of the Social Democrats following the incidents, he remains the mayor of Craiova today.

Recommendations

Regarding protection of the rights of persons with mental disabilities, Amnesty International urges Romania to provide that:

→ an effective system for external monitoring of psychiatric institutions is established and used as a tool of protection of persons in state custody against ill-treatment and conditions that amount to inhuman and degrading treatment;

→ standards for in-patient living conditions are established and implemented using adequate resources. Specific attention must be paid to patients' diet, hygiene and therapies, and adequate staffing by medical and non-medical personnel of appropriate number and training;

→ all deaths of patients and residents are properly recorded and the information is collated at the national level, published and investigated. If an investigation uncovers credible evidence that the death has resulted from a criminal offence, those suspected of involvement must be brought to justice.

Regarding excessive use of force by law enforcement officials, Amnesty International urges the Romanian authorities to ensure that:

→ all investigations into shootings by law enforcement officials are conducted impartially and thoroughly, whereby full reports of the investigations are made public and perpetrators are brought to justice;

→ the legislation on the use of firearms by law enforcement officials is in compliance with relevant international standards.

Regarding prevention of violence against minors, Amnesty International calls on the Romanian authorities to guarantee that:

→ effective and transparent investigations are conducted into all cases of alleged ill-treatment of minors by the police, whereby victims receive appropriate reparation, including compensation for sustained injuries;

→ no child is deprived of his or her liberty unlawfully or arbitrarily, whereby the provisions of the Convention on the Rights of the Child should be fully respected.

Regarding racism and discrimination against Roma, Amnesty International urges Romanian authorities to take steps to ensure that:

→ the people belonging to the Romani community of Romania enjoy their human rights in a safe environment free from intimidation and racial hatred and violence perpetrated by non-state actors and the media;

→ the increase of racial intolerance in the Romanian media is effectively addressed.

APPENDIX

Cases referred to in Amnesty International's Human Rights Concerns in EU Accession Countries

BULGARIA

Case of Boris Daskalov

On 22 March 2004, when 22-year-old Boris Daskalov refused to make a statement without his lawyer present, police at the Second Police Station in Plovdiv reportedly handcuffed his arms around his legs, inserted a wooden stick between his arms and knees, and suspended him between two chairs. Boris Daskalov was then allegedly gagged and beaten on the soles of his feet with rubber truncheons. He subsequently signed a statement written by the police and was released. The investigation initiated by the Plovdiv Regional Military Prosecutor's Office against senior lieut. Ivan Gavazov, lieut. Vasil Popov and chief sgt. Hristo Chakmakov under Article 131 of the Penal Code (infliction of light bodily injuries which is punishable with up to six months' imprisonment or community service or a fine) concluded on 15 December 2004 with the decision that the case against the three police officers should be sent to court. The Plovdiv Military Court subsequently issued a judgment in the matter, which was appealed against. As of September 2005, the case was being heard by the Sofia Military Appellate Court.

Cases of Kiril Stoyanov and Boris Mihailov

The International Helsinki Federation reported two cases in which men of Romani origin were shot in two separate incidents but in similar circumstances by the police. On 27 March 2004 24-year-old Kiril Stoyanov of Romani origin was shot in Plovdiv by Chief sgt. P. M. According to the police, Kiril Stoyanov was shot in the head after he escaped from a routine check and produced a knife when caught by the police. The account of the police has been disputed by Kiril Stoyanov's family, who claimed that he never carried a knife. The investigation initiated by the Plovdiv military prosecutor against P. M. was terminated in August 2004. At the time of writing, the appeal against this decision was still pending.

Boris Mihailov was shot by Chief sgt. V. S. on 4 August 2004. The investigation into allegations that V. S. exceeded the limits of necessary self-defence has been terminated by the Sofia regional military prosecutor in October 2004. In December 2004, the Sofia Military Court annulled the termination of the investigation.

Case of Assen Zarev

In January 2004, Assen Zarev, a Romani man, was allegedly beaten up and detained by the police for refusal to cooperate with them. When a group of people from the neighbourhood, mostly women, followed the police to protest against Assen Zarev's treatment, the officers reportedly fired warning shots to disperse the crowd and then released Assen Zarev. Four days later, 16 police officers returned to the Roma neighbourhood and arrested 17 men, saying that after the incident in the woods some of the Roma had assaulted the police. The 17 were repeatedly verbally abused while being taken to the Third Police Station for questioning. They were released later the same day. An investigation into these incidents was initiated by the Sofia Regional Prosecutor. The results are still unknown¹².

ROMANIA*Case of Laurențiu Capbun*

On 1 September 2004 in Constanța, following a dispute with a bar owner, Laurențiu Capbun and two others were reportedly assaulted by a police officer, the bar owner's friend, and four masked officers of the police Intervention and Special Action unit (*Detășamentul pentru Intervenții și Acțiuni Speciale, DIAS*). Two minors who were with the three men at the time were also reportedly beaten and threatened in order to prevent them from filing complaints. The beating of Laurențiu Capbun reportedly continued in the Fourth Section Police Station in Constanța, although the officers had been told by the other two men that he suffered from poor health including diabetes. For unclear reasons, he did not take his dose of insulin, and refused to be taken to the hospital, when his condition deteriorated. After he was released in the morning without being charged, Laurențiu Capbun was admitted to a hospital where he died five days later. Laurențiu Capbun's brother who saw him in the hospital, stated that Laurențiu Capbun had signs of beating, bruising on the chest and contusions on the head, and that the admission file recorded "contusions on the chest and abdomen". APADOR-CH (*Asociația pentru apărarea drepturilor omului în România - Comitetul Helsinki/Association for the Protection of Human Rights in Romania - Helsinki Committee*), a Romanian civil society organization, stated on the basis of its own findings that Laurențiu Capbun died as a result of previously existing health conditions which had been aggravated by the police ill-treatment.

It was reported that the police officers involved were subjected to a disciplinary procedure for "not reporting the incident to the Constanța Municipal Police and not having an authorization to intervene". They were apparently not charged with any criminal offence.

¹² Bulgaria: In Amnesty International Report (AI Index: POL 10/001/2005).

Case of Nicușor Șerban

On 30 May 2004, at around 10.30am two police officers in the village of Jegălia, in Călărași county, pursued Nicușor Șerban, in an attempt to apprehend him on suspicion of rape. When Nicușor Șerban jumped the fence of a field on the outskirts of the village, officer S. (whose identity is known to AI) reportedly shot at him twice hitting him in the back. Nicușor Șerban died on the way to the hospital. The family of Nicușor Șerban was not kept informed about the course of investigations into his death. The investigation that was conducted by civilian prosecutors resulted in officer S.'s transferral to another municipality.¹³

Case of Marius Silviu Mitran

According to the APADOR-CH, on 13 January 2004, Marius Silviu Mitran was shot in the head by a police officer for failing to stop his car after the firing of warning shots. The man was subsequently sent to the București-Rahova Penitentiary Hospital that is normally only used for treating detainees. In Rahova he was examined but refused to take any drugs. The bullet was removed from his head and a psychiatric examination reportedly concluded that he was a former drug-addict with adolescent anti-social behaviour. Upon release, a neurosurgery examination was recommended in two weeks time. Marius Silviu Mitran was released from București-Rahova Penitentiary Hospital on 22 January 2004. After his release from medical care and return to detention to București Police where he spent 24 days, Marius Silviu Mitran reportedly did not receive visits on the grounds that no one from the family had requested to see him. According to Marius Silviu Mitran's mother, a request had been made and approved by the prosecutor's office but police staff had prevented the visitors from carrying out the visit. The only medical treatment Marius Silviu Mitran received in detention was painkillers. There is no information as to whether he has been charged with an offence.

Case of C. B.

On 6 March 2004, 12-year-old C. B. witnessed a fight between taxi drivers and police officers on Văcărești Road in Bucharest, as he was heading home from his tuition class. Masked agents of the police Intervention and Special Action unit (DIAS), who intervened in the fight, allegedly grabbed the child and hit him repeatedly on the head and the back, which resulted in C. B.'s nose and mouth bleeding. Then he was taken to the police station, where he was searched, forced to wash and sent home without providing him with any medical help although it reportedly was evident that he needed it. Around midnight, C. B. was admitted to the neurosurgery section of the "Marie Sklodowska Curie" Emergency Paediatric Hospital and diagnosed with "acute closed head and cerebral trauma, nasal fracture, left eye haematoma and contusion, upper lip contusion, face ecchymoses and right shoulder contusion".

¹³ Romania: Continuing reports of unlawful use of firearms by law enforcement officials (AI Index EUR 39/001/2005).

According to the information received from the Ministry of Administration and Interior in June 2005, the investigation concluded that no police agents had acted abusively towards C. B., and that the injuries could have been produced in different circumstances. The authorities argued that the fact that the parents of C. B. had not pressed charges was sufficient proof that the alleged assault of C. B. had not taken place.