

TESTIMONY OF PHILIP STEPHENSON, CHAIRMAN, FREEDOM CAPITAL PARTNERS
LLC

BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

June 14, 2017

INTRODUCTION

Thank you for this opportunity to testify. My name is Phil Stephenson, an American citizen living in Northern Virginia, where my company Freedom Development is active in buying, refurbishing, and renting Class B apartment properties for working professionals and families. I am an honors graduate of both Harvard College and Harvard Law School, and a former Top Secret-cleared official in the U.S. Treasury Department. And, in a truly bizarre turn of events, I am the focus of an investigation by Romanian prosecutors whose stated goal is to put me in jail in Romania and seize my property.

Before going into my personal story, however, I want to emphasize how much I agree with today's other witnesses about the need to continue to fight corruption in Romania. Historically, it has been a huge problem there, and I applaud the tough and smart new generation of Romanians leaders who, assisted by both the United States and the EU, are making great progress fighting true corruption.

But a small part of this noble fight against corruption has itself been corrupted. This has occurred because government officials, sometimes working with private interests, have infiltrated and influenced the offices of prosecutors and judges to bring criminal cases not in the interest of justice, but rather to pursue their own political and economic ends. That is the textbook definition of corruption, and I believe that is what is happening in my case. My circumstances should give pause to any foreign business that has invested, or is thinking of investing, in Romania. A company – or even an individual executive – may find itself in serious legal jeopardy for years to come, even when following best business practices, if it inadvertently encroaches upon the territory of powerful interest groups.

Below is an overview – based on my best recollections of complex events as old as 20 years – of how and why this chilling situation came about.

ESTABLISHING THE FUND

In 1997, I was managing one of the very first private investment funds for emerging markets. The co-chairman the Romanian-American Action Commission invited me to visit Romania to consider investing there. During the visit, we met with the President, the Governor of the National Bank, and local business leaders. The country was in economic shambles, with factories closed, suppliers not getting paid, and workers being laid off. In 1997, according to *The Economist*, Romania's GDP fell by 6.5% and inflation was 150%. Under guidance from the IMF, the World Bank, and U.S. advisors, the Romanians had embarked on programs to privatize state-run industries, but there was so much corruption, distrust, and dysfunction that little was happening. The Romanian government at the time was glad almost to give companies away to buyers who were willing to finance their continued operations or refurbishment – or at least that is what the government said then.

Though I sensed on my first visit – and still believe – that the Romanian people were sincerely interested in reforming their economy and working hard to achieve better lives in a new market economy, I was skeptical of investing there. Corruption, institutionalized in the Balkans during Ottoman rule but made a way of life under Communism, was pervasive. It was the main reason investors and banks avoided Romania even when there were great deals to be had.

Nevertheless, I returned to Washington, D.C. and approached the World Bank's private sector investment arm – the International Finance Corporation (IFC) – to see if it wanted to invest. The IFC agreed to become the lead investor in a new fund, provided that I found an acceptable Romanian partner to advise and co-invest with the fund. I proposed Dinu Patriciu, one of several businessmen I met on my trip, who worked as an architect during the Communist era and as a real estate developer after the “revolution.” We ultimately raised \$20 million from five investors, including both the IFC and the German government's economic development fund, DEG. My own family and friends put in \$1 million.

By today's standards, \$20 million is not a large fund, but it was a lot of money in Romania 20 years ago. More important, it could be leveraged –

provided that European banks trusted the managers they were lending to. We were excited at the opportunity to help build Romania's private sector by implementing western business practices, which was an intended result for investors like the IFC and DEG. From 1997 to 2001, we bought stakes in three companies, but by far the most successful investment was in a company called Rompetrol.

THE ROMPETROL INVESTMENT

To hold our stake in Rompetrol, our fund in 2000 created a holding company in Holland – The Rompetrol Group NV (TRG) – which then made a series of acquisitions in the Romanian oil sector (and later in France, Spain, and elsewhere). Today, 17 years later, Romanian prosecutors regard Holland as some sort of “fiscal haven,” purpose-built for tax evasion and money laundering. Nothing is further from the truth. Holland was chosen on the advice of the fund's auditors, Deloitte & Touche, and with the affirmative vote of its investors from the World Bank and German government. A holding company was necessary to finance operations in Romania because our German, French, and Austrian bankers refused to lend directly to Romanian companies – rightly fearing corruption and poor legal systems. The lenders preferred Holland, which offered a more developed legal system and was a well-known, prime location for major multinationals to establish their European holding companies. Romania itself encouraged investment from Holland by signing a bilateral investment treaty (BIT) with the country in 1994. The Netherlands-Romania BIT has been so successful that Holland is today, and has been for many years, the number one investor in Romania. Even major U.S. companies, such as Coca Cola, Cisco Systems, Dow Chemicals, Nike and numerous others have established European holding companies in Holland.

Rompetrol's business strategy was to be a transparent company that could pass muster with international banks and investors, and thus get the capital to restructure operations and make acquisitions. It took five years of around-the-clock work, but we revamped our main refinery's technology (with help of U.S. companies like FMC Corporation); franchised a network of gas stations (thus

vertically integrating “downstream”); and made overseas acquisitions in Bulgaria, France, and Spain.

Eventually, TRG grew to over 6,000 employees, \$2 billion in revenues, and was cash-flow-positive in the amount of about \$150 million. Our investment fund had successfully exited its stake at a profit 3.5 times greater than its original investment, and had been replaced with OMV, the Austrian national oil company, which bought a 24.9% stake in the company and put its Chairman on TRG’s Dutch Supervisory Board of Directors. Mr. Patriciu and I owned the balance of the company. TRG was responsible for 3% of Romania’s GDP and 7% of its tax base. But we still had a problem with a large, very old tax bill left to us by prior owners – including the State – of our main refinery, the Petromedia refinery (the Refinery).

THE TAX RESCHEDULING

When TRG bought the Refinery in 2001, it assumed the Refinery’s preexisting tax liabilities – even though the Romanian government’s practice at the time was to forgive all such historical tax debts, which often dated to the Communist era. Rather than saddle new owners of formerly state-run assets with crushing tax liabilities, the idea was to wipe the slate clean so that the new owners would preserve jobs, grow the businesses, and thereby contribute to the State budget. Although it did not receive this benefit, TRG between 2001 and 2003 nevertheless succeeded in overhauling the Refinery’s trading operations, its labor force, and its technological and environmental investments. The Refinery’s capacity utilization increased dramatically, causing a commensurate increase in the payment of excise taxes on petroleum products. Thus, the Romanian government was collecting significantly more tax revenue from the Refinery in 2003 as compared to 2001. Even so, the Refinery fell behind on payments for these historical tax debts – in no small part because penalty interest constantly accrued on the outstanding tax balance.

At the time, TRG was the *only* privately-held Romanian oil company that had an international accounting firm (Deloitte & Touche) perform its financial audits. TRG did so primarily because our bankers (which included Germany’s Hypovereinsbank, France’s Society Generale, and Austria’s Raffiessen Bank) were understandably nervous about Romania’s business environment and wanted

financial audits performed by an internationally recognized auditing firm. Deloitte correctly recognized on TRG's balance sheet that the outstanding debt for old taxes had a face value above \$500 million, and that the debt was a senior liability, meaning that it would have to be paid first in the event of bankruptcy. That unnerved the foreign bankers, because they could not take the risk that the Romanian government would collect all of TRG's funds in the event of bankruptcy while leaving the banks empty-handed.

TRG approached the Romanian government and explained that its bankers would not continue to support the Refinery absent a compromise. TRG's Chairman, Mr. Patriciu, eventually negotiated a solution with the Romanian government, which included the following terms:

- Fixing the amount of historical taxes due in hard currency (to be paid in Euros);
- Providing for regular payments of principal and interest going forward (and new penalties if payments were missed); and
- Providing that any remaining outstanding debt would be converted, at a fixed ratio, to equity shares in the Refinery seven years later (in 2010).

This compromise served both parties' interests. TRG remained in business, and the Romanian government benefitted tremendously as well: the Refinery continued to operate, Romanian workers kept their jobs, the Romanian government received substantial Euro-denominated payments, and, most important, the Romanian government received greater projected tax payments over time than if it had otherwise foreclosed on and halted the Refinery's operations.

This deal, moreover, was thoroughly vetted. It required approvals from three different entities:

- The Romanian Government (Ordinance No. 118 of 2003);
- The Competition Council of Romania (an independent, EU-created regulatory body); and
- The Brussels-based competition authority of the European Community (this was required as Romania was in the process of acceding to the EU

and the deal had to be one that did not give away the State's assets as "state aid" to private companies).

TRG also consulted regularly and openly with its auditors, bankers, and two rating agencies (Fitch and Moody's). And TRG's Board – which, as already noted, included the Chairman of Austria's national oil company, OMV – approved the transaction as well.

THE EXTORTION ATTEMPT

TRG's remarkable turnaround and growth made it a target of old, entrenched oil interests in Romania. These were a combination of politicians, oil barons, and intelligence agencies that controlled, at least from 1989, oil industry assets and product flows. But since they had opaque ownership structures and poor management, they were locked out of the market for international capital. Rompetrol's transparency, including its practice of publishing annual audits by Deloitte & Touche and receiving ratings from Fitch and Moody's, won us access to hundreds of millions of dollars in foreign bank loans that these oil "barons" could only dream of. This threatened to change the way the oil business worked in Romania. In 2003, within weeks of TRG announcing the approval of the tax restructuring, three such oil barons visited our Bucharest offices and "proposed" a 50-50 merger (with no real payment), threatening that "there will be trouble" if we declined the offer.

This was pure extortion, and we decided to refuse the "offer we couldn't refuse." Soon thereafter, we hired a security staff and braced for the consequences. Almost immediately, negative newspaper articles accusing TRG management of fraud and "stealing the state's assets" began to appear. Then, in January 2004, General Ion Talpes (then the National Security Advisor, but formerly a top official in the brutal Securitate during Nicolae Ceausescu's dictatorship) released a report on live television labeling me and other executives of the firm an organized criminal "gang." He suggested that TRG's main asset, the Petromedia refinery, be returned to the State. As it turned out, General Talpes' accusations were merely the first volley in a lengthier attack, which included not one, but two criminal investigations.

THE “ROMPETROL 1” PROSECUTION

The original investigation was announced in January 2004, the day before TRG’s €50 million bond offering with Deutsche Bank. That would have been the first bond offering of any non-State-owned company in Romania, but it was impossible to move forward with it given the public allegations of corruption hanging over us. Because the oil barons resented our foreign capital, they soon found a way to deny our access to it. It was a brilliant strategy, as success required only accusations against us, without the need for any proof.

Between 2004 and 2006, the investigation morphed in various ways, and was passed from the National Anti-Corruption Prosecutor (PNA, later DNA) to the Department for the Investigation of Organized Crime and Terrorism (DIICOT). In a move designed to scare and damage the company, the TRG Chairman – Mr. Patriciu – was briefly and unjustly imprisoned under a “preventative arrest.”

As such, we had to work twice as hard just to stay in place, to convince our bankers that we were the victims of an unjust prosecution, and that loans to the company were still safe. Some banks stayed with us; some pulled their financing. Growth stalled and bankruptcy loomed as a daily possibility. If even one large bank cancelled its loan, a cross-default would be triggered among all other banks – resulting in a financial meltdown of TRG.

In 2006, after working through these crises and participating willingly at multiple DICOTT interviews and three Romanian court hearings at which prosecutors attempted unsuccessfully to put me under “emergency preventive arrest,” I moved from Bucharest to Amsterdam. There, I worked out of the TRG parent company offices on the assumption that we would need people and assets outside of Romania if the prosecutors followed the “Russian model,” set in the Yukos case, of imprisoning the majority shareholder and seizing assets under their jurisdiction.

Besides mounting a vigorous defense in the local courts, we opened an international commercial arbitration case against the Romania State in December 2005 at the World Bank’s ICSID tribunal in Paris. We argued that the politically motivated and selective prosecution of our executives was a denial of fair treatment under the Romania-Holland BIT. This case dragged on for years. In 2013, however, the arbitral tribunal finally issued a decision, concluding that the

Romanian State – as a result of the politically motivated harassment and unjustified treatment of TRG executives – had indeed breached the BIT protections afforded to Dutch investors in Romania.

In addition to the arbitral proceedings, we met with officials in both Washington, D.C. and Brussels who were concerned about the downward trajectory of Romanian justice. We gave in-depth interviews to international media, including the Washington Post and Wall Street Journal (copies of which are attached). The U.S. House of Representatives passed a congressional resolution condemning the investigations of TRG as symptomatic of “Romania’s lack of a truly independent, professional, and non-political justice system.” (*H.R. Res. 949, 109th Cong., enacted 2006*). And the U.S. Department of State took the unusual step of warning Romania publicly about the transparency of these investigations and the motivations behind them, urging that due process must be respected. (*June 09, 2005, by Tom Casey, US State Department spokesman; see Washington Post, June 10, 2005, by Glenn Kessler*).

We believed that the brighter the spotlight on the prosecution, the more likely that it would be conducted fairly. We were wrong. While the international pressure did succeed in 2006 in having the charges set aside against Colin Hart and me (the only two non-Romanians charged in the case), it did not help the Romanian citizens who were charged. The prosecution against them proceeded with full speed. To me, this indicates that even then the Romanian prosecutors knew that their actions could not stand up to international scrutiny.

SALE OF TRG

By 2007, after three full years of defending ourselves against what were, at best, civil or administrative disputes, Mr. Patriciu and I were exhausted. As a result, we hired Morgan Stanley to sell the company. After receiving four international bids, TRG in December 2007 sold a 75% stake in the company to Kazmunaigaz (KMG), the Kazakh national oil company. Given world events, this turned out to be perfect timing for us.

In early 2001, we paid about \$50 million for a majority stake in the Refinery. In late 2007, we sold a majority stake of its Dutch holding company for about \$1.5 billion – a return of 30 times our money. Admittedly, this is an

extraordinary return, but it was based on hard work, intelligent choices, best practices, and – most of all – luck.

Indeed, when we bought the refinery, it was in a state of disrepair. It was barely processing crude, had no access to working capital, and was located in a non-EU country with a bad reputation for doing business. But what we sold was not just that refinery, but a profitable, Netherlands-based integrated holding company with pan-European operations in 13 countries *and* a major rehabilitated refinery that was now located in the EU (Romania joined the EU 11 months before the sale to KMG). It also did not hurt that oil was \$10/barrel when we bought the refinery, and \$140/barrel when we sold to KMG, a company that was one of the biggest crude oil producers in the world.

Unfortunately, all of those nuances seemed to be lost on the Romanian prosecutors.

THE “ROMPETROL 2” PROSECUTION

Following the sale to KMG, I took my share of the sale proceeds, left Romania, and returned home to the United States to start a family. I invested heavily in the stock market and, like many others, faced massive losses in the crash of 2008. Thereafter, I started businesses, some of which failed and some of which succeeded.

My partner, Mr. Patriciu, continued to be active in political and business life in Romania, and continued to fight a related criminal complaint. With much relief to us all, after eight years of being intensely investigated by prosecutors, Mr. Patriciu and the other Romanian company executives were acquitted in August 2013 of all charges. But that relief proved to be short-lived. Although most expected the prosecutors’ perfunctory appeal to be rejected, an appeals court – without new evidence or hearings – overturned the trial court’s decision, found the executives guilty, and sentenced them to prison. The appeals court could overturn the convictions because Romania does not recognize the concept of double jeopardy that U.S. law recognizes. The only defendant whose acquittal was not overturned was Mr. Patriciu’s, because he died six weeks before the appeals court issued its decision.

Frankly, all of this was receding into a distant memory for me – until last May, when Romanian prosecutors announced the “Rompetrol 2” case. Reports indicate that a focal point of this renewed prosecution is the 2003 compromise that TRG struck with the Romanian government in order to resolve the Petromedia refinery’s historical tax liabilities. But “Rompetrol 2” is just as meritless as “Rompetrol 1.”

Indeed, in the years following the 2003 tax-debt rescheduling, there was never any suggestion from within the Romanian government that it was unlawful in any way. In fact, the Romanian government lived by the terms of the agreement and accepted payments made thereunder for seven years, when it duly converted the remaining liabilities into a 44.69% equity stake in the Refinery in September 2010. When TRG executives were first investigated beginning in 2004, prosecutors and regulators carefully reviewed this convertible bond, but no charges were brought. And then, as now, there is no allegation (and certainly no evidence) that the transaction received approval because of bribery or corruption.

The most compelling explanation why Romanian prosecutors are now revisiting this 2003 transaction is a newly arisen dispute between the Romanian government and KMG, the Kazakh company that bought TRG in December 2007. Just before “Rompetrol 2” was announced in April 2016, KMG revealed its intention in 2015 to sell its stake in TRG to a Chinese entity. That announcement came on the heels of a bitter disagreement between Romania and KMG: After KMG purchased TRG, it negotiated a new Memorandum of Understanding in 2013 with the Romanian government regarding the 2003 convertible bond and the value of Romania’s 44.69% equity stake that it had legitimately acquired in 2010. Each side has publicly accused the other of violating the MOU. Romania and KMG are now litigating these accusations in both Romanian courts and an international arbitration. In the background of this disagreement, there are reports that powerful elements of the Romanian government consider the Petromedia refinery a strategic asset and are eager to get it back under state control.

Of course, none of this has anything to do with me, or with the tax-debt restructuring that occurred 14 years ago. To the contrary, I believe that the 2004 “Rompetrol 1” case and the 2016 “Rompetrol 2” case are driven by financial motivations. I do not believe that I will receive due process in Romania for the following reasons:

- The charges relate to events that occurred so long ago that they are very difficult to defend, with key witnesses dead and key documents naturally destroyed or lost;
- DIICOT is selectively investigating relatively weaker defendants (American and Romanian individuals) and refusing to target more politically powerful parties that are equally relevant to the events at issue (e.g., large institutions like IFC, DEG and OMV);
- As pointed out by other witnesses here, the secret intelligence services today consider the Romanian judiciary to be a “tactical field of operations” and continue to infiltrate the judiciary and direct prosecutions; and
- Romanian corruption cases have a conviction rate of 92%, the highest in the EU.

As other witnesses have indicated today, my story of being prosecuted for economic reasons with the collusion of the security services is not unique. The fight against corruption, which is so vitally important in Romania, has been “weaponized” in select cases to implement political and economic goals.

RECOMMENDATIONS FOR REFORM

This Committee has asked if I could provide “recommendations on how the US and OSCE may effectively engage on these issues.” At the outset, I want to emphasize my belief that Romania’s fight against corruption – *true* corruption – should continue unabated. And while the other witnesses here may be more qualified to address this weighty topic, my experience indicates that the fight against corruption must address the improper use of the State’s power to improperly pressure individuals using prosecutorial resources. Personally, I offer three simple recommendations that might help assure that justice is done, both in my case and others:

- First, establish programs to train police, prosecutors, and judges – many of whom were originally trained during the Communist era – to distinguish between true criminal acts, where all the elements of the crime are present, and the normal day-to-day operations of multinational corporations. For example, not every foreign jurisdiction

is a “fiscal haven,” and not every international wire transfer is money laundering;

- Second, work with the Romanian government to ensure that its security services are not directing or influencing criminal cases; and
- Third, renegotiate the mutual legal assistance and extradition treaties between the United States and Romania to exempt economically motivated prosecutions from their reach.

More specifically, I would like to bring to the attention of this Committee the thirteen specific recommendations included in a report entitled “European Union at Risk: The Judiciary under Attack in Romania” published in March 2016 in *The Central European Journal of International and Security Studies* which, if implemented, could solve most if not all of the problems discussed today. TRG built a great business that treated employees, shareholders, lenders, and suppliers well. TRG’s acquisition and turnaround of the Petromedia refinery was recognized as a model privatization for the 2000s. I am proud of what we did, and offended when prosecutors label routine financial transactions as “money laundering” and respected jurisdictions such as Holland as “fiscal havens.” If I were investing in Romania today – or contemplating it – I would be very concerned about whether normal business decisions made in the best interests of my company could lead to time behind bars.

CLOSING

I continue to have respect and affection for Romania, a country that provided me with great opportunities. I also respect its leaders – especially those from the new, post-Communist generation – who are trying to advance democratic and free-market principles under the rule of law. But I can and must resist the efforts of the “old guard” to unjustly take my freedom and property, and I seek this Committee’s help in doing so.

Thank you again for this opportunity to testify and I would like to request the Committee for permission to add the following documents and articles to the record that I have referred to in my testimony today.

- Basham, Patrick. "Romania's Anti-Corruption Mania." *The New York Times*, 4 March 2015.
- Brown, David and Greggor, Chad. "Playwright snared by law he backed." *The Times of London*, 11 February 2017.
- Carmona-Borjas, Robert. "Romania and when curbing corruption warrants investigation." *The Hill*, 1 October 2016.
- Castellani, Lorenzo; Falasca, Piercamillo; and Hokovsky, Radko. "European Union at Risk: The Judiciary Under Attack in Romania." *The Central European Journal of International and Security Studies*, vol. 10, Issue 1, March 2016, pp. 20-48.
- Cretzan, Cristi. "Romania's Probe of Big Oil Firms Prompts Concerns." *The Wall Street Journal*, 6 June 2005.
- Kessler, Glen. "State Dept. Urges Caution in Romania Oil Probe." *The Washington Post*, 10 June 2005.
- Kochan, Nick. "With China calling, it is time for Romania to court investment beyond brics." *The Financial Times*, 14 December 2016.
- Lugar, Richard. "Letter to President Basecu, 13 June 2005." 13 June 2005.
- United States Congress. House of Representatives. *Resolution commending the people and Government of Romania, on the occasion of the visit of Romanian President Traian Basecu to the United States, for the strong relationship between Romania and the United States*. 109th Congress. Second Session. H. Res. 949 (2006). GPO, 2017.

The New York Times

4 March 2015

Romania's Anti-Corruption Mania

BUCHAREST, Romania — With its wide, tree-lined boulevards and Belle Époque buildings, this city was once known as Little Paris.

Today, Romania's capital feels more reminiscent of the French Revolution as it is roiled by a legal reign of terror.

In November, the leader of the center-right National Liberal Party, Klaus Iohannis, was elected president on a populist, anti-corruption platform, succeeding Traian Basescu of the more conservative Democratic Liberal Party.

Only lately had Mr. Basescu thrown his weight behind a long-running anti-corruption drive that had seemed relatively toothless. For Mr. Basescu, it was a useful political tool to attack opponents, as well as a way to appease American and European critics of Romania's governance. But his move was belated.

With Mr. Iohannis's victory, the anti-corruption effort went into overdrive. While executive authority rests with the prime minister, Victor Ponta, who heads the Social Democratic Party, the presidency can be a powerful bully pulpit.

Denied justice for decades, first by dictators, then by ineffectual democrats, Romanians enthusiastically backed the anti-corruption cause. After a judicial sweep that started under Mr. Basescu netted more than a thousand convictions of politicians and businessmen last year, the campaign proved a key electoral issue.

Crude populism now carries the day. The television networks relentlessly cover every perp walk. With the courts convicting at a rate of more than 90 percent, scores of politicians from all the main parties have been disgraced.

The nation is running out of prison space. Condemned by the European Court of Human Rights, Bucharest's jails are desperately overcrowded; the justice minister recently announced that he was seeking European funding for several new prisons. Little else looks as if it's being built these days. Businesspeople I've spoken to have become wary of public-private

partnerships since they view such arrangements as too easy to construe as graft.

Bribery is, in fact, endemic in Romanian life: Politics merely mirrors social norms. Everyone in politics and business is presumed guilty of something. Most Romanians admit that they care little about shortcomings of due process, whether it's laughably thin evidence or prosecutors' tutoring of judges in verdicts.

The rise of the prosecutorial state threatens even its own. In November, a former top prosecutor, Alina Bica, who was appointed by Mr. Ponta to head the government's unit investigating organized crime, was herself arrested on a charge of receiving kickbacks while in office. She had previously participated in developing Romania's criminal code on government standards. In Mr. Basescu's words, "Nobody is above the law."

It's commonplace for suspects to be pressured to name names in exchange for possible leniency. It's also routine for family members to be arrested as additional leverage for the prosecutors. One particularly Orwellian measure is the use of "preventive arrests" to imprison certain high-level suspects accused of white-collar crimes on grounds of stopping them from committing similar alleged offenses in future.

Despite official denials, everyone knows the courts are not as politically independent as they should be. A number of those arrested, I was told, have ties to Russian financial interests — which makes them easy to portray as serving the interests of a foreign power that many Romanians regard as a threat.

Before his election in 2012, Mr. Ponta had characterized the National Anti-corruption Directorate as a modern-day version of the Communist dictator Nicolae Ceausescu's feared secret police. But as public opinion turned in the directorate's favor, the prime minister changed his tune.

A pro-market politician, Mr. Ponta now acts as cheerleader for the anti-corruption drive — finding it a handy tool for targeting his enemies in the media, particularly the owners of critical newspapers. Soon after Mr. Ponta clashed with Adrian Sarbu, the owner of the Mediafax Group, which publishes Romania's leading business paper, Mr. Sarbu was arrested on charges of tax evasion, money laundering and embezzlement. He has denied the allegations.

The prosecution of Dan Adamescu, owner of the independent newspaper Romania Libera, is also troubling. Mr. Ponta accused Mr. Adamescu of embezzling from his own insurance company to help finance Mr. Basescu's re-election campaign. Mr. Adamescu was found guilty and received a more than four-year prison sentence.

The apparent political motivation behind the Sarbu and Adamescu cases demonstrates how an effort to reduce the relationship between money and

politics has served instead to ramp up score-settling and judicial overreach.

Another unintended consequence of the anti-corruption campaign is that it has fueled anti-American sentiment. Because the State Department had expressed the fear that a corrupt Romania could become the next Ukraine, with popular anger at a corrupt oligarchy leading to disorder, some Romanians now view the legion of hasty convictions as a misguided attempt to impress America.

The European Union has monitored corruption levels since Romania's 2007 entry into the Union. While Brussels has never threatened to withhold funding, there was anxiety in Bucharest that a failure to push reform could lead to Romania's voting rights' being suspended.

As arbiters of good governance, neither the United States nor the European Union should remain silent over the Romanian government's abuse of prosecutorial powers. Certainly, a less corrupt Romania would be a better European Union member and a more reliable NATO ally, but it would be a mistake to accept the sheer volume of justice, rather than its quality, as a reliable metric of success.

Romania's anti-corruption campaign has rapidly metastasized into an illiberal crusade. The public's insatiable appetite for justice only exacerbates the threat to the country's democratic future.

American and European governments should congratulate Romanians on their newfound determination to eradicate graft, but now encourage a change in the government's approach. Romania's democratic development would be better served by a public process whereby past misdeeds were acknowledged, documented and then forgiven.

Only a comprehensive process that rewards disclosure with amnesty will allow Romanians to stop looking over their shoulders, figuratively and literally. With international media scrutiny, a truth commission would make a powerful statement that democratic Romania will vigorously punish future transgressions — but in a transparent, nonpartisan and judicious manner.

Patrick Basham is the director of the Democracy Institute, a public policy research organization based in Washington and London.

Playwright snared by law he backed

Chad Greggor, David Brown

February 11 2017, 12:01am, The Times



Dan Adamescu, far left, who died last month, and his son, Alexander. Mr Adamescu is fighting extradition to Romania

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Alexander Adamescu believes his life would make a good plot for one of his plays.

It would star the son of Romania's second richest man who is ensnared by the anti-corruption laws he supported while foreign agents kept him under surveillance in one of London's smartest districts.

Mr Adamescu, 38, said he fears that he will die in prison like his father if the Romanian government secures his extradition. He said the anti-corruption laws championed by the Romanian newspaper owned by his father were being perverted for political purposes to silence its opposition to the government.

His case has fuelled concerns that Romania, which joined the European Union in 2007, risks slipping inexorably back into the repression of Nicolae Ceausescu's communist regime.

Mr Adamescu was born in Romania but moved to Germany aged two, where his father, Dan, sold his stamp collection to found a property business.

After the fall of the Ceausescu regime his father returned to Romania, starting what became the country's largest insurance company, while he went to the Sorbonne in Paris to study mathematics and philosophy.

His father persuaded him to join his business empire, which included shopping centres, a hotel and the *Romania Libera* newspaper, founded in 1877. In 2012 Mr Adamescu decided to fulfil his dream of becoming a playwright and moved to London and enrolled on a course at the Royal Central School of Speech and Drama.

Mr Adamescu claimed that the family's difficulties began at about that time, after Victor Ponta was elected as prime minister. *Romania Libera* was a strident voice in support of the opposition and highlighted widespread corruption in the country.

Without notice Romania's financial regulators seized control of the family's insurance company in 2014, he says.

The following year his father was charged with ordering the payment of €20,000 (£17,000) of bribes to judges involved in insolvency hearings relating to the company. His father denied the allegations but in May last year was jailed for four years and four months.

Mr Adamescu instructed lawyers to lodge a case against Romania at the International Centre for Settlement of Investment Disputes in Washington to secure the return of the family's assets.

"That is when I became a target," he said. "I am the only son and the only one standing up and speaking out. If I am extradited it would be over, the arbitration would fall apart."

Last March his partner, Adriana Constantinescu, 33, was attacked by two men wearing balaclavas outside their children's private nursery. One man tried to carry her away but she fought back and they fled in a car that was using false numberplates.

The police recorded the crime as an attempted robbery despite the men ignoring Ms Constantinescu's handbag, £4,300 diamond earrings and keys for her Range Rover. The family are convinced that the incident was an attempted abduction on the orders of the Romanian state.

Mr Adamescu has also been charged with conspiring with his father to bribe the judges, with Romania issuing a European arrest warrant.

"The bribery case [against my father] was fabricated, and is now brought against me," he said. Last June Mr Adamescu was arrested under the warrant outside the Frontline Club — a haunt of foreign correspondents in Paddington, west London — an hour before he was due to giving a talk on corruption in Romania. He was held in jail for two nights before a hearing to secure bail.

On Christmas Day his father was taken from jail to hospital. He died of blood poisoning last month at the age of 68 under prison conditions without his son being able to visit him.

“It’s terrible, it’s devastating. To know that I couldn’t hold his hand,” Mr Adamescu said. “I’m the only son and he loved me a lot. Maybe he would have had a chance to live, I feel guilty that I couldn’t save my father.”

Mr Adamescu’s extradition hearing will take place in April, but he refuses to stay silent. “How could I not speak out? How could this happen in the middle of Europe, under the eyes of Brussels,” he said. He proudly describes *Romania Libera* as a “very inconvenient newspaper” because of its investigative journalism but expects that it will be taken over by the Romanian state under the process to wind up the insurance company.

He has written to Theresa May to ask her to intervene and prevent his extradition at a hearing due to be held at Westminster magistrates’ court in April. “Instruments like the European arrest warrant were not meant to be used as weapons against the people, it is a misappropriation for political score-settling,” he said.

The Romanian embassy in London was barred by law from commenting on an ongoing legal case.

Last month Romania’s National Anticorruption Directorate, which is investigating Mr Adamescu, complained that media attacks on its work was likely to “seriously harm the judiciary”.



October 01, 2016, 09:00 am

Romania and when curbing corruption warrants investigation

A terrible traffic accident a year ago in the Romanian capital of Bucharest is back on local front pages currently, having fueled a debate over privilege and political interference.

Early one evening in October 2015, the then-Interior Minister Gabriel Oprea's car and a police escort sped towards the minister's home in the Cotroceni neighborhood of western Bucharest. It was raining. The escorts -- a police car and a motorcycle cop -- drove ahead. Suddenly, the motorcycle hit a large pothole. Tragically, police officer Bogdan Gigina died of brain injuries.

Subsequently, Minister Oprea was charged with culpable homicide -- the rough equivalent of manslaughter in other jurisdictions. The main basis for the charge was his commandeering an escort -- prohibited by Romanian law, a reaction to some of the perks enjoyed under previous Romanian regimes. He was charged by the National Anti-Corruption Directorate (DNA).

Note the name of the agency. Was this a question of corruption?

Romania has been among the most corrupt places in the European Union. Transparency International's annual Corruption Perceptions Index rated the country 58th most corrupt as of the latest survey, for 2015, and number three among the 28 EU nations, tied with Greece.

Under heavy diplomatic pressure from Washington, the nation has adopted a highly aggressive approach to improving the situation. Earlier this year, U.S. Ambassador Hans Klemm **urged Romanian political parties to remove anyone under investigation** from their electoral lists. Klemm has been highly supportive of the DNA and its chief prosecutor, Laura Codruta Kovesi. Young, energetic and earnest, Kovesi has developed into a star within the anti-corruption community worldwide.

In fact, under her leadership, the DNA is more popular and trusted than government itself. Polls have indicated that DNA enjoys the trust of 59.8 percent of the Romanian population, compared with 11 percent for the nation's parliament.

In large part, that is because the entire political establishment of Romania has been targeted. The agency's activity report for 2015 lists among its convictions a prime minister, five Cabinet ministers, 16 members of Romania's lower house, five senators, 97 mayors or deputy mayors, 15 presidents or vice-presidents of county councils and 32 directors of national (i.e., state-owned) companies.

Without question, these are impressive results. In 2015, the agency recorded an amazing 90% conviction rate, winning cases against 970 defendants.

But there is a darker side. Amid the welter of statistics generated, there is one that should raise concerns. In 2015, the DNA opened 10,200 files for investigation. By any standard that is a shocking number, all the more so when one considers that many of the targets of these investigations are well-known public officials.

It is now routine for the Romanian media to station camera crews outside the DNA's headquarters in Bucharest, to capture the day's perp walks by political celebrities.

This raises some problems.

First, there is enormous potential for scores to be settled and rivalries pursued. What exactly can lead to a file being opened? An anonymous call from a burner phone or a document dropped off in a brown envelope may be all that's needed, leading to a compromising interrogation which can end a career.

Secondly, there are serious human rights and privacy issues. The Romanian justice system provides for preventive arrest -- detention of suspects before they are charged. The most recent figures available indicate that such arrests, involving custody of 30 days or more, rose to 10,473 in 2013 across the whole Romanian justice system. No figures are available for DNA-related detentions, but local critics have accused the directorate of abuse of the system.

The DNA is heavily reliant for its prosecutions on wiretaps and other evidence supplied by the Romanian security and intelligence agencies, including the SRI. The SRI has history. Back in 1996, SRI whistleblower Constantin Bucur leaked evidence that the agency was engaged in a secret and illegal phone-tapping program against politicians, public officials and journalists. With the wholesale abuses of Romania's Ceausescu era Securitate still fresh in the minds of citizens, this was a huge scandal.

In fact, just days ago, a Bucharest court threw out illegally obtained wiretap and other evidence from the DNA in a bribery claim against Lia Olguța Vasilescu, mayor of the southern city of Craiova.

Finally, the sheer diversity of allegations under investigation is mind-boggling. The DNA is investigating all sorts of crime, from money laundering to tax evasion to petty fraud. One politician is even being accused of driving without a license.

Then there is the former Interior Minister. His case is back in the news because DNA chief Kovesi tried -- and failed -- to persuade the nation's upper house to waive Oprea's parliamentary immunity. That drew protesters to the streets this past weekend and ultimately a promise by Oprea to step down and face his day in court.

But in essence, the case against him concerns a traffic accident, albeit an awful one. And the question remains: Should anti-corruption prosecutors really be investigating this sort of thing?

And here we need to look beyond the cases taken to trial. We also need to consider the cases that do not proceed at all. As a young lawyer in my home country of Venezuela, I encountered police and military intelligence agency blackmail all the time. The victim would be taken in for questioning, shown some evidence of some sort and told the matter could be dropped -- for a consideration. That could be evidence against a bigger fish. Or, at least in Venezuela, it could be money.

Now, think about the Romanian numbers: 10,200 files opened in a year, 970 convictions and a 90% conviction rate. This means that just over 10 percent of investigations opened are leading to prosecution. It is necessary to ask, what is happening with the other 90%? Imagine how much discretionary authority this places in the hands of Ms Kovesi's team of 97 prosecutors, and how large are the margins for error or, worse, abuse.

Official corruption deserves and requires zealous prosecution. But at what point does zeal cross a line and compromise politics in general -- that is to say, democracy -- instead of crooked politicians?

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European Union at Risk

The Judiciary under Attack in Romania

By Piercamillo Falasca, Lorenzo Castellani, Radko Hokovsky

Executive Summary

Many of the methods used by the Communists in Romania pre-1989 to create a politicised system of justice and law enforcement are still in existence in contemporary Romania.

The control of judicial institutions and the subordination of the rule of law by the Romanian executive and its agencies continues to present a major challenge to attempts at reform.

In particular, the use of the justice system by the Romanian executive, and its agencies, to destroy political opponents remains a serious and ongoing problem.

EU-led external pressure to separate the judiciary and politics has failed, with the executive, including the Ministry of Justice, retaining considerable de facto power and political instruction of judges remaining commonplace.

Judicial independence came under sustained attack from 2012 onwards with the arrival of Prime Minister Victor Ponta. His administration presided over frequent political challenges to judicial decisions, the undermining of the constitutional court, the overturning of established procedures, the removal of checks and balances, and the manipulation of members of the judiciary through threats and intimidation.

Recent years have seen the executive use the judiciary, often deploying national security legislation, to stifle free speech and harass journalists, with both domestic and international journalists targeted.

The Romanian Anti-Corruption Directorate DNA has exerted heightened pressure on courts to issue convictions. Romania's domestic intelligence service – first under the guise of the *Securitate* and later as the SRI – has been characterized by extra-judicial and often unlawful activity throughout its history.

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The SRI's influence now reaches into the ranks of the judiciary, further compromising its independence. SRI General Dumitru Dumbrava has stated that the security services regard the judicial system as a 'tactical field' of intervention in which the intelligence services were 'keeping their attention until their final ruling.' He also stated that the SRI was engaged in monitoring and gathering information on judges.

It is in this context that the following recommendations are made:

Romania must finally start to institute a true separation of powers because current limits to executive power are insufficient. Neither government nor any state intelligence agency must seek to fix or dictate the outcome of judicial proceedings.

Packing of the courts by governments must be stopped by removing the serving Justice Minister from all judicial decisions.

The Romanian prosecution must respect the independence of the judicial process and should refrain from exerting undue influence on judges by threatening courts with investigations of corruption should they pronounce acquittals.

The current practice of preferring promotions of prosecutors to the posts of judges should be balanced out to prevent a prosecution-biased criminal procedure.

A new and truly independent judiciary must adhere to the basic principles of innocence until proven guilty and trial by jury.

All current serving domestic intelligence (SRI) officers among the judiciary must be disclosed by the SRI and resign.

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The SRI should officially abandon all policies of interference with the judiciary.

The Superior Council of Magistrates (CSM), which was created to assure the impartiality of Romania's judges, should be reformed in order for some of its members to be appointed by the judges themselves to strengthen its independence.

CSM must revise its nomination procedures and reject candidatures from former SRI officers or politically affiliated judges. An effort should be undertaken to significantly improve open government, which means providing more transparency and information to Romanian citizens.

Romania should adopt objective criteria to ensure that the immunity of members of Parliament is not used to avoid investigations and the prosecution of corruption but as an instrument to strengthen independence between separated powers.

Corruption has to be reduced, both at the governmental and justice levels, because it represents a serious burden on Romania's economy and administration. Anti-bribery mechanisms, such as whistleblowing and transparency, should be developed by the Romanian Government. Moreover, strengthening competition policy in public procurement and tender is a desirable solution for reducing corruption.

Romania should promote wider use of alternative dispute resolution schemes in order to create a quasi-competitive dynamic between private courts and public justice which can help the level of effectiveness of the judiciary.

The promotion of the culture of the rule of law among young Romanians, through scholastic, university programmes and EU initiatives, can help the next generation of voters to demand a better and more sound separation of powers.

Introduction

In terms of structure, this report sets out to detail and examine:

1. The methods used by the Communists in Romania to create a politicised system of justice and law enforcement in the period immediately after the Second World War.
2. How that system of politicised justice and law enforcement was maintained by the Communists in the 'post-terror period', and how increasingly both the leadership of Nicolae Ceausescu, and the system he presided over faltered in the face of popular resistance.
3. How in spite of the end of Communist rule many of its institutional practices, including the linkage between politics, justice, and law enforcement persisted in the post-revolutionary period (1989-2000).
4. How the European Union (EU) sought to bring about reform of the Romanian judicial system through use of conditionality mechanisms in the pre-accession period. It also reviews the level of success and overall impact of the strategies pursued by the EU during this period.
5. The state of the Romanian justice system following EU accession, and the extent to which the need to comply with EU monitoring criteria has sadly led to the reestablishment of connections between the judiciary and institutions of the secret state.
6. The paper concludes with an overview of the current state of the Romanian judiciary, and its level of independence from political and state organisations. As such, it also makes a series of detailed policy recommendations.

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The Communists Take Control of Judicial Institutions in Romania (1944-1948)

The control of judicial institutions and the subordination of the rule of law was a key objective of the Communists during the period of their take-over from 1944-1948. During World War II Romania had, under the leadership of the dictator Marshal Ion Antonescu been allied with Nazi Germany. Romanian military forces had taken part in the Nazi invasion of the Soviet Union which was launched on 22 June 1941. In August 1944, however, King Michael of Romania, with the backing of the National Peasants Party (PNT) led by Iuliu Maniu and including other

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opposition groupings, sought to launch a coup against Antonescu with the aim of installing a new government which would be ready to make peace with the allies. On 23 August, Antonescu was dismissed from office and arrested after a meeting with King Michael. By the time Soviet forces entered Bucharest on 31 August a new pro-allied government was in place headed by General Constantin Sanatescu. These developments meant that the Soviet military were not at this stage in a position to install their own indigenous political appointees.

The Romanian Communist Party (RCP) had played a relatively marginal role in the coup against Antonescu. The Communists were, however, well organised and quick to seize the initiative in the aftermath of the coup. This enabled them to secure the appointment of Lucretiu Patrascanu as Minister of Justice (MoJ) in the new government. Over the period of the following year Romania saw the appointment and collapse of a series of short-lived governments. The Communists sought to increase their influence within these successive governments whilst at the same time exerting pressure on the governments from outside through demonstrations, strikes, and the promotion of unrest. This process culminated in March 1945 in the appointment of a Communist dominated government headed by Petru Groza, and supported by the Soviet Union. During the period of the Groza administration, Lucretiu Patrascanu set about constructing the Communist system of political justice.

During the summer of 1945 over 1000 magistrates were purged, dismissed or pensioned off. Supreme Court judges were summoned to Patrascanu's office to have judgements dictated to them. Each judge was also accompanied to court by two assessors who could overrule judgements if these were seen to deviate from party policy.¹

Parliamentary elections took place in Romania in November 1946. The official results showed the Communist backed coalition securing an overwhelming electoral victory with almost 70% of the vote to 12.9% gained by the National Peasant's Party. The elections were characterised by violence, intimidation, and electoral fraud. The British government headed by Clement Attlee refused to recognise the election results. Modern research on the Communist Party archives has, however, demonstrated that in reality it was the PNT who won the election and secured the parliamentary majority rather than the Communists.

In the aftermath of these fraudulent elections the Communists set about using the justice system to destroy its political opponents. On 14

July 1947 several leading members of the National Peasants Party were arrested at Tamadau airfield whilst trying to leave the country. Iuliu Maniu, the Peasants Party leader, was arrested at the same time.

The PNT leaders were accused of engaging in 'treasonous' activity. They protested in vain that leaving the country was not illegal, the Western powers with whom they were said to have conspired were not enemies, and that forming an 'alternative government' was a normal democratic procedure. The PNT leaders were sentenced to life imprisonment with hard labour. Iuliu Maniu died in prison in 1953. Ion Mihalache died ten years later in 1963. One of the PNT leaders, Corneliu Coposu, the PNT Deputy Secretary General, survived imprisonment and was released in 1964.

It has been estimated that in the period of the consolidation of Communist power 60,000 opposition supporters were executed, with a further 300,000 dying in Communist labour camps.² The scale and viciousness of the Communist repression in Romania gave rise to an armed resistance movement the last remnants of which persisted until the early 1960s.

Political Justice Under Communism (1948-1989)

Article 65 of the constitution of the Romanian People's Republic enacted in 1952 defined the purpose of the justice system in Romania as being:

To defend the regime of popular democracy and the conquests of the working people, to assure the respect of popular legality, of public property, and of the rights of the citizens.

Under this system the court, consisting of judges and assessors, had the right to intervene in trials and present evidence. They were also able to appoint defence attorneys. In these circumstances the defence representatives had limited capacity to act effectively on behalf of their clients.³

This system, which guaranteed the primacy of the Communist Party in judicial matters was broadly typical of Communist regimes across the region in this 'post-terror' period. In neighbouring Bulgaria, for instance, the Communists had used similar methods in order to gain political control over the country's legal institutions.

Alongside these institutional similarities with other communist states in the region there was also a significant element of 'Romanian exceptionalism.' This 'exceptionalism' took the form of a particular

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focus on the personality of the leader as a source of power which has been described as 'sultanism'.⁴ This personalist form of leadership was instituted by Nicolae Ceausescu after he came to power in 1965, and replaced the more collective forms of leadership which had existed under his predecessor, Gheorghiu-Dej.

This meant that the institutional power of the party was subject to interventions by the leader, his family, and clan associates. A popular Romanian joke of this period described this as 'Socialism in one family.' During the 1970s and 1980s Ceausescu increasingly sought to cultivate a 'cult of personality' which it has been suggested was modelled on the forms of governance he was able to observe in China at the height of the cultural revolution and in North Korea during visits to these countries.⁵ The nature of Ceausescu's sultanist rule brought a new element of arbitrariness into the already politicised judicial system. The personal nature of Ceausescu's rule also acted to limit the possibilities for a non-violent, negotiated, change of government as was seen in other Communist states in the region, such as Bulgaria and Hungary.

Along with the politicised judiciary, the other main instrument for the maintenance of control in Romania's communist system were the political police of the Securitate. At the time of the December 1989 revolution the Securitate had 15,312 personnel organised into six directorates.

These were:

1. First Directorate (Domestic Intelligence)
2. Second Directorate (Economic Counter-Espionage)
3. Third Directorate (Counter-Espionage)
4. Fourth Directorate (Military Counter-Espionage)
5. Fifth Directorate (Protection for Party Leadership)
6. Sixth Directorate (Penal Investigations)

The Centre for External Information, responsible for foreign espionage, and the 795 strong Special Anti-Terrorist Unit (USLA) were also designated as *Securitate* personnel.

In addition, there were 23,370 *Securitate* troops with bases in Bucharest, Constanta, Timisoara, and Cluj. These troops enjoyed better conditions and rations than the regular army, but many were conscripts like their military equivalents.⁶ These figures did not, however, include those Romanians who had to a greater or lesser extent, acted as informers for the Securitate.

Following the December 1989 revolution, Silviu Brucan, the veteran Communist, put the number of *Securitate* informers at 700,000. Virgil Magureanu, the first head of the SRI, the *Securitate* successor organisation, gave the figure of 400,000 for the *Securitate* informers. Ultimately, however, the fact that most Romanians believed that there was an all pervasive network of *Securitate* informers was probably more important than the exact number of individuals involved in such a network. It has been observed that: 'the *Securitate* were as much a state of mind as an instrument of terror.'⁷

In spite of the existence of a politicised judiciary and the activities of the *Securitate*, dissent continued to grow in Romania through the 1970s and 1980s.

In August 1977 major industrial unrest broke out amongst the miners of the Jiu valley. Ceausescu was forced to travel to the Jiu valley and respond to the miners demands with a series of populist, and subsequently unfulfilled, promises. The aftermath of these strikes saw a major effort by the authorities to implant *Securitate* within the unions and mining community of the region. There were strikes and factory occupations in Bucharest, Galati, and Tirgoviste in the summer of 1980. An uprising took place in the Motru valley in the autumn of 1981. Demonstrations and strikes took place in Brasov, Romania's second city in 1987/1988. Media reports from this period also show that prisoners continued to be sentenced for small-scale and individual acts of defiance against the authorities.⁸ The revolution of December 1989 was the culmination of a series of protests in opposition to the Communist institutions of governance.

In many ways Romania has only just begun to confront the crimes committed under this system of political justice. On 10 February 2016 the Romanian appeals court upheld a twenty year prison sentence on Alexandru Visinescu for the killing of twelve people during the period from 1956-1963 when he was commander of the Ramnicu Sarat prison, ninety miles from Bucharest. Radu Preda, the head of the Institute for Investigation of Communist Crimes and Romanian Exiles (IICCRE) stated that: '...for the first time an instrument of Communism will face justice.'

He compared the trial to 'a Romanian Nuremburg.' Visinescu had until recently been living openly in central Bucharest on a 'special military pension'.⁹

Moving Forward and Standing Still: Justice in the Post-Revolutionary Period (1989-2000)

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The post-Communist period in Romania began with what seemed to many to be an act of political justice. On 25 December 1989 Nicolae and Elena Ceausescu were put on trial, found guilty, and subsequently executed. The trial observed formal legality, but was widely seen as being an act of political expediency. Many of those who stood in judgement over Nicolae and Elena Ceausescu were themselves senior figures from the Communist regime. The official reason given for the swiftness of Ceausescu's trial and execution was that his captors feared a rescue attempt might be made by elements of the *Securitate* still loyal to the regime. It has been suggested, however, that the more likely explanation for the speed of the proceedings was that the former leader's judges feared that a lengthy trial would serve to illuminate their own roles and activities within the regime. The ambiguity of this act, which was overwhelmingly approved by the Romanian population, in some ways set the tone for the immediate post-Communist period in Romania. The leader was gone, but the institutions remained in place.

This element of continuity in Romanian political and institutional life was emphasised by the results of the 20 May 1990 presidential and parliamentary elections in Romania. The presidential elections were won by Ion Iliescu who was the candidate of the National Salvation Front (NSF), a grouping of former Communist leaders and officials formed during the December 1989 revolution, who secured 85% of the vote compared to 11% for his nearest opposition rival. The NSF gained 67% to 7% for their closest competitors.

There were a number of 'positive' factors which accounted for the success of Ion Iliescu and the NSF at the polls. The most important of these was the fact that he and his associates in the NSF were seen by many voters as being the people directly responsible for the overthrow and subsequent execution of Nicolae Ceausescu. They were also credited with bringing to an end many of the directly oppressive aspects of the Ceausescu regime. The fact that the NSF inherited many of the old Communist Party structures, networks, and resources was also a significant element in their success in first post-revolutionary parliamentary elections.

On 21 November 1991, a new post-Communist constitution was adopted by the Romanian parliament. The constitution was confirmed following a popular referendum on 8 December 1991 in which 78.5%

voted in favour with a 69.7% turn-out. The constitution was largely the creation of Antonie Iorgovan, an academician and the only independent member of the NSF government. It was heavily influenced by the French constitution. The constitution established Romania as a unitary state with a bicameral parliament consisting of the House of Deputies and the Senate. It also sought to bring into existence judicial institutions which would be independent of political control replacing the old system of Socialist justice. Following a model common in many Western European countries, including France, Italy and Spain, the new constitution established the Superior Council of Magistrates (CSM), a self-ruling body whose role was to:

1. Guarantee the independence of the judiciary
2. Propose the appointment of judges and prosecutors
3. Deal with the careers and disciplinary liabilities of judges

The CSM was composed of:

1. Nine judges
2. Five Prosecutors
3. The Minister of Justice
4. The President of the High Court of Cassation and Justice
5. Two Representatives of civil society appointed by the Romanian senate

The establishment of the CSM was an important *de jure* step forward in terms of establishing a non-political judiciary. In practical terms, however, its impact during this period was limited. One of the main problems has been represented by the reduced independence of a body entirely appointed by the Parliament. In France and Italy, only part of the CSM members are appointed by the Parliament, while other members are appointed by the President of the Republic and another significant number chosen by the judges themselves.

Following the promulgation of the new Romanian constitution parliamentary and presidential elections took place in September 1992. Prior to these elections a major split took place in the ruling party with the Ion Iliescu's old guard faction renaming itself as the Democratic National Salvation Front (DNSF) and the leadership of the rump NSF being taken on by the former Prime Minister, Petre Roman. On polling day Ion Iliescu was re-elected as president with 61.4% of the vote to 38.6% for Emil Constantinescu from the Democratic Convention (DCR) coalition. In the parliamentary elections Iliescu's DNSF emerged as the largest party with 28.29% of the vote, The DCR gained 20.16% of the

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vote and Petre Roman's 10.38% of the vote. Ion Iliescu was able to cling on to power with the support of two hard-line nationalist groupings, the Party of Romanian National Unity and the Greater Romania Party. During his second term in office Ion Iliescu used his political influence to override the theoretical independence of the judiciary and to pack its ranks with judges loyal to his regime and opposed to reform.

The slow pace of reform and stagnation in the economy led to a shift in the electoral landscape. The November 1996 elections were won by Emil Constantinescu from the DCR with 54.4% of the vote to 45.6% for Ion Iliescu. The Democratic Convention came to power eager to implement the reform agenda which had been stalled under Iliescu's governments. The DCR government saw the judiciary which had been packed with old guard communist judges as potentially obstructive to the reform programme. The new government sought to counter this by making the CSM consult the justice ministry on new judicial appointments. These actions, although motivated by the desire to promote economic and institutional reform, served to compromise the fragile independence of the post-communist Romanian judiciary.

The security services, the other pillar of the Communist legal system, were also undergoing a period of change and adjustment at this time. In the immediate aftermath of the December 1989 revolution former Securitate cadres continued to exert an influence on the political scene in Romania. The *mineriada* of June 1990, in which miners from the provinces descended on Bucharest and attacked opposition supporters, was widely seen by domestic and international observers as an act of extra-judicial vigilante justice directed by ex-Securitate members on behalf of the Iliescu government. The new Romanian security service formally came into existence on 26 March 1990 (Decree Number 181) under the leadership of Virgil Magureanu. General Victor Stanculescu, the Romanian Defence Minister, told parliament:

No telephone conversations will be listened to now or in the future ... no citizen regardless of nationality, political affiliation or religion or religious convictions is the target of the cadres in the new army structures.¹⁰

This statement that the SRI had abandoned the use of surveillance and wire-tapping was widely disbelieved. This scepticism was further reinforced by the discovery in May 1991 of hundreds of SRI wiretap transcripts on opposition politicians buried near the village of Berev-

oiesti. Further evidence of continued SRI wiretapping was provided by the testimony of SRI whistle blower, Constantin Bucur, in November 1996. According to Bucur many of the wiretaps he had carried out had been ordered by Virgil Magureanu without official authorisation. He stated that:

I became convinced that this man was not working for state security, that he was working for personal and political interests.¹¹

The SRI during this period saw repeated purges and reorganisations of personnel. The first wave of sackings took place between June and August 1991 apparently prompted by the Berevoiesti wiretap scandal. There was a second series of dismissals in mid-1994 when a number of senior SRI officers lost their jobs.¹² Virgil Magureanu held on to his position as head of the SRI, despite repeated reports of his imminent demise, until April 1997 when he was removed following the election of Emil Constantinescu as president.

The first decade after the fall of Ceausescu also saw allegations of the involvement of former and serving Romanian security personnel in criminal activity. In June 2000 a commission was set up by the Romanian government to investigate the collapse of the National Investment Fund. The commission stated the fund's collapse constituted 'a threat to national security' and that fraud had been 'committed within the fund.' The commission also announced that of the fund's forty county branch managers thirty six had been found to be former officers in the Securitate. The other four were former officials of the Interior and Defence Ministries.¹³ A month later, Emil Constantinescu, the Romanian President, accused his predecessor Ion Illiescu and former Prime Minister, Teodor Melescanu, of involvement in a large-scale oil smuggling operation in violation of UN sanctions. The smuggling activities had, Constantinescu stated, been facilitated by serving SRI officers.¹⁴

The Rule of Law and EU Accession (2000-2007)

Post-revolutionary Romania remained first in the sphere of the Soviet Union. A support and friendship agreement was signed in 1991. Hadn't it been abrogated after the collapse of the Soviet Union later in the year, Romania's path might have been different. Romania re-oriented

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its views to the West. A Romanian diplomatic mission to the European Union had been established in Brussels in April 1990. The National Salvation Front stated that:

The entire external policy of the country must serve to promote neighbourliness, friendship, and peace in the world thus joining in the process of building a united Europe, the common home of all the peoples of our country.¹⁵

In 1991 a Trade and Co-operation agreement was also signed between the EU and Romania. This was followed in February 1993 by the European Agreement which created an association between Romania and the EU. Romania formally applied for EU membership on 22 June 1995.

There was a broad cross-party consensus in support of Romania's membership of the EU. The *Snagov Declaration*, issued to coincide with Romania's application for EU membership, was signed by the President, Prime Minister, and the leaders of thirteen political parties ranging from the pro-Western reformist Democratic Convention to the ultra-nationalist Greater Romania Party and the Party of Romanian National Unity. The signatories of the *Snagov Declaration* described the objective of joining the EU as 'a major point of convergence and solidarity.' Beyond these positive sentiments it wasn't clear to what extent the Romanian political leaders understood or were supportive of the measures it would be necessary to take in order to secure EU membership.

A European Commission report in 1997 identified a series of steps that Romania needed to take to reform its justice system if it was to secure EU membership. Following the decision made by the Helsinki European Council in December 1999 full negotiations on Romania's EU membership began in February 2000.

The start of negotiations with the EU coincided with the defeat of the pro-Western reformers and the return to power of Romania's political old guard. In presidential elections in November 2000 Ion Iliescu gained 66.83% of the vote defeating Corneliu Vadim Tudor, leader of the ultra-nationalist Greater Romania Party with 33% of the vote. In the parliamentary elections Iliescu's Social Democrats gained 37.09% of the vote. They were followed by the Greater Romania Party with 21% of the vote. Support for the pro-reform Democratic Convention collapsed and they managed to secure only 5.29% of the vote.

Rodica Stanoiu (born 1939) was appointed as Minister of Justice in the new Social Democrat government headed by Adrian Nastase. Stanoiu had previously been a researcher at the Bucharest University Institute for Judicial Studies (ICJ). She had been elected as a Senator for the Social Democrats representing Olt County in 1996 and 2000. In 2006, after the end of her period in ministerial office, the Council for the Study of Securitate Archives (CNSAS) published evidence showing that during the 1980s, whilst she was working at the ICJ, Stanoiu had worked for the *Securitate* compiling reports on her colleagues for the *Securitate*. In response to these statements by the CNSAS Stanoiu left the Social Democrats for the Conservative Party, the political vehicle of the businessman Dan Voiculescu, and launched a lengthy legal battle to prove that the allegations by the CNSAS were false.

In February 2014 the High Court of Cassation and Justice ruled that the CNSAS allegations were true, upholding an earlier judgement made by a court in Oradea.¹⁶ In view of her background, as revealed by the CNSAS, it is perhaps not surprising that during her period in ministerial office from 2000 to 2004 Rodica Stanoiu came to be seen as a major veto-player in relation to attempts to reform the judiciary.

It was not until September 2003 that, in response to pressure from the European Union and the European Court of Human Rights, the Romanian government produced a new *Judicial Reform Strategy*. The strategy was intended to respond to strengthen the division between the judiciary and politics, and to respond to key concerns from within the judiciary over:

1. The authority of the Ministry of Justice
2. Poor working conditions
3. Political pressures on the work of the judiciary

The development of the Judicial Reform Strategy was greeted by the European Commission as a 'positive sign,' but they urged the Romanian government to go further in its efforts to achieve judicial reform. Other observers described the strategy as 'badly designed and poorly implemented'.¹⁷ In 2003 the Romanian constitution was revised to strengthen the status of the Superior Council of Magistrates in relation to the Ministry of Justice. Considerable de facto power, however, remained with the Ministry in spite of this constitutional change. In June 2004 three new laws on the judiciary were adopted by the Romanian parliament:

1. Law on the Superior Council of Magistrates
2. Law on the Organisation of Judiciary
3. Law on the Status of Magistrates

While this constituted a significant package of new legislation in practice they encountered familiar problems in terms of a lack of government commitment to implementation of the laws. Two Romanian judges, writing in 2009, described Rodica Stanoiu's Ministry as: 'The darkest period in our legal system from the standpoint of post-communist justice.'¹⁸

By the end of 2004 the European Union was increasingly treating judicial reform and anti-corruption as priorities in terms of Romania's EU accession. It was stated that if significant progress in these areas was not made during 2005 then Romania would not be able to join the EU in 2007 as planned.

In November 2004 a significant shift took place in the Romanian political landscape when Traian Basescu, the candidate of the centre-right Justice and Truth Alliance, with 51.23% of the vote, narrowly defeated Adrian Nastase, the former Prime Minister and candidate for the Social Democrats, who gained 48.77% of the vote.

Monica Macovei was appointed as Justice Minister in the new government. Macovei (born 1959) was a lawyer, academic, and human rights activist with strong links with civil society within Romania and internationally. Macovei was not affiliated with any political party. She was identified by the EU as a key agent for change within Romania in terms of judicial reform - in contrast to her predecessor who was seen as a veto player, obstructive to the reform process.¹⁹

Monica Macovei moved quickly to revise the 2004 package of laws on the judiciary. The revised *European Reform Law* would, it was stated, represent a 'new deal for the judiciary.' The law was passed, in the face of resistance in parliament through the use of an emergency ordinance by the government. The Constitutional Court, however, then ruled that elements of the law were unconstitutional, and the law was referred back to parliament in its entirety. A modified version of the law was subsequently adopted by the Romanian parliament.

In early 2006 similar political conflict was witnessed in response to anti-corruption measures proposed by Macovei. The result was also similar in that it saw the measures proposed by Macovei being adjusted downwards in the face of strong political resistance. Monica Macovei did, however, succeed during her period in office, strengthening

the Anti-Corruption Directorate (DNA), which had been originally established in 2002.

In spite of this limited or qualified progress in judicial reform Romania became a member of the EU on 1 January 2007. Its capacity to achieve this objective in spite of the failings of its reform progress has caused it to be described as a 'Successful laggard'.²⁰

Monica Macovei had sought to develop support for her reforms through contacts and engagement with civic society, academia, and professional legal organisations. Politically, however, she was an isolated figure. Much of her political backing came from the country's president, Traian Basescu, and the external institutions, principally the EU. On 13 February 2007 Macovei faced a vote of no-confidence in the Romanian senate. The no-confidence motion had been moved by the Conservative Party, and was backed by the ultra-nationalist Greater Romania Party and the Social Democrats. The motion was passed by 137 votes to 81, figures which suggested that at least some of Traian Basescu's Democratic Party had voted for Macovei's removal. The Romanian constitutional court subsequently ruled that the vote did not mean that Monica Macovei was obliged to resign. Macovei's reprieve was, however, only temporary. On 2 April 2007 Calin Popescu Tariceanu, the Prime Minister, whose relations with Traian Basescu had broken down, moved to oust Macovei.

Judicial Independence under Attack The Rule of Law in Romania (2008-2012)

The removal of Monica Macovei stifled any impetus for reform which had existed within the Romanian government. Her replacement was Tudor Chiuariu (born 1976), a National Liberal MP loyal to the Prime Minister, Calin Popescu Tariceanu. He acted quickly to modify the laws on the judiciary brought in by Monica Macovei as part of her reform strategy. He also moved, whilst Traian Basescu was suspended as President prior to the May 2007 referendum, to oust Doru Tulus as head of the DNA. Tulus was replaced by a prominent Social Democrat known for his opposition to judicial reform.

Chiuariu also ensured that although the legislation setting up the National Integrity Agency (ANI) was passed through parliament it did so in a considerably weakened form. The appointment of Lidia Barbulescu, an active Social Democrat opponent of reform, as head of

the SCM was seen as undermining judicial independence. It was also suggested that there was a conflict of interest in Barbulescu's appointment to head the SCM whilst she was at the same time serving as a Supreme Court judge. Tudor Chiuaru was Justice Minister until December 2007. Chiuaru continued to serve as a National Liberal member of the Chamber of Deputies, and then as a Senator from 2012. In January 2015 he was forced to resign from the National Liberal Party after he received a three and a half year suspended sentence for influence peddling, money laundering, and joining an organised crime group.²¹ He currently sits as an independent in the Romanian Senate.

Between January and February 2008, the role of Justice Minister was held on a temporary basis by Teodor Melescanu. He was followed by Catalin Predoiu who was Minister of Justice from February 2008 to May 2012.²² In October 2011 Catalin Predoiu became mired in controversy when the Ministry of Justice awarded a 1.5 million lei contract to RVA Insolvency, a company to which his father-in-law was linked. This was ruled not to be contrary to conflict of interest regulations because the contract was funded by the World Bank rather than the Romanian state budget. Catalin Predoiu was Prime Minister for three days from 6 to 9 February 2012 following the resignation of Emil Boc. In 2005 he was elected as head of the National Liberal Party organisation in Bucharest. He was forced to resign in June 2016 after he came third in local elections in the city.

Traian Basescu secured a convincing victory in the impeachment referendum vote which took place on 19 May 2007 with 74.48% against impeachment to 24.75% in favour. In the November 2008 parliamentary elections, however, his Democratic Liberal party gained 32.4% of the vote to 33.1% for the Social Democrats. The National Liberals gained 18.6% of the vote. In the December 2009 presidential elections Traian Basescu was narrowly re-elected with 50.33% of the vote to 49.65% for his Social Democrat opponent Mircea Geona with 49.65% of the vote. Basescu's victory was secured at the last moment following the counting of votes from Romanians living abroad.

These results produced a period of political stalemate and legislative stagnation. The lack of progress in judicial reform and the prevalence of corruption was increasingly the subject of criticism by the EU. In the 2010 EU monitoring report the Romanian government was criticised for lack of accountability and commitment to reform. There was increasing recognition within the EU that the formal pre-accession com-

mitment to Europe was not paralleled, in view of the lack of effective mechanisms of conditionality, by a post-accession readiness to move forward with the process of reform.

The continued vulnerability of the Romanian judiciary to political pressure was underlined by the political crisis in 2012 which came to a head with the move by Prime Minister, Victor Ponta, to hold a second impeachment referendum directed against President Traian Basescu in July of that year. The move to impeach Traian Basescu was approved by the Romanian parliament on 6 July 2012. Victor Ponta and his allies in parliament accused Basescu of exceeding his powers as President of Romania. Traian Basescu for his part accused Victor Ponta of staging a 'putsch.' In addition to using the referendum as a mechanism to remove his primary political opponent, Victor Ponta also sought to move against other public institutions. He used emergency ordinances to remove the speakers of both the House of Deputies and the Senate, and the Ombudsman. Measures were brought in to restrict the power of the Constitutional Court, and to make possible the impeachment of judges.²³

Crin Antonescu, one of Victor Ponta's key allies asserted that the Senate had the right to remove judges, and asserted that composition of the Constitutional Court was 'a disgrace.'²⁴

In a significant parallel set of actions Victor Ponta and the Social Democrats also sacked the head of the National Archives, purged state TV, and targeted the Romanian Cultural Institute.²⁵

The European Commission reacted strongly to Victor Ponta's assault on key and supposedly independent institutions in Romania. In a twenty-two-page report the Commission accused him of ignoring the constitution, threatening judges, illegally moving officials, and tampering with the democratic system.

The report acknowledged the polarised nature of Romanian politics:

However, this political context cannot explain the systematic nature of several actions. They raise serious doubts about the commitment to the respect of the rule of law in a pluralist democratic system. Political challenges to judicial decisions, the undermining of the constitutional court, the overturning of established procedures, and the removal of checks and balances have called into question the government's respect of the rule of law and judicial review. The Commission is in particular extremely concerned by the indications of manipu-

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lations and threats which affect institutions, members of the judiciary.²⁶

The Venice Commission of the Council of Europe was also harsh in its criticism of the actions of the Ponta government. Judges from the Constitutional Court sent two letters to the Venice Commission, one before the poll in July and one afterwards in August, complaining about the 'virulent attacks' they had faced from the Ponta government.

Polling for the referendum took place on 29 July 2012. Traian Basescu had urged his supporters to boycott the poll. The results showed 88.7% of those voting to be in favour Basescu's impeachment with 11.3% against. Turn-out, however, stood at 46.24% putting it below the 50% threshold. The 50% threshold had been an established part of Romanian regulations on the holding of referendums. It had been removed by Victor Ponta and his allies, but reintroduced immediately prior to the referendum under EU pressure. The Constitutional Court ruled that the referendum was invalid.

In the aftermath of the referendum Philip Gordon, US Assistant Secretary visited Bucharest and met both Victor Ponta and Traian Basescu. In a statement to the media he drew attention to: 'Credible allegations of large scale fraudulent voting, attempts to alter voter lists, and attempts to pressure the Constitutional Court.'²⁷

The constitutional crisis of 2012 was characterised by the political analyst, Vladimir Tismaneanu, as a failed 'coup attempt against democracy.'²⁸ These events illustrated the continued willingness of some politicians to attempt to assert control over Romania's public and judicial institutions. More positively, however, it also showed the readiness of the Constitutional Court to resist the attempted encroachment on its sphere of activity by the government.

Romania's Renewed Alliances: The Judiciary, the Secret State and the Anti-Corruption Drive (2012-2016)

In spite of his failure to remove Basescu in the referendum Victor Ponta was able to consolidate his political position within Romania in elections held at the end of the year. In the December 2012 elections, Victor Ponta and his Social Democrats secured an overwhelming victory with 58.61% of the vote to 16.21% for the opposition Right Romania Alliance. It was widely assumed that Victor Ponta would be able to go on to secure the presidency of Romania in an election held in November 2014.

In an unexpected result, however, Ponta was defeated in the second round of elections by Klaus Iohannis, the centre-right candidate from Sibiu in Transylvania, who gained 54.43% of the vote to Victor Ponta's 45.4% of the vote. Victor Ponta remained as Prime Minister until 4 November 2015 when he was forced to resign over charges of corruption and public demonstrations over the *Colectiv* night club fire in which 32 people had died. Victor Ponta was replaced as Prime Minister by Dacian Ciolos, a former EU Agriculture Commissioner, who headed a technocratic government.

The arrival of Klaus Iohannis and Dacian Ciolos in government was seen by international observers as ushering in a supposedly new era in Romanian politics. This positive political trend was viewed as being paralleled by developments in the legal/judicial sphere.

The National Anti-Corruption Directorate (DNA), under the energetic leadership of Laura Kovesi since 2013, and the Directorate for Organised Crime and Terrorism (DIICOT), were taking an increasingly active role in acting against corruption and criminality in Romania. In 2014 the DNA secured the convictions of twenty-four former mayors, five ex-MPs, and two former ministers including former Prime Minister, Adrian Nastase. In 2015 the DNA brought charges against fifteen MPs, four of whom were former ministers including Victor Ponta, and Sorin Opreescu, the former Mayor of Bucharest.²⁹

Romania was praised in the European Commission's Co-operation and Verification Mechanism (CVM) monitoring report for 2015. It stated that: 'The track record of the key judicial and integrity institutions in addressing high levels of corruption remains impressive.'

Frans Timmerman, First Vice-President of the European Commission, commented on the report saying that:

Over the last year we have seen the professionalism, commitment, and good track record of the judiciary and anti-corruption prosecutors and reforms being internalised. I am encouraged to see that Romania continues to make reforms and the positive trend continued in 2015. These efforts must be stepped up in 2016. In particular to prevent corruption and see that judges can do their job properly.³⁰

The methodology used by the DNA has, however, raised serious questions with regards to its impact on the independence of the judiciary. The DNA and DIICOT anti-corruption investigations are heavily dependent on the Romanian secret state, in particular the Domestic

Intelligence Service (SRI) for logistical support in the form of the provision of wiretapping evidence.

In February 2016 the Romanian Constitutional Court ruled that it was unconstitutional for the SRI to conduct wiretapping operations on behalf of the DNA and DIICOT. Laura Kovesi responded by stating that this move would endanger the anti-corruption fight. On 11 March the Romanian Prime Minister, Dacian Ciolos, used an emergency ordinance to overrule the Constitutional Court and enable the DNA and DIICOT to continue to use wiretap evidence supplied by the SRI. In April 2016 Laura Kovesi publicly criticised the head of Romania's External Intelligence Service, the SIE, for failing to provide surveillance evidence on Romanians living abroad.

The support provided by the SRI is undoubtedly useful to the DNA and DIICOT in the conduct of their investigations. It is interesting, however, to note the difference between the situation in 2016 when the use of surveillance by the security services is presented as essential to the establishment of a society governed by the rule of law and the situation in the 1990s when, as noted earlier, the ending of security service surveillance was seen as a key requirement for creating a free, open and truly democratic society.

It is in this context that there have also been recent suggestions that the influence of the SRI has reached into the ranks of the judiciary thereby further compromising their independence. In an interview given in May 2015 SRI General Dimitriu Dumbrava stated that the security services regarded the judicial system as a 'tactical field' in which the intelligence services were 'keeping their attention until their final ruling.' He also stated that the SRI was engaged in monitoring and gathering information on judges. Following this interview, a complaint was issued by the National Union of Judges, Association of Prosecutors, and the Association of Magistrates of Romania which called on the Superior Council of Magistrates to determine whether the SRI had compromised the independence of the judiciary. A press statement issued by the judges stated that:

General Dumbrava's statements unveil a system that pretending to watch over respecting human rights and the fight against corruption is actually brutally breaking these fundamental rights.³¹

The Superior Council of Magistrates subsequently determined that such a comment did not indicate an infringement of judicial independence. Interestingly when, in August 2016, a vacancy arose on the Superior Council of Magistrates it was not considered to be a barrier to Lavinia Nicoleta Cotofana's candidacy that previously she had been a member of the SRI for eleven years.³²

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Reaching Beyond Romania's Borders: The Case of the British Journalist Stuart Ramsay and German writer Alexander Adamescu (2016)

On 7 August 2016 Sky News ran a story in which their highly awarded senior correspondent, Stuart Ramsay, and a news team met a group of gun runners offering weapons for sale in a forest in western Romania. The Romanian authorities reacted with fury to the story. The DIICOT Chief Prosecutor, Daniel Horodniceanu, was swift to declare that the report was merely a: 'A scenario made up by British news.'

While Stuart Ramsay and Sky News stood by the integrity of their investigation, and the Romanian authorities subsequently arrested the Romanian gun runners who they said were really hunters pretending to sell legally held rifles, DIICOT also sought to start a criminal investigation against Stuart Ramsay and the other Sky journalists for 'spreading false information affecting the security of Romania.'

Alongside this story a number of journalists and NGOs in Romania were equally swift to voice their unease at the authorities' actions stating that it was likely to do more damage to Romania's reputation than the original Sky News report.³³

Likewise, the arrest warrant procedure for German writer Alexander Adamescu has sparked worldwide criticism. Alexander Adamescu is the son of businessman Dan Adamescu, accused of bribery charges in 2014 and seemingly Romania's public enemy number one. After Alexander Adamescu spoke out about the treatment of his father, whose case was highlighted by the NGO Fair Trials International as having "failed to respect the presumption of innocence,"³⁴ the DNA Chief Prosecutor Laura Kovesi appeared on live television in March 2016 to request Alexander Adamescu's arrest on the same charges. The case was filed in front of a judge who summoned, heard, deliberated, wrote and

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published Adamescu's arrest warrant in less than two hours. Alexander Adamescu was subsequently arrested in London through a Romanian EAW shortly before he was due to speak at a public conference with British journalists on the topic of the abuse of EAWs and the erosion of the rule of law in Romania.

While these stories initially appear to be of minor importance, in reality they have profound implications in the context of the European Arrest Warrant for writers and journalists in Western Europe. For if nothing else they provide a worrying insight into the way that the Romanian legal and security authorities operate, choosing to use legal threats against journalists and writers rather than face a potentially embarrassing and truth-telling story.

Conclusion and Recommendations

In the aftermath of the Second World War the destruction of the independent judiciary in Romania was a key priority for the Communist Party. Considerable resources and a methodology based on terror were utilised to bring about the dismantling of the independent judicial system. Once in power the Communists put in place a system which was subordinate to the leader and the party, and maintained by the pervasive security services.

In the post-Communist period the task of rebuilding an independent judicial and legal system has been formidable. Those seeking to bring about change have frequently faced opposition from political forces, and from within state institutions.

During the pre-accession period Monica Macovei's attempts to institutionalise judicial independence in preparation for joining the EU were repeatedly obstructed and the measures watered down by political actors who did not share her enthusiasm for the practicalities of reform, as opposed to a theoretical commitment to joining Europe.

In 2012 the judicial system faced a concerted attack on its independence led by Victor Ponta and the Social Democrats. It was an attack which was only thwarted with difficulty. This failure of this attack was partly due to international intervention, on the part of the EU and the US government, but also due to the readiness on this occasion of the judiciary to resist state encroachments on their sphere of activity.

In recent years a wide ranging anti-corruption drive headed by the Anti-Corruption Directorate (DNA) has been underway in Romania. The anti-corruption drive has produced large scale convictions on corruption charges of senior political and business figures. While the anti-corruption drive has been praised by some in the EU and US, it has however also thrown up its own contradictions with many suggesting that the Romanian secret state is once again proactively undermining and compromising the independence of the nation's judiciary.

Considering the Rule of Law Index 2015 of the World Justice Project, Romania is part of the second group selected by the index, classified as an upper-middle income nation. The first group is composed of EU, EFTA and Northern American countries. Every country's justice system and rule of law enforcement is evaluated through a set of macro and micro indicators. In the global ranking for the enforcement of the rule of law Romania is 32nd of 102 nations. In its group of upper-middle ranked countries it is third of thirty one. As far as the macro-indicators of "Constraints on government powers" are concerned Romania is significantly under the average of the western developed nations in every micro-indicator. Regarding the macro-indicator of "Corruption" the worst micro-indicators are "corruption in the executive branch" and "corruption in the legislature" where Romania is very far from the developed countries and under the average of the upper-middle income nations.

The worst result for Romania among the macro-indicators of the index concerns "open government" where its average is significantly underdeveloped compared with the average of its group. Romania's best performance is seen in the macro-indicators of fundamental rights, order and security, and law enforcement. In these sectors, the indicators show that the country is significantly over the average of its group and not so far from the group of developed countries. Regarding civil justice some indicators such as "accessibility and affordability" and "no discrimination" are very close to the average of developed countries, while other indicators such as "justice corruption" and "improper influence of government" show very poor results, significantly far from the average of the developed nations. The last macro-indicator is criminal justice. Here, lower scores are, as in the case of civil justice, "improper influence of government", "corruption" and "due

process of law". Indicators that measure effectiveness and efficiency of criminal justice are much better and consistently above the average of upper-middle countries.

Romania is in a top position among the upper-middle income nations but it is still far from the standards of developed countries. Its justice system is acceptable concerning the respect of fundamental rights and order and security. Procedures and practices are fast, with a good level of efficiency and effectiveness. However, rule of law indicators, in particular corruption and the improper influence of government in the justice system are too low and seriously compromised even for a post-soviet country.³⁵

While some analysts have demonstrated that progress has been made in terms of institutionalising change within the Romanian judicial system, progress remains slow and patchy.

Cristina Dallara has highlighted the positive role played by the involvement, particularly of younger Romanian judges and legal professionals, in international networks and organisations, Dallara has emphasised the role these networks play in socialising and changing the attitudes of those involved.

Similarly, Martin Mendelski has argued that while the EU-supported attempts to push forward the judicial reform process have had a positive effect in terms of increasing legal capacity and bringing Romanian laws in line with international legal standards, he also presents evidence of how the reform process has been much less successful in entrenching judicial impartiality.³⁶

Today, the Romanian judiciary continues to face pressure in terms of political and institutional demands and exigencies. This issue needs to be addressed if the rule of law is to become institutionalised, over the long term, within the country.

It is in this context that this paper makes the following specific policy recommendations:

1. Romania must finally start to institute a true separation of powers because current limits to executive power are insufficient. Neither government nor any state intelligence agency must seek to fix or dictate the outcome of judicial proceedings.
2. Packing of the courts by governments must be stopped by removing the serving Justice Minister from all judicial decisions.
3. The Romanian prosecution must respect the independence of the judicial process and should refrain from exerting undue influence

on judges by threatening courts with investigations of corruption should they pronounce acquittals.

4. The current practice of preferring promotions of prosecutors to the posts of judges should be balanced out to prevent a prosecution-biased criminal procedure.
5. A new and truly independent judiciary must adhere to the basic principles of innocence until proven guilty and trial by jury.
6. All current serving domestic intelligence (SRI) officers among the judiciary must be disclosed by the SRI and resign.
7. The SRI should officially abandon all policies of interference with the judiciary.
8. The Superior Council of Magistrates (CSM), which was created to assure the impartiality of Romania's judges, should be reformed in order for some of its members to be appointed by the judges themselves to strengthen its independence.
9. CSM must revise its nomination procedures and reject candidatures from former SRI officers or politically affiliated judges. An effort should be undertaken to significantly improve open government, which means providing more transparency and information to Romanian citizens.
10. Romania should adopt objective criteria to ensure that the immunity of members of Parliament is not used to avoid investigations and the prosecution of corruption but as an instrument to strengthen independence between separated powers.
11. Corruption has to be reduced, both at the governmental and justice levels, because it represents a serious burden on Romania's economy and administration. Anti-bribery mechanisms, such as whistleblowing and transparency, should be developed by the Romanian Government. Moreover, strengthening competition policy in public procurement and tender is a desirable solution for reducing corruption.
12. Romania should promote wider use of alternative dispute resolution schemes in order to create a quasi-competitive dynamic between private courts and public justice which can help the level of effectiveness of the judiciary.
13. The promotion of the culture of the rule of law among young Romanians, through scholastic, university programmes and EU initiatives, can help the next generation of voters to demand a better and more sound separation of powers.

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In 2017, Romania will have been an EU member for ten years. It has attempted to modernize the judicial system since the pre-accession phase and it is likely that it will continue to do so for many years to come. What happens to Romania is a crucial test for the entire European Union. The Romanian experience could serve as an example to potential future EU member states (mainly Serbia, Macedonia, Montenegro, Bosnia Herzegovina and Albania). It will tell us if the EU enlargement has been beneficial – in promoting the rule of law and in determining a real political, economic and social convergence – as it was intended to be.



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EUROPEAN BUSINESS NEWS

Romania's Probe Of Big Oil Firm Prompts Concerns

By *Cristi Cretzan* Dow Jones Newswires

Updated June 6, 2005 12:01 a.m. ET

BUCHAREST -- A criminal investigation of Rompetrol Group NV and the brief detention of its chairman are prompting concerns about the way Romania's justice system deals with allegations of wrongdoing at private-sector companies.

Two Romanian courts have rejected prosecutors' requests to arrest Dinu Patriciu, chief executive officer and majority owner of the big Romanian oil company, most recently late last week. The hearings followed the detention of Mr. Patriciu for 24 hours a week earlier on charges of money laundering, tax evasion and fraud. Prosecutors, who plan to continue to press the charges against Mr. Patriciu, say Rompetrol Deputy Chief Executive Phil Stevenson and former Chief Executive John Works, both U.S. citizens, also are being investigated.

Rompetrol executives deny the charges and say the events reflect a battle between an old communist guard wary of privatized former national companies such as Rompetrol and proponents of economic change who want to push Romania into the European Union.

While declining to comment on the case, other business leaders and EU officials have urged that Romania's aggressive investigation of private-sector companies respect executives' due-process rights.

The clampdown on Rompetrol, which has its headquarters in the Netherlands, comes as Romania is pushing to join the EU in 2007 in the face of concerns that the country's justice system remains mired in corruption and fraud. Romanian President Traian Basescu, who was elected last fall, has made the fight against corruption his overriding policy.

Local media, human-rights groups and business groups say Romania's eagerness to prove its anticorruption credentials has helped spur overzealous prosecutors who sometimes show little respect for the legal rights of those being investigated. "You don't really know anymore who's guilty and who's not," says Matei Paun, managing partner at BAC Investment Bank here. "The justice isn't functioning."

Mr. Basescu declined to comment specifically on Rompetrol's case, but his office released a statement last week criticizing those who question the way prosecutors move against alleged corruption cases. "If the political parties, the media and the business community protest against the state's authorities when they try to get to the big corruption, then certainly our EU accession will remain merely a dream," the statement said.

Romanian Attorney General Ilie Botos defended the prosecutors working on Rompetrol's case, saying they have acted legally.

Jonathan Scheele, ambassador to Bucharest for the European Commission, the EU's executive arm, said one measure of the country's achievements would be the way it conducts criminal investigations "in an expeditious and transparent fashion."

The concerns about Romania's handling of the Rompetrol investigation were expressed after Mr. Patriciu was detained in the middle of the night after 16 hours of writing statements in his defense.

The American Chamber of Commerce in Romania said it is "concerned by the apparent lack of due process and respect for the rule of law with regards to the ongoing investigation and penal charges...against current and former senior managers of Rompetrol."

The allegations against Rompetrol date to November 2000, when the company paid the Romanian state \$50.1 million to buy a refinery called Petromidia on the Black Sea coast. Petromidia became the main driver of the company's success, helping it to become one of the country's most successful companies, with revenue of \$1.44 billion in 2004, second only to oil-and-gas company Petrom SA, owned by OMV AG of Austria.

Prosecutors allege that Rompetrol illegally moved funds between offshore units to pay for refinery shares or to make investments following privatization. They also allege that Rompetrol evaded taxes of about \$9 million.

Mr. Patriciu, a 55-year-old architect-turned-businessman, resigned from the country's Parliament in 2003 to focus exclusively on his oil business, with the stated ambition of making it a powerful regional company. In an interview last year, he acknowledged that political connections played a role in his success, but said everything has been aboveboard. In 2003, the former leftist government allowed Petromidia to turn its \$600 million of debt, owed to the government from when Petromidia was a state-owned company, into bonds with a maturity of as long as 20 years.

Mr. Stevenson, the deputy chief executive also being investigated, said in an interview last week that accusations are being brought by prosecutors "who don't understand the way modern economy works.

"What they have done here is to elevate potentially interesting contract disputes into crimes," he said.

—Dan Bilefsky in Brussels contributed to this article.

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State Dept. Urges Caution in Romania Oil Probe

By Glenn Kessler
Washington Post Staff Writer
Friday, June 10, 2005

The State Department cautioned Romania yesterday to carefully handle a criminal investigation involving Rompetrol Group NV, a major oil refining and marketing company that includes a U.S. citizen among its top executives.

"We urge the Romanian government to observe due process, to be open and objective in handling the case and to ensure that the judicial process is fully transparent," State Department spokesman Tom Casey said.

Romania is actively seeking membership in the European Union by 2007, but the high-profile case threatens to raise questions about Romania's transition to a fully functioning judicial system. The State Department, in its most recent human rights report, cited continuing political influence over Romania's judicial system, while the American Chamber of Commerce in Romania has denounced the recent detention of the company's chief executive, Dinu Patriciu, for 16 hours on an array of charges, including money laundering and tax evasion. Romanian courts have twice rejected requests by prosecutors to authorize Patriciu's arrest.

Rompetrol Deputy Chief Executive Phil Stephenson, who served in the administration of President George H.W. Bush, is also under investigation, as is another U.S. citizen, former chief executive John Works, according to media reports in Romania. Rompetrol officials have denied wrongdoing and said the investigation was politically motivated.

President Traian Basescu ran for election on an anti-corruption platform, and he has lashed out against criticism of prosecutorial tactics, suggesting that a failure to pursue such investigations will set back Romania's bid for membership in the European Union. "If political parties, business lobby groups and the media rise against state institutions trying to deal with major corruption, thus hindering lawful actions of these institutions, then EU integration will certainly remain just a dream, not a reality," he said last week.

The Romanian Embassy in Washington declined to comment yesterday.

U.S. officials noted that the investigation appears to have started before Basescu was elected, suggesting not all of the allegations are politically inspired. Prosecutors have alleged the tax evasion cost Romania more than \$10 million. But political influence over the judicial process remains a concern among U.S. officials.

"The Constitution provides for an independent judiciary; however, in practice, the judiciary remained subject to political influence," the State Department human rights report said. "Widespread corruption remained a problem, although the Government took initial, but only partial, steps to address the problem."

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Emerging Markets

With China calling, it is time for Romania to court investment beyondbrics

DECEMBER 14, 2016 by: Guest writer



By Nick Kochan

The election of a majority Social Democratic PSD party in Romania this past weekend gives the country a chance to push the reset button on its relations with foreign investors.

After a year when the government has been drawn into fruitless squabbles in commercial courts and arbitrations with no less than five international companies, now is the time to reassure investors that Romania is open for business. The time to close the book on introspective and opaque government is long overdue.

Energy companies have been in the forefront of these battles with Romanian officialdom. So the government took Enel, the Italian energy company, to court over a breach in a privatisation contract but ended in July 2016 facing a €1bn bill. E.on, the German energy company, won an arbitration dispute in Paris and the government was forced to pay its legal costs.

A series of arbitration disputes arising out of a privatisation contract with the Czech energy company CEZ left the Romanian government with egg on its face. The finance sector got embroiled in a fight with the Romanian government when Raifeissen Bank took the state to court in August over what the bank called an 'unconstitutional' debt discharge law. This allows mortgage holders to return assets to the lender without penalty.

The government's current fight with KazMunaiGaz International (KMGI) and Rompetrol, its Romanian asset, poses a particular long-term threat to the country. The company, which is Kazakhstan's largest energy provider, has supplanted Russia as Romania's primary source of energy. Over the last nine years, KMGI has been chipping away at Russian domination of oil and gas to Romania and today some 55 per cent of energy comes out of the Central Asian state and only 27 per cent from Russia.

Rompetrol is the country's second largest energy provider and owns Romania's largest oil refinery called Petromidia and a chain of petrol stations called Vega.

Yet, at the point when the country has energy self-sufficiency, this is the moment when the country's Directorate for the Investigation of Organised Crime and Terrorism (DIICOT), Romania's commercial police agency, has decided to re-open an investigation (<http://www.balkaninsight.com/en/article/romanian-prosecutors-seize-country-s-biggest-refinery-05-11-2016>) of a historic but controversial deal involving Rompetrol.

The investigation, termed in the local press Rompetrol Two, has resulted in the indictment of four ministers in the former government and the freezing of \$670m worth of assets. DIICOT's action was announced just days after KMG I announced it was selling a 51 per cent stake in Rompetrol to the Chinese company [CEFC China Energy \(https://en.wikipedia.org/wiki/CEFC_China_Energy\)](https://en.wikipedia.org/wiki/CEFC_China_Energy). The geopolitical implications of this deal make it particularly sensitive and it is now in jeopardy.

The target of the investigation is a transaction carried out in 2003, when the company's largest shareholder Dinu Patriciu converted \$570m of Rompetrol debt into bonds with a seven year repayment term. The transaction engendered controversy because of the way the bonds were valued and was investigated by the DIICOT. Patriciu, who was the country's richest man as a result of his ownership in Rompetrol, was charged with money laundering and acquitted. He has since died.

The issue appeared to have been closed at that point, although rumblings of discontent have continued over the following decade and more. In May 2016 DIICOT announced they were reviving their case of 13 years earlier and this highly complex investigation continues.

This was the prompt for the freezing of the assets, a move being resisted by KMG I, whose lawyers Freshfields sent the Romanian government a Notice of Dispute on July 26, 2016. This accuses the DIICOT and other agencies of "attempting to seize and destroy Oilfield's business."

One local publication took the DIICOT to task for the government's heavy-handed action saying that it risked 'chasing away one of the largest investors from the Romanian economy, at times when [other refiners in Europe are leaving this industry \(http://www.evz.ro/rafinariile-romanesti-intre-marire-si-decadere-over.html\)](http://www.evz.ro/rafinariile-romanesti-intre-marire-si-decadere-over.html)."

KMG I says it has no connection with the events or individuals under investigation and professes itself mystified by the turn of events. It also points to the fact that it

has invested some \$1.6bn in Romania's energy infrastructure over nine years. It notes it has contributed extensively to the country's tax revenues.

It does however say that it may have to reconsider its nine-year long investment in the country if the assets continue to be frozen. Perhaps this is bluffing in a politicised battle of wits with a Romanian government eager to raise tax revenue, but the stakes are high.

The continued freezing of the company assets could put into jeopardy the future of a \$1bn joint investment fund set up, under a memorandum of understanding, by the government of Kazakhstan for furthering investments in Romanian energy projects.

Not in doubt is that the Romanian action casts a cloud over Romania as a destination for foreign investment, especially that sourced from China, warns KMG. Azamat Zhangulov, KMG's senior vice president, lauds KMG's contribution to the country, saying that Romania's oil sector was "unproductive, inefficient, uncompetitive and close to insolvency" when the company acquired Rompetrol.

"We have transformed it into a number one producer for quality volume and exports.... [W]e have invested billions to make our assets the best in the market. We are good corporate citizens and good for Romania."

The election of a new government brings new opportunity. "KMG in partnership with China can play an important role in connecting Asia to Europe," said Alexey Golovin, VP for Corporate Development and Strategy at KMG, in an interview with Capital magazine in Romania. "It is a real chance for Romania."

Nick Kochan is a UK based writer and journalist and his work may be seen at www.kochan.co.uk (<http://www.kochan.co.uk/>). Kochan is writing a book a book on the politics of oil and development.

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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

June 13, 2005

The Honorable Traian Basescu
President
Romania

Dear President Basescu:

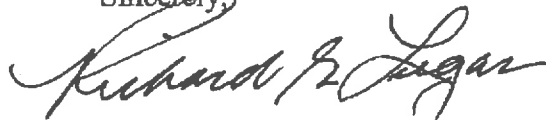
The United States and Romania have a strong relationship. As one of NATO's newest members, I am grateful for your country's support in Iraq, Afghanistan, and participation in numerous other peacekeeping missions around the world. I also commend Romania's commitment to building democratic institutions and a market economy over the past decade.

In my discussions with individuals with interest in and knowledge of Romanian affairs, a matter of concern has been brought to my attention. I understand that a criminal investigation is underway of Romania's second-largest oil company, Rompetrol Group NV, and that its chairman, Dinu Patriciu, was briefly detained.

I know that among two of your top priorities are to rid Romania of corruption and to join the European Union. I hope that the issues surrounding the Rompetrol case can be resolved quickly and transparently, consistent with the rule of law.

I look forward to working with you in the future.

Sincerely,



Richard G. Lugar
Chairman

RGL/jfs



109TH CONGRESS
2D SESSION

H. RES. 949

Commending the people and Government of Romania, on the occasion of the visit of Romanian President Traian Basescu to the United States, for the strong relationship between Romania and the United States.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2006

Mr. HYDE submitted the following resolution; which was referred to the Committee on International Relations

RESOLUTION

Commending the people and Government of Romania, on the occasion of the visit of Romanian President Traian Basescu to the United States, for the strong relationship between Romania and the United States.

Whereas, following the terrorist attacks upon the United States in September 2001, the Government of Romania immediately expressed its sympathy for Americans and others killed in the attacks and pledged its full support in fighting the war on terror;

Whereas, on September 19, 2001, the Romanian Parliament voted to open Romanian territory and airspace to United States Armed Forces involved in Operation Enduring Freedom in Afghanistan;

Whereas, beginning in June 2002, Romanian aircraft flew Romanian soldiers to serve in Afghanistan as part of the forces involved in Operation Enduring Freedom and the International Security Assistance Force, and over 700 elite Romanian soldiers are currently stationed in Afghanistan;

Whereas Romania stood with the United States as a vital member of the international coalition in Operation Iraqi Freedom by offering diplomatic, political, and military support;

Whereas, on February 12, 2003, the Romanian Parliament voted to open Romanian territory and airspace to United States Armed Forces carrying out Operation Iraqi Freedom;

Whereas hundreds of American aircraft flew through Romanian airspace and landed at Romanian airfields during the combat phase of Operation Iraqi Freedom from May to July 2003;

Whereas thousands of United States soldiers were stationed and transported into the Iraq theatre of operations from Mihail Kogalniceanu Air Base, and the neighboring Black Sea port of Constantza was also used in the fall of 2002 and spring of 2003 for rotating United States Armed Forces and equipment in and out of the Balkans;

Whereas, beginning on March 12, 2003, Romania began deploying military forces to Iraq to assist in building security, peace, and democracy, and over 890 Romanian soldiers are currently stationed in Iraq;

Whereas recently President Basescu reaffirmed Romania's intention to continue to deploy Romanian armed forces in Iraq;

Whereas in recognition of the close U.S.-Romanian security and political relationship, in December 2005 Romania signed a bilateral agreement with the United States to allow U.S. forces to use Romania military bases;

Whereas, together with Bulgaria, Estonia, Latvia, Lithuania, Slovakia, and Slovenia, Romania successfully achieved the military, economic, and political reforms necessary to be invited, at the November 2002 summit meeting in Prague of the North Atlantic Council, to join the NATO alliance;

Whereas Romania became a member of the NATO alliance on March 29, 2004;

Whereas Romania has made important progress with respect to economic reform and democratic development;

Whereas in recognition of these and other developments Romania is slated to accede to the European Union during 2007;

Whereas, however, necessary progress has not been made with respect to rule of law issues including judicial reform and ongoing cases such as Romania's actions against Rompetrol Group NV underscores Romania's lack of a truly independent, professional, and non-political justice system;

Whereas, on June 21, 2004, the Parliament of Romania enacted Law 273/2004 on adoption, which prohibits inter-country adoption except by a child's biological grandparent or grandparents; and

Whereas in his historic address at Piata Revolutiei on November 23, 2002, President Bush told the Romanian people that "Romania has made a historic journey. Instead of hatred, you have chosen tolerance. Instead of destruc-

tive rivalry with your neighbors, you have chosen reconciliation. Instead of state control, you have chosen free markets and the rule of law. And instead of dictatorship, you have built a proud and working democracy.”: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) commends the strong and vibrant relations
3 between the United States and Romania;

4 (2) recognizes the steps the Government of Ro-
5 mania has taken and continues to take in economic,
6 political, and social reforms, and urges the Govern-
7 ment to take additional steps to establish an inde-
8 pendent, professional, and non-political justice sys-
9 tem, in part by taking action to end all politically in-
10 spired legal cases;

11 (3) values the participation of a significant
12 number of Romanian troops and civilian experts in
13 Operation Enduring Freedom and Operation Iraqi
14 Freedom, the permission granted by the Government
15 of Romania for the United States to use Romanian
16 airspace and territory, and the deployment of Roma-
17 nian military forces in support of Operation Endur-
18 ing Freedom and Operation Iraqi Freedom, all of
19 which have been important contributions to the glob-
20 al war on terror and serve as a tangible and ongoing

1 demonstration of Romania's commitment as an ally
2 of the United States;

3 (4) urges the Government of Romania to com-
4 plete the processing of intercountry adoption cases
5 which were pending when Law 273/2004 was en-
6 acted and to amend its child welfare and adoption
7 laws to decrease barriers to adoption, both domestic
8 and intercountry, including by allowing intercountry
9 adoption by persons other than biological grand-
10 parents; and

11 (5) welcomes Romanian President Traian
12 Basescu to the United States and looks forward to
13 expanded political, diplomatic, economic, and mili-
14 tary cooperation between Romania and the United
15 States.

○