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Romania: Appeal for revising the Penal Code

Amnesty International today appealed to all members of the Romanian Senate to adopt the Law Concerning the Revision of the Penal Code and the Code of Penal Procedure which is currently under their consideration.

"Failing to do so in this last sitting before parliamentary elections which are scheduled for November 2000 would represent a broken commitment to the people of Romania to ensure that their rights and freedoms are effectively protected in the domestic legislation," Amnesty International said.

"This failure might also cast a shadow on Romania's efforts to accede to the European Union which requires all new member states to ensure the highest possible respect for human rights and fundamental freedoms."

The proposed revision, which was adopted on 28 June 2000 by the Chamber of Deputies, the lower house of the Romanian Parliament, includes the abrogation of Article 200. The law penalizes homosexual relations between consenting adults "if the act was committed in public or has produced public scandal". Paragraph 5 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".

The human rights organization is concerned that these provisions can lead not only to the imprisonment of adults solely for engaging in consensual homosexual relations in private, but that they could also lead to the imprisonment of individuals solely for having exercised their rights to freedom of expression and to freedom of assembly and association.

The proposed amendments to the Penal Code also abrogate Article 238 and paragraph 1 of Article 239 which criminalize defamation of public officials and lead to infringements of the right to freedom of expression. In the past, these provisions have particularly affected the right of journalists in Romania to impart information and ideas without interference by public authority, as well as the right of other Romanians to receive such information and ideas.

Background

When Romania was accepted into the Council of Europe in October 1993 it committed itself to bring domestic law and practice into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Council's Parliamentary Assembly noted, inter alia, that "the Penal Code should be amended so that homosexual acts in private between consenting adults were no longer penalized".

In April 1997 the Parliamentary Assembly decided to close the monitoring procedure of Romania's obligations and commitments entered into upon joining the Council of Europe, but remarked on a number of still outstanding concerns and made specific requests to the Romanian

authorities, noting "that certain provisions of the Penal Code now in force are unacceptable and seriously imperil the exercise of fundamental freedoms, especially Article 200 on homosexual acts and Articles 205, 206, 238 and 239 relating to insult and defamation, which interfere with the freedom of the press".

Amnesty International urged the Romanian authorities to revise these and similar provisions in force prior to the last revision of the Penal Code in November 1996.

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