



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/NGO/14
11 February 2004

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 11 (a) of the provisional agenda

**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF
TORTURE AND DETENTION**

**Written statement* submitted by the Romanian Independent Society of Human Rights
(SIRDO), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 January 2004]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The Romanian Independent Society of Human Rights (SIRDO) is a nongovernmental organization established in 1990 whose objectives are the protection and promotion of human rights and fundamental freedoms, the way they are provided for in international documents of universal or regional scope. SIRDO is especially committed to preventing torture and inhuman and degrading treatments by means of the projects and programmes it develops.

Starting with the 56th session of the UN Commission on Human Rights in Geneva, SIRDO has submitted 17 written statements drawing the attention of the member states to aspects related to the infringement of human rights and fundamental freedoms in Romania. In 9 of those (E/CN.4/2000/NGO/41, E/CN.4/2001/NGO/92, E/CN.4/2001/NGO/93, E/CN.4/2001/NGO/94, E/CN.4/2002/NGO/10/ E/CN.4/2002/NGO11, E/CN.4/2003/NGO/13, E/CN.4/2003/NGO/14, E/CN.4/2003/NGO/15) it referred to abuses by Romanian judicial authorities (police officers, prosecutors, judges, militarized personnel in penitentiaries) against defendants during trials or while the detainees were serving their sentences in prison. The society has revealed aspects related to the penal legislation and enforcement and, above all, practices by authorities. Both aspects consider the existence of two damaging phenomena that are extremely harmful for the human rights and fundamental freedoms compliance: persecution by law (the penal legislation – the Penal Code and the Penal Procedure Code, extrapenal laws stipulating penal sanctions – preserves legal provisions sanctioning misdemeanors which produce minor damages and which do not pose social threats with deprivation of freedom; hardening punishments that hinder the application of provisional discharge, releasing on bail etc.), systematically resorting to torture, cruel, inhuman or degrading treatment or punishments against persons in the custody of the authorities. It is important to mention as well the fact that the judicial bodies in charge with identifying the officials resorting to ill-treatments, holding them responsible for their deeds and punishing them do not get involved.

The modifications and the recent supplementary provisions of the Penal Procedure Code have created a framework that allows for situations that can seriously infringe the right of the people to receive and to send mail. For example, article 98 from the Penal Procedure Code provides that *On proposal from the prosecutor or on its own decision, the Court requests any postal service or postal courier to hold and to hand over the letters, the telegrams or any other kind of mail, be it sent by or to the defendant.* The last paragraph of the article provides that the mail that is not related to the accusations made by the authorities is returned to the addressee. SIRDO manifests its concern over such stipulations that encroach on the exercise of fundamental rights and freedoms.

In the year 2003 SIRDO received approximately 1600 letters, memos and notifications referring to abusive methods used during investigations by police officers and judicial investigators and to the actions of the militarized intervention teams from penitentiaries.

The internal penal legislation provides for punishments against drug dealing and drug or drug-related possession. In many cases the authorities held persons, especially young people, who were then accused of drug dealing, taken to the police arrest areas and tortured to admit to accusations of drug dealing. Although the people repeatedly denied the accusation of dealing, admitting to being consumers only, and the quantities found on them at search were small, the physical and mental torture continued until the victims died. SIRDO is considering the cases of two young drug consumers who were accused of and sentenced for drug dealing. One of them

died in the police arrest area and the other one in the penitentiary. The forensic findings concluded that the two victims died because of use of force against them (fractured nose bones because of punches, cerebral haemorrhage, respectively hanging). The judicial authorities are guilty of these serious violations of human rights (the infringement of the right to live) because they disobey the legal provisions, they resort to ill treatments and they are not genuinely concerned with the protection of these categories of persons in detention.

SIRDO has constantly received signals that the investigators use physical and mental torture in the police arrest areas. Torture is used especially to force the victim to incriminate him/herself, but also to punish the victim for different reasons invoked by authorities: to discipline the people labelled as refractory, to determine the victim to give up informing authorities or organizations that might protect his/her interests etc. The torture methods most frequently used by the police officers are: cuffing the victim, slapping, punching, kicking the victim, hitting the victim with hard objects (rubber clubs baseball clubs, plaited wires etc.), forcing the victim to sit in uncomfortable and embarrassing positions, using intimidation and threats etc. As in the previous years, SIRDO has received notifications from all the regions of the country, detailing the ill treatments used by the investigators against the victims.

During the discussions that the representatives of SIRDO visiting the penitentiaries had with the detainees, the latter talked about the pressures and the constraints to which they are submitted by the members of the Protection and Anticorruption Independent Service (SIPA) – a secret militarized service subordinated to the Minister of Justice. The detainees declared that they were forced to become informers of this secret service, as the psychological pressures and the physical violence ceased only when they accepted to collaborate with SIPA. Although changes have been made at the level of the management of this secret service (the former SIPA commander was involved in political police activities during the Communist regime), the core issues are still unsolved. In its previous reports and memos to the UN Commission on Human Rights, SIRDO informed the Commission on the fact that the activities of SIPA are illegal and unconstitutional and on the abuses by the representatives of this service against people detained in penitentiaries. Moreover, SIPA is an instrument of blackmail and constraint used by and at the disposal of the executive power.

Another serious problem signaled in the detention centers is that of the deficient medical assistance. The people who are deprived of freedom do not benefit of adequate medical care and treatment. The fact that medicine and medical facilities are missing, that the doctors belonging to the militarized structured of the police arrest areas and penitentiaries are indifferent, irreversibly prejudice the health of the patients-detainees and infringe their right to live. SIRDO is now considering cases where the detained people died in penitentiaries because they were not offered necessary medical care. Moreover, by building a penitentiary hospital near Bucharest the authorities meant to rule out the possibility of discharging the detainees so that they could be treated for their serious illnesses in civilian hospitals. In fact, this initiative of the authorities further restricts the detainees' right to adequate, rapid and efficient medical assistance.

Considering the above-mentioned aspects regarding the systematic practice of torture throughout the country and its serious consequences, Having in view the provisions of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, adopted by the UN on 10 December 1984,

And taking into account the recommendations of the UN Commission on Human Rights Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, SIRDO requests the UN Committee on Torture and the Member States of the Commission on Human Rights in Geneva, gathered in its 60th session, to start a monitoring procedure for Romania, aimed at:

- The authorities' full compliance with the pledges taken when ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- The necessity to adopt a new law on serving sentences involving deprivation of freedom, as the present law dates from the year 1969 and no longer corresponds with the present standards and Romania's commitments. We must specify that the regulations on how to apply this law are secret, not open to public, and also the necessity to demilitarize the structure of penitentiary,
- The establishment of measures to rehabilitate the victims of torture in the national legislation and the practice of authorities, so that the victims could regain their rights and receive reparations and compensation for the damage they suffered, as well as guarantees that torture will not be used against them again.

SIRDO also specifically requests the Member States of the Commission on Human Rights in Geneva to find, together with the Committee against Torture and UN Special Rapporteur on Torture, the best methods to determine Romania to ratify the Optional Protocol of the UN Convention against Torture. This request finds its arguments in the existence of the systematic practice of torture in Romania, as it results from the report drawn up by UN's Special Rapporteur on Torture and from the sanctions expressed by the European Court of Human Rights through the decision to sentence the Romanian state in the case "Pantea" in the year 2003.
