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ROMANIA: The reported ill-treatment and shooting of Nicu Olteanu

Amnesty International's Concern:

Amnesty International is concerned about the reported ill-treatment and shooting of Nicu Olteanu. This is yet another incident in which Romanian law enforcement officials resorted to the use of firearms in circumstances which are prohibited by international principles on the use of force and firearms. The organization is also concerned that the Romanian Law on the Organization and Functioning of the Police is at variance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Background:

According to a report which was recently received by Amnesty International, on 16 May 1997 in Bucharest, two police officers¹ from the 9th Section Police Station reportedly apprehended Nicu Olteanu in the act of theft. He had allegedly taken six bottles of mineral water from a roof-rack of a parked car². The officers took Nicu Olteanu into a room in the Post Office Number 49 where they allegedly beat him. In order to escape further ill-treatment Nicu Olteanu allegedly broke the window and jumped out of the ground floor office. An officer shot at him injuring him in the left leg. At the time of the shooting Nicu Olteanu's eight-year old son was standing outside the post office building waiting for his father. Apparently the police officers failed to provide for the boy's safety following Nicu Olteanu's apprehension and had placed him at risk in the shooting incident. The police officers then took Nicu Olteanu to the Sfântu Pantelimon hospital where he underwent an operation. On the same day he was taken to the police station lock-up from where he was transferred to the Jilava penitentiary.

Shortly afterwards, from the penitentiary where he was held pending trial, he filed a complaint with the military prosecutor but at the time could not obtain a forensic medical certificate for the injuries which he suffered as a result of the shooting and the reported ill-treatment. On 1 September 1997 he was questioned at the Bucharest Military Prosecutor's office about his complaint. At the time

¹The officers' identity is known to Amnesty International.

² Nicu Olteanu subsequently stated that he wanted to play a practical joke on the owner. Some bottles of wine and other more valuable goods which were also on the rack had not been touched.

of publication of this report he has still not received any information concerning the results of the investigation into his complaint.

Nicu Olteanu was subsequently charged with theft of mineral water, destruction of property (for the breaking of the window) as well as for "outrage" (a criminal offence involving an assault on a public official), an offence which he had reportedly committed in the Post Office. The court amended this last charge into "disturbance of the peace", for having broken the post office window. In the indictment and the court sentence there were no references to the shooting of Nicu Olteanu. The indictment only mentioned that the firearms had been used to signal a warning and that Nicu Olteanu had tripped and fallen to the ground during the police action in which he was apprehended. Nicu Olteanu was convicted in June 1998 to one year and 18 days' imprisonment, the time which he had been held in pre-trial detention. The prosecution has reportedly appealed this decision.

Following his release from the penitentiary he tried to get a medical certificate from the Institute for Forensic Medicine but could not pay the required fee. In February 1999 Nicu Olteanu obtained a medical certificate from physicians who treated him at Sfântu Pantelimon hospital which described "a shooting wound in the left leg with remains of foreign metal pieces".

Amnesty International Recommendations:

Essential criteria, justifying the use of firearms have been laid down in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials :

"Principle 4 - Law enforcement officials, in carrying out their duty, shall as far as possible apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result.

"Principle 9 - Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life".

Amnesty International recognizes that Romanian law enforcement officials are faced with making split-second decisions in complex situations, and that the organization has had no access to the full facts in this incident. However, in the above described case, it is questionable whether the lives of law enforcement officials or others were endangered or whether non-violent means had been applied exhaustively to deal with the situation. The victim was unarmed at the time he was shot and was fleeing the scene. In this case, law enforcement officials outnumbered the suspect. Furthermore, shooting took place in a situation where it was extremely likely that a child, who was standing near the suspect, could be injured or killed.

Amnesty International is also concerned about the reported ill-treatment of Nicu Olteanu by police officers. As a State Party to the Convention against Torture, 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 urges the Romanian authorities to ensure that an impartial and thorough investigation into the reported ill-treatment and shooting of Nicu Olteanu is

carried out, its results are made public and anyone responsible for violating human rights is brought to justice.

Amnesty International repeats its appeal to the Romanian authorities to revise the Romanian Law on the Organization and Functioning of the Police so that its provisions on the use of firearms conform to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The organization also calls on the Romanian authorities to provide the police and other law enforcement officials with clear regulations and to initiate effective training programs on the use of firearms which will ensure that relevant international standards such as the ones cited above are observed and adhered to.