

ROMANIA

Alleged ill-treatment by emergency intervention police unit in Buz|u county

Concerns and Recommendations

Amnesty International Concerns :

Amnesty International is concerned about the reported ill-treatment of Constantin Vrabie, Valentin Barbu and Silviu Laurentiu Rosioru by officers of the Buz|u County Police Inspectorate's emergency intervention sub-unit (*subunitatea de interven|ie rapid| a Inspectoratului de Poli|ie al Jude|ului Buz|u*). If confirmed, the actions of the police officers would represent a violation of Romania's obligations under international human rights treaties, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Moreover, Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which require that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Emergency intervention sub-units were established within all County Police Inspectorates in the last few months of 1999 on the basis of the General Police Inspectorate's order No. S074594 of 26 October 1999. Apart from making emergency interventions, the duties of the new sub-units include mounting patrols around the clock to deter the commission of criminal offences. The Buz|u County Police Inspectorate's emergency intervention sub-unit was established on 5 November 1999. Four complaints of ill-treatment by officers of this sub-unit were reportedly made to the Buz|u Military Prosecutor's Office in its first three months of operation. It is reported that the officer appointed to command the sub-unit was previously disciplined for having committed acts of ill-treatment. If confirmed, such an emerging pattern of ill-treatment and the recruitment of such a commanding officer may represent a failure by the Romanian state, when establishing the Buz|u emergency intervention sub-unit, to meet its obligation under Article 2 of the ICCPR to take the necessary steps to give effect to the rights recognized in the Covenant, including Article 7, which prohibits ill-treatment and torture. Article 2 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) moreover obliges the Romanian authorities to: "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction".

The case of Constantin Vrabie and Valentin Barbu

At around 3.30pm on 9 December 1999, Constantin Vrabie, aged 31, who lives in Candesti, in the municipality of Vernesti, Buz|u county, was driving his car, accompanied by his two daughters and another family. Reportedly, he stopped on the Buz|u ring-road, at the crossroads with Transylvania Street, because one of his daughters needed to go to the toilet. While they were waiting for the girl, several police officers from the emergency intervention sub-unit asked the occupants of the car to identify themselves. The police officers have alleged that Constantin Vrabie refused to identify himself. He claims to have showed his passport to the police officers, although they were dissatisfied with this. The police officers took all the people in the car, including the young girls, to the Buz|u police station. Constantin Vrabie was fined 600,000 lei (approximately US \$35) on the basis of Law 61/91 (police report series Z no. 0272026), because he allegedly “had refused to show his identity card or to provide information regarding his identity; he misbehaved while being taken to the police station, uttering insults and vulgar expressions”. Constantin Vrabie denied these allegations and reportedly contested the fine in court.

Article 2 of Law 61/91 contains a list of some 30 minor public order offences for which a police officer may fine the alleged offender on the basis of a report written by the police officer, countersigned by one independent witness and the alleged offender. Some of the listed offences are punishable by a prison sentence of up to six months. Other offences can be punished by either a fine or prison, with each 10,000 lei (approximately 45-55 US cents) of a fine equated to one day in prison. The alleged offender may refuse to sign the report, in which case the police officer notes the refusal in the report. The alleged offender may contest the police report in a court within 15 days. If he or she fails to do so, or if the court upholds the police report, the fine must be paid within 30 days. If it is not paid, the police ask the court to convert the fine into a prison sentence. A 100,000 lei fine would, for example, be converted into a 10-day prison sentence. The law was modified in June 1999 to give judges the option of substituting a community service order for a prison sentence. Until this modification approximately 1500 people were at any time serving prison sentences under the provisions of Article 2 of Law 61/91. In the first half of 2000 the numbers in prison were reduced to approximately 200. The long list of minor public order offences for which these sanctions can be invoked by police officers include causing scandal in a public place or a private dwelling, fighting in a public place, holding a noisy party in the middle of the night, and listening to loud music.

On 8 January 2000, at around 10.30pm, Constantin Vrabie went to the Niscov discotheque in Buz|u, accompanied by three friends. Constantin Vrabie was reportedly stopped during his first dance by three men in plainclothes, led to a van, and allegedly thrown to the floor and beaten. One of Constantin Vrabie’s friends, Valentin Barbu, was also allegedly taken to the van and beaten. Reportedly, there were eight police officers in the van, five of them in plainclothes. Constantin Vrabie and Valentin Barbu were allegedly beaten all the way to the Buz|u police station.

It is reported that they were not told why they had been driven to the police station, yet that they were asked to give statements. At the police station, they were allegedly subjected to intermittent blows to the head by police officers. Constantin Vrabie and Valentin Barbu understood that this was to pressurize them into writing the statements. Constantin Vrabie was reportedly fined lei 200,000 on the basis of Law 61/91 (for “insults”), and Valentin Barbu was simply “admonished”.

The remaining two friends came from the discotheque to the police station, and took Constantin Vrabie to the county hospital. The medical certificate issued by the Buz|u Forensic Laboratory on 10 January 2000 noted: “Massive eye bruise with central open wound and contusion; massive bruises on the lower lip and in the occipital area; massive headache...”; “needs 12-14 days of treatment under medical care following the incident, unless other complications arise”. Marks left around Constantin Vrabie’s eye and on his lip were still obvious almost one month after the event to representatives of the Romanian Helsinki Committee, APADOR-CH (*Asocia|ia Pentru Ap|rarea Drepturilor Omului - Comitetul Helsinki* - the Association for the Defence of Human Rights - Helsinki Committee), who interviewed him on 4 February 2000. Constantin Vrabie is reported to have filed a complaint to the Military Prosecutor’s Office and to have challenged the 200,000 lei fine. Valentin Barbu is said to have declared an intention to lodge a complaint about the ill-treatment he had allegedly undergone.

The case of Silviu Laurentiu Rosioru

Silviu Rosioru, aged 33, the owner of a pawn shop in Buz|u, went to a pub called “America 2000”, situated on the Buz|u-Ploiesti road, about 10 kilometres from Buz|u, in the late evening of 25 January 2000. He was accompanied by Carmen Rotaru, an 18-year-old woman. The two sat in a booth on the first floor of the bar. A group of six or seven police officers from the emergency intervention sub-unit, commanded by captain M.T.¹, were reportedly drinking coffee and beer in the pub. This particular group of police officers is reported to have been assigned to guard the oil pipe near Buz|u against thieves. They are said to have been wearing masks, which they took off inside the pub.

The events which followed left Silviu Rosioru severely beaten and hospitalised. According to Silviu Rosioru he made a flippant comment within earshot of the police officers, remarking: “What are these terrorists doing here?”. The police officers reportedly turned in his direction, and then allegedly broke the door of the booth where Silviu Rosioru and his companion were sitting, threw Silviu Rosioru to the floor, handcuffed him, kicked and beat him severely with their batons. Reportedly, they closed the folding door to the bar, telling the other customers that: “No one should interfere, because we are on a mission”.

¹ His name is known to Amnesty International.

According to the police officers Silviu Rosioru was drunk and started to verbally abuse the pub staff after they refused him and his companion a room for the night. He allegedly continued to insult the pub staff despite the police officers' repeated requests that he should desist. Allegedly he then refused the police officers' request that he should produce identification documents, which prompted them to arrest him and take him to the police station.

Silviu Rosioru and his friend are reported to have attempted to escape from the police officers in the pub. They got down to the ground floor and got into the taxi-cab that had brought them to the establishment and which was waiting for them. Reportedly witnessed by the pub staff and other clientele the police officers then struggled with the taxi-driver, Jalb | Cristian, who tried to defend his terrified clients. The police officers pulled Silviu Rosioru out of the car, and placed him in their van. The van is reported to have remained stationary in front of the pub for another half-hour, with the engine on, during which time most of the police officers were again inside the pub.

Silviu Rosioru was driven to the police station in the van, and was allegedly beaten throughout the journey. At the police station a police report was drawn up. Silviu Rosioru was fined 200,000 lei on the basis of Law 61/91, Article 2, because "while under the influence of alcohol" he "insulted the pub personnel" and "refused the reasonable request of the police to provide personal identification" (police report series Z no. 4243507 of 26 January 2000). The taxi driver Jalb | Cristian was reportedly later given a police warning for having attempted to impede police officers in their action to re-establish public order.

Further allegations that Silviu Rosioru uttered "insults" or "obscene words" at the police officers, and that he "kicked" them and deliberately threw himself to the floor while in an agitated state, were made in a press release issued by the General Police Inspectorate on 1 February, in response to extensive press coverage of this case. Yet these imprisonable alleged offences did not feature in the police report. In the police report it is stated that Silviu Rosioru confessed to the misdemeanors with which he was charged, and this was confirmed with his signature. However, Silviu Rosioru has since denied that the signature on the report is his, and does not admit the offences with which he was charged. The APADOR-CH representatives reported that when they compared Rosioru's signature, as seen on his business documents, with that on the police report, they concluded that there was no resemblance between them.

The account of events given by the police is open to question in that they have made public additional allegations against Silviu Rosioru which, if proven in court, would carry a prison sentence. Yet they have failed to charge him with these offences. The disputed signature on the police report is worthy of forensic investigation, and the result of such investigation would help to determine whether Silviu Rosioru really recorded his agreement with the charges levelled against him, or whether this was falsified by police officers.

Furthermore, the Buz|u local newspaper *Opima* has unearthed disturbing information about the police service history of Captain M.T., the commander of the emergency intervention sub-unit, which, if confirmed, reveals that he has previously perpetrated acts of ill-treatment for which he was disciplined². In Râmnicu S|rat, where he served as a police officer before receiving a disciplinary transfer to the police department for combating economic and financial crime in Buz|u in late 1998, he is alleged to have ill-treated a waitress in 1996, in the “Central” restaurant, as a result of which she was hospitalized. In 1998, he allegedly assaulted another waitress, breaking some of her ribs, in the “Tourist” restaurant. Previous to this, there was a reported incident in the “Enigma” bar, in which he was obliged to leave the premises after fighting with a dancer.

At about 4.30 - 5am on 26 January 2000, police officers reportedly took Silviu Rosioru out of the police station and left him in the street, although it was reported to be obvious that he could not walk by himself because of his injuries. According to a report in *Opima*³ Silviu Rosioru had lost consciousness and regained it only in the evening of 26 January in hospital. Eventually, the police officers called a taxi-cab that took him directly to the surgical department of the Buz|u county hospital, where he was admitted and diagnosed with “chest and abdominal injuries. Extensive bruising on the left thigh and buttock. Head and face injuries. Contusions on both hands” (hospital report issued on 28 January 2000). At his family’s request, Silviu Rosioru was released from the Buz|u county hospital on 28 January 2000, and immediately referred to the Fundeni hospital in Bucharest. The Fundeni hospital sent him to the Emergency Hospital, where he was hospitalized until 1 February 2000. His diagnosis was similar to the one from the Buz|u county hospital (“Signs of aggression. Multiple contusions. Chest and abdominal contusion. Massive bruise on the left thigh and buttock” – hospital report issued on 1 February). Silviu Rosioru was released upon his own request. When the APADOR-CH representatives visited him on 4 February 2000 he was still in bed, at home, as he had not recovered from the physical and mental shock he had gone through.

Silviu Rosioru’s wife reportedly lodged complaints with the Buz|u Military Prosecutor’s Office (no. 151/P/2000 of 28 January 2000) and by mail (on 31 January 2000) with the Prosecutor’s Office at the Supreme Court of Justice. Allegedly, Carmen Rotaru, who accompanied Silviu Rosioru to the pub on 25 January, and who reportedly witnessed the whole event, including the alleged beating of Silviu Rosioru during the ride to the police station, was subsequently subjected to pressure and intimidation by police officers. Officers allegedly

² *Opima* 31 January 2000. Article entitled *Seful Brig|zii de Interven|ie Rapid|, c|pitanul Tudorel Mircea, este recidivist în materie de b|taie*.

³ Article entitled *Un patron buzoian a fost b|tut cu cruzime de o forma|une de interven|ie rapid|*, 28 January 2000.

threatened to charge her with prostitution if she refused to give statements consistent with their version of events on the night of 25/26 January 2000.

Amnesty International Recommendations:

- The individual cases:

As a State Party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), Romania is bound under Article 13 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 abide by their international obligations by ensuring that an impartial and thorough investigation is carried out into cases of alleged ill-treatment by police officers of the Buz|u county emergency intervention sub-unit. These include the cases of Constantin Vrabie, Valentin Barbu, and Silviu Rosioru, reported above, and the additional case of Adrian Ilie, who, it is alleged, was also ill-treated by the same police officers in January 2000. Amnesty International urges that a report of the scope, methods and findings of the investigation is made public, and requests that a copy of the report is sent to the organization. Any police officer who is reasonably suspected of committing acts of torture or ill-treatment should be brought to justice, and the victims should receive reparation, including financial compensation.

Amnesty International also urges the Romanian authorities to ensure that complainants and witnesses are protected from police intimidation and harassment, as required by Article 13 of the Convention against Torture. In the case of Silviu Rosioru, Amnesty International urges that a prompt and impartial investigation is initiated to determine whether Carmen Rotaru or clientele and staff of the pub "America 2000" have been subjected to intimidation and harassment in violation of Article 13 of the Convention against Torture.

- Institutional measures:

In the light of the reported cases of ill-treatment, and their appointment of a commanding officer who has a reported history of brutality, Amnesty International urges the Romanian authorities to review the recruitment, procedures, command and control, and training of the recently formed emergency intervention sub-unit of the Buz|u County Police Inspectorate, in accordance with Romania's obligations under the ICCPR, Article 2, and the Convention against Torture, including Article 2, and Articles 11 and 16, which require that each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention

or imprisonment in any territory under its jurisdiction, with a view to preventing cases of torture and ill-treatment.

Amnesty International also urges the Romanian authorities to establish the number of complaints of ill-treatment filed with the Military Prosecutor's Office against each new county police inspectorate emergency intervention sub-unit formed on the basis of the General Police Inspectorate's order No. S074594 of 26 October 1999. Where complaints of ill-treatment have been filed, Amnesty International urges that focused and sustained measures of institutional reform are considered, as recommended above, to ensure the fulfilment of Romania's obligations under the Convention against Torture and the ICCPR.

Amnesty International urges the Romanian authorities to take effective organizational measures to eradicate the reported practice of police officers obtaining statements or "confessions" by means of torture or other cruel, inhuman or degrading treatment or punishment. The United Nations Special Rapporteur on torture, who issued a report on his April 1999 visit to Romania in November 1999⁴, expressed concern that the Prosecutor General does not keep statistics on the number of cases withdrawn by civil prosecutors on the grounds that police officers had obtained evidence by illegal means, including torture, and that the Prosecutor General was also unable to provide statistics on the number of cases referred by civilian prosecutors to military prosecutors, who are responsible for investigating complaints of human rights violations by police officers. Amnesty International urges the Romanian authorities to ensure that there is a system of centralized data collection and monitoring of such alleged abuses, and that there is a centralized system to guarantee that police officers reasonably suspected of such violations are brought to justice.

- Legislative measures:

Although in the third quarter of 1999 the Romanian authorities placed before Parliament a package of draft reforms to the Penal Code, Penal Procedure Code, and laws governing the police and prisons, this package failed to include draft legislation to address the following two concerns.

⁴ E/CN.4/2000/9/Add.3: Report of the S.R. on the question of torture. Visit to Romania. 23/11/99.

Amnesty International shares the concern expressed in 1999 by the Human Rights Committee⁵ about the present lack of legislation in Romania to ensure that statements of accused persons, which were obtained by means of torture or cruel, inhuman or degrading treatment or punishment, are omitted from evidence, except as evidence against the alleged perpetrators of torture. The Human Rights Committee is the independent international expert body which reviews the implementation by States Parties of their obligations under the ICCPR. In its consideration of Romania's fourth periodic report in July 1999 the Committee urged the Romanian authorities to implement legislation: "that places the burden on the State to prove that statements made by accused persons in a criminal case have been given of their own free will, and that statements obtained in violation of Article 7 [which prohibits torture and ill-treatment] of the Covenant are excluded from the evidence".

Amnesty International is concerned that the powers available to police officers under Article 2 of Law 61/91, and also under Article 16 b) of Law No. 26/1994 on the Organization and Functioning of the Romanian Police may foster and contribute to the use of arbitrary methods by police officers, including ill-treatment and torture. The latter article permits police, for purposes of identification, to take to a police station and detain for up to 24 hours anyone who refuses to identify themselves, or whose identity cannot be established, if the police suspect them of acts which "endanger public order, human lives, or other social values". The law is formulated in a vague way, which may lead to people being detained in violation of Article 5 of the European Convention. The Romanian delegation to the 66th session of the Human Rights Committee claimed that the police do not make a practice of using Article 16 b) of Law No. 26/1994 to detain people as a preventive measure, and that only people who are about to be arrested for an offence are taken to the police station under this power. However, the cases of Constantin Vrabie, Valentin Barbu, Silviu Rosioru and his female friend appear to suggest otherwise. Moreover, other cases reported by APADOR-CH suggest a pattern of use of this law by police officers which violates Article 5 of the European Convention, the right to liberty and security of person. APADOR-CH has reported that police officials at the Buz|u County Police Inspectorate use a wide interpretation of this law which means that people may be suspected of endangering public order, human lives, or other social values and therefore detained merely for "sitting on a bench, at 1am in a park". The Human Rights Committee expressed concern about: "the broad prerogatives of the Public Ministry to allow the withdrawal of procedural safeguards in situations of deprivation of liberty". Amnesty International urges the Romanian authorities to modify or repeal Article 16 b) of Law No. 26/1994 on the Organization and Functioning of the Romanian Police, in order to guarantee the rights enshrined in Article 5 of the European Convention.

⁵ Concluding Observations of the Human Rights Committee: Romania. 28/07/99. CCPR/C/79/Add.111.

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