

Tudor openly advocated the position expressed by the PUNR communiqué quoted above, and stated during the February 7, 1995 working session of the PDSR, PUNR, PRM, and PSM: ‘It is my belief that in mentioning the descendants of these barbarians we are not offending the Hungarian nation – on the contrary, we are providing authentic, historical texts which prove that their origins were those of primitives, something we ourselves have never been.’”²¹⁸

We then devoted an ample part of the communiqué to the issue of historical reconciliation in connection with the problem of national minorities:

“(8) As for the president’s reference to OSCE, it is noteworthy that the CSCE Meeting Report drafted by minority experts in Geneva in 1991 stated that ‘[National minority issues, just like compliance with international obligations and arrangements concerning the rights of persons belonging to these minorities, are not exclusively an internal affair of the state in question – original quote to be added].’ One should also add the obligations that Romania has undertaken as a member of the Council of Europe. Romania has signed the Framework Convention for the Protection of National Minorities implicitly accepting the provisions of Art. 1: ‘The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.’ Finally, the Report of the Foreign Affairs and Security Committee of the European Parliament concerning EC’s relations with Romania, read by Richard Balfe on April 1, 1993, notes that ‘The Community must help Romania finalize its transition to democracy and a market economy but, at the same time, has the right to request Romania to respect fundamental rights and freedoms, as well as the rights of man and minorities’ rights.’

In its A3-0128/93 Resolution on the relations between the EU and Romania, the European Parliament requested ‘guarantees from the Romanian government on the continuation of the democratization process, especially the respect for human and minority rights.’

²¹⁸ Quoted in Chapter 11 above.

(9) The fact that the status of a minority may be the object to negotiations with another state is proven by the Treaty between Romania and the Federal Republic of Germany concerning friendly cooperation and European partnership. Art. 15 of the Treaty concerns the status of the German national minority in Romania. To dismiss the Hungarian minority issue as a possible subject of Romanian-Hungarian negotiations is actually to dispute the core of the EU Stability Pact, which defines relations of good neighborhood as the settling of frontier and minority questions through negotiations between states in the region. These negotiations are supposed to lead to the signing of treaties.

(10) In rejecting negotiations on the minority question with the Hungarian party, the president is implicitly rejecting the basic political and legal treaty with Hungary, in the absence of which any talk of historical reconciliation is emptied of content. And yet the president claims in his appeal that he wishes that Treaty negotiations be resumed.”

As always, the conclusions came in the form of pre-chewed material for busy decision-makers:

“(11) These notes on the contradictions in president Iliescu’s appeal for historical reconciliation are not meant to suggest that the appeal should be discounted. On the contrary, any attempt at dialogue and any progress toward Romanian-Hungarian reconciliation remains crucial. However, in the opinion of the Center for International Studies, President Iliescu’s appeal actually conceals the actual, urgent steps needed for reconciliation. Action is needed in the following directions:

(a) The president and the government should abandon, and ask other Romanian political forces to abandon, their habit of regarding Hungary as a potential enemy; they need to stop using the mass-media as a means to reopen old wounds; they need to discard their adversarial position toward Hungary and the Hungarian minority, which should be regarded as an ally in the reconciliation process;

(b) The Basic Treaty between Romania and Hungary and the accompanying negotiations are indispensable for reconciliation and need to be pursued with this goal in mind;

(c) It is important to extend specific cooperation in various fields, including the field of foreign affairs, in particular with respect of the two countries' integration in Euro-Atlantic structures.

September 14, 1995”

Rereading this text today brings back, to the most minute detail, the atmosphere in which we worked as a team: the pressure of deadlines (the communiqués had to be issued while the affair was still hot); the division of labor among the authors; the analysis of details; the dialogue between complementary perspectives; the stylistic battle over what was actually relevant and what needed to be understood by our targets. I have told earlier the story of our break with Valentin Stan. The gap widened until it became too large to be bridged. But this should not diminish the value of our collaboration. None of us could have worked out these policy assessments alone, at least not at the level of comprehensiveness I believe we have achieved. What could the guilty parties – the government, the party leaders, and their spokespersons – offer as a retort? Except for a few blunders I attribute to Valentin Stan, our arguments seem²¹⁹ to me to have been empirically and logically unassailable.

The steps our communiqué asked for were actually taken in 1996 and in the aftermath of the 1996 general elections. In the fall of that year, the PDSR accepted the signing and ratification of the Treaty between Romania and Hungary, partly under the pressure mounted by US ambassador Moses Rosen, partly for fear that PUNR's electoral score might soar in the polls. Under Romania's new rulers (the president, the coalition and the CDR-USD-UDMR government), voted in power in the 1996 elections, the country's relationship with Hungary changed spectacularly. Cooperation between

²¹⁹ Years after these events I debated Bogdan Chireac (deputy editor-in-chief and foreign affairs columnist for daily *Adevărul* which fiercely campaigned against the Recommendation) on TVR1. He was supposed to explain why Romania could accept the Recommendation 1201 in 1996 but *had to* reject it in 1995. He kept referring to the interpretation given to the Recommendation by the Treaty. But the Treaty added nothing to what the Recommendation actually said. Nevertheless, Chireac proved at least that he was a skilled manipulator of the public opinion and, probably, managed to persuade a sizeable section of our audience.

the two states, and foreign cooperation in the field of European integration in particular, reached levels no one had expected in 1995.²²⁰

²²⁰ Adrian Severin is worth quoting: “I told Laszlo Kovacs that, in my view, Romania and Hungary find themselves in a situation that is unprecedented in their history: their strategic interests are 100 percent identical. Both countries were pursuing modernization and security through Euro-Atlantic integration. ‘We are not competitors but partners. What we can do together, neither of us can do on its own. We are not involved in a competition over limited positions; each of us has its own slot to occupy. Indeed, the point is to help the other get there as soon as possible.’ I told him what I would repeat several times later: this is an opportunity we cannot afford to miss. ‘If we were forced to make a choice between NATO admission and Romanian-Hungarian cooperation, then I would choose the second. Why? Because I know that we will belong to NATO sooner or later, while there might not be another chance for a Romanian-Hungarian partnership.’ For this reason, or upon that basis, I suggested that we should not restrict ourselves to ‘reconciliation’. Reconciliation has to do with the past. We have to design a historical partnership. Since it is at the foundation of our strategic interest, it becomes a strategic partnership.”

26. THE CRISIS: THE SUMMER OF 1995 AND THE LAW ON EDUCATION

Let us now return to domestic affairs. The first years of the term of the nationalist coalition which had come to power in 1992 generated serious debates concerning changes in the law on education. Few things were more important to Hungarians than education in their mother tongue since, generally speaking, the language of instruction is a key aspect of national identity. Hungarians' interest in education was therefore legitimate. They had expressed their views in a bill initiated by the UDMR in the fall of 1993. This bill had been pushed off the national agenda when the PSDR introduced its own legislative project, forcing the Democratic Alliance of Hungarians in Romania to shift its efforts from promoting its own bill to fighting PDSR's proposal.²²¹ Each article of the latter document became the subject of a heated argument. In September 1994, after debates in the parliament had taken several wrong turns, the UDMR came up with a staggering display of power: within a couple of weeks it gathered 500,000 signatures for its own education bill. In accordance with constitutional provisions setting out the terms of legislative initiatives (proposals need at least 250,000 supporters), the bill was to be discussed in the parliament. It took a similarly staggering disregard of legal provisions – possibly the greatest handicap of Romanian society over the past years, and almost certainly also in the years to come – to remove this initiative from the agenda. For the second time, a Hungarian-initiated education bill was thrown out of Parliament.

On June 28, 1995, the House of Deputies and the Senate adopted Education Law 84. The consequences were disastrous. No Hungarian ever imagined that the PDSR would stoop so low as to completely ignore the demands of their community. Indeed, Hungarians had hoped for an important improvement in education legislation. A preservation of the *status quo* would have been regarded as a failure. Any lowering of existing standards was simply inconceivable.

But the inconceivable happened. Which exactly were the drawbacks of the new law? In answering this question, we risk spending a lot of time on nuances which, seen

²²¹ The Helsinki Committee sent to the UDMR several negotiation proposals.

from the exterior, may seem exaggerated. But I submit it is a risk worth taking. Each detail may have long term consequences on the lives of millions of children. One cannot possibly pay too little attention to “nuances”. We have already seen, in looking at institutional developments between 1992 and 1996, how seemingly unimportant distinctions which made their way into the body of laws (such as those concerning national security or the Supreme Council for the Defense of the Country) may have profound effects upon public life. The same is true of a law defining the state’s long-term educational framework.

Consider the law’s provisions on the establishment and operation of classes in the Romanian language in each locality in the country (Art. 8.1). Since in Romania there are places inhabited by no single Romanian ethnic, there are serious reasons to interpret this provision as pursuing practical goals. One of these objectives may have been that of “persuading” persons belonging to the national minorities to relinquish instruction in their mother tongue in favor of instruction in Romanian. Is this presupposition as to the hidden agenda of the law-makers legitimate? Irrespective of the answer, the purpose of laws is precisely that of allaying such fears.

Consider, then, Art. 120.2 of the act: “In upper primary and secondary education, the subjects ‘History of Romanians’ and ‘Geography of Romania’ shall be taught in Romanian according to curricula and textbooks identical to those employed in Romanian-language classes.” In other words, the law baptized the subject formerly known as “History of Romania” as “History of Romanians”. The new name was offensive to the minorities. The “history of *Romania*” is supposed to study the past of the society currently living on Romanian territory. This society is, among others, the result of the cohabitation of various communities: Romanian, Hungarian, German, Jewish, Roma, Russian, Polish, Serbian, Bulgarian, Greek etc. By contrast, studying the “history of *Romanians*” may suggest that other ethnic groups are relatively unimportant. This view is at odds with the way in which contemporary law regards the state. It is, as a matter of fact, contrary to the Romanian Constitution, which states that “Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion...”.

At this point, some readers may advance the following rebuttal: article 120.3 of the education law provides that “‘Universal History’ and ‘History of Romanians’ textbooks and curricula shall portray the history and traditions of national minorities in Romania.” But this provision sees minorities as a reality that is somehow “appended” to Romanian reality.

Under Art. 122.1, specialized education in the mother tongue in subjects that are crucial to the life of a modern society was placed outside the reach of national minorities: “Specialized training shall be conducted in Romanian in vocational, technical, economic, administrative, agricultural, and vocational college education. When possible, specialized jargon shall also be taught in the mother tongue.” Why impose such a restriction on a population of 1,700,000 Hungarians, 6.4 percent (80,000) of whom are students? Moreover, the fact that administration featured among the listed subjects suggested that there was no intention of changing the law on local public administration so as to acknowledge the use of the mother tongue in local administration (which presupposes the employment of bilingual officers).

State higher education in the mother tongue was drastically limited to a few fields. According to Art. 122.2 of the act, medical education was restricted to the already existing departments. Art. 123 provided that “Upon request and under the terms hereof, groups and sections taught in the mother tongue may be organized in state higher education with the purpose of pedagogical and cultural-artistic training.” The state offered no other specialization in the minorities’ mother tongue – nothing for the technical, economic, or legal sciences. In other words, the Parliament implicitly reaffirmed its willingness to preserve Romanian as the sole language in legal proceedings, despite the state’s commitments and the ratified international treaties.

Access to such disciplines through private education remained possible. On the other hand, this option was purely abstract in practice, especially since Art. 166.1 provided that all existing educational institutions become part of the Ministry of Education patrimony. This provision covered institutions nationalized by the Communist regime, which were not returned to their former owners.

Probably the least acceptable part of the act concerned admission examinations in the mother tongue: “Admission and graduation examinations shall be conducted in Romanian at all levels. Admissions and graduation examinations may be conducted in the mother tongue in schools, classes and specializations taught in the respective mother tongue, under the terms hereof.” (Art. 124) This provision rendered the law unacceptable not only to the Hungarians, but also to Germans. Under such restrictions, the only way to have access to some academic specializations is by studying them in universities in which the teaching language is Romanian. According to the new law, in order to do this the candidates are supposed to pass several admission exams. It is obviously quite relevant whether these exams are conducted in the language in which the subjects were studied in high school. To make it impossible for national minority candidates to take exams in the language in which they studied is to place them at a disadvantage compared to other competitors. The candidates’ only way of avoiding this risky lane is by studying in Romanian in high school. And once the first step is made on this slippery path, education in Romanian will progressively penetrate all lower levels of education.

In terms of standards for minorities’ education, the provisions were clearly behind those of the former (communist) law no. 28/1978. To cut back human rights that have already been secured is not merely an offense, but also violation of principles that the Romanian state has made a commitment to respect.

The frustration of the Hungarian community and the anger of its leaders reached a peak. Almost immediately – that is, just before going on vacation –, the European Parliament condemned the discriminatory nature of the education law and the nationalism of Romanian authorities. The UDMR communiqué of July 20 listed the measures that the Alliance’s Operative Council had resolved to take two days before. The Alliance also announced that its leadership would involve themselves in an international protest campaign. A complaint was addressed to Max van der Stoep. Hungarian churches pursued the matter through their own channels in Strasbourg. A bike race carrying the Hungarian education initiative signed by approximately half a million individuals was scheduled to leave for the Council of Europe. A large meeting was

planned in Odorheiu Secuiesc, and other demonstrations were to follow in towns and cities inhabited by large numbers of Hungarians.

The Pro-Europe League and the Helsinki Committee – each in its own style, militant and analytical, respectively – issued statements. The analyses we sent to the international organizations were similar to those addressed by Hungarians. The CDR, alongside other political groups, emerged on July 22 with their own tactless communiqué signed among others by future president Emil Constantinescu.²²² “The provisions of this law fully comply with European standards in the field of minorities’ education.” And, as if intending to show how powerless the CDR president felt, the communiqué went on to point out “that [UDMR’s] attempts to isolate Romania internationally could end in the undesirable isolation of the Hungarian minority in Romania.” Naturally, the CDR could not miss such a ripe opportunity to also condemn the government, just to show that the Democratic Convention could be critical of virtually everybody.

Our CDR colleagues had of course received all the clarifications they needed to write an informed opinion. They had had every opportunity to find out that “European standards” are irrelevant in the case of minorities in need of conditions that match their numbers and traditions.²²³ They had been told that lowering minority rights standards constituted a breach of the principle that rights already secured should not be curtailed. But these efforts seemed to have been futile. Nothing stuck. The politicians of the Romanian opposition somehow felt mysteriously empowered whenever the national issue was hot.

The very serious crisis which emerged after the enactment of the education law, comparable perhaps only to the tumultuous events of 1990-91, was overcome only by delaying the enforcement of provisions which concerned education in the mother tongue. The Ministry of Education, then headed by Liviu Maior, simply failed to

²²² *Cronica română*, July 22-23, 1995.

²²³ International standards provide an inferior limit, which is at best a sort of average of the situations in various countries. One cannot compare the educational needs of the Ukrainian minority in Hungary with those of the Swedes in Finland or of the Hungarians in Romania. The basic goal of any law is to ensure the comfort of ethno-cultural communities, rather than to follow the letter of some international rule. The latter provides the minimum, necessary but not sufficient, and even less optimal, terms.

request examinations in Romanian in 1995 and 1996. This position seems to have been possible due to Maier's rational approach. Doubtlessly, though, it owed a lot to the pressures created by the treaty negotiations which Romania and Hungary were then struggling to finalize. International pressure, especially that coming from the US, was also particularly strong.

In the summer of 1996, the Treaty was signed and then ratified. In May 1997 (i.e., after the regime-changing 1996 elections), the government adopted Emergency Ordinance no. 22, which modified the law on education in some fundamental respects. A new era with new mentalities was ushered in. Ironically the 1995 CDR communiqué had failed to gauge correctly the extent of the changes.

27. MAKING AMENDS

The Fourth Congress of the Democratic Alliance of Hungarians in Romania convened in Cluj between May 26 and 28. The program adopted there redefined the ideological and conceptual preferences, as well as the strategies the UDMR envisaged for the years to come. This was happening at a time when the debate on the rights of the Hungarian minority had made it to the front page. Furthermore, a doctrine of minority rights had already taken shape in Romania. Our 1994 study, then outdated, had influenced the phrasing of the new Program here and there. However, I felt remorse for some of its flaws. On the other hand, events surrounding the Good Neighborhood Treaty negotiations, the Treaty's implications, and the recent legislative debates indicated that the issue of "UDMR's conception" was worth another analysis. A *different* kind of analysis. Soon after the Congress, Renate and I started working on a study we entitled "Developments in UDMR's Conception on the Rights of the Hungarian Minority" (henceforth *Developments*). We completed it on October 27, 1995.²²⁴

Unlike the previous work, and besides addressing the Hungarian conception and the options expressed in the UDMR Program, *Developments* also offered a systematic analysis of minority issues, including theoretical questions (loyalty, national and state affiliation, collective rights, positive discrimination). Our conclusion was that the Program adopted by the Fourth Congress followed the old path in "the elaboration of a distinctive conceptual system, a path inaugurated by the bill on national minority rights and autonomous communities. The new Program should be understood as a extension of and amendment to the objectives of said bill, which only addressed the place, role, and form of organization of minorities." The study regarded the Program as a significant step toward the "acknowledgement of the civic nature of the state and the definition of goals in the democratization of Romanian society as a whole. At the same time, UDMR's Program preserves various concepts ... or introduces new ones ... which

²²⁴ The study was published in Romanian and English as Gabriel Andreescu, Renate Weber, *Evoluția concepției UDMR privind drepturile minorității maghiare*, Centrul pentru Drepturile Omului, Bucharest, 1991.

raise practical or theoretical objections. One has to emphasize, however, that the elaboration of a conception based upon the desires of the Hungarian minority is fully compatible with the spirit of a democratic society, as is a rational and informed public debate on such notions.”²²⁵

Developments was published in 1996. It was, at the time, the most important work ever accomplished by the Center for Human Rights (CDO). The volume was published under CDO sponsorship and was provided to all interested parties. Most of the latter consisted in Romanian and foreign students and researchers who usually contemplated a B.A. or Ph.D. thesis on the subtleties of the relations between Romanians and Hungarians in this country. (I would go so far as to say that *Developments* provided a stable reference for a Romanian doctrine on national minorities.) The subsequent yearly reports on the Hungarian minority and the UDMR grew logically out of the intellectual exercise of this analysis. Renate would go on to write a long paper for a volume on minorities in Central Europe which is doubtlessly a fundamental reference on the state of national minorities in Romania.²²⁶ Besides the usual communiqués on matters commonly addressed by APADOR-CH, I turned to the legitimacy of the doctrine of national minorities.

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Developments was also born as an implicit answer to some of the skewed theses in our previous study. It was only as late as the beginning of 1996 that I made amends for the original 1994 paper which, as I was to discover later, a man such as Funar had reasons to appreciate. To complete the new study, we needed to look deeper into political philosophy, in particular into natural law and positive law doctrines, something we had not done before. Below is an image of the way the internal self-determination of minorities appeared at the time: [Mullerson quote]²²⁷

²²⁵ *op. cit.*, p. 44.

²²⁶ Renate Weber, “The Protection of National Minorities in Romania: A Matter of Political Will and Wisdom”, in Jerzy Krantz, Herbert Kupper, eds., *Law and Practice of Central European Countries in the Field of National Minorities Protection After 1989*, Warsaw: Center for International Relations, 1998, pp. 199-269. It is worth noting that Romania was included – as it should have been, but rarely is – among Central European countries.

²²⁷ Rein Müllerson, *International Law, Rights, and Politics: Developments in Eastern Europe and the CSI*, London and New York: Routledge, 1994, p. 29.

And here is how we made room for the due reparations: [quote],²²⁸ [quote],²²⁹ [quote].²³⁰

We tried to import the logics of decisional procedures into the doctrine of national minorities. The feeling that I had been manipulated was quite disturbing. After the dialogue with Ivan Trușter concerning Funar's interest in the 1994 study I knew I would never again rely on the presumed scrupulousness of historians' thinking. After all, the ultimate goal of intellectual instruments is to defend the true and the good.

In her introduction to *Problema transilvană* a few years later, Renate Weber made her own apologies: "Rereading these lines [of the *Problema transilvană*] I was reminded of a study I co-wrote which addressed the rights of national minorities as seen by the UDMR. In dealing with local and regional autonomy, our study noted that there was no model for such forms of autonomy within the EU, and provided the readers with some important statements on the status of minorities within the Union. The study quoted Bruno de Witte saying that 'the community system methodically excluded regional and local authorities from institutional participation'. ... There is, in other words, no particular community role for territorial minorities.

In principle, de Witte's statements were and still are correct. However, the fact that they were quoted in our study seems, four years latter, a testimony to our superficial thinking. An essential qualification is missing: while the Union tackled general issues and leaves the right and obligation to deal with specifically internal matters to the states, it is no less true that the states of Western Europe have been actively involved in precisely this sort of activity for the past fifty years. They have developed internal structures, they have worked on local communities, sometimes and

²²⁸ Gabriel Andreescu, Valentin Stan, Renate Weber, "Două proiecte de lege privind minoritățile naționale", in Lucian Mihai, ed., *Legislația în tranziție*, Centrul pentru Drepturile Omului, Bucharest, 1995.

²²⁹ Karl Josef Partsch, "Fundamental Principles of Human Rights: Self-Determination, Equality and Non-Discrimination", quoted in Karel Vasak and Philip Alston, *The International Dimension of Human Rights*, Paris, 1982, p. 63.

²³⁰ Gabriel Andreescu, "Autodeterminarea minorităților naționale", *RRDO*, Vol. 12, 1996, pp. 35-8.

for various reasons (e.g. nationality, economic under-development) going so far as to provide a special status for particular regions.”²³¹

²³¹ Renate Weber, “Dezbaterea”, in Gabriel Andreescu, Gusztav Molnar, eds., *Problema transilvană*, Iași: Polirom, 1999, p. 7.

28. THE 1996 ELECTIONS: THE UDMR IN THE GOVERNMENT

The elections in the fall of 1996 engendered an unprecedented ethno-political break with the heritage of the previous years. How was this possible? UDMR's projected participation in a majority government coalition in the event that the Democratic Convention (CDR) won the elections, had been implicit in the proposal to participate in the Convention itself. On the other hand, after the electoral campaign in the winter and summer of 1995, the close ties between the Hungarian Alliance and Romanian parties had been severed. It is true that during discussions with the UDMR Constantinescu tried to explain away those events as a matter of electoral strategy, and insisted that as soon as elections were over cooperation would again be desirable. However, many pieces of evidence shows that the anti-UDMR campaign had not been first and foremost a matter of tactics designed to lure potential voters. Among such evidence one particularly striking fact was the decision by the Civic Alliance Party, one of the campaign's chief actors, to relinquish cooperation with the Convention partners and leave the CDR (the end result was a miserable failure to enter the Parliament).

After the 1995 scandals, the Hungarians' involvement in a future government survived as a project only in the minds of a few visionary politicians. Adrian Severin, who repeatedly referred to such a possibility, claims to have been a supporter of this strategy as a Democratic Party (PD) leader in charge with pre- and post-election alliances and cooperation.²³² He also encouraged Gyorgy Frunda to run in presidential elections.²³³

On the other hand, UDMR president Bela Marko had been in touch with the CDR leadership even before the parliament elections of October 1996. Afterwards (that is, between the two presidential ballots) Marko was involved in talks with coalition leaders such as Ion Diaconescu, Mircea Ionescu-Quintus, and Petre Roman concerning a possible UDMR participation in the government. The latter seemed to have agreed "in

²³² He states this in *Locurile unde se construiește Europa, Adrian Severin în dialog cu Gabriel Andreescu*, Iași: Polirom, 2000.

²³³ I was also asked for an opinion on this matter. I was skeptical, as it seemed to me that it would provide a good opportunity for nationalist displays. This was precisely what had to be avoided. However, the campaign proved me wrong. Frunda made a good impression on Romanian voters.

principle” on some form of post-electoral cooperation. Marko had also drawn up a list of terms and conditions: an amendment to the laws on education and local administration and a Hungarian university.

Nevertheless, after the CDR and the PD scored pretty well in the parliament elections they signed a protocol for a government consisting of these two parties *alone*. The document contained no reference to the UDMR. In our book of dialogues, Severin claims that the PNTCD answered the question of UDMR’s future status in a very clear-cut manner: the latter should stay out for now so as not to shock the public opinion.²³⁴

Yet during the last stage of the preliminary talks between the CDR and the PD it was somehow decided that the UDMR should be invited to join the future administration.²³⁵ In a state of “general confusion”, as Severin called it, the participants accepted the Alliance’s involvement in the government and in particular in the future Department for the Protection of National Minorities. They even agreed to award it a “ministerial position”. Emil Constantinescu, the new president, agreed to this truly historical decision.

Was this, as it has been said so many times, the first case in which Hungarians were partners in governing Romania? In order to find an answer one should first distinguish between “the Hungarians’ involvement in government” and the appointment of Hungarian representatives in public offices. Immediately after the war, Hungarian prefects and members of the Hungarian Democratic Alliance were appointed in the counties of Trei Scaune, Odorhei and Ciuc. In 1945, councilor Nandor Cziko was appointed Undersecretary for the Nationalities, Jozsef Meliusz secured an appointment in the Ministry of Propaganda, while in October 1946 Odrón Felszeghy held the position of secretary general in the Ministry of National Education.

Of course, it would be unpardonably naive to speak of “power-sharing” under a communist regime. Similarly, references to the “autonomy” in the Autonomous Hungarian Region (established in 1952) employ an empty concept; the regime offered

²³⁴ As I indicated elsewhere, at this point Severin’s memories match those of Doina Cornea (see *Doina Cornea în dialog cu Rodica Palade. Fața nevăzută a lucrurilor*, Cluj, Dacia, 1999), who referred to the fact that her political allies were apprehensive about “what the others might say”.

²³⁵ Victor Babiuc also referred to the part he played, together with Severin, in promoting the UDMR alliance. So far as I can judge it, this is perfectly consistent with his attitudes at the time.

no room for the exercise of independent power, irrespective of its form. The feelings of nostalgia experienced by some Hungarians for the Petru Groza regime are the expression of a nostalgia for symbols rather than reality.²³⁶ For the same reasons, to qualify the collectivization or nationalization policies conducted by communists after 1948 as “anti-Hungarian”, or as an “annihilation of autonomous Hungarian economy”, is absurd.²³⁷ The latter acts were ideologically motivated and targeted the entire population, even though their impact on particular ethnic communities might have been greater or even disproportionate.

For all these reasons, Michael Shafir’s reading of the 1996 election seems the best answer to the question posed above: UDMR’s joining in the government coalition in November 1996 was the first instance in Romanian history in which a government sought to implement civic-inclusive strategies, that is, to involve equally all citizens in national construction, irrespective of whether they are Romanians or Hungarians.²³⁸

It is also worth keeping in mind that Hungarians came to share power after the signing of the Good Neighborhood Treaty between Romania and Hungary. The PDSR agreed to conclude this document under foreign pressure (American pressure being probably the most important factor). The competition with the Party for the National Unity of Romanians (PUNR), increasingly difficult to shoulder, must have played an additional role, as the PDSR’s coalition partner seemed to have secured a good measure of the former’s votes. The suspense in which Hungarian negotiations were immersed was an advantage to Funar’s group. By signing and then ratifying the Treaty, the PDSR dealt a masterful blow to the PUNR; by downplaying the significance of nationalism in Romanian life, it also provided the democratic parties with a trump card. Consequently, the 1996 elections changed democratic and ethno-political paradigm in Romania.

²³⁶ I have encountered this nostalgia “live” in some otherwise well-educated Hungarians during a 1999 DUNA TV show in which I also participated.

²³⁷ In this I follow Gabor Vincze: “We believe that, starting with 1945, one may speak of a ‘Hungarian problem’ and, in connection with it, of a policy toward the Hungarians, rather than of a minority problem or minority policies in general.” See Vincze, “De la minoritate națională la ‘români de naționalitate maghiară’”, *Alterra*, Vol. 15, 2000, p. 86.

²³⁸ See his analysis of the first year the government spent in power, in *Sfera politicii*, Vol. 55, 1998. Michael Shafir is a researcher with the Open Media Institute and one of the most reliable analysts of the Hungarian issue in Romania.

In a fit of irrational anger, the UDMR opposed the signing of the Treaty under the negotiated terms. Nevertheless, the Treaty made possible a quick rapprochement between Budapest and Bucharest which went as far as the creation of a “strategic partnership” between the two capitals. The architect of this foreign policy strategy was, indisputably, Adrian Severin.²³⁹ The special relationship between Budapest and Bucharest started to slowly erode after Severin left the Ministry of Foreign Affairs, and then lost additional ground after the Ciorbea government was ousted. Nevertheless, the experience of this partnership played out like an adventure into the realm of the possible. It showed how Romanian-Hungarian interethnic relations could find a natural correspondent in the relations between the Romanian and Hungarian states and even reach the level of intense cooperation.

²³⁹ For details, see the volume of dialogues mentioned above.

29. EMERGENCY ORDINANCES AND THE ‘ROMANIAN-HUNGARIAN MODEL OF RECONCILIATION’

In March 1999, president Emil Constantinescu called for a meeting with NGO leaders, whom he asked for support for the reform program. He opened the discussions with the following statement: “civil society was in charge with our democratic education until 1996. Without the it, UDMR’s participation in the government and the signing of the Treaty with Ukraine would not have been possible...”

This was the first official acknowledgement of the part played by civil society militants for good relations with the country’s neighbors. A swift process of political reform had started after the CDR and its presidential candidate Emil Constantinescu won the 1996 elections and invited the UDMR to join the government. Nationalist parties, in particular PRM and PUNR, we now a part of the political opposition. The new government took radical steps in improving relations with the neighboring states. Alongside the strategic partnership with Hungary, another momentuous achievement was the conclusion of the very complex Treaty with Ukraine. In spite of its complexity, however, the treaty had been signed and ratified by June.

In May and June 1997, Victor Ciorbea’s cabinet amended the education act and the law on public administration by means of two government ordinances. The first made allowance for education in Hungarian at all levels and for state universities with teaching in the mother tongue. The second introduced the mother tongue as a public administration language in localities where the target minority amounted to at least 20 percent of the population. These new norms concerning the use of the mother tongue in education and administration integrated the high standards demanded by the UDMR. This radical yet simple political feat did not elicit any reaction from the population. (Which makes it tempting to argue that anti-Hungarian feelings were pervasive only when stimulated from the exterior.) The government had just put an end to seven years of nationalist-extremist incontinence.

The UDMR’s participation in the government impressed everybody and was promptly qualified by various domestic and foreign actors as an exceptional affair. The

“Romanian-Hungarian model of reconciliation” was thus born and then promoted in countless articles and seminars.²⁴⁰ Although the phrase was not frequently used at home, it seemed quite common abroad. Gyorgy Tokay would often tell me in his own humorous way how Romanian governmental delegations proudly and ostentatiously introduced their Hungarian colleagues. In other words, Hungarian officials had come to be some sort of living proof that Romania had become altogether different from what it had been until then, that it deserved to be included in the family of democracies engaged in building institutionalized Europe and trans-Atlantic solidarity.

Some voices immediately protested against the phrase. Radicals, especially those in the UDMR, were not the only ones to dispute the reality of “reconciliation”. (It should be noted, though, that some seemed to believe that such a thing was not possible in principle.) Other Hungarians who, though familiar with the rapid developments in the Romanian ethno-political life, saw that many of their desires remained unfulfilled, joined the chorus of protests.

As time went by, and as the initial gains eroded, these voices accumulated additional convincing arguments. None other than UDMR president Marko Bela noted the danger of a demagogic use of the “model of reconciliation” catchphrase. In commenting on a statement made by US president Clinton in 1999,²⁴¹ he stated that “a reconciliation between the Romanians and the Hungarians is not possible”. This needs to be read in the original context: a reaction against the sometimes hysterical campaign against the project of the Petoffi-Schiller University (which I shall touch upon presently). Bela Marko and many other Hungarian leaders had good reasons to feel they had wasted their efforts. The UDMR leadership felt understandably frustrated. After all, Minister of the Interior Gavril Dejeu requested in 1997 that the ordinance on local public administration should not be enforced,²⁴² while the unfair campaign against

²⁴⁰ Such as the seminar sponsored by USAID in 2000, which suggests how relevant the question of reconciliation was to Americans.

²⁴¹ Clinton was campaigning in the US a few weeks after the first bombs had been dropped on Yugoslavia. He was trying to explain to his conationals why the bombings were necessary. (See Gabriel Andreescu, “Pages from the Romanian-Hungarian Reconciliation. The Role of Civic Organizations”, Working Paper, EEL, Washington, 1999.)

²⁴² He referred to bilingual inscriptions.

demands for a Hungarian university was spearheaded by another government “partner”, Minister of Education Andrei Marga (in 1998 and 1999).

I have always been a supporter of the idea of a “Romanian-Hungarian model of reconciliation”. Among other pluses, it played a key part in dragging Romania closer to the West. But there was an additional, subtler – if I may say so – reason. When one speaks of a “model of reconciliation” one thinks of a qualitative leap, of some exquisite, maybe even singular achievement in the field of inter-ethnic relations. This was, of course, not the case.

There is, nevertheless, a different, pragmatic or descriptive sense of the phrase: a particular resolution of the tension between the offer Romanian political groups were prepared to advance and the demands made by the group representing Hungarians in this country. The real stake of the “model of reconciliation”, understood in such a fashion, should not be confused with issues such as the honesty or frustration of the political actors involved. Rather, an implicit pact had been reached between the Hungarians, striving to secure self-government, and the Romanians, who offered special measures as the instrument of national minority protection under domestic law.²⁴³ In accepting to negotiate the contents of special measures (in education, the use of mother tongue in local administration and public institutions), the UDMR implicitly gave up the terms of its bill and its program (internal self-determination, autonomous communities etc.).²⁴⁴ Participation in the government was not an expression of the Hungarians’ status as a “co-nationality”, something the UDMR had been promoting since its advent. Rather, it was a matter of negotiating special measures to achieve the effective equality of Romanian citizens irrespective of their ethnic background.

This was, in other words, the condition of possibility for the CDR-USD-UDMR coalition. The sharing of power by Romanians and Hungarians had fundamental consequences, and the event itself was sufficiently radical and positive to deserve to be called a “model”.

²⁴³ The national minorities’ right to self-government is one of the strategies for minority protection. The standard protection system consists of (a) guaranteeing individuals rights and freedoms; (b) the principle of non-discrimination; and (c) special measures.

²⁴⁴ This is not to say that the negotiation was carried out in these terms, or that the coalition agreement was conceived of as described above. Rather, this was the logic of the events.

On several occasions when I tried to argue in favor of this “descriptive” sense of “the model of reconciliation” I felt I could sense an unexpressed yet grimaced doubt on the faces of the UDMR leadership. “Who said we implicitly surrendered our option in favor of autonomies?”, they seemed say. On a couple of occasions, I even received an explicit rebuttal to this effect. However, I would argue that the mere fact that the UDMR leaders had not surrendered their earlier conceptions, not even subjectively, was of marginal importance. The negotiations had been conducted and the results were functional. The effects of the negotiations were being capitalized upon by both parties, and they were evidently changing Romanian society. Furthermore, the significance of those events will not change even if the ethno-political realities of tomorrow’s Romania involve ethnic autonomies. It is now clear that the developments between 1996 and 2000 directly determined the evolution after the 2000 elections. This is why I would place today’s realities under the sign of the (descriptive) concept of a model of Romanian-Hungarian reconciliation.

30. SABOTAGING THE 'MODEL'

The “model of Romanian-Hungarian reconciliation”, the great revelation of the 1996 elections, had been the predilect target of saboteurs even before it became a reality. Before the cabinet were appointed, the daily *Adevărul* launched a campaign against any enhancement in Romanian-Hungarian relations. The campaign sought to intimidate the new leadership, lest the tension between the two capitals, to which the most widely read Romanian daily contributed so perversely, should subside.

The daily *Evenimentul zilei*, then headed by Ion Cristoiu, carried out its own spectacular operation aimed at impairing the rapid development of relations with the West. A January 6 editorial signed by the diminutive director himself violently attacked Adrian Severin’s visit to Budapest: “It is clear that while Adrian Severin’s silence could be overlooked, the silence of Romanian president Emil Constantinescu, who has constitutional prerogatives in the field of foreign affairs, cannot be forgiven. In fact, his position is becoming more than stupefying. It is outright irresponsible.” What was it exactly that Cristoiu could not forgive? The problems of the Hungarian minority in Romania: “If there are any, and if the UDMR wants them solved, they have to be discussed in Bucharest, with the representatives of the Hungarian minority, not in Budapest with the politicians in power in Hungary.”

Cristoiu’s tactic was of manipulating Constantinescu’s apprehensions rather than Severin’s weaknesses. In the same issue of *Evenimentul zilei*, Radu Tudor supported the editorial with an article on the closing down of the Cluj Consulate in Ceaușescu’s time. Apparently, the deal closed by Severin and his Hungarian counterpart had greatly bothered the anti-Hungarian mercenaries. The article rehearsed many of the accusations originally leveled by the Securitate, only to conclude that “the re-establishment in Cluj-Napoca of the General Hungarian Consulate would be inappropriate and could harm Romania’s chief interests.” One should note that Radu Tudor was the person who used to sign the congratulations that *Evenimentul zilei* would periodically grace SRI officers with.

The very next day, January 7, *Evenimentul zilei* made available precious editorial space to former Securitate general Ioan Șerbănoiu, who held forth about the dangers of opening a Hungarian Consulate in Cluj. On January 8, the journal's campaign took a break, to leave room for a reply from the Ministry of Foreign Affairs. Nevertheless, the attacks continued in *Adevărul*, the editors of which had apparently managed to squeeze an exciting statement from the president and then reprinted it under the title "Adrian Severin had no mandate to discuss bilingualism and the Babeș-Bolyai University in Budapest." "Matters such as bilingual universities or inscriptions carrying the names of places or streets", Constantinescu explained sanctimoniously, "were not the object of the aforementioned mandate, since these issues are strictly domestic."²⁴⁵

Which brings us to one of the saboteurs' favored strategies: the dexterous stimulation of confrontations between the president and the Minister of Foreign Affairs, who issued threatening statements or delegated responsibilities and competences to engender envy and frustration.

Week after week, the mass-media architects of the strife between Romanians and Hungarians did their best to disrupt the new policies of the CDR-USD-UDMR government. In spite of such rowdy agitation, Victor Ciorbea and his team complied with the two conditions negotiated with the Hungarian Alliance: amending the education act and the law on local administration. The prime-minister's decision to stand by his words proved decisive. His attitudes generated sympathy among the Hungarians in Bucharest, Transylvania, and even Budapest.

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The enactment of laws is insufficient as long as the laws are not properly enforced. An immediate consequence of Emergency ordinance no. 36 was the introduction of bilingual inscriptions in localities in which at least 20 percent of the inhabitants belonged to a particular national minority. The law mandated such inscriptions, and local authorities were supposed to install them. In cities and towns with a sizeable Hungarian population, such inscriptions had actually surfaced before the

²⁴⁵ Naturally, these matters were anything but strictly domestic, at least because the issue was covered by Recommendation 1201 which was incorporated into the Basic Treaty between Romania and Hungary. The same is true of the other questions raised in Budapest and Bucharest: first because they had been made a part of the treaty, and second because national minority rights are a matter of international law.

law was adopted. On the other hand, in Cluj extremist mayor Gheorghe Funar behaved as if the city had just achieved some sort of special autonomy and was exempt from the laws of the country.

With its complicated and sensitive past, Târgu Mureş therefore looked like a test case. Mayor Imre Fodor placed several bilingual plates at city borders. During the night, however, the plates were either painted in the colors of the Romanian flag or erased. Replacements were brought in, only to be painted over again. The cat and mouse game continued for several days. The PUNR branch in the city was active and publicly assumed responsibility for the acts. But the big surprise actually came when the city police refused to guard the plates. The head of the Police County Inspectorate openly scorned the requests. Inside the government, things were looking even worse: Gavril Dejeu demanded that the enforcement of the Ordinance be delayed. In other words, the Ministry of the Interior was asking that the laws should be disobeyed. As if this was not enough, State Secretary Grigore Lăpuşanu, head of the Department of Local Public Administration, disseminated an address interpreting the Ordinance in such a way as to render it inoperable, without even consulting any other officials.

The situation was degrading visibly. Even though the UDMR participated in the government, civil organizations still had to provide clarifications and words of caution for the public. At the moment when the whole affair finally got out of hand, I was attending the Balvanyos Summer University, which had been moved to Tuşnad. I talked the matter over with Smaranda Enache and Elek Szokoly, although we all knew very well what we had to do: produce more analyses and deliver more public statements. The paper carrying the APADOR header was, however, back in Bucharest. So I wrote the following to my colleagues:

“Dear Renate, Manuela, Ionuţ²⁴⁶ & co.

I’m attaching this proposal for an APADOR-CH communiqué. Please read it over and make the necessary changes, then send it asap. to the authorities, and especially to the Government Secretary, the Department for Minorities, the Ministry of

²⁴⁶ Ionuţ Iacoş was a researcher with the Center for Human Rights.

Tourism, and the press. Be aware that the Government session is scheduled for Thursday.

Best wishes,

Gabriel

Tușnad, 07.22.1997

APADOR-CH COMMUNIQUÉ

concerning acts preventing the display of bilingual inscriptions

APADOR-CH has in the past saluted efforts aimed at the improvement of the condition of national minorities. The transposition of Recommendation 1201 in domestic law, as well as the amendments to the law on local public administration and the education act, place Romania among the countries providing high standards in the field of national minority protection. However, the recent actions targeted against the application of domestic laws constitute not merely a violation of the rule of law. They also impair Romania's newly acquired status. APADOR-CH requests Romanian authorities to take the necessary measures to safeguard the supremacy of law. In particular:

1) APADOR-CH requests the Ministry of the Interior and the General Police Inspectorate to take the appropriate steps to deal with the refusal by the Mureș County Police to guard the city's bilingual inscriptions. The fact that this refusal is inseparable from acts of chauvinism may suggest that the Târgu-Mureș Police is unwilling to fulfill its obligations when the harmed party is a national minority.

2) APADOR-CH believes that the address signed by State Secretary Grigore Lăpușanu, head of the Department for Local Public Administration, is an unqualified interpretation of the Emergency Ordinance amending and supplementing the Law on Local Public Administration no. 69/1991; and further that aforesaid address may harm interethnic relations in this country. More to the point:

(a) The notion that the display of bilingual inscriptions constitutes 'an attribution and change of name' is a speculative interpretation of the legal text clearly designed to

eliminate the mayor's competence in this field. According to Art. 43 (as modified), the display of inscriptions is a prerogative of the mayor. Art. 43 sets forth that 'In exercising his powers ... the mayor also acts as a representative of the state in ... the locality in which he was elected.' This provision builds upon Art. 43.a of the Law on Local Public Administration no. 69/1991 (prior to modification), in accordance with which the mayor is responsible for 'ensuring compliance with the fundamental rights and freedoms of the citizens, with ... the laws of the state, ... and the decisions of the Government.'

There is a further argument against the notion that the display of bilingual inscriptions does not fall within the mayor's jurisdiction as provided for under Art. 28.2 (as modified), in accordance with which the local council shall make 'decisions concerning the administration of the public and private domain of the commune or town, the urban development and organization of localities, and territorial improvement'. Namely, the fact that under such circumstances the council could refuse, through a negative vote by two thirds of the councilors, the enforcement of laws.

(b) The notion that 'the local council alone has the power to decide with respect to bilingual inscriptions of the names of localities, public institutions, and its own headquarters' involves a misreading of the law: in localities in which a national minority represents at least 20 percent of the population the local council may not decide on such inscriptions under Romanian government's Emergency ordinance amending and supplementing the Law on Local Public Administration no. 69/1991.

3) The statement made by State Secretary Grigore Lăpușanu to the effect that bilingual inscriptions concern 'exclusively the names of localities, public institutions and headquarters established by public local authorities and not other entities (e.g. streets)' is equally misguided. While the Emergency ordinance explicitly lists only the three aforementioned instances, it does not exclude bilingual inscriptions referring to other entities. Furthermore, in accordance with Recommendation 1201, which is a part of domestic law (in accordance with the Treaty between Romania and Hungary, as well as Articles 11 and 20 of the Constitution), local public authorities may decide with

respect to bilingual inscription of street names etc. In this case, the decision rests with the local council.

Consequently, APADOR-CH requests the Government to nullify the address of State Secretary Grigore Lăpușanu, head of the Department for Local Public Administration, and to secure the adequate enforcement of the Romanian Government Emergency ordinance amending and supplementing the Law on Local Public Administration no. 69/1991.”

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The first effects of the anti-Hungarian campaign surfaced around the middle of 1997. The governmental coalition fractured, much to the satisfaction of the anti-Hungarian press. The newspapers bluffed. In an article dated August 14, Ion Cristoiu, now an editorialist at the daily *Național*, obsessively voiced his idea that anti-Romanian provocations were being staged. The emergency ordinances were said to carry the responsibility for the strains in Transylvania. “The Ciorbea government ... is a more or less deliberate accomplice in the achievement of the covert objective of Hungarian extremists: the federalization of Romania and the annexation of Ardeal to Hungary.”

The hysterical tone of Cristoiu’s article was supported by the newspaper’s first, large title: “TARGET: TRANSYLVANIA”. The editors also appended a “report” by a “Romanian intelligence service” spanning one full page. The subtitles were equally inflamed: “Actions targeting the creation of alternative structures and the economic subordination of Transylvania”; “The involvement of Hungarian elements in Romania in neo-revisionist policies of economic subordination”; “Hungarian Romanians or Hungarian owners of private businesses covertly purchase land and real estate, against the provisions of Romanian law”; and so on. Particularly telling was Cristoiu’s sympathetic attitude toward Gavril Dejeu.

I am not acquainted with the confrontations within the government (I assume, however, that they existed). As Minister of the Department for the Protection of National Minorities, Gyorgy Tokay did the best he could under the circumstances. In March, he enlisted the support of the Helsinki Committee in the preparation of a seminar on the enforcement of the Ordinance on local public administration. The

“beneficiaries” of the seminar organized by the Department and APADOR-CH were prefects, sub-prefects, and other representatives from several counties inhabited by members of the national minorities. It became clear during the debates that the lack of legal culture is a major obstacle before any progress. Representatives of several prefectures noted that it was almost impossible to explain locally that an international treaty ratified by Romania has the same force as domestic laws (e.g., as the Law on Local Public Administration); and even harder to bring home the point that it enjoys preeminence. Some local legal advisers even resisted references to the Constitution. In short, the message was that, absent open and creative legal thinking compatible with the rule of law, it becomes necessary to adopt normative decisions modifying existing laws.²⁴⁷

However, it was not local officials who gutted the new ordinances on local administration. In the autumn of 1997 the Constitutional Court voided the Ordinance because it did not pass the “emergency” test.²⁴⁸ However, after the PDSR came to power in 2001, as a direct consequence of the government protocol it signed with the UDMR, the party headed by Adrian Năstase pushed through a new law on local administration, largely inspired from the provisions of the 1997 Ordinance.

²⁴⁷ It was saddening but also amusing to see official legal advisers surprised upon being told that Recommendation 1201 was not, as they had thought, some sort of policy suggestion, the application of which was optional, but part of domestic law.

²⁴⁸ Practically, though perhaps not symbolically, this seemed true.

31. NEW UNIVERSITY, NEW CRISIS

The demise of the Ordinance that had enforced the Hungarians' wishes with respect to public local administration in the fall of 1997 was preceded by the failure of the first session of the new parliament. The two ordinances, which to me were the flesh on the "model of Romanian-Hungarian reconciliation" could not be adopted. That fall, the coalition stumbled again. After the government crisis at the end of 1997, Romanian-Hungarian relations entered a downward slope.

During the parliamentary impasse four Hungarian parliamentarians from Cluj submitted, at the end of June 1998, a bill on the reestablishment of Bolyai University. The proposal came at a time when the press was getting ready for the parliamentary vacation and was quickly turned into another media show.

The first organization to react was the ... Romanian National Civic Forum. The dots in the preceding sentence are appropriate: nobody had ever heard of this association which now emerged as the author of a vehement communiqué. Its open letter was acknowledged by no less than 48 universities. July brought about new statements from the teachers, while the Romanian Society for the Fundamental Sciences (another group no one knew anything about) argued that the Romanian state had no moral or material interest in training Hungarian-language specialists.

The new gestures of solidarity were most probably organized by Minister of National Education Andrei Marga, who was conveniently acting sometimes as government member and at other times as the rector of Babes-Bolyai University. Mihai Korka, State Secretary for Higher Education, put his name on an official document titled "Ethnic segregation of Romanian higher education is inopportune". Here are some samples: "The State Secretariat for Higher Education has been systematically confronting by requests for ethnic segregation in various institutional guises, ranging from the establishment of self-managed departments and faculties on ethnic criteria to the establishment of Hungarian-language universities"; "one has to openly acknowledge the fact that the size and quality of higher education in the mother tongue, as currently organized in Romania, has no competition in Europe or elsewhere." The only thing