

# ROMANIA

## LYNCH LAW: VIOLENCE AGAINST ROMA IN ROMANIA

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## INTRODUCTION

On September 20, 1993, three Roma (Gypsy)<sup>1</sup> men, Repa Lucian Lăcătuș, Pardalian Lăcătuș, and Mircea Zoltan, were killed by a mob in the village of Hădăreni in Mureș county. The mob violence occurred following the stabbing death of an ethnic Romanian (Chețan Crăciun) during a fight with the Lăcătuș brothers. During the violence, thirteen houses of Roma were set on fire and destroyed and an additional four houses were seriously damaged. Approximately 170 Roma were also forced to flee the village due to the violence.<sup>2</sup>

During a mission to Romania in November 1993, HRW/Helsinki (formerly Helsinki Watch) representatives were informed by the local prosecutors responsible for the case that the criminal investigation had produced sufficient evidence to warrant the arrest and indictment of at least twelve individuals who were involved in the attack. The investigation was apparently ongoing with regard to others who may have also committed crimes. Again in May 1994, local prosecutors assured HRW/Helsinki representatives that the investigation was near completion and that there was ample evidence to bring charges against fifteen to seventeen individuals. Despite this evidence, however, no arrests have been made. Over thirteen months have passed since the crimes were committed and almost a year has passed since local prosecutors indicated to HRW/Helsinki that they were ready to issue arrest warrants, yet no one has been brought to justice.

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<sup>1</sup> Roma have their historical roots in India. They are believed to have arrived in the territory that is present-day Romania some time prior to 1300 A.D. According to the Romanian scholar Bogdan Petriceicu Hașdeu, a document dated 1387 and signed by Mircea the Great reveals that Roma had already been in Wallachia for almost a century. Roma are commonly known as Gypsies, which is a corruption of "Egyptian," and may have been given to Roma by outsiders who were confused about their origin. In contrast to their treatment in many countries where Roma were forced to leave, in the Romanian principalities they were enslaved until the mid-nineteenth century.

It is difficult to estimate the size of the Roma population in Romania. According to the 1992 census, 409,723 persons, or approximately 1.8 percent of the population, identified themselves as ethnic Roma. (*Recensământul Populației și Locuințelor*, Romanian National Commission for Statistics, January 1992, p. 5.) However, the Roma population in Romania is widely believed to be over two million, thereby making up the largest minority in the country and more than 10 percent of the total population (Romania's population is 23 million).

Roma live all over Romania, in almost every town and village. The population that we consider "Gypsy" is, in fact, composed of numerous distinct groups divided by tribal loyalty linked to traditional professions, language spoken, and whether they are or have been recently nomadic or are sedentary. In Romania alone there are at least forty different groups of Gypsies. See Helsinki Watch, *Destroying Ethnic Identity: The Persecution of Gypsies in Romania* (New York: Human Rights Watch, 1991).

<sup>2</sup> For more details on the violence in Hădăreni, see "Recent Cases of Violence" below

Hădăreni is only one of the most recent in a long series of violent attacks on the Roma community since 1990.<sup>3</sup> Despite pressure from the international community and some assurances by the Romanian government, very few individuals have been prosecuted for violent crimes against Roma. In many cases, the police and prosecutors appear remarkably incapable of identifying the perpetrators and often appear to have little interest in doing so. In those cases where the perpetrators are identified and charged, they are charged with more minor crimes than appear warranted by the events and the trials drag on indefinitely. In other cases, local officials improperly interfere to ensure that the charges are ultimately dropped. Witnesses and defendants have often refused to appear in court to testify, but seldom face legal penalties. What is more, although HRW/Helsinki has documented numerous cases of violence where the local police and fire departments failed to respond promptly to protect Roma and their property, no criminal charges have ever been brought against responsible officials, and no police officers have been disciplined for their conduct in responding to the violence.

## RECOMMENDATIONS

Over the last four years, HRW/Helsinki, along with Romanian and other international human rights and minority rights organizations, has repeatedly raised concerns about the prosecution of cases of mob violence against the Roma minority with the Romanian government. We have repeatedly called on the Romanian government to ensure that its law enforcement officials, investigative bodies and judiciary deal forcefully with cases of mob violence against Roma and do not apply the law in a discriminatory manner on the basis of ethnic origin or race.

Based on the findings of this report, HRW/Helsinki again calls on the Romanian government to fulfill its obligations under international law and specifically to:

- Guarantee the equal protection of all persons from violence or bodily harm, whether inflicted by government officials or by any individual or group.
- Establish a commission of experts to investigate the conduct of law enforcement officials in responding to and protecting against violent attacks against the Roma minority. Make public the results of such an investigation.
- If there is evidence that individual police officers were responsible for violations of the law, take appropriate measures, including criminal prosecution.
- Establish a citizens review board, including representatives from Romanian human rights organizations and Roma organizations, to receive and investigate allegations of police misconduct or brutality.
- Conduct a study on the extent to which race or ethnic identity is a factor in the types of crimes for which individuals are charged and the types of sentences that are imposed. Make public the results of this study and adopt new policies to address any discrimination that is identified.

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<sup>3</sup> There have been several violent attacks on Roma since the Hădăreni events. See discussion below.

- In cases where witnesses, defendants, or law enforcement officials, attempt to interfere with the investigation and prosecution of cases involving violence against Roma, prosecute them to the fullest extent of the law for obstruction of justice.
- Ensure that state assistance is not made conditional on whether or not victims of racial violence pursue their legal remedies for redress.
- Take a clear stand against any attempt by village commissions to deny Roma the right to live in a particular village on the grounds of their ethnicity or to rebuild houses that have been destroyed.
- Clarify the property rights of all Roma who were forcibly settled by the Romanian state during the Communist era or who were given property by the state on which to build houses.

HRW/Helsinki now believes, however, that it is time for a more active role by international bodies to ensure that the necessary steps are taken by the Romanian government to protect Roma from mob and police violence and to guarantee that the victims of such violence are able to obtain equal protection under the law and an adequate remedy for abuse. HRW/Helsinki welcomes the joint effort by the Council of Europe and the CSCE to address the specific problems faced by Roma at the recent CSCE Human Dimension Seminar on "Roma in the CSCE Region." We also welcome the High Commissioner for National Minorities' suggestion that inter-governmental organizations communicate, coordinate and cooperate regarding ways to resolve these problems.

HRW/Helsinki believes that in the case of Romania, there is more than sufficient evidence that the political will does not exist, at either the national or local level, to combat racial violence against Roma and to afford the victims of such violence a prompt and adequate remedy. The cases documented in this report present a clear contrast to the Romanian government's professed commitment to dealing with these cases in a non-discriminatory manner.

We therefore call on the CSCE and the Council of Europe to initiate a dialogue with the Romanian government and to insist that the Romanian government take concrete steps to address the concerns outlined in this report. Specifically, HRW/Helsinki calls on the CSCE and the Council of Europe to:

- Make a formal request that the Romanian government submit a report on a regular basis on the specific steps it has taken to train and to require police to anticipate and prevent racially motivated violence and to respond to the violence when it cannot be avoided.
- Make a formal request that the Romanian government submit a report on a regular basis on the specific steps it has taken to improve police and prosecutorial methods for investigating and prosecuting cases of racially motivated violence.
- Ask the Romanian government on a regular basis for information on the status of the prosecution of each case where a Roma community has been attacked, including specific information on the number of persons who have been interviewed, the sections of the penal code under which the investigation is being conducted or the charges have been brought, the number of suspects under investigation, the number of arrests that have been made and/or persons who have been charged, and the expected duration of the investigation.

- Request that the Romanian prosecutor general and chief of the national police issue directives to their staff making clear that they are to respond with thoroughness and promptness to all cases involving violent attacks against minorities and that disciplinary measures and/or criminal sanctions will be taken against any prosecutor or police officer who is proven to have enforced the law in a discriminatory manner.
- Ask the Romanian government to conduct an investigation into the response of the police, investigatory and prosecutorial bodies to the attacks against the Roma minority that have occurred since 1990 and to make public the findings of that investigation.
- Organize and coordinate a series of training and educational seminars for representatives of the Romanian police and prosecutorial bodies on the experiences of other European countries in prosecuting and preventing racially motivated crimes.
- Appoint a commission of European experts to meet at regular intervals with Romanian authorities to monitor and improve methods of combatting racially motivated crimes.

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This report reviews the status of criminal proceedings stemming from violent attacks against the Roma minority that have occurred since the fall of communism in Romania in December 1989. In addition, it documents cases of violence that have occurred since our 1991 report on violence against Roma in Romania.<sup>4</sup> This report is based on interviews conducted by Human Rights Watch/Helsinki representatives during missions to Romania in November 1993 and May 1994. HRW/Helsinki representatives travelled throughout Romania to meet with Roma victims of violent attacks, Roma leaders and Romanian human rights groups. HRW/Helsinki representatives also held meetings with local prosecutors responsible for cases of violence against Roma, as well as with many other local and national government representatives. HRW/Helsinki relied on a variety of reports prepared by Romanian organizations, including those of the Romanian Helsinki Committee (APADOR-CH) and the Roma organizations, Romani Criss and the Young Generation Society of Romanis.

## BACKGROUND

Since the fall of the Ceaușescu regime in December 1989, Roma have become frequent targets of mob violence, as well as local police abuse. In September 1991, HRW/Helsinki (then Helsinki Watch) issued a report entitled *Destroying Ethnic Identity: The Persecution of Gypsies in Romania*, which described in great detail many of the violent attacks against the Roma community that had occurred after the revolution. The report stated that:

Gypsies in Romania have been the target of increasingly violent attacks since the revolution that toppled Nicolae Ceaușescu. Their homes have been burned down and vandalized, they have been beaten by vigilante mobs and on occasion arrested by the police and beaten in police custody, and they have been chased out of one village after another, often without any

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<sup>4</sup> Helsinki Watch, *Destroying Ethnic Identity: The Persecution of Gypsies in Romania* (New York: Human Rights Watch, 1991).

opportunity to return. At least five Gypsies have been killed. Gypsies have also lost their property, their security, and any hope they may have had after the revolution for a better life.<sup>5</sup>

One of the greatest human rights concerns identified by HRW/Helsinki in the 1991 report was the failure of the state to provide protection for those Roma communities under attack, as well as the absolute failure of the state to investigate in a prompt and thorough manner crimes against the Roma community. The report concluded that:

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<sup>5</sup> HRW/Helsinki, *Persecution of Gypsies in Romania*, p. 1  
Human Rights Watch/Helsinki

These acts of vigilante violence, which are clearly violations of Romania's own criminal code as well as of its international obligations, have gone unpunished. Helsinki Watch has not received information that a single Romanian villager has been arrested or tried for attacks on Gypsy communities.<sup>6</sup>

HRW/Helsinki also reported that:

In addition to the violence, Gypsies in Romania continue to experience discrimination in most aspects of life. Gypsies are frequently placed in the worst housing, in the worst areas. Basic services such as water, street maintenance and garbage pick-up are not equally allocated between neighboring Gypsy and non-Gypsy communities.

The school system also discriminates against Gypsy children. They are looked on as "slow" or inherently bad because they are Gypsies. Gypsies repeatedly told Helsinki Watch that their children are placed in the back of the class on the first day of school, on the assumption that they will misbehave.

Gypsies are not treated equally in the workplace. They are less likely than non-Gypsies to receive jobs for which they are equally qualified. Gypsies have long been directed into the dirtiest and lowest paid jobs, and regardless of their qualifications and seniority they are often denied promotions. Gypsies also report that the increasing unemployment in Romania due to economic reforms disproportionately affects Gypsies.

Gypsies have been portrayed in a particularly negative way in the Romanian mass media. Romanian state-controlled television has manipulated the stereotype of Gypsies as thieves and black market dealers for political purposes. Television cameras focus on Gypsy participants in political demonstrations in an effort to compromise the political opposition. The Romanian media are quick to point out that a particular criminal is a Gypsy, reinforcing negative stereotypes, and in general use derogatory words to refer to Gypsies.

Discriminatory treatment of Gypsies in Romania is nothing new. However, since the 1989 revolution nationalism and ethnic hatred have increased dramatically. Gypsies, as the most visible and powerless of minority groups in Romania, are easily targeted. They have been made scapegoats by the authorities and have been victims of increasingly violent attacks by other Romanian citizens.

One of the unintended consequences of this nationalism is the corresponding rise in ethnic consciousness. In the last twenty months, many Gypsies have begun to believe that their treatment is directly linked to their ethnicity. One woman who was beaten during an attack on her village told Helsinki Watch: "Before we never thought much about being Gypsies. Now we know what it means to be a Gypsy. It has been made very clear to me what that means."<sup>7</sup>

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<sup>6</sup> HRW/Helsinki, *Persecution of Gypsies in Romania*, p. 72.

<sup>7</sup> HRW/Helsinki, *Persecution of Gypsies in Romania*, pp 1-2



Over two years have passed since the Helsinki Watch report was released. Nevertheless, according to Nicolae Gheorghe, a sociologist and representative of the Ethnic Federation of Roma in Romania, at least seven additional violent attacks against the Roma community have occurred since 1991 with another four Roma killed, numerous injured, and approximately fifty additional houses burned or destroyed during mob violence.<sup>8</sup>

## **FAILURE TO INVESTIGATE AND PROSECUTE VIOLENCE AGAINST THE ROMA MINORITY<sup>9</sup>**

There has been a clear and consistent pattern by Romanian police, investigatory bodies and the judicial system, of ignoring and downplaying the significance of violent attacks against the Roma minority. In some cases, the tactics used by local officials are quite obvious. For example, when a prosecutor defines the "public interest" to include the burning down of Roma' homes, the racial prejudice and the state's acquiescence in the abuse is clear. In other cases, the tactics are more subtle. For example, HRW/Helsinki has identified numerous cases in which the perpetrators are never identified or arrested, allegedly because there is not enough evidence, even when eyewitnesses have identified the perpetrators by name. This section also includes cases where police and prosecutors fail to interview witnesses and/or victims, where those few who are prosecuted are charged with very minor offenses, and in the rare case that proceeds to trial, the trial drags on indefinitely or the perpetrators are given remarkably mild sentences.

HRW/Helsinki also has information that, in some cases, local officials have tried to pressure victims not to file complaints or to withdraw their complaints by threatening that they will not be allowed to return to their villages or will not receive state funds to rebuild their houses if they pursue a criminal case. Similarly, although in most of the cases discussed below fire was used to burn at least some of the Roma houses, prosecutors tend to prefer to charge defendants with simple "destruction of private property" under Article 217(1) of the Romanian Penal Code instead of arson, thereby leaving open the opportunity for the case to be closed if no complaints are filed or they are subsequently withdrawn.

### **Turulung (January 10-11, 1990)**

On January 10, 1990, approximately 1,000 villagers in the town of Turulung (Satu Mare county) attacked the Roma quarters. Thirty-eight houses were either burned down or otherwise destroyed.<sup>10</sup> In addition, Istvan Varga, the son of Veronica and Stefan Varga, who was three years old at the time, disappeared during the attack and, although the circumstances remain unclear, it is presumed that the child died in the fire or fled the fire and died later.

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<sup>8</sup> HRW/Helsinki telephone interview with Nicolae Gheorghe, Bucharest, October 1994. HRW/Helsinki also has information that Roma have been killed during police arrests, interrogations and detention over the last four years. See, for example, the Comănești case, discussed below.

<sup>9</sup> In this section, only a brief factual account of the events will be given for those cases that were already discussed in HRW/Helsinki's 1991 report, *Persecution of Gypsies in Romania*. Additional factual information that has come to light since that report will be noted where relevant.

<sup>10</sup> Based on the testimony of the victims and reports provided by local Roma organizations and local prosecutors, HRW/Helsinki reported in 1991 that thirty-six houses had been burned or destroyed. This number has been revised to reflect information provided at a later date by the local prosecutor's office. For additional information on the events, see HRW/Helsinki, *Persecution of Gypsies in Romania*, pp 37-41

On January 11, 1991, the court in Satu Mare ordered that the criminal investigation (Case # 172/P/1990) be dropped because forty-eight of the victims had withdrawn their complaints.<sup>11</sup>

Arpad Selek, prosecutor responsible for the case, reported to HRW/Helsinki that only four individuals (Stefan Varga, Stefan Tanza, Mihai Santai and Elvira Sandor) refused to withdraw their complaints. Their case (Police File # 24,267/1990) is still pending.

According to Mr. Selek, the four Roma who did not withdraw their complaints have been called to the police station on a regular basis "to discuss the case." However, the prosecutor's office appears to have focused its efforts much more on getting the victims to withdraw their complaints than on investigating the case. Mr. Selek reported that, as of September 14, 1993, "[the complainants] no longer had an interest in pursuing the case, but they still refused to withdraw the complaint. One said he would withdraw his complaint if the perpetrator paid 100 million *lei*."<sup>12</sup>

However, the Roma reported to HRW/Helsinki in 1990 that local officials tried to prevent them from filing complaints, and pressured them to withdraw the complaints that were filed. One Roma man from the village related his experience:

I went to the police station to make a complaint. A few days later, I was called to the police station and told by the chief of police that if I made a complaint I would be arrested and that I would not have the right to return to the village. Finally, I withdrew my complaint.<sup>13</sup>

Similarly, representatives from the Romanian Helsinki Committee reported that, although the Roma ultimately did file complaints with the police and local prosecutor,

[T]he local authorities asked them to withdraw their complaints as a condition for being allowed to return to the village. With the exception of [the four who refused], all signed a statement in which they withdrew the complaints. It is also noteworthy that except for a few, Roma in Turulung do not know how to read and write, and they report that they did not understand exactly what they were signing.<sup>14</sup>

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<sup>11</sup> Information provided by the prosecutor general's office of the Public Ministry (Parchetul de pe lângă Curtea Supremă de Justiție), "Situația cauzelor privind incidentele intervenite între membrii ai comunităților de romi și alți locuitori, din unele localități din țară, în perioada ianuarie 1990 - ianuarie 1994," February 11, 1994, p. 2. Also based on interviews with Eugen Vasiliu and Adrian Vlad of the Human Rights Department of the prosecutor general's office, Bucharest, November 17, 1993.

According to Article 217(6) of the Romanian Code of Criminal Procedure, a complaint must be filed by the victim in order for the prosecutor to proceed in cases of simple destruction of private property. If the victim fails to file a complaint or withdraws the complaint, the prosecutor does not have the authority to prosecute. Where the destruction is caused by "arson, explosives or other such means and if public danger results" a complaint by the victims is unnecessary [Article 217(4)].

<sup>12</sup> HRW/Helsinki interview with Arpad Selek, Satu Mare, May 13, 1994.

<sup>13</sup> HRW/Helsinki interview, Turulung, July 1991. Reported in HRW/Helsinki, *Persecution of Gypsies in Romania*, p. 40-41.

<sup>14</sup> Romanian Helsinki Committee, "Raport cu privire la cazurile Racșa și Turulung (Jud. Satu Mare)," based on a visit to Turulung from July 19-21, 1994, p. 1-2

The Roma victims received some financial assistance (5,000 lei to each child and 10,000 lei to each adult victim) from public funds.<sup>15</sup>

### **Reghin (January 29, 1990)**

Following a dispute between a group of Roma and other villagers from the town of Reghin (Mureş county), between 400 and 500 villagers attacked the Roma area, burning or destroying between ten and twelve homes and damaging other property.<sup>16</sup>

The police in Reghin informed HRW/Helsinki that a number of complaints had been filed by Roma. The criminal investigation was completed and the file submitted to the prosecutor's office on October 28, 1990, at which time the police recommended that the case be closed because they had not been able to identify the perpetrators.<sup>17</sup>

The prosecutor's file (File #174/P/1990) indicates that the Reghin case was "solved" because the Roma who filed complaints reportedly withdrew them at a later date. However, a review of the file and discussions with several of the victims raised serious questions about whether the Roma freely and knowingly withdrew their complaints. For example, the prosecutor's file indicates that Carol Csurkuly withdrew his complaint. However, he reported that he had withdrawn his complaint, and had persuaded other Roma to do the same, because he was pressured by the Reghin police to do so. In exchange, the Reghin police reportedly told Mr. Csurkuly that he and the other Roma would receive humanitarian assistance from abroad. The assistance never materialized and Mr. Csurkuly now feels that he was misled by the police.<sup>18</sup>

### **Lunga (February 5, 1990)**

On February 5, 1990, the houses of Roma living in the village of Lunga (Covasna county) were attacked by ethnic Hungarian villagers. Five houses and other buildings were burned down or damaged. Four Roma were killed when they were attacked with axes by a mob of villagers estimated to be between 200 and 250.<sup>19</sup>

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<sup>15</sup> Local and county officials took money from the "Liberty Fund", which was set up in late 1989 to help support those who had been injured during the revolution. Taxpayers were asked to contribute to this fund, but were not required to do so.

<sup>16</sup> This information was provided to HRW/Helsinki by Deputy Commander Stoica of the Reghin police. This number is, however, inconsistent with information provided by the mayor's office in Reghin, which reported that two houses were burned or otherwise destroyed.

<sup>17</sup> HRW/Helsinki interview with Deputy Commander Stoica, Reghin, September 1994.

<sup>18</sup> HRW/Helsinki interview with Carol Csurkuly, Reghin, September 1994.

<sup>19</sup> Those killed were Zoltan Majlát (Sr.), Zoltan Majlát (Jr.), Attila Majlát and Mihail Majlát. For additional information, see HRW/Helsinki, *Persecution of Gypsies in Romania*, pp 41-44

On July 11, 1991, over one-and-a-half years after the violence, six persons were arrested for murder. Two days later, two additional persons were also arrested for their involvement in the murders (Case # 33/P/1990). Although the eight suspects were apparently identified by the families of the victims as having participated in the murders, they were released by the court on July 16, 1991, for lack of evidence. According to Fabian Carol, the prosecutor responsible for the case, by 1992, forty-three people (including the eight initially arrested) had been identified as suspects in the case.<sup>20</sup> However, no further arrests were made and no one has ever been charged with a crime related to the events.<sup>21</sup>

### **Cuza Voda (July 10, 1990)**

On July 10, 1990, villagers in the town of Cuza Voda (Constanța county) were called together by the church bells to attack the area where semi-nomadic Roma live. The violence occurred when a private dispute between some Roma and several villagers escalated. The villagers broke windows and otherwise damaged the houses and set fire to tents and wagons. Thirty-four tents were burned.

The Roma filed complaints. However, they withdrew their complaints apparently in exchange for being given money from the mayor's office to repair or replace the property. In cases where private property is destroyed through arson, the prosecutor does not need a complaint from the victim in order to bring criminal charges.<sup>22</sup> However, in this as in other such cases, the prosecutor treated the crimes as "simple" destruction of property under Article 217(1), which requires a complaint by the victim. The prosecutor for the case, told HRW/Helsinki that:

This was not treated as arson, but was treated as destruction (with a lower potential sentence) so that no criminal charges would have to be brought if the parties decided to settle. It is up to the interpretation of the prosecutor whether the property destroyed is important enough, of enough value, and whether a danger to the public was presented, to require [Article 217(4)].<sup>23</sup>

Because of the prosecutor's decision to classify the crime as simple destruction, no charges were brought against anyone who participated in the violence against the Roma. However, nineteen people were charged with fighting and were fined by the prosecutor. The prosecutor acknowledged to HRW/Helsinki that most of those fined were Roma.<sup>24</sup>

### **Câlnic (July 20, 1990)**

Tensions were high in the village of Câlnic (Alba county) after several fights between Roma and ethnic Romanian teenagers. When an ethnic Romanian shepherd was found unconscious after a fight with two Roma boys, approximately 300 villagers, accompanied by local police officers, went to the Roma quarters and damaged several Roma homes, breaking windows and breaking down doors.

No criminal investigation was started because the Roma victims did not file complaints. Although there were reports that the police participated in the attack and may have incited the other villagers to

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<sup>20</sup> HRW/Helsinki interview with Fabian Carol, Sfântu Gheorghe, May 11, 1994.

<sup>21</sup> Romanian Public Ministry, "Situația cauzelor privind incidentele," p. 4.

<sup>22</sup> Article 217(4) of the Romanian Penal Code.

<sup>23</sup> HRW/Helsinki interview, Constanța, May 16, 1994.

<sup>24</sup> *Ibid.*

violence, no investigation was conducted into the role played by the police. When the police accompany a group clearly intending to commit mayhem, the police as an institution should be held accountable.

### **Cașinul Nou (August 12, 1990)**

According to a report prepared by the Prosecutor General, approximately 400 residents of the village of Cașinul Nou (Harghita county) destroyed twenty-three Roma homes on August 12, 1990, leaving 150 people homeless. Some Roma had been accused by their neighbors of stealing and, as a result, there were ongoing tensions between the two communities.<sup>25</sup> The village did not have a police station or fire department. The prosecutor's office in Miercurea Ciuc, the capital of Harghita county, was not notified until the next day.

Initially, a criminal investigation was conducted by the local prosecutor's office and was later taken over by the county prosecutor (Case # 104/P/1990). On November 27, 1990, Andrei Gabriel Burjan, a local prosecutor, issued his decision that the case should be closed. According to Maria Rusu, chief prosecutor for Harghita county, Mr. Burjan determined that one of the elements of a crime was absent in the case and, therefore, that there was no criminal responsibility (Article 10(d) of the Code of Criminal Procedure), because the events (ie. the burning down of twenty-three houses) had been "in the public interest because of [the public's] fear of crimes by Roma."<sup>26</sup>

A representative from the prosecutor general's office reviewed Mr. Burjan's decision and, on February 22, 1991, ordered that the criminal case should be reopened. The case was sent back to the county prosecutor and, according to Ms. Rusu, the investigation has been ongoing these past three years. No one has ever been charged with a crime in the case.

### **Huedin (August 20, 1990)**

On August 20, 1990, a crowd of approximately one hundred people gathered on the street in the town of Huedin (Cluj county) and began to beat any Roma they saw. The crowd chased after many Roma men, women and children who were sitting in the town park. According to the testimony of the victims, approximately ten to fifteen people, mainly women and children, were beaten and several individuals required medical treatment. According to information provided by the prosecutor general's office, however, only two Roma suffered physical injuries in the attack. Four policemen reportedly walked in front of the mob and, according to Roma witnesses interviewed by HRW/Helsinki, the police did nothing to protect those being attacked.<sup>27</sup>

According to the prosecutor general, three people were identified as having participated in the beatings, but no charges were filed because the parties reconciled.<sup>28</sup>

### **Mihail Kogălniceanu (October 9, 1990)**

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<sup>25</sup> Romanian Public Ministry, "Situția cauzelor privind incidentele," p. 5.

<sup>26</sup> HRW/Helsinki interview with Maria Rusu, Miercurea Ciuc, May 12, 1994.

<sup>27</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 51-53.

<sup>28</sup> Romanian Public Ministry, "Situția cauzelor privind incidentele," p. 6.

Non-Roma villagers in the town of Mihail Kogălniceanu (Constanța county) burned twenty-five houses and destroyed another eight houses on the night of October 9, 1990. The violence erupted several days after an ethnic Macedonian and a Roma teenager got into a personal dispute at the local disco.<sup>29</sup>

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<sup>29</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 53-59.

According to those interviewed by HRW/Helsinki, two buses of riot police that arrived in Kogălniceanu late in the evening on October 9, were not sent to protect the Roma who had all fled the area by that time. Instead, they were sent to protect the non-Roma villagers who feared that the Roma might counterattack. During interviews in Kogălniceanu in 1991, Roma reported to HRW/Helsinki that the police, as well as the mayor of the town, had been instigators in the violence. They claimed that the police and mayor led the crowd to the Roma area and did nothing to try to stop them.<sup>30</sup>

After much delay and a concerted effort by local officials to convince the victims to withdraw their complaints, the prosecutor's office in Constanța completed its investigation (Case # 4/287/1991) and identified fifteen suspects on April 20, 1992. On May 15, 1992, charges were brought against twelve of the suspects (including four juveniles). The adult defendants were charged with destruction of property under Article 217(1) and (4) and conspiracy under Article 323(1) and (2) of the Penal Code.

The first hearing in the case before the trial court of Constanța was held on June 24, 1992. Between June 24, 1992 and March 1994, there were at least fourteen court dates. However, the trial has been repeatedly delayed because of the failure of the defendants and witnesses to appear in court. According to Monica Alexandrescu, the lawyer representing the Roma victims, the case has been delayed, in part, because the police have failed to respond to her requests that those defendants and witnesses who have refused to appear be brought to the court by the police.<sup>31</sup> For example, on July 2, 1993, Ms. Alexandrescu sent a letter to the chief of police for Constanța county, stating that:

We bring to your attention that File # 1118/1993, which is currently before the trial court in Constanța, with regard to the events that took place on October 9, 1990, in the commune of Mihai Kogălniceanu, has been assigned very many hearing dates for the testimony of witnesses and defendants. Numerous subpoenas have been issued to persons involved in the case, but the [subpoenas] have not been appropriately enforced. For that reason, we strongly urge you to take steps and to guarantee the presence of the defendants and witnesses at the next trial date on November 3, 1993.

The police organs have not responded to our requests, which is the reason that the resolution of this case has been delayed. For the next hearing, we ask you to inform us of the name of the chief of police in the commune Kogălniceanu so that the court can impose legal sanctions.<sup>32</sup>

The trial court in Constanța sent the case back to the prosecutor's office because it ruled that there was insufficient evidence to continue with the trial. The prosecutor's office was ordered by the court to conduct an additional investigation and then return the case to the court for trial. However, at the last hearing on September 23, 1994, the representatives of the local prosecutor's office did not even appear. The hearing was therefore adjourned until late November 1994.<sup>33</sup>

The investigation in Kogălniceanu dragged on for a very long time before anyone was charged in the case and it is still questionable whether the trial will be brought to a conclusion, but it is one of the few cases

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<sup>30</sup> HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 54-55.

<sup>31</sup> HRW/Helsinki telephone interview with Monica Alexandrescu, Constanța, June 27, 1994.

<sup>32</sup> Summary of letter from Monica Alexandrescu to the Inspectoratul Județean al Poliției Constanța dated July 2, 1993. Ms. Alexandrescu sent a similar request to the same address on November 16, 1993.

<sup>33</sup> HRW/Helsinki telephone interview with Monica Alexandrescu, Constanța, September 29, 1994  
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in which suspects have been charged and may be convicted. The Roma leaders interviewed by HRW/Helsinki are convinced that this particular case has progressed to the point of trial because they were directly involved and encouraged the victims not to withdraw their complaints when they were pressured to do so by the local authorities. Petre Anghel, a Roma leader in Constanța told HRW/Helsinki that:

The prosecutor and police only did what they were forced to do. We kept the pressure on them, but they wanted to settle the case. When we tried to get permission to rebuild the houses, it took over one year. [Local officials] tried to make the permits conditional on settling the case, but we remained firm.<sup>34</sup>

Many of the houses in Kogălniceanu were rebuilt with the assistance of the Central Council of German Sinti and Roma (Zentralrat Deutscher Sinti und Roma) in Heidelberg. They, along with the Ethnic Federation of Roma in Romania, negotiated an agreement with the Romanian national government in 1991 in which the Central Council agreed to provide nine million lei if the Romanian government agreed to provide an equal amount. Local and national Roma leaders pointed out that because private organizations (and particularly foreign organizations) were funding part of the reconstruction of the houses, the Roma victims were not dependant on the financial assistance of local authorities and the victims were able to resist pressures to drop the case.

### **Bolintin Deal (April 7, 1991)**

On the night of April 6, 1991, in the village of Bolintin Deal (Giurgiu county) an argument between a Roma man and an ethnic Romanian student led to the student's death. Three or four hours after the crime the police arrested the perpetrator. However, the next morning, the village alarm was sounded and villagers gathered in front of the victim's house. At first the idea was apparently to set fire to the alleged perpetrator's house, but it quickly turned into an all-out attack on all semi-nomadic Roma in the village. The villagers burned twenty-one Roma homes and destroyed another five. They also burned three cars.<sup>35</sup>

On May 7, 1991, a few Roma who had no place to stay tried to return to the houses that had been devastated but not burned. Once more, the village alarm was sounded and the villagers gathered. The five houses that had not been burned on April 7 were set on fire and the Roma were chased out of the village.

For over three years, local officials failed to carry out the necessary investigation in Bolintin Deal. In fact, the file appears to have been ignored completely until shortly before the HRW/Helsinki visit to Bolintin Deal in May 1994. Prosecutor Nicolae Lixandru told HRW/Helsinki that:

The investigation has not been completed because the Romanians would not give us statements. For some reason, the police had not investigated the case and the file on Bolintin Deal was found abandoned in October 1993. [When I asked them about it,] they said that they did not know how to deal with the case since the Romanians won't give statements.<sup>36</sup>

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<sup>34</sup> HRW/Helsinki interview with Petre Anghel, Constanța, May 16, 1994.

<sup>35</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 59-62.

<sup>36</sup> HRW/Helsinki interview with Nicolae Lixandru, Giurgiu, May 9, 1994.



Stefan Cîrligea, the police investigator assigned to the case in March 1994, told HRW/Helsinki that, at the time he was given the file, only two victims had been interviewed. In the month prior to our meeting, Mr. Cîrligea had interviewed hundreds of people, among whom twenty-three victims and twelve of those suspected of having participated in the violence.<sup>37</sup> When asked why so little had been done in the previous three years, Mr. Cîrligea reported that it had been difficult to conduct interviews with the Roma victims because they had fled the village when the fire was set. However, Emilian Niculae, a Roma leader and also a victim of the violence in Bolintin Deal, told HRW/Helsinki that he had taken victims to the prosecutor's office within a few days after the violence in 1991.<sup>38</sup> Mr. Niculae also reported that he had worked to make sure that the twenty-six complaints were filed. HRW/Helsinki also conducted interviews with several victims of the violence who reported that the prosecutor's office had never contacted them, and confirmed that Mr. Niculae had arranged for them to go on several occasions to the prosecutor's office in Giurgiu.<sup>39</sup>

### **Ogrezeni (May 17, 1991)**

Over a three-day period, from May 16 to 18, 1991, two neighboring villages outside Bucharest (Ogrezeni and Bolintin Vale) were the scene of violent attacks on Roma quarters, resulting in twenty-five houses being burned or destroyed. The conflict apparently began after a Romanian was stabbed by a Roma teenager on May 16.<sup>40</sup> The ethnic Romanian villagers in Ogrezeni threatened to set fire to the Roma houses on May 16, but didn't act. Then the next night the villagers were called together by the sounding of the village bells. On this occasion, the villagers burned or destroyed fourteen houses. Although police were patrolling in Ogrezeni on the night of the violence, they did not intervene when the crowd gathered and did not try to stop those who set the houses on fire.

The prosecutor's office in Giurgiu completed the investigation in the Ogrezeni case in October 1993 (Case # 270/B/91). Eight adults and three juveniles were charged with illegal entry with a weapon into a residence (Article 192(2) of the penal code) and serious disturbance of the peace (Article 321(2) of the penal code). The trial is ongoing. The first hearing of the trial was on October 21, 1993, and is ongoing.

The military prosecutor in Bucharest reported that no investigation had been conducted into the role of the police in Ogrezeni.<sup>41</sup> HRW/Helsinki also has no information that disciplinary measures were taken against any of the police who patrolled the village during the violence.

### **Bolintin Vale (May 18, 1991)**

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<sup>37</sup> HRW/Helsinki interview with Stefan Cîrligea, Giurgiu, May 9, 1994.

<sup>38</sup> HRW/Helsinki interviews with Emilian Niculae, Bucharest, May 9 and 15.

<sup>39</sup> HRW/Helsinki interview with Nicolae Lucian, Giurgiu, May 9, 1994. HRW/Helsinki interview with Cătălin Constantin, Bucharest, May 9, 1994.

<sup>40</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 62-64. In 1991, HRW/Helsinki reported that twenty-one houses (fourteen in Ogrezeni and seven in Bolintin Vale) had been destroyed or burned. From a review of the local prosecutor's file, it is clear that in Bolintin Vale seven houses were destroyed and an additional four houses were burned. Thus, the total number of houses burned or destroyed is twenty-five.

<sup>41</sup> The military prosecutor and the military courts have jurisdiction to investigate and prosecute all crimes involving police officers, as well as military personnel

In the days following the violence in OGREZENI, violent attacks also occurred in the neighboring village of Bolintin Vale. On May 18, 1991, after the alarm was sounded, a large crowd gathered in the center of the town and attacked the Roma quarters. Seven Roma homes were destroyed and four were burned.<sup>42</sup>

Six people were charged with illegal entry with a weapon into a residence, destruction of property and theft. Three defendants were convicted and sentenced to prison terms ranging from six months to one year. All three sentences were suspended. The charges were dropped against a juvenile defendant. The trial is still pending in the two other cases.<sup>43</sup>

### **Găiseni (June 5, 1991)**

Villagers from Găiseni, a village near OGREZENI and Bolintin Vale, attacked the Roma quarters on June 5, 1991. The villagers were apparently inspired by the success that neighboring villages had had in chasing the Roma out of their communities and decided to try a similar solution. Six houses were destroyed and three were burned. According to the prosecutor general's office, charges were brought against twenty-five defendants. The trial is ongoing.<sup>44</sup>

### **Plăieșii De Sus (June 9-10, 1991)**

On June 6, Daró Ignac, the night guard in the village of Plăieșii de Sus (Harghita county), was stabbed by a group of Roma after an argument. Later that night an angry mob of ethnic Hungarians attacked two Roma who were driving through the village in their wagon, mistaking them for participants in the knifing. Adam Kalányos and Antal Majláth were both attacked by the mob. Kalányos arrived at the hospital in a coma and died later of his injuries.

Following an anonymously posted announcement that all Roma should leave the village, the villagers gathered during the night of June 9-10 and burned twenty-seven Roma homes, throwing homemade Molotov cocktails into the houses. No Roma were in the houses when the attack occurred. Most had already fled to the nearby woods and stables.<sup>45</sup>

No firemen responded to the fire, although there are volunteer firemen in the commune. The police arrived in the village the next morning, but it remains unclear when they were notified about the violence.

As is frequently the case, the prosecutors held a public gathering on July 4, 1991, to discuss the events with the villagers. No Roma were present at the meeting. Maria Rusu, chief prosecutor for Harghita county, told HRW/Helsinki that:

I met with each villager and asked each villager what he had suffered due to the Roma.<sup>46</sup>

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<sup>42</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 64-65.

<sup>43</sup> Cîrligea interview.

<sup>44</sup> HRW/Helsinki interview with Lt. Col. Gheorghe Lepădat, Giurgiu, May 9, 1994. The charges included illegal entry (Article 192), destruction of private property and arson (Article 217), and conspiracy (Article 323).

<sup>45</sup> See HRW/Helsinki, *Persecution of Gypsies in Romania*, pp. 66-69.

<sup>46</sup> Rusu interview

Unfortunately, such public gatherings, to which Roma are rarely invited, tend to give villagers the feeling that the prosecutors are sympathetic to their conduct and that the authorities are on the side of the non-Roma villagers.

According to Ms. Rusu the case in Păieșii de Sus is still open (Case # 102/P/1991), and she reported that most of the villagers had been interviewed. However, residents in the village reported to HRW/Helsinki in May 1994 that no one from the prosecutor's office had contacted them for over a year. None of the perpetrators have been identified and the investigation remains open.

## RECENT CASES OF VIOLENCE<sup>47</sup>

### Vălenii Lăpușului (August 13, 1991)

On August 13, 1991, an ethnic Romanian woman who was nine months pregnant was raped by Moldovan Caste, a Roma man, in the village of Vălenii Lăpușului (Maramureș county). He was arrested that same day and was later convicted of the rape. In the evening following the rape, a group of up to 150 villagers attacked the Roma neighborhood of Ponorîța. According to Ioan Vasile Brisk, the prosecutor in Baia Mare responsible for the case, the villagers damaged the houses, broke down doors, damaged walls and set fire to the roofs. Nineteen houses were burned or destroyed.<sup>48</sup>

Mr. Brisk reported to HRW/Helsinki that the two police officers stationed in the commune were notified immediately of the violence. The police were already aware that the community was growing tense as word of the rape spread. The police officers notified their superiors and the closest police units, which were located twenty kilometers away, were deployed. However, the police did not arrive in the village until after the houses in Ponorîța were already burning.

Up to this point, the police appear to have responded in a prompt and appropriate manner. However, after the police arrived in the village, the villagers decided to go to Vîlceaua, another Roma neighborhood. HRW/Helsinki has no information that the police made any attempt to stop the villagers from attacking the second Roma neighborhood. In fact, the police appear to have walked to Vîlceaua with the villagers. According to Mr. Brisk, "Then [the villagers] went to Vîlceaua. [The police] were not able to stop them and so decided to go with them. Eight houses were burned during this attack."<sup>49</sup>

On December 30, 1992, nine ethnic Romanians were charged with destruction of private property (Court file #147/P/1993). Although they set fire to many of the houses, they were charged with the lesser crime of simple destruction of private property under Article 217(1) of the penal code (See Footnote 10 above). When asked about the decision to charge the defendants with the lesser crime, despite the evidence of arson, Mr. Brisk stated:

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<sup>47</sup> The cases included in this section have occurred since the research was completed for the HRW/Helsinki 1991 report. Therefore, testimony will be included where available.

<sup>48</sup> HRW/Helsinki interview with Ioan Vasile Brisk, Baia Mare, May 13, 1994.

<sup>49</sup> Brisk interview

We didn't use [Article 217(4)] because there was a discussion that the case might be settled and it was decided to use Article 217(1) to allow for the possibility of settling the case. And also because [Article 217](4) requires "public danger", but because the attack took place outside the village center, it didn't threaten the village as such. So from a legal perspective, it was difficult to fulfill all elements of Article 217(4).<sup>50</sup>

Of course, there were many more people involved in the attack than the nine who were charged. However, most of the villagers refused to identify those who participated in the attack. Although the police were walking at the front when the crowd went to burn the last houses, the police were apparently unable or unwilling to identify any of the perpetrators.

The nine defendants were convicted on February 15, 1994, and each was given a six months suspended prison sentence. The suspension of the sentences was considered justified because news of the rape had been considered an extenuating circumstance. Lawyers for the Roma victims wanted the decision to be appealed. However, prosecutors felt that the decision was correct and did not appeal. No investigation was ever conducted into the conduct of the police once they arrived in the village.

### **Piața Rahovei (July 3, 1992)**

On July 3, 1992, at approximately 3-4 p.m., forty to fifty masked<sup>51</sup> and uniformed persons entered Rahova Square (Piața Rahovei) in Bucharest, beat Roma who were working or shopping in the square, and damaged Roma property. The persons were later identified as soldiers of military police unit UM 02180 because they had been wearing their uniforms with their unit number. These soldiers had left their barracks and had gone to the square seeking revenge for a fight that had occurred two days before between a Sergeant-Major from the military police and an individual Rom. The sergeant had been hospitalized as a result of his injuries from the fight.

The military prosecutor's office reported to HRW/Helsinki that a total of nine complaints had been received from victims of the attack. Three of the victims had suffered injuries requiring medical care and had provided medical certificates proving their injuries.<sup>52</sup> In addition, one woman complained that she had suffered 17,000 lei in property damage.<sup>53</sup>

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<sup>50</sup> *Ibid.*

<sup>51</sup> Although the military prosecutor's report states that the soldiers did not have masks to conceal their identity, eyewitnesses reported that the soldiers did, in fact, have their faces covered with a type of mask. What is more, during an interview with representatives from the military prosecutor's office in November 1992, military prosecutor adjunct Florescu stated to HRW/Helsinki that the soldiers had used scarves to cover their faces. HRW/Helsinki interview with military prosecutor Florescu, Bucharest, November 2, 1992.

<sup>52</sup> These victims were Mircea Gheorghe, Ion Constantin and Maria Mircea.

<sup>53</sup> HRW/Helsinki interview with Lt. Col. Slăvoiu, Bucharest, May 18, 1994

The military prosecutor's investigation dragged on for over a year, despite the fact that the perpetrators were part of an easily identifiable group. In November 1992, over five months after the attack, HRW/Helsinki representatives met with the military prosecutor responsible for investigating the case to determine what progress had been made. At that time, only twenty soldiers had been interviewed and none of the victims.<sup>54</sup> Finally, on July 30, 1993, the military prosecutor issued his decision that no charges should be brought against the soldiers because they acted in legitimate defense. The written decision concluded that:

The action, which was understood by the military participants as a gesture of "camaraderie", took place outside of official duties and after the end of the workday. The military [personnel] reacted violently as a result of the disturbance provoked by the behavior of the Roma. Their attitude was not the result of [general] resentment against Roma.<sup>55</sup>

Lt. Colonel Slăvoiu, chief military prosecutor, told HRW/Helsinki that his investigation had concluded that:

On July 3, 1992, the [military] unit decided to go to the square to identify those who had participated [in the attack on their colleague] and intended to take those individuals to the police . . . When they entered the square the soldiers reported that the Roma began to insult them and to throw bottles at them. Thirty-five soldiers intervened and beat them.

Lt. Col. Slăvoiu acknowledged that it was not within the soldiers' authority to detain or make arrests. He also said that the soldiers left the barracks without permission from a superior officer, that they were still in uniform after work hours, and that they were carrying various tools that they then used as weapons. Although this account would seem to indicate that the soldiers went to the square with the intent to attack and that they had prepared themselves for the attack, including by masking their faces, the military prosecutor's office concluded that there was no way to prove the soldiers' intentions when they went to the square.

The military prosecutor's office also ruled that no criminal charges could be brought against soldiers for the 17,000 lei in property damage reported by one of the victims because the damage had not been intentional and, therefore, was not a crime under Romanian law.

Lt. Col. Slăvoiu told a HRW/Helsinki representative that the soldiers "violated military regulations, but had committed no criminal violation." Lt. Col. Slăvoiu agreed that the decision to discipline the soldiers was in no way dependent on whether criminal charges were brought. However, no disciplinary measures were taken by the Ministry of Defense against individual soldiers. In response to a letter from HRW/Helsinki, Gheorghe Tinca, Minister of National Defense, stated:

1. The Ministry of National Defense conducted no investigation on the contract-enlisted sergeants, as this is the competence of judicial inquiry . . .

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<sup>54</sup> HRW/Helsinki interview with Captain Gheorghe Cornescu, military prosecutor - Bucharest territory, and Mr. Florescu, military prosecutor adjunct, Bucharest, November 2, 1992.

<sup>55</sup> Translation of the military prosecutor's decision dated July 7, 1993. The file was reviewed by a HRW/Helsinki representative on May 18, 1994.

2. No disciplinary measures were taken . . . due to the concrete circumstances of that incident, the real authors of the [physical] injuries of the persons belonging to the two groups could not be identified . . .

. . .

5. The contract-enlisted sergeants left the barracks after their work hours dressed in their full uniform because their formal outfits were not available . . .<sup>56</sup>

### **Vasad (August 28, 1992)**

On August 28, 1992, an ethnic Romanian was reportedly beaten by a Roma man at the local restaurant in the village of Vasad (Bihor county). Later that evening, a fight erupted between the families of the two who had fought earlier in the day. One Roma man later died of injuries he had suffered during the fight.<sup>57</sup>

On August 30, 1992, four ethnic Romanians were arrested and charged with murder for having beaten the Roma man to death. On February 3, 1993, the local prosecutor dropped the charges against all four defendants, having determined that they had acted in legitimate defense. The four were released from detention.<sup>58</sup>

### **Comănești (November 22-23, 1992)**

On November 22, 1992, in the town of Comănești (Bacău county), three Roma brothers, Ciprian, Florin and Aurel Banu, got into a fight with other villagers at the local bar at approximately 8 p.m. Three or four villagers were injured by the brothers. Shortly after the fight broke out, the bar manager notified the police. The Banu brothers left the bar immediately and headed for home.

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<sup>56</sup> Letter to HRW/Helsinki from Gheorghe Tinca, Minister of National Defense of Romania, August 1, 1994. See letter attached as Appendix A.

<sup>57</sup> Romanian Public Ministry, "Situția cauzelor privind incidentele," p. 10.

<sup>58</sup> *Ibid*

At 10:45 p.m., five policemen responded to the scene of the fight. After checking at the bar, they went to the Banu residence, arriving at approximately 11:00 p.m.<sup>59</sup> According to Vasile Cosma, military prosecutor in Bacău, four policemen went to the gate to the courtyard of the Banu residence while the fifth policeman waited in the car. One police officer, Paul Banu, shouted for the Banu brothers to come to the gate. When the brothers came out of the house, they were alleged to be carrying axes, pitchforks and sticks. At this point, all five policemen entered the courtyard where the three Banu brothers were standing. They were joined by the brothers' parents and two of the brothers' girlfriends.<sup>60</sup> According to Lt. Colonel Traian Chiciu, military prosecutor responsible for the case:

Ciprian tried to injure [policeman] Banu with his stick and was prevented from doing so by another policeman who caught [Ciprian's] arm and fired into the air. At this point, [one police officer] went behind Ciprian and immobilized him, while the other officer tried to put on handcuffs.

One of the Banu brothers was about to hit policeman Banu when another police officer shot and hit Ciprian. He was killed immediately. Then Florian got angry and lifted an axe to hit police officer Duța. One of the policemen shot and killed Florian.<sup>61</sup>

In the course of the shooting, between twenty-three and twenty-four bullets were fired. As a result of the shooting, Ciprian and Florian were killed and their father was injured. Police officer Banu went to the hospital the next day with injuries to his head and arm requiring eight to nine days medical supervision.<sup>62</sup>

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<sup>59</sup> There is some dispute about the actual time of the fight at the bar and the arrival of the police at the Banu residence. HRW/Helsinki representatives reviewed witnesses' statements included in the prosecutors' file. There was a great deal of inconsistency among the different statements by witnesses who had been present at the bar regarding the time of the fight. While police officer Ciubotaru stated that the police were informed of the events at the restaurant at 10:15 p.m., the manager of the restaurant, Marghioala Amihăiesei, reported that she had called the police between 7:30-8 p.m. Similarly, there was inconsistent testimony regarding the time that the police arrived at the Banu residence. One report by the police claims that the five police officers arrived around 9:30 p.m., another police report states 10:30 p.m., and the Banu family claims that the police arrived at 11-11:30 p.m.

The timing of the events was considered relevant by the military prosecutor because he based his decision not to bring charges against the police officers, in part, on the fact that the police were in immediate pursuit of a suspect and that the use of arms was, therefore, appropriate. See Article 465(2) of the Romanian Code of Penal Procedure.

<sup>60</sup> HRW/Helsinki interview with Vasile Cosma, Bacău, May 17, 1994.

There was also inconsistent testimony regarding the duration of the shooting in the Banu courtyard. During the first investigation conducted by the Romanian Helsinki Committee, Lt. Colonel Berbecea, chief of the Bacău county police, reported that the police had arrived at the Banu residence at 9:30 p.m. and that the incident had lasted approximately ten minutes. However, Lt. Col. Berbecea's statement to the prosecutor indicated that the police had arrived around 11 p.m. and that the events had lasted approximately one hour. See Romanian Helsinki Committee letter to Samoilă Joarză, chief military prosecutor adjunct, (Number 163/May 25, 1994), p. 2.

<sup>61</sup> HRW/Helsinki interview with Lt. Colonel Traian Chiciu, Bacău, May 17, 1994.

<sup>62</sup> Medical-legal certificate, Number 1128, November 24, 1992.

The military prosecutor's office in Bacău, which investigated the case (File #651/P/92), decided on January 26, 1993 that no charges should be brought against the police officers because they had acted in legitimate defense pursuant to Article 44 of the Romanian Penal Code.<sup>63</sup> Aurel Banu was charged and convicted of disturbing the peace and hooliganism.

### **Cărpiniș (March 17, 1993)**

On March 17, 1993, in the town of Cărpiniș (Timiș county), approximately thirty kilometers west of Timișoara, a fight broke out between some local youths and a Roma man who had been repatriated from Germany. The youths were apparently angry because they believed that the man had become rich in Germany. Fifty or sixty ethnic Romanians armed with Molotov cocktails, iron rods and stones, reportedly gathered in the village around 10:30 p.m. and headed toward the Roma area. Five houses were destroyed. The Roma who live in the village were able to flee the area without injury. Roma organizations reported that, in this case, the police responded forcefully to ensure that there was not an escalation in the violence.

On June 9, 1993, twenty-three persons were charged with disturbing the peace, destruction of property and assault. The trial is ongoing.<sup>64</sup>

### **Hădăreni (September 20, 1993)**

On September 20, 1993, three Roma men (Rupa Lucian Lăcătuș, Pardalian Lăcătuș, and Mircea Zoltan) were killed by a mob in the village of Hădăreni (Mureș county). The mob violence occurred following the stabbing death of an ethnic Romanian local soccer hero (Chețan Crăciun) during a fight with the Lăcătuș brothers. Several other Romanians were apparently also involved in the initial fight.

Reports indicate that, after the stabbing of Chețan Crăciun, the Lăcătuș brothers fled into the house of their aunt, Lucreția Moldovanu. Several minutes later, a crowd of approximately 400 ethnic Romanian and ethnic Hungarian villagers gathered in front of Ms. Moldovanu's house and began to throw Molotov cocktails into the house.

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<sup>63</sup> Article 44 of the Romanian Penal Code states that acts that would otherwise be crimes are not penalized when a person acts in legitimate defense.

Legitimate defense occurs when the conduct is to stop an attack that is material, direct, immediate and unjust, and is directed at oneself, another person or against the public interest, and which puts a person or the rights of someone or the public interest in grave danger.

Similarly, it is considered legitimate defense when, due to confusion and fear, one exceeds the limits of a proportional defense because of the gravity of the danger and the circumstances in which the attack occurred.

However, see also Decree 367/1971 (attached as Appendix B), which sets out the circumstances in which firearms can be used by police. Among other things, Decree 367 states that:

Article 36 - Persons who are authorized to use firearms because they are carrying out the duties of their profession or a military mission, can use firearms only when it is absolutely necessary and if the use of other means of prevention or restraint are not possible . . .

Article 39 - The use of firearms in the conditions set out in the present chapter, is to be in such a manner as to immobilize the person against whom the firearm is being used, shooting, to the extent possible, at the feet in order to avoid causing death.

Article 40(2) - The use of firearms is prohibited . . . in situations in which the lives of other persons are endangered . . .

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<sup>64</sup> Romanian Public Ministry, "Situatia cauzelor privind incidentele," p. 14



When the house caught fire, the two Lăcătuș brothers were forced to escape the burning building. As they ran out of the house, the crowd began to beat and kick them. Lucreția Moldovanu saw part of what happened at this point:

I saw one man running out of my house and saw that he was in blackened clothes. First a woman hit him with an object. Then a man knocked him down and began beating him. I could hear the breaking bones from where I was. One man said, "Let's see if he is still breathing." He then continued to beat for a couple of minutes more.<sup>65</sup>

Both men were killed. The brother-in-law of the Lăcătuș brothers, Mircea Zoltan, was trapped in the burning house and also died.

There are conflicting reports regarding the role of two armed police officers who were stationed in the village at the time of the violence. Some reports indicate that the police officers arrested the two Lăcătuș brothers as they fled the house and then stood aside while the brothers were lynched. However, the police reported that, although they tried, they were unable to arrest the brothers before the angry mob intervened. Dan Petre, chief prosecutor for Târgu Mureș county, told HRW/Helsinki that:

One of the policemen grabbed one of the Roma and put the handcuffs on one hand, but the man got away before the officer could put the cuffs on his other hand.<sup>66</sup>

Reports by eyewitnesses indicate that more than fifty police officers arrived in Hădăreni at approximately 7-7:30 p.m. However, Dan Petre reported to HRW/Helsinki that they arrived at approximately 9-9:30 p.m. The police did not intervene to protect the Roma who were still in their homes, but instead stood by as the mob chased Roma out of the village. Reports indicate that twelve additional houses were set on fire over the course of several hours after the police arrived on the scene and an additional five houses were seriously damaged. The Romanian Helsinki Committee, which sent a fact-finding mission to Hădăreni shortly after the violence, reported that:

[A]fter the first incident, approximately fifty to sixty policemen and gendarmes were transported to Hădăreni. Under the circumstances, it is utterly impossible to understand why they could not prevent the other twelve houses from being set on fire, causing the whole Gypsy community to flee the village.<sup>67</sup>

Floarea Zoltan, wife of the Roma man who had died in the burning house, told HRW/Helsinki that the police had done nothing to protect the Roma' property:

When we left the village, we went to a nearby hill. From there we could see police cars with flashing lights. They were using a loudspeaker and I could hear what they were saying. The police were not saying that [the villagers] should stop setting fire to the houses or trying to stop the villagers. They were only shouting to "watch the cars" and be careful that there is not an accident." I could not believe that they were only worried about directing traffic when my husband had been killed and our homes were being burned down.

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<sup>65</sup> HRW/Helsinki interview with Lucreția Moldovanu, Hădăreni, November 18, 1993.

<sup>66</sup> HRW/Helsinki interview with Dan Petre, Târgu Mureș, November 19, 1993.

<sup>67</sup> Manuela Ștefănescu and Vera Cîmpeanu, "Report on the APADOR-CH Fact-Finding Mission to Hădăreni and Târgu Mureș (October 5-7, 1993), p. 6

We watched for another forty-five minutes. During that time another couple of houses began to burn, and then another three or four. It must have been about 9 p.m. We stayed on the hill until around 2 a.m. and during most of that time houses continued to be set on fire.<sup>68</sup>

The fire department in Luduș (a town located 7 kilometers from Hădăreni) was notified about a fire in the village at approximately 6:50 p.m. and arrived on the scene at 7:10 p.m.<sup>69</sup> The Luduș fire department was able to extinguish the fire at Lucretia Moldovanu's house by 7:50 p.m. However, it is not clear whether this single fire truck remained in the village or returned to the village later in the evening.

Colonel Liviu Micu, commander of the Mureș County military fire department reported that the fire department from Târgu Mureș, (60 kilometers from the village) and Târnaveni (located 48 kilometers from Hădăreni) were notified at 10:27 p.m. that three houses were burning in Hădăreni. By the time they arrived in the village at approximately 11:40 p.m., twelve houses were on fire.

Approximately 170 Roma were forced to flee the village due to the violence and reports indicate that some Roma families were initially prevented from returning to their homes by local villagers and the police. For example, on September 22, 1993, Maria Moldovan and Violeta Moldovan, along with several other Roma, tried to return to their home to collect some of their livestock. On the way to the village they were met by a police officer who allegedly attacked and beat them and warned them not to return to the village. Otilia Rostaș, an eye witness to the attack, reported to HRW/Helsinki that:

On September 22, when I went back to get my chickens and other animals, people were standing at the end of the village with sticks and other weapons. We turned around and went to the other end of the village because we were afraid. Two police cars followed us and then passed us and went to the bridge. Three villagers, along with Lt. Col. Draghici and four other policemen from the Luncani police, closed off the bridge. We tried to take a different way, but the police got back in their cars and followed us. Draghici and Costica Fudui beat Violeta [Moldovan] and her mother Maria. Violeta lost her child within a few days of being beaten and kicked in the stomach.<sup>70</sup>

On October 5, 1993, the villagers of Hădăreni held the first of several meetings to determine which if any Roma families would be allowed to return to the village. These meetings were apparently attended by local and county government officials, as well as a representative from the Prefect's office, which is the representative of the national government at the county level. Eyewitnesses to the meetings reported to HRW/Helsinki that the government officials did not disassociate themselves from this process and may have even encouraged it.

In fact, the Mureș county prefect's office sent a letter to the secretary general of the Romanian government on November 3, 1993, stating, among other things, that the village commission was continuing to meet and that:

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<sup>68</sup> HRW/Helsinki interview with Floarea Zoltan, Târgu Mureș, November 18, 1993.

<sup>69</sup> *Ibid.*, p. 2.

<sup>70</sup> HRW/Helsinki interview with Otilia Rostaș, Hădăreni, May 10, 1994. Maria Moldovan suffered injuries requiring between six and seven days medical care. Medical-legal certificate, Number 4489, September 24, 1993

The mayor of the commune will present us with a list of those Roma families that have violated the norms of good social manners, have criminal records and are no longer accepted to live in this village.<sup>71</sup>

The Mayor of Chețani, the commune which has administrative responsibility for Hădăreni, told HRW/Helsinki that:

The members of the village decided to reconstruct [the Gypsies' houses] based on their social behavior - starting with those who behaved better . . . Of the thirteen, there are four families who are considered undesirable, if I can say it like that, and they will be the last to have their houses rebuilt. . . Gypsies [in Hădăreni] have begun to lift their noses again and I fear that if it continues, there will be another conflict.<sup>72</sup>

### *The National Government's Response*

In the case of Hădăreni, the Romanian government for the first time responded to violence against Roma in a firm and prompt manner. On September 23, the Romanian government stated publicly that it "disapproves of all antisocial acts, irrespective of the ethnic origin of those committing them, and considers as intolerable any retaliatory action violating the legal frame[work] and impeding the proper functioning of the rule of law." (Full statement attached as Appendix C)

On October 19, 1993, the National Council on Minorities of the Romanian government issued a statement regarding measures taken after the Hădăreni violence. According to that statement, the Mureș county police commander had been dismissed and transferred to the reserve because of his failure to properly coordinate the police response to the violence. In addition, three non-commissioned police officers from the commune of Chețani were transferred and punished for their role in the events. The government also promised a "speedy investigation of the events by the police and the *parquet* [prosecutor's office]."<sup>73</sup>

On November 19, 1993, the Romanian government issued Decision 636 which authorized the allocation of 25 million lei for the reconstruction of the houses destroyed in Hădăreni.<sup>74</sup> Similarly, Order 66 of November 30, 1993, by the President of the County Council, created a commission of six specialists to supervise the reconstruction efforts. In October 1993, a small infirmary (*post sanitar*) was built for the children in Hădăreni.<sup>75</sup>

### *The Parliamentary Investigation*

The Commission for Human Rights, Religious Denominations and National Minorities of the Chamber of Deputies appointed a sub-commission to go to Hădăreni and investigate the events. The sub-commission conducted an investigation in Hădăreni on October 12-14, 1993 and issued their findings in a report on October 20, 1994.

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<sup>71</sup> Letter from Prefect Ioan Racolțea, Number 2813, November 3, 1993, p. 2.

<sup>72</sup> HRW/Helsinki interview with Mayor Gheorghe Găbudean, Chețani, May 10, 1994.

<sup>73</sup> Statement by the Council on National Minorities, Government of Romania, October 19, 1993.

<sup>74</sup> Unfortunately, Mayor Găbudean told HRW/Helsinki representatives that, due to inflation, the twenty-five million lei would only be enough to rebuild five to six houses. The money would not be enough to rebuild all thirteen houses.

<sup>75</sup> Letter to Helsinki Watch from Ivan Truțer, executive secretary of the Council for National Minorities of the Romanian Government, February 10, 1994.

Human Rights Watch/Helsinki had the opportunity to meet with members of the subcommission to discuss their findings in November 1993.<sup>76</sup> Representatives of the fact-finding mission reported to HRW/Helsinki that the objective of their investigation had been to try to determine, not what happened on the day of the violence, but the cause of the violence. From a discussion with representatives of the subcommission, it was clear that their real purpose had been to explain why the Roma had been attacked by the other villagers. The deputies focused almost exclusively on the alleged crimes committed by the Roma, how Roma behave, how few Roma children go to school, etc. All the information collected by the subcommission was based on interviews with local officials and with villagers. None of the Roma who had had their homes burned or destroyed were interviewed.<sup>77</sup> The overall thrust was to blame the victims. As Gavril Dejeu, president of the sub-commission, reported to HRW/Helsinki:

We concluded that the Roma' behavior - the insults, the lack of respect for [the villagers] and their property, the scandals and thefts - created tensions. The violence was then sparked by the crime. The villagers were very affected by the murder of their local soccer hero. . . We tried to understand if, in the view of the villagers, all people whose houses were burned were guilty of crimes.<sup>78</sup>

One member of the sub-commission, László Zsigmond, expressed his reservations regarding the sub-commission's conclusion in a letter to Adrian Nastase, president of the Chamber of Deputies. He stated that:

I have serious reservations regarding the unequivocal affirmation that what happened in the village of Hădăreni . . . did not have an inter-ethnic cause.

I have reservations about the determination that what happened in this locality can be explained only by the aggressive behavior of some persons belonging to several Roma families.

I remind you that, up to the present, in this country approximately 300 homes were burned down, houses that belonged to Roma families. Based on my information, not a single person was identified who was held legally responsible for these crimes.

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<sup>76</sup> HRW/Helsinki interview with Eberhardt Wolfgang Wittstock, President of the Commission; Gavril Dejeu, President of the Sub-commission; Eugen Nicolicea, Father Emil Roman and László Zsigmond, members of the Sub-commission, Bucharest, November 17, 1993.

<sup>77</sup> HRW/Helsinki interview with Deputy Gavril Dejeu, Bucharest, November 17, 1993.

<sup>78</sup> *Ibid*

Being concerned that the lesson that could be drawn from this is that the houses of Roma can be destroyed without consequences, I make known my reservations . . .<sup>79</sup>

### *Status of the Prosecution*

In November 1993, almost two months after the violence in Hădăreni, Human Rights Watch/Helsinki was informed by Dan Petre, chief prosecutor for Mureș county, that his office had conducted an investigation that had produced sufficient evidence to warrant the arrest and indictment of at least twelve persons.<sup>80</sup> According to Mr. Petre, the investigation was ongoing with regard to other possible suspects. Mr. Petre did indicate, however, that the investigation was being obstructed. He told HRW/Helsinki that:

I have been told to wait a little because it is still too tense [in Hădăreni] to make arrests . . . Counsellor Ioan Mureșan and the prefect himself have told me to slow down with the investigation.<sup>81</sup>

Again in May 1994, HRW/Helsinki representatives met with Mr. Petre to determine the status of the investigation. Mr. Petre reported that the investigation was near completion and that he had evidence to bring charges against between fifteen and seventeen persons who had participated in the murder of the Roma and/or the destruction of Roma' property. At that point, Mr. Petre stated that:

Between 200 and 250 people were interviewed by the police and the prosecutor's office has reinterviewed about seventy of those persons. Most of the people interviewed were eye witnesses and fourteen were victims of the violence. We have not interviewed the suspects. That was a tactical decision.

We have had a great deal of difficulty getting the statements. We have sent subpoenas and the police. We have fined some persons up to 20,000 lei for not responding to a subpoena. Between March and May, we fined about thirty people, some of them twice.<sup>82</sup>

Although the chief prosecutor was confident that the investigation would be completed by June or July 1994, he again acknowledged that his office was under political pressure not to issue arrest warrants. We could have issued arrest warrants already, but we were under political pressure not to. I was sent word that now is not the moment, people are still upset. The villagers also threatened me and this office. I have also not had support from the police. I give them a warrant to bring someone in for questioning [*mandat de aducere*], but they don't bring the person. They don't carry out the instructions.

At one point, when people continued to refuse to appear for questioning, I issued warrants for twelve persons. The police brought only three of them - people that they found at work. The chief of police did not want to cause a problem because he had to keep order in the town. But when the [villagers] found out about the three, they caused a scene. Then I got a call from the prefect asking me what I was thinking to do about that.

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<sup>79</sup> Letter from Deputy László Zsigmond, member of the sub-commission, to Adrian Nastase, president of the Chamber of Deputies of the Romanian parliament, Nr. 1257, October 20, 1993.

<sup>80</sup> HRW/Helsinki interview with Dan Petre, Târgu Mureș, November 19, 1993.

<sup>81</sup> *Ibid.*

<sup>82</sup> HRW/Helsinki interview with Dan Petre, Târgu Mureș, May 11, 1994

I have also noticed that the Gypsies have begun to change their statements. The [local officials] have begun to put pressure on the Gypsies who had their houses rebuilt. Now four or five people say that they didn't see anything. I heard from the Gypsies' lawyers that the Gypsies were under pressure to withdraw complaints and were threatened that everything would be burned down again. Then I called them in to see for myself. It was true. One thing is for certain, the vice mayor is trying to prevent the investigation, trying to organize the village to not come to give statements. He is the one most bothered by this investigation.<sup>83</sup>

At the time this report went to press, almost thirteen months after the crimes were committed and over eleven months since the prosecutor reported that he could make arrests, not one person has been arrested or charged with the murders and arson committed in Hădăreni.

#### **Racșa (May 29, 1994)<sup>84</sup>**

On May 26, 1994, two Roma teenagers from a neighboring village murdered an ethnic Romanian shepherd during a robbery in the village of Racșa (Satu Mare county). On May 28, the police investigation of the crime was completed and the two teenagers were arrested.

On Saturday evening, May 28, most villagers attended a wedding in the village. The villagers consumed a great deal of alcohol and there was much talk about the murder and about the Roma living in the village.<sup>85</sup> The next day the funeral, followed by a wake, was held for the murder victim. After the wake, a group of villagers stayed in the center of the village to discuss the problem of the Roma. After the carillonneur refused to ring the village bells, the group convinced one of the other villagers to ring the bells between 7 and 8 p.m. According to Colonel Vasile Fernea, commander of the county police, the Roma had already been warned that something might happen in the village before the bells were rung and had fled their homes.

By 9 p.m., an estimated 800 to 1,000 villagers, who had gathered in the village center, headed to the Roma quarters on foot, by wagon or by car. A Roma man who lived in the center of the village, Ioan Varga, saw what was happening and ran to the closest police station five kilometers away in the town of Negrești to report to the police.

The mob arrived in the Roma quarters at approximately 9:30 p.m. and devastated all of the nine houses before setting them on fire. The mob then returned to the village center where they destroyed and burned two groups of buildings belonging to Ioan Varga, the only Roma living in the village center.

Between 9:15 p.m. and 10:15 p.m., the first police officers arrived in the Roma neighborhood and saw that the houses were already burning. According to information provided to the Romanian Helsinki Committee by Colonel Fernea:

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<sup>83</sup> *Ibid.*

<sup>84</sup> Unless otherwise noted, the information in this section is based on a report prepared by the Romanian Helsinki Committee after a fact-finding mission to Racșa on June 6, 1994. See Vera Cîmpeanu and Ion Iacoș, "RAPORT - Caz Racșa, Jud. Satu Mare," APADOR-CH, June 1994.

<sup>85</sup> Interviews with Roma, police officials and ethnic Romanians conducted by the Romanian Helsinki Committee indicate that, unlike in some other villages, there had been no tensions between the Roma community and the rest of the village in Racșa

The fire trucks (from Negrești) that were called to extinguish the fire did not succeed in getting to the nine houses that were burning, not only because they were located on a sharp hill, but because the road was soaked with rain.<sup>86</sup>

A group of three police officers headed by Major Moraru arrived in the village center before the buildings of Ioan Varga had been set on fire. However, the police said they were not able to prevent the villagers from setting fire to one of the three buildings that were owned by the Varga family. The police also reported that one of the villagers cut the hose of a fire truck so that the fire could not be extinguished.

At approximately 10:30 p.m., two platoons (one of police and one of gendarmerie) arrived and with some effort were able to "reestablish order." An undisclosed number of police remained in the town until June 6.

In dramatic contrast to the other cases discussed in this report, in Racșa the authorities conducted a prompt and thorough investigation of the events. By June 6, 115 persons, including the heads of the seven Roma families, had been interviewed regarding the events. The criminal investigation was carried out in Negrești (File #5962/1994). Those villagers who refused to go voluntarily to the police to be interviewed were taken by the police against their will. The representatives of the Romanian Helsinki Committee concluded that:

The response of the authorities, especially the police, after the events unfolded, can be considered good because of the promptness and determination shown in identifying the perpetrators. It is the first in a remarkable line of similar cases, in which the police did not merely go through the motions and the investigation led to concrete results.<sup>87</sup>

However, the Romanian Helsinki Committee did conclude that certain questions remain unanswered about the response of the authorities at the time of the events. For example, it is not clear:

- why the local police, after the arrest of the two murderers and given the inter-ethnic conflicts that have occurred in many regions of the country for similar reasons, did not take steps to prevent the violent events;
- why Major Moraru and the two police who accompanied him did not try to prevent the crowd from setting the Varga family's farm on fire. In fact, Major Moraru responded to this question by placing the blame on the disproportion between the large number of villagers who were present and the small number of policemen;

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<sup>86</sup> *Ibid.*, p. 2.

<sup>87</sup> *Ibid.*, p. 4

- why the fire trucks from Negrești were not able to reach the Roma neighborhood so that they could extinguish the fire, when at least one of the villagers had succeeded in traveling along the same road.<sup>88</sup>

Charges were brought against thirty-eight people who allegedly participated in the violence. Initially, thirteen of the defendants were to be held in pre-trial arrest. However, the court ruled that the thirteen should be released and all thirty-eight should remain free during the trial. The defendants have been charged with a number of crimes, including destruction, theft, illegal entry into a residence.<sup>89</sup> Although all nine houses were burned down, no one has been charged with arson under Article 217(4) of the penal code.

## CONCLUSIONS

The cases documented in this report provide substantial evidence that local law enforcement officials are often participants in mob attacks against Roma, either by offering encouragement as such violence occurs or by remaining silent and failing to perform their duties. The evidence also indicates that this complicity is often tolerated and protected by the national government, which downplays the violence and, through its prosecutorial and justice system, erects a protective shield around the perpetrators of violence, thereby denying Roma any opportunity for an adequate remedy for their suffering and loss. The mob violence, as in the Hădăreni case, reveals a type of lynch law that is often supported by the local government. The local authorities are, in some cases, active participants in the violence, but more frequently are involved in creating a climate of extralegal abuse of Roma, and are active participants in the obstruction of justice after the fact.

The evidence clearly indicates a failure by the Romanian authorities at both the local and national level to investigate and bring to justice those who perpetrate violent crimes against Roma. For example, the frequent failure by local prosecutors to bring arson charges because the burning-down of Roma homes does not appear to present a "public danger" or because they want to create every opportunity to settle the case even when it is against the express wishes of the victims, clearly denies Roma the equal protection of the laws. This failure is an important indicator not only of complacency and incompetence, but of support for the violence itself.

Each time the national government responds to violence against Roma by denying that the attacks are racially motivated and trying to explain why ethnic Romanians would commit such acts, it sends a clear message to the Romanian public and state institutions that Roma do not deserve the equal protection of the law. There can be no justification for vigilante violence by one group of citizens against another group. It is, therefore, despicable that local and national government officials continue to try to explain and downplay this behavior. The government position since the first attacks in 1990 has been to deny that the violence is racially motivated. In 1991 HRW/Helsinki stated:

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<sup>88</sup> *Ibid.*

<sup>89</sup> Manuela Ștefănescu and Valerian Stan, "Raport cu privire la cazurile Racșa și Turulung (Jud. Satu Mare)," Romanian Helsinki Committee, July 1994, p 5



The Romanian government's repeated claim that attacks on Gypsies are motivated solely by frustration regarding crime, and not by ethnic hatred, fails to consider that no criminals of other ethnic groups were attacked and that many Gypsies never accused of criminal activity have been victims. The fact that different ethnic groups have been involved in the attacks is irrelevant. The deciding factor is that one single ethnic group is being attacked.<sup>90</sup>

The government's position is simply not credible given that whole groups of Roma are being singled out and targeted specifically because they are identified as Roma. They are routinely held collectively responsible for the real or imagined crimes of others identified as Roma. They are also the object of generalized racial slurs and discrimination, as well as a pointed lack of protection under the law, specifically because of their group identity.

Regardless of the motivation for the initial violence, there can be no doubt that the failure to investigate and prosecute these violent attacks to the full extent of the law is motivated, at least in part, by ethnic or racial considerations.

The sense of impunity that is created by the government's response to such attacks, as well as by the failure to enforce the penal code in a prompt and non-discriminatory manner against perpetrators of violence against Roma, jeopardizes the safety of Roma in Romania and has set a dangerous precedent for the rule of law. The Romanian Helsinki Committee summarized the impact of this phenomenon:

We consider that the precedent of numerous unresolved inter-ethnic conflicts leads to a sense of impunity in those collectives where Roma live. Similar inter-ethnic conflicts will continue to occur as long as the majority population is allowed to believe that they can substitute for state institutions responsible for enforcing the law.<sup>91</sup>

HRW/Helsinki is also extremely concerned about efforts by some villagers to prevent Roma from living in particular villages and we strongly condemn local and national government officials who encourage such efforts either by their direct participation, or by their failure to denounce them. The Romanian government, the law enforcement and investigatory bodies, as well as some members of the judiciary, have repeatedly exhibited complete disregard for the rights of Roma victims of violence. This situation cannot change until Romanian government leaders show the political will to defend the most vulnerable and marginalized of their constituents.

Max van der Stoep, High Commissioner on National Minorities of the CSCE, stated recently that:

Racial violence often causes wider social damage as well. Entire communities lose a sense of security and confidence in public authorities to preserve law and order. In the first instance, Roma who already occupy a precarious social position will feel even more vulnerable, even less welcome in their own society. Furthermore, the use of violence and terror by so-called vigilantes will only continue to erode the administration of justice based on the law. If a crime has been committed, then law-enforcement officials--and not the community at large--are responsible for apprehending and prosecuting alleged wrongdoers. When public authorities are unable to bring perpetrators of racially motivated crimes to

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<sup>90</sup> HRW/Helsinki, *Persecution of Gypsies in Romania*, p. 71.

<sup>91</sup> Romanian Helsinki Committee, "Raport - Caz Racşa," p. 4.

justice, popular confidence in the institutions of law and order is greatly damaged, and needless to say, the country's international image is seriously harmed.

The problem is not purely a legal one. Certainly a proper legal framework is necessary for protecting persons against racially motivated attacks, but in most cases a basic framework already exists. There must, however, also be clear political will--from the highest to the lowest levels of the state--to combat racial violence.<sup>92</sup>

If the Romanian government is truly committed to combatting racial violence against Roma, it can take several specific measures to indicate its political will, not only to international observers, but to the Romanian public. For example, the Romanian government should send a clear signal to prosecutors and the public that house-burning is arson and that anyone who commits arson will be prosecuted to the full extent of the law. It must make clear that police who take part in beatings or murders of Roma during mob violence, who stand by offering encouragement when such violence occurs, including by remaining silent, who fail to perform their duties to investigate such crimes, or who intimidate witnesses and victims of such abuses, will be prosecuted and held criminal responsible for their actions. Similarly, the Romanian government should notify all prefects, and other public officials appointed by the national government, that they will be dismissed and criminally prosecuted for complicity in mob violence, including acquiescence in such violence, for abuse of authority when they are shown to have obstructed Roma's access to legal remedies or compensation for their losses or when they encourage members of the community under their jurisdiction to take measures of any kind intended to expel from the community particular groups of residents without recourse to the law.

## LEGAL STANDARDS

International law prohibits states from discriminating on the basis of ethnic or national identity:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.<sup>93</sup>

States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination . . .
- (b) Each State Party undertakes not to sponsor, defend or support racial discrimination . . .

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<sup>92</sup> Introductory remarks by Max van der Stoel, High Commissioner on National Minorities of the CSCE, CSCE Human Dimension Seminar on "Roma in the CSCE Region," Warsaw, September 20, 1994, p. 4.

<sup>93</sup> International Covenant on Civil and Political Rights (ICCPR), 1966, Article 26, signed by Romania on June 27, 1968, and ratified on December 9, 1974.

(c) Each State Party shall take effective measures to review governmental, national and local policies and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists . . .<sup>94</sup>

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (1990), Paragraph 31.)

Romania has international obligations to protect all inhabitants from violence, including a specific obligation to protect minorities from violence due to racial or ethnic identity:

States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone without distinction as to race, color, or national origin, to equality before the law, notably in the enjoyment of . . .

b. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by Government officials or by any individual, group, or institution . . .<sup>95</sup>

The participating States . . . commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property . . .<sup>96</sup>

The Romanian constitution incorporates these international obligations into domestic law. Article 11 of the constitution states that:

The treaties ratified by Parliament, according to the law, are part of domestic law.<sup>97</sup>

Similarly, these fundamental rights are recognized in the Romanian constitution:

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<sup>94</sup> United Nations International Convention on the Elimination of All Forms of Racial Discrimination, 1966, Article 2, acceded to by Romania on September 15, 1970.

<sup>95</sup> *Ibid.*, Article 5. See also the ICCPR, Articles 2 and 9.

<sup>96</sup> Document of the Copenhagen Meeting on the Conference on the Human Dimension of the CSCE (1990), Paragraph 40.2, agreed to by Romania on June 29, 1990. Although the CSCE documents do not have the binding force of a treaty, Romania has made a solemn commitment to abide by the standards set out therein.

<sup>97</sup> Constitution of Romania (November 21, 1991), Article 11. See also Article 20 of the Constitution of Romania, which states:

1. Constitutional provisions on the rights and freedoms of citizens shall be interpreted and applied in accordance with the Universal Declaration on Human Rights and with other treaties and pacts to which Romania is a party.

2. If there is disagreement between the pacts and treaties on fundamental human rights to which Romania is a party and domestic laws, then international regulations will have priority

A person's right to life and to physical and mental well-being are guaranteed. (Article 22 (1))

Individual freedom and person security are inviolable (Article 23(1)).

The domicile and the residence are inviolable (Article 27(1)).

Citizens are equal before the law and before public authorities, with no privileges and with no discrimination (Article 16 (1)).

When fundamental rights are violated, the state is obligated to provide an effective remedy.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.<sup>98</sup>

States Parties assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.<sup>99</sup>

The conduct of police officers is prescribed by international standards:

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.<sup>100</sup>

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.<sup>101</sup>

The government has a responsibility to guarantee that police officers have the proper training and equipment to fulfill their obligations. Specifically, the government has an obligation to make clear to police officers which means may be used to prevent the commission of a crime, and the circumstances under which particular means are appropriate. In an effort to avoid the use of lethal force:

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<sup>98</sup> Universal Declaration of Human Rights, Article 8. See also ICCPR, Article 3.

<sup>99</sup> Convention on the Elimination of Discrimination, Article 6. See also ICCPR, Article 26.

<sup>100</sup> United Nations Code of Conduct for Law Enforcement Officials, Article 1. This document and the UN Code of Conduct and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, cited at footnote 100, are not treaties and, therefore, their obligations are not legally binding. However, they do constitute authoritative interpretations and explanations of more general standards that are themselves binding, either because they are found in treaty law or because they are customary international law.

<sup>101</sup> *Ibid*, Article 2.

Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations . . . [I]t should also be possible for law enforcement officials to be equipped with self-defensive equipment such as shields, helmets, bulletproof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.<sup>102</sup>

Government should make human rights and civil rights training a part of any police training program:

In the training of law enforcement officials, Governments and law enforcement agencies shall give special attention to issues of police ethics and human rights, especially in the investigative process, to alternatives to the use of force and firearms, including the peaceful settlement of conflicts, the understanding of crowd behavior, and the methods of persuasion, negotiation and mediation, as well as to technical means, with a view to limiting the use of force and firearms. Law enforcement agencies should review their training programs and operational procedures in the light of particular incidents.<sup>103</sup>

In cases where allegations are made of police misconduct, it is the duty of the responsible authorities to conduct an investigation and carry out the appropriate disciplinary measures.

Every law enforcement agency . . . should be held to the duty of disciplining itself . . . and the actions of law enforcement officials should be responsive to public scrutiny.<sup>104</sup>

Romania has also agreed to take additional measures to promote mutual understanding and tolerance:

Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law. (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 36.)

The participating States [will]...take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information... (Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Paragraph 40.3.)

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<sup>102</sup> United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 2.

<sup>103</sup> *Ibid.*, Principle 20.

<sup>104</sup> Preamble to the United Nations Code of Conduct for Law Enforcement Officials

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***Human Rights Watch/Helsinki (formerly Helsinki Watch)***

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## APPENDIX A





## APPENDIX B



## APPENDIX C