



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2006/NGO/8
10 February 2006

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-second 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 organisation 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 2006]

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

- (i) The Romanian Independent Society of Human Rights – SIRDO, a non-government organisation founded in 1990 with the statutory purpose to protect and promote human rights and fundamental freedoms, develops counselling and legal assistance programmes and activities on information and education on human rights for persons deprived of freedom, by effect of the penal law, or in administrative detention.
- (ii) Beginning with 2000, SIRDO constantly requested the intervention of the UN Commission on Human Rights as mechanism of intervention and determination of policies of states in view of respecting human rights for the cause of prisoners and arrested persons in Romania. Each statement included aspects resulted from the practical experience of the organisation on the treatment applied by the state authorities in concrete cases, but also references to the detention conditions.
- (iii) The deprivation of freedom as a form of restricting the right to freedom and security of the person by effect of the penal law continues to be, In Romania, under the impact of a legislation that needs to be reviewed and especially of the public statements of the state representatives, which may lead to reasons outside the framework related to the respect of human and constitutional rights (i.e. the declaration of the Romanian president in January 2006 requesting the prolongation of the period of detention of the suspects until they are brought before the judge from 24 hours to 72 hours).
- (iv) The aspects illustrated by the Special Rapporteur on Torture following the visit in Romania (E/CN.4/2000/9/Add.3) according to which the overpopulation in penitentiaries is seen as a form of torture, continues to exist at present as well. As presented by Romanian officials at that time, the main cause derives from the penal and execution-penal legislation regulating this field.
- (v) Considering that the Government was, in 2005, in incapacity to implement Law 297/2004 on the execution of sentences, as it was not in disagreement with the penal Code which was reviewed by the Parliament, the penitentiaries are still suffocated by the number of persons detained and also by the tough conditions.
- (vi) Concerning the institution of penitentiaries, the main negative aspect is that the National Administration of Penitentiaries (NAP) and its units are included in the “structures of defence, public order and national state security”, which leads to serious violations of the objectives of the institution. Also, the Ministry of Justice and the units belonging to the NAP maintain the existence of the DIPA – military department with attributions in coordinating and controlling the activities, a dangerous and anachronic service.
- (vii) The declared purpose of the modern character of Law 297/2004 on the execution of sentences, which stipulates punishments that are not depriving of freedom and implicitly the de-congestion of prisons is affected by the Parliament postponing the adoption of changes that should regulate the disproportion between the quantum of the sentence and the offence committed,

but also by changing dispositions such as the incrimination of insults, calumny, offence brought against the authorities, etc.

- (viii) In obvious contradiction with the international standards, Law 297/2004 stipulates maintaining the preventive arrest centres subordinated to the Ministry of Administration and Interior, so that the persons arrested continue to be in custody of the police after the judge issues the warrant. It often happens that, after the finalisation of document for the penal investigation and the transfer of the persons found guilty to penitentiaries, the prosecutors still interrogate them (claiming that there are situations where those who have been judged can be witnesses in the same cause or in others), in the absence of the chosen or given defending lawyer.
- (ix) Even if Law 297/2004 contains provisions according with which, in special situations, per request of the NAP, troops under the Ministry of Administration and Interior can go to penitentiaries, special masked intervention troops are still present in penitentiaries, applying both collective and individual punishments, the victims finding themselves before an anonymous aggression agent.
- (x) The cases received by SIRDO in 2005 reveal that, for the prisoners, restricted measures act like a stigmata in setting the degree of dangerousness related to the offence committed and to their behaviour before the arrest (i.e.: the condition of general prosecution) and during the investigations.
- (xi) A major concern, most of the times leading to abuse and torture, is related to the power of gendarmes who, by provisions of Law 116/1998 have the role to lead the suspects to the police or gendarmes sections, without notifying the prosecutor. The law also allows the Romanian gendarmerie, as a penal research body responsible for the deprivation of freedom in their own sections, to force the suspects to deliver information, data, documents.
- (xii) The police raids are stipulated by law, but the regulation of these actions is stipulated in norms with confidential character. This aspect affects especially the Roma population community, where the police go at nights, without having any warrant, to maltreat entire families formed of children, elder people, persons who are ill, while fire guns are used for intimidation.
- (xiii) It is SIRDO's opinion that the aspects signalled above are obvious routes of the process and penal system, allowing the authorities who have an important role in the efficiency of the penal process to go astray from respecting principles and requests and are involved in practicing torture and inhuman or degrading treatment.
- (xiv) The investigating bodies' practice is to force the victims admit offences which they did not commit or to add some to those of which they are accused, either by physical or psychological torture applied by police officers, or by manipulating some other arrested persons who are promised to get advantages out of that. The victims in penitentiaries are confronted with direct actions against them, usually applied by the special masked services or the military

services (DIPA) and also with the inhuman detention conditions related to the lack of hygiene, the existence of head and body parasites, the insufficiency of medical services and of the treatment applied to persons who are ill.

- (xv) In this context SIRDO requests the UN Commission on Human Rights to consider this statement and to also review the aspect presented in Statement E/CN.4/2005/NGO/85 on the need to demolish the Jilava Penitentiary where the conditions are considerably degraded, without any intention to improve them.
