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Romania: Further reports of unlawful use of firearms by law enforcement officials

Amnesty International's Concerns

Amnesty International is concerned about continuing reports of unlawful use of firearms by law enforcement officials in Romania. In some cases the victims were killed while in others the shootings resulted in the victims' serious injury. The organization believes that firearms were used in circumstances which are prohibited by internationally recognized principles on the use of force and firearms.

Amnesty International is also 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 and that investigations into most of these incidents were not impartial and thorough. The organization is further concerned that a new law on the organization and functioning of the police which came into force in May 2002 failed to revise provisions which allow police officers to shoot at suspects avoiding arrest who are not posing a threat to life. No official statistics were available on the number of incidents in which police officers resorted to firearms and there was no information about investigations into cases which resulted in death or injury.

Failure to protect the right to life

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 not only substantially, but also procedurally, and to provide an effective remedy in case of

violation.

Procedurally, and in order to provide the victim and his/her family with an effective remedy under Article 13 of the ECHR, 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, by ensuring that a thorough and effective investigation is carried out, capable of leading to the identification and punishment of those responsible and including effective access for the complainant to the investigatory procedure (*Kaya v Turkey* [1998] and *Aydin v Turkey* [1998]).

The European Court of Human Rights has outlined the essential features of an investigation under Article 2 of the ECHR: it must be independent; effective; reasonably prompt; capable of public scrutiny; and capable of involving the next of kin of the deceased to the appropriate extent.

Since 1997, Amnesty International has taken up 25 cases of reported unlawful use of firearms by law enforcement officials in Romania, but not a single one of them has resulted in prosecution.

Recent cases

The shooting of Fanica Dumitrache

According to the report of *Asociația pentru apărarea drepturilor omului în România - Comitetul Helsinki* (APADOR-CH, Association for the Protection of Human Rights in Romania - Helsinki Committee) on 4 December 2001 in Galați, at around 5am Fanica Dumitrache attempted to take petrol from a car parked close to the Emergency Hospital. When he saw two men in plain clothes running towards him he assumed that they were the car owners and also started to run away. One of the men shouted that he would shoot. Fanica Dumitrache kept on running, believing that the men wanted to frighten him. He did not know that they were police officers. Shortly afterwards, Fanica Dumitrache was shot in the back and fell down. The two men then took Fanica Dumitrache to the Emergency Hospital where he came to know that the man who shot him was officer C. At the hospital it was established that the bullet had penetrated Fanica Dumitrache's right lung and was lodged in his liver. Reportedly it could not be extracted because he was suffering from hepatitis.

Two hours after they brought Fanica Dumitrache to the hospital the officers returned and made him write a statement in the intensive care unit where he was undergoing treatment. Fanica Dumitrache claims that he does not remember what the statement contained. He was discharged eight days later even though he did not feel that he had been adequately treated and suspected that the doctors were colluding with the police.

The shooting of Constantin Ursu

According to the report of APADOR-CH, Constantin Ursu from the village of Sasa, Bacău County, was shot by a police officer on 25 March 2002. Constantin Ursu told representatives of APADOR-CH that on the evening of 25 March 2002 he was drinking and playing pool with several people at a bar in Burchi, a village near Sasa, when a police officer came to the bar accompanied by a member of the Local Council from Poiana. The officer asked Constantin Ursu to show him his identity card. Because he didn't carry his

papers with him, Constantin Ursu turned his back on the officer and headed towards the table. The police officer grabbed Constantin Ursu by the shoulder and, in the scuffle, took out his gun and fired in the air. Constantin Ursu allegedly turned to the officer and shouted: "Shoot!" The police officer fired again and the bullet pierced through Constantin Ursu's abdomen and stopped in the victim's left arm. The wound was treated at the County Hospital in Bacău and according to the forensic report, Constantin Ursu required 40-45 days of medical care for his injury.

In March 2003 Constantin Ursu filed a criminal complaint against the police officer to the Military Prosecutor's Office in Bacău. The military prosecutor reportedly initiated an investigation into the incident. No other information about this case has been received by the organization by the end of September 2003.

The fatal shooting of Ion Baiera

Ion Baiera was shot by police officers on 11 October 2002 in Buda village, Osesti commune, about 40 kilometres from Vaslui. According to information given to APADOR-CH representatives by witnesses Constantin Ivanciu and his son Mihai Ivanciu and confirmed by a number of their relatives, Ion Baiera broke into the Ivanciu family's courtyard on the morning of 11 October 2002 between 8.30am and 9.00am, and told them that policemen were after him. Ion Baiera then entered one of the tiny household annexes where two small children were. After some time two police officers arrived and went into the annexe. They demanded to know Ion Baiera's name and told him to accompany them to the police station. Ion Baiera, who had reportedly been wanted by the police since September 2001 for absconding from serving a four-and-half-year sentence for robbery, resisted being handcuffed, as a result of which the police officers sprayed tear-gas into the small room where the two children also were. The parents of the children immediately took them out into the courtyard but stated that the children continued to be affected by the incident for a few weeks after.

The police officers then came out of the annexe and stood a few metres away in front of the door. They reportedly fired gunshots every time Ion Baiera tried to get out of the gas-filled room. According to information from the Vaslui Prosecutor's office, the police officers fired eight times, six of which were allegedly warning shots. The witnesses allege that none of the shots were fired as a warning. They further state that Ion Baiera fell to the ground after being shot in the abdomen and was then carried away to a car by the two officers. On the way to hospital, the officers reportedly handed him to an ambulance which took him to the county hospital, where he was found to be dead on arrival. Some of the journalists who reported on the case stated that they had seen blood on Ion Baiera's face and concluded that he had also been shot in the head.

The fatal shooting of Florin Calin and Gelu Ciubotaru

Two Romani men were shot dead, and two others injured, in a police operation on 5 December 2002 in Buhuși, Bacău County. According to the report of Romani Criss, a non-governmental human rights organization, a group of around 45 officers of the Protection and Rapid Intervention Unit of Bacău Police conducted a search in the local Romani neighbourhood, reportedly to apprehend several criminal suspects. Many of the houses in the neighbourhood were searched and those who were perceived as resisting the police, including women and children, were reportedly beaten.

According to the police version of events which was published in the national press, four men who were wanted by the police took refuge in the basement of a house

and refused to obey an order to surrender. In the ensuing altercation one officer was allegedly assaulted and hit on the head with an axe. The police then resorted to the use of firearms killing two of the four men, 23-year-old Florin Calin and 42-year-old Gelu Ciubotaru. The other two men, Ovidiu Ciubotaru, aged 24 years old, and Vasile Vatu, aged 14, were seriously injured in the shooting and taken to the Bacau hospital for treatment.

The official report also stated that this incident provoked protests by around 200 Roma who had gathered in front of the house where the shooting took place. When some of the protesters became violent around 40 gendarmes were brought in to assist the police officers already on the scene. The gendarmes reportedly used rubber bullets and tear-gas against the violent protesters. Four police officers and gendarmes reportedly suffered injuries as a result of assaults by the protesters. There was no information whether any of the protesters had suffered any injuries.

According to witnesses interviewed by Romani Criss the use of lethal force by the police was excessive and unwarranted. The Romani men who were killed and injured had not been armed and had not posed a threat to the lives of the officers involved or anyone else. The mother of 14-year-old Vasile Vatu was reportedly not allowed to visit her son until 9 December 2002, four days after the shooting. She showed Romani Criss representatives the clothes which her son wore on the day of the shooting which appeared to indicate that he had been shot twice in the back.

The shooting of Attila Szasz

According to a report published in *Evenimentul zilei* (The Event of the Day), a national daily newspaper, on 6 April 2003¹ police officers in Reghin county shot and injured Attila Szasz. On 5 April 2003 at around 3am, in the municipality of Susni, the police organized an action to apprehend Attila Szasz, a 33-year-old local resident who was reportedly suspected of several offences of assault and fraud committed in the Maramures county. The chief of the local police station had reportedly called Reghin police and gendarmerie for assistance. They then surrounded the house where Attila Szasz was thought to be hiding and called on him to come out. Attila Szasz then appeared on the roof of the house and reportedly threw some tiles at the officers. He suddenly jumped onto the roof of an adjoining building heading for a field. After they reportedly warned him that they would shoot, the police officers fired two shots at Attila Szasz, hitting him in the abdomen. Several minutes later an ambulance arrived and took Attila Szasz to the county hospital where he was operated upon. The doctor in charge reportedly stated that Attila had been shot with a small calibre firearm which did not produce serious internal lesions. The patient was receiving treatment in the hospital under strict supervision and following recovery will be transferred to a penitentiary.

Some of the people who live in neighbouring houses stated prior to the shooting they had not been aware of the police action or any violence. After they were disturbed by the shooting they observed that the entire area had been surrounded by a significant number of police and gendarmerie officers.

Recommendations

¹ See "Tilharul arunca țigle în polițiști", *Evenimentul zilei*, 6 April 2003.

Amnesty International is reiterating its recommendations to the Romanian authorities:

- to ensure that all investigations into shootings by law enforcement officials are conducted impartially and thoroughly;
- to make public full reports of the investigations and bring to justice anyone suspected of having committed human rights violations;
- to provide all law enforcement officials with clear regulations and to initiate effective training programs on the use of firearms to ensure observance of and adherence to the relevant international standards;
- to bring their legislation on the use of firearms by law enforcement officials in line with relevant international standards.