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Some Thoughts on the Transitional Justice Dilemmas in the Romanian Post-Communist Context¹

ALEXANDRU GUSSI

The Romanian case confirms Ruti Teitel's observation that, in relation with transitional justice, "the truth is a story of eternal return"². The official December 2006 condemnation of the communist regime coincided with Romania's accession to the European Union. Both events have influenced the way in which Romania was analyzed after 2007, especially from the perspective of its relationship with the communist past. If we were to make a quick summary, the dominant perception is that of going from a country with a belated democratic transition, dominated by the former communists, therefore characterized by the wish to forget the totalitarian past, to a country that normalizes in relation to the evolution of most other former communist bloc states.³

Hence the subsequent idea of having an official memory produced as a consequence of the condemnation of the communist regime by the head of the state. However, that the Romanian state was to be far from consistent in imposing such a memory. Beyond the issue of customization and the lack of coordination between the institutions created in the 2000s to deal with the past, Polichinelle's secret emerged, the issue of their politicization. The phenomenon in itself underlines the importance of relationships between political parties and the sensitive issue of transitional justice⁴.

¹ This paper was supported by UEFISCDI under the grant PN-II-RU-PD-2012-3-0399, Contract no. 42/29 Apr 2013, "Conflicting Memories within Romanian State Institutions. The Impact on the Democratization Process".

² Ruti Teitel, *Transitional Justice*, Oxford University Press, Oxford and New York, 2000, p. 90.

³ For example in 2007 Georges Mink was assimilating Romania to Central European countries in terms of the degree of the removal of communism, see "Europe et ses passés douloureux: Strategies historicisantes et usages de l'Europe", in Georges Mink, Laure Neumayer, *L'Europe et ses passés douloureux*, La Decouverte, Paris, 2007, pp. 11-35/p. 28. For the Romanian context of the last few years and the political crisis after the accession to the EU see Ronald F. Kind, Paul E. Sum (eds.), *Romania Under Băsescu: Aspirations, Achievements, and Frustrations During His First Presidential Term*, Rowan&Littlefield, Lanham, MD, 2011.

⁴ For the importance of the cleavage on dealing with the communist past in post-communist political regimes see Daniel-Louis Seiler, "Peut-on appliquer les clivages de Rokkan à l'Europe centrale ?", in Jean-Michel De Waele, *Partis politiques et démocratie en Europe*

The period after the condemnation is interesting for the change produced in relationships among militants for transitional justice. As we shall show below, they identify themselves as anti-communists, and in the 1990s we usually find them in or around the Democratic Convention. Their apparent unity was already hiding a profound difference between civic and political anti-communists⁵. The disappearance of the Democratic Convention in 2000 lessened the appearance of unity, but it was only after 2007 that we see that a profound rift became visible within the anti-communist world. In this paper we shall attempt to show the reasons and the reshuffling of cards in this area, as the new premises laying the foundation of the discussion on the communist past, as well as that on the political role of the transitional justice in today's Romania.

THE RELATION TO THE COMMUNIST PAST IN THE POST-COMMUNIST ROMANIAN CONTEXT

Even though the discussion on Romanian exceptionalism is of no interest to us here, it is clear that the first step in moving away from the Ceaușescu's regime was by no means banal. Erin Poly and Jeremy Sarkin, in their *Reconciliation in Divided Societies*, note that: "The summary trials and prompt execution of Romania's leaders Nicolae Ceaușescu and his wife were notable exceptions to the modern trend favoring legal responses to political wrongdoing"⁶. Analyzing the Romanian case cannot fail to start every time from this paradox of the symbolic, revolutionary form of the change in regime, doubled by a reality of the continuity of the State, of the political, military and economic elite. It is no wonder, thus, that, as Lavinia Stan noted in 2013 in a more general analysis of Romania's relationship with its communist past: "The country has adopted a wide diversity of transitional justice methods, but almost none of these methods have been brought to completion"⁷, while for Ed. Maxfield, in the Romanian chapter of the *Encyclopedia of Transitional Justice*, the emphasis is on the fact that "each step has been met with

centrale et orientale, Editions de l'Université de Bruxelles, Bruxelles, 2002, pp. 115-144.

⁵ For the distinction between civic and political anti-communism see Alexandru Gussi, *La Roumanie face à son passé communiste. Mémoires et cultures politiques*, l'Harmattan, Paris, 2011, pp. 201-2012.

⁶ Erin Poly, Jeremy Sarkin, *Reconciliation in Divided Societies. Finding common Ground*, University of Pennsylvania Press, Philadelphia, 2007, p. 23.

⁷ Lavinia Stan, "Reckoning with the Communist Past in Romania: a Scorecard", *Europe-Asia Studies*, vol. 65, no. 1, 2013, pp. 127-146/p. 143.

political resistance” in transitional justice because “the former elite stayed in power for so long after 1989”⁸.

It is no secret, therefore, that this resistance comes from the inheritors of the Party-State found all throughout the institutions of the post-communist regime, as well as political parties. In the same vein, we have Vladimir Tismăneanu's observations on the essential continuity elements in the political culture found at the level of State institutions⁹.

If we were to summarize the evolution of these institutions, we should start from the fact that former communist Ion Iliescu was the head of the Romanian State between December 1989 and December 1996. In these first 7 years of transition (December 1989-December 1997), the State was not rebuilt in the logic of his new democratic legitimacy. In the post-communist regimes where the successor parties were not defeated in elections in 1989 or 1990, as was the case in Romania, and some other ex-Soviet states, these heirs of the former communist parties were able to maintain a form of control over state structures which never really passes for a process of decomunization¹⁰.

The post-communist state under Iliescu's leadership tried to adapt to the democratic transition in order to avoid more significant changes. In this line of logic, a very partial memory of the communist regime was institutionalized, which was in fact a policy of oblivion, reaffirmed between 2001 and 2004. After 1997 and after 2005, public statements were made by the new parties in power against this institutionalized reality. However, there is no continuity in political will with regard to this matter.

Even though generally the emphasis falls on the limitations of transitional justice in Romania, the question emerges logically: How come there is such a wide diversity of transitional justice methods? Shall we read this in the same way in which we could interpret today the excessive violence right after December 22 1989, including the Ceausescu executions, as an attempt to effectively cover a real continuity with a symbolic break with the past?

One element of the answer can be found in the cyclical precipice between the expectations created in revolutionary or nearly revolutionary terms and the critical analysis of the results: the 1989 moment, the moment of the first alternation

⁸ Ed. Maxfield, “Romania”, in Lavinia Stan, Nadya Nedelsky (eds.), *Encyclopedia of Transitional Justice*, vol. 2, Cambridge University Press, Cambridge, 2013, pp. 398- 403/p. 398.

⁹ Vladimir Tismăneanu, *Fantasies of Salvation. Democracy, Nationalism and Myth in Post-Communist Europe*, Princeton University Press, Princeton, 1998.

¹⁰ For the Romanian case see Alexandru Gussi, “Political Uses of Memory and the State in Post-Communism”, *Studia Politica. Romanian Political Science Review*, vol. XIII, no. 4, 2013, pp. 721-732.

in December 2006, the moment of the condemnation of communism in December 2006. It seems that for almost 25 years now, a part of Romanian society judges the changes based on the yardstick of the myth of revolution, a myth reaffirmed after 1989, whose political effectiveness has proven indomitable, a myth that can also be interpreted as part of a longer history.

After December 2006 it was to be expected to have a reaction from the institutions of the State in terms of official discourse¹¹. In fact the entire state institutional system does not answer to the presidential discourse on the communist past. If before 2004 we could talk about a bunker state opposed to transitional justice, the steps taken after 2006 have emphasized even more the existence of institutional resistance, preserving the inertia instituted by Ion Iliescu's oblivion policy in the first seven years of transition. However, institutional resistance alone cannot explain this situation¹². Below, we shall attempt to touch on two other issues that are just as important: the level of political will, and especially that lack of strength of anti-communist groups in civil society. Beyond the political speeches, which are forms of political use of the past, the Romanian case is one of lack of balance between political, institutional, economic and media power shared by those with ties to the former regime, and those who make transitional justice demands.

This imbalance seemed able to be righted around 2006, especially as communism was officially condemned. However, the result of this persistent imbalance can be seen by the absence of symbolic elements which have been for the long time on the agenda of militants of memory: a museum of communism in Bucharest¹³ and a monument for the victims of communism. Hence, much of the frustration experienced by the anti-communists 9 years away from the official condemnation of communism¹⁴. Thus, the 2006 condemnation made even more

¹¹ For example or the inability to implement measures concerning transitional criminal justice see Raluca Grosescu, Raluca Ursachi, *Justiția penală de tranziție. De la Nürnberg la postcomunismul românesc*, Polirom, Iași, 2009.

¹² For the bureaucratic continuity and the political elite continuity after 1989 see Raluca Grosescu, "Fizionomia nomenclaturii", in *Anuarul Institutului de Investigare a Crimelor Comunismului*, vol. I, 2006, pp. 109-140.

¹³ The general director of the IICCR, Stejărel Olaru, announced that this was a priority of the Institute right when it was created, see Stejărel Olaru, "Despre Institutul de Investigare a Crimelor Comunismului din România", *De ce trebuie condamnat comunismul. Anuarul IICCR*, vol. I, 2006, pp. 9-12, pp. 11-12. In 2011, several statements from the leadership of the IICCMR announced the same thing, and the party in power, the Liberal Democratic Party, in theory endorsed this project.

¹⁴ Public statements, but also statements made personally to the author by important figures in the anti-communist civil society, such as the head of the AFDPR Octavian Bjoza, head of the Civic Academy, Ana Blandiana, or the president of the 21 December Association, T.

visible a resistance towards transitional justice, which was greater than in most other socialist countries who had joined the EU¹⁵.

The essential change produced here is that this resistance is no longer expressed towards demands made by civil society, which is much too divided in any case, but even towards those institutions of the state which have to put into practice the policies of memory¹⁶. To this end is to emphasize the marginal role to which are relegated the institutions in charge of managing the past, such as the IICMER, the CNSAS (the commission analyzing the Securitate archives), and the NA (National Archives). At the same time, this marginalization paradoxically emphasizes the relative autonomy which these institutions enjoy in managing memory.

TRANSITIONAL JUSTICE AND THE ROMANIAN ANTI-COMMUNISTS

The politicization of the relationship to the past, and implicitly of these pressures, cannot be separated from their effectiveness, because the political parties are the ones making these decisions. It is only natural that they would then attempt to gain legitimacy through these policies. In fact, as Geoffrey Pridham points out, in a democratic transition “parties are important as agents for transmission, but also transfiguration of historical memories”¹⁷.

If we look at the polls, we could ask ourselves if politicians may have overestimated anti-communism's ability to mobilize¹⁸. However, beyond the recent

Mărieș.

¹⁵ For this comparative dimension of transitional justice see Lavinia Stan (ed.), *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past*, Routledge, New York, 2009.

¹⁶ It is interesting to note in this case that the absence of the museum could confirm the criticism regarding the concrete consequences of the official condemnation of communism; public critics of this project have argued against it precisely because “it could provide continuity to the anti-communist ideology of the Final Report” (“ar fi în continuitatea ideologiei anticomuniste din Raportul Final”); see Igor Mocanu, “Muzeul Comunismului-de la investigare la reenactment porno”, in *Criticatac. Antologie 1 (2010-2011)*, Cartier, Chișinău, 2011, pp. 250-255/p. 253 for the quote. See also Măriuca Morariu, “From Condemnation to Melancholy. Alternative Meanings of Post- Communist Nostalgia in Romania Beyond the Official Anti-Communist Discourse”, *Studia Politica. Romanian Political Science Review*, vol. XII, no. 2, pp. 289-308/pp. 302-305.

¹⁷ Geoffrey Pridham, *The Dynamics of Democratization. A Comparative Approach*, Continuum, London and New York, 2000, p. 35.

¹⁸ See for example CSOP-IICMER 2010, 2011 and 2012 polls at http://www.iiccr.ro/ro/sondaje_iiccr_csop/ (accessed on 15 September 2013).

evolution of events, the relationship with the communist past is still an important element of identity, both at the level of civic groups and of political parties¹⁹.

At the same time, the identity field changed much in the 1990s. At that point we saw a true blending of militants for transitional justice, including representatives of the victims, and the politicians who claim an anti-communist identity. Militants for transitional justice defined themselves through a more or less politicized anti-communism, but diverse from a doctrine point of view, with a common point in the attempt to base democracy on the condemnation of the communist regime. The narrative of the past was thus seen as a premise of a European future²⁰. After the political change in 1996, made by the anti-communist Democratic Convention, came a collective disappointment and reduced importance for a discourse critical towards the communist regime. The report of the presidential Commission for the Analysis of the Communist Regime in Romania, issued in 2006, came as a form of revenge and of fulfillment of the anti-communism of those first post-communist years.

Anti-communism and Democratization

Anti-communism was built in Romania as a common ideology of those who stood against the National Salvation Front and its claimed entitlement to the inheritance of the revolutionary moment of 1989, using it as a means of restoring legitimacy to a part of the former elite of the communist state. Any critical look at Romania's past cannot be separated from the context in which the revolutionary form of the regime change in December 1989 had the apparently paradoxical consequence of restoring political legitimacy to a large portion of the cadres of the Party-State as it was before 1989.

The historical (pre-WWII) parties, which formed the core of the Democratic Convention, hold a special place in the debate on the past, because these parties

¹⁹ For the importance of public intellectuals, especially anti-communists, in influencing the public debate, but also the political agenda in the first post-communist decade, and for the democratic dimension of anti-communist public intellectuals, see Cosmina Tănăsioiu, "Intellectuals and Post-communist Politics in Romania: An Analysis of Public Discourse, 1990-2000", *East European Politics and Societies*, vol. 22, no. 1, 2008, pp. 80-113. For Vladimir Tismăneanu "Critical intellectuals may insist on the need for moral clarity, but the political class remains narcissistically self-centered and impervious to the injunction to live in truth", Vladimir Tismăneanu, "Leninist Legacies, Pluralist Dilemmas", *Journal of Democracy*, vol. 18, no. 4, October 2007, pp. 34-39/p. 35.

²⁰ The 1990 Timișoara Proclamation or University Square are significant for this movement, which became institutionalized in the Civic Alliance, and formed the core ideological basis of the Democratic Convention.

were the bearers not only of the memory of communism and victims of its dictatorship, but of that of dictatorships before it. In this way, they have a democratic legitimacy which they imprint on the mainstream anti-communist discourse, uncontaminated by the other type of anti-communist discourse, the extreme-right one.

The first seven years of transition, those before the changeover in 1996, are the years when the aims of transitional justice were promoted almost exclusively by the opponents of state power. At the same time, Romania's president, Ion Iliescu, and his government quite often expressed themselves and acted against those aims.

However, there are two categories of actors that utilize the anti-communist discourse. The first is that of political parties, members in the Democratic Convention, mainly the National Peasant Party and the National Liberal Party (PNȚCD and PNL). For them, the anti-communist discourse is part of their party identity, presented as martyrs of the communist regime. Their doctrines, Christian Democracy and Liberalism, were unconvincing, and their anti-communist dimension prevailed.

The second category of actors is that of civic militants. Their discourse, however, is confused with that of the first category, before 2007, because for the supporters of transitional justice, the aim of removing from power Ion Iliescu and his party, seen as neo-communists, was a condition necessary for achieving their aims. So for 7 years the discourse on transitional justice was the preferred weapon for the opposition against a power which is still seen undifferentiated from state institutions, the latter becoming a sort of bunker to defend against condemning the guilty, the restitution of property, moral rehabilitation, and reparations to be paid to the victims of communism.

The fact that the discourse about the past and the political discourse of the opposition are initially impossible to dissociate is important for the understanding of the difficulties faced by opposition anti-communism in trying to become official. We will not dwell here on drawing a bottom line for the period when the anti-communist opposition was in power (1996-2000), we will simply make the observation that it was beyond disappointing for the supporters of transitional justice. In fact, the civic dimension of anti-communism would become critical against the political dimension, which would contribute decisively to the disappearance of the DC in 2000. For an implicit self-analysis of that bottom line, we will simply quote former president Emil Constantinescu, who, in 2004, less than four years away from ending his term, said: "Romania is in danger. The state is a hostage of the Securitate-communist mafia" and that what was needed was a

“national war of liberation from the domination of Securitate-communist mafia”²¹. Even though critical of president Băsescu, Constantinescu took part in the Parliament session of 18 December 2006, but the general consensus was that no one understood why he himself had not promoted, as an anti-communist president, this type of condemnation against the communist past.

Civic anti-communism survived precisely because it had come into opposition to the DC before it vanished. After 2001 the militants of transitional justice seem to be free of the confusion made between their specific aims and partisan objectives. Not for long, though.

The De-Politicization and Re-Politicization of the Discourse on the Communist Past

Ion Iliescu's return to power after the November-December 2000 parliamentary and presidential elections was a step back in transitional justice. The directly proportional relationship between the progress of transitional justice and democratization was well illustrated by that period. For Steven Levitsky and Lucan A. Way “Under Iliescu (2000-2004), Romania fell back into competitive authoritarianism”²². It is also the reason for which in 2004, in spite of the fact that anti-communism had disappeared as a relevant political identity, its themes are essential in the political opposition's critical discourse. In fact, a sort of orange election revolution would occur in November-December 2004 in the name of this discourse.

We see now, in Romania's case, how inaction in transitional justice has a significant political cost. In spite of the fact that Ion Iliescu took a much more prudent attitude towards the past between 2001 and 2004, state institutions still stonewalled when it came to access to Securitate archives, as well as to those of the Romanian Communist Part and the Union of Communist Youth²³, a fact speculated by the opposition. During the same period, it sees that the civic anti-communism, the kind not hijacked by political parties, seems to no longer be effective. This

²¹ Emil Constantinescu, *Adevărul despre România (1989-2004)*, Ediție pilot, Universalia, București, 2004, p. 525 and 526.

²² Steven Levitsky, Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, Cambridge University Press, Cambridge, 2010, p. 103.

²³ In this regard of the opening of the archives see for example Alina Pavelescu, “Reconcilierea posttotalitară cu trecutul pe tărâmul istoriei publice-relația între arhiviști și istorici în România”, in Sergiu Mustață, Igor Casu (eds.), *Fără termen de prescripție. Aspecte ale investigării comunismului în Europa*, Cartier, Chișinău, 2011, pp. 190-200.

conjunction of factors resulted in anti-communism being forgotten in politics, and being rediscovered only in the 2004 election year. That happened because the parties that had abandoned anti-communism could not find other sources of identity.

Here we notice that the cycle politicization, de-politicization and then re-politicization of anti-communist discourse emerges as a blending of nine structural factors defining the relationship with the communist past in Romanian politics: a dominant party which inherited the State-Party, which systematically opposes the aims of transitional justice; a relationship of this party with state structures, based on complicity against the aims of anti-anti-communism; a State marred by a problem of illegitimacy originating in the murky December 1989 moment, and especially the early period of democratization, marred by missing the constitutional moment; the preservation of the rift on the communist past after December 2006 through the wish of the SDP to not accept the condemnation of communism, and through the fact that Ion Iliescu returns as an honorary leader of the SDP right in December 2006²⁴; a fragmented political opposition, without a clear political identity, which uses anti-communism as an identity substitute, and a natural weapon against the dominant party; a civil society poor in resources, which could only mobilize society with the help of resources coming directly from political parties, or indirectly through the State; an anti-communist part of civil society which is on one hand critical of the State and parties, and on the other losing credibility after the repeated use of the past as a political instrument; a feckless court system after 1989, complicit in the politicized treatment of the revolution or of the events in June 1990 or September 1991.

At the same time, in this context, it is important to quote James Mark who talked about a museification of communism in several states in Central and Eastern Europe, including Romania. He points out “an ideology of the continued struggle against an enemy that had survived and refused to be defeated”²⁵. This ideology is characterized by a museification of communism promoted by anti-communists, thus reconciliation is far from being the priority of this type of museal and discursive undertaking²⁶. This observation is important also for the issue of politicization: to the extent that this type of “ideology”, of trend, dominates the anti-communist discourse, it gains importance for political parties, either in an attempt to hijack it, or to allow them to identify themselves by opposition to the anti-communists.

²⁴ The Social Democratic Party contested the condemnation moment, see the *Resolution of the Extraordinary Congress of the SDP with regard to using the past as a political weapon*, 10 December 2006, www.psd.ro (accessed on 12 December 2012).

²⁵ James Mark, *The Unfinished Revolution. Making Sense of the Communist Past in Central-Eastern Europe*, Yale University Press, New Haven and London, 2010, p. 92.

²⁶ *Ibidem*.

After the type of anti-communism represented by the National Peasant Party and President Emil Constantinescu, disappeared post-2000, the opposition ignored this issue that had been essential in establishing a line of non-alliance, non-negotiation with Ion Iliescu's party. The latter, in fact, changed its name in 2001, when it joined several smaller parties, among them one historical party, the Social Democratic Party of Romania, and adopts its current moniker, the Social Democratic Party. This party, if not reformed, at least underwent a process of re-branding under Adrian Năstase, who signed support protocols with the Democratic Union of Ethnic Hungarians in Romania (2001-2004), and even the National Liberal Party (2001-2004). The ruling SDP and the opposition parties took similar positions on NATO and EU integration. The most significant moment of this collaboration was that of the revision of the Constitution in 2003, which could only have been possible by consensus.

We notice an obvious ideological convergence of the main political forces in Parliament: the Social Democratic Party, the National Liberal Party, and the Democratic Party. This convergence came to be confirmed by the evolution after 2004 and the creation of Social-Liberal Union (USL). The only place where this convergence doesn't seem to occur is in the discourse on the independence of justice and the fight against corruption as part of the continuation of the process of democratization²⁷. In this context, the problem of relating to the communist past as an element of differentiation between SDP and non-SPD parties reappeared, an element the more important as there was a danger that the entire political spectrum was gaining an image of uniformity.

Ideological differentiation includes the memory of the rift on the communist past in the 1990s, even if its role is still secondary. Falling within the logic of focusing on the impunity of the political class in terms of corruption is the alliance created against the SDP: the Alliance for Justice and Truth (National Liberal – Democratic Party). This name recalls that which had been the core of the anti-communist discourse in the DCR up until 1996. Justice and Truth blend into a single message the issues faced by transitional justice, as well as those faced by the judiciary in facing the post-communist political class.

The role of this critical discourse of the communist past, though secondary, is that of granting credibility to the Alliance for Justice and Truth in continuing the efforts made by the former Democratic Convention in differentiating themselves

²⁷ Cynthia Horne analyzes the link between lustration and the fight against corruption in both Romania and Poland, both in relation to the institutional credibility of the State see Cynthia Horne, "Late Lustration Programmes in Romania and Poland: Supporting or Undermining Democratic Transitions?", *Democratization*, vol. 16, no. 2, April 2009, pp. 344-376.

from a Party and State seen as dominated by the former communists.

After 2004, in view of its role in that electoral moment, a significant part of civil society²⁸ put firmly on the public agenda the idea of transitional justice²⁹. This pressure may not have been too strong in society overall, but it took on much more significance when it came to the anti-SDP voters. However, it may not have had the very important effect we have seen in 2006 lacking a specific political context.

Between 2005-2006, tensions mounted between ruling coalition partners of the Alliance for Justice and Truth, and most of all between the prime minister and the president. At that point, the discourse on the past, implicit in the objectives of transitional justice as well, became an important factor of legitimacy. That is even more important as there was a conflict between the National Liberals and the Democratic Party, the latter joining in 2005 the Popular Party, threatening the position of the Liberals, which for a while had been the only party claiming the center right among parliamentary parties.

During this new stage, anti-communism became once again an important political resource, this time not in the struggle, already traditional, with the SDP, Ion Iliescu's party, but as a first in the internal struggle from the anti-SDP area, between the former partners in the Alliance for Justice and Truth, the National Liberals and the Democratic Party.

As a consequence of this new type of political face-off, two phenomena emerged, redrawing the list of issues in the discourse on Romania's communist past:

1. For the first time, a crack appears between the visible supporters of civic anti-communism. At least at first there seemed not to be two kinds of anti-communism, but the symbolic resources of civic anti-communism are used in a form of struggle which, among transitional justice supporters, was fratricide;
2. There emerged what we could call Type 2 political anti-communism. Its main characteristic is that the political anti-communism of 1990 was pointed against Ion Iliescu's party, and had legitimacy issuing from the presence of former political prisoners in the leadership of parties that formed the Democratic Convention. They lent significant credibility to

²⁸ Especially the coalition of NGOs "Coaliția pentru un Parlament Curat" (the Alliance for a Clean Parliament).

²⁹ The most influential was the public statement was "Apelul pentru condamnarea comunismului" proposed by a GSD member, Sorin Ilieșiu, and signed by anticommunist associations, March 2006, see http://www.memoria.ro/marturii/periode_istorice/inceputul_comunismului/recunoasterea_asumarea_si_condamnarea_genocidului_comunist_/1657/, (accessed on 15 September 2013).

this type of discourse, which thus did not have adversaries in civil society, supporting the acceleration of the process of democratization. Practically, none of these characteristics is valid any longer as part of the new face of political anti-communism, which we could refer to as post-post-communist. It was visible not only in the fight between the National Liberals and the (Liberal) Democratic Party, but became a common good, adopted even by the SDP³⁰. After an initial stage of inflation, this type of discourse lost value and was marginalized after 2009.

Paradoxically, the political framework defined by these two new realities made possible the most important steps forward made by transitional justice after 1989: the creation of the IICCR, the creation of the Commission for the Analysis of the Communist Dictatorship in Romania, the official condemnation of the communist regime, the opening of the Communist Party Central Committee archives, and placing the Securitate archives under the custody of the CNSAS. This acceleration started in 2006 was so much dependent on the political circumstances that we will not be able to see in the upcoming years a comparable emulation in terms of the relationship with the communist past.

THE INTERPRETATIONS OF THE CONTEXT AND SIGNIFICANCE OF THE OFFICIAL CONDEMNATION OF THE COMMUNIST REGIME AND THE EXPLOSION OF THE ANTICOMMUNIST GALAXY

Even though it occurred before integration, the condemnation of communism was not a requirement from European institutions³¹. We could say that, compared to the official admission of Romania's involvement in the Holocaust, which was largely the result of external pressure, here it was basically an exclusively domestic process. As shown above, even before the president officially condemned communism in December 2006, there were already camps that would later crystallize more visibly and would stand more clearly for or against the importance

³⁰ See an example from a Societatea Timișoara 2014 statement: <http://www.revistapresei.eu/stire/constatare-publica-psd-confisca-simbolurile-rezistentei-anticomuniste.html>, (accessed on 29 December 2014).

³¹ On this issue see John Gledhill, "Integrating the Past: Regional Integration and Historical Reckoning in Central and Eastern Europe", *Nationalities Papers*, vol. 39, no. 4, July 2011, pp. 481-506 and Raluca Grosescu, Raluca Ursachi, *Justiția penală de tranziție...cit.*, pp. 68-106.

of that presidential gesture. The political stake of these stances was whether or not one provided President Bănescu with usable political capital.

People who wrote on the consequences of this condemnation have generally downplayed the idea of a very significant effect on collective memory³². We have shown above that, from the point of view of a non-politicized memory, this official condemnation comes at an unfortunate moment. It is first and foremost an achievement of all anti-communist groups, a result of a pressure originating in the rift of the 1990s. There is, therefore, an issue of historical timing. It not only comes very late, it comes at the end of a political cycle. After 2007, enough signs could be seen that a new political cycle was coming, but also a new form of Romanian transition or adaptation to its new status of European Union member.

The second wave of anti-communism, which drives the continuation of transitional justice processes, is much more the result of a critique of the present, rather than the past, it is the result of a collective frustration which sees the communist elite as the main beneficiary of Romanian post-communism³³. In this context, the official condemnation of communism, a major aim of the first anti-communist wave, becomes secondary for the second wave.

Add to this another off beat step: in the same period of time, but especially after the economic and social crisis that swept Romania starting in early 2008, one could see a resurgence in a tendency to see in a positive light the communist past³⁴.

³² See for example Monica Ciobanu, "Criminalising the Past and Reconstructing Collective Memory: The Romanian Truth Commission", *Europe-Asia Studies*, vol. 61, no. 2, March 2009, pp. 313-336; Lavinia Stan, *Transitional Justice in Post-Communist Romania*, Cambridge: University Press, Cambridge, 2013; James Mark, *The Unfinished Revolution. Making Sense of the Communist Past in Central-Eastern Europe*, Yale University Press, New Haven and London, 2010; Florin Leontin Abraham, *Provocări epistemologice ale totalitarismului. O metodologie a studiului regimurilor comuniste*, Editura Muzeului Național al Literaturii Române, București, 2013; Cristian Tileagă, "Communism in Retrospect: The Rhetoric of Historical Representation and Writing the Collective Memory of Recent Past", *Memories Studies*, no. 5 (4), 2012, pp. 462-478.

³³ C. Horne's more general observation is particularly relevant for the Romanian case: Lustration is resonating with a symbolic and institutional sense that something about the democratic transitions is incomplete", Cynthia Horne, "Late Lustration Programmes in Romania and Poland...cit."

³⁴ For the entire area there was a new wave of decommunization at a time when nostalgia was on the rise, but that also had to do with a generational phenomenon, a correlation generally valid for the East, but mostly Romania, see Joakim Ekman, Jonas Linde, "Communist Nostalgia and the Consolidation of Democracy in Central and Eastern Europe", *Journal of Communist Studies and Transition Politics*, vol. 21, no. 3, September 2005, pp. 354-374. For the Romanian case Cristian Tileagă links the limited influence of the Tismăneanu Report "for a national narrative around coming to terms with the past" to

Chronologically speaking, the presidential discourse of December 2006 comes ahead of the time when the nostalgia became evident, and it seems intended to answer to it first and foremost, not to the long wait of the anti-communists. After 2007, we can see only partially a form of post-transitional justice in the sense of “a reintroduction of the politics of the past onto the political agenda and/ or the political sphere with the intention of changing the dominant narrative of the past”, because the demands for condemnation started from the observation that there was no “dominant narrative of the past”³⁵. However, the idea of a totally new stage, of a new cycle of transitional justice is useful for understanding a phenomenon observed in other post-transitional states: “What is at stake in this new stage of dealing with the past is not only the legacies of the previous regime, but also the legacies of the transition”³⁶.

The Tismăneanu Commission's report is the climax of the “trial of communism”, started in Romania in 1990 by the intellectual and civic elite, supported by anti-communist NGOs. The report is also a condemnation of post-communist civil society against the communist regime.

If we were to summarize the discussion around the Commission-Report-Speech sequence, it starts from the fact that it was written by a presidential commission, but its character of official institutional product is challenged. It was, however, embraced by the Traian Băsescu administration, if only for being posted on its official website³⁷. However, the people who wrote it were given the intellectual freedom of doing as they wished, which allowed the president to include in his speech only a part of the main recommendations of the report. The speech is doubtless an official one, however the fact that Parliament did not endorse it robs it of strength. The fact that the president condemned communism could be seen as political and/or personal, which for his critics raises questions on whether or not the Romanian State really condemned the communist regime³⁸.

a public opinion gauged in polls that show a tendency to see in a better light the period before 1989, see Cristian Tileagă, “Communism in Retrospect...cit.”, p. 465.

³⁵ Filipa Raimundo, „Dealing with the Past in Central and Southern European Democracies: Comparing Spain and Poland”, in Georges Mink, Laure Neumayer, *History, Memory and Politics in Central and Eastern Europe. Memory Games*, Palgrave MacMillan, New York, 2013, pp. 136-154/p. 138.

³⁶ *Ibidem*.

³⁷ The English official translation of the 18 December 2006 presidential speech, http://cpcadcr.presidency.ro/upload/8288_en.pdf (accessed on 20 May 2014).

³⁸ For example see the observations of Monica Ciobanu, “Criminalising the Past and Reconstructing Collective Memory: The Romanian Truth Commission”, *Europe-Asia Studies*, vol. 61, no. 2, March 2009, pp. 313-336/p. 323 and Florin Leontin Abraham, *Provocări epistemologice ale totalitarismului. O metodologie a studiului regimurilor comuniste*, Editura Muzeului Național al Literaturii Române Bucharest, 2013, pp. 177-186.

In 2005, when there were already repeated calls for declaring the communist regime “illegitimate and criminal”, the division pro and against the head of State started in the anti-communist faction. The announcement that the Commission was forming came too late, because from the point of view of a part of the 1990s anti-communists, the Commission was already seen as politically customized. Since this feeling was not too widespread, some of the head of State's critics accepted to be on the Commission, but while it was running its activity, especially in 2007, their position would become radicalized in criticizing the political use of the 2006 speech³⁹.

In fact, as Georges Mink observed, there is a sort of conflict of interest within political anti-communism, since the aim of its supporters is “faire durer aussi longtemps que possible le gisement mémoriel en état d'exploitation, car la production du dissensus mémoriel garantit à ces acteurs un positionnement avantageux sur la scène partisane”⁴⁰. This observation could be extended to the Romanian civic anti-communism.

It is necessary to seek the political reasons for the rift between civic anti-communists, because this division does not occur on the natural line between “radicals” and “moderates”. Even though the apparently most “radical”, such as IICCR head Marius Oprea, or the head of the AFDPR (Association of Former Political Prisoners in Romania), Octavian Bjoza, were critical of the president, the presidential commission report is as “radical” as they come. In fact, it is criticized for having the features of anti-communist radicalism, having three of the most important characteristics it took in post-communist Romania. The first is using the notion of genocide, the second is avoiding self blame, “communism as other”, by the fact that the communist regime is “distanced from the (national) self”. The third is the observation that the Tismăneanu Report touches on the period after 1989 as well, blaming the state for street violence in 1990, which reinforces the idea of “the continuing struggle against communism”⁴¹.

In fact, in the hottest moments of internecine conflicts within the ranks of the anti-communists, such as the ones in 2010 when the head of the IICCR (which had been renamed IICMER), Marius Oprea, was replaced, and the leadership that followed was contested from within in the IICMER, the conflicts do not crystallize

³⁹ For example Marius Oprea, the first director of the Institute for the Investigation of the Communist Crimes in Romania (2007-2009), member of Tismăneanu Commission, but a critic of the December 2006 presidential speech.

⁴⁰ Georges Mink, “Europe et ses passés douloureux: Strategies historicisantes et usages de l'Europe”, in Georges Mink, Laure Neumayer, *L'Europe et ses passés douloureux*, La Découverte, Paris, 2007, pp. 11-35/p. 29.

⁴¹ James Mark, *The Unfinished Revolution. Making Sense of the Communist Past in Central-Eastern Europe*, Yale University Press, New Haven and London, 2010.

around the different visions on the communist past.

To the extent that the report is, as we have shown, up to the standards of the Romanian anti-communists, even those we may consider “radical”, and to the extent that the presidential speech adopted the main theses of the report, the discussion seems to be focused on the consequences. A part of the critics of the official condemnation of communism focused on the consequences which are considered practically null publicly, while the supporters of this undertaking rejected this criticism, while avoiding to denounce the attitude of the state, which obviously had not internalized the condemnation speech.

In 2013, Lavinia Stan observed that “The challenge facing the pro-transitional justice civil society groups is that of finding a common ground, a common drive and a common platform”⁴². In the Romanian case the explosion of the anticommunist galaxy is the result of political conflicts. At the same time, the issue of politicization remains a structural dilemma. As the three dimensions without transitional justice could not exist (the pressure from interested parties in civil society, the political will, and the state-institutional dimension), nothing would be possible without the last two, both presupposing a level of politicization. The political use of the past remains not a risk, but an unavoidable cost accepted by the militants of memory. It is the reason for which, as we have shown, in Romania there could emerge unavoidable, systemic rifts between various anti-communist groups, rifts which at first sight are not only political, but are at the same time related to differing strategies of imposing the aims of transitional justice.

CONCLUDING REMARKS

In this paper we tried to emphasize the most important features of the political context in which the issue of the communist past is raised in 2006. We showed the extent to which the politicization of the anti-communist discourse results from some structural factors, which we have enumerated, which define the relationship with the communist past of the actual Romanian political system.

We have also described the political context preparing the December 2006 moment, emphasizing that it could not be later emulated, and that emulation was improbable because of the lack of balance of force between anticommunists and their adversaries.

⁴² Lavinia Stan, „Civil Society and Post-communist Transitional Justice in Romania”, in O. Simic, Z. Volcic (eds.), *Transitional Justice and Civil Society in the Balkans*, Springer Science, New York, 2013, pp. 17-31/p. 29.

To conclude, the second wave of anti-communism is the result of a political context, but also a social one with a collective frustration which sees the nomenklatura as the main beneficiary of post-communism.

The Romanian case is one of lack of balance in political, economic, institutional and media power, to the dismay of the militants for transitional justice. This tipping of the scales existed in 1990, and was not overcome in the 2006 moment, which at a more general level enhanced the lack of confidence in the state and the political factor. However, the 1990 bunker-state working against the condemnation of communism was partially dismantled after 2005-2006, but in parallel, as a side effect, the anti-bunker-state front also broke down. This explosion of the anti-communist galaxy led to a remarkable diminution of the influence of the transitional justice supporters in the political sphere.