



Romani CRISS

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Bucharest, July 4, 2013

OPEN LETTER

To: Victor Viorel Ponta, Prim-minister of the Government of Romania
Radu Stroe, Minister of Administration and Interior
Oana Andrea Schmidt-Haineala, President of Superior Council of Magistracy

Romanian state can avoid the loss of human lives, but refuses to do that

Romani CRISS requests the immediate adoption of a plan of action aimed at avoiding the loss of human lives, through legislative and practical measures.

On June 25, 2013, the European Court of Human Rights (ECHR) released the decision on *Gheorghe Cobzaru v. Romania*. The ECHR ascertained the Romanian state violated the right to life, prescribed by art. 2 of the Convention and obliged Romanian state to pay 30.000 euro as moral damages.

On November 19, 2006 Gheorghe Cobzaru formulated a criminal complaint to Prosecutor's Office within the Bucharest Tribunal, for murder (article 174 from penal code). The file followed more procedural phases in front of Prosecutor's Office, as well as in front of courts of justice, without being definitively and irrevocably solved. In this moment the case is pending before the Prosecutor's Office within the Tribunal of Bucharest. In August 27, 2007 applicant filed a complaint to the ECHR. Before the ECHR, as well as before the national courts, the applicant was represented by a lawyer, supported by Romani CRISS.

The applicant complained to the ECHR with regard to the murder of his son, Adrian Cobzaru, and the ineffectiveness of the subsequent criminal investigation. Departing from usual practice, ECHR judged this case, even if the intern remedies weren't exhausted. ECHR motivated the exception by the fact that at more than six years from the date of the incident in which Adrian Cobzaru lost his life, the Prosecutor's Office investigation is still in progress and this too large time of investigation risks to complicate the collection of evidences and the exact establishment of the facts by Romanian authorities.

The Court retained that the Romanian state violated the right to life both under the procedural limb, as well as under the substantial one. The Court showed that by shooting a bullet in direction of Cobzaru Adrian, with the purpose of seizing him, in full night, the policeman didn't took all caution measures sufficient for protecting the victim's life, and those facts happened in the context of the lack of a precise legal framework for using fire guns by police forces.

ECHR also showed that the investigation was not effective and quick. The Court criticized the fact that the authorities established with a very large delay the shooting distance and bullet's trajectory, as well as the fact that the applicant wasn't properly involved in the criminal investigation in the sense he wasn't informed or consulted regarding the evidence and statements proposed by witnesses.

Romani CRISS points on the fact that this case is not singular. In the last years, Romani CRISS documented about 50 cases of abuses of order forces. The situation is profoundly worrying, if we think that, only in the summer of 2012, three young Roma were shot dead by police in three different locations (Plumbuita – Bucharest, Agristiu and Pusta Vale). Currently, more cases are standing in front of ECHR and similar convictions may very well occur in the near future.

In many cases, the reaction of the representatives of the Ministry of Administration and Interior was to make public statements, shortly after incidents, in which they sustained the legality of the action. This approach shows that the purpose of those statements is more to exonerate the involved policemen. They are also likely to cast shadows on the independency and efficiency of internal investigation system of the MAI.

From the legislative point of view, the modifications appeared after the decision of Soare and others v. Romania are insufficient and do not address the core of the criticism of the ECHR, namely the use of firearms by police. Moreover, such new standards must form the object initial and continuous training of police officers, in order to ensure that they will not remain only obligations assumed on paper.

On the level of Prosecutor's Offices, in the majority of situations encountered by CRISS in practice, the statements of policemen involved in the incident are accepted without reserves, and therefore without a just and balanced appreciation of all evidence, so that this arrives to their exoneration of police officers involved. Although this practice was often condemned by the ECHR, there are no significant changes at the level of the practice of the Prosecutor's Offices.

Dear Madam, Dear Gentlemen,

The principles at the basis of ECHR decision in Cobzaru v. Romania must no longer be ignored by the Romanian authorities. Romani CRISS requests the Romanian authorities make a comprehensive plan which will include, at the very least, the following:

- *The Government must proceed to the modification of legislation in the sense of ensuring detailed regulation of the use of firearms by order forces (especially by police and gendarmes);*
- *The Minister of Administration and Interior must (a) revise the initial and continuous training of police officers and gendarmes and include with priority and in a comprehensive fashion, at the very least the training of command officers in planning interventions with minimum use of force and training MAI workers on the modalities of use of lethal force, regarding the preparation and control of those operations, for ensuring the protection of human lives, (b) to revise the internal investigation system for increasing transparency, independence and impartiality and (c) to adopt guidelines for public statements in violent incidents in which police officers are involved, with a view to ensuring a correct and balanced information of the public opinion;*
- *The Superior Council of Magistracy must identify concrete measures for preventing the management of cases in a manner that is openly and routinely violating the fundamental principles established by the European Convention of Human Rights, especially regarding the length of the proceedings and the acceptance without reserves of statements of the police officers involved in the events.*

Romani CRISS considers that decision Cobzaru v. Romania represents an important victory for the fight against human rights violation, in particular for the right to life and requests the Romanian authorities give up their current state of passivity and prioritise the avoidance of loss of human lives.

Hoping that our request will receive the required attention, please accept the expression of our most distinguished salutations.

Sincerely,
Marian Mandache

Executive Director
Romani CRISS