



---

# Police Violence against the Roma Community in Romania

---

May 2021

Authors: Vasile Gîlbea and Norbert Iuonaş

Project:



Document elaborated in „INTERSECT – Changing the narrative of discrimination” project coordinated by the Centre for Legal Resources in partnership with ACTEDO - Equality and Human Rights Action Centre, MozaiQ LGBT and UCTRR - Civic Union of Young Roma from Romania.



This project is funded by the Rights, Equality and Citizenship Programme of the European Union (2014-2020). The content of this document represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

## **1. Introduction**

This document provides a brief overview of the abuses committed by law enforcement representatives against Roma communities, domestic and international law, cases in which Romania has been convicted by the European Court of Human Rights of human rights violations by police officers against Roma people, as well as a series of recommendations.

Although human rights NGOs and annual reports of the US State Department have presented numerous cases of violence by police representatives against Roma each year, the Romanian state has not taken the necessary measures to remedy these problems.

Moreover, in recent years there has been an alarming increase in these abuses, which have intensified during the 2020 alert period through interventions in Roma communities. These interventions involved acts of violence, as well as inhuman and degrading treatment by law enforcement representatives, representing flagrant violations of human rights.

## **2. Brief overview on the relationship between the police and the Roma community**

The police were the first state body responsible for dealing with Roma people, and the perception of majority ethnic groups to associate them with criminal groups solely on the basis of their "migrant" status influenced law enforcement in the application of treatments consistent with the perception in question.<sup>1</sup>

The perception that members of the Roma community are inherently criminals materialized during the Nazi regime when Roma were declared "asocial", thus subjected to racial extermination.<sup>2</sup>

Police, like society in general, are not without racist opinions and prejudices.<sup>3</sup>

Such attitudes and perceptions are sometimes manifested by insufficient police activity, such as failure to provide sufficient support and protection; or through over-

---

<sup>1</sup> Manual OSCE "Police, Roma and Sinti: Good Practices in Strengthening Confidence and understanding", available the <https://www.osce.org/files/f/documents/e/5/80790.pdf> p. 24

<sup>2</sup> Ibid

<sup>3</sup> Ibid

activity by the police, such as excessive attention to crimes alleged to be committed by members of Roma communities or by the use of excessive force against such persons.<sup>4</sup>

*In many European countries, Roma have been subjected to profiling and criminalization on ethnic/racial grounds. "Ethnic profiling" is defined as the use by police officers, during search and control, surveillance or investigation, of the characteristics of race, ethnicity, religion or national origin, without any objective and reasonable justification, instead of the conduct itself, as a basis for making decisions about who was or could be involved in criminal activity.*<sup>5</sup>

**Ethnic profiling occurs most frequently when police officers decide whom to stop and identify, whom to question, search and even arrest. This constitutes in clearly discriminatory behaviour.**<sup>6</sup>

In addition, the Roma are not only subject to the disproportionate use of stop and search procedures, but are subjected to excessive use of force during these procedures.<sup>7</sup>

In the brochure entitled "Human Rights for Roma and Travellers in Europe – Extracts from the full report" of the European Commissioner for Human Rights of the Council of Europe, it is stated that discrimination and ill-treatment of Roma and Travellers by the police is a standard pattern. Roma have been treated with violence by the police both in places of detention and in public places (on the streets) – for example, in Roma neighbourhoods, during police raids.<sup>8</sup>

In a number of cases, when a criminal investigation of such acts has started, it appears that it was carried out in a discriminatory and biased manner.<sup>9</sup>

Because of this long experience of oppression and abuse of force at the hands of the police, the Roma have developed an attitude of profound suspicion towards law enforcement.<sup>10</sup>

---

<sup>4</sup> Ibid

<sup>5</sup> Ibidem p. 25

<sup>6</sup> Ibidem p. 26

<sup>7</sup> See OSCE High Commissioner on National Minorities, Report on the Situation of Roma and Sinti in the OSCE Area (quoted document, note 8 8), p. 44.

<sup>8</sup>

[https://www.coe.int/t/commissioner/source/prems/RomaTravellersExtraits\\_ROM.pdf](https://www.coe.int/t/commissioner/source/prems/RomaTravellersExtraits_ROM.pdf)

<sup>9</sup> Ibidem

<sup>10</sup> OSCE Manual "Police, Roma and Sinti: Good Practices in Strengthening Confidence and understanding", available the <https://www.osce.org/files/f/documents/e/5/80790.pdf>, p. 24

### 3. International legislation governing Police activity in relation to the Roma community

**A) The Action Plan of the Security and Cooperation Organization in Europe (OSCE)** to improve the situation of Roma and Sinti in the OSCE area<sup>11</sup> (2003) has a number of recommendations (Recommendations 26-32) to the participating States:

- *Develop policies that promote awareness among law enforcement agencies about the situation of Roma and Sinti and counter negative prejudices and stereotypes.*
- *Develop training programmes aimed at preventing excessive use of force and to promote awareness regarding human rights, as well as to respect them.*
- *Develop policies: (1) to improve relations between Roma and Sinti communities and the police, so as to prevent abuse and violence of the police against Roma and Sinti; and (2) to strengthen trust in the police among Roma and Sinti.*
- *Develop policies and procedures to ensure an effective police response to racially motivated violence against Roma and Sinti.*
- *To assess the discrepancy between international standards on police and existing national practices, in consultation with national police forces, NGOs and representatives of Roma and Sinti communities.*
- *Develop, where appropriate and in close partnership with Roma international organizations and NGOs, policy statements, codes of conduct and practical guidance manuals and training programs.*
- *Encourage Roma and Sinti to work in law enforcement institutions as a sustainable means of promoting tolerance and diversity.*

**B) Recommendation No.11 of the European Commission against Racism and Intolerance**<sup>12</sup> refers specifically to the police and the fight against racial discrimination (2007) as follows:

- *Racial and ethnic profiling by the police is prohibited;*
- *Control, surveillance or investigation must be carried out on the basis of a standard of reasonable suspicion and not on the basis of ethnic origin;*

---

<sup>11</sup> Available at <https://www.osce.org/odihr/17554>

<sup>12</sup> Available at <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.11>

- *Racial discrimination or racially motivated acts by the police will be effectively investigated;*
- *The police will fully consider the racist motivation of ordinary crimes;*
- *The police will have to establish a dialogue and cooperation with members of minority groups.*

**C) Recommendation No.13 of the European Commission against Racism and Intolerance<sup>13</sup> (2011, with additions in 2020)** refers in particular to the principles of combating anti-Gypsism and discrimination against Roma, including by the police:

- *The police should receive special training on human rights, Roma issues, legislation on racially motivated crimes and its implementation with regard to Roma victims;*
- *The police should carry out necessary investigations into racist crimes and acts of violence against Roma and in which allegations of police abuse against Roma have been documented, so that offenders are prosecuted and punished;*
- *The police should take measures to promote the recruitment of Roma in the police force;*
- *In order to ensure a link between the Roma and the police, mediators should be hired, especially among the Roma population.*

**D) The European Police Code of Ethics (2001)** provides specific guidelines for the police when dealing with ethnic minorities and vulnerable persons:<sup>14</sup>

- *The police must carry out their tasks fairly, guided in particular by the principles of impartiality and non-discrimination;*
- *Police personnel must act with particular attention in the case of persons belonging to particularly vulnerable groups;*
- *Police investigations must be objective, fair, sensitive and adapted to the special needs of persons, such as children, minors, women, minorities, including ethnic and vulnerable persons;*
- *The police must provide the necessary support, assistance and information to victims of crime without discrimination.*

<sup>13</sup> Available the <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/recommendation-no.13>

<sup>14</sup> quoted in Document "Toolbox police officers. Standards of the European Council on crimes motivated by race and non-discrimination, highlighting the problem of Roma and Nomads", p.17, 2019, available the <https://rm.coe.int/coe-police-toolkit-ro-03122020/1680a0b8c6>

#### **4. National legislation governing the activity of law enforcement and the way they intervene in communities**

**The Government Emergency Ordinance No. 30/2007 on the organization and functioning of the Ministry of Interior and Administrative Reform**, approved by Law no. 15/2008, provides that the Ministry of the Interior is the specialized body of the central public administration to which, according to the Constitution and the national laws, a number of tasks, including in the field of *defending fundamental human rights and freedoms* and public and private property, according to Article 1 (2) (a).

**Law No. 218/2002 on the organization and functioning of the Romanian Police, republished**, provides in Article 26(1) that the Romanian Police has among its main tasks: *"it defends the life, bodily integrity and freedom of persons, private and public property, other legitimate rights and interests of citizens and the community"*, the lack of distinction on the basis of nationality, ethnicity, social origin, race, etc. is evident. In accordance with Article 31(2) *"in the exercise of the rights conferred by this law (...) the police officer has an obligation to respect exactly the fundamental human rights and freedoms laid down by law and the European Convention on Human Rights."*

**Law No. 360/2002 on the Statute of the Police Officer**, as amended and supplemented, provides in Article 4 that *"The police officer is obliged to respect the fundamental human rights and freedoms, the Constitution and the laws of the country [...]"*.

**Law No. 550/2004 on the organization and functioning of the Romanian Gendarmerie** states in Article 37 that *"in the performing of their duties, the staff of the Romanian Gendarmerie are obliged to respect fundamental human rights and freedoms and to provide first aid to persons who need it as a result of the intervention in force"*.

**Government Decision No. 991/2005 for the approval of the Code of Ethics and Deontology of the police officer**, applicable to the staff of the Romanian Gendarmerie as well, provides that they *must exercise their actions in accordance with national law, conventions and international agreements to which Romania is a party*. In addition, according to Article 7 (3): *"The police officer must*

*carry out his duties and missions in a fair and objective manner, respecting and protecting the fundamental rights and freedoms of the person enshrined in the Constitution and other laws, in accordance with the Universal Declaration of Human Rights, the European Convention on Human Rights, the European Code of Police Ethics and the provisions of the Treaties to which Romania is a party".*

With regard to **non-discrimination**, the following articles of the Code of Ethics and Deontology of the Police Officer are identified:

**Art.4-** In regard to the police and their cooperation with other state institutions

*(4) The police shall ensure the development of an organisational environment based on conscience, professional integrity, non-discrimination, communication, transparency, prevention and combating corruption at all hierarchical levels"*

**Art.6 – General principles**

**The principles governing the professional conduct of the police officer are as follows:**

**b) equality, impartiality and non-discrimination – "in carrying out their professional duties, the police officer shall apply equal treatment to all persons, taking the same measures for similar situations of violation of the rules protected by law, without being influenced by ethnic, nationality, race, religion, political opinion or any other opinion, age, sex, sexual orientation, wealth, national, social origin or arising from any other situation".**

**Art.9 regulates the use of force:**

*1) The police officer carries out actions in force as an exceptional measure, in strict accordance with the legal provisions and only in situations of absolute necessity, in order to achieve a legitimate objective.*

*2) The force actions carried out by the police must be subordinated to the principles of necessity, graduality and proportionality.*

*3) Equipment that can be used during force actions, including firearms, will be used only in case of absolute necessity, in strict compliance with the legal provisions.*

*4. At the time of the achievement of the legitimate objective, the exercise of the action in force shall also cease.*

*5) In carrying out the actions in force the police officer will always consider respecting human dignity.*

6) *When confronted with physical violence or real threats of use of physical force against him or other persons, the police officer has an obligation to intervene firmly, within the legal limits, to restore order.*

**Art.15: Relationships in the exercise of the profession**

*The police officer must promote and develop without discrimination the good relations between the institution he represents and the community, ensure effective cooperation with representatives of central and local public authorities, non-governmental organizations and the population, minority groups, **including ethnic groups.***

**Art.18: Respect for human dignity:**

- 1) *The police officer shall be prohibited from applying, encouraging and tolerating, under any circumstances, acts of torture, inhuman or degrading treatment and punishment, physical or mental constraints.*
2. *Where the police officer becomes aware, by any means, of the commission by another police officer of the acts referred to in paragraph 1, he shall take the necessary measures, as appropriate, to determine the cessation of such conduct and to inform superiors of the situation referred to.*

**Article 22: Legality of actions:**

*The policeman has an obligation to systematically check and ensure the legality of his actions, before and during their deployment, both from the point of view of compliance with national law and international documents to which Romania is a party.*

**Law No. 17/1996, amended and supplemented by Law No. 180/2016- on the regime of firearms and ammunition contains a series of articles on situations in which firearms can be used as follows:**

**Art.49**

*The use of weapons is done only after the legal summons. The summation is done by the words: 'Wait, wait, I'm shooting!' In the event of disobedience, it shall be called by firing a weapon vertically or in another supposedly safe direction which does not endanger the life, bodily integrity or property of any person. Where, after the enforcement of the statutory order pursuant to paragraph 1, the competent authority of the Member State in which the order is to be placed, the competent authority of the Member State in which the order is the person concerned shall not comply, the weapon may be used against him. In the case referred to in Article 47(h) and (i), the weapon shall be used only after it has been repeated 3 times, at sufficient intervals for the dispersal of the*

participants, the order: 'Leave ..., we shall use firearms!'. By way of exception to the provisions of paragraph 1, in accordance with the situations laid down in Article 47 (a), (b), (f), (j) and (k) and in Article 48, weapons may be used without notice if the time required for it is missing. In the case of the use of weapons against means of transport, the fire shall be carried out on the tires or components providing movement for the purpose of immobilizing them.

#### **Art. 51**

*The use of a weapon, under the conditions and situations provided for in this Chapter, shall be such as to result in the immobilization of those against whom the use of a weapon is carried out, the cessation of the attack or the state of danger, their inability to act or the neutralization of unlawful actions, being drawn in such a way as to avoid, as far as possible, the cause of their death. If the use of the weapon has achieved its purpose as referred to in paragraph 1, the competent authority of the Member State concerned shall inform the Commission thereof. Such means shall cease.*

*The person who has used the weapon is obliged to act as soon as possible in order to provide first aid and medical assistance to injured persons. Every situation in which the weapon has been used shall be reported as a matter of urgency, hierarchically.*

*As soon as possible, the report shall be drawn up in writing. If the use of a weapon has resulted in the death or injury of a person, the act shall be communicated immediately to the competent prosecutor, according to the law, by the institution of which the person who carried out the use of the weapon belongs to.*

#### **Art. 52**

*The use of a weapon against minors, if their age is obvious or known, women, the elderly and persons with visible disabilities, and where the lives of other persons would be endangered, shall be avoided as far as possible,*

#### **The use of a weapon shall be prohibited:**

- against children, visibly pregnant women, unless they carry out an isolated or group armed attack that endangers the life or bodily integrity of a person.

**The Regulation No. 193/1992 on the organization and function of the Committees for Human Rights and Humanitarian Law in the Ministry of Administration and Internal Affairs (M.A.I), with the subsequent changes and additions. This advisory Committee of the Ministry is involved in the issues**

regarding human rights protection and applying the humanitarian law, coordinating the activity of the committees. It also *“analyses the responsibilities of M.A.I. in their international affairs regarding the national minorities and proposes solutions to protect people who might be victims of attacks and threats from discrimination and hate on account to their race, ethnicity, culture, language or religion and to protect their assets.”*

At the level of the General Inspectorate of Police, such a committee operates, composed of managers of the main directorates whose responsibilities are the maintenance of public order, human resources, as well as the organization and institutional development within the police. It is responsible for analysing extraordinary cases of force intervention in Roma communities and of making recommendations or provisions on appropriate ways of carrying out such interventions.<sup>15</sup>

**By the Disposition of the General Inspector of the Romanian Police No. 643/2005 it was approved the Manual of Good Intervention Practices for the police officer.**<sup>16</sup> Its provisions include the clear aspects of the intervention tactics that the police officer must follow in different situations.

## **5. Cases of conviction of Romania by the European Court of Human Rights (ECHR) in cases concerning police abuses against Roma**

### **5.1. Case Gheorghe Cobzaru v. Romania (application 6978/08)**

The European Court of Human Rights found that Romania violated Article 2 (right to life) of the European Convention on Human Rights by the decision of 25<sup>th</sup> June 2013 in regard to the application No. 6978/08 introduced by Mr. Gheorghe Cobzaru, who reported the shooting of his son, Adrian Cobzaru, in the backyard of his house, by a policeman.

In the reasoning for the decision, the Court noted that, considering the course of the events, by firing a shot in the direction of the applicant's son in order to catch him in

<sup>15</sup> Manual OSCE “Police, Roma and Sinti: Good Practices in Strengthening Confidence and understanding”, available the <https://www.osce.org/files/f/documents/e/5/80790.pdf> p. 92

<sup>16</sup> Available at <http://www.apador.org/wp-content/uploads/2017/12/manual-practici-politie.pdf>

the middle of the night, the policeman did not take all precautions to protect his life in the context of the lack of clear rules on the use of firearms by law enforcement.

It is also stated that *'since the Romanian authorities have not demonstrated that the potentially lethal existing force used against the applicant's son did not go beyond what was absolutely necessary, that it was strictly proportionate and that it pursued one of the purposes authorised by Article 2§2, Article 2 of the European Convention on Human Rights (Right to life) was deemed to have been infringed in material terms.'*<sup>17</sup>

With regard to the infringement of Article 2 of the Convention in procedural terms of the ECHR, it noted that, although it had been more than 6 years since the event took place, the investigation by the public prosecutor's office into the police operation carried out by the police worker was still pending. The Court considered that this was a very long period of time which risked complicating the collection by the national authorities of evidence and the determination of the facts, thus it is also considered that Article 2 of the Convention was procedurally infringed.

At the end of the judgment, the Romanian State was obliged to pay the applicant, Gheorghe Cobzaru, the sum of 30.000 EUR for moral damage.

## **5.2. Case Lingurar v. Romania (application 48474/14)**

By the Decision of 16<sup>th</sup> April 2019, the ECHR sanctioned Romania for an intervention action on 15<sup>th</sup> December 2011 by law enforcement in the house of the Lingurar family in Vâlcele, Covasna County, ruling that several articles of the European Convention on Human Rights had been violated.

### *A. Violation of Article 3 of the European Convention on Human Rights (prohibition of torture)*

In the reasoning for the decision for the violation of this article, the Court states that, although the complainants were unarmed and were not wanted for any violent crime, 85 police officers and gendarmes participated in the intervention, all wearing special intervention equipment, and caused the victims injuries which reached the minimum level required by art. 3 of the Convention.

---

<sup>17</sup> More information at <https://www.juridice.ro/288722/cedo-cauza-cobzaru-impotriva-romaniei.html>

*B. Violation of art. 14 of the Convention, (prohibition of discrimination) in conjunction with art. 3 of the Convention, in material terms*

Examining the facts of the case, the Court considered that by the manner in which the authorities justified and executed the police raid they automatically linked ethnicity to criminal behaviour, therefore the ethnic profiles developed for the complainants were discriminatory and that the police response was disproportionate to the complainant's behaviour.

*C. Infringement of art. 14 of the Convention, in conjunction with art. 3 of the Convention, in procedural terms*

The reasons for the Court's failure to investigate effectively indicate that the authorities have reverted to cases where members of the Roma community had been violent to law enforcement, without explaining how these examples were relevant to the present case, in so far as they showed no resemblance to the complainant's situation and were not directly related to the present case.

The Court also decided that the Romanian State shall pay 11.700 EUR to each applicant consisting in moral damages.

This decision is unique and of crucial importance because, for the first time in the history of the ECHR (established in 1959), it is established that national authorities targeted Roma because of their ethnicity (**ethnic profiling**).<sup>18</sup>

### **5.3. Case Ciorcan and Others v. Romania (applications 29414/09 and 44841/09)**

By decision of 27.04.2015<sup>19</sup>, Romania was sanctioned by the European Court of Human Rights for a police intervention in Apalina district, the city of Reghin, Mures County on 7<sup>th</sup> September 2006.

The Court ruled that art. 2 (right to life) of the European Convention on Human Rights had been infringed, noting that, although state agents did not intend to kill Mrs

---

<sup>18</sup> More information in *Open letter on police abuses against Roma*, submitted by the organisation Romani CRISS Ministry of Internal Affairs and Superior Council of Magistracy, available at <https://www.juridice.ro/636935/scrisoare-deschisa-privind-abuzurile-politiei-impotriva-romilor.html>

<sup>19</sup> Available in English, at [https://hudoc.echr.coe.int/eng?i=001-150648%20#{%22itemid%22:\[%22001-150648%22\]}](https://hudoc.echr.coe.int/eng?i=001-150648%20#{%22itemid%22:[%22001-150648%22]})

*Ciorcan, it was an accident that she was not killed, given the findings of the forensic examination which revealed the severity of the injuries and the fact that her life had been put at risk as a result of the shooting.*

*The Court also pointed out that when she was shot, she was neither armed nor attacked any of the police officers or special forces in any way,*

**Regarding the lack of an effective investigation,** the Court noted that there were obvious omissions in the conduct of the investigation (authorities did not establish the identity of the police officers who fired the gun and, in particular, the policeman who shot Mrs Ciorcan, and it was also not established by an expert investigation whether she was shot with a rubber or a metal bullet), including the issue of planning and controlling the operation (in particular, –whether or not the presence of special forces at the scene of the incident was necessary). The Court concluded that the investigation did not fulfil the obligation to be 'founded', as set out in Article 2.

The Court also noted that the authorities did not request medical documents and did not take statements to gather evidence of all complaints of ill-treatment which were referred to them, and therefore concluded that there was a breach of the procedural aspect of Article 3 of the Convention.

With regard to the infringement of art. 14 (prohibition of discrimination) of the Convention, the Court observed that the authorities investigating the incident of 7<sup>th</sup> September 2006 were aware that state agents had fired their weapons, both with rubber bullets and with lethal ammunition, in a populated area – the Roma district of the city – without regard to public safety, which led to the injury of several persons, including Mrs Ciorcan. However, the investigation did not pay any attention to this and prosecutors did not question witnesses or state agents involved in this matter.

Thus, the Court finds that the authorities have not fulfilled their obligation under art. 14 of the Convention to take all necessary measures to investigate whether discrimination may have played a role in the events, proving that there has been a breach of art. 14 of the Convention, in conjunction with art. 2 and 3 of the Convention, in material terms.

The Court decided to penalise the Romanian State by requiring it to pay the amounts of 42.000 EUR jointly and in solidarity to each of the 8 applicants and 7.500 EUR jointly and in solidarity to 20 other applicants.

#### **5.4. Case Lingurar and Others v. Romania (application no. 5886/15)**

In this case, the Romanian State was sanctioned by the ECHR Decision dated 16<sup>th</sup> October 2018<sup>20</sup> for 2 Cluj-Napoca police departments in Cluj County, in a Roma community near the garbage dump in Pata Rât, Cluj-Napoca, which took place on November 5<sup>th</sup>, 2005 and November 8<sup>th</sup>, 2005 respectively.

The application was filed by three plaintiffs, two men and one woman, all of Roma ethnicity.

Following the analysis of the documents and other evidence (video recording) in the ECHR case file, the Court decided that:

1. Art. 3 of the European Convention on Human Rights in material terms has been infringed with regard to the two male complainants.

The Court's reasons for the application of ill-treatment by the police to the first applicant resulted from the video recording filed in the case file, in which he is thrown to the ground by an agent of the State, and there is no evidence to assume that he posed a threat to the authorities or that he was considered particularly dangerous.

Additionally, the Government did not provide any argument capable of explaining or justifying the intensity of the force used against that applicant, which was excessive and unjustified.

With regard to the second applicant, the Court notes that he was detained and restrained by two police officers [... and], although he did not resist the police, a cane blow was applied to his back "preventively". In the Court's view, this deliberate action by the police officer cannot be regarded as justified in the present case by the conduct of the person concerned. The Court considers that the blow in question was intended to provoke the second applicant's feelings of fear, anguish and inferiority, which could humiliate and demean him.

The Court considers that the use of force in respect to the second applicant was excessive and unjustified in relation to the circumstances of the case.

2. Art. 3 of the European Convention on Human Rights in procedural terms has been infringed with regard to the two male complainants.

On this point, the Court considered that the investigation concerned only the circumstances in which the raid took

---

<sup>20</sup> Available in Romanian, at <http://ier.gov.ro/wp-content/uploads/2021/01/Lingurar-si-altii-impotriva-Romaniei.pdf>

place and the allegations of ill-treatment brought by the second applicant and that it did not at any time address the question of the necessity of force used against the first applicant. As far as the prosecution is concerned, it was extended for more than eight years so that the limitation period for criminal liability for the acts attributed to a police officer had been fulfilled.

In those circumstances, the Court concludes that, by failing to investigate the need for force used against the first applicant and because of the duration of the investigation carried out following the allegations of the second applicant, the authorities have failed to fulfil their positive obligations under art. 3 of the Convention.

3. Art. 14 in conjunction with art. 3 of the European Convention on Human Rights in procedural terms has been infringed with regard to the two male complainants.

In its reasoning relating to that infringement, the Court considers that the research carried out on racist grounds had not been sufficiently thorough: in fact, after finding that the raid was aimed at seeking suspects of theft, the internal authorities did not respond to the complaints about the use of excessive violence in organising the raid, as a result of belonging to Roma ethnicity (community).

The Court also notes that the internal authorities have limited themselves to giving very general answers. Such a response, in the absence of more detailed research to clarify the facts in concrete terms and to decide whether the authorities had adopted a discriminatory attitude on an ethnic basis, is not sufficient in relation to art. 14 of the Convention.

The Court considers that, in the circumstances of the case, the Romanian authorities have failed to comply with the procedural obligation imposed by art. 14 of the Convention to take all necessary measures to investigate the existence of a racist reason in the organising the 8<sup>th</sup> November 2005 raid.

The Court decided to penalise the Romanian State by requiring it to pay 11.700 EUR to each of the 2 applicants, constituting compensation for moral damages.

## **6. Cases of violence against Roma committed by representatives of the Ministry of Internal Affairs during the state of emergency /alert**

During the state of emergency, there were several abuses committed by the police against Roma people in several localities in the country.

The pretext was, in most cases, non-compliance with the rules established by the Government Emergency Ordinance No. 34/26.03.2020 for the modification and completion of the Government Emergency Ordinance No. 1/1999 on the curfew and the state of emergency regime, that is to say the rules concerning the application and observance of social distance and the wearing of the protective mask.

In the documentation carried out by the Civic Union of Young Roma in Romania Association (UCTRR) it was observed that the intervention of law enforcement was always disproportionate, both in terms of the number of police/gendarmerie officers who intervened, but especially in the violence of the intervention.

### **6.1. Police intervention in Osiris Street, Rahova district, Bucharest**

Under the pretext of wanting to identify some people who made "scandal" in the neighborhood, several police and gendarmerie crews broke in without notifying and warning, into T.V.'s home where several people were, including women and children.

As part of the intervention of the MAI representatives, three people were knocked to the ground and then hit by one of the policemen, and as a result of the prime blows, T.V. suffered a fracture to his hand.

The three injured persons filed a complaint against the representatives of the law enforcement who were registered with the Military Prosecutor's Office of the Bucharest Military Court, as gendarmerie workers were also involved in the conflict.

### **6.2. The case of "Spartacus"**

On April 19<sup>th</sup> 2020, law enforcement officers intervened at a building in Bucharest's Rahova district, where a party was taking place, on account of Orthodox Easter holidays.

The intervention was one in force over those celebrating Easter, with a large number of police and

gendarmes participating in the action, which used tear gas that primarily affected the children in the courtyard, which led to a conflict between those present in the backyard and the representatives of the law enforcement. As a result of this situation, 37 persons were detained, including children, 5 of whom were later arrested.<sup>21</sup>

Mrs. I.M. was one of the persons who was detained, along with her minor son. She reported that both she and others were beaten, cursed and humiliated when she arrived at the 19th Police Station.<sup>22</sup>

The attitude of intimidation continued in the following days by using an impressive number of law enforcement officers patrolling the neighborhood, including a helicopter belonging to the MAI.

### **6.3. Police intervention in the Roma community in Bolentin Vale, Giurgiu County**

On 18.04.2020, in a neighbourhood where Roma citizens live, in the town of Bolintin Vale, Giurgiu County, there was an intervention by law enforcement forces made up of police officers and special forces gendarmes.

They entered several buildings in the neighbourhood, carrying out physical violence on several Roma people, the latter having no intention of attacking law enforcement.

In a video broadcast in the media, one can see how a man who was handcuffed and lying face down on the ground is being hit with a baton by the police chief of Bolintin Vale.<sup>23</sup>

The injured persons filed a criminal complaint against the police and gendarmerie agents, the file being at the Public Prosecutor's Office of the Giurgiu Tribunal, statements being taken of all persons on whom physical hitting actions were carried out.

---

## **7. Recommendations**

- Registration of the forces participating in the action with identification elements inscribed on the equipment (numbers or any other means of identification) so that, if they are accused of

---

<sup>21</sup> <https://www.scena9.ro/article/scandal-rahova-spartacus-abuzuri-politie->

<sup>22</sup> Ibidem

<sup>23</sup> <https://www.digi24.ro/stiri/actualitate/evenimente/video-barbat-culcat-la-pamant-batut-crunt-de-seful-politiei-din-bolintin-vale-a-fost-deschis-dosar-penal-1296657>

committing possible abuses/offences, they can be sanctioned individually;

- Inscription of law enforcement equipment to make it possible to identify them in cases of possible acts of violence for the purpose of individual sanctioning;
- The use of transparent methods of police intervention (cameras) in accordance with international rules and regulations to which Romania has acceded;
- Finding alternative solutions for police intervention (non-violent) in Roma communities;
- Gradual use of force in interventions;
- Amendment of the legislation on the use of firearms by law enforcement, for the purposes of detailed regulation (use of them only under the law and if the situation requires it, for example, for self-defense) ;
- Conducting an annual publication containing a description of the cases in which the police have intervened, the issue arising, the views expressed on the mode of intervention and proposals for the elaboration of a uniform procedure to be followed in such cases to be transmitted to the territorial units;
- Transparency of the internal research system for the purpose of public presentation of measures to penalize police officers who are accused of human rights violations;
- Introducing modules on respect for human rights and combating discrimination in the permanent training programs of MAI representatives;
- The formation at M.A.I. level of a working group of civil society experts dealing with human rights and monitored cases of discrimination and violence against Roma and M.A.I. representatives to review all provisions governing the research activities of persons on whether the criminal risk has begun and the insertion into their content of provisions concerning respect for the dignity of persons, the principle of equal treatment and clear establishment of procedures to follow in such cases;
- Hiring a Roma representative in the M.A.I. to monitor cases of discrimination;
- Training courses for police officers, gendarmes, on Roma history and culture.

Translation from Romanian into English language by Teodora Bălăceanu (unofficial translation by Centre for Legal Resources). The original version of the document, in Romanian language, is available at <https://uctrr.ro/>