



6 June 2012

To:  
Ministry of Administration and Interior Affairs, Mr. Ioan Rus

General Department of Bucharest Police  
Chestor principal de politie, Mr. Lucian Florin GURAN

CC:  
Prosecutor Office of the Bucharest Tribunal  
Chief Prosecutor, Mr. Budai Remus Damian

**Re: Fatal shooting of Romani man**

The European Roma Rights Centre (ERRC), an international human rights law organisation combating anti-Roma racism and discrimination in Europe and Romani CRISS, a human rights organisation that defends and promotes Roma rights in Romania, are writing to express concern about the conduct of law enforcement officials during a recent incident in Bucharest.

On May 31 2012, between 16:00 and 17:00 hours, a 24-year-old Roma man was shot in his head by police officers whilst being pursued by police. The victim died. According to testimony from the victim's relatives and members of local community, several police teams from sections six and seven from Bucharest were trying to capture two suspects who had stolen construction materials. The pursuit took place in the Petricani-Tei area.

The two men jumped into the Plumbuita Lake to evade capture. Ten policemen surrounded the lake. The pursuing policemen announced that they would shoot, after which they fired two shots in the air. A policeman then fired in the direction of the two men who were stationary, treading water. The victim R.D. located in water at about 10-15 metres from shore, was fatally shot in the head. The victim's body was recovered by divers after one hour of searching. The second suspect, who managed to swim approximately 30-40 metres across the lake, surrendered to police.

The actions of the law enforcement authorities appear to violate the Constitution of Romania, which guarantees everyone the right to life and physical integrity<sup>1</sup> as well as possible violations of Romania's international treaty obligations, which are enshrined in the Constitution as an integral part of national law; in particular, the European Convention on Human Rights and Fundamental Freedoms<sup>2</sup> and the International Covenant on Civil and Political Rights<sup>3</sup>.

Article 2 guaranteeing the right to life ranks as one of the most fundamental provisions in the European Convention of Human Rights, one which, in peacetime, admits of no derogation under Article 15. Any use of lethal force must be "absolutely necessary" and strictly proportionate to the achievement of the aims set out in sub-para-graphs 2 (a), (b) and (c) of Article 2<sup>4</sup>.

<sup>1</sup> Constitution of Romania, Art. 22.

<sup>2</sup> European Convention of Human Rights, Article 2.

<sup>3</sup> International Covenant on Civil and Political Rights, Article 6.

<sup>4</sup> European Court of Human Rights, *McCann v. UK*, available at

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=695820&portal=hbkm&source=externalbydocnumber&able=F69A27FD8FB86142BF01C1166DEA398649>

The obligation to protect the right to life according to Article 2 of the Convention requires by implication that there should be an effective official investigation when individuals have been killed as a result of the use of force by inter alia, agents of the State. The authorities must act of their own motion, once the matter has come to their attention. They cannot leave it to the initiative of the next of kin either to lodge a formal complaint or to take responsibility for the conduct of any investigative procedures<sup>5</sup>. According to the standards set by the European Court of Human Rights, the States have a procedural obligation to ensure an independent and effective investigation meeting a requirement of promptness and reasonable expedition capable of leading to a determination of whether the force used in such cases was or was not justified in the circumstances and to the identification and punishment of those responsible<sup>6</sup>.

Moreover, the general obligation under Article 2 of the Convention to conduct an effective investigation in cases of deprivation of life must be discharged without discrimination, as required by Article 14 of the Convention. Where there is suspicion that racial attitudes induced a violent act it is particularly important that the official investigation is pursued with vigour and impartiality, having regard to the need to reassert continuously society's condemnation of racism and ethnic hatred and to maintain the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence<sup>7</sup>. Thus, when investigating violent incidents and, in particular, deaths at the hands of State agents, State authorities have the additional duty to take all reasonable steps to unmask any racist motive and to establish whether or not ethnic hatred or prejudice may have played a role in the events<sup>8</sup>.

In reference to the above, the ERRC and Romani CRISS respectfully requests that authorities launches an investigation into the conduct and legality of the law enforcement officials' actions on 31 May 2012.

More specifically, the ERRC and Romani CRISS calls on the relevant authorities to:

- Conduct an independent, thorough and effective investigation into the legality of the police actions in line with the obligations set by the European Convention of Human Rights;
- Ensure that the investigation fully explores any evidence of discriminatory action or bias motivation
- Make public the scope, methods and findings fo the investigation in this case;
- Hold law enforcement officials found to be responsible fully accountable under the law, in accordance with the respective provisions of the Romanian law and the European Convention of Human Rights, if the investigation shows their actions were unlawful
- Publicly and unequivocally condemn this and any similar incidents in the future
- Review procedures and ensure appropriate training of law enforcement officials to eliminate such practices occurring in the future and ensure their actions fully comply with the requirements of national and international law.

We respectfully request to be informed of any and all actions undertaken by your respective offices in a timely manner.

Dezideriu Gergely  
Executive Director, ERRC

Marian Mandache  
Executive Director, Romani CRISS

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<sup>5</sup> Idem

<sup>6</sup> European Court of Human Rights, *Kaya v. Turkey*, *Ögur v. Turkey*, *Tamrikulu v. Turkey*.

<sup>7</sup> European Court of Human Rights, *Nachova and others v. Bulgaria*, *Cobzaru v. Romania*, *Stoica v. Romania*.

<sup>8</sup> European Court of Human Rights, *Nachova and others v. Bulgaria*.