

GABRIEL ANDREESCU  
**RIGHT-WING EXTREMISM IN ROMANIA**



GABRIEL ANDREESCU

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RIGHT-WING  
EXTREMISM  
IN ROMANIA

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CENTRUL DE  
RESURSE PENTRU  
DIVERSITATE  
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CLUJ, 2003

## **RIGHT-WING EXTREMISM IN ROMANIA**

Cluj-Napoca: Fundația CRDE, 2003

128 p.; 16x23,5 cm

ISBN: 973-86239-0-1

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CENTER  
Cluj-Napoca, 2003

### **Series: SYNTHESSES**

Coordinated by Gábor Ádám and Levente Salat

### **Volume 4: RIGHT-WING EXTREMISM IN ROMANIA**

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## TABLE OF CONTENTS

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<b>Acknowledgements</b> .....	7
<b>I. The Meaning of "Extremism"</b> .....	9
<b>II. Extremist Discourses, Ideologies, and Allegiances</b> .....	13
Extreme Right Movements. The Legionnaire Background	
Revisionism and the Cult of Marshall Antonescu	
The Cult of Marshall Antonescu	
The National Written Press and "High Culture" in the Promotion of Vi-	
olent Anti-Minority, Anti-Multicultural Anti-Modern and Xenophobe	
Discourse	
<b>III. The Main Extremist Actors: the Romanian Hearth, the Party for the Natio-</b>	
<b>nal Unity of Romanians (PUNR), and the Greater Romania Party (PRM)</b> .....	29
The Greater Romania Party	
The 1999 Tentative Coup	
<b>IV. Extremist Tendencies within the Romanian Orthodox Church</b> .....	35
The Romanian Orthodox Church as a Medium for Extremism /Fundamentalism	
The Romanian Orthodox Church and the Contestation of the Rule of Law	
Submission of the Political Class to the Orthodox Pressure	
Historical Connections to the Legionnaire Movement	
The Army and the Orthodox Church	
<b>V. Laws and Official Bodies for Combating Extremism</b> .....	47
Anti-Extremist Norms	
Laws for the Protection of National Minorities	
The Anti-Discrimination System	
The Ratification of Relevant International Legislation	
The Enforcement of Available Laws and Norms	
<b>VI. Factors that Encourage Extremism</b> .....	55
1. Romania as a "Weak State"	
1.1. The Romanian Intelligence service and the Weakness of the	
Democratic State	
1.2. The Limits of Central Power at Local Level	
2. Mistrust of the Population in the Institutions of Democracy	
3. Lack of Transparency	
4. Poverty	

5. Corruption	
5.1 Structural Corruption	
6. Connection between Poverty, Corruption and Extremism	
<b>VII. Actors Opposing Extremism in Romania</b> .....	71
Internal Political Forces	
Romania's Participation in International Life, as a Major Factor of Limiting Extremism	
Synergy	
<b>VIII. Conclusions</b> .....	79
Legislative Measures	
Measures Concerning the Rule of Law	
Public Policy Measures	
The Attitude of the International Community	
<b>Annexes</b>	
<b>Annex I</b> .....	85
The Romanian Intelligence Service (SRI) - an Institution that Promotes Ultrationalism	
SRI Reports	
The Anti-Hungarian Challenge in the Fall of 2001	
Evaluation of the Report of the SRI Control Commission	
Conclusions	
<b>Annex II</b> .....	99
Emergency Ordinance no. 31 Regarding the Prohibition of Fascist, Racist and Xenophobe Organizations and Symbols	
Comparison with Other Legal Norms	
The Cult of Guilty Personalities and Regulations of the Public Space	
Hate Speech and Distinctions / Non-Distinctions of Emergency Ordinance no. 31	
Negationism	
Negationism in an Ex-Communist Country	
Is It Necessary to Adopt an Anti-Negationist Law?	
Conclusions	
<b>Index</b> .....	117

## ACKNOWLEDGEMENTS

The present volume is an elaborate version of the report that I prepared within a regional project initiated by the Open Society Institute (Budapest), titled “Monitoring and Combating Extremism in Central and Eastern Europe”. The project was coordinated by Nils Muiznieks, Director of the Latvian Center for Human Rights and Ethnic Studies.

The version that was submitted for publication benefited from the comments made by Renate Weber. Preparation of the volume was done with professionalism and a lot of enthusiasm by Lucian Nastasă. The major references in the field of extremism in Romania were the works of Michael Shafir and William Totok.

I am grateful to Cas Mudde, co-chair of the European Consortium for Political Research Standing group on Extremism and Democracy (University of Edinburgh), with whom I discussed the national reports. His dedication to the liberal approach of extremism reassured me of my own attitude.





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## I.

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### THE MEANING OF "EXTREMISM"

In his Report prepared for the Political Affairs Committee regarding the threat posed to democracy by the extremist parties and movements in Europe<sup>1</sup>, Rapporteur Henning Gjellerod (Denmark, Socialist Group) distinguished between five categories, depending on the ideologies they represent:

I. Extreme left-wing terrorist movements that aim to overthrow the lawful constitutional order by violent means;

II. Armed nationalist or independence movements and anti-independence movements, seeking either to bring about or to prevent secession by particular provinces or ethnic groups;

III. Armed Muslim fundamentalist movements and the European branches of fundamentalist parties from the Maghreb region of North Africa and the Middle East;

IV. Unreformed communist parties, mainly confined to Central and Eastern Europe, which are opposed to any compromise with the institutions established under the democratization process;

V. Extreme right-wing parties and movements, which propagate mistrust of democracy combined with racism and xenophobia and anti-Semitism and revisionism, all to varying degrees.

The Rapporteur noted the variety of evolutions and manifestations associated with extremism today in the countries of the Council of Europe; the spectacular growth of the number of nationalist-populist countries in the '90s; the importance of "talented demagogues"; the fact that populism and xenophobia are basic weapons of the extremists, united by their hostility against European integration; their anti-American character, given their anti-liberalism and aversion against anything that is cosmopolitan.

1 Of January 3<sup>rd</sup>, 2000, cf. <http://starts.coe.int/>

This complex reality suggests that when we choose one particular “conception of extremism”, we should have in mind first and foremost the usefulness of that conception, i.e. its ability to cover the most debilitating tendencies in one particular country. In the case of Romania, these tendencies are racist, chauvinistic, xenophobic attitudes and their political manifestations. As a consequence, the subject matter of the following pages shall be those attitudes that are close to what has been called “hyper-nationalism”<sup>2</sup> or “ultra-nationalism”. *In the case of Romania, the most substantial, effective and dangerous form of extremism has taken the shape of hyper- or ultra-nationalism, i.e., “the belief that other nations or nation-states are both inferior and threatening and must therefore be dealt with harshly”.*<sup>3</sup>

One of the standard questions pertaining to the issue of extremism is whether we are dealing with right-wing or left-wing extremism. This question is doubly relevant in the case of Romania. During its last decades, Romanian communism put on the coat of national-communism, in which anti-Hungarian sentiment played a crucial part. After 1990, ultra-nationalism was spread by communist elites and the most compromised part of the old Securitate forces, as a strategy of re-legitimizing themselves.<sup>4</sup>

From the point of view of traditional categories, racism, chauvinism, xenophobia, and anti-Semitism are considered right-wing attitudes.<sup>5</sup> The fact that this analysis will look at right-wing attitudes can also be

2 In the sense given to it by John Mearsheimer, “The belief that other nations or nation states are simultaneously inferior and threatening, and therefore must be treated harshly.” (John Mearsheimer: “Back to the Future: Instability in Europe after the Cold War”, *International Security*, Vol. 15, No. 1, Summer 1990, pp. 55-56.

3 Although present in Romanian literature, the term “hyper-nationalism” is not as common as the “ultra-nationalism” variant. See Valentin Stan, “Nationalism and European Security: Romania’s Euro-Atlantic Integration”, *International Studies*, Bucharest, No. 1, pp. 27-48; Gabriel Andreescu, Renate Weber, “Nationalism and Its Impact upon the Rule of Law in Romania”, in *International Studies*, Bucharest, No. 1, pp. 49-64. In his extensive study of Romanian nationalism (*Democracy and Nationalism in Romania, 1989–1998*, Bucharest, All, 1999) Tom Gallagher refers to ultra-nationalism, as does another reputed analyst of Romanian extremism, Michael Shafir (see his *Reports on Eastern Europe* and *East European Perspectives*: [www.rferl.org/eeepreport/](http://www.rferl.org/eeepreport/)).

4 See Gabriel Andreescu, *Ruleta. Români și maghiari, 1990–2000*, Polirom, Iași, 2001.

5 See the definition of one of the European experts on right-wing extremism: “The term ‘extreme-right parties’ refers to political parties with a core ideology that includes (at least) the features of nationalism, xenophobia, welfare-chauvinism, and law and order.” (Cas Mudde, “Extreme-right Parties in Eastern Europe”, in *Patterns of Prejudice*, Institute for Jews Policy Research, vol. 34, no. 1, 2000, p. 5).

explained by the fact that left-wing extremism was – and still is – an obscure force in this country.<sup>6</sup> The few left-wing extremist organizations in the early nineties (“The League of Romanian Communists”, “The Initiative Committee for the Establishment of the Romanian Communist Party”, the *Scântea socialismului* newspaper) have been completely marginal in political life as well as in the media.<sup>7</sup> Their slogans against private property enjoy no sympathy today and will not inspire people in the future, either. Their presence in the public space is limited to statements that are hardly considered or covered by the mass media, and are always quickly forgotten. Their offensive style is just a mask for their almost total lack of audience and means.

Under such circumstances, this Report will refer to left-wing extremism only in passing. The extremist attitudes commonly described as right-wing cover almost completely the question of extremism in Romania.<sup>8</sup>

6 According to the June 1998 – June 1999 SRI Report, left-wing extremist movements have had little impact, especially due to their modest audience. Their goals have been predominantly connected with the re-organization and legalization of Romanian Communist Party structures. At the end of 1999, nine foundations or associations were active for those purposes. Since the financial means of these groups are very limited, their leaders usually seek foreign financial support.

7 Gabriel Andreescu, “Raportul Serviciului Român de Informații” (“Romanian Intelligence Service Report”), *Revista Română de Drepturile Omului*, No. 6-7, 1994, pp. 17-25.

8 Considering the level of poverty, the widespread corruption and the acute polarization, which leave little room for a middle-class, the emergence of left-wing extremism is, in principle, possible.



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## II.

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### EXTREMIST DISCOURSES, IDEOLOGIES, AND ALLEGIANCES

According to the law concerning Romania's national security, it is the competence of the Romanian Intelligence Service to identify totalitarian and extremist activities.<sup>9</sup> The law uses only an implicit definition of "extremism". According to the law on national security, "the initiation, organization, carrying out or supporting in any way of totalitarian or extremist acts, of fascist, legionnaire or any other type, as well as racist or anti-Semite acts" is considered a threat to national security. The Romanian Intelligence Service submits an annual report to the Romanian Parliament. A list of the main extremist movements should therefore appear in the SRI Reports.

The first such Report was issued in October 1994, and it contained the results of the Service's activities during the period October 1993 – September 1994. SRI pointed to the existence of "right-wing extremism" and indicated a party (The Party of the National Right), foundations (Bunavestire, The Association of Ex-Presidents and Leaders of Student Organizations of 1919–1948), publications (*Gazeta de Vest – Timișoara*, *Puncte Cardinale – Sibiu*), and publishing houses (*Gordian*, *Marineasa*). It also identified "left-wing extremism" in The League of Romanian Communists, The Initiative Committee for the Establishment of the Romanian Communist Party, and the newspaper *Scânteia socialismului*.

The Report issued on 23<sup>rd</sup> November 1995<sup>10</sup> refers to the old Legionnaire Movement – rekindled in the counties of Alba, Brașov, Constanța, Cluj, Dâmbovița, Dolj, Iași, Galați, Gorj, Prahova, Neamț, Sibiu, Suceava, Timiș, Vâlcea, Vrancea and București. It mentions the Associations of "Moța și Marin", and "Horia Sima".<sup>11</sup> In this Report, left-wing extremism was identified in the attempt to re-establish the old Communist Party, and in particular

9 Law no. 51 on the National Security of Romania, "Monitorul Oficial" [Official Gazette], part I, no. 163, Bucharest, 29<sup>th</sup> July 1991, Art. 3.h.

10 Romanian Intelligence service, Bucharest, 1995.

11 SRI was referring to the complaint of the representatives of the Jewish community concerning the emergence of such movements.

the Romanian Communist Party – Tg. Jiu branch. According to the June 1998 – June 1999 SRI Report<sup>12</sup>, attempts to rebuild an Iron Guard-type of movement at national scale continued during 1999. At this moment, right-wing extremist activities are promoted (usually in ritualistic form) by 28 organizations, associations or clandestine groups. At present, there are 12 foundations or associations that actively support legionnairism. Several of them are openly apologetic of violence and political murder.

Yet during the entire 1994–2001 period, the SRI Reports systematically avoided any reference to the most violent extremist groups and actions: the Greater Romania Party, the Party of the National Unity of Romanians, the Movement for Romania, or foundations such as Vatra Românească (the Romanian Hearth) and Greater Romania (România Mare). There was no mention of periodicals such as *Europa*, *România Mare*, *Totuși iubirea*, *Vremea* or *Mișcarea*. In other words, the SRI conducted its activities depending on its own political interests. SRI's partisanship was possible due, in part, to vices of the specific law ruling its organization and functioning.

It follows that the SRI Reports cannot offer a systematic view of Romanian extremism, in spite of the fact that this Service is an officially empowered institution that possesses clear responsibilities in this field. On the contrary, the Service was itself one of the very effective sources behind extremist incitements.<sup>13</sup>

### **Extreme Right Movements. The Legionnaire Background**

The organizations that SRI listed as (extremist) threat to the rule of law are, most often, textbook-cases of far right-wing extremism. In Romania, this type of extremism follows in the footsteps of the Legionnaire tradition. The Legionnaire Movement, which claimed to be an offspring of, among other things, the Christian-Orthodox tradition, was a powerful political force between the two World Wars. It promoted the thesis of the identity of Romanism and Orthodox religion, it supported the cult of the *glorious history* of the Romanian people, and branded Jews, Gypsies and homosexuals as a threat to Romanian traditional, national background. It was engaged in a symbolic competition with the Hungarians, a community it would accuse of revisionism. The Legionnaires organized political assassinations

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12 Romanian Intelligence Service, Bucharest, 1999.

13 As a matter of fact, the nature and extent of extremism have to be judged *against* the image that the SRI generally sought to offer to the public.

and started a (failed) rebellion aiming to get hold of political power. Finally, they militated for an alliance with Hitler's Germany.

Today's extreme right rehearses most of these themes, to which it adds the cult of World War II heroes – among whom Marshall Antonescu occupies a leading position – and requests for unification with the territories forcefully taken by the USSR at the end of WWII (*de facto*, taken in 1939, as a result of the Ribbentrop-Molotov Pact).

It is difficult to evaluate the real number of this type of right-wing extremist groups and acts there are, partly because not all the candidates are *beyond a shadow of a doubt* extremist. Some organizations deal with one issue of those mentioned above, while others deal with complementary questions. The goal of eliminating the rules of a democratic society – which is central to extremism – is not assumed by all groups that appropriate the issues associated with the extreme right.

At the beginning of the 21st century, the most visible organization that tries to mobilize public sympathy in the name of the right and openly assumes its Legionnaire sympathies is the New Right. Its posters can be usually seen in the centers of Bucharest and other important cities, and especially on the walls of the University building. This group usually signs extremist statements alongside other similar organizations.<sup>14</sup> It publishes the *Noua dreaptă* (*New Right*) magazine, and has its own Internet site.<sup>15</sup> Here are some snippets: “The Gypsy Danger”, “The Offensive of Religious Sects”, “The Failure of Political Parties”, “NO to Homosexuality”, “STOP Immigration”. According to the members of the New Right, the Roma problem should be solved by “social integration and, in the case of failure, by having them leave the country.”

The Legionnaire tradition is actively promoted by exiled ex-Legionnaires. The Romanian Legionnaire Movement has its own Internet site,<sup>16</sup> *Mișcarea Legionară*, which publishes materials from Legionnaires around the world.<sup>17</sup> *Garda de Fier – Gazeta de Exil* (*The Iron Guard – The Exile Gazette*) also appears on the Internet. The League of National Defense<sup>18</sup> publishes *The New Right* (New York), and is headed by an active

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14 Led by Tudor Ionescu, it was established around 1999, has 300 members and branches in several cities.

15 <http://www.nouadreapta.ro>

16 <http://www.miscarea-legionara.org>

17 Such as the communiqués of Mircea Dimitriu, a follower of Horia Sima, the Legionnaire commander, secretary general of the Legionnaire Movement – Foreign Branch (currently lives in Stuttgart, Germany).

18 Name taken from the National Christian Defense League, founded in 1923 by A.C.Cuza, which promoted an extremely nationalist/chauvinistic discourse, and, by attracting Corneliu Zelea Codreanu, became a violent adversary to political opposition.

Legionnaire, Constantin Burlacu, who once attempted an alliance with the Greater Romania Party.<sup>19</sup> A researcher of Romanian Legionnarism discussed the affinities between all extreme-right radical groups, which at the same time “fight each other, each trying to introduce itself as the only authentic representative of our traditional nationalist (Legionnaire) heritage.”<sup>20</sup>

The typically Legionnaire periodicals published in Romania after 1989 include, most prominently, *Gazeta de Vest*,<sup>21</sup> *Gazeta Gospodarilor*, *Lumea Satelor*<sup>22</sup> and *Puncte Cardinale*.<sup>23</sup> The magazine *Permanențe* belongs to the Sima tradition,<sup>24</sup> while the Sarmizegetusa Foundation of Cluj-Napoca (member of the Nationalist Christian Club) proposed the sanctification of Corneliu Zelea Codreanu.<sup>25</sup> The Buna-Vestire Foundation has its own *Information Bulletin – Buna Vestire*.

Another organization, the New Right Group (Grupul Noua Dreaptă),<sup>26</sup> issues the *Măiastra* magazine. Although rather obscure, the *Right Generation (Generația Dreptei)* is relevant because it shows that the transfer from extreme-right attitudes to “normal” political life is sometimes easily made. This periodical is published by people close to the Union of Right Forces (UFD), which was a part of the government coalition of 1996-2000. According to the UFD platform: “It is not natural that a national minority should become a social problem in Romania, and that nobody should have the courage to talk about this fact for fear they would hurt the country’s image abroad. ... It is not normal that the death penalty should be abrogated in Romania simply because this is what international bodies requested from us.”<sup>27</sup>

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19 William Totok, “Sacrificarea lui Antonescu pe altarul diplomației (II)”, *Observatorul cultural*, No. 75, 2001, p. 17.

20 William Totok, “Sacrificarea lui Antonescu pe altarul diplomației (III)”, *Observatorul cultural*, No. 76, 2001, p. 16.

21 Subtitled a “Magazine for history, attitude and faith”, and originally published weekly in Timișoara. Its first issue came out in 1990 under editor Ovidiu Gules. In 1991, a new series was started, and since then it has been published as a monthly.

22 “A publication for those who work and think as well”, Year I, No. 1, 1994. Chief editor: Gabriel Constantinescu.

23 An independent periodical of National-Christian persuasion, chief editor Gabriel Constantinescu, Year I, 1990.

24 From the name of Horia Sima, Legionnaire commander after the physical disappearance of Zelea Codreanu, an associate in the government of Ion Antonescu until the rebellion of January 1941, when he emigrated to Nazi Germany, and after the war to Spain. He died in Augsburg in 1993.

25 The most important personality of the Legionnaire movement; he was assassinated in 1938.

26 Led by Bogdan George Rădulescu.

27 Gabriel Andreescu, *Polemici neortodoxe*, Bucharest, Fundația Noesis, 2001.



The previous examples point to a typical pattern: associations and foundations, the main purpose of which is to publish a periodical, sometimes just a webzine. Thus, *Sfarmă Piatră* is published in Bucharest by the “Prof. George Manu” Foundation;<sup>28</sup> *Scutul* magazine is published by the Sarmizegetusa Foundation in Cluj; the *Information Courier of the “For the Motherland” Party* is published by the eponymous party, etc.

The Association of Christian-Orthodox Students in Romania (ASCOR) is the most powerful organization of Orthodox fundamentalism. Its main target are the universities, where it acts apparently without restraint and, due to the protection offered by the Romanian Orthodox Church (BOR), it sometimes gets some support from the university administration. Many organizations are easily identified by means of their anti-Hungarian bias (e.g. the “Avram Iancu” Society).

One of the central preoccupations of right-wing traditionalism is the denial of the cleansing of Jews in Romania.<sup>29</sup> The League for the Fighting of Anti-Romanism organized in Bucharest, on June 14–15, 2001, a symposium on “Holocaust in Romania”. Its “Statement” contained the following: “Legionnaires and, implicitly, Romanians are subjected to the same old media pressures created by the persistent accusations of anti-Jewish genocide and holocaust in Romania”. One of the symposium’s initiators stated, on a different occasion, that the assassinations in the Bucharest Slaughterhouse during the Legionnaire rebellion was a story “completely made up by the sick imagination of journalists”.<sup>30</sup>

## **Revisionism and the Cult of Marshall Antonescu**

The word “revisionism” refers here to the contestation of national frontiers established after World War II and the support lent as a consequence to policies that could endanger international rela-

<sup>28</sup> <http://www.sfarma-piatra.com>.

<sup>29</sup> During the war, over 100,000 Jews were deported in the Transdnier region, to which one should add the 275,000 Jews from Bessarabia, Northern Bukovina and Herța (which then belonged to Romania). A large number perished in the treatment to which they were subjected. In this context, we should remember the victims of the massacres in Mihoreni, Galați, Dorohoi, Iași, etc. Historians have offered strikingly different figures, from somewhat over 100,000 victims (Dinu C. Giurăscu, Florin Constantiniu) to over 400,000 (Jean Ancel, Radu Ioanid). For further reading, see Radu Ioanid: *Evreii sub regimul Antonescu*, Bucharest, Edit. Hasefer, 1997

<sup>30</sup> Ion Coja, “Holocaust în România?”, Open letter to His Highness “Alexandru Șafran”, in *România Mare*, No. 555, Year XII, March 2, 2001. During the Legionnaire rebellion of 1940, several dozen Jews were murdered and then hung up from the hooks of the Bucharest Slaughterhouse.

tions.<sup>31</sup> Revisionism happily mixes with nostalgia for the state of affairs before the war and for traditional values.

Nostalgia for the Greater Romania<sup>32</sup> and for personalities who opposed communism is, to a certain extent, an expected development in a country that had lived, for 50 years, the nightmares of communist totalitarianism.<sup>33</sup> But revisionism and the cult of Marshall Antonescu are fostering a culture that is prone to extremism.

Revisionist attitudes are supported by the Romanian population to a surprisingly high extent, when they are asked about. But in fact, polls show that people do not pay attention to this issue. Up to a point, such attitudes were common even among the officials.<sup>34</sup> As an example of revisionism, one should cite “The statement for the unity of all Romanians”, published by a Legionnaire magazine.<sup>35</sup> According to this statement, “after the powers that be signed the capitulation treaty with Ukraine, which acknowledges *de jure* that Romanian territories belong to Ukraine, they now try to do the same with a treaty between Romania and the Republic of Moldova, which ignores the historical truth and thus recognizes the consequences of the

31 To the revisionists, the goal of going back to the frontiers before the Peace of Paris is doubtlessly more important than the goal of international peace today. (Note that this definition does not count as revisionists those who simply contest the morality of the frontiers traced in Paris, or those who attempt to change frontiers by promoting official agreements between the states involved.) Some authors give a broader meaning to “revisionism”, which refers to historical re-interpretation, but for the purposes of this study a narrower concept would be preferable.

32 Between 1918 and 1940, Romania had its largest territory ever, which included Bessarabia and Bukovina, and which at the end of the war were incorporated by the USSR. “The Romania of that period” is referred to as “Greater Romania”.

33 Here the distinction between “innocent” and “malevolent” supporters (Henry C. Carey), as discussed by Michael Shafir, is arguably relevant: “one can argue in favor of distinguishing between ‘innocent’ and ‘malevolent’ supporters of radical return postures in general, with ‘innocence’ being large enough to include not only lack of familiarity with historical fact, but also attitudes deriving from militant anti-Left positions.” (See Michael Shafir, “The Greater Romania Party and the 2000 Elections in Romania: A Retrospective Analysis”, *East European Perspectives*, Vol. 3, No. 15, 2001, p. 5.)

34 This fact generated international concern, as indicated by, among others, a study called “Toward the Return of Balkan Wars”, published in the reputed *Politique Étrangère*, which read: “this stand taken by Romania falls in line, first of all, with the claims vis-à-vis Ukraine over Southern Bessarabia and Northern Bukovina, but it undeniably contributes to straining the Balkan climate in the context of the global calling into question of frontiers.” (*Politique Étrangère*, No. 2, été 1992, 57<sup>e</sup> année, p. 266). For a synthesis of these attitudes see Gabriel Andreescu, Valentin Stan, Renate Weber, “Romania’s Relations with the Republic of Moldova”, *International Studies*, No. 1, Bucharest, 1995, pp. 11-27.

35 Published since May 13, 2000. See *Sfarmă Piatră*, December 2001, <http://www.sfarma-piatra.com/noutati/index.htm>.

Ribbentrop-Molotov pact of August 23, 1939. This treaty harms again the national interests of the Romanians. As a consequence, we ask the President of Romania and the Parliament to refrain from signing and ratifying the text of the treaty between Romania and the Republic of Moldova, as concluded on April 28, 2000.” There are a lot of similar statements, but this one was worth quoting if only because it offers a long list of signatures: the Romanian National-Civic Forum, the National Council of Reunion, the Association of Christian-Orthodox Students in Romania, the Student Association of the University of Bucharest, the Student Association of the Agronomical University, the Students’ League, the League of Students in Bessarabia and Bukovina, the “Avram Iancu” Society, the “Pro Basarabia și Bukovina” Association, the Alliance of Romanians in Bukovina, “Glasul Bucovinei” (Cernăuți), the Association of Minority Presses in Romania, the Romanian Commission for the History of World War II, the Historians’ Association (Chișinău), the “Armonia” Foundation of Ethnically Mixed Families in Romania, the “Onisifor Ghibu” Foundation, the “Victoria 1989 Timișoara” Association, the “Profesor George Manu” Cultural Foundation, the Foundation of Anti-Communist Resistance Fighters, the “Buna-Vestire” Foundation and the “For the Motherland” Party.

### **The Cult of Marshall Antonescu**

Another relevant phenomenon is the **cult of Marshall Ion Antonescu**<sup>36</sup>, leader of the Romanian state, who was responsible for the deaths of over 150,000 Jews<sup>37</sup> and several thousand Roma,<sup>38</sup> whom he deported to the Transdnier region during World War II.

Almost all extreme-right organizations participate in the cult of Antonescu. Some even bear his name (e.g. the Marshall Antonescu League). Yet Antonescu’s supporters are to be found throughout the Romanian society. *The Greater Romania Party* deserves the credit for being the most systematically pro-Antonescu organization of all. Together with other radical organi-

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36 See Michael Shafir, Reabilitarea postcomunistă a mareșalului Antonescu: Cui bono? [Postcommunist Rehabilitation of Marshall Antonescu: Cui bono?] in *Exterminarea evreilor români și ucrainieni în perioada antonesciană*, ed. Randolph L. Braham, Bucharest, Edit. Hasefer, 2002, pp. 400-465 (Romanian version of *The Destruction of Romanian and Ukrainian Jews during the Antonescu Era*, New York, Columbia University Press, 1997).

37 This is a minimal figure – see footnote 29.

38 Cf. Lucian Năstasă, Studiu introductiv [Introductory study] in *Minorități etno-culturale. Mărturii documentare. Țigani din România (1919-1945)*, eds. L. Năstasă, A. Varga, Cluj, Ethnocultural Diversity Resource Center, 2001, pp. 21-23.

zations, Geo Stroe, President of the Dacian-Romanian Academy, proposed in 1993 during the first national symposium dedicated to Marshall Antonescu “the establishment of an institution of military education bearing the Marshall’s name.” He also proposed the sanctification of the Marshall by the National Church, the rehabilitation of this “brave soldier” and of his collaborators, and the creation of the Ion Antonescu Memorial Museum.<sup>39</sup>

The cult of Marshall Antonescu brought together different political groups. The commemoration of 55 years since his death (June 1, 2000)<sup>40</sup> brought together Gral. Mircea Chelaru,<sup>41</sup> Corneliu Vadim Tudor and the Romanian Hearth’s Honorary President Iosif Constantin Drăgan.<sup>42</sup> Priest Dumitru Radu (Parcul Călărășilor parish) was invited. Mircea Chelaru had headed the Romanian army in Târgu Mureș during the inter-ethnic clashes of March 1990, where he did nothing to defuse (or prevent) the conflict. As a consequence, he participated in the establishment of the Romanian Intelligence Service, was appointed head of the Counterespionage Division, and had prerogatives in the surveillance of irredentist activities. He openly declared his disagreement with respect to UDMR’s participation in the government, he made statements with respect to the danger of losing the Dobrogea region, and he established the National Association of Romanian Army Members, which militated against anti-national activities.<sup>43</sup>

The organizations which support revisionism and the cult of Marshall Antonescu<sup>44</sup> are **often intermingled with extremist forces which hold offi-**

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39 William Totok, *Op. cit.* p. 17.

40 The ceremony took place in the yard of the Holy Emperors Constantine and Helena Church, the foundations of which were laid by Antonescu and his wife.

41 Army Corps General, later Head of the General Chiefs of Staff. He was placed in Reserve and then became President of the Party of the National Union of Romanians (PUNR).

42 The treasurer of the old Legionnaire Movement, now a businessman in Italy.

43 Cf. *Cotidianul*, November 2, 2000.

44 See the series authored by William Totok: “Rumänien wird zur Hochburg der Antisemiten”, *Die Tageszeitung (TAZ)*, October 27, 1998; “Schweigeminute für einen rumänischen Patrioten”, *TAZ*, July 3, 1999; “Sehnsucht nach starkem Staat”, *TAZ*, December 12, 2000; “Der heilige Krieg des Antonescu”, *TAZ*, January 30, 2001; “Das Internet als virtuelle Internationale”, *Die Neue Gesellschaft / Frankfurter Hefte*, 48. Jg., No. 4, April 2001, pp. 216-220; “Die Rückkehr der ofschränzen. Restauration und politischer Extremismus in Rumänien”, *Kommune*, 12. Jg., No. 7, 1994; “Faschisten als Hoffnungsträger der Demokratie? Rechtsradikale Tendenzen in Rumänien”, *Kommune*, 11. Jg., No. 6, 1993, pp. 25-27; “Der alltägliche Antisemitismus. Tagebuchaufzeichnungen 1935–1944 des rumänienjüdischen Autors Mihail Sebastian”, *Halbjahresschrift für südosteuropäische Geschichte, Literatur und Politik (HJS)*, 9. Jg., No. 2, 1997, pp. 38-44; “Rumänischen Faschismus”, *HJS*, 7. Jg., No. 1, 1995, pp. 42-55; “Cyberspacelegionäre. Rumänischer Postfaschismus im Internet”, *HJS*, 9. Jg., No. 1, 1997, pp. 7-23; “Der bleierne Vorhang”, *HJS*, 11. Jg., No. 1, 1999, pp. 5-15; “Postkommunistische Märtyrologie”, *HJS*, 12. Jg., No. 1, 2000, pp. 40-55.

**cial powers.** These “civic voices” are capitalized upon by ultra-nationalist forces that are part of the government, especially when the positions of the former may be used as a pretext. As the Ministry of Education initiated in 1998 its own campaign against the requests of the Hungarian community for a State University in Hungarian language, it was immediately seconded by Romanian National Civic Forum statements.<sup>45</sup> When the SRI and its Control Commission published a Report that incited against the same community,<sup>46</sup> a Report that was meant to “help” with the struggle within the government party and dissolve the Social Democrat Party-UDMR government pact,<sup>47</sup> several organizations within Hungarian-majority counties were put to use: the “Andrei Șaguna” Cultural Christian League, the ASTRA Covasna and Harghita branches, the “Miron Cristea” Cultural Christian Foundation, the Romanian Hearth Cultural Alliance – Covasna county, the “Justinian Teculescu” Cultural Christian Alliance – Covasna county, the “Mihai Viteazul” Cultural Foundation, the Teachers’ Association – Harghita county, the Association of Romanian Teachers – Covasna county, the Romanian Christian-Orthodox Youth League – Sf. Gheorghe branch, the “Neamul Românesc” National Foundation – Covasna branch, the National Foundation of All Romanians – Covasna and Harghita branches.

These associations are partly sponsored by the state, which grants them headquarters and access to resources not enjoyed by associations fighting for democracy (human rights, minority rights, anti-corruption, etc.). **Even in 2002, high Romanian officials coordinated their positions with those of chauvinistic organizations in acts against Hungarian Changos.** Ecaterina Andronescu, Minister of Education and Research, was particularly active in this respect, as she propagandized on the national TV channel the theses of Dumitru Mărtinaș, who argued that Changos are of Romanian origin,<sup>48</sup> and referred to the “Dumitru Mărtinaș” Roman-Catholic Association. The theory now popularized by Andronescu was launched by the Romanian Securitate in the 1980s, and

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45 Gabriel Andreescu, *Ruleta*. Români si maghiari, 1990–2000, Iași, Polirom, 2001, p. 222.

46 The Report authored by the SRI Control Commission announced the “loss of state control” in the two Hungarian-majority counties. Consequently, it generated a crisis in the relations between the Social Democratic Party (PSD) and the Democratic Alliance of Hungarians in Romania (UDMR).

47 The effect would have been the buttressing of the Greater Romania Party’s positions.

48 In Dumitru Mărtinaș, “Originea ceangăilor din Moldova”, revised and edited by Ion Coja and V.M. Ungureanu, Bucharest, Edit. Științifică și Enciclopedică, 1985; the volume was republished by I. Coja in 1998, Edit. Symbol, and an English version appeared in 1999, edited by V.M. Ungureanu, I. Coja and Laura Treptow, Iași – Oxford – Portland, The Center for Romanian Studies.

was part and parcel of the regime's assimilationist policies against the Hungarian Changos.

Minister of Public Information Vasile Dâncu, the man responsible for the Department for Inter-Ethnic Relations – the new governmental structure with competences in the field of national minority protection – associated his name to organizations such as the European Studies Center Harghita-Covasna<sup>49</sup> and the “Dumitru Mărtinaș” Roman-Catholic Association in the preparation of an international seminar promoting anti-Chango theses. These organizations, whose aggressively extremist attitudes have been surfacing throughout the past years, have been provided with public money, which they have used to their discretion. The organizers restricted the participation or accreditation of journalists, experts and representatives of human rights and minority groups who were known as promoters of the rights of Hungarian Changos.<sup>50</sup>

Who is the minister responsible for the protection of minority rights that uses such partners from the civil society? Just prior to becoming member of the Adrian Nastase's cabinet, Vasile Dâncu wrote, “Human rights are cheap nonsense, and it is in fact indecent to talk about them. (...) A distinguished deputy makes efforts so that we have a law for professional whores, homosexuals want us to share their experience, Hungarians want us to make them separate Hungaries wherever they come in contact with us. Shameless imbeciles despise us on television screens, they fake our history, demolish our culture, blame us for being the majority and for not being endowed with nomad identities, easy to pack and pass through the customs of the world's airports.”<sup>51</sup>

### **The National Written Press and “High Culture” in the Promotion of Violent, Anti-Minority, Anti-Multiculturalist, Anti-Modern and Xenophobe Discourse**

One of the dangers that aggravates and extends the extremist danger in Romania is the increasingly systematic manifestation of an anti-minority, anti-multicultural, anti-modern discourse in the national written press, and even of highbrow culture, with an increased capacity to penetrate in the circle of educated citizens, newspaper readers, of stu-

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49 It is suggestive that the organization's positions were bowdlerized by an apparently pro-European name – “European Studies Center”.

50 The seminar took place on April 29, 2002, and was titled “The Cultural Identity of (Chango) Roman-Catholics in Moldova”.

51 Vasile Dâncu, *Țara telespectatorilor fericiți – Contraideologii*. [The country of happy viewers – Counter-ideologies], Cluj, Edit. Dacia, 2000, p. 210.

dents and of the social elite. This discourse is not inciting, but its confusion and distortions, aggressive tone, apocalyptic style, reductionism and/or the accusatory note feed a cultural space that spawns right-wing extremist ideologies.

“Adevărul”, the newspaper with the widest circulation, contributes to this phenomenon through the increased visibility of Cristian Tudor Popescu.<sup>52</sup> The articles of the chief editor of this important daily most often appear as editorials, and are later published in volumes.<sup>53</sup> Members of the minorities and the ideology exported on their behalf, as well as affirmative action, are for Cristian Tudor Popescu a threat to “normal” society. They are, at the same time, an instrument of American imperialism, “This ideology, based on the malign modification of what is called “Human Rights”, is political correctness, affirmative action – a more damned concept than communist egalitarianism: the member of whatever sort of minority must not have the same rights as the member of the majority, but more and more powerful, for that’s why he is a member of the minority. Power thus controls the majority, by stirring the minority against it. Not only inside the country. This ideology is heavily imported from the USA, together with hormone-laden meat, for the Soviet lesson shows how useful a doctrinarian straitjacket is for world domination. With each bottle of Coca-Cola, you swallow a dose of affirmative action.”<sup>54</sup>

Cristian Tudor Popescu’s anti-multicultural and xenophobe ideology embraces, of course, the mythology of the “national state”. “Which is why the ideology that goes with the necessary American expansion also appears. It is called many names, which are all related, without overlapping: political correctness, multiculturalism, globalism, post-modernism... A nation state that is injected with these products is attacked in its key points: central authority, official state language, history, the church, traditions, culture, the entire set of spiritual values that define a nation.”<sup>55</sup>

The attitudes that represent the material of extremist ideologies are sometimes seen in the supplements of national newspapers. In the Saturday-Sunday edition, the “Ziua” publishes the supplement of the Anastasia Foundation, and another supplement, called “Dosarele secrete” [Secret files]. The page of the Anastasia Foundation often has a fundamentalist tone, it demonstrates homophobia and orthodox-militantism. For a while, it was hosted by the daily newspaper “România liberă”,

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52 As concerns the traditional anti-Hungarian politics of “Adevărul”, it seems to be part of an eminently political equation.

53 See C.T. Popescu, *România-abțibild* [Romania-sticker], Iași, Polirom, 2000.

54 Cristian Tudor Popescu, *Maimuțăreala* [Monkeying around], in “Adevărul”, September 20, 1999.

55 Idem, *Legea lui Marx și România abțibild*, in “Adevărul”, December 1, 1999.

before moving on to the “Ziua”. Its founder, Sorin Dumitrescu, is quoted as a typical conspirator: “It was late, as I was too busy, like any good-willed person, with our post-revolutionary misfortune and the desire to rebuild, when I realized that someone, some people, well, whom we cannot point at, with feline movements, tamper with the axiological device, with its delicate buttons that have an irreversible effect, with the values of our tradition, of our customs, our Christian-Orthodox nature. The aim is Romania’s spiritual mutilation.”<sup>56</sup>

Vladimir Alexe is another conspirationist, who publishes the “Secret Files” of the daily newspaper “Ziua”. William Totok wrote about him, “Vladimir Alexe emerged lately as one of the most active authors of conspiratorial scenarios, becoming a genuine competitor of the prolific Pavel Coruț (a notorious figure for his past as a Securitate officer and for his revisionist-nostalgic and nationalist-xenophobe attitudes)”.<sup>57</sup> William Totok warned about the latest developments of the journalist, referring to the latter’s article published on the very day of Adolf Hitler’s birthday,<sup>58</sup> “Vladimir Alexe’s work style consists in distorting information disguised in misinterpreted readings (which shows even in the fact that he misspells titles and names of authors or persons). While up to now, Vladimir Alexe confined himself to writing conspiratorial literature in which he has mixed phobias of globalism, western values and communism, he has recently discovered revisionist mystifications, practiced by essayists and historians who deny the Holocaust or minimize the European fascist dictatorships. Drawing on these ‘theoreticians’ of the international extreme right, Alexe suggests now in a delirious text that the ‘Crystal Night’ was a ‘conspiracy’ organized with the aim of compromising Hitler.”

“România liberă” publishes the supplement entitled “Aldine”, which provides space for sweetened presentations of legionnairism. Thus, on June 22, 2002, the newspaper propagandized manifestations occasioned by the celebration of 75 years since the Legion of Archangel Michael<sup>59</sup> was set up, in the following terms, “Seventy-five years since a ‘whispered’

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56 Apud George Voicu, *Zei cei răi. Cultura conspiratiei in România postcomunistă*, [The Evil Gods. The Culture of Conspiracy in Post-communist Romania], Iași, Polirom, 2000.

57 William Totok, *O nouă dimensiune a revizionismului din România*, [A new dimension of revisionism in Romania], in “Observatorul cultural”, no.115, 2002.

58 Vladimir Alexe, *Anatomia unei conspirații. “Noaptea de cristal”* [The anatomy of a conspiracy. “The Crystal Night”], in “Ziua”, 20 April, 2002.

59 Extreme right-wing organization set up on June 24, 1927, under the leadership of ‘captain’ Corneliu Zelea Codreanu, whose organizational nucleus was the ‘legionnaire nest’; the Legion declared itself a nationalist movement of spiritual and moral rehabilitation of the country, of fight against the Jews, who allegedly used ‘occult’ means to dominate the Romanian society.



event took place! The true history of Romania (different from that which was distorted by communist historiography) recorded an event which is still spoken of in whisper. The Legion of Archangel Michael was set up in Iasi on the day of Saint John the Baptizer, June 24, 1927. Between 1927–1938, all those who shared the sins and virtues of the Romanian nation, fought for their life with the red pest of the east. Today, communism still haunts the Christian Romania. On Monday, June 24, (...) the ACTIUNEA ROMÂNEASCĂ Association (registered legal person) organizes a public conference on the occasion of the 75<sup>th</sup> anniversary of the event that still preoccupies post-communist historiographers.”

The person who made the anti-minority, homophobic and anti-multiculturalist attitude into a wide cultural success was Horia-R. Patapievic. Patapievic's theses oppose the 'traditional' and the 'modern' man to the more recent modernity, under the threat of political correctness, multiculturalism and pro-minority policies. He cries over the “transitory evanescence, the nervous trepidation, the conscience of identity isolation, the vocation of victimization, the tension of minority disequilibrium, and the arrogance of singular claims – (...) aggressive (...) characteristics, doubled by the awareness that the member of a minority (...) is in a position to always be right in front of the majority”. He denounces pro-egalitarian, anti-elitist policies, seen as producers of a future apocalypse. “The future is grim. (...) The true birthplace of horrors that shall come is a combination of collectivist China and the America of extremist ideologies that are included in the manifest or hidden agendas of political correctness.”<sup>60</sup>

Ovidiu Hurduzeu also interprets political correctness, multiculturalism and protection of minorities as destroyers of values and the elite.

“Under the generous guise of the principles of ethnic diversity, in an interdependent world, multiculturalists hide their thirst for power and their desire to destroy all that is meant by VALUE UNIQUENESS. (...) Multiculturalists are far from a profound understanding of the notion of culture and cultural diversity. In a multicultural world, the standards of value are totally arbitrary. (...) In order to reach its goals, multiculturalism fights to prevent and punish any kind of behavior that might be to the detriment of the 'minority' group. (...) Practically, no western intellectual can speak out against multiculturalist dogmas without running the risk of being labeled racist or elitist, and exposing himself to the consequences.”<sup>61</sup>

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60 H.-R. Patapievic, *Omul recent* [The recent man], Bucharest, Humanitas, 2001, pp. 239-240. In Patapievic's view, “extremist ideologies” are multiculturalism, the theses of affirmative action, cultural relativism, etc.

61 Ovidiu Hurduzeu, *Individualismul românesc* [Romanian individualism], in “România literară”, no. 51-53, 1999.

Here is an example, like so many other examples, of a commentary in the same line, of an author who is much present in cultural magazines: Ioan Buduca. “Before being a great development of human rights, the policy of multiculturalism is a propaganda to complex any majority that might want to raise awareness of the fact that the true father of communist states was the America of businessmen and their political lobby...”<sup>62</sup>

In Buduca’s writings, anti-multiculturalism, anti-Americanism, and the criticism of political correctness are associated almost in the shape of a triad. “Nowadays, a dominant current in the so-called progressist circles of the western elite of American obedience decrees something even more horrible: we have no universal values, we only have cultural conventions, which are unjust, imposed forcibly by the winners of history (the white race, the heterosexual male, European powers). (...) How many will understand the danger that shapes on the horizon a new utopia of unique thinking (the only correct one from the political perspective)?”<sup>63</sup>

Gabriel Liiceanu, the director of Humanitas Publishing House – one of the most important publishing houses in the country – wrote on the back of a volume<sup>64</sup> which he promoted extensively, “Is it not at the very heart of this system of freedoms that madness stays hiding and there is a subtle dictatorship which reveals the grotesque schemes of an unsuspected intellectual dictatorship? In the hallucinatory pages of this book, Edward Behr shows us evidence that there is, at the end of our century, a face of America which is unknown or generally overlooked: the obsession with sexual harassment, absurd deviances to which the new concept of political correctness leads, the fashionable psychotherapies, the dictatorship of racial, cultural and sexual minorities. (...) For the Romanian reader who has already been through a nightmare of history, might this America, with its anguish and obsessions, forecast the meeting with its near-future?”

The notoriety that journalists and writers belonging to the category of the quoted authors puts the values of modern liberal democracy in defensive positions. The cases of Gabriel Liiceanu, who promoted, through his publishing house, the vogue of nationalists and inter-war irrationalists – ideologists of the extreme right – or of Horia-R. Patapievici, author of a book that is equally reactionary and successful,<sup>65</sup>

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62 Ioan Buduca, *Un propagandist de azi* [A contemporary propagandist], in “Contemporanul – idee europeană” [The Contemporary – European Idea], no. 501, 2000.

63 Idem, *Postmodernitatea – mai mult decât o crimă: o eroare!* [Postmodernism – more than a crime: an error!], in “Orizont”, no. 1, 2002.

64 Edward Behr. *O Americă înfricoșătoare*, [A frightening America], translated by Doina Jela-Despois, Bucharest, Humanitas, 1999.

65 It gained awards at two Book Fairs and the award of the Writers’ Union.

show the role of anti-minority and anti-multiculturalist intellectuals in the preparation of a favorable atmosphere for extremist currents.<sup>66</sup>

Emulators rehearse the ideas of such authors in formulations that are often radicalized. Thus, for Nicolae Bobică, “humanity preserves the conditions of perpetuating itself within the limits of civilization exactly because of the natural majority of people with self-respect”, which they oppose to the minorities, i.e. “the mass of criminals, mutilated, self-victimizing people”.<sup>67</sup>

What is remarkable is the reception that these attitudes enjoy from the authentic promoters of right-wing extremism, who ‘acknowledge’ in the ideas of the new cultural stars their own ideologies. One of them, Răzvan Codrescu, welcomes enthusiastically Patapievici’s new book, discovering that it “consolidates the status of a post-liberal Patapievici, a searcher of conservative foundations, a species of *aeternitatis*, refractory to the ideological rigors of an establishment that contributed to propagating him without foreseeing his non-alignment, promoter of a new anti-Americanism in principle, fed not by a nationalist or confessional reactionarism, but by the genuine commitment to a spiritual and cultural tradition – that of a Helen-Roman-Christian Europe.”<sup>68</sup> For Răzvan Codrescu, criticism of such ideas is pathological. “The expected discussions rushed to take on the shape of hysterical jealousy or of inquisitorial suspicion.”

In turn, the “Petru Maior” University of Târgu Mureș, headed by several ex-members of PUNR, invited Horia-R. Patapievici to lecture to its students about multiculturalism exactly when the town was going through the unrest caused by the “Bolyai Farkas” Highschool<sup>69</sup>. While the Romanian students were protesting with tricolor and black armbands, in the Aula Magna of the University, Patapievici was criticizing the attitude of “dominating minorities” – with implicit reference to the Hungarians.

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66 Michael Shafir, *The Greater Romania Party and the 2000 Elections in Romania: a retrospective analysis*, in “East European Perspectives”, vol. 3, no.15, 2001, p.4.

67 Nicolae Bobică, *Guvernatorii cei proști*, [Stupid governors], in “Orizont”, January 21, 2002.

68 *Revolta “omului recent”*, [Revolt of the “recent man”], in “Aldine”, no. 309; “România literară”, March 23, 2002; “Puncte cardinale”, XII, 2002, no. 3 (135), p.2.

69 After dissensions between PSD and UDMR, the Ministry of Education and Research announced, in May 2002, that the “Bolyai Farkas” Highschool – set up some 400 years ago – would not be mixed any more, but would start being a Hungarian Highschool.



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### III.

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## **THE MAIN EXTREMIST ACTORS: THE ROMANIAN HEARTH, THE PARTY FOR THE NATIONAL UNITY OF ROMANIANS (PUNR), AND THE GREATER ROMANIA PARTY (PRM)**

The most consistent, effective and threatening form of extremism in Romania was and remains *ultranationalism*. The organization that inaugurated this mode of extremist action is the Romanian Hearth (Vatra Românească), established in Târgu Mureș on February 1, 1990.<sup>70</sup> This initiative also involved the new officials in Bucharest, the leaders of which were in search of new means of legitimation: their old career in the Romanian Communist Party was back then a handicap rather than an argument for their newly acquired positions.<sup>71</sup> The ideological foundation of the Romanian Hearth was the anti-Hungarian sentiment. The founders have been involved, at the end of January 1990, in anti-Hungarian provocations, some hidden<sup>72</sup> but some manifest (in the local press and especially in *Cuvântul liber*, the organ of the future Hearth, as well as on TV). The anti-Hungarian feeling was supported by the media in the country's capital, and it reached a peak around the middle of March 1990. On

70 The first public announcement of the Romanian Hearth was made in Reghin on January 25, 1990.

71 On the evening of January 25, 1990, President Ion Iliescu talked about "Hungarian separatist tendencies", a phrase that later became an ultranationalist leitmotif. As a matter of fact, Iliescu featured on the list of Romanian Hearth founding members (see Előd Kincses, *Martie neagra la Târgu Mureș* [Black March in Târgu Mureș], Târgu Mureș, Juventus, 2001. Also see Gabriel Andreescu, *Ruleta. Românii și maghiarii. 1990–2000* [Roulette. Romanians and Hungarians. 1990–2000]).

72 On January 25, 1990, the Târgu Mureș Post Office sent an appeal cable with the following provocative (and false) statement: "Romanian brothers, colleagues in the Post and Telecommunication Offices ... in our unit, as well as others in Târgu Mureș, high positions are being systematically and abusively filled with Hungarians. Romanian pupils and teachers have been driven out of schools, brutalized, and spit on." (Előd Kincses, *Op.cit.*, p. 44)

March 19, a Romanian Hearth demonstration turned into an assault upon the local headquarters of the Democratic Alliance of Hungarians in Romania (UDMR). A well-known Hungarian writer was savagely beaten.<sup>73</sup> The violence mounted and, on March 21, 1990, the city of Târgu Mureș was the site of bloody clashes between Romanians<sup>74</sup> and Hungarians. The clashes ended with five dead and hundreds of injured.<sup>75</sup> Building on the feelings instability and insecurity generated by the events, the Romanian Intelligence Service (SRI) was created toward the end of March 1990 on the structures of the old Securitate.<sup>76</sup> The legal procedures required by the establishment of such an institution were eschewed.<sup>77</sup>

The anti-Hungarian Romanian Hearth, the group behind the clashes, garnered wide support both at local and at national level. It became an important political actor<sup>78</sup> and, just before the May 20, 1990 elections, it created the Party for the National Union of Romanians (PUNR).

In the coming years, PUNR became the most important ultranationalist party in Romania. In the local elections of 1992, its leader, Gheorghe Funar, was elected mayor of the most important Transylvanian city, Cluj.<sup>79</sup> In the parliament elections of the same year, PUNR obtained 7.72% (Chamber of Deputies) and 8.12% (Senate) of the popular vote, becoming the main partner of the Democratic Front of the National Salvation (FDSN) in the national coalition that led the country between 1992 and 1996. In that government, which the opposition used to call “the red square”, PUNR obtained two ministries and a relatively large number of other important positions.

How did the PUNR view the Hungarian threat? Here is a representative sample that needs no further comments: “As it is well-known, the nomad spirit and the barbarian style of the Hungarian people and its minority in Romania did not disappear in the last 1000 years. Maybe we, Romanians, will have to cure them of this embarrassment and turn them

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73 The victim was András Sütő, an important Hungarian writer and a member in the leadership of the local branch of the Democratic Alliance of Hungarians in Romania. See Tom Gallagher, *Democrație și naționalism în România: 1989-1998*, Bucharest, ALL, 1999.

74 Some were brought in from the villages surrounding the city, armed with bats and ready to fight.

75 Both Hungarians and Romanians were among the dead and injured.

76 The Securitate was Ceaușescu’s political police.

77 According to the law, the vote of the Provisional Council of National Unity (CPUN) was required for the establishment of this institution. Yet the CPUN was not even informed in this respect.

78 A member of the Romanian Hearth was included in the Romanian delegation that participated in the June CSCE meeting (see Tom Gallagher, *Op.cit.*, p. 132).

79 It is worth noting that in the second run of the elections, Funar was supported by the Front of National Salvation, the winner of the general election in 1990 (Tom Gallagher, *Op.cit.*, p. 154).

into a peaceful, civilized European people that will no longer covet foreign lands. God forbid they should once again extend their paws toward Romanian territories.”<sup>80</sup>

In the 1996 elections PUNR obtained only 4.36% (Chamber of Deputies) and 4.22% (Senate) of the parliament seats. It suffered what turned out to be a lethal loss of popularity. The fact that the UDMR, the Hungarians’ representative organization, became a party to the new government dealt another decisive blow to the former party. Moreover, PUNR leader Gheorghe Funar left the party in order to become secretary general of the Greater Romania Party (PRM). In the 2000 elections, PUNR failed to win any seats in the parliament. Its supporters defected massively to the PRM camp, the chauvinistic attitudes of which had defined a broader target (Hungarians, but also Roma and Jews). The Greater Romania Party was also responsible for a self-righteous, vindictive style in its simultaneous attacks against corruption and poverty. Today, the PUNR and the Romanian Hearth are both marginal groups with scant chances of ever finding their old glory again.

### The Greater Romania Party

Most extremist organizations have developed alongside media organs which were made available to them and which entered, in this way, the extremist circuit. The Romanian Hearth found willing hosts in most dailies of the Transylvania region, which had recently changed from the local branch Communist-sponsored *Scântea* into so-called independent newspapers. Conversely, some media instruments created extremist movements. Such is the case of the *România Mare* (*Greater Romania*) magazine, which was first published in 1990 and later created the Greater Romania Party (PRM).<sup>81</sup>

The language of *România Mare* turned out to be extremely successful. Its discourse, a typical sample of hate speech, aimed predominantly at Hungarians, Roma and Jews, yet it was no less concerned with any political or cultural group that advocated democracy.<sup>82</sup> Anti-Hungarian chau-

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80 Gheorghe Funar, *Informația Zilei*, Satu-Mare, October 27, 1994. When this statement was made, the PUNR had already been a well-established actor for a number of years and belonged to the ruling coalition. Its aggressiveness and its main issues hardly changed over time.

81 Another case is that of the extremist magazine *Mișcarea* (*The Movement*), which pre-dated the Movement for Romania Party.

82 See the statement of the U.S. Department of State Report on Romania – 2001, which is the first to identify PRM as an extreme right party: “In May [2001] the Israeli Ambassador expressed concern about a book published by a member of the

vinism was prominent, in the first instance because it brought back a maximum of political capital: "I very much fear that, at this rate, if they keep rubbing it in forever, we shall once again run a healthy race to that wonderful town of the czardas and available women, and there we shall stay for a while, to ensure peace in the area, at least until the year 2000 – we do not wish things to get that far, nobody likes military campaigns, but faced with the alternatives of Hungarians in Bucharest versus Romanians in Budapest, you can imagine what we'll choose and which music we like to hear..."<sup>83</sup>

The Greater Romania Party is identified almost completely with its leader (and chief contributor to *România Mare*), Corneliu Vadim Tudor. His discourse has long since exceeded even the most permissible boundaries of decency: "However, in talking about the descendants of those barbarians, I do not think that we offend the Magyar nation; quite on the contrary, we disseminate authentic, historical documents, attesting to the fact that they were originally primitives, something which Romanians have never been."<sup>84</sup>

In the 1992 elections, PRM obtained 3.89%, (Chamber of Deputies) and 3.85% (Senate) a score that barely got it into the parliament. In 1996, the party won 4.46% and 4.54%, which turned it into the country's leading extremist group. Now strategically placed in the opposition, PRM turned out to be especially active. At the beginning of 1999, it even took part in an attempted *coup*. Several groups and individuals appealed to the justice system in order to outlaw the PRM, but these lawsuits were dropped in the end. Over time, the weakness of the authorities proved to harm political life severely.

During the November 2000 presidential campaign, Corneliu Vadim Tudor adapted his discourse to the new political realities. His chauvinism concentrated on the Roma, as the Hungarians appeared to be a less promising target. He spoke live on TV about "the typology of gypsy mafia... They attack as a group, control the markets, and the only reason why they do not rape their children and parents is that they are too busy raping ours..."<sup>85</sup> Previously, in 1998, Tudor had publicized a manifesto stating that "gypsies that will not go to work ... will be sent to work camps."<sup>86</sup> He answered the widespread protests of Roma groups and

extreme-right 'Greater Romania' Party (PRM) which contained two jokes on the extermination of Jews by the Nazis." (<http://www.hrw.org/wr2k2/europe/15.html>)

83 Corneliu Vadim Tudor, "Atenție la Ungaria" [Beware of Hungary] (4), in *România Mare*, No. 17, September 28, 1990.

84 Corneliu Vadim Tudor, senator, president of the PRM. Speech delivered on February 7, 1995, at the working meeting of the PDSR, PUNR, PRM and PSM. See *România Mare*, No. 241, year VI, February 17, 1995.

85 *Doresc să fiu Președinte* (I Wish to Be President, TV Show), PRO TV, Bucharest, November 14, 2000.

86 The statement was published in full in *România Mare* (August 21, 1998), *Ziua* (August 17, 1998), and *Libertatea* (August 18, 1998).



NGOs by saying: “we are not interested in the gypsies. All [of them] should be sent to jail. There is no other solution.”<sup>87</sup>

The self-righteous, vindicator spirit of his discourse, as much as his slogans against corruption caught on. C.V. Tudor obtained an incredible electoral success.<sup>88</sup> He obtained around 30% of the total votes in the final round of the 2000 presidential elections. His party won a no less incredible 21.01% of the Senate seats, and 19.48% of the Chamber of Deputies.

It is important to note, at the same time, that President Ion Iliescu, the victor in the elections, made little effort to denounce the racist behavior of his opponent. In April 2001, he even argued that Romania “developed an immune system able to withstand interethnic hatred, intolerance, xenophobia, extremism, anti-Semitism, and racism.”<sup>89</sup> Moreover, the president used the term “colored” (which, in Romania, is considered highly offensive) with respect to a Roma citizen,<sup>90</sup> and complained that the national interest toward Roma owes to an anti-Romanian campaign in the West.<sup>91</sup>

### The 1999 Tentative Coup

The danger posed by the Greater Romania Party as an extremist group was never as clear as during its involvement in the 1999 tentative of *coup d'état*. In the third week of January 1999, the miners of the Jiu Valley started a protest movement.<sup>92</sup> Corneliu Vadim Tudor addressed them with the following words: “My dear miners, the country is with you. ... I shall get you in the luxurious offices in Bucharest, and I shall put the scoundrels that ruined this country into the mines.”<sup>93</sup> At the call and under the guidance of the miner’s union leader, Greater Romania Party vice-president Miron Cosma, the miners announced their intention to march into Bucharest in order to force the government to accept their demands. Similar actions in the past, also under the leadership of

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87 George Toader, “Romii nu-l iartă pe C.V. Tudor, dar nici el nu se lasă intimidat”, in *Cronica Română*, August 22, 1998.

88 The results were much higher than those projected by the opinion polls.

89 Ion Iliescu uttered these words at the opening of a forum on inter-regional relations in the Balkans, held in Bucharest on April 20, 2001. Cf. *România Liberă*, April 23, 2001. See RFE/RL Newswire, April 23, 2001.

90 “*Scurt pe doi*” [In brief] TV Show, Romanian Television, Bucharest, April 9, 2001.

91 RFE/RL Newswire, April 20, 2001.

92 Gabriel Andreescu, “*Tema stării de urgență din perspectiva tentativei de lovitură de stat*”, in *Sfera politicii*, No. 67, 1999

93 Corneliu Vadim Tudor, “Manifest pentru minerii din Valea Jiului” [Manifesto for the miners in Jiu Valley], *România Mare*, No. 444, January 15, 1999.

Cosma, had kept Bucharest under terror for several days in June 1990, and brought about the overthrowing of the Romanian government in September 1991. During the 1999 march, about 12,000 miners guided according to well-orchestrated military techniques destroyed two police and gendarmerie road-blocks. The prime minister was brought in to negotiate under the threat of the invasion of Bucharest.

The march on Bucharest was interrupted, but PRM vice-president Miron Cosma did his best to get it started again. He was eventually arrested, and the approximately 2,000 miners under his leadership were forced by law enforcement groups to turn back. To make this possible, however, the President had to call for a state of emergency.<sup>94</sup>

According to the terms of the the Reports of the UN Human Rights Commission<sup>95</sup> the events qualified as rebellion, subversion, public disorder, a threat to the safety of individuals, a threat against the Constitution and the authorities, and a danger to the country's economic life.<sup>96</sup> The threat was both "exceptional and imminent".<sup>97</sup>

The miners under the leadership of Greater Romania Party vice-president Miron Cosma were permanently in contact with the rest of the PRM leadership. The latter incited to and prepared, by means of statements made from the parliament floor and in the mass-media, a possible forcible change of the political regime freely chosen in the 1996 elections. PRM demanded the resignation of the cabinet and asked for anticipated elections, acting in resonance with the miners' actions.

Following the events, several public personalities requested that the PRM be outlawed on 5 counts: disrespect for the principles of constitutional democracy; incitement to public violence; disrespect for the rule of law; incitement to ethnic, racial and religious hatred; militancy against political pluralism.<sup>98</sup> The Ministry of Justice was notified but, in spite of clear evidence that PRM had violated the principles of constitutional democracy and the provisions of the law of political parties, the case was closed.

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94 As provided in Art. 93.1 of the Romanian Constitution. An Emergency Ordinance had to be adopted in the night between January 21 and 22 (1999), because when the hostilities started, there was no law in Romania providing guidelines for a state of emergency/siege.

95 It legitimates measures such as those taken by the authorities in Bucharest (calling a state of emergency). See the UN Commission on Human Rights, *Study of the Rights of Everyone to be Free from Arbitrary Arrest, Detention and Exile*, E/CN.4/826, 1962, p. 257.

96 N. Questiaux, *Study of the Implications for Human Rights of Recent Developments concerning Situations Known as State of Siege or Emergency*, E/CN.4/Sub.2/1982/15.

97 See the Greek case in *Report on the EHCR*, YBECHR 12, 1969

98 Dan Pavel, a lecturer with the Political Science Faculty at the University of Bucharest, started the legal procedures for outlawing PRM.

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## IV.

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### **EXTREMIST TENDENCIES WITHIN THE ROMANIAN ORTODOX CHURCH**

Counting the Romanian Orthodox Church (BOR) among those actors which may have a significant role to play in the development of extremism in Romania is a key point of this Report. For a long time, the part played by religion in the development of conflicts has been underestimated.<sup>99</sup> Ideological interpretations of the sources of conflict were rather preferred. Yet, especially after the Al Qaeda massacre of September 11, the relationship between religion, fundamentalism and extremism has to be reassessed.

This general statement finds an illustration in the case of the BOR. The Christian doctrine of the Romanian Orthodox Church is mystical in nature, and shows little interest in the values of respect and tolerance that are typical of other strands of Christian thought. As a national actor, the BOR has been constantly asserting its desire to regulate social relationships, and to impose an “orthodox” conception on peoples’ and institutions’ attitudes. Its attitudes can be interpreted as a convergence of four distinct characteristics: (i) the promotion of an exclusivist doctrine, synthesized by the two fundamental ideas of Orthodox nationalism: the Romanian state belongs to the Romanians; to be a Romanian is to be an Orthodox; (ii) the contestation of the principles behind the notion of the rule of law, which is considered “of second rank” in comparison with Orthodox principles, legitimated by their divine origin; (iii) the use, by members of the BOR clergy, of aggressive “instruments”, such as offensive speeches or threats, and even of physical aggression; (iv) the impressive ability (relative to other social actors) to mobilize resources and gain the confidence of the people in this Church.

<sup>99</sup> Douglas Johnston and Cynthia Sampson (eds.), *Religion, the Missing Dimension of Statecraft*, Oxford, Oxford University Press, 1994

## The Romanian Orthodox Church as a Medium for Extremism/Fundamentalism

The fundamentalist trends in the BOR “doctrine” are easy to spot in publications issued under the patronage of the Romanian Orthodox Church, in statements of the Church Hierarchy, in the public statements issued by BOR organizations – among which the very active Association of Christian-Orthodox Students in Romania (ASCOR). Among the periodicals, *Scara*<sup>100</sup> and *Icoana din adânc* are of particular interest. The latter, first issued in 1997, a self-avowed publication “of Christian-Orthodox attitude, theology, culture and the arts”,<sup>101</sup> published in its very first issue a memorandum meant to draw the attention of its audience to “acts that could threaten the very existence of the Romanian People”. Such are:

- 1) the compatibilization of Romanian legislation with a unique continental legal system;
- 2) giving up Bessarabia and Bukovina (the authors also voiced their unfavorable opinion with respect to NATO and EU accession);
- 3) granting unconditional rights of citizenship to immigrants (called “the social refuse of Asia, Africa and America”);
- 4) granting what the authors refer to as “privileges” to minorities;
- 5) adopting a law that allows for the purchase of land by foreigners;<sup>102</sup>
- 6) economic subordination to foreign capital (a reference to freedom of investment, privatization etc.);
- 7) the pressure put on Romanian culture by American, French etc. models (referred to as “the pressures of the empire”);
- 8) atheist liberalism, the chaos of rights – the rights to freedom of expression, opinion, information etc.;
- 9) turning Romania into a propaganda field of schismatic cults, and so on.

100 An Orthodox periodical sponsored by the Archbishopric of Bucharest. One of its founding members is Archbishop Bartolomeu Anania, well known for his fundamentalist attitudes.

101 A periodical belonging to the Orthodox Hierarchy. In spite of the fact that the Archbishopric of Bucharest does not feature as the official publisher, the editors include Teodosie Snagoveanul, Bishop Vicar of the Bucharest Archbishopric (as president), as well as other Orthodox clerics.

102 The Association of Christian-Orthodox Students in Romania (ASCOR) had previously addressed an open letter to the President, on the occasion of the voting in the Parliament of an amendment that replaced a restrictive article of the Investments Law, which now allowed foreign citizens to get license for land in Romania. The open letter protested “the operation of strategic accumulation of land, either by the representatives of states having direct interests in the area, or by proselytizing and propagandizing religious centers” (*România liberă*, April 2, 1997).

According to the memorandum, these policies would lead to “the spiritual and religious annihilation of one of the few remaining Christian centers.”

It is not only BOR’s own attitudes that are relevant to the fundamentalist tendencies of the Romanian Orthodox Church. One should also note the use of Orthodox places of worship in extremist actions, such as those of the Legionnaires. For instance, a meeting of the nationalist Romanian youth took place at the Sâmbăta de Sus Monastery in Făgăraș. Among the participants were representatives from Bucharest, Sibiu, Brașov, Cluj, Iași and Bacău.<sup>103</sup> One of the topics of the meeting was the organization of Legionnaire houses in these cities.<sup>104</sup>

To these manifestly extremist acts one could add other violent actions that received the sanction of the Orthodox clergy. There were many instances of aggression against Greek-Catholic believers perpetrated by Orthodox believers who were in turn responding to the incitements of their priests. Such violent actions occurred in Filea de Jos, 1991; Visuia (Bistrița-Năsăud county), 1991; Turda, 1991; Mărgău (Cluj county), 1991; Ceaba (Cluj county), 1992; Hodac (Mureș county), 1992; Hopîrta (Blaj county), 1993; Salva (Bistrița-Năsăud county), January and July, 1993; Romuli (Bistrița-Năsăud county), 1994; Pârâul Frunții (Neamț county), 1994; Breb (Maramureș county), 1994; Iclod (Cluj county), 1997; Botiza (Maramureș county), 1998; Ocna Mureș (Alba county), 2002 etc.<sup>105</sup>

Other well-known cases of obstructions and aggressive acts were directed against the Baptists and Evangelical Alliance,<sup>106</sup> the Seventh-Day Adventist Church<sup>107</sup> and Jehovah’s Witnesses.<sup>108</sup> The case of Ruginoasa

103 July 22, 2000.

104 About 15 young individuals were present, while the Senate of the Legionnaire Movement was represented by Mr. Sebastian Mocanu, member of the “Prof. George Manu” Foundation.

105 In many of these cases, the police failed to intervene. On the other hand, in some cases policemen actually prevented non-Orthodox religious manifestations.

106 “The religious activities of the Baptist Church and the Evangelical Alliance have often been obstructed by the local authorities under the influence of the local Orthodox clergy in Crucea, Valul lui Traian (Constanța County), Isaccea (Tulcea County), Frațilești, Săvești (Ialomița County) Vânători, Tulucești (Galați County), Sutești, Gemenele (Brăila County)” – *The U.S. Department of State Report on Romania – 2001* (<http://www.hrw.org/wr2k2/europe/15.html>).

107 “The Seventh-Day Adventist Church reported difficulties in obtaining approvals to use public halls for religious activities in the villages of Luna, Băiuț, and Vălenii de Maramureș (Maramureș County)” – *The U.S. Department of State Report on Romania – 2001* (<http://www.hrw.org/wr2k2/europe/15.html>).

108 Investigations confirmed the cooperation between the representatives of state authorities and the Orthodox priests in preventing Jehovah’s Witnesses from exercising their right to freedom of religion: the cases of Roșu (1997); Bobicești and Laloșu (1997); Țânțăreni, Gorj county (1997); Cluj-Napoca (1997); Pitești (1997) etc.

(Iași county, December 1997) led to international protests.<sup>109</sup> It was important especially because of the overt support received from the Orthodox Hierarchy. The Bishopric of Moldova and Bukovina issued a communiqué referring to the molestation, in Ruginoasa, of a group of Baptists by a group of Orthodox believers led by their priest: “It is not the Orthodox community or the Orthodox priests that are guilty of what happened there. The guilty parties are those who came within an essentially Orthodox community ... and aggressed it spiritually. These parties failed to show respect for the Constitution and for common-sense, they betrayed social and Christian morals by their aggressiveness and insolence – they probably considered the villagers ignorant – and they tried to proselytize.”

Spectacular BOR attempts to impose its interests by force include the Cluj procession of March 20, 1998. At the call of the Archbishop of Vad, Feleac and Cluj, Bartolomeu Anania, a march of approximately 2,500 priests and seminarists was organized in the city as a sign of protest against the retrocession of the Bishop’s Church “Schimbarea la față” to the Greek-Catholic Church, after a court ruling to that effect.<sup>110</sup> At the end of the procession, the Archbishop threatened, in Aesopian terms: “I want everybody to know, friends as well as non-friends, that we are still standing and that we shall respond to the fists and the poles with the cross. But they should also know that, as of today, our cross shall be firm. I invite them not to try to profit from Orthodox humility.”<sup>111</sup>

109 The statement of Droits de l’Homme sans Frontieres – Bruxelles, 1997. Several Baptists were molested by a crowd of Orthodox believers led by their priests. Baptists were also the target of aggression by the inhabitants of Cornereva, 1997 – an event that was the subject of several internal reports; Pantelimon (Ilfov county), 1998; and Luncaivea (Caraș-Severin county), 1999.

110 Their Holinesses Bartolomeu Anania, Ion Mihălțan of Oradea, Andrei of Alba Iulia, Ioan of Harghita and Covasna, and Bishop Vicar Visarion Rășinăreanu, all joined in.

111 This discourse is stylistically close to the speech of Slobodan Milosevic of June 28, 1989, on the “Field of Blackbirds” (Prishtina), at the celebration of 600 years since the Kosovo Battle (Kosovo Polje): “Six centuries [after the Battle of Kosovo Polje] we are again engaged in battles and quarrels. These are not armed battles, but this cannot be excluded yet.” (Misha Glenny, *The Fall of Yugoslavia*, Penguin Books, 1993, p. 35).

## **The Romanian Orthodox Church and the Contestation of the Rule of Law**

The previous example shows how BOR openly contested a final court decision and, in broader terms, the rule of law. BOR has refused several times the enforcement of court decisions unfavorable to the institution, so that Greek-Catholic churches are still in its possession in spite of court rulings to the contrary. Moreover, the state itself has acquiesced in the control exercised by the Romanian Orthodox Church. A well-known case is the ban on the Jehovah's Witnesses Congress of June, 1996, scheduled to take place in Bucharest. Several ministries and other public authorities simply broke their initial agreement with the Witnesses of Jehova because of an ample campaign against the Congress organized by the Orthodox Church. Many government and opposition officials were quick to offer their support of BOR's position.<sup>112</sup>

Another current practice of the BOR is the pressure exercised on the Parliament so as to prevent it from solving the fundamental questions of inter-confessional justice, adopt anti-discrimination positions, and thus fulfill its internal and international obligations.

On June 12, 1997, as the Senate approved a project retroceding several Greek-Catholic churches that rightfully belonged to this community, the Orthodox Hierarchy blocked the project by means of a prompt and vehement reaction. Patriarch Teoctist called this initiative a *diktat* "that may have unpredictable consequences with respect to peacefulness in Transylvania, for which those who voted the draft would be responsible." The Bishop of Transylvania stated the following: "The law ... shall generate conflicts and mutiny with unpredictable results." It would "be an attack on the life of the Romanian Orthodox Church and our people". Andrei, Bishop of Alba Iulia, announced: "I do not think that the Romanian Orthodox Church would allow anyone to stomp their feet."

In its addresses to the members of the Parliament, the BOR often invokes, as a threat, its ability to influence the voters. When, on September 13, 2000, the Orthodox Synod launched an appeal against the de-incrimination of homosexuality, it openly and repeatedly referred to "the millions of Orthodox Christians ... who mandated by their votes the Romanian Parliament." The Synod concluded: "the law-makers ... should tune their ears to the needs of Romanians ... who are going to the voting booth this fall."

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112 During a visit to Bucharest, Hillary Clinton, at that time the First Lady of USA, protested against the restrictions of the freedom of religion in Romania by refusing to participate in an official event.

## Submission of the Political Class to the Orthodox Pressure

The self-confidence of BOR's Hierarchy is also due to the humiliating submission of the political class to the Orthodox pressure. There is no opening ceremony of any party congress without an Orthodox mass. Politicians feel forced to attend every important religious event. Before the 1996 elections, *all* the presidential candidates showed their humbleness, meeting the relics of St. Andrew, which were being brought back to Iași.<sup>113</sup>

President Emil Constantinescu, the representatives of the Romanian Orthodox Church and other statesmen gathered on 5 February 1999 to hallow the site and place a cross where BOR wanted to erect the Cathedral of Redemption of the Nation, although the General Council of Bucharest – the only authority in this matter – had refused to approve the building site requested by the Patriarchy.<sup>114</sup> In 1999, President Emil Constantinescu participated, together with the Patriarch Teoctist, in the sanctification of the church built by LukOil Company in the Cemetery of Petrol Workers in Ploiești, although this was not a positive sign for the Romanian foreign policy.<sup>115</sup>

Given such a relationship between BOR and the politicians, it is not surprising that certain institutions meant to defend the values of the secular state should become instruments of BOR. The institution that distinguished itself from this perspective was the State Secretariat for Cults.<sup>116</sup>

An astounding, but less widely known example, was the support that, in September 1999, Prime Minister Radu Vasile gave to the original form of a draft law regarding the general status of religious cults pro-

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113 On 13 October, 1996, the ceremony in honor of the return from Greece, from the Metropolitan Seat of Patras, of the relics of the apostle, was attended by Emil Constantinescu, Ion Iliescu, Petre Roman, Nicolae Manolescu and all the other presidential candidates. All made pious statements and insisted on their presence in the event.

114 The state Secretary for Cults announced, on January 4, 1999, in a press release, the start of works in Unirii Square.

115 This important company symbolizes the solidarity between the Russian Orthodox Church – led by the ex-KGB officer Alexei II, spokesperson of the conservative powers in Russia – and the great Russian oligarchy, which paid between 2 and 3 billion dollars for the building of the Orthodox Cathedral in Moscow.

116 Thus, answering the requests of BOR to stop the activity of religious minorities, state secretary Gheorghe Angheliescu issued, on 25 March 1997, a notification by which it demanded that the Town Halls cancel all authorizations for the building of churches of the religious communities that were not officially recognized (many of them had been registered as associations). The local authorities did so, despite flagrantly violating the constitutional guarantees concerning religious freedom (which includes the right to have such praying houses).



moted by BOR. This draft law seriously violated the constitutional right to religious freedom, so the government amended positively a series of articles. Despite the fact that the government, and not the Prime Minsiter, has the legislation initiative, Prime Minister Radu Vasile submitted the draft law to the Parliament in the non-amended variant, thus violating the will of the government, only to please the Patriarch.<sup>117</sup>

The status of Romania's Patriarch speaks volumes about the speed and breadth of changes that BOR benefits from in state life. By 2000, Patriarch Teoctist Arapasu, forced at the beginning of 1990 to resign from the leadership of BOR due to his cooperation with the Ceaușescu regime, had become one of the most honored personalities.<sup>118</sup> A genuine cult of personalities that in Romania only Nicolae and Elena Ceaușescu had been shown.

Another possible evolution in the relationship between BOR and political life could be the direct involvement in politics of the Orthodox clergy. Archbishop Bartolomeu Anania asked in 1998 that "in the future parliamentary elections, whether early elections or regular ones, BOR (...) should give up the reservation that it imposed upon itself and (...) recommend from each parish the persons that should be promoted to the Parliament, regardless of their political allegiance."<sup>119</sup> Bishop Calinic of Arges and Muscel, demanded from the political parties eligible places on the list of candidates for the local, and even for the parliamentary elections.<sup>120</sup> In fact, "almost all parties in Argeș, whether right wing or left wing, accepted priests on their lists of candidates."<sup>121</sup>

## **Historical Connections to the Legionnaire Movement**

The extremist tendencies within BOR follow the historical line of its support of legionnarism between the two world wars. On the one hand,

117 According to the investigation that the author undertook, in October 1999. In the end, the draft law was withdrawn, thanks to internal and international campaigns.

118 He was awarded state medals and distinctions, he became member of honor of the Romanian Academy, he was honored by different professional associations, the Minister of Culture handed him the Eminescu medal, PNTCD presented him with their jubilarian medal etc.

119 "Renașterea", no. 5/1998, p. 1.

120 "As the orthodox church represents 87% of the population of the country, it would not be normal for it not to have clerical representatives in all the structures of leadership of the country." ("Dezlegare la ciolan" [End of fasting], in *Evenimentul zilei*, 28 April 2000, p. 6).

121 *Ibidem*.

legionnarism self-defined itself as a Christian-Orthodox movement, and the legionary ritual borrowed the cult for the death, the exercise of fasting and of praying. On the other hand, priests and Orthodox hierarchy were an important support for legionnarism, the ambiguities of the Synod, which shared a lot of the legionnaire values, resulting only from its duplicity. In its pastoral letter of 1934, the Synod asked for the support of nationalist students and encouraged them in their xenophobe and anti-Semite actions.<sup>122</sup> Among the legionnaire commanders there were Orthodox clergymen.<sup>123</sup> They were also among the legionnaires killed to avenge the assassination of Prime Minister Armand Călinescu, and among those who were nominated in the elections by the legionnaire formations. Viorel Trifu, the head of the Christian Orthodox Students' National Union, was one of the main initiators of the legionnaire rebellion of 21–23 January 1941, and 7.64% of those condemned for this attempted coup were priests.<sup>124</sup>

The lower layers of the clergy and the students of theology were supporters of the legionnaire movement. The latter participated in violent actions, such as the destruction of the Synagogue "The Beginnings of Science". Among the young legionnaires, a distinguished figure was the present Patriarch Teoctist Arapasu<sup>125</sup> and the present Bishop of Cluj, Feleac and Blaj, Bartolomeu Anania. The historian Gabriel Catalan synthesized this part of history as follows: "... although the leaders of BOR most often had a reserved position or a conjectural one, the lower Orthodox clergy joined in or supported seriously the Legionnaire Movement, representing the elite social category, with an intense propagandistic activity and an important participation in the rebellion of January 1941."<sup>126</sup>

After the communists gained power, several legionnaire priests were sent to prison, others were recruited as servants of the new regime within the church. Until 1989, BOR had been an instrument of the communist authorities. The hierarchs were all compelled to collaborate with

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122 The most visible proof of collaboration between the Orthodox clergy and the legionnaires was the procession on the occasion of the funeral of legionnaire leaders Mota and Marin in February 1937. During the procession, dozens of clergymen conducted mass, and the major religious service was conducted by over 200 priests, headed by the Bishop of Transylvania, Nicolae Bălan, together with other bishops and vicars (Gabriel Catalan, "Legiunea si slujitorii Domnului" [The Legion and the Servants of the Lord], in *Dosarele istoriei* [Files of history], no. 9, 2000, pp. 29-32).

123 Dumitrescu-Borșa, Vasile Boldeanu, Ștefan Palaghita.

124 Gabriel Catalan, *Op.cit.*

125 Archives of SRI, file 7755, vol. 3, f.211: nota 131/30 August 1949.

126 Gabriel Catalan, *Op.cit.*, p. 32

this regime which was, in fact, atheist.<sup>127</sup> BOR started to play a new role when Romanian communism moved toward national-communism. Since then, BOR was open to legitimate the chauvinistic and xenophobe measures of the regime.

### **The Army and the Orthodox Church**

One of the pernicious variants of the shifting frontiers between the Church (BOR) and the state is the relation between the Church and the Army. Their joint occupancy of the foremost position in opinion polls researching people's trust in institutions was one of the factors of a rapprochement.<sup>128</sup> The Public Opinion Barometer, the most systematic public opinion instrument in Romania at this date, indicated the following figures for the past 6 years, as concerns trust in the Church and in the Army:<sup>129</sup>

<b>Institution</b>	<b>Oct. 1996</b>	<b>Sept. 1997</b>	<b>June 1998</b>	<b>May 1999</b>	<b>May 2000</b>	<b>May 2001</b>
Church	83	86	85	88	85	89
Army	76	84	69	75	73	72
Parliament	23	38	19	20	28	33

The figures show that the Church is almost unanimously trusted.<sup>130</sup> Almost equally substantial in the trust in the Army, which leaves any other institution in Romanian life far behind.

On the background of this manifest fragility of civic consciousness in Romanian life, the leaders of the Army and of the Church have kept

127 Only one hierarch confessed, after the revolution of 1989, his collaboration with the regime. The Bishop of Banat, His Holiness Nicolae Corneanu, admitted excommunicating five priests from the Bishopric of Banat, who had reproached in 1981 "the prostitution of the Orthodox church"; his collaboration with the Bishop of Transylvania, Antonie Plamadeala, in the denigration in front of the Ecumenical Council of the Churches of some clergy who had opposed the regime; the reports sent to the Securitate.

128 As indicated by all opinion polls after 1990.

129 For a comparison, we also add the Parliament as an institution fundamental to democracy (Open Society Foundation, "Barometrul de Opinie Publică", May 2001, Bucharest, <http://www.osf.ro>).

130 The degree of conformity to religious habits is evaluated by the same opinion poll (May 2001), which found out that 2% of the population go to church daily, 15% go to church a few times a week, 33% go to church once a month or less, while 40% go to church several times a month. 53% of the interviewed believe in life after death, 65% in the Judgment Day, and 88% in the power of prayer.

emphasizing the fact that they are, both, the “fundamental institutions” of the Romanian state.<sup>131</sup> In order to maximize their quota *vis-à-vis* other social actors, the leadership of the Army and the Romanian Orthodox Church constantly refer to the trust *jointly* bestowed upon them by the population. Both groups are united by the importance they place upon authority, by the logics of a strict institutional hierarchy,<sup>132</sup> by their antipathy toward the values of liberalism and diversity, toward those that do not conform to the traditional mores and social roles. Consequently, they can count on long-term mutual support, which may be capitalized on both by conservative or extremist political forces,<sup>133</sup> and by their own leaders, should the latter feel threatened.

Relevant to the “in depth” cooperation between the two institutions is the involvement of the Army in the building of religious buildings by using the (unpaid) force of draftees. According to field investigations, many of the churches built in Romania could only be erected if soldiers are sent by their superiors to help with the construction work.

To what extent does the evolution of BOR hide an extremist threat?

After 1989, BOR grew extraordinarily. Traditional archbishoprics were re-established,<sup>134</sup> as well as new bishoprics that had never existed.<sup>135</sup> In

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131 In a volume dedicated to the relations between the Army and the Church in 1996 (Ilie Manole, ed., *Armata și Biserica*, Colecția “Revista de Istorie Militară”, Bucharest, 1996), commander Ilie Manole titled one of his chapters “The Army and the Church, fundamental institutions of the unity and continuity of the Romanians”. He noted that “we now have the first book on the heroic, deep, uninterrupted and useful work that the Army and the Church placed at the foundation of our House, Romania. Now and forever, bless them all: the Book, the Cross, and the hearth in which they coexist with the shield.” (p. 6); “The Cross and the Sword, the Flag and the Gospel have to live together. The Church and the Army must shake hands and make their long-lasting contribution in the shaping of great personalities that our people and the Romanian society need today” (p. 263). The representative of the Romanian Orthodox Church, Daniel Ciubotea, the Bishop of Moldova and Bukovina, called the two institutions the guarantors of the unity of the Romanian state: “the cooperation between the Army and the Church is a factor promoting national unity” (p. 10).

132 The hierarchy and order within the Orthodox Church is quasi-military in its strictness.

133 It is thus illustrative that the Romanian state made a symbolic statement in the region with the largest Hungarian concentration (Harghita county, 84.5% Hungarians) by planting there an army corps and an Orthodox bishopric (of Harghita and Covasna, in 1998).

134 The Archbishoprics of Tomis, Suceava, the Bishopric of Caraș and the Bishoprics of Huși, Argeș and Maramureș.

135 The Archbishopric of Târgoviște, the Bishopric of Călărași and Slobozia, the Bishopric of Giurgiu, the Bishopric of Alexandria and Teleorman, and the Bishopric of Harghita and Covasna.

addition, the Metropolitan seat of Western Europe, the Metropolitan Seat of Central Europe and the Romanian orthodox Metropolitan Seat of Hungary were established, and there are plans to set up bishoprics in most western states. The tendency is to install one bishopric in each county.<sup>136</sup>

The expenses for setting up a new eparchy in the country and abroad are sizable. As concerns the headquarters, Ceaușescu's ex-residences were provided, as well as hotels of the Romanian Communist Party.<sup>137</sup> The hierarchs are provided with limousines, and they have a numerous staff. Each newly-established eparchy is allocated several councilors and inspectors, paid as support staff: accountants, secretaries of the hierarchy, drivers. The entire clergy and support staff are paid by the state. For the religious services, they charge big amounts, which are mostly not recorded in accountancy.

Thirteen new Faculties of theology were set up, to which we should add the 38 Orthodox Seminaries. The number of students in theological education has reached 12,444, of whom 6,514 study Pastoral theology. (The necessary number of priests in the entire country is under 11,000).

The patriarchy obtained by law 200 hectares of land, and the other eparchies one hundred hectares each.<sup>138</sup> This permanent demand for resources<sup>139</sup> and the unimpeded development of BOR could produce a systemic crisis. There will be a powerful pressure on the institutions, on the population, affecting the (secular) Romanian democratic orientations. The immense number of graduates, coupled with the accumulation of riches that make BOR the biggest autonomous organ in Romania are constantly growing the power of the orthodox clergy. This is a process of positive retroaction. The more requests of BOR the state satisfies, the more the request for services from the state will grow.

The events of September 11 2001 drew attention on the danger that comes from religious fundamentalism. The example of what is happening in Islamic states such as Saudi Arabia is significant. The political elite granted resources to the Islamic schools which grew the fundamentalist contesters of this class, increasing the pressure upon it to provide

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136 Nicolae Boroiu, "Studiu privind patronarea de catre conducerea BOR a national-comunismului si a fundamentalismului ortodox", 2001, unpublished.

137 Slobozia, Miercurea Ciuc, Târgoviște, Alexandria, Turnu Severin and Slatina.

138 Even the newly established ones, which had never owned land, like parishes, old and new monasteries, which had no estate in the past.

139 For the new building of the Theological Seminary of Bucharest only, they recently (January 2002) allocated around 1.5 million dollars. According to the estimates of architects, the Church of the Cathedral of the Nation will cost over 1 billion dollars. BOR intends to obtain the assistance of the state, regardless of the economic impact that this would cause.

the Islamic clergy with new utilities to produce new religious contesters ... and so on, in a process that feeds extremism.

This scheme of the evolution of fundamentalism in the Islamic countries is found in all Orthodox countries today.<sup>140</sup> It attracts the attention on the danger of theocracy in countries such as Romania, where the secularity of the state is permanently contested by a Church (BOR) whose economic, symbolic and political power is increasing every day, in absolute and relative values, as related to all the other actors of social life.

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140 In different proportion from one state to the other. A similar evolution of the place of the Orthodox Church in the life of the state is taking place in the Russian Federation.

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## V.

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### **LAWS AND OFFICIAL BODIES FOR COMBATING EXTREMISM**

There are three types of norms – and institutions – which are relevant to the fighting of extremism: (1) legal norms for the prevention and fighting of extremism; (2) laws providing for special measures safeguarding the protection of national minorities; (3) anti-discrimination laws.

#### **Anti-Extremist Norms**

The Romanian Constitution contains several provisions that are directly relevant to the issue of anti-extremism, some of which specifically restrict activities and manifestations that are connected with extremism. According to Art. 30.7, “any instigation to war of aggression, to national, racial, class or religious hatred, any incitement to discrimination... or public violence... shall be prohibited by law”. Yet the most important article of the Constitution from this perspective is Art. 37.2: “Any political parties or organizations which, by their aims or activity, militate against political pluralism, the principles of a State governed by the rule of law... shall be unconstitutional.”

These constitutional provisions have correspondents in internal law. For example, the Political Parties Law explicitly prohibits “political parties which, through their status, platform, propaganda or other activities, violate the provisions of Art. 30.7, Art. 37.2 and 37.4 of the Constitution.”<sup>141</sup>

Moreover, Art. 317 of the Romanian Criminal Law states: “Any nationalist chauvinistic propaganda or incitement to racial or national hatred which does not constitute an offence under Article 166 shall be punishable by a term in prison of 6 months to 5 years.”

141 Political Parties Law no. 27 of 04.26.1996, Art. 3.2. Moreover, paragraph 4 of the same article prohibits the organization of military or para-military activities by the parties.

Yet in spite of widespread racist, chauvinistic, anti-Semite manifestations (either used as political propaganda, or disseminating negative stereotypes), Art. 317 is not put to use by authorized institutions.<sup>142</sup> Ultra-nationalist parties which violate the provisions of the Constitution and of the Political Parties Law have been declared legal, and they are currently conducting activities which are clearly extremist in nature. Although the Constitution is essentially democratic, some formulations do encourage nationalist attitudes which, in Romania, remain the most important resource of extremism.<sup>143</sup>

In March 2002, the Romanian Government adopted Emergency Ordinance no. 31 prohibiting fascist, racist, and xenophobic organizations and symbols, as well as organizations and symbols promoting the cult of personalities guilty of crimes against peace and humanity (see Annex II). The Ordinance came into force upon its publication in the *Official Gazette* on March 28.

The purpose of the Emergency Ordinance no. 31 is the elimination of any extreme right-wing activities. The establishment of a fascist, racist or xenophobic organization is punished with imprisonment between 5 and 15 years and the loss of certain rights. Such organizations include any group “which conducts its activities, on a permanent or temporary basis, for the purpose of promoting fascist, racist, xenophobic ideas, doctrines or conceptions, such as ethnic, racial or religious hatred and violence, the superiority of certain races and the inferiority of others, anti-

142 Only one person was sentenced in Romania on the basis of Art. 317 of the Criminal Law, to a two-year suspended sentence, for an anti-Semite article. From July 1997 to November 1998, Minister György Tokay (UDMR), in charge with the Department for the Protection of National Minorities, informed the General Prosecutor’s Office on the use of statements, banners and chauvinistic articles. The Prosecutor’s Office turned down the request to start proceedings pursuant to the provisions of the Criminal Law.

143 One of the issues raised by the Romanian Constitution was the “ethnic” interpretation of the constitutional text – see Art. 1.1: “Romania is a sovereign, independent, unitary and indivisible National State”; and Art. 4.1: “The State foundation is laid on the unity of the Romanian people”. A consequence of the “ethnic” interpretation of the constitutional text was the pressure brought to bear upon minorities – and especially upon the Hungarian minority, which had to expressly state its loyalty to the state and to commit itself to comply with the Romanian Constitution. Yet the ethnic meaning of “the nation” is emphasized in Romania not just in political positions, but also in writings of doctrine. See *The Constitution of Romania – Comments and annotations*, published in 1992 by the Presses of the “Official Gazette” and signed by the authors of the Constitution themselves: Ion Deleanu, Antonie Iorgovan, Ioan Muraru, Florin Vasilescu, Ioan Vida. The text defines the nation as “a community of ethnic origin” (p. 7). (Gabriel Andreescu, “Shadow Report: June 2000”, <http://www.riga.lv/minelres/>).



Semitism, incitement to xenophobia, advocacy of violent overthrow of the constitutional or democratic order, or extremist nationalism.”

The dissemination, sale or manufacturing of fascist, racist or xenophobic symbols is punished with imprisonment from 6 months to 5 years and the loss of certain rights. The same punishment applies to persons who promote the cult of personalities guilty of crimes against peace and humanity. The fines applicable to legal entities which disseminate, sell or manufacture said symbols start at ROL 25 million and go up to ROL 250 million.

Negationism is punished with imprisonment between 6 months and 5 years and the loss of certain rights.<sup>144</sup> Naming public places after persons guilty of crimes against peace and humanity or erecting statues thereof in public places is prohibited.

Emergency Ordinance 31 was only applied until June 2002 (included) and only against Antonescu’s cult – by demolishing six of the seven statues of Marshall Antonescu. On the other hand, the National Defense College introduced a course on the Holocaust, which is indeed a revolutionary measure.<sup>145</sup> The Ordinance has already been criticized for its lack of coherence<sup>146</sup> and for impairing the balance of rights.<sup>147</sup> It was the subject of protests by extremist Orthodoxist groups.<sup>148</sup>

## **Laws for the Protection of National Minorities**

The legislative system set up for the protection of national minorities in Romania is relatively extensive, at least at legal level. Its foundations are to be found in Art. 1.6 of the Constitution, according to which “The

144 On contemporary negationism in Romania see Michael Shafir, “Holocaust Denial, The Legacy of Communism, and <Transition>”, *East European Perspectives*, Vol. 4, No. 6, March 20, 2002.

145 These measures should be accompanied by a course deconstructing anti-Hungarian propaganda, which is at the foundation of patriotic education in Romanian military institutions.

146 See Gabriel Andreescu, “Contra extremismului, nu împotriva libertății”, in *Observatorul cultural*, no.11, 2002, and Annex II.

147 *Ibidem*. An example was the case adjudicated by the European Court of Human Rights in 1998, when France was condemned for its measures against the leaders of two associations – “Association pour défense du mémoire de maréchal Pétain” and “Association nationale Pétain-Verdun” – which had published a commemorative announcement in *Le Monde* (L’ Affaire Léhieux et Isorni c. France: <http://www.echr.coe.int>).

148 The protest of the editors of the journal *Scara* (“a journal of Orthodox oceanography”) and of the Romanian Association for Culture and Orthodoxy, of March 27, 2002.

State recognizes and guarantees the right of persons belonging to national minorities, to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.” A number of laws – and in particular Education Law no. 84/1995, updated, and the Law of Local Public Administration no. 69/1991, updated – provide for substantial rights for the persons belonging to national minorities. Although the existing political class rejects, as a block, the notion of collective rights, Romanian laws do provide for such rights. For instance, organizations of citizens belonging to national minorities which fail to obtain the number of votes necessary for representation in Parliament have the right to one Deputy Seat each.<sup>149</sup> The representative organizations participate in the Council for National Minorities, which is financed from the state budget.

The practical instruments for the enforcement of this system, however, are less developed.<sup>150</sup> In 1997, the Department for the Protection of National Minorities (DPNM) was established, which included a National Office for Roma. After the elections of 2000, the newly-elected Romanian government relocated the DPNM within the Ministry of Public Information, under the name of the Department for Inter-Ethnic Relations (DIER). The National Office for Roma within the DIER was taken over by the office of the sub-secretary of state for Roma. While the former DPNM was headed by a Minister, the new Department is led by a state-secretary.<sup>151</sup>

An Inter-Ministerial Committee on National Minorities was established in order to provide coordinated government support for the development and implementation of the strategy for the protection of national minorities. An Inter-Ministerial Sub-Commission for Roma – a mixed body made up of governmental experts and independent experts nominated by Roma NGOs – assists the implementation of the public policy for Roma.<sup>152</sup>

The institution of the Ombudsman, set up in March 1997, has the mandate of defending the rights and freedoms of the citizens against unlawful or abusive interference by administrative authorities. Minority issues are dealt with by the Department for Public Order, military and special bodies, penitentiaries, minorities, cults, foreigners, consumers, and tax-payers.<sup>153</sup>

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149 Under the terms of Electoral Law: Art 59.2 of the Romanian Constitution.

150 Gabriel Andreescu, “*Romania: Shadow Report: June 2000*”.

151 Government Decision no. 13/2001.

152 Open Society Institute, *Monitoring the EU Accession Process: Minority Protection*, Budapest, 2001. The National Strategy for Roma adopted in 2001 is intended as a ten-year program, with four-year plans. The Strategy addresses community development, housing, social security, health, childcare, employment, justice and public order, education, culture and communication.

153 See *Monitoring the EU Accession Process: Minority Protection*.

## The Anti-Discrimination System

The legislative and institutional system for the prevention and fighting of discrimination has been, up until recently, the weakest link of the system of protection of persons belonging to various ethnic groups. The only binding anti-discrimination norm has been that of Art. 247 of the Criminal Law: “Any public official held guilty of restricting the use or exercise of civil rights, or of creating situations in which a citizen is treated as inferior on the ground of nationality, race, sex or religion, shall be liable to imprisonment between 6 months and 5 years.”<sup>154</sup> No sentences have been pronounced pursuant to this article, in spite of widespread discrimination in Romania, especially against the Roma.<sup>155</sup> For a long time, the enforcement of anti-discrimination norms has been hindered by the official refusal to acknowledge the extent of discrimination.<sup>156</sup>

In August 2000, the Parliament issued the Law on Public Advertising, prohibiting the use of discriminatory statements on the grounds of race, sex, language, origin, social origin, ethnic or national identity in advertisements. But this law too failed to have a significant effect upon discriminatory statements in advertisements.

An important change was introduced by the provisional coming into force, in November 2000, of Ordinance no. 137 on the Prevention and Punishment of All Forms of Discrimination.<sup>157</sup> Today, it provides Romania with the most comprehensive anti-discrimination framework among Central and Eastern European countries.

Ordinance 137 provides a definition of discrimination and prohibits discrimination in access to employment, health and other public services, education and housing.<sup>158</sup> The law grants human rights NGOs a

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154 Cases can only be initiated *ex officio* by investigative organs.

155 Also the case of the Hungarian Changos, see APADOR-CH Report, Bucharest, 2001.

156 This is true of all reports sent by Romania to the international bodies (see Report submitted on 24 June 1999 by Romania pursuant to Article 25 para.1 of the Framework Convention for the Protection of National Minorities: “Romanian citizens, without any distinction based on race or nationality, may enjoy equally all the principles and freedoms provided for in the Constitution and the law, and may participate to the same extent in political, economic, social and cultural life, without privilege or discrimination.” [http://www.riga.lv/minelres/reports/Romania/Romania\\_NGO.htm](http://www.riga.lv/minelres/reports/Romania/Romania_NGO.htm)

157 Official Gazette no. 432/09.02.2000 (Ordinance 137/31.08.2000). In January, Ordinance 137 had passed the Parliament. On January 16, 2002 it was published in the Official Gazette.

158 Ordinance 137/2000, Art. 2.1: “any difference, exclusion, restriction or preference based on race, nationality, ethnic appurtenance, language, ... or any other criterion, aiming to or resulting in a restriction or prevention of the equal recognition, use or exercise of human rights and fundamental freedoms in the political, economic, social and cultural field or in any other fields of public life.”

*locus standi*,<sup>159</sup> and allows victims to sue for damages against discriminatory action.<sup>160</sup>

Ordinance 137 also provides for the establishment of a specialized monitoring and enforcement body: the National Council for the Prevention of Discrimination, which is subordinated to the government.<sup>161</sup> The Government Decision establishing the NCPD was adopted in November 2001, but in June 2002, NCPD does not yet exist.

And yet a special fund set up under the former government for conferences, seminars and roundtables to counter racist attitudes<sup>162</sup> – the National Foundation against Racism, Anti-Semitism, Xenophobia and Intolerance – was abused by young members of extremist parties, such as the Greater Romania Party.

A special part is played by anti-extremist international legislation ratified by Romania. Its important role owes, on the one hand, to the monism of the Romanian constitutional system, which gives priority to international legislation in the field of human rights and, on the other hand, to the impact of the international community's positions with respect to the state of affairs in Romania.

## **The Ratification of Relevant International Legislation**

Romania has ratified the most important international documents addressing racial and ethnic discrimination: ILO Convention No.111/1958; the UN Convention on the Rights of the Child; the UN Convention on the Elimination of All forms of Racial Discrimination; the UN Covenant on Civil and Political Rights and the Optional Protocol, the UN Covenant on Economic, Social and Cultural Rights, the European Convention of Human Rights and all its Protocols, and the Framework Convention for the Protection of National Minorities.

Romania also ratified bilateral treaties with Hungary (1996) and Ukraine (1997), which include several provisions on the protection of persons belonging to national minorities. These instruments obligate Romania to implement the standards of the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic

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159 Ordinance 137/2000, Art. 22.

160 Ordinance 137/2000 Art. 21.1. Two such cases have been lodged with Romanian courts since the adoption of Ordinance 137 and are presently pending. The cases have been brought by the NGO Romani Criss.

161 Ordinance 137/2000, Art. 23.

162 These included "Tolerance workshops", "Youth and the campaign against racism, anti-Semitism, xenophobia and intolerance", and "Tolerance in politics."

Minorities; the Copenhagen Document of the CSCE Conference on the Human Dimension and other OSCE documents; and Council of Europe's FCNM and Recommendation 1201.<sup>163</sup> The international treaties become part of domestic law following ratification, and they take precedence over other domestic laws whenever conflicts arise.<sup>164</sup>

### **The Enforcement of Available Laws and Norms**

As a very general assessment, one may say that the anti-extremist provisions of the Constitution and of the Criminal Law are relatively strict. The special measures for the protection of national minorities are far-reaching, and they go beyond the levels set by international standards. By adopting Ordinance 137/2000 and the Decision establishing the National Council for the Prevention of Discrimination (December 2001), the government finally put an end to a long period during which the anti-discrimination means were severely lacking in strength. One should add that Romania adopted most of the relevant international laws in the field.

Under such circumstances, the crucial question in Romania is that of the enforcement of available laws and norms, i.e. the respect for the rule of law. From this perspective, the state of affairs appears hardly satisfactory. The development of extremist manifestations during the last decade, as well as widespread discriminatory behavior, continued in spite of the legal instruments available to state authorities.

The use of norms depends, on the one hand, on institutional traditions and political will and, on the other hand, on the education of citizens, on their willingness to ask for and ability to secure the enforcement of the law. It is beyond doubt that Romania is lacking in each of these three departments.<sup>165</sup>

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163 The Bilateral Treaty with Hungary was signed on 16 September 1996; the Bilateral Treaty with Ukraine was signed on 3 May 1997.

164 Constitution of the Republic of Romania, 1991, Art. 11, para. 2.

165 A sustained effort pressuring the competent institutions into the enforcement of anti-extremist laws was made by civil society organizations. An example is the action started by several such organizations (Group for Social Dialogue, Romanian Helsinki Committee, Civic Alliance) in 1999, during the "Fifth Miners' Crusade", to outlaw the Greater Romanian Party.



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## VI.

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### FACTORS THAT ENCOURAGE EXTREMISM

There are five important factors which account for the fragility of Romanian society in the face of extremist pressure: **(1) Romania's status as a "weak state"; (2) the population's distrust of democratic institutions; (3) lack of transparency; (4) poverty; (5) corruption.**

#### 1. Romania as a "Weak State"

The level of state resistance in front of the dangers of extremism is described by the concept of "weak state", or what Samuel Huntington called a "praetorian state", i.e. a state faced with an imbalance between popular pressures for rapid political, economic, and social mobilization, on the one hand, and unresponsive, brittle, and archaic institutions which can not effectively channel, absorb and accommodate this pressure, on the other.<sup>166</sup>

In ex-communist countries such as Romania, Bulgaria, and the states resulting from the dismembering of ex-Yugoslavia, the issue of a "weak state" is a current one. In a weak state, institutions do not work well and they cannot cope with the rule of law.<sup>167</sup> The elite has more importance that it is allowed in a society guided by rules and not will. The importance of the elite in the transition period makes them responsible not only for the internal situation of their states, but also for regional stabil-

166 Samuel Huntington, *Political Order in Changing Societies*, New Haven, 1968. When he wrote his study, Huntington was referring to countries under the double pressure of a powerful tradition and of modernity, such as Greece.

167 "The foundation stone of this evolution was laid by the recently collapsed communist regimes, which failed to develop the organic structures that characterize the western world, capable of granting cohesion without coercion and violence" (Gerhard Wettig, "A New Type of Challenge to European Security", in *Aussen Politik*, vol. 46, 2/1995, p. 137).

ity.<sup>168</sup> Ultrationalism is intimately connected to the evolution of weak states. In the context of ex-communist countries, the post-totalitarian elite cross with the elite that served the old regime.<sup>169</sup>

In spite of all Constitutional and legal provisions concerning special rights of minorities, anti-discrimination and anti-fascist regulations, it is almost impossible to identify cases brought before the Romanian courts or before the Constitutional Court with regard to the three categories. Particularly, in the absence of an express article allowing the rights provided for by the Constitution to be directly enforced, the Romanian courts are extremely reluctant to consider them as such and have always asked for ordinary laws to include and develop such provisions with procedural terms.<sup>170</sup>

Often the Romanian state, as a weak state, is unable to safeguard the rule of law *in institutions* where the Constitution's basic provisions are violated. In other words, this means that: (a) there are institutions that manage themselves according to an internal logic, which contrasts with the logic of the basic law and of the official policies of the elected, legitimate institutions; (b) local authorities or the local branches of central authorities fail to conduct their business in compliance with the general laws. A typical example of an institution that is "out of control" is that of the Romanian Intelligence Service. For a broader typology, I shall choose three examples (but there are many others that would fit the bill) relevant to the question of ultra-nationalism in the context of weak states.

### *1.1 The Romanian Intelligence Service and the Weakness of the Democratic State*

The Romanian Intelligence Service was created in 1990 on the background of the inter-ethnic conflicts in Târgu Mureș, in March 1990. Available data suggest that the conflicts were the result of a deliberate plan masterminded by forces tied to the former Securitate, with the purpose of erecting an intelligence service on the structures of the old com-

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168 "Moreover, there is the risk that, outside of the will and involvement of the state leaders, the deep-rooted structures are exported, and if these become trans-border phenomena, they have an impact on international security" (*Ibidem*, pp.144-145).

169 Gabriel Andreescu, "International Relations and Orthodoxy in Eastern and South Eastern Europe", in *International Studies*, Bucharest, no. 4, pp. 4-34.

170 Renate Weber, Legal Analysis of National and European Anti-Discrimination Legislation – a comparison of the EU Racial Equality Directive and Protocol No. 12 with Anti-Discrimination Legislation in Romania, within a project of Migration Policy group, European Roma Rights Center and Interights, September 2001.



munist institution.<sup>171</sup> As a piece of evidence, one should note that SRI was established without the necessary ratification from the Provisional Council of National Unity. The same data suggests that the first SRI Director, Virgil Măgureanu, was directly involved in the inter-ethnic tensions that were later invoked in order to legitimize the SRI.<sup>172</sup> The miners' assaults on Bucharest – especially the attack of June 13-15, 1990, which held Bucharest under terror, and then the forceful change of the government in September 1991 – could not be conducted without the assistance of the SRI.

“Official” proof of the anti-minority, ultra-nationalist attitudes of the SRI surfaced with the SRI Reports. In the October 1994 Report, the SRI Director argued that a signature-campaign supporting a draft-law on education for national minorities was threatening the national order. For SRI, practicing the constitutional right to legislative initiative was a threat to national security, because it was made by Hungarians. The Report condemned the “anti-Romanian propaganda” of Romanian citizens of Hungarian origin.<sup>173</sup> It also mentioned that Roma ethnics, who were accused of having exploited for propagandistic reasons some “incidents that occurred in the relationship between some members of the ethnic group and other citizens, on the background of severe anti-social and criminal actions”. The report also maintained that members of Roma ethnicity “incited, by denigrating and accusing the realities in our country, to actions that might affect Romania’s image abroad...”<sup>174</sup>

This position of the SRI, which in effect turned national minorities into the main threat to national security, was reiterated every year since. The SRI Report of November 23, 1995, targeted the Hungarians, whom it accused of having “started a propaganda campaign which, ... denigrates the Romanian state, discredits the policies of the authorities and victimizes the Hungarian ethnic community.” In the section called “counteres-

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171 Gabriel Andreescu, *Ruleta: Români și maghiari, 1990–2000*, Iași, Polirom, 2001.

172 *Ibidem*

173 Such as those of the leaders of the “The Hungarian Initiative in Transylvania”, led by Ádám Katona, an organization which became official in 1992.

174 The Romanian Intelligence Service was in effect providing rules of interpretation of inter-ethnic tensions and judged which particular views are or are not compatible with Romanian realities. On the other hand, the “extremist organizations” subsection made no reference to the Greater Romania Party, the Party of the National Unity of Romanians, the Movement for Romania, the Romanian Hearth (Vatra Românească), or to publications such as *Europa, România mare, Totuși iubirea, Vremea, Mișcarea*, which fit the law’s target perfectly – “the undermining, sabotage or any other actions ... that constitute a grave violation of the Romanian citizen’s fundamental rights and freedoms...” (Art. 3(f) of the Law on National Security).

pionage”, the report referred to contacts abroad with some leaders of the gypsies, “to use them in regard of their position related to the Romanian state and their possible availability to participate in propagandistic activities which are unfavorable for Romania”. As an expression of their xenophobe and autochthonistic attitude, the leaders of SRI condemned the fact that databases were created containing personal data, studies of feasibility of some companies, and syntheses on the business opportunities of Romanian companies.<sup>175</sup>

After 1996, when the Hungarian’s representative political group entered the Romanian government, SRI could not conduct its anti-minority politics so openly. But many aspects of the “hidden” life of this institution showed that it was not essentially changed. Its ultra-nationalism was used in order to sabotage Romania’s pro-Western tilt.<sup>176</sup> In 1997, the Service distributed in the US a report on Romania’s NATO candidacy, which turned out to be compromising of this very goal.<sup>177</sup> An observer who had access to the National Intelligence Institute – the only educational institution that trains intelligence specialists in Romania – noted, in an open letter published in 1998, the following: “The reaction of the INI students was violently nationalist, anti-Western and especially anti-American”; “One should ... count all the tenured and associate professors that are friends of The Greater Romania and Gheorghe Funar.”<sup>178</sup>

Another proof that this institution did not change significantly between 1990 and 2001, or with respect to the old Securitate (a key factor of Romanian national–communism), came with the involvement of the SRI in a large nationalist scandal after the 2000 elections. A Report of SRI’s Control Commission dated November 2001 launched the notion

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175 Vasile Lupu, first deputy of the SRI director, stated in 1996 that the Internet represents a threat to national security (Gabriel Andreescu, *Virgil Măgureanu: un obstacol în calea integrării? [Virgil Măgureanu: an obstacle to integration?]*, in “22”, no. 17, 1997).

176 To Romania’s partners, two conditions for NATO and EU accession remained non-negotiable: good relations with the neighbors, and the state of national minorities. The ultra-nationalism of the SRI cast doubts upon Romania’s performance in both respects. At the same time, the SRI gave proof of adversity toward the West, as suggested by the cooperation between Virgil Măgureanu and Fiodor Bondari, a KGB agent, in the recruitment of US diplomats Mark Sullivan and Harold Nicholson (Gabriel Andreescu, *Op.cit.*).

177 Printed with the mention: “approved by SRI Director.”

178 Dan Pavel, “Scrisoare deschisă d-lui Mircea Gheordunescu, director adjunct al SRI, d-lui Dorin Marian, consilier pentru probleme de securitate al presedintelui României”, in “22”, No. 6, 1998.

that the two counties inhabited by a Hungarian majority<sup>179</sup> “escaped state authority and control”. This was a new signal to Romanian society and institutions that the Hungarian minority and its organizations are a threat to the Romanian state.

The statements in the Report of the SRI Control Commission a) contested rights and freedoms that are part of the legislative system of the Romanian state; b) contested the right of persons to wish to express their opinion for changes in the constitutional-legislative framework; c) referred to clear violations of the Romanian laws, which proved false upon investigations;<sup>180</sup> d) accused the “process of de-Romanianization” of the region and the attempt of the mostly Hungarian local authorities to obtain a hegemonic status. Upon verification, the latter allegations also proved false.

In front of the protests of the Hungarian community, the President and the Prime Minister of Romania denied the allegations of SRI and of the SRI Control Commission, without taking steps against their leadership, who proved responsible for ethnic incitement of utmost seriousness. The crisis produced at the end of 2001 by SRI proved again that the Romanian Intelligence service is a constant central source of Romanian ultranationalism. To the extent that this institution fails to reorganize and will not be brought under civil, democratic control, there will always be a danger that the SRI could mastermind extremist events supporting the interests of its members. Under the existing circumstances, SRI is a factor destabilizing natural institutional relationships and, perhaps, the most important factor in preserving the “weakness” of the Romanian state.

### *1.2 The Limits of Central Power at the Local Level*

The most notorious case of the local authorities’ restriction of constitutional guarantees by is that of the municipality of Cluj. The rise to may-orship of then-president (now secretary general of PRM) of PUNR Gheorghe Funar turned this Transylvanian city into a haven of ultra-nationalism. Year after year, Gheorghe Funar incited anti-Hungarian acts, defiled the symbols of Hungarian culture and identity, forbade democratic meetings, and urged protests against the Hungarian consulate in Cluj. Funar erected ugly statues throughout the city and painted every possible surface into the colors of the Romanian flag, which became a sort of icon of Romanian ultra-nationalism. In 2001, he forbade the application of the Law of Public Local Administration on the territory of Cluj, immediately after the law’s adoption. All these violations of Romanian laws, with de-

179 Harghita and Covasna.

180 APADOR-CH Report, 2001

vastating effects to the state of the nation but also to Romania's international relations, have not been sanctioned by the central authorities.

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In 1997, Prime Minister Victor Ciorbea made a radical step forward in Romanian-Hungarian relations by adopting two emergency ordinances in the fields of education and local administration. They included the claims of the Democratic Alliance of Hungarians in Romania<sup>181</sup> in regards to use of the mother tongue in education and administration.<sup>182</sup>

The emergency ordinance concerning public administration provided, among other things, for the introduction of bilingual public inscriptions in localities with over 20% Hungarian populations. In Târgu Mureş, a key place for Romanian-Hungarian relations,<sup>183</sup> the mayor planted bilingual plates at the city entrance. During the first night, the plates were painted over in the colors of the national flag or erased. The plates were replaced each night, and each night they were defaced. The city's PUNR branch acknowledged the actions, which constituted an open violation of criminal laws. The Târgu Mureş Police, moreover, refused to guard the bilingual plates. The chief of the county's Police Inspectorate made his refusal public, thus violating his own official duties. One of the ministers that had signed the ordinance, Gavril Dejeu,<sup>184</sup> had asked the postponement of its application. State secretary Grigore Lapusanu, head of the department for Local Public Administration, sent a notification, without the consent of the government, to interpret the Ordinance, meant to prevent its application.<sup>185</sup> After several months when, though it had the status of binding law on the territory of Romania, the Emergency Ordinance was sabotaged and its application by the local authorities who wanted to do it could not be done, the Ordinance was 'killed' by the Constitutional

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181 The uncontested representative of the Hungarian minority and a member of the government

182 The emergency ordinances were meant to put an end to a conflict that had started in the early days of 1990; they were a part of what was later called "the Romanian-Hungarian reconciliation model".

183 This is the city of the greatest open confrontation between Romanians and Hungarians (March 1990). Five people died during the clash, while other several hundreds were injured. Although historically speaking Târgu Mureş is a typically Hungarian city, today the Romanian and Hungarian population have almost reached parity.

184 Minister of the Interior at the time, member of the PNTCD, whose member was also Prime Minister Victor Ciorbea, promoter of the Ordinance.

185 He interpreted it speculatively, qualifying the display of bilingual name plates as a "giving or changing of name", so that the Mayor's competence in the field would be ruled out.

Court (in the fall of 1997), where it was rejected on the basis that it lacked in ‘urgency’.<sup>186</sup> The public ignorance of the law, in this example, was done without punishing the guilty parties, the extremist forces who went all the way to have their will forced upon the country.

The third representative case is that of the Changos in Moldova, in the region of Bacău. The Chango group that openly assumes a Hungarian ethnic origin has been the subject of a decade-long process of assimilation. The process continued after 1989. Subsequent to the political changes of 1996, the Ministry of National Education and the Department for the Protection of National Minorities tried to enforce the application of relevant laws, which safeguard the study of the mother tongue, provided there is a sufficiently large base of parents who so desire. The parents that expressed this wish were systematically intimidated by the local authorities – and the clergy, so that some withdrew their requests. A Commission made up of members of the two central institutions in order to solve the conflict was given a cold shoulder by the local authorities, who practically prevented it from fulfilling its duties. The case of the Changos near Bacău is a clear-cut illustration of the state being unable to safeguard the rule of law for some of its citizens.<sup>187</sup>

These examples (a few among many others) indicate that, 12 years after the changes in 1989, Romania still has problems that are typical to a weak state. In a weak state, ultra-nationalism and other extremist acts find the appropriate breeding ground.

## **2. Mistrust of the Population in the Institutions of Democracy**

There is a significant number of attitudes for the capacity of a population to defend the values of democracy from extremism. Among them, we can distinguish the population’s trust in institutions. We showed earlier the public’s like for authorities such as the Church and the Army. Below, we present the attitude of the population toward other institutions – in the last six years – according to the Barometer of Public Opinion.<sup>188</sup>

The only institution in which “the majority” of the population trusts (except for the Church and the Army) is still the most “authoritarian” of all: the government. The extremely low percentage of trust in parties, trade unions. The parliament, and justice indicate the fragile state of

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186 Which, practically, if not symbolically, seemed to be true.

187 APADOR-CH Report, Bucharest, 2001.

188 The figures represent “percentages of trust” of the sample. (Open Society Foundation, *Barometrul de Opinie Publică, May 2001*, Bucharest, <http://www.osf.ro>)

Institution	Oct. 1996	Sept. 1997	June 1998	May 1999	May 2000	May 2001
Government	83	86	85	88	85	89
Justice	36	36	28	30	28	29
Parliament	23	38	19	20	28	33
Town Hall	62	51	42	46	34	54
Parties	–	–	10	15	9	16
Trade Unions	–	24	23	30	14	24
Banks	–	28	30	28	19	19

Romanian democracy. The figures simultaneously express two things: a) the weak performance of these institutions, which has led to the mistrust of the population; b) the fact that the population does not count on these institutions to be the basis of social-economic progress, and therefore no mass resistance can be expected to defend them – as institutions of democracy – from the possible aggressions of certain extremist forces.

### 3. Lack of Transparency

The institutions' lack of transparency has profound implications for Romanian democracy. It affects the level of trust in institutions – which are perceived as 'far removed from the citizen' – and encourages corruption. The Romanian Constitution adopted in 1991 guarantees that "a person's right of access to any information of public interest cannot be restricted" (Art. 31).<sup>189</sup> Until the summer of 2001, this provision was not accompanied by a normative act defining adequate instruments and sanctions. The constitutional right was supported only by some pre-1989 provisions which dealt with this issue at an administrative level. But the weakness of legislative instruments is merely a collateral factor. The main problem is the tradition of institutional secrecy and the inferior status enjoyed by the citizen when faced with the institutions. The heads of institutions, the high officials and the politicians, are indifferent to or programmatically refuse to ensure the citizens' access to information.

There are several systematic studies of institutional transparency. An ample research conducted in 1995 indicated that, due to the limits of the legislation (its vague character, the absence of a law on free access to information, the failure to finalize the law on the state secret) and to the absence of infrastructures, the effective character of the right of access to informa-

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189 The excepted cases are those that would endanger "provisions protecting the young people and national security."

tion significantly depends – particularly in view of Romania’s institutional traditions – on the will of the public bodies, i.e. of the civil servants.<sup>190</sup>

A recent study – covering the period between June 1999 and April 2001<sup>191</sup> – provided new data with respect to questions to which transparency is especially relevant: the status of high officials and corruption. The Romanian Commercial Bank (BCR) was asked to answer the following questions: who are the high public officials who have benefited from preferential credits from Bancorex (a publicly owned bank);<sup>192</sup> the Romanian National Bank was asked to indicate which are the sponsorships granted by the bank after 1989; the CEC was asked to indicate the individuals who have benefited, in the period from 1997 to 2000, from credits for young couples (for buying or building homes).<sup>193</sup> Similar questions have been addressed to presidents Emil Constantinescu and Ion Iliescu, and to Prime Minister Adrian Năstase, all of which have prerogatives in this respect.

None of the 11 requests addressed to state-owned banks (or private banks managing public money) and high officials was answered favorably. Yet the subject of those questions is extremely relevant to the citizens. The author concluded that “access to information concerning the management of public money is grossly violated, and is an important explanation of the level of corruption in Romania.”<sup>194</sup>

For the purposes of the same study, the author addressed letters to public officials, requesting them to answer if: they were part of administrative councils or general stockholder assemblies of mostly or exclusively state-owned companies; if they or their spouses were managers/associates/stockholders of mostly or exclusively state-owned companies.<sup>195</sup> Under 20% of those requested answered; only 5% of the members of the parliament responded. Additional data provided by the

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190 Gabriel Andreescu, Manuela Ștefănescu, Renate Weber, *Access to Information in Romania*, Bucharest, Center for Human Rights, 1996.

191 Valerian Stan, “Câteva observații privind transparența și integritatea actului de administrație publică în România” (Some Comments on the Transparency and Integrity of Administrative Actions in Romania), *Revista Română de Drepturile Omului*, No. 20, p. 56-66

192 BCR, a mostly state-owned bank, took over the actives and passives of Bancorex, after the latter was declared bankrupt.

193 In all these cases, the press referred to high officials and civil servants that had allegedly benefited from credits, sponsorships and allowances that were against the law.

194 Valerian Stan, *Op.cit.*

195 The inquiries were sent to 55 House members, 28 senators, 14 ministers, 36 state secretaries, 22 prefects and 11 heads of county police inspectorates. Only 29 answers returned.

Trade Registry indicated that the business activities of public officials are carried out under the names of relatives or third parties. Due to the holders of the businesses, the records of the register of Commerce are incomplete and not updated. The real income of the businesses is difficult to know, often firms of the statesmen that have dozen billion ROL turnovers record minimum profit or “zero profit”.

#### 4. Poverty

Poverty favors the development and manifestation of extremism. “Indicators of poverty” will always also show sensitivity to extremist drifts. There are relevant indicators of poverty in Romania and of its evolution between 1990-2002. The occurrence and depth of poverty are high and have been constantly growing in the country in this period.

Of the Central and East European countries, Romania has the highest rate of poverty except for Albania. In 1998, 6.8% of the population lived on under 2 USD/day, and 44.5% on under 4 USD/day.<sup>196</sup> A recent survey regarding the rate of poverty in under 15-year old children (1998) showed that 11.6% of the children lived on under 2.25 USD/day and 75.7% on under 4.30 USD/day.<sup>197</sup>

If a relative indicator is used, depending on the average adult consumption, then the evolution of poverty at the end of the ‘90s was the following: 1995 – 25.27%; 1996 – 19.85%; 1997 – 30.81%; 1998 – 33.82%; 1999 – 41.20%.<sup>198</sup>

Besides the ‘realistic’ indicators of life standard, the subjective evaluation of people’s capacity to satisfy their personal needs or their family’s needs is significant. The Barometer of Public Opinion (for 1997-2000) provides a relevant image in this respect:<sup>199</sup> the number of those that answered that “the family income is only enough to cover basic expenses” was, in June 1997, 40%, in June 1998 41%, in May 1999 39%, and in May 2000 37%. The answer “the family income is not enough to cover basic expenses” was given by 31% in June 1997, 31% in June 1998, 36% in May 1999, and 41% in May 2000.

As concerns the “subjectivity of the evaluations”, there is a suggestive answer in the survey of May 2000. The question “whether in the last

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196 Cornelia Mihaela Tesliuc, Lucian Pop, Emil Daniel Tesliuc, *Sărăcia și sistemul de protecție socială [Poverty and the system of social protection]*, Iași, Polirom, 2001, p. 24.

197 A Decade of Transition, Florence (Italy), UNICEF, 2001, p. 32.

198 *Ibidem*, p. 28.

199 Barometrul de opinie publică, Open Society Foundation, <http://www.osf.ro>.



month you have gone to bed hungry because you could not afford enough food” got 13% ‘yes’ answers.

The sensitiveness caused by poverty, its attitudinal implications does not only reflect the ‘realistic’ parameters of this or the evaluation of sufficiency – or insufficiency – of personal income. It depends on the way in which poverty ‘is distributed’, the explanation that poverty gets. Research shows that in addition to the life standards before 1989 and the performance recorded in economic growth, Romania’s situation in the position of the poorest country in central and Eastern Europe is due to the growth of inequalities during the period of transition.<sup>200</sup> Its deepening, simultaneously with social polarization – especially if the accumulation of goods by certain categories has a defying character – leads to increased frustration of the disadvantaged social categories and makes them respond to injustice ‘violently’. The topic is directly connected with the manifestations of corruption. Of the numerous relevant observations regarding the ‘face’ of poverty in Romania, we must note the spectacular growth of luxury cars, especially in the capital city. The director of a firm that sells BMW limousines observed that in Romania they sell the most expensive models, while in Slovenia – a country where the average income is about 7-8 times higher than in Romania – they buy the cheaper models especially.<sup>201</sup>

## 5. Corruption

“Corruption in Romania is so widespread that it adversely affects the political and economic stability of the nation.” This statement of the *Nations in Transit 2001* report<sup>202</sup> is something that Romanians know from their daily lives. This is not true with respect to high-level corruption alone, or in special fields prone to corruption, or in the interloper world. Corruption is a fact within whole professional groups, such as the teaching or medical staff.<sup>203</sup> The same report noted, “Romania’s complex bureaucracy increases opportunities for corruption, which is extensive in the civil

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200 Cornelia Mihaela Tesliuc, Lucian Pop, Emil Daniel Tesliuc, *Op.cit.*, p.24.

201 Alexandru Lazescu, “Lecția argentiniană”, in “22”, no.2, 2002.

202 Adrian Karatnycky, Alexander Motyl, and Amanda Schnetzer, *Nations in Transit 2001. Civil Society, Democracy and Markets in East Central Europe and the Newly Independent States*, Freedom House, 2001, p. 305.

203 According to the poll performed for the Open Society Foundation in May 2000, of all individuals who had to solve their problems with the help of official institutions, 24% offered gifts in court; 20% to the police; 55% in hospitals; 22% in school; 29% at the workplace (see <http://www.osf.ro>).

service. Though it is possible to benefit from these services without bribing, the process could be long and tedious. Almost all the sections and levels of public services have been affected by bribing.”<sup>204</sup> Of the 90 states surveyed, as regards the Index of Corruption, Transparency International ranked Romanian 61<sup>st</sup> in 1998, 63<sup>rd</sup> in 1999, and 68<sup>th</sup> in 2000.

The opinion polls indicate that large percentages of the population see corruption as one of the factors that prevent Romania from developing. The population finds it is even harder to bear the burden of corruption, since the latter is commonly regarded as responsible for the polarization of society.<sup>205</sup>

The corruption of high officials is a central question because (a) it explains decisions that favor an autochthonous program and, as such, extremist ideologies; (b) turns the corrupt officials into the puppets of extremist groups, for which blackmail is the weapon of choice; and (c) negatively affects the population’s level of trust in democratic institutions.

A transparency study published in 2001 by Valerian Stan indicated that the lack of integrity of high officials and civil servants is an important cause of corruption in Romania.<sup>206</sup> The conflict between the public interest that they are called to serve and their personal interests is affected by the shortcomings of the law as regards the incompatibility between holding public positions and running private lucrative businesses.<sup>207</sup>

The survey showed that “many statesmen and public servants have taken advantage of their positions to gain private or group benefits, such as in 1) obtaining significant private advantages from state owned economic enterprises (this situation was and still is possible due to the extremely slow rate of privatization, approximately 70% of the ‘state-owned’ property has not yet been privatized); 2) obtaining in preferential conditions loans from public banks, CEC or external governmental loan schemes; 3) holding positions paid in the steering boards of production companies, state-owned banking services; fiscal facilities – sometimes worth several billion ROL, by

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204 *Nations in Transit 2001*, p. 306.

205 Public Opinion Barometer.

206 Valerian Stan, *Op.cit.*

207 The Constitution provides for the incompatibility between the position of member of the government and holding a paid position of professional representation in a business. Any other incompatibilities of the members of government and of the parliament are established in organic laws. Law no. 69/1991 prohibits prefects and sub-prefects to hold positions or carry out paid professional activities in autonomous state-owned companies, businesses or lucrative organizations. Law no. 188/1999 does not allow public servants to hold positions in autonomous state-owned companies, in businesses or in other lucrative organizations, or to carry out lucrative activities within businesses with private capital that are related to their public positions.

convenient installments or cancelled debts; 4) obtaining huge amounts of money by illegal means, from illegal sources, as funds destined for politicians and political parties; holding and illegal purchase at hilariously low prices of estate belonging to the state housing system, or estate nationalized abusively by the totalitarian communist state.”

The same author shows that high officials obtain from private businesses annual incomes that are 10 to 20 times greater than their salaries. Many officials become business partners of ‘interlopers’ or local administration officials, intelligence officers, members of the economic police. Some less important guilty parties go to jail.<sup>208</sup> But only one of the many officials, high-level civil servants, and financiers about whom the press has provided evidence of corruption, was punished.<sup>209</sup>

### *5.1 Structural Corruption*

The notion of “structural corruption” refers to the existence, in Romanian institutional and legislative structures, of instruments that simply invite institutional abuse. Romania’s problems are not only a matter of a lack of anti-corruption instruments, but also of institutional and legislative factors that foster corruption. Among them: (a) parliamentary immunity; (b) the institution of military magistrates; and (c) the economic activities of the Romanian Intelligence Service.

Parliamentary immunity – which is relatively widespread in European parliamentary systems – has turned the legislative chambers into a haven for those who break laws. To the extent that the Romanian Constitution provides that “No Deputy or Senator shall be detained, arrested, searched or prosecuted for a criminal or minor offence without authorization of the Chamber he is member of” (Art. 69.1), and since the chambers’ rules provide for a two-thirds majority for such authorization, a member of the majority group cannot be punished, no matter how serious his crime, if the majority so wishes. As a consequence, parliamentarians accused, on solid evidence, of having embezzled millions of dollars or of having committed criminal offenses have never made it to

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208 In 1998, 534 officials were sentenced for corruption, while 381 officials were sentenced in 1999 (*Nations in Transit*).

209 The two most recent corruption scandals – 1) the “Costea affair” involving President Iliescu and other PSD leaders; 2) the National Investment Fund (FNI) affair, a high interest-earning trust company that collapsed in May 2000 after its executives embezzled funds, the first was simply closed, while the resolution of the second is delayed in spite of the wealth of evidence. Gabriel Bivolaru was condemned to three years in prison, after his parliamentary immunity was raised, for a fraud of over 2,250 billion ROL.

court.<sup>210</sup> A perverse effect of this circumstance is the increasing interest of big businessmen in becoming members of the parliament. Each new round of elections marked the increase of the percentage of these people in the legislative body of Romania.

The military courts and attorney's offices are the institutional structures of military justice. There are authors who contest, on sound grounds, their constitutionality.<sup>211</sup> Military magistrates administer the act of justice in military institutions: the army, the police forces, and the intelligence services. Military hierarchy diminishes the chances of an independent act of justice. In many cases, the military magistrates have prevented the cases from going to court. Officers acquire the mentality of a caste which, compared to the average citizen, enjoys relative impunity.

There are still no restrictions for the employment in the Intelligence Services of individuals who own private businesses. Moreover, the Intelligence Services can run their own production companies or autonomous commercial units. This contrasts with the ability and practice of these services of closely following economic activities. In this practice, the Intelligence Services are not limited to businesses that may in some way or another affect national security.<sup>212</sup> This state of affairs is worsened by the close relations between intelligence officers and their ex-colleagues in the old Securitate (the communists' political police), many of which are now important businessmen. The large number of cases brought to public attention between 1990 and 2002 suggests the existence of relations of cooperation between active intelligence officers and the world of interlopers. Although the topic is hard to research, the mentioned cooperation is a major source of corruption in Romania.

## 6. Connection between Poverty, Corruption and Extremism

The connection between poverty and corruption, on the one hand, and the success of extremism, on the other, has been amply illustrated by the elections in the fall of 2000. The Greater Romania Party (PRM) became the second party in Romania and its president participated in the second run for the country's presidency.

The average voter of PRM and his leader both seem to be *macho* figures. The preference of males for PRM and Vadim Tudor over other par-

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210 In this case, the Supreme Court of Justice.

211 Corneliu-Liviu Popescu, "The Existence of the Institution of the Military Magistrates", *RRDO*, No. 3, 1993, pp. 23-29.

212 See the criticisms leveled in Gabriel Andreescu, in several issues of "*Revista Română de Drepturile Omului*".

ties/leaders is hard to miss.<sup>213</sup> The dominance of men in the case of PRM and Corneliu Vadim Tudor is shocking, as related to all other candidates and parties.<sup>214</sup> The dominance of men in the people who vote Corneliu Vadim Tudor and his party probably constitute an indicator for the voters' predisposition to aggressiveness.

Detailed analyses have shown that "Demagogy and the simplistic solutions offered by the PRM leader would have hardly worked against a background of relative prosperity. More important, Tudor's 'righteous' postures would have been hardly convincing if corruption had not been imbued in the Romanian 'political class.' Claiming to have never had any share of the spoils (...), the PRM leader was able to capture for himself and his party that segment of the 'fluctuating electorate' that had neither forgotten nor forgiven the PDSR for its own share in the post-communist debacle."<sup>215</sup>

All polls indicate that the population has had enough of corruption but also of promises and empty words coming from politicians who claim to put an end to this phenomenon. It is this combination of factors that allowed C.V. Tudor to score. In his populist style, he announced that within 48 hours he would deal the ultimate blow to corruption ("Down with the Mafia, Up with the Motherland!" was one of his slogans). He played his card well. Less than half of those who voted for the PRM and its leader are nationalists, extremists, anti-Semites and anti-Western. The rest voted for "Vadim the Righteous".<sup>216</sup>

213 There is an abundance of cases.

214 Ion Iliescu (35%/38%); Corneliu Vadim Tudor (32%/24%); Theodor Stolojan (11%/14%); Mugur Isărescu (9%/11%); György Frunda (6%/6%); Petre Roman (2%/2%); Teodor Meleşcanu (2%/2%). The same is true of the parties: PDSR (39%/41%); PRM (25%/19%); PNL (10%/12%); UDMR (7%/7%); PD (6%/7%); CDR 2000 (6%/6%); ApR (4%/4%). See IMAS: EXIT POLL, Final Report.

215 Michael Shafir, the Greater Romania Party and the 2000 Elections in Romania: a retrospective analysis, in "East European perspectives", vol. 3, no. 14, 22 August 2001.

216 Péter Bányai, "*Fiecare popor are conducătorii pe care-i merită. Așa o fi?*" [Each people has the leaders it deserves. Is it so?], Manuscript, 2000.



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## VII.

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### **ACTORS OPPOSING EXTREMISM IN ROMANIA**

There are two types of actors that have limited or blocked the development of extremism in Romania: internal and external actors. Less visible but ultimately crucial is the synergy between them. Both kinds of actors have supported and legitimated each other in their anti-extremist efforts, and neither would have achieved on their own the degree of efficacy they achieved in cooperation.

#### **Internal Political Forces**

Between 1992 and 2002, the main forces that opposed extremist ideologies were non-governmental organizations or teams gathered around media. In this respect at least, the academic world has not been a worthy model. On the contrary, leaders of educational institutions participated in shameful anti-Hungarian campaigns.

As for the post-1990 political class, it was rather a source of chauvinistic, racist, anti-Semite manipulation. The evolution of ultranationalist parties (PRM, PUNR) is merely one aspect of the relation between extremism and politics. These parties have constantly received direct or indirect support from the political force that led the country in the first post-revolutionary years (the Front for National Salvation [FSN], and later the Party of Social Democracy in Romania [PDSR]). The latter has constantly been interested in employing nationalism to secure legitimacy, but also in order to ensure a more “decent” status by comparison with the ultranationalists.<sup>217</sup> Yet the political opposition before 1996 was itself weak, fragmented, and confused. For years, the parties making up the old

<sup>217</sup> Gabriel Andreescu, Renate Weber, “Nationalism and Its Impact on the Rule of Law”, *International Studies* no. 1, Bucharest, pp. 47-62.

Opposition have tried to win the electorate, sometimes through nationalist attitudes and statements.<sup>218</sup>

Human rights and pro-European organizations have been at the forefront of the anti-extremist campaign. In the first years after 1989, one of the main actors was the Group for Social Dialogue in Bucharest, whose *22* magazine represented for a while the voice of the pro-democratic Romanian intellectuals. The Timișoara Society fought in the eponymous city for the generalization of the local model of interculturality and ecumenism. The Târgu Mureș based Pro-Europe League has been the most successful promoter of Romanian-Hungarian dialogue. It was also one of the first groups to develop programs for Roma. In Cluj, the Transylvanian city held under siege by its ultranationalist mayor Gheorghe Funar, the Association for Interethnic Dialogue and its *Dialog Interetnic* journal were of particular importance.<sup>219</sup> The largest civil movement in the country, the Civil Alliance, has been conceived from the very beginning as a framework for interethnic action. This enabled it to defuse aggressive incitements coming from the ultranationalists.<sup>220</sup>

Among the Human Rights Organizations, the Romanian Helsinki Committee deserves a special mention for its important programs and advocacy in the field of national minorities. The Committee was involved in the improvement of the legislative framework in the field of national minority protection, and contributed to the adoption, in 2000, of anti-discrimination legislation.

ACCEPT, the first organization concerned exclusively with the question of the rights of sexual minorities managed to obtain, at the end of 2001, the disinclination of homosexual relations, in spite of fierce resistance from the Romanian Orthodox Church and other extremist-nationalist forces. ACCEPT specialized in raising awareness within a society that remains largely homophobic.

The press has often been an outlet for nationalist forces or, when political command was absent, it promoted its own chauvinistic cultural politics, especially with regard to Roma and Hungarians.<sup>221</sup> In this

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218 Tom Gallagher, *Op.cit.*

219 Gabriel Andreescu, *Ruleta*.

220 The Covasna branch of the Civic Alliance organized, in the fall of 1991, a meeting bringing together 5,000 Romanians and Hungarians. This meeting was responsible for defusing one of the most serious crises in Transylvania (Gabriel Andreescu, *Ruleta*).

221 A 2001 study indicated that while anti-Roma stereotypes in the central press are present in a percentage of 41.59% of the articles surveyed, positive attitudes are expressed in a mere 4.59% (*Studiu de caz (Study Case)*, Romani CRISS and Media Monitoring Agency).



context, one should emphasize the significance of the anti-fundamentalist cultural press, including such journals or magazines as *Orizont* (Timișoara), 22, and recently *Observatorul cultural* (Bucharest).

A decisive part was played by the civil and political organizations of national minorities. In the case of the Hungarian community, the Democratic Alliance of Hungarians in Romania (UDMR) has dominated in an absolute manner the relations between this community and the majority, while other Hungarian associations and foundations have been primarily concerned with the issue of identity preservation. As a part of the government in 1996, and later as a signer of a protocol with the governing party in 2000, the ability of the Hungarian community to promote its interests increased.<sup>222</sup>

One delicate aspect of the public sphere in Romania is that of anti-Roma sentiment and discrimination. Of all social groups, Roma are today the most likely target of extremist attacks. The emergence of Roma civic and political elites was crucial to limiting such tendencies. As of this writing, several dozen Roma associations and three political parties are active. They contributed to new relations between the Roma communities and public institutions. In March 2000, the Romanian gendarmerie signed a “Protocol of Partnership” with Roma representatives, aimed at increasing co-operation and mutual trust.<sup>223</sup> Roma NGOs have also learned to coordinate their positions on issues of common interest. At the beginning of 1999, at their initiative, representatives of 80 Roma NGOs nominated a fifteen-person Roma Working Group to represent them in working with the National Office for Roma to develop a Phare-sponsored national strategy for Roma.<sup>224</sup> Roma NGOs have participated in campaigns for the adoption of the Law on Public Advertising and of Ordinance 137. They have joined forces in protests against racist statements in the press, as well as in support of the adoption of positive legal measures to ensure equal treatment for Roma.<sup>225</sup>

In 2000, the most powerful Roma political organization, the Roma Party, signed a protocol with the governing party, PSD, which is the first

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222 Which did not prevent anti-Hungarian attitudes in 2001, even within the PSD (see, among others, the Report of the SRI Control Commission concerning the “loss of state control in Harghita and Covasna”). See APADOR-CH Report, 2001.

223 Open Society Institute, *Monitoring the EU Accession Process: Minority Protection*, Budapest, Central European University Press, 2001.

224 The meetings – held in Mangalia and Sibiu – were supported and attended by representatives of the DPNM, the EU and the Project on Ethnic Relations. *Aven Amentza*, No. 12-13, 2000.

225 *Aven Amentza*, No. 12-13, August–September 2000.

226 The Group for Social Dialogue, Civil Alliance, Association of Ex-Political Prisoners in Romania, the Association of the Victims of the Miners’ Crusades.

instance in which the Roma community took part in the definition of public policies in Romania.

A good example of the way in which civil society joined forces against extremism was the reaction against the attempted coup of 1999 orchestrated by the Greater Romania Party (PRM). Several important organizations in Bucharest created a veritable “strategic council” which prepared the defense against those who were threatening the rule of law. Their strategy included media statements and articles, demonstrations and talks with the authorities. As the government and the president were getting ready to call a state of emergency, the NGOs<sup>226</sup> announced and held in Bucharest a march of solidarity with the rule of law (January 22, 1999). A similar march had taken place in Timișoara the day before, also as part of a coherent strategy devised by active pro-democratic groups. The fact that the leaders of the parties in power and other high officials<sup>227</sup> insisted, on the morning of January 22, that the demonstrations should be held as planned, points to the self-conscious weakness of the state, but no less to the part played by the NGOs in the public space.<sup>228</sup>

This short list indicates the role of a part of the civil society in the fight against extremism. On the other hand, as indicated above, a large number of foundations and associations promote nationalist and extremist associations. The paradox is that, today, pro-democratic organizations in Romania are almost completely sponsored from the West, while many nationalist, overtly chauvinistic associations receive funds from the state budget.<sup>229</sup>

### **Romania’s Participation in International Life, as a Major Factor Limiting Extremism**

Romania signed the Declaration of the Copenhagen Meeting of 1990. It became a member of the Council of Europe in 1993, and enjoyed full membership rights after it ratified the European Convention of Human Rights in 1994. Opinion 176 on Romania’s application for membership in the Council of Europe requested the Romanian state to “urgently modify... Article 19 of the Act on the organization of the judiciary”; “Article 200 of

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227 Among them, the mayor of the Capital.

228 On the other hand, the weakness of the authorities on that occasion was also apparent when they failed to fulfill other duties (e.g. in their poor administration of exceptional measures).

229 Some nationalist leaders found new associations and baptize them with pro-European names. In this, they seek democratic legitimacy and eliminate authentic NGOs from competition for resources. See European Studies Center Covasna-Harghita.

the Criminal Law will no longer consider as a criminal offence homosexual acts in private between consenting adults”; “implement improvements in conditions of detention”; “adopt and implement as soon as possible (...) Recommendation 1201”; “make use of all means available to a constitutional state in order to combat racism and anti-Semitism, as well as all forms of nationalist and religious discrimination and incitement thereto”; “sign the European Charter for Regional and Minority Languages”.

The modification of the law on the organization of the judiciary and the appointment of unmovable judges were both implemented in 1994. The provisions of Article 200 of the Criminal law were relaxed in 1996, and then completely abrogated in 2001. The European Charter for Regional and Minority Languages was signed but, so far, not ratified. The legislation in the field of national minorities improved to a considerable extent, but chauvinistic and discriminatory manifestations and attitudes remained a part of the public space in Romania. Romania’s participation in the Council raises an obvious question concerning the effect of Romania’s integration in intergovernmental bodies.

The answer has to take into account the considerable force of the autochthon groups and groups who are opposing the values of European democracy. In the political internal competition, nationalism and ultranationalism are a very handy tool in the hands of those who control institutional access and economic power and can turn ideology into political capital.

Considering the above, we believe that the answer is in the positive. Without the authority of intergovernmental bodies it is less likely that Romania had continuously improved its legislative framework and public policies. The legitimacy lent to the organizations of civil society, which often appealed to means provided by the Council, was no less instrumental to these achievements.<sup>230</sup>

For many years, OSCE High Commissioner for National Minorities Max van der Stoep has played a remarkable role by reducing the danger of ethnic crisis in the country. The High Commissioner’s visits in Bucharest, during the most critical times, the 1990s, convinced Romanian decision-makers and Hungarian leaders to keep dialogue.

While the relationship with the Council of Europe was crucial in the first years after 1989, later on the main engine of change were the negotiations with the European Union. EU norms concerning equality of opportunity led to the adoption of anti-discrimination legislation in 2001.<sup>231</sup>

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230 Gabriel Andreescu, *Solidaritatea alergătorilor de cursă lungă*, Iași, Polirom, 1999.

231 See the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, June 2000.

The government's "Strategy for Improving the Roma Situation", approved in April 2001, was an item of the short-term Accession Partnership Agreement.<sup>232</sup> Between 1997 and 2000, the European Union funded 12 projects dedicated to improving the situation of Roma through the "Phare Democracy" and "LIEN" programs.

A significant part was played by the relation between Romania and the United States, in which the process of NATO enlargement loomed large. The US State Department may still exert considerable influence upon Romanian authorities. The Department prepares a yearly report on human rights in Romania, in which the issue of extremism is discussed more or less explicitly. The interventions of American congressmen prompted several government leaders and presidents to add their voices to the chorus of criticisms against the cult of Marshall Antonescu, in spite of sympathetic positions taken by many in the country's political elite. In other words, American concern over anti-Semitic manifestations in Romania was a very important sign of warning for the Bucharest authorities.

The United States also played a decisive role in determining the PDSR-led government to sign and ratify, in 1996, the Basic Treaty between Romania and Hungary. They were no less important in preventing the adoption of legislation against religious minorities in spite of tremendous pressures by the BOR.

## Synergy

The last example is illustrative of the significance of the synergy between internal and international actors. In 1999, Ambassador at Large Robert A. Seiple came to Bucharest and, by virtue of his powers under the International Freedom Act of 1998, voiced his concern with the adoption by the government of a bill concerning the regime of religious cults that grossly violated freedom of belief and religion. The cooperation of active human rights organizations and churches<sup>233</sup> was decisive, and additional international support ultimately resulted in the withdrawal of the bill from the Parliament.<sup>234</sup>

In more general terms, almost all cases of anti-extremist success involved a synergy of internal and international actors. Keeping the tension between Romanians and Hungarians at sub-critical levels was possible due to the ability of Project for Ethnic Relations to preserve dialogue

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232 The development of a Roma strategy was supported by a PHARE budget of two million (Reference no. PHARE RO 9803.01).

233 Romanian Helsinki Committee and the Baptist Church.

234 Gabriel Andreescu, *Working Paper*, Bucharest, CENPO, 1999.

between the Romanian and Hungarian political leaders in moments of tension. The involvement of Romanian civic actors was equally crucial.

In 1994–1995, special ties between Dutch Helsinki Committee, OSCE High Commissioner for National Minorities, Romanian Helsinki Committee, and UDMR preserved opportunities for rational analysis and dialogue. This was essential for developing adequate approach to Hungarians requirements and preparing that civic and political environment necessary for the change in 1996, when UDMR joined the government.<sup>235</sup>

A final example would be that of the cooperation between organizations dealing with the rights of gay and lesbian persons<sup>236</sup> and the European Commission and European Parliament. These organizations were online as the parliament and the government were debating the issue of Article 200 of the Criminal Code. The homophobic pressures of orthodox circles could be defeated only by fast, informed, joint reaction against the decisions of Romanian authorities before they were ratified.

To conclude, the synergy between internal civic and political groups, on the one hand, and international bodies on the other, is one of the most powerful instruments of democratic evolution and anti-extremist action in this country.

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235 One could notice the role of some key actors, one of them being the OSCE expert Arie Bloed. He worked that time with High Commissioner, but as member of the Dutch Helsinki Committee, he put in connection those Romanian NGOs leaders committed for minority rights, with their governmental partners. This strategy proved to be a resource of inter-ethnic stability.

236 First of all, ACCEPT, with the help of organizations such as the Romanian Helsinki Committee.



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## VIII.

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### CONCLUSIONS

Extremist attitudes in Romania are a relatively frequent phenomenon. One may find supporters of extremism in all age, social, and educational groups (the small, weak middle class plays an obvious part in this respect). The most serious and dangerous form of extremism was and still is ultranationalism.

Extremist incitements come in the shape of statements, discourses, platforms, ideologies, other civil or political manifestations. With the exception of the political machinations of 1990 and 1991, and the attempted coup of 1999, racially or ethnically motivated violence targeted exclusively the Roma population. Approximately 35 attacks against Roma communities were recorded between 1990 and 1996, some of which resulted in dead and injured, destruction of homes and of other property. Sometimes the victims were driven away from the villages. After 1996, such attacks came to a halt due to the preventive measures and sanctions against responsible parties taken by public authorities. In the past few years, abusive behavior toward the Roma came mainly from within the ranks of the police or gendarmerie, through exceeding the reasonable measures they are authorized to undertake.<sup>237</sup>

Political ultranationalist forces and forces inside the Romanian Orthodox Church (BOR) have proven directly interested in the perpetuation of extremist behavior. Some groups, connected to the old communist regime, have generally been involved in extremist manipulation, especially those of the intelligence service. Extremism is directly favored by the weaknesses of the rule of law, particularly by structural corruption, by the authorities' lack of transparency, and by poverty.

Right-wing associations and media are commonly sponsored by older supporters of legionnarism, most of which are exiles or are doing business in Romania. The main sources of ultranationalist funds are the business-

237 Usually, such abuses take place during raids in Roma communities, or by abusive use of weapons in individual actions.

es of adepts that control financial, economic and commercial activities directly benefiting from the high level of corruption. State budget is also a source for the ultranationalist parties elected in the Parliament.

Steps for preventing and fighting extremism include legislative and public policy measures, and should predominantly focus on enhancing respect for the rule of law. The position of the international community proved, in the past, to be of decisive importance for the evolution of extremism in Romania and in the neighboring countries.

### **Legislative Measures**

As of this writing, the Romanian legislative framework covers in a satisfactory manner the prevention and fighting of extremism. Romanian legislation in the field is ample, but often lacks coherence. A simplification of the normative system would be helpful. Yet, there are sufficient laws punishing incitements to racial and ethnic hatred, protecting against discrimination of all sorts, or prohibiting associations with extremist goals. Romania has still to ratify the European Charter for Regional and Minority Languages.

One exception to the above is the legislation in the field of freedom of religion and belief. It is necessary to adopt, as soon as possible, legislation that is compatible with the principle of freedom of conscious. The current norms are inherited from the communist regime and are therefore both insufficient and discriminatory.

Another component of legislative reform concerns amendments to the legislation protecting particular groups when they commit abuses (in particular, legislation concerning assault and battery). The system of military prosecutors – an unconstitutional institution at that – should be abolished.

A special question is that of negationism (reversionism). This phenomenon is relatively widespread throughout Romanian society, and concerns two main issues: denial of the crimes against the Jews and the Roma committed by the Romanian authorities during World War II,<sup>238</sup> and denial of the crimes of communism and of the effects of communist totalitarianism. These matters have been the subject of ample cultural debates.<sup>239</sup> Nevertheless, in our opinion anti-negationist legislation would extend beyond the realm of reasonable restrictions of the freedom of expression.

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238 The crimes in the Transdnister region are, in particular, subject to relatively frequent denials. Similar statements with respect to the crimes of Nazi Germany are much less common.

239 See especially the debates in periodicals such as *România literară*, 22 or *Sfera politică*, especially during 1998 and 1999.



## Measures Concerning the Rule of Law

The most effective way to limit extremist manifestations is to ensure respect for the rule of law. The violation of the principles of the rule of law seems, nevertheless, to be endemic. For this reason, attention should be paid less to matters of legislation and more to matters of enforcement. In particular, the negotiations between Romania and the European Union should expressly codify the capacity of the authorities in Bucharest to enforce the laws of the country.

The enforcement of laws and constitutional provisions concerning extremist groups should be regarded as a priority. It is important to introduce, on the list of Romania's obligations toward the EU as defined by the Copenhagen political criteria, the criterion of respect for the freedom of religion, of belief and confession. Legislation that is relevant to the field of religion should be evaluated with respect to other parts of the *acquis communautaire*, such as the anti-discrimination directives.<sup>240</sup>

## Public Policy Measures

A list of public policy measures aimed at preventing and fighting extremism should include:

- measures for the improvement of the system of justice, such as the training of magistrates and the prevention of corruption within this system;
- the development of cooperation among the authorities and NGOs supporting human rights and democratic values;
- a reassessment of the state of the system of national education, with a special focus on civic culture and history textbooks;
- the establishment of an army force made up of professionals, which may restrict the presence within the military system of extremist forces interested in capitalizing on the political value of military positions;
- effective civil control of the intelligence services, ensuring a maximum of transparency compatible with the nature of these services, in particular transparency in the education of intelligence personnel and in activities that may conflict with the public interest;

<sup>240</sup> Support for the directives has to take into account their larger significance and implications. As such, Council Directive of June 2000 concerns the fighting of ethnic and racial discrimination, rather than religions discrimination. Nevertheless, underprivileging ethnic groups by limiting their freedom of religion *is* covered by the Directive.

- introduction of a financing policy of cults that ensures the separation between the interests of the clergy and of politicians;
- the marginalization of ultranationalist parties by means of an explicit and firm denunciation of their policies, and by excluding any form of cooperation with such groups;
- promotion of new affirmative actions with regard to Roma – Roma being, by far, the most important target of the extremist acts.

### **The Attitude of the International Community**

There are some measures that could define an European policy in the field of fighting extremism:

- International cooperation and, in particular, making sure that Romania remains a party to the ongoing processes of integration (EU, NATO), is one of the most effective ways of reducing the (otherwise substantial) danger of extremism in Romania in this country.
- Discussions concerning questions of discrimination and extremism in the framework of EU monitoring procedures should be a priority issue in accession negotiations.
- Increasing international support for the work of ECRI and ensuring that member states give concrete follow-up to its recommendations.
- Promoting within pan-European party coalitions (Socialist International, Liberal International etc.) the principles of Recommendation 1438 (2000)<sup>241</sup> of the Parliamentary Assembly of the Council of Europe, concerning the threat posed to democracy by extremist parties and movements in Europe.
- Continuous and substantial support for civil society groups devoted to democratic values. Considering the restriction on voluntary work posed by the level of poverty in Romania, the scarcity of resources on the private market and the lack of a sponsorship culture, the feeble input of the state in this respect (and sometimes even its enmity toward pro-democratic groups), making available foreign resources remains a vital condition for the health of civil society in Romania.

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241 Assembly debate on January 25, 2000 (2<sup>nd</sup> Sitting) (see Doc. 8607, Report of the Political Affairs Committee, Rapporteur Mr. Gjellerod). Text adopted by the Assembly on January 25, 2000 (2<sup>nd</sup> Sitting).

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## **ANNEXES**

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## ANNEX I

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### **THE ROMANIAN INTELLIGENCE SERVICE (SRI) – AN INSTITUTION THAT PROMOTES ULTRANATIONALISM**

The most severe, most efficient and still the most dangerous form of right-wing extremism in Romania is ultra-nationalism. Traditionally, ultra-national politics has always been associated with setting-up and operating the Romanian Intelligence Service (SRI), which logically (when we think of its function), but also paradoxically (if we have in mind realities), has among its competencies the identification of totalitarian and extremist manifestations.

This situation is also generated by the fact that SRI was built on the structure of the Securitate, the old political communist police. Because in Romania in the last decades communism took on the form of national-communism, and the Ceaușescu regime wanted to get out of the Soviet control, the Romanian Securitate was instructed in an aggressively nationalist spirit. The tasks of the Security included the supervision of the measures to assimilate the Hungarians – especially of the Hungarian Changos, combating extreme sections that affected the good “image of the country”, cooperation with ex-legionnaires abroad – such as Iosif Constantin Drăgan – with a view to promote a grandiloquent history. All this institutional tradition became, after 1990, rough ballast, but also a tool for the promotion of the interests of ex-officers of the defunct system.

The Council of the National Salvation Front (CFSN), the first structure of power that was established after the events that led to the fall of communism, decided to abolish the Securitate, to transfer its human resources and patrimony under the control of the Army, and to pay the salaries of ex-officers and the personnel for three months. This meant that by the end of March 1990, they had to find a new job. The public opinion was vehemently hostile to setting up a similar institution again. Meanwhile, the Romanian Hearth was established as the spearhead of Romanian ultra-nationalism. On 19, 20 and 21 March, 1990, in Târgu Mureș, there was a bloody confrontation between the Romanians and the Hungarians, which had been prepared and carried out with the specific

intelligence service means. Based on the argument that such events are a threat, the Romanian Intelligence Service was set up immediately afterward, without seeking approval from the only institution that has this power: the Provisional Council for National Unity. The first nationalist movements were led by officers or collaborators of the Securitate. One of the people that prepared the setting up of the Romanian Hearth and counseled Ion Iliescu, the president of the Temporary Council for National Unity,<sup>242</sup> during the events in Târgu Mureș, was Virgil Măgureanu, the would-be director of SRI.<sup>243</sup>

All these strong arguments demonstrate that the setting up of the Romanian Intelligence Service was done after an ultra-nationalist scenario which was implemented by the people of the ex-Securitate. Most of these people were again integrated in the new SRI. When he was made director of the SRI, Virgil Măgureanu made a public statement denying that he ever belonged to the Securitate. After a while, some documents were published that demonstrated the contrary, and thus Virgil Măgureanu was forced to admit this unquestionable evidence.

Many of the Securitate officers formed the first line of ultra-nationalist associations and parties: the Romanian Hearth, PUNR and PRM. The connection between the Romanian Intelligence service and the ultra-nationalist forces can be noted in a long series of individual cases – such as the career of officer Mircea Chelaru. He was appointed chief of the division that handles irredentism in 1990, and later suddenly became president of PUNR. Beyond the indirect arguments, the Romanian Intelligence service itself had official anti-minority manifestations. They showed first of all in the SRI reports.

## SRI Reports

The first SRI Report issued in October 1994, on the fulfillment of attributions that the Service has to safeguard national security (during the period between October 1993 and September 1994), in the chapter titled “Protection of the Rule of Law”, discussed “exacerbation of nationalism”, and “extremist and separatist” tendencies. The report stated that, “without minimizing them, it must be pointed out that the appeals to confrontations with the majority population have a modest echo”. In other words, the SRI reported the identification of extremist-nationalist actions that endangered

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242 The Provisional Council for National Unity replaced CFSN.

243 Gabriel Andreescu, *Ruleta. Români și maghiari, 1990–2000*, [Roulette. Romanians and Hungarians, 1990–2000] Bucharest, Edit. Polirom, 2001.

the rule of law, but they were allegedly initiated by the **minorities** or some “foreign nationalist-extremist organizations”. The example of extremist initiatives that is given is “the campaign of collecting signatures in support of a draft bill for the education of national minorities”. For the Romanian Intelligence service, the exercise of the constitutional right to initiate laws by the will of the citizens (Art. 73.1) was, therefore, a threat for the national security, and thus an objective of its actions to protect the rule of law.

The report also referred to “anti-constitutional manifestations of some Romanian citizens of Hungarian origin”, which would be due “mostly to the anti-Romanian propaganda, the revisionist incitements, and direct support from abroad” (p. 5). There was mentioning of the “Transylvanian Hungarian Initiative”, led by Ádám Katona, an organization which became official in 1992, and whose objective was to accomplish self-determination through different forms of autonomy, including territorial autonomy (Art. 4 of the Platform program), “financially supported from abroad”.

Obviously, none of the manifestations that they made reference to was anti-constitutional. In the report, SRI was mistaking, on purpose, **the obligation to respect the provisions of the Constitution**, therefore the rule of law, for **the option to change the existing order and the expression of this option**.<sup>244</sup> The same mistake applied to “incitement to territorial separation”. It must also be mentioned that there are no restrictions in the Romanian laws referring to the foreign financial support of organizations set up in conformity with the right to free association.

The SRI Report also dealt with the Roma ethnic group, announcing the intention to “propagandistically exploit some incidents that occurred in the relations of some members of the ethnic group with other citizens, against the background of severe anti-social and criminal actions”. The Report went on, “it must be emphasized that in the few conflicts that occurred, the protagonists were always citizens, not the ethnic group, and the events were significant strictly in the specific local and inter-personal context”. However, the Romanian Intelligence Service is not entitled to provide standards of interpretation regarding the ethnic or non-ethnic nature of conflicts.

Another assertion, “some elements of the Roma<sup>245</sup> (...), [are] distorting the realities in our country by denigration and accusation, incited to action meant to affect the image of Romania abroad” (p.7). The example given is Sándor Csurkuly, the leader of the Târgu Mureş branch of the

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244 The 1991 Constitution of Romania does not allow for territorial autonomy, and for this it is necessary to change the fundamental law.

245 The syntagm that includes the word ‘elements’ (of the Roma) is offensive in itself.

Free Democratic Alliance of Roma in Romania, who “provided some international organizations tendentious data about the conflict at Hădăreni, detouring it from the sphere of anti-social and common law criminal actions to the sphere of ethnic confrontations”. It was also reported that Sándor Csurkuly had allegedly been granted material advantages, such as a free trip to Germany.<sup>246</sup> Through such assertions, the Romanian Intelligence Service violated the **Law regarding the National Security of Romania**, which points out, “The stipulations of Art.3 cannot be interpreted or used to restrain or forbid the right to defend a legitimate cause, to show protest or ideological, political, religious or other type of disagreement” (Art. 4.1). Obviously, the actions that were used as an example in the SRI Report of 1994 fell in the category of disagreements or protests. The accusations in the Report disregarded the constitutional guarantees and the law on national security.

In the Report, SRI tried to intimidate those who commented on the social, cultural and political actions in Romania, and it even insinuated that such behavior is fuelled by the wish to obtain material advantages, or to “please the valences of leadership within the ethnic group at the national level”. The xenophobic and racist tone of the 1994 report was stunning.

The issue of minorities occurs again in the new SRI Report of November 23, 1995, referring to the period between 1994–1995. SRI showed concern for the attempts to obtain information about the “reform and restructuring departments and agencies, the political parties, trade unions, the national minorities – especially the Hungarian and Gypsy ethnics”. The report accused contacts with some “leaders of the Gypsies or members of their families, in order to exploit their position toward the Romanian State and the potential to engage them in propagandistic activities that disfavor Romania”. In the chapter titled “Espionage threats”, the report listed propagandistic activities meant to “present to the exterior a very distorted image of the Romanian realities”, invoking the case in which it was stated that Romania was a “politically, economically and socially unstable country, confronted with severe interethnic dissensions that could degenerate into open conflict, which would endanger the stability of the entire area”.

The chapter “Defense of the constitutional order” reiterated the preoccupation with “political extremism on ideological and ethnic bases”, a category which included the Hungarians ethnics, promoters of separatist autonomy. The “accusable” actions included, “setting up organizational structures that deliberately force the limits of internal legislation (...); the

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246 Sándor Csurkuly denied some of the allegations in the press shortly after the publication of the SRI Report (see “22”, December 1994).



open, programmatic assumption of some objectives that are contrary to the rule of law; (...) starting an ample propagandistic campaign that (...) denigrates the Romanian state, discredits the policies of the authorities and victimizes the Hungarian ethnics, on the one hand, and pursues the heavy politicization of the Hungarians, on the other hand”. Means that threaten the security of the state? “Programmatic decisions and documents” which “include explicit provisions in the issue of autonomy, including the territorial autonomy, as well as the political, social and administrative structures that support and lead to the accomplishment of autonomy based on the ethnic criterion (The Council of Unional Representatives,<sup>247</sup> the councils of self-government at the country and territorial levels, etc).” The documents revealed the “intention to create a proper institutional system for the [autonomous community of the Hungarians in Romania] and especially a constitutional local administration system, exclusively for the administrative units where people belonging to the Hungarian minority represent a significant percentage (the National Council for Self-Government, the Szeklerland Consultative Council)”.

SRI did not forget to accuse the intentions of setting up an “unauthorized network of Hungarian education in Romania” by creating, in some Transylvanian towns, “university and post-university level higher-education institutions as branches of foreign institutions of higher education, subsidized and provided with teaching staff and materials from abroad”. They also intended “to enlarge the basis of autonomy movement among other ethnic minorities, attempting, by an aggressively [politicizing] nature, to present the failures recorded in this respect as [evidence] that might verify the so-called intolerance of the Romanian majority population.”

The report which covers the period between September 1995–December 1996 reiterated the ideas of ethnic separatism and “anti-state actions carried out by the representatives of the Hungarian separatist autonomy”, giving as an example the activities of the Platform called *Transylvanian Hungarian Initiative*, or those of the Szeklerland Consultative Council, i.e. “to finalize the documents meant to ensure the ‘legal’ framework for the achievement of the Hungarian community autonomy”, “the actions to impose debates on these documents” and “the incitement of co-nationals to support the mentioned actions”.

Thanks to the public criticism of these positions adopted by SRI, the SRI reports for the periods May 1997–May 1998, and June 1998–June 1999, the only other reports to be made public by SRI, when UDMR became a government party, eliminated the sections that accused the minorities. This fact is not indicative of a fundamental change of insti-

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247 Correctly “Council of the Union’s Representatives”.

tutional attitude, though the elimination of the attacks directed toward the Hungarians and the Roma is a positive aspect. Several challenges launched in the press between 1996–2000 bore the sign of some sources from within the Romanian Intelligence Service.

### **The Anti-Hungarian Challenge in the Fall of 2001**

Despite the fact that UDMR was part of the government for four years, despite the new relations between the representative party of the Hungarians, and PSD, which became the government party after 2000, the Romanian Intelligence Service was involved in a serious anti-Hungarian provocation even in the fall of 2001. The event confirms the continuity that has existed in this institution since 1990 and to this date.

In November 2001, the Control Commission of SRI launched a Report that was clearly meant to stir public emotion. In essence, the Report, which expressed the very opinion of the Romanian Intelligence Service, considered that in Harghita and Covasna, the counties where the majority population is Hungarian, “were out of the control of the state authorities”. SRI was warning the Romanian society and the institutions meant to protect its sovereignty about the danger represented by the Hungarian minority and its organizations. The wording that SRI used suggested that they are a threat to the Romanian state.

What is significant in this Report exceeds its general topic. The details of the content reveal a lot about the conception of the Romanian society, as seen by the leaders and officers of the institution that is responsible for national security. In this respect, the assertions in the Report of the Control Commission of SRI can be divided into three sections:

**A.** Assertions in which the rights and liberties included in the Romanian legislative system are contested. Thus, the Report of the Control Commission of SRI accuses:

a) Achievement of an independent system of education in Hungarian at all levels;

b) Obtaining funds and logistic support for pre-university education in the minority’s mother tongue, as well as providing computer systems for these schools so that they can be connected to the Hungarian information flow;

c) Allocating funds for the construction and renovation of ecclesiastic-social buildings, buildings of the cults, as well as for the improvement of the functioning state of the written and electronic press in Hungarian;

d) Exerting continuous pressure for the integral retrocession of the property of Hungarian communities and churches, as well as the restitution of property belonging to the Hungarian ethnics in our country,

used as efficient instruments in outlining some favorable positions in the area's economic-social life;

e) Institutionalization of collaboration between the institutions of public administration in the two territorial units (county councils, town halls), with a view to setting up, with Hungarian financial and logistic support, the Szeklerland Development Region;

Thus, the Hungarian ethnic decision-makers in the institutions of local public administration in Covasna and Harghita counties participate actively in the building of a 'micro-region-region' type of system, which would facilitate the achievement of the autonomous-separatist objectives and lead to the setting up of "self-governing Hungarian regions" aiming to diminish the role of the Romanian state.

f) From this standpoint, the attempts to accomplish a common administrative system for all the woodlands owned in Covasna and Harghita (and partly Mures) counties is an important process, a 'first step' toward setting up a "Financial and Forestry Fund of the Hungarians in Transylvania";

g) Organizing actions of protest in the area and incitement of co-nationals to civic insubordination;

**B.** Other assertions in the Report contest the right of people – either members of a minority, or not – to want to formulate opinions about changing the existing constitutional-legislative framework in the sense of extension of their rights. In the wording, one can recognize the old obsessions of the SRI Reports at the beginning of the '90s:

a) Materialization of some objectives of the minority in the fields of education, culture and religion, formally motivated by the need to preserve its traditions and specificity, but actually meant to consolidate its status as part of the Hungarian nation, such as obtaining autonomy in its different forms – personal, administrative and eventually territorial autonomy;

b) Such an evolution can powerfully raise the issue of art.1 of the Romanian Constitution, which the Hungarian circles consider to be of utmost importance, and which stipulates the "national unitary character of the Romanian state". Interested people could use the autonomy of "Szeklerland" as a strong argument to justify the reconsideration of the thesis according to which the Hungarian ethnic group is a "state-making nation", which would further lead to the recognition that Romania is a "multinational state".

c) In the event that the process proved successful (after Hungarian standards), encouraging the "export" of the model [of collaboration between administrative units] to other Transylvanian counties with Hungarian population, considered 'incompatible from the economic and social point of view';

d) Although so far the actions/plans for the federalization of Romania have not had the impact that the initiators expected – the population's

adherence to the propaganda for the accreditation of the autonomy-separatist theses is maintained at a relatively low level – in the medium term, the violence of such messages cannot be excluded; some of the actions of this type have found adherents among the Romanian Transylvanian ethnics, too, who – under the guise that they promote the same harmful theories for the unitary and indivisible character of Romania, by which they plead for an autonomy that is extended to all the regions of the country.

e) Favoring the penetration of Hungarian capital (at the local level) in the economic sectors of interest in Transylvania, and supporting the professional organizations set up on ethnic criteria with a view to develop the economy of the areas that are compactly inhabited by Hungarians;

C. Finally, some allegations that, had they been true, would have been a clear violation of the Romanian legislation and, in this case, they would have compelled the authorized bodies to intervene. Among these, one referred to

a) the refusal to execute a judicial decision, denying the authority of the institutions of the Romanian state in the area;

Others mentioned a process of ethnic discrimination toward the Romanians in the area, with the intention to make them leave the counties where the majority population is Hungarian;

b) Initiation of a process of “de-Romanization” of the area, by excluding the Romanian element from the decision-making processes at the local level, and thus determining them to leave the counties where they live;

c) Gradual replacement of the Romanian representatives in the decision-making structures at the local level with Hungarian supporters of separatism by a single criterion, including the imposition of knowing Hungarian as a criterion of selection of the members of the respective structure;

d) Obstructing the activities of Romanian cultural and educational institutions, such as placing symbols of the Romanian history and culture, in parallel with the promotion of the Hungarian ones;

e) Limiting the possibilities of manifestation of the Romanian Orthodox Church in the area.

A number of allegations referred to the actions of obtaining the status of hegemony by the – mostly Hungarian – local authorities:

a) Speculative exploitation of the process of administrative decentralization with a view to obtaining control over some priority domains of social life in this area.

As for risks and threats:

a) Loss of state control over an important area of the national territory, by establishing a genuine “Hungarian border” within the country, with most harmful implications in the long term;

b) Intensification of the process of discrimination against the Romanian ethnics in the area, which can result in the erosion of their feeling of national identity, or their decision to leave the area;

c) The data that we have, as well as the studies that have been carried out by different research institutes or institutes of public opinion polls, show that the Romanians in Harghita and Covasna are confronted with “cultural models, values, state of mind, and experiences that are characteristic of minority, disadvantaged, isolated or marginalized people”, and they make up a distinct ethnocultural area, which threatens “Romanism as a distinctive ethnic reality, as a cultural state”;

d) Given the above-mentioned, “we consider that an adequate reaction is needed – in the institutional, normative, economic, social and cultural planes – to limit the proliferation of these currents and to prevent the emergence of an evolution with impact in the preservation of Romania’s territorial integrity.”

It must be noted that, in conformity with the Law on Organization and Functioning of the Romanian Intelligence Service, the topics that are included in the Annual SRI Reports are considered threats to the national security and represent the starting point of taking specific measures, meant to defend the national security. The measures go as far as to limit some human rights, which is motivated by the danger that practicing those human rights affects national security. Limiting human rights for such kinds of reasons is legitimate. At the same time, the arbitrary introduction in the SRI Reports of reference to persons or processes/actions that do not endanger in any way national security represents an illegitimate limitation of the fundamental rights and freedoms. The gratuitous reference the Report makes to private and legal persons means:

- Pressure on the people and on the organizations affected, for self-limitation of the rights they enjoy
- Intimidation of persons that wish to exercise their rights;
- Discrediting persons in front of the public opinion;
- Initiation of the first stage of effective limitation of human rights – such as violation of correspondence, of intimacy and private life, without any objective, reason, etc.

### **Evaluation of the Report of the SRI Control Commission**

In order to understand the significance of the Report written by the Romanian Intelligence Service, its evaluations must be confronted with all the rights that citizens have. There are, as shown above, three situations:

**Point A.** The promotion of an educational system in Hungarian at all levels, obtaining funds and logistic support for pre-university education in

the ethnic groups' mother tongue, equipping these schools with computer technology, etc. are rights that the Education Law stipulates, and represented traditional norms in the field, even before 1989. The same is valid for the construction and renovation of ecclesiastic-social buildings, or the improvement of the conditions of the written press, in conformity with the rights to practice religion and freedom of speech, protected both in the Constitution of Romania, and in the specific laws, as well. The cooperation of the institutions of public administration for different reasons is also a right that is stipulated in the Law on Local Public Administration.

In December 2001, APADOR-CH and the Pro Europe League conducted an investigation in the counties of Harghita and Covasna, to evaluate the Report of the SRI Control Commission.<sup>248</sup> The site investigations did not verify the existence of initiatives to develop a system of common administration of woodlands in Harghita and Covasna. However, like any form of private association that does not have illicit objectives, this specific initiative would be in agreement with the laws of the country.

In the period of investigations in Harghita and Covasna no manifestations of protest or urges to civic insubordination or any reference to them were mentioned. It should be underlined that incrimination of such acts by SRI violate art.4, paragraph 1 of the Law on the national security of Romania: "The provisions of art.3 [on defense of national security] cannot be interpreted or used for the purpose of restricting or forbidding the right to defense of a legitimate cause, of manifestation of a protest of ideological, political, religious or of another nature disagreement."

**Point B.** The idea that the Hungarians in Romania consider themselves part of the Hungarian nation, the option for autonomy (personal, community, administrative), consideration of the ethnic Hungarians as "a state constitutive nation", the proposal to change art.1 of Romania's Constitution on the "national unitary Romanian state" can be found in the documents of UDMR and in the declarations of the Hungarian leaders ever since early 1990. The idea of Romania's federalization does not appear in the UDMR programs but was launched by some Romanians and Hungarians being, as a matter of fact, the subject of public debate.

These forms of administrative organization, or of symbolic redefinition, are not part of the institutional and constitutional reality of the Romanian state. On the other hand, the option to change the Romanian Constitution, and reasoning to this end, would legitimately be the concern of SRI if it were associated with proper anti-constitutional actions.

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248 APADOR-CH, "Aspecte privind evoluția situației drepturilor omului și activitatea APADOR-CH. Raport 2001", [Aspects of the evolution of the situation of human rights and the activity of APADOR-CH. Report 2001], <http://www.apador.org>

The Report of the SRI Control Commission does not make a difference, as SRI has not done it before, either, between the obligation to observe the Constitution – rule of law – and the option for changing the existing order and expressing this option. Any democratic Constitution permits revision. Romania's Constitution in art.146-148 provides for this. It is true that art.148 upholds "The provisions of this Constitution on the ... unitary and indivisible character of the Romanian state.... territorial integrity...shall not be subject to revision." But art.148 as well can be reviewed according to constitutional provisions.

A separate analysis is required by the accusation "instigation to territorial separatism". The SRI Control Commission could interpret the options to autonomy in this sense and invoke art.30, paragraph 7 of the Constitution that enumerates, among the restrictions to freedom of speech, "instigation to territorial separatism". Reference to territorial separatism – as well as defamation of the country and nation – does not appear among the restrictions to freedom of speech in international treaties on human rights and liberties which Romania ratified, like the International Covenant on civic and political rights and The European Human Rights Convention. According to art.20 of the Constitution, international pacts and treaties on human rights have priority over domestic laws. Even if here it is not about a certain legislative provision but a constitutional one, the same art.20, paragraph 1 states, "The constitutional provisions on the citizens' rights and freedoms will be interpreted in agreement with the Universal Declaration of Human Rights , with the pacts and treaties Romania is a party to." That is why putting limits to expression of points of view on the structural form of the state is incompatible with the spirit of the democratic societies but also with the Romanian constitutional safeguards.

**Point C.** The investigations of APADOR-CH and the Pro Europe League at the level of local authorities and prefectures in Harghita and Covasna have shown that in the two counties there have not been cases of refusals of enforcement of the court ruling. As far as the allegations on the process of "de-Romanianization" of the area by exclusion of the Romanian elements from the local decision processes and thus determining them to leave the counties where they live, imposing the knowledge of the Hungarian language as a selection criteria for the members of the respective structures, restriction of the possibilities of manifestation of the Romanian Orthodox Church in the area, the investigation of APADOR-CH and the Pro Europe League showed the following:

1) The data on the ethnic structure of the public authorities show a significant predomination of the ethnic Romanians in spite of the fact that they are a minority. Thus, the Administrative Commission with the County Covasna Prefecture has 33 Romanians and 3 Hungarians. On a

list of 18 public institutions of national interest in the same county 11 are led by Romanians and 6 by Hungarians. In Harghita, the Administrative Commission with the Prefecture is made up of 24 Romanians and 19 Hungarians – at a ratio of about 84.7% Hungarians and 14% Romanians. In 1990, in the management of the commercial companies of Sfântu Gheorghe there were 12 Hungarian and 6 Romanian leaders. Today, there are 3 Hungarians and 15 Romanians. In the county library 47% of the books are in the Romanian language. Out of the 98 flats distributed between 1995 and 2001, 70 were received by Hungarians families, 28 by Romanian families. In other words, the Report of the SRI Control Commission misinforms.

2) As regards the requirement of knowing the Hungarian language when being hired in a public institution in the area, this happens exclusively in the case of positions which presuppose contact with the public and consequently, the Law on Local Public Administration has to be applied.

3) The presence of the Romanian Orthodox Church in the region is currently based on the activity of the Harghita and Covasna Bishopric whose establishments and properties exceed substantially the country average.

The reference in the Report of the SRI Control Commission to “the speculative exploitation of the process of administrative decentralization with a view to obtaining control over some priority domains of social life in this area”, this is ambiguous and impossible to be proved. As far as the assertion regarding the loss of state control over an important zone of the national territory by the setting up of “a Hungarian border” inside the country, the representatives of APADOR-CH and the Pro Europe League had the occasion to see, during the investigation, how offending this was perceived by the civil servants in the area. Such offensive and threatening attitudes represent a direct violation of the rights of those affected, as the entire doctrine of human rights is based on the respect of dignity, honor and security of persons.

The allegations are also unjust. It is obvious that some institutions set in their agendas as a priority the interests of the Romanian minority in the region. Thus, the Directorate for culture, religious denominations and properties of Covasna received in 2001 about 390,000,000 ROL, to which the Ministry of Culture and Religious Denominations added 244,075,129 ROL in the first stage, and then another 108,000,000 ROL. To the 742,075,129 ROL, specifically for foundations and associations, the Ministry of Culture and Religious Denominations added approximately 100,000,000 ROL. Of the almost 850,000,000 ROL in 2001, about 450 million ROL was spent on cultural activities.

In 2000 the Directorate was allocated 148,000,000 ROL, to which the Ministry of Culture and Religious Denominations added 165,209,395. Of the 313,289,395 lei, 40-60% was spent for specific Romanian cultural activities.



Having in view that the Directorate is dealing with problems of culture, religious denominations and properties of the whole county and that the percentage of Romanians is 36%, spending over 50% of the budget for specific Romanian manifestations is sharply in contradiction with the accusations in the Report of the SRI Control Commission.

## **Conclusions**

The condemnation by SRI and the SRI Control Commission of the Hungarian population's exercise of rights infringes upon constitutional guarantees. This attitude has three possible explanations:

a) The authors and the leaders of the Commission and of SRI do not know the laws of Romania, and act in the belief that the internal norms are the very opposite of the real ones;

b) The authors and the leaders of these institutions know the laws of Romania, but act against them following orders;

c) The leaders of these institutions have their own agendas, directed against human rights and liberties.

The idea that SRI officers might not know the stipulations of the law sharply contradicts the importance of their mission and the means that are available to them. In fact, the lawmakers had in mind controlling the activity of SRI in this respect, and stipulated explicitly in Art.36 that "the Romanian Intelligence Service shall not undertake any action that promotes or harms the interests of any political party or private or legal person, except for those actions of the aforementioned persons that endanger national security". Legal activities cannot be considered actions that violate national security. Ignorance of the law by officers and leaders of SRI, and of the Control Commission of SRI can be neither a moral nor a legal excuse.

The existence of high-level decisions that might explain denouncement of legal manifestations of the Hungarians in Harghita and Covasna must bear in mind that SRI is formally, directly or indirectly, under the control of (1) the President, who proposes the SRI director and his/her deputies (Art.23 and Art.24 of Law 14/1992); (2) the Supreme Council of Defense of the Country (CCSAT), which "organizes and coordinates unitarily the activities that regard the defense of the country and national security" (Art. 18 of the law on national security), which includes SRI (Art.1, para.1 of the Law of Organization and Functioning of SRI); CSAT is made up of the President, the Prime Minister, the Ministers of Defense, of Home Affairs, of Foreign Affairs, and others; (3) the Parliament, through the mediation of the "mixed commission of the two Chambers".

It results from the above that the activity of SRI, but also of the Control Commission of SRI, is ultimately under the political authority of

the majority parliamentary coalition. The evolution of the relations between the Romanian Intelligence Service and the elected power has shown a stability of projects in relation to the political changes; also an extraordinary capacity of this institution to impose its own projects. The examples mentioned above demonstrate that SRI has acted systematically as an organization that promoted anti-minority ideas, encouraged discriminatory manifestations, and encouraged extremist forces in Romania. Its attitudes result logically from the nationalist traditions of the old Securitate, on the structures of which the Romanian Intelligence Service was built, the way in which SRI was set up, and the relations it has in the political and financial world. The virulence of extremism in Romania and the danger it represents could not be reduced to a benign level without a fundamental change of the SRI. This imposes the elimination from the institution of all those that have an extremist-nationalist psychology, the radical change of the selection and education system of the officers in the Romanian Intelligence Service, and the imposition of genuine civil control over the intelligence services.

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## ANNEX II

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### **EMERGENCY ORDINANCE NO. 31 REGARDING THE PROHIBITION OF FASCIST, RACIST AND XENOPHOBIC ORGANIZATIONS AND SYMBOLS**

The juridical norm that has become, with its adoption, the pillar of combat against right-wing extremism in Romania is Emergency Ordinance no. 31, which was adopted by the Government of Romania on 13 March 2002.<sup>249</sup> The Senate Commission for Culture approved it on May 28, proposing the introduction in the text of the definition of Holocaust, i.e. “systematic mass extermination of European Jews in the Nazi death camps, during World War II” (Webster Dictionary definition).<sup>250</sup>

The ordinance is the most radical normative act after 1989 in terms of the issue of freedom of speech and the right to associate, two essential values for democracy. The ordinance should have, in principle, a strong impact on associative and political life, and on public discourse. It imposes a detailed evaluation, thus becoming the central piece of instruments directed against right-wing extremism. This analysis starts from the observation that the legislative instruments available in the fight against extremism, planned to be efficacious and valid for a long time, must be precise, legitimate and have the power of distinction. Otherwise, their arbitrariness could prevent the application of the law, and in time they could create a contrary reaction.

Emergency Ordinance no. 31 defines the organizations of fascist or racist character, or the xenophobic groups that aim to “promote fascist, racist or xenophobic ideas, conceptions or doctrines, such as ethnic, racial or religious hatred and violence, the superiority of some races and inferiority of others, anti-Semitism, incitement to xenophobia, use of violence to change the constitutional order or the order of democratic insti-

249 Published in the “Monitorul Oficial” [Official Gazette] of 28 March, 2002.

250 Another proposal was the introduction of Nazi manifestations in the issues raised by the law.

tutions, or extremist nationalism” (Art.2, (1)). Setting up a fascist, racist or xenophobic organization shall be punished with imprisonment from 5 to 15 years and the loss of certain rights (Art. 3, (1)). Dissemination, sale or manufacturing of fascist, racist or xenophobic symbols is punished with imprisonment from 6 months to 5 years, and loss of certain rights (Art. 4, (1)). Promotion of the cult of persons who are guilty of crimes against peace and humanity, or of promoting fascist, racist or xenophobic ideologies through propaganda, carried out through any means, in public, shall be punished with imprisonment from 6 months to 5 years, and the loss of certain rights (Art.5). Public negation of the Holocaust or its effects is punished with imprisonment from 6 months to 5 years, and the loss of certain rights. It is prohibited to erect or to maintain in public space, statues, statuary groups, or commemorative plaques celebrating persons guilty of committing crimes against peace and humanity (Art.12), as well as to name streets, boulevards, squares, parks or other public space after such persons.

We will stop to consider the stipulations above. We will analyze the “quality” of the normative act, meaning by this its coherence, and the relation of the stipulations with other principles and usages of the law.

The first issue views the “urgency” of the normative act. Emergency ordinances are exceptions to the legislative rule, which gives the parliament the status of “the sole law-making authority of the country” (Romania’s Constitution, Art. 58 (1)). The Government gains the ability to make laws only through this exceptional case. The legislative activity of the Government is supervised by delegating this ability as a result of a Parliamentary vote. In addition, government ordinances cannot regulate the field of organic laws, which is an obvious measure to emphasize the reserve that the government is due to employ as regards law-making.

Emergency Ordinance no. 31 refers to crime, and they pertain to organic laws. The Government took advantage of Art. 114 (4) of Romania’s Constitution, regarding emergency ordinances, which does not set conditions regarding the fundamental nature of the regulated domain. In a given situation, the adoption of a normative act by the Government must even more rely on a strong rationale as regards its “urgency”. The constitutional wording which enables the Government to do so underscores the condition “in exceptional cases”. Decision no.65/1995 of the Constitutional Court also emphasizes this condition, by stating that “legislation” of emergency ordinances, including in the domains that pertain to organic laws, can be justified “only in exceptional cases”, for “the adoption of an immediate solution in order to avoid severe harm to the public interest”. It is noteworthy that in 1997, the Constitutional Court declared the Emergency Ordinance regarding local public administrations unconstitutional because of the lack of “urgency”.

Several references made in the press suggest that the Government of Romania judged the resolution of an external requests “urgent”, because it conditioned Romania’s integration in the North Atlantic Treaty Organization. This argument would be legitimate to the extent that the integration in NATO is, in conformity with the government’s program and the attitude shown by the majority of Romania’s population, the expression of national interest. One counterargument is that the Government has exceeded very much its sphere of anti-extremist measures that can be conditions of the North Atlantic integration. As regards the regulations that interfere with human rights and freedom, it is especially necessary for the Parliament to assert its status of “supreme representative body of the Romanian people”.

As for the coherence of the normative act, it must be regarded as an issue of its internal consistency, but also from the standpoint of its agreement with the general legislation. Provision 3 91) raises a first issue, by the fact that it punishes ‘setting up fascist, racist and xenophobic organizations’. The first criterion should be fascist, racist and xenophobic *activities*, not the *intention* at the time of setting up the organizations. This, because, on the one hand, one can imagine gatherings of groups that might have set extremist objectives, but not acted at all to their accomplishment. On the other hand, an organization that is established without fascist intentions can be oriented, later on, by some of its members toward such incriminating manifestations. It would result that, according to Art. 3 (1), persons who have never shown any racist, xenophobic, etc. manifestations, could be punished, as could the founders that are in no way responsible for the evolution of their organization. It is true that the provision regarding the dissolution of legal bodies takes into account the specific activities of organizations, and not their setting up. But the articles of the ordinance do not make sufficiently clear distinctions.

Another issue is raised by Art. 9 (1) whose content is as follows, “Judicial decisions can lead to the dissolution of legal bodies that carry out one or more of the following activities:

a) Activities that are specific to organizations with a fascist, racist or xenophobic character, in accordance with Art 2.a;

b) Dissemination, sale or manufacturing of fascist, racist or xenophobic symbols, with the aim of disseminating such symbols or use them in public;

c) Promotion of the cult of persons guilty of crimes against peace and humanity, or of promoting fascist, racist or xenophobic ideology, through propaganda carried out by any means, in public...”

The wording “can be dissolved” shows that the courts also have the authority to refuse to rule the dissolution of such legal bodies, even if they were found guilty of the crime. In other words, although the legal bodies

are found guilty of such severe illegal activities that their members are imprisoned from 5 to 15 years, they can be allowed to continue to operate. In order to be consistent with the seriousness of the punishment, the ordinance should word Art. 9 (1) in the imperative: "The legal bodies that ... shall be dissolved by judicial decision". This because if the crimes are verified in the course of an equitable process, then the court *must* dissolve, not simply *be able to* dissolve an organization for the setting up of which its members are punished by a 5-year prison sentence, at least.

What is the point in keeping an association whose members are in prison for setting it up? The law of associations and foundations that entered in force in 2000 points out as a reason for dissolution the achievement of the goal which led to the setting up of the association; the impossibility to convene general meetings; the fact that the goal or the activities of the association have become illegal or contrary to public order. Since all these are implicitly in place when the members of the organization are sentenced, Emergency Ordinance no.31 should introduce an imperative formulation for the dissolution of the respective legal bodies. The legislators use terms such as "it is possible" or "may" when it asks the courts to take the opportune measures.<sup>251</sup>

To conclude, the Emergency ordinance empowers the courts with the subjective right to dissolve or not fascist organizations. Not only to establish the fascist nature of the organization, but also to decide on the *timeliness of their dissolution*. In the context, this should be the natural right of the legislation.

### **Comparison with Other Legal Norms**

As for "external coherence", we must take into account, first of all, Ordinance 137/2000 against the phenomenon of discrimination. This holds as a crime the acts which, according to the logic of an extreme right-wing ideology, would prevent the participation of people on the labor market, access to public administrative, judicial, healthcare and educational services, and inhibit social rights, freedom of circulation, and free choice for domicile. It also takes into account discrimination against the person's dignity, considering as such acts of incitement to racial or national hatred, or the creation of an intimidating, hostile atmosphere against a person or a group. The punishment for such crimes are between 1 million to 10 million ROL in the case of private persons,

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251 Like in the expression, "the court can decide (...) that supervision of a minor be trusted to a person or an institution" (Art. 110, C.p.)

and double the amount in the case of legal persons. Obviously, the measures in Emergency Ordinance no.31/2002 are totally disproportionate to Ordinance no. 137/2000.

To this, we should add two provisions in the Criminal Law. Article 317 asserts, “Nationalist-chauvinistic propaganda, stirring racial or national hatred, unless the deed falls under the provisions of art. 166, is punished with imprisonment from 6 months to 5 years”. Article 247 provides, “Limitation of the use or exercise of citizens’ rights by a public servant, or the creation of situations of inferiority based on nationality, race, sex or religion is punished by imprisonment between 6 months and 5 years”.

In the sense of Art. 317, nationalist-chauvinistic propaganda means ‘incitement’ (the legislators used the word “stirring”), and Art.247 has in mind an effective deed of limitation of rights – in the aggravating case, the action of a public servant – based on racial grounds. The two provisions partly cover the provisions of art. 1 and 2, but the scope of the punishments is narrower.

In this sense, we can state that Emergency Ordinance no.31 has a problem of compatibility with other provisions of the Romanian laws, which it extends a lot and whose punishments it enhances substantially.

However, the principal issue of the Emergency Ordinance is still its confrontation with other principles and values, first of all with the fundamental rights and freedoms.

### **Cult of Guilty Personalities and Regulation of the Public Space**

One of the provisions of the Ordinance which was applied almost immediately concerns the erection or maintenance in public spaces of statues, statuary groups, or commemorative plaques celebrating persons guilty of crimes against peace and humanity. Streets, squares, etc, cannot bear the name of such persons. The formulations in the law have a very precise subtext. For several years, in several towns across the country, streets and squares were named after, and statues were erected of Marshall Ion Antonescu, who was guilty of crimes against humanity. Of these statues, raised in Piatra Neamț, Slobozia, Lețcani (Iasi), Călărași, Jilava, Sărmași, București – six were taken down.

The measures that we mentioned regulate only the public space, which can and must be protected from extremist symbols. The need for such regulations can hardly be contested. The regulation also provides for the cases in which a private owner exhibits on her territory commemorative objects that are visible in the public space or in places where the public has access. The typical example is Ion Antonescu’s statue erected in

the yard of the church that the Marshall himself ordered to build. The question rises whether Emergency Ordinance no.31 violates the relations between local autonomy and central power, especially in the context that the memory of Marshall Antonescu was promoted by some local authorities – for instance, the mayor of Piatra Neamț. In the Romanian constitutional framework, at least, the local public administration is seen as an instrument of public services (art. 119). In this respect, the general political values served by the activity of the Parliament and the Government cannot be attacked by the authority of the local public administration.

Promotion of the cult of persons guilty of committing crimes against peace and humanity is also the subject of Art. 5 of the Emergency Ordinance; those who are guilty in this respect are liable to imprisonment between 6 months and 5 years, and the loss of certain rights. In this case, the issue does not pertain to the regulation of public space, but to a situation in which there is conflict with the individual rights and freedoms.

Taking into account the object of the Emergency Ordinance, which circumscribes the fascist manifestations, dictators such as Gheorghiu-Dej or Stalin do not seem to fall under the incidence of the law, especially since there are no sentences in this respect. From this perspective, also, the article clearly aims at the cult of Marshall Ion Antonescu. The issue is raised as to what extent the promotion of the Marshall's cult is or is not protected by the freedom of speech. The question is posed against the background of a relatively wide and certainly unconcluded debate referring to the ex-head of state. Free discussions on the responsibilities of Marshall Ion Antonescu could only take place after 1990, and information, as well as research, started penetrating in the public opinion only lately.

The analysis of Antonescu's case benefits from the decision that the European Court of Human Rights took in the case *Léhideux et Isorni v. France* (1998) and thanks to the parallel that can be drawn, up to a certain point, between Ion Antonescu and Philippe Pétain.

The French justice had condemned Léhideux and Isorni for publishing in "Le Monde" an advertisement that presented certain actions of Philippe Pétain as positive, which was interpreted as "an apology of war crimes or of crimes or delinquencies of collaborationism". The advertising reiterated for the French people that they had a short memory if they did not remember the deeds that the authors of the advertisement interpreted as favorable for Pétain and negative for other French personalities of the time. The list of data and the evaluation was contested by the French justice in terms of the accuracy of the facts, and of the interpretations.

In its analysis, the Court sustained that "it is not the Court's responsibility to solve this issue [regarding Pétain's role], which is the subject of debate among historians on the facts and interpretation of the events. From this point of view, it is not included in the clearly established his-



torical facts – such as the Holocaust – whose negation or revision would fall under the incidence of Art. 17 regarding the protection of Article 10 [freedom of speech].”

The Court also noted the “seriousness of criminal sentence for the apology of crimes and the crime of collaboration, bearing in mind the existence of other means of intervention, ... such as civil ways”. To conclude, it condemned France for violating Art. 10 in a disproportionate and unnecessary manner.

The parallel between Antonescu and Pétain can be drawn quite well also from the perspective that both were condemned for crimes against peace and humanity. Another analogy results from the controversial, even contradictory, character of the two leaders. Of course, this does not mean casting doubt on their main historical responsibilities. But it shows that the historical public debate in this domain must be free. It cannot and must not be trimmed by the decisions of a tribunal.

In this respect, we sustain that Emergency Ordinance no. 31 takes a remarkable step forward in regulating public space, prohibiting the use of it for the cult of persons who were responsible for war crimes and crimes against humanity. Wishing to limit as severely as possible the cult of guilty personalities, Emergency Ordinance no. 31 penetrates on the territory of fundamental rights and freedoms, which raises a serious issue of legitimacy. The comments of the European Court on the case of *Léhideux et Isorni v. France* are valid, in our opinion, also in the debates around Marshall Ion Antonescu. Ensuring the freedom of public debates in the case of such historical personalities is a condition of a healthy democratic society.

### **Hate Speech and Distinctions / Non-Distinctions of Emergency Ordinance no. 31**

An important verification of Emergency Ordinance no. 31 are the applying international provisions in the field, the restrictions that they allow for as regards the fundamental rights and freedoms. When we discuss the restrictions of the freedom of speech, we have a few references, among which Art. 20 (2) of the International Covenant on Civil and Political Rights, which requires that the states prohibit hate speech:

“Any urge to national, racial or religious hatred that is incitement to discrimination, hostility or violence is prohibited by law”.

We find the same wording in the European Convention of Human Rights.

The right of speech is legitimate until it “incites to discrimination, hostility and violence”.

The International Convention regarding the Prohibition of All Forms of Discrimination added the criterion of “incitement” and “dissemination of ideas based on racial superiority or hatred”, and it also extends to the freedom of assembly (art. 4, a). It is noteworthy that this extension led to Australia, Austria, Belgium, France, Italy, Malta, Monaco, Switzerland, Great Britain, Northern Ireland, the United States – to name just a few – entering reservations, and to a still non-concluded debate even within the UNO Committee regarding the elimination of racial discrimination.<sup>252</sup> As for the United States, they are known for their firmness in defending the freedom of speech and of assembly, from the perspective of the “First Amendment”. However, for the first time in 2000, there were some limitations imposed on the Ku Klux Klan, introducing a frail jurisprudence and only as regards the “time, place and manner” of racist manifestations held by this organization.<sup>253</sup>

The European Court of Human Rights introduced a relevant distinction in this respect in the case of *Jersild Vs. Denmark*. The Court decided in favor of the defendant by distinguishing between the cases of “presenting” racism and “promoting” it.

The Special Rapporteur for UNO, the Representative of OSCE and the Special Rapporteur for the Organization of American states defined a number of conditions that the laws on hate speech should meet at least:<sup>254</sup>

- They shall not punish true enunciations;
- They shall not punish dissemination of hate speech without having demonstrated that it intended to incite to discrimination, hostility or violence;
- Journalists’ right to decide on the manner in which they disseminate information shall be respected;
- No one shall be subjected to prior censorship;
- Any punishment should be in strict conformity with the principle of proportionality.

The British organization Article 119 – a prestigious organization for its attitude and analyzes in the field of freedom of expression – synthesized the principles that can be applied to racist manifestations as follows:<sup>255</sup>

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252 “Memorandum on Freedom of Expression and Racism for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance”, ARTICLE 19, London, August 2001: <http://www.article19.org/docimages/1235.htm>

253 Victor C. Romero, *Restricting Hate Speech Against ‘Private Figures’*, in “Columbia Human Rights Law Review”, vol. 33, No. 1, p. 2

254 *Ibidem*.

255 *Ibidem*.

- International law allows for the restriction of the freedom of expression with the purpose of preventing incitement to discrimination, hostility or violence;
- The laws that punish negation of the Holocaust are allowed only to the extent that the intention of the negationist attitude is to destroy certain rights and freedoms and to negate facts;
- The extent to which dissemination of ideas based on racial superiority can be prohibited is disputed, but not in what concerns incitement to discrimination, hostility or violence;
- Dissemination of racist ideas of a third party is guaranteed by the freedom speech unless it has a racial purpose and if it serves the public interest;
- Laws against hate speech must be subject to the minimum standards of the three international officials.

Of the limitations of the right to associate and speech introduced by Emergency Ordinance no. 31, one concerns “use of violence to change the constitutional order or the democratic institutions” (art. 2a). This is a classical restriction of the norms of CEDO or PIDP, borrowed by the Constitution of Romania and the Law of Political Parties. Its reiteration in the text of the Emergency Ordinance no. 31 is only natural and welcome.

In other respects, however, the text of the normative act raises problems. “Incitement to xenophobia” is not the same as “incitement to discrimination, hostility or violence”, the latter type of incitement – which Article 19 considers a legitimate restriction, having in mind deeds, not feelings such as xenophobia. Then, Emergency Ordinance no.31 punishes “promotion” of ideas such as “the superiority of certain races and the inferiority of others”. The formula is somewhat synonymous to the expression “dissemination of ideas based on racial superiority”, whose status of legitimate restriction is, as we have seen, debatable. The formulation “promotion of fascist ideas, conceptions and doctrines” is even more ambiguous and therefore debatable, unless it is reduced exclusively to the typology enumerated in the exemplifying “such as...”. The fact that these formulations that are not circumscribed enough constitute a limitation of including certain organizations affects the principle that “no one shall be subjected to prior censorship”.

Nevertheless, setting the lower limit of punishment for this type of crimes at 5 years’ imprisonment (and the upper limit to 15 years) violates flagrantly the principle of proportionality. It represents another indicator of the arbitrariness and disproportionateness of the normative act. Even more so, the condition of immaturity of the Romanian system of justice, the loose formulations of the Emergency Ordinance represent a danger for the freedom of expression and association in Romania.

## Negationism

The topic of Negationism requires a separate chapter. Negationism is punished by the German, French, Belgian and Swiss laws. Romania is the third ex-communist country, after Poland and Slovakia, that condemns negationism.<sup>256</sup> Note that in Poland negationism covers both Nazi and Stalinist crimes. In this respect, it can be stated that European countries were rather reticent to promote anti-negationist laws. As concerns reasons of principle, let us be reminded of the position taken by the organization Article 19, “the laws regarding the Holocaust are allowed by the international laws when negationism aims to destroy rights and freedoms, and deny facts”.

The Romanian Law expands the sense of negationism. It punishes not only the negation of the Holocaust, but also the negation of “its effects”. Let’s compare this to the French law (“loi Gayssot”<sup>257</sup>), Article 24 *bis* of which stipulates 1-year imprisonment and a 300,000 Fr fine, or only one of these punishments for those who “have contested the existence of one or more crimes against humanity as defined by article 6 of the statute of the international military tribunal annexed to the agreement of London of August 8, 1945, and which were committed either by members of an organization that was declared criminal (...), or by a person recognized as guilty for such crimes by the French or the international justice”.

As it can be seen, the French law is much more circumscribed in defining negationism. The German law, which was adopted in 1995, and punishes the propagation of racist, fascist, and anti-Semite ideas, bears in mind “negation or belittlement of Nazi crimes”. The Belgian law, which came into force in March 1995, aims to “repress negation, belittlement, justification and approval of genocide committed by the German nationalist-socialist regime”. As compared to all these, the wording of Emergency Ordinance no. 31, “contesting ... the effects of the Holocaust” is extremely vague, possibly leading to abuses. Taking into account the knowledge of the judicial body about the Holocaust, one can imagine any kind of absurd decisions in this respect. How will a court pronounce the sentence in the case of a person that denies the Holocaust may have resulted in the establishment of the state of Israel? As the normative act does not contain any reference that may help to distinguish between the contestations that aim, in accordance with

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256 In the case of Slovakia, by an amendment of the Criminal Law (Michael Shafir, *Outright Holocaust Negation in Postcommunist East Central Europe: The Unexpected ‘Globalization’*, in “East European Perspectives”, vol. 4, No. 12, June 2002, p. 3).

257 Law no. 90-615 of July 13, 1990

Article 19, “to destroy the rights and freedoms and to deny the facts”, and those that are the simple consequence of non-recognition or doubt, negationism in the Romanian variant affects severely the freedom of speech.

### **Negationism in an Ex-Communist Country**

Beyond the invoked aspects that result directly from the current formulation that Emergency Ordinance no. 31 gives to negationism, there arise two types of issues. One of them, which is specific of Romania and the ex-communist countries, is the appearance of a norm that punishes crimes against peace and humanity of the right-wing extremism, and does not do the same against crimes of the same nature committed by left-wing extremism (communism) regardless whether they were or were not declared as such by a tribunal.

The equation of the two types of crimes – the left-wing and the right-wing – is visible in the Constitution of Romania. In Article 30 (7), it is forbidden both to “urge to national and racial hatred”, and to “class hatred”; a new syntagm in terms of limiting the freedom of speech linked directly to the communist regime’s experience, which made class hatred what fascism had made national hatred. Article 37 regarding the right to associate sets as the *first* limit of association on civic or political basis, militating “against political pluralism”, which is more characteristic of left-wing than right-wing extremism.

This is why it can be stated that in the spirit of Romania’s Constitution, there is symmetry between the attitude toward fascist and communist crimes. As shown above, the need of symmetry was felt and codified in the legislation of Poland. We referred to the Polish laws before. On 9 November, 1999, Seim adopted the Law regarding the constitution of the Institute of National Remembrance, whose principal subject was to investigate the communist intelligence services. Art. 55 treated the case of public negation of the Nazi and Stalinist crimes of war against Polish citizens after 1 September, 1939. The punishment can be either a fine or imprisonment up to three years. It should be noted that the *Wyborcza* Gazette and its editor, Adam Michnik condemned the punishment of negationism.<sup>258</sup>

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258 Debated in the international seminar “Monitoring and Combating Extremism in Central and Eastern Europe”, Riga, 7–8 June, 2002, organized by the Latvian Center for Human Rights and Ethnic Studies and the Open Society Institute.

The only case that was judged based on the law of 9 November, 1999 was that of Dariusz Ratajczak, who signed a pocket edition of the volume “The protocols of Sion’s Sages”, and of some materials that negated the Holocaust. In its final decision, the Court excluded the application of punishment, considering that, though the deeds of the accused fell under the incidence of the anti-negationist law, they did not cause any social harm. The situation shows one of the problems created by this type of sanction. In order to make a decision that does not lead to a sentence – seen by the judges as exaggerated in comparison to manifestations of this type – a vicious argument was used, with a negative public impact. While the invocation of the freedom of expression in a case such as that of Dariusz Ratajczak could strengthen respect for democratic values, the refusal to see any social harm in negationist manifestations is confusing and treacherous.

If the punishment of negationism *only* relative to the Holocaust introduces an asymmetry, the question rises whether this asymmetry can or cannot be interpreted in the terms of discrimination.

Discrimination happens when a public service is provided for a certain category of people, but refused for another category with the same entitlement to it. Which would be the type of public service, provided by negationism, that leads up to the discrimination of those to whom sanctioning of communist crimes does not operate in relation to those for whom sanctioning of fascist crimes does operate? One suggestion is offered by the pronouncement on the alleged violation of the International Covenant on civil and political rights by the Gayssot law. The Geneva Human Rights Committee was notified in the case of Robert Faurisson, who was condemned in 1991 by a French court for his writings that dealt with the topic of gas chambers being a myth. In 1996 the Committee rejected the complaint of the claimant, arguing as follows, “Taking into account the fact that the author’s opinions were meant to give rise to feelings of anti-Semitism, the restriction [of the freedom of speech] bore in mind **the right of the Jewish community not to fear** that they live in an anti-Semite environment” (emphasis added).<sup>259</sup>

In the sense of this motivation, we can say that the public service ensured in the case when the state punishes contestation of fascist crimes (and, more generally, of fascist manifestations) is “the right to personal safety”, with special reference to those categories of persons that are the preferred target of fascist manifestations. Why did European states make sure to multiply the instruments of protection of the pre-

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259 “Négation de l’holocauste”, *Revue Universelle des Droits de l’Homme*, vol. 9, No. 1-4, p. 52

dominant targets of fascist threats? We find the answer to this in another analysis, this time of the European Court of Human Rights. In the case of *Hans Jörg Schimanek v. Austria* (Complaint no. 32307/96), the Court judged the contestation of the condemned (for fascist activities including setting up military camps that aimed to overthrow the government and include Austria in the large German nation) noting, “the interdiction of activities involving expression of nationalist-socialist ideas is legal in Austria, and, **from the perspective of its historical past** (...), it can be justified...” (emphasis added).

The direct, concrete and indelible disastrous experience of Nazism explains in practical terms, but also in terms of legitimacy, the adoption by different European states of anti-negationist legislation and, more generally, legislation against fascist manifestations. Several authors explain the refusal of the United States to limit to the same extent as the European community the freedom of expression and the right of association by the fact that America has never had to put up with a fascist regime. It is undeniable that the direct, concrete and indelible experience of communism validates the same type of arguments and reasoning for the target groups that are the most sensitive to the communist threat in the countries that put up with the system that collapsed in 1989 – social classes, intellectuals, groups defined by anti-communist ideologies, etc. In this respect, the persons that are vulnerable to the communist threat are fully legitimated to complain about the “discrimination” that the state applies when it condemns negationism of the fascist type, but does not punish communist-type negationism. Based on this reasoning, Emergency Ordinance no. 31 can be contested for posing the people vulnerable to the communist threat in a discriminatory situation as compared to the predominant “beneficiaries” of this normative act.

To conclude, a country that suffered the tragic consequences of communism must associate them with the tragic manifestations of fascism.<sup>260</sup> Otherwise, they can operate as an invitation to the reiteration of similar events – since they would not have the criminal effect of others, the very negation of which would be punished.

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260 As an analogous, but reversed example, there occurred the issue of providing damages for the victims of fascism, by extending to them the stipulations of Law 118/1990, which had in mind the victims of communism. The adequate amendment of Law 118 was done in 1998.

## Is It Necessary to Adopt an Anti-Negationist Law?

The previous analysis showed that if we introduce in Romania, an ex-communist country, the anti-negationist law relative to the crimes of the extreme right, it leads to discrimination by not adding to it an anti-negationist law of the crimes of the extreme left. However, by this we do not answer the question of whether Romania needs to adopt an anti-negationist law or not.

What must be underscored, again, is the fact that to this day, the laws of the Holocaust are considered, in certain circumstances, violations of the freedom of expression in relation to international law. The European Court of Human Rights has made statements several times in the issue of contesting these laws, and the answer was negative.<sup>261</sup>

This jurisprudence does not oblige Romania – as it did not oblige other countries, either – to introduce anti-negationist legislation. The need for such a normative act depends on the context, resulting from the evaluation of the threats at the social level and of the equilibrium of rights. As a result of this evaluation, we pronounce ourselves for the non-adoption of an anti-negationist law, of the extremist nature of either the left wing, or the right wing.

The first reason is the need to let the discussion on the history of the events that included crimes against humanity of the regimes based on fascism and communism go on. In Romania, this discussion could not be carried out for 50 years, and the atmosphere after 1990 did not readily ensure a profound, responsible discussion. A convincing example is the position of the vice-president of the Commission on Culture in the Senate, PSD senator Grigore Zanc, on the margin of Emergency Ordinance no. 31. He supported the view that “neither the definition, nor the articles of the legislative text make reference to the existence of the holocaust in Romania”, and that Romania “cannot be considered a country where the Holocaust took place, or that shared the blame for the Holocaust”. In this way, the Commission for Culture wanted to remove from the incidence of the law the contestation of Romania’s responsibility for the death of over 100,000 Jews (other evaluations push the figure toward 400,000) in Transdnier. Such an attitude would annul the substance of the anti-negationist stipulation. The big issue in Romania is the contestation of the crimes in Transdnier, not the Nazi ones. The attitude of the above-mentioned senator, as well as that of several other

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261 See the cases of *Kuhnen vs. Germania*, *D.I. vs. Germania*, *Honsik vs. Austria* (Monica Macovei, Dan Mihai, Mircea Toma, *Ghid juridic pentru ziaristi [Juridical Guide for Journalists]*, Bucharest, 2002).



politicians, and more generally of the public opinion shows the need for a free debate of the topic of crimes in Transdnier and Romania's responsibility for them.

The second argument keeps in mind the important pressure that is exerted on the journalists and on the freedom of speech in Romania. The numerous criminal processes against journalists and especially the numerous criminal sentences for debatable press crimes have already created a difficult atmosphere for journalists. The cases showed that the deontological and professional issues of the judges establish through their decisions the equilibrium of the rights in relation to the legislative framework of Romania. The arbitrariness of several decisions, the tendency to use the law according to group interests, the mixture of politics in the system of justice can change the condemnation of negationism into a weapon. Instead of supporting it, it becomes a threat to democracy in Romania.

Finally, from a more general point of view, we consider that reference to the Holocaust, however dubitable, is not sufficient. The introduction of "truth" as a criterion represents an extremely risky operation. The "truth" is a "construct", almost never a fact. If we relate to the "truth" to punish opinions that could upset social relations, then a police of the knowledge can set in very easily. The most threatened category is probably that of the historical disputes. The national mythologies, the state frontiers, ethnic origin, once brought up in discussions, can generate conflicts and dangers. Thus, the question of the legitimacy of frontiers represents a theoretical level to make the population of the territory that is being disputed fear its future. This thing happens in truth, and it has a rich historical casuistic, it is not a simple theoretical fear. Do we have the justification to stop the controversies regarding the unification of Romania and the Republic of Moldova, or the old belonging of "Transylvania" to Hungary, since the contestation of certain uncontested facts creates threats? What happened in Yugoslavia could be an argument for those who want to control the political discourse. Practically, the logic of anti-negationist norms is an invitation to the old authoritarian regimes that might dominate the area to use the same arguments against the political persons that contest it, who read history in a less mythological or less nationalist sense. They will always have "truths" and "fears" to justify sanctioning the non-conventional approach to history.

## Conclusions

There are several legitimate attitudes toward Emergency Ordinance no. 31. One of them, a maximal one, has the objective of maintaining the present-day provisions as long as possible, by giving priority to the fight against fascist manifestations, ensuring at the same time the compatibility of international legislation and the recognized principles of law. At the opposite end, the minimal attitude would retain the regulations that take up the blank spaces of the Romanian legislation, giving priority to the freedom of expression and the right to associate, as fundamental values of democracy.

If the maximal solution were chosen, the following amendments to the law would be necessary:

- Imposing restrictions on the activity of extremist organizations that try to change democratic institutions by means of violence, and which incite to discrimination, hostility or violence;
- In the case of punishing negationism, the explicit reference to the motivation of these manifestations would affect the rights and freedoms, and would lead to the contestation of facts;
- Exclusion of prior censorship;
- Reevaluation of punishments in strict conformity with the principle of proportionality.

In the case of Romania, as an ex-communist country, to this we should add the necessity to introduce a norm on the sanctioning of the negation of communist crimes, so that the principle of non-discrimination is rescued.

The minimal formula would maintain only the regulation of public space that should not allow the cult of persons guilty of crimes against peace and humanity, and the take-over, in a coherent form, of the set of current stipulations in the legislation of Romania that regard the overthrow of the rule of law by violent actions, incitement to discrimination, and to hostility or violence. By such an analysis, the normative act would obtain an enhanced coherence and efficacy, and an implicit respectability.

However, the major problem of fight against fascist, racist or xenophobic manifestations in Romania is the application of the already existing norms. A multiplication and radicalization of the norms will not help the constitutional state, but rather make the institutions the more arbitrary, and as a result less appropriate for democratic functioning. Although Emergency Ordinance no. 31 came into force on May 31, 2002, it has not been applied to a lot of situations, which would clearly have fallen under its incidence. Further on, political formations with an evidently extremist character – such as the Greater Romania – operate as if

the Ordinance did not exist. Incitements with racist and xenophobic character have occurred with no reply. The present situation after the adoption of the Emergency Ordinance represent a serious reason to fear that the normative act we analyzed above will sooner be used in the fight against some adversaries with group or ideological interests. This is one more reason for us to choose for the amendment in the sense of minimization of the Emergency Ordinance no. 31 and to lay emphasis on the application of the laws in force, and development of public policies<sup>262</sup> meant to prevent extremisms.

Combating extremism needs honorable norms that all the citizens can respect for their justness, balance and rationality. Any excess in this field could lead, in the long term, to contrary effects. In this sense, I would like to mention the attitude of Cas Mudde, one of the analysts of European extremism, on the occasion of the Riga seminar on extremism in central and eastern European, which has been mentioned before: “a good democracy is a democracy that has space for extremists, too. A good democracy is a democracy that can defend itself against extremism by respecting the freedom of speech and right to associate”.

262 In the case of F.P. vs. Germany (19459/1992), a German citizen denounced CEDO for the violation of art. 9 and art. 10 by the Military Court, which – in its decision in 1989, condemned him for indiscipline by retrograding him, and by the Federal Administrative Court, which considered that the opinions of the German officer affect its attitude toward the constitutional order of the Federative Republic of Germany, and the way in which it carries out his military duty, and dismissed him. F.P. had declared, in the presence of German and American soldiers, on 15 September 1987, that the Holocaust was a lie and that, in reality, the Jews had neither been persecuted, nor killed, and that all was a Zionist and communist strategy, and other negationist enunciations of the kind. The European Court declared the complaint inadmissible. This shows that the administrative actions against public servants – in accordance with some public policies of the state authorities – that have fascist manifestations are legitimate.



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## **INDEX**

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**A**CCCEPT – 72, 77

Acțiunea Românească Association – 25  
 Adevărul, publication – 23  
 administrative decentralization – 92  
 Africa – 9, 36  
 Al Qaeda – 35  
 Alba Iulia – 39  
 Alba, county – 13  
 Albania – 64  
 Aldine, publication – 24  
 Alexandria – 44  
 Alexe, Vladimir – 24  
 Alexei II – 40  
 Alliance of Romanians in Bukovina – 19  
 Anania, Bartolomeu – 36, 38, 41, 42  
 Anastasia Foundation – 23  
 Ancel, Jean – 17  
 Andreescu, Gabriel – 10, 11, 16, 18, 21, 33, 48, 49, 50, 56, 58, 63, 68, 71, 72, 75, 76, 86  
 Andrei of Alba Iulia – 38, 39  
 Andrei Șaguna Cultural Christian League – 21  
 Andronescu, Ecaterina – 21  
 Anghelescu, Gheorghe – 40  
 anti-American – 9, 58  
 anti-Hungarian – 10, 17, 29-31  
 anti-Semitism – 9, 10, 13, 20, 33, 42, 48, 71, 75, 76, 99  
 anti-Western – 58  
 Antonescu, Ion (Marshall) – 15-17, 19-20, 49, 76, 104-105  
 APADOR-CH – 53, 72, 76, 77, 94, 95  
 Archbishop of Vad, Feleac and Cluj – 38, 42  
 Archbishopric of Bucharest – 36  
 Armonia Foundation of Ethnically Mixed Families in Romania – 19  
 Army – 43, 44, 61, 68, 85  
 Asia – 36  
 assimilation – 21, 85  
 Association for Interethnic Dialogue – 72  
 Association nationale *Pétain-Verdun* – 49  
 Association of Christian-Orthodox Students in Romania (ASCOR) – 17, 19, 36  
 Association of ex-Political Prisoners in Romania – 73  
 Association of ex-Presidents and Leaders of Student Organizations of 1919–1948 – 13  
 Association of Minority Presses in Romania – 19  
 Association of Romanian Teachers of Covasna county – 21  
 Association of the Victims of the Miners' Crusades – 73  
 Association pour defense du memoire de

marechal Pétain – 49  
 ASTRA Covasna and Harghita branches – 21  
 atheism – 36, 43  
 Augsburg – 16  
 Australia – 106  
 Austria – 106, 111  
 autochton – 58, 66, 75  
 autonomy – 92, 94  
 Avram Iancu Society – 17, 19

**B**acău, county – 37, 61  
 Balkans – 33  
 Bancorex – 63  
 Bányai, Peter – 69  
 Baptist Church – 37, 38, 76  
 Băiuț (Maramureș county) – 37  
 Bălan, Nicolae – 42  
 Behr, Edward – 26  
 Belgium – 106  
 Bessarabia – 17, 18, 36  
 Bishop of Argeș and Muscel – 41  
 Bishop's Church *Schimbarea la față* – 38  
 Bishopric of Banat – 43  
 Bishopric of Harghita and Covasna – 44  
 Bishopric of Moldova and Bukovina – 38, 44  
 Bishopric of Transylvania – 39, 42, 43  
 Bivolaru, Gabriel – 67  
 Bloed, Arie – 77  
 Bobică, Nicolae – 27  
 Bobicești (Gorj county) – 37  
 Boldeanu, Vasile – 42  
 Bolyai Farkas Highschool – 27  
 Bondari, Fiodor – 58  
 Boroii, Nicolae – 45  
 Botiza (Maramureș county) – 37  
 Brașov, county – 13, 37  
 Breb (Maramureș county) – 37  
 Bruxelles – 38  
 Bucharest – passim  
 Budapest – 7, 32  
 Buduca, Ioan – 26  
 Bukovina – 17, 18, 19, 36  
 Bulgaria – 55  
 Bunavestire Foundation – 13, 16  
 Burlacu, Constantin – 16  
**C**alinic – 41  
 Carey, Henry C. – 18  
 Catalan, Gabriel – 42  
 Cathedral of Redemption of the Nation – 40  
 Călărași – 103  
 Călinescu, Armand – 42  
 CDR 2000 – 69

- Ceaba (Cluj county) – 37  
Ceaușescu, Elena – 41  
Ceaușescu, Nicolae – 30, 41, 45  
CEC – 63, 66  
Cemetery of Petrol Workers (Ploiești) – 40  
censorship – 114  
Center for Human Rights – 63  
Cernăuți – 19  
Chamber of Deputies – 30-33  
Changos – 21, 22, 61, 85  
chauvinism – 10, 15, 21, 31, 32, 43, 47, 48, 71, 72, 74, 75  
Chelaru, Mircea – 20, 86  
China – 25  
Chișinău – 19  
Christian – 24, 35-38  
Christian Democrat National Peasant Party (PNȚCD) – 41, 60  
Christian Orthodox Students' National Union – 42  
Church property – 90  
Ciorbea, Victor – 60  
Ciubotea, Daniel – 44  
Civic Alliance – 53, 72, 73  
Clinton, Hillary – 39  
Cluj – 16, 30, 37, 38, 59, 72  
Cluj, county – 13, 17, 37  
Codreanu, Corneliu Zelea – 15, 16, 24  
Codrescu, Răzvan – 27  
Coja, Ion – 17  
collectivism – 25  
Commission on Culture of the Senate – 112  
communism – 9, 10, 13, 14, 24, 25, 31, 42  
community property – 90  
confessional – 27  
conservative – 27, 44  
conspiracy – 24  
Constantinescu, Emil – 40, 63  
Constantinescu, Gabriel – 16  
Constantiniu, Florin – 17  
Constanța, county – 13  
Constitutional Court – 56, 60, 100  
Control Commission of SRI – 21, 90, 93, 94, 95, 96, 97  
Copenhagen – 53, 74, 81  
Corneanu, Nicolae – 43  
Cornereva – 38  
corruption – 11, 21, 31  
Coruț, Pavel – 24  
Cosma, Miron – 33, 34  
Costea affair – 67  
Council for National Minorities – 50  
Council of Europe – 9, 74, 75, 82  
Council of the National Salvation Front (CFSN) – 85, 86  
Council of Unional Representatives – 89  
Counterespionage Division – 20  
Coup d'état – 32-34, 42  
Court of law – 101-102, 110  
Covasna, county – 38, 59, 72, 74, 90, 91, 93-95  
Criminal Law – 47, 48, 51, 53, 75  
Crucea (Constanța county) – 37  
Crystal Night, conspiracy – 24  
CSCE – 30  
CSCE Conference – 53  
Csurkuly, Sándor – 87, 88  
cult of Marshall Antonescu – 17-20, 49, 104  
Cuvântul liber, publication – 29  
Cuza, A.C. – 15
- D**acian-Romanian Academy – 20  
Dâmbovița, county – 13  
Dâncu, Vasile – 22  
Dejeu, Gavril – 60  
Deleanu, Ion – 48  
democracy – 15, 21  
Democratic Alliance of Hungarians in Romania (UDMR) – 20, 21, 27, 30, 31, 60, 69, 73, 77, 89, 90  
Democratic Front of the National Salvation (FDSN) – 30  
Democratic Party – 69  
Denmark – 9, 106  
Department for Inter-Ethnic Relations – 22, 50  
Department for Local Public Administration – 60  
Department for the Protection of National Minorities – 48, 50, 61, 73  
Dimitriu, Mircea – 15  
discrimination – 39, 51, 52, 53, 73, 75, 80, 81, 82, 92, 98, 106, 107, 110  
Dobrogea – 20  
Dolj, county – 13  
Dorohoi – 17  
Dosare secrete, *Secret Files* publication – 23, 24  
Drăgan, Iosif Constantin – 20, 85  
*Droits de l'Homme sans Frontières* organization – 38  
Dumitrescu, Sorin – 24  
Dumitrescu-Borșa – 42  
*Dumitru Mărtinaș* Roman-Catholic Association – 21  
Dutch Helsinki Committee – 77
- E**cumenical Council of the Churches – 43  
education in Hungarian – 90, 93  
Education Law – 50  
egalitarianism – 23, 25  
Electoral Law – 50  
Eminescu, Mihai – 41



espionage – 88  
*Europa*, publication – 14, 57  
 Europe – 7, 9, 27, 51, 64, 65, 82, 115  
 European Charter for Regional and Minority Languages – 75, 80  
 European Commission – 77  
 European Convention of Human Rights – 52, 74, 95, 105  
 European Court of Human Rights – 49, 104, 105, 106, 111, 112  
 European integration – 9  
 European Parliament – 77  
 European Studies Center Covasna-Harghita – 22, 74  
 European Union (EU) – 36, 58, 73, 75, 81, 82  
 Evangelical Alliance – 37  
 exclusivism – 35

**F**ascism – 13, 48, 49, 99-115  
 Faurisson, Robert – 110  
 Făgăraș – 37  
 federalization – 91, 94  
 Filea de Jos (Bistrița-Năsăud county) – 37  
 For the Motherland Party – 19  
 Foundation of Anti-Communist Resistance Fighters – 19  
 France – 36, 49, 104-106  
 Frățilești (Ialomița county) – 37  
 Free Democratic Alliance of Roma in Romania – 88  
 freedom of speech – 94, 99, 107, 109, 113, 115  
 French law – 108, 110  
 Frunda, György – 69  
 Funar, Gheorghe – 30, 31, 58, 59, 72  
 fundamentalism – 17, 35-38, 45

**G**alați – 17  
 Galați, county – 13  
 Gallagher, Tom – 10, 30, 72  
*Garda de Fier – Gazeta de Exil*, publication – 15  
 Gayssot law – 108, 110  
*Gazeta de Vest*, publication – 13, 16  
*Gazeta Gospodarilor*, publication – 16  
 Gemenele (Brăila county) – 37  
 gendarmerie – 34, 73  
 General Council of Bucharest – 40  
 Geneva – 110  
 Geneva Human Rights Committee – 110  
 genocide – 17  
 German law – 108  
 Germany – 15-16, 80, 88, 112, 115  
 Gheorghiu-Dej, Gh. – 104  
 Giurăscu, Dinu C. – 17

Gjellerod, Henning – 9  
*Glasiul Bucovinei*, publication – 19  
 globalism – 23, 24  
 Gordian, publishing house – 13  
 Gorj, county – 13  
 government – 62, 66, 73, 76, 99-101, 104  
 Great Britain – 106  
 Greater Romania Party (PRM) – 14, 16, 19, 21, 29-34, 52, 53, 57, 58, 59, 68, 69, 71, 74, 86, 114  
 Greece – 40, 55  
 Greek-Catholic – 37  
 Greek-Catholic Church – 38, 39  
 Group for Social Dialogue – 53, 72, 73  
 Gules, Ovidiu – 16  
 Gypsy – see Roma

**H**arghita, county – 38, 44, 59, 73, 90, 91, 93-97  
 Hădăreni – 88  
 Helen – 27  
 Herța (region) – 17  
 heterosexual – 26  
 Historians' Association (Chișinău) – 19  
 Hitler, Adolf – 15, 24  
 Hodac (Mureș county) – 37  
 Holocaust – 17, 49, 99, 100, 105, 107-108, 110, 112-113, 115  
 Holy Emperors Constantine and Helena Church – 20  
 homophobia – 23, 25  
 homosexuality – 14, 15, 22, 39  
 Honsik – 112  
 Hopârta (Blaj county) – 37  
*Horia Sima* Association – 13  
 human rights – 7, 21-23, 93  
 Humanitas, publishing house – 26  
 Hungarian – 14, 21-23, 27, 29, 30, 31, 85, 87, 88, 90, 91, 92, 94-96  
 Hungary – 22, 52, 76, 113  
 Huntington, Samuel – 55  
 Hurduzeu, Ovidiu – 25  
 hyper-nationalism – 10

**I**ași – 17, 25, 40  
 Iași, county – 13, 37  
 Iclod (Cluj county) – 37  
*Icoana din adânc*, publication – 36  
 Iliescu, Ion – 29, 33, 40, 63, 67, 69, 86  
 immigrant – 36  
 immigration – 15  
 imperialism – 23  
*Information Bulletin Buna-Vestire*, publication – 16  
*Information Courier of the "For the Motherland" Party*, publication – 17

- Informația Zilei*, publication – 31  
Initiative Committee for the Establishment of the Romanian Communist Party – 11, 13  
Institute of National Remembrance (Poland) – 109  
inter-confessional – 39  
Inter-Ministerial Committee on National Minorities – 50  
International Convention regarding the Prohibition of All Forms of Discrimination – 106  
International Covenant on Civil and Political Rights – 105  
International Freedom Act of 1998 – 76  
intolerance – 33  
investment – 36  
Ioan of Harghita and Covasna – 38  
Ioanid, Radu – 17  
Ion Antonescu Memorial Museum – 20  
Ion Mihăițan of Oradea – 38  
Ionescu, Tudor – 15  
Iorgovan, Antonie – 48  
Iron Guard – 14  
irredentism – 20, 86  
Isaccea (Tulcea county) – 37  
Isărescu, Mugur – 69  
Islam – 45  
Isorni – 104, 105  
Israel – 31, 108  
Italy – 106
- J**ehovah's Witnesses – 37, 39  
Jehovah's Witnesses Congress – 39  
Jew – 14, 17, 19, 24, 31, 99, 110, 112  
Jilava – 103  
Jiu Valley – 33  
Johnston, Douglas – 35  
*Justinian Teculescu* Cultural Christian Alliance – Covasna county – 21
- K**aratnycky, Adrian – 65  
Katona, Ádám – 57, 87  
KGB – 40  
Kosovo – 38  
Ku Klux Klan – 106  
Kuhnen – 112
- L**aloșu (Gorj county) – 37  
Law of Local Public Administration – 50, 59, 96  
Law on National Security – 13, 57  
Law on Public Advertising – 51, 73  
Lăpușanu, Grigore – 60  
Lăzescu, Alexandru – 65  
*Le Monde*, publication – 49, 104  
League for the Fighting of Anti-Romanism – 17  
League of National Defence – 15  
League of Romanian Communists – 11, 13  
League of Students in Bessarabia and Bukovina – 19  
Legion of Archangel Michael – 24  
legionnaire – 13-17, 24, 37, 41, 42, 79, 85  
Legionnaire Movement – 14, 15, 37, 42  
Léhideux – 104, 105  
Lețcani (Iași county) – 103  
Liberal International – 82  
liberalism – 9, 26, 36, 44  
*Libertatea*, publication – 32  
Liiceanu, Gabriel – 26  
London – 108  
LukOil – 40  
*Lumea Satelor*, publication – 16  
Luna (Maramureș county) – 37  
Luncavicea (Caraș-Severin county) – 38  
Lupu, Vasile – 58
- M**acovei, Monica – 112  
Mafia – 32  
*Magazine for history, attitude and faith*, publication – 16  
Malta – 106  
Mangalia – 73  
Manole, Ilie – 44  
Manolescu, Nicolae – 40  
marginalization – 93  
Marineasa, publishing house – 13  
Marshall Antonescu League – 19  
Măgureanu, Virgil – 57, 58, 86  
*Măiastra*, publication – 16  
Mărgău (Cluj county) – 37  
Mărtinaș, Dumitru – 21  
Mearsheimer, John – 10  
Media Monitoring Agency – 72  
Meleșcanu, Teodor – 69  
Michnik, Adam – 109  
micro-region – 91  
Middle East – 9  
Miercurea Ciuc – 45  
*Mihai Viteazul* Cultural Foundation – 21  
Mihai, Dan – 112  
Mihăițan, Ion – 38  
Mihoreni – 17  
Milosevic, Slobodan – 38  
Ministry of Culture and Religious Denominations – 41, 96  
Ministry of Education and Research – 21, 27, 61  
Ministry of Justice – 34  
Ministry of Public Information – 22, 50  
*Miron Cristea* Cultural Christian Foundation – 21

*Mișcare*, publication – 14, 31, 57  
 Metropolitan seat of Central Europe – 45  
 Metropolitan seat of Patras – 40  
 Metropolitan seat of Western Europe – 45  
 Mocanu, Sebastian – 37  
 modernity – 22, 25  
 Moldova – 22  
 Monaco – 106  
 Moscow – 40  
 Motyl, Alexander – 65  
 Moța, Ion – 42  
*Moța și Marin* Association – 13  
 Movement for Romania – 14, 57  
 Mudde, Cas – 7, 10, 115  
 Muiznieks, Nils – 7  
 multicultural – 22-27  
 Muraru, Ioan – 48  
 Mureș, county – 91  
 Muscel – 41  
**N**astasă, Lucian – 7, 19  
 National Association of Romanian Army  
 Members – 20  
 National Council of Reunion – 19  
 National Council for Self-Government – 89  
 National Council for the Prevention of  
 Discrimination – 52, 53  
 National Defense College – 49  
 National Foundation against Racism, Anti-  
 Semitism, Xenophobia and Intolerance – 52  
 National Foundation of all Romanians Covasna  
 Branch – 21  
 National Foundation of all Romanians Harghita  
 Branch – 21  
 national identity – 93  
 National Intelligence Institute (INI) – 58  
 National Investment Fund (FNI) – 67  
 National Liberal Party – 69  
 national minorities – 22, 47, 48, 49, 50, 52, 53,  
 56, 57, 58, 72, 75, 86-89  
 National Office for Roma – 50, 73  
 National Salvation Front (FSN) – 30, 71  
 national security – 13, 93, 94  
 National Strategy for Roma – 50  
 national territory – 92  
 national-communism – 58, 85  
 nationalism – 48, 58, 71, 72, 74, 75, 82  
 Nationalist Christian Club – 16  
 NATO – see North-Atlantic Alliance  
 nazism – 16, 32  
 Năstase, Adrian – 22  
 Neamț, county – 13  
*Neamul Românesc* National Foundation

Covasna Branch – 21  
 negationism – 49, 80, 108-113  
 New Right Group – 16  
*New Right*, publication – 15  
 NGOs – 33, 50, 51, 52, 73, 74, 77, 81  
 Nicholson, Harold – 58  
 nomad – 22, 30  
 North-Atlantic Alliance (NATO) – 36, 58, 76,  
 82, 101  
 Northern Ireland – 106  
 Noua Dreaptă, organization – 15  
*Noua Dreaptă*, publication – 15

**O**bservatorul Cultural, publication – 73  
 Ocna Mureș (Alba county) – 37  
 oligarchy – 40  
 Ombudsman – 50  
*Onisifor Ghibu* Foundation – 19  
 Open Society Foundation – 61, 64, 65  
 Open Society Institute (Budapest) – 7, 50, 109  
 Oradea – 38  
*Orizont*, publication – 73  
 orthodox – 14, 17, 24, 35-40, 42  
 Orthodox Cathedral in Moscow – 40  
 Orthodox Patriarchy – 40, 45  
 Orthodox Seminary – 45  
 OSCE – 106  
 OSCE High Commissioner for National  
 Minorities – 75, 77

**P**alaghiță, Ștefan – 42  
 Pantelimon (Ilfov county) – 38  
 Pârâul Frunții (Neamț county) – 37  
 Parcului Călărașilor parish – 20  
 Party of National Unity of Romanians (PUNR)  
 – 14, 20, 27, 29-34, 57, 59, 60, 71, 86  
 Party of Romanian Social Democracy (PDSR) –  
 32, 69, 76  
 Party of the National Right – 13  
 pastoral theology – 45  
 Patapievic, Horia-R. – 25-27  
 Pavel, Dan – 34, 58  
 Peace of Paris – 18  
*Permanente*, publication – 16  
 personality cult – 103-105  
 Pétain, Philippe – 104, 105  
 Petru Maior University – 27  
 PHARE – 73, 76  
 Piatra Neamț – 103, 104  
 Pitești – 37  
*Platform Transylvanian Hungarian Initiative* – 89  
 Plămădeală, Antonie – 43  
 Ploiești – 40

- pluralism – 34  
Poland – 108, 109  
Political Affairs Committee – 9  
Political Parties Law – 47, 48, 107  
Political Science Faculty, University of Bucharest – 34  
Pop, Lucian – 64, 65  
Popescu, Corneliu-Liviu – 68  
Popescu, Cristian Tudor – 33  
populism – 9  
post-modernism – 23  
Prahova, county – 13  
Prishtina – 38  
privatization – 36  
Pro Basarabia and Bucovina Association – 19  
Pro Europa League – 72, 94, 95  
proselytism – 36, 38  
*Profesor George Manu* Cultural Foundation – 17, 19, 37  
Provisional Council of National Unity (CPUN) – 30, 57, 86  
*Puncte Cardinale*, publication – 13, 16
- Q**uestiaux, N. – 34
- R**acism – 9, 10, 13, 25, 33, 34, 47, 48, 49, 71, 73, 75, 79, 88, 99-115  
Radu, Dumitru – 20  
Ratajczak, Dariusz – 110  
Rădulescu, Bogdan George – 16  
Rășinăreanu, Visarion – 38  
reactionary – 27  
rebellion – 34  
reductionism – 23  
religious minorities – 76  
Republic of Moldova (see also Moldova) – 18, 113  
*Revista Română pentru Drepturile Omului*, publication – 63, 68  
revizionism – 9, 14, 17, 18, 20, 24  
Ribbentrop-Molotov, pact – 15, 19  
Riga – 115  
*Right Generation*, publication – 16  
right to associate – 99, 107, 109, 114, 115  
Roma – 14, 15, 19, 31-33, 87, 88  
Roma Party – 73  
Roman, Petre – 40, 69  
Roman-Catholic – 22  
Romania – passim  
*România liberă*, publication – 23, 24  
*România literară*, publication – 25, 80  
*România Mare*, publication – 14, 31, 32  
Romanian Commercial Bank (BCR) – 63  
Romanian Academy – 41  
Romanian Association for Culture and Orthodoxy – 49  
Romanian Christian Orthodox League Sf. Gheorghe Branch – 21  
Romanian Commission for the History of World War II – 19  
Romanian Communist Party – 11, 13, 29  
Romanian Communist Party Târgu Jiu branch – 14  
Romanian Constitution – 34, 38, 47, 48, 49, 50, 51, 53, 56, 62, 66, 67, 87, 94, 95, 100, 107, 109  
Romanian Hearth, organization – 14, 21, 29-34, 57, 85, 86  
Romanian Hearth Cultural Alliance (Covasna county) – 21  
Romanian Intelligence Service (SRI) – 11, 13, 14, 20, 30, 56, 57, 58, 59, 67, 85-98  
Romanian National Bank – 63  
Romanian National Civic Forum – 19, 21  
Romanian Orthodox Church (BOR) – 17, 20, 35-46, 61, 72, 76, 79, 92, 95, 96  
Romanian Orthodox Metropolitan Seat of Hungary – 45  
Romanian Parliament – 13, 19, 31, 32, 34, 36, 39, 41, 43, 50, 51, 61, 66, 67, 76, 80, 97, 100, 101, 104  
Romanian Senate – 30-32, 39, 99  
Romanism – 14, 93  
Romero, Victor C. – 106  
Romuli (Bistrița-Năsăud county) – 37  
Roșu (Gorj county) – 37  
Ruginoasa (Iași county) – 37, 38  
rule of law – 10, 35, 39  
Russia – 40  
Russian Federation – 46
- S**aint John the Baptizer – 25  
Salva (Năsăud county) – 37  
Sâmbăta de Sus Monastery (Făgăraș) – 37  
Sampson, Cynthia – 35  
Sarmizegetusa Foundation – 17  
Satu Mare – 31  
Saudi Arabia – 45  
Sârmași – 103  
Săvești (Ialomița county) – 37  
*Scânteia socialismului*, publication – 11, 13  
*Scânteia*, publication – 31  
*Scara – orthodox periodical of oceanography*, publication – 36, 49  
Schimanek, Hans Jörg – 111  
schismatic – 36  
Schnitzer, Amanda – 65  
*Scutul*, publication – 17

Securitatea, institution – 10, 21, 30, 43, 56, 58, 68, 85, 98  
 Seiple, Robert A. – 76  
 self-government – 91  
 Seventh-Day Adventist Church – 37  
 sexual harassment – 26  
 Sfântu Gheorghe – 96  
*Sfarmă Piatră*, periodical – 17, 18  
*Sfera politică*, publication – 80  
 Shafir, Michael – 7, 10, 18, 19, 27, 49, 69, 108  
 Sibiu – 73  
 Sibiu, county – 13, 37  
 Sima, Horia – 15, 16  
 Slatina – 45  
 Slobozia – 44, 103  
 Slovakia – 108  
 Slovenia – 65  
 Social Democracy Party (PSD) – 21, 27, 67, 73  
 Socialist Group – 9  
 Socialist Internațional – 82  
 Socialist Labor Party (PSM) – 32  
 Spain – 16  
 St. Andrew – 40  
 Stalin, V.I. – 104  
 Stan, Valentin – 10, 18, 63, 66  
 State of emergency – 34  
 State Secretary for Cults – 40  
 Stolojan, Theodor – 69  
 Stroe, Gelu – 20  
 Student Association of the Agronomical University – 19  
 Student Association of the University of Bucharest – 19  
 Students' League – 19  
 Stuttgart – 15  
 Sub-secretary of State for Roma – 50  
 Suceava, county – 13  
 Sullivan, Mark – 58  
 Supreme Court of Justice – 68  
 Supreme Council of Defense of the Country (CSAT) – 97  
 Sutești (Brăila county) – 37  
 Sütő, András – 30  
 Swiss law – 108  
 Switzerland – 106  
 Synagogue *The Beginnings of Science* – 42  
 Synod – 39, 42  
 Szekerland Consultative Council – 89

**S**tefănescu, Manuela – 63

**T**ârgoviște – 44  
 Târgu Mureș – 20, 27, 29, 30, 56, 60, 72, 85, 87  
 Teachers' Association – Harghita county – 21  
 Teoctist Arăpașu, patriarch – 39, 40, 42  
 Teodosie Snagoveanu – 36  
 territorial integrity – 95  
 territorial separatism – 91, 95  
 terrorism – 9  
 Teșliuc, Cornelia Mihaela – 64, 65  
 Teșliuc, Emil Daniel – 64, 65  
 theocracy – 46  
 Theological Seminary of Bucharest – 45  
 Timiș, county – 13  
 Timișoara – 13, 16, 72, 74  
 Timișoara Society – 72  
 Toader, George – 33  
 Tokay, György – 48  
 Toma, Mircea – 112  
 totalitarianism – 13, 80  
 Totok, William – 7, 16, 20, 24  
*Totuși iubirea*, publication – 14, 57  
 Trade Registry – 64  
 trade union – 26, 33, 88  
 Transdnier – 17, 19, 80, 112  
 Transylvania – 30, 31, 39, 72, 91, 92, 113  
 Transylvanian Hungarian Initiative – 57, 87  
 Trifu, Viorel – 42  
 Tudor, Corneliu Vadim – 20, 31-33, 68, 69  
 Tulucești (Galați county) – 37  
 Turda (Cluj county) – 37  
 Turmu Severin – 45  
 Țânțăreni (Gorj county) – 37

**U**kraïne – 18, 53  
 ultranationalism – 10, 29, 56, 57, 58, 59, 61, 71, 72, 75, 79, 80, 82, 85, 86  
 Union of Right Forces (UFR) – 16  
 United Nations Organization (UNO) – 52, 106  
 United States of America (USA) – 23, 25, 26, 36, 39, 58, 76, 106, 111  
 Universal Declaration of Human Rights – 95  
 university – 15, 17  
 University of Edinburgh – 7  
 USSR (see also Russia) – 15, 18

**V**âlcea, county – 13  
 Valul lui Traian (Constanța county) – 37  
 Van der Stöel, Max – 75  
 Vânători (Galați county) – 37  
 Vasile, Radu – 40, 41  
 Vasilescu, Florin – 48  
 Văleni (Maramureș county) – 37

Victoria 1989 Timișoara, association – 19

Vida, Ioan – 48

Visuia (Bistrița-Năsăud county) – 37

Voicu, George – 24

Vrancea, county – 13

*Vremea*, publication – 14, 57

**W**ar crimes – 104

Weber, Renate – 7, 10, 18, 56, 63, 71

Wettig, Gerhard – 55

woodland – 91, 94

Writers' Union – 26

*Wyborcza*, publication – 109

**X**enophobia – 9, 10, 22-24, 33, 42, 43, 48, 49,  
58, 88, 99-115

**Y**ugoslavia – 55, 113

**Z**anc, Grigore – 112

*Ziua*, publication – 23, 24, 32



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