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# Lustration in Romania

## The Story of a Failure\*

LAVINIA STAN

Among transitional justice methods Eastern European countries have used to deal with their communist past, lustration has inspired a vivid debate on the appropriateness of blaming communist decision makers for their acts of oppression, and distinguishing the collective and individual nature of the blame, the shades of guilt, and the degree of just punishment. The policy of temporarily banning communist leaders from post-communist politics has divided the region with respect to its efficacy in addressing the political, social and cultural legacies of communism. Romania is considered an exception, a country that neither supported nor legislated lustration<sup>1</sup>, but a closer look reveals repeated attempts on the part of the civil society and local luminaries to convince the political class to resolutely break with the communist past.

The first call for lustration came months after the collapse of the Ceaușescu regime, amid charges that the popular revolt was hijacked by second-echelon communist apparatchiks gathered around Ion Iliescu. Fulfilling the direst predictions, the new rulers responded by bringing the Valea Jiului miners to "defend the budding democracy" against unarmed students and intellectuals demonstrating in the University Square of Bucharest, and hastily reorganizing the secret police as the Romanian Information Service, heir to the Securitate archive, personnel, methods and goal of harassing the opposition. Groups favoring lustration were marginalized, and an aggressive media campaign singling out the Ceaușescu family as solely responsible for the country's disaster was launched. During the next decade

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<sup>1</sup> The literature on lustration in Eastern Europe is too vast to be quoted here. See, among the most representative, Charles BERTSCHL, "Lustration and the Transition to democracy: The Cases of Poland and Bulgaria", *East European Quarterly*, vol. 2, no. 4, 1995, pp. 435-452; Paulina BREN, "Lustration in the Czech and Slovak republics", *RFE/RL Research Report*, vol. 2, no. 29, 1993, pp. 16-22; Barbara MISZTAL, "How Not to Deal with the Past: Lustration in Poland", *Archives Europeennes de Sociologie*, vol. 40, no. 1, 1999, pp. 31-55; Wiktor OSTIANSKY, "Agent Walesa? Lustration Leads to a Grand Scale Political Provocation in Poland", *East European Constitutional Review*, vol. 4, no. 1, 1992, pp. 56-260; Peter SIEGELMAN, "The Problems of Lustration: Righting the Wrongs of the Past", *Law and Social Inquiry*, vol. 20, no. 1, 1995, pp. 1-6; Jirina SIKLOVA, "Lustration or the Czech Way of Screening", *East European Constitutional Review*, vol. 5, no. 1, 1996, pp. 57-62; Debra STEWART, Cynthia STEWART, "Lustration in Poland and the Former Czechoslovakia: A Study in Decommunisation", *International Journal of Public Administration*, vol. 18, no. 6, 1995, pp. 879-914; Petruska SUSTROVA, "The Lustration Controversy", *Uncaptive Minds*, vol. 5, no. 2, 1992; George WEIGEL, "Their Lustration – and Ours", *Commentary*, vol. 94, no. 4, 1992, pp. 34-39.

former political prisoner Constantin Ticu Dumitrescu and sociologist George Șerban were among the few to defend the use of lustration to renew the political class, without support from their Christian Democrat Peasant Party, which, after winning the 1996 poll, claimed that it had to address economic problems before "exacting revenge".

By late 2004 a record number of Romanians blamed corruption and economic stagnation on lack of lustration. In the first 15 years of post-communist change the two presidents Ion Iliescu and Emil Constantinescu, all seven premiers but Radu Vasile, and many ministers and deputy ministers, deputies and senators were drawn from the communist state, party and managerial leadership. Despite its declared commitment to effect democratization and raise living standards, this political class had problems adapting to the new democratic order, accepting the need for accountability and efficiency, and setting aside its group interests to promote the common good. In the region, Romania has constantly ranked among the highest in terms of corruption and bribe, and among the lowest in terms of living standards and foreign investment<sup>1</sup>. Taking advantage of the political change brought about by the 2004 elections, when Traian Băsescu secured the presidency and his Truth and Justice Alliance formed the government, political parties and civil society groups advanced five different proposals that brought lustration before the public again.

This article documents the political debate around lustration in Romania, presents the relevant legislative proposals, explains how prominent political actors regard the vetting process, and evaluates the latest lustration proposals. Rather than assuming that in Romania all former communists opposed the opposition's attempts to impose screening, this article notes that many democratic politicians denounced vetting, while some deputies of the National Salvation Front, heir to the Communist Party, supported the call during the 1990-1992 legislature. Rather than blaming the failure to adopt lustration on the political class alone, this article points to a divided civil society unable to maintain momentum for legislative proposals on vetting. While discussing the varying scope of lustration calls – directed against nomenclatura members, the political police agents or the judges – the article distinguishes a shift in demands for lustration, from the early calls for vetting all high-ranking Communist Party leaders to the more recent request to ban only those with close ties to the Securitate.

Note the qualitative difference between lustration and trials against communist leaders, another transitional justice method Eastern Europe has adopted. Lustration involved the removal from public office and/or the ban from politics of those who held specific offices during communism. Individuals were identified through office specification, and sometimes more than one person was targeted when different individuals occupied the same position at different times. Guilt was associated first with the office, and then with the individual, as the lustration laws enumerated the former, but not the latter. This explains why Czechoslovakia or Albania failed to extend a full range of procedural guarantees to the accused individuals, and why critics felt that the collective blame lustration implied was unable to differentiate the many shades of guilt separating holders of the same office, who might have interpreted their mandate differently. Taking their lead from countries which

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<sup>1</sup> For a quick review of macro-economic indicators and the Transparency International Corruption Index, see Lavinia STAN, "Fighting the Demons of the Recent Past: Prospects for Romanian Reconstruction and development", available at [www.carleton.ca/ces/papers/january03/stan03.pdf](http://www.carleton.ca/ces/papers/january03/stan03.pdf).

condemned communism before launching the purges, some Romanians argued that lustration required first a condemnation of the communist past, since one could argue that, with the exception of top leaders, communist-era office holders were exonerated of guilt by their need to diligently obey the orders of their superiors.

By contrast, trials allowed post-communist regimes to bring specific individuals to justice and the courts to prosecute those individuals for their acts of oppression. True, individuals were generally targeted because of their deeds, which often, but not always, corresponded to their official mandates. From Ceaușescu's trial to the arrests without formal charge of Todor Jhivkov and Milko Balev in Bulgaria, and further to the sentence of life imprisonment Ramiz Alia faced in Albania, all these proceedings sought to remove the top leaders who had come to embody, through personality cults or unchallenged supremacy, the very essence of the communist regime. However, it is important to note that not all top leaders faced prosecution, as presumably would have been the case with lustration. Note also that, during court proceedings, the burden of proof fell on the prosecutors to show that the accused had transgressed the law and disregarded the rights of fellow citizens, but in the case of lustration most often than not the burden of proof fell on the accused to show that the general rule of political exclusion did not apply to her, a task impossible to accomplish when the right to appeal was denied.

### *The Timișoara Declaration*

Lustration was first publicly proposed on 11 March 1990 by the Timișoara Society, a group of intellectuals gathered around George Șerban. The Declaration praised Timișoara as the birthplace of the revolution, criticized Bucharest's neglect of national problems, and denounced the Front for registering as a party, a development that "contradict[ed] the ideals of the Revolution" and prompted the authors of the Declaration, direct participants in the uprising, "to tell the nation why Timișoara residents triggered the revolution, what they fought for, what so many of them gave their lives for, and why we are determined to continue to fight". The Declaration insisted that the revolution sought "a return to the true values of democracy and European civilization", and engaged all social, age and ethnic groups (Articles 1-2). Except for the discredited Communist Party, all parties should be allowed to enter elections, the communist practice of *divide et impera* should be abandoned, and the right to political opinion should be respected (Article 5). Truthful accounts of the horrors of Romanian Stalinism and its system of repression and terror should be published, while the new leaders should stop blaming "historical parties" and instead remember that communist officials had betrayed the country by aligning themselves with Moscow (Article 6). The revolutionaries took to the streets to protest against the communist system and the nomenclatura, not "to facilitate the political ascension of a group of anti-Ceaușescu dissidents within the Communist Party" (Article 7).

Article 8, the first Romanian text unequivocally calling for lustration, asked for electoral law amendments banning Communist Party leaders, state dignitaries and secret political police agents from being included on party lists for the first three consecutive post-communist elections, since "their presence in politics is the main source for the tension and suspicion that plague Romanian society. Until the political situation stabilizes and the nation is reconciled, they must stay out of public

life"<sup>1</sup>. The electoral law should also ban communist officials from running in presidential elections, because "the president of Romania is a symbol of our break with communism. To be a Communist Party member is not a fault in itself... [but] activists gave up their professions to serve the party and benefit from material privileges. An individual who made such a choice lacks the moral guarantees to be a president". In addition, presidential prerogatives should be reduced, and new elections should be called again in 1992. The Declaration took a stand against inflationary wage increases and for private property, economic pluralism, privatization, decentralization and welcoming returning Romanian immigrants (Articles 9-12), and reminded again that the people, not the nomenclatura, toppled communism in a true revolution that could hardly be assimilated to an anti-Ceaușescu coup d'état<sup>2</sup>.

The Timișoara Declaration must be understood in the political context of early Romanian post-communism. On Christmas Day 1989, Ceaușescu was executed after a show trial of predetermined outcome, and political power changed hands to the unelected Front claiming to embody the ideals of the revolution while overtaking the Communist Party structure and controlling all branches of government. Started in Timișoara as anti-communist, the revolution ended in Bucharest as merely anti-Ceaușescu, with the civil society realizing that "on 22 December 1989 the Front participated in a counterrevolution. Through diversion, disinformation, violence, calumny against new political parties, Romania was steered toward neo-communism"<sup>3</sup>. Iliescu and obscure academic Petre Roman symbolized the Front's two wings. The older nomenclatura leaders rejected Ceaușescu's control of the Politburo more than the party's control over the country, while their younger, more educated comrades had made enough compromises under communism to have successful professional careers but not enough to gain admittance into the higher echelons of political power. Tainted by different degrees of collaboration with the communist regime, Front members soon faced opposition from the "historical" Liberal and Christian Democrat Peasant Parties, which dominated inter-war politics, were banned under communism and were reorganized weeks after Ceaușescu's disappearance. On 28 January 1990, the Front announced plans to register as a political party, a move criticized by the opposition and the civil society, worried that its dominant position gave the Front an unfair advantage over other contenders. The Declaration reacted to the Front's attempt to legitimize its hold of the country through unfair elections and its campaign to discredit political adversaries.

The new political class was unwilling to support the lustration call. Iliescu denounced the Declaration as a call for secession, a misreading of Timișoara's plea for Bucharest to stop neglecting the provinces, and a ban from politics of all Communist Party members, not only nomenclatura and Securitate agents. These attacks obviously amounted to an indirect condemnation of a document which, if implemented, barred his access to the presidency. In a private meeting, Iliescu asked the Timișoara Society representatives to tone down their lustration requests, while

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<sup>1</sup> Romania adopted proportional representation with party lists and some seats in the lower Chamber of Deputies set aside for ethnic minorities. Drafted in negotiations between the central and local party leadership, the party lists are submitted to the Central Electoral Bureau before the poll.

<sup>2</sup> "The Timișoara Declaration", *Report on Eastern Europe*, 6 April 1990, pp. 41-45. For the impact of the Declaration on the creation of post-communist intelligence services, see Marius OPREA, *Moștenitorii Securității*, Humanitas, București, 2004.

<sup>3</sup> George Șerban, cited in *Evenimentul Zilei*, 12 March 1999.

immediately afterwards his councilors declared support for vetting on condition that Iliescu alone be exempted from it. The proposal was turned down by Șerban and his collaborators, aware that Iliescu had once been the Timiș county First Secretary of the Communist Party, in which capacity he headed the local party and Securitate apparatus<sup>1</sup>. The political opposition embraced the Declaration, as did the budding civil society, but their internal fragmentation and isolation from the electorate prevented the general public from sharing their viewpoint. Afterwards, the resurrection of the Securitate's domestic repression branch as the Romanian Information Service, and the use of the police and army against peaceful anti-governmental protesters signaled the abandonment of the lustration project.

The failure of the Declaration to gather support from the political class and the civil society left an indelible mark on subsequent lustration proposals. The peculiar character of the Romanian revolution explains why the country where the communism regime collapsed after the bloodiest of coups and citizens were denied the most basic human rights rejected lustration and, with it, the renewal of its political class. To launch lustration, the country had to condemn communism, a step few Romanians were willing to take. The success of the campaign to discredit Ceaușescu while rescuing his former aids as "patriotic elements", the isolation of the civil society, itself discredited by collaboration with the regime, and the large number of Communist Party members and Securitate informers contributed to public reluctance to endorse vetting. With nearly four million members, the party was among the strongest in the region, reaching almost one-third of the adult population, and even more if relatives of party members were counted. Estimates of the number of Securitate informers – citizens who spied on their relatives, friends and coworkers in their spare time – vary from 400,000 to a million in a total population of 23 million. This broad membership has ensured that the life of an overwhelming number of Romanians was touched by the party-state and its political police, from which they derived benefits, solicited favors, and on which depended for their livelihood. Naturally, post-communist Romania experienced a problem of "national conscience", combining widespread rejection of the Ceaușescu dictatorship with the recollection that society failed to act against it and citizens were accomplices to their dictatorial experience, a moral guilt exonerating their own society and elites to some extent<sup>2</sup>.

The Declaration also inspired a motion introduced in Parliament by Front deputy Claudiu Iordache, representing the Timiș county. With an eye to the May 1990 elections, the motion called on elected officials to publicly disclose their ties to the Communist Party and its political police. The house looked favorably on the proposal, but never discussed its implementation, not even after the "historical parties" raised the issue again in the Chamber of Deputies in the presence of the Romanian Information Service director Virgil Măgureanu. While unsuccessful, this attempt to renew the political class merits further attention. Lustration was first introduced in Parliament not by "historical parties", which latter became vocal

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<sup>1</sup> In 2005, Timișoara Society leader Florin Mihalcea revealed that from the beginning Iliescu opposed lustration and tried to discredit the Declaration through all means. See *România Liberă*, 11 March and 7 April 2005.

<sup>2</sup> See also Carmen GONZALEZ ENRIQUEZ, "De-communization and Political Justice in Central and Eastern Europe", in Alexandra BARAHONA DE BRITO, Carmen GONZALEZ-ENRIQUEZ, Paloma AGUILAR (eds.), *The Politics of Memory. Transitional Justice in Democratizing Societies*, Oxford University Press, New York, 2001, p. 221.



supporters of transitional justice and an open trial of communism, but by a member of the Front, which stood to lose the most from the purging. This speaks not so much of the disorganization plaguing the reconstituted "historical parties" but of the Front's diversity in its early stages of formation before individuals searching for a break with the communist past abandoned it in order to join the political opposition or the civil society. In May 1990, Iliescu was elected president of Romania with 85 percent of the vote, and the Front won a majority of parliamentary seats. Two years later Iliescu renewed his presidential mandate with 67 percent of the vote in the second round, while the Front secured a plurality in the house. By then the Front had split into Iliescu's conservative Party for Social Democracy in Romania and Roman's more reformist Democratic Party.

### *Parliamentary Debates on Lustration (1990-1996)*

Calls for lustration were launched in Parliament as new legislative proposals, motions, electoral law amendments or as part of the yearly commemorations of the December 1989 revolution. Resistance to vetting came from all parties, especially the Social Democrat camp, including many communist officials, and the nationalistic Greater Romania Party, representing the interests of Securitate agents. While all legislative proposals *for* lustration were lodged by "historical parties", not all positions *against* lustration originated with the Social Democrats and the nationalist camp. As we shall see, from 1990 to 1996 the government and the opposition were split over the issue, with individuals on both sides joining hands in blocking a proposal endangering their personal and group interests.

During the 1992 Electoral Law debates, Social Democrat senators Mircea Cupşa and Ilie Gătan asked for Communist Party leaders, government officials and Securitate agents not to be allowed to run in elections on grounds that "during 17-22 December 1989, some of them tried to quash or possibly supported those who quashed the revolution". They "belonged to the privileged class, with access to capital", thus, if elected to Parliament, will "support legislation to shelter their capital and continue their activity". Ioan Munteanu insisted on the need to vetting Securitate informers and weeding out tainted candidates from electoral party lists, and Nichifor Vornicu argued that, if communist officials and Securitate agents controlled a majority in Parliament, "then categorically the national security and our rights will be reduced to what we had [before the revolution]!". But Gheorghe Dumitraşcu condemned such proposals. Speaking on the need to protect the Securitate's "patriotic officers", he argued that lustration "artificially created categories denied their citizenship rights", and accused the Christian Democrats of publishing the list of secret agents working abroad, thus compromising their ongoing operations by divulging their identities. Dumitraşcu was baffled by the "generalized blaming of espionage and counter-espionage officers to the point of denying them citizenship rights", the more so since nobody else "risked their life and family more". He urged legislators not to destroy the officers' lives, careers and reputations, and reminded that communist "duly elected public officials" were "worthy mayors and councilors"<sup>1</sup>.

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<sup>1</sup> "Şedinţa Senatului din 25 martie 1992", *Monitorul Oficial al României, partea a II-a*, 26 March 1992, pp. 2-10.

For the government not to outdo the opposition, Liberal Sabin Ivan supported lustration, despite criticism from his own party leader Radu Câmpeanu, who saw the proposal as unconstitutional since the matter of how much responsibility communist leaders must assume for past actions was a political and moral, not legal, issue and as such could not be legislated. "Should those who ruled the country during the last 45 years assume responsibility? Of course! Indisputably the guilty ones, starting with Ceaușescu, are to blame, and, if Ceaușescu were alive, he and those close to him should appear before the courts. But to lay blame irresponsibly on everybody equally is not politically, morally or legally wise". For Câmpeanu, "there were shades of responsibility", guilt was not commensurate with the political office (since "a county First Secretary might be more responsible than a Central Committee member", though the latter was higher up on the communist ladder), and the responsibility of the top commanders "who had the right and power to decide" had to be distinguished from that of Securitate officers "who engaged in atrocious acts" or of regular party members who simply obeyed orders and "did not know what they were doing". Câmpeanu considered that the Securitate "officers should be condemned by the courts, not Parliament", as "Romania has no room for revenge". He urged the Senate to assign blame individually, as "it's impossible that all party members betrayed the nation". While admittedly a former Securitate officer raised suspicion, Câmpeanu insisted that "there is a distance between suspicion and condemnation that I personally cannot bridge easily" and Romania should follow the principle "individual justice and individual condemnation". His counterproposal asked for lustrating only the Politburo members.

Ivan found another critic in the Social Democrat Cernescu, who turned down a proposal that "evidently reiterates Article 8 of the Timișoara Declaration" on grounds that "the country suffered enough, it is exasperated by its communist experience and should avoid repeating it", and politicians must realize that "it is unsound to blame only the defunct communist regime" for Romania's misfortunes. Cernescu believed that lustration had "catastrophic effects", as "the most valuable individuals affected [by it] cannot be blamed for the way history unfolded after World War II". He went further to argue that

"Close to four million former Communist Party members, together with their non-communist children, parents, brothers and relatives, make up over half of the country's population [...] A large segment of our nation would be victimized [as a result of lustration]. Great experts excluded from important areas might emigrate to the West, that would use them without caring too much [about their tainted past]. We would thus subsidize the rich West with brains developed by our poor nation!"

For Cernescu, those supporting lustration were professional revolutionaries "unable to comprehend that rationality is superior to force and revenge is born out of evil". Iterating the need to bring communist officials before the courts, not before Parliament, Diodor Nicoară believed that communist officials should be allowed to run in elections because electors would not vote for them anyway, Vasile Văcaru reminded senators that lustration was superfluous since Politburo members were already awaiting prosecution, and Ion Predescu argued that, by assigning blame collectively, the proposal resembled the way Nazis blamed Jewish people not for their own actions, but for their ethnicity. On behalf of the Social Democrat government, Ion Aurel Stoica invoked the constitutional provision that "citizens are equal before the law and public authorities" to reject the proposal as unconstitutional.



Ivan received qualified support from Szabo Ferencz of the Democratic Union of Magyars in Romania, who believed that the heart of the matter was "the fragility of democracy relative to totalitarianism". Conceding that "the trial of communism should not be derailed by a witch-hunt", Szabo asked candidates to specify "in full, in their publicly-disclosed declaration of acceptance, their juridical and political relationship with the Communist Party, Securitate and other state organs prior to 22 December 1989". In his view, his proposal was neither unconstitutional, nor immoral, and thus better than Ivan's. Szabo was echoed by Social Democrat senator Petru Jurcan, who believed that former communist officials elected to Parliament "would not know how to steer us toward democracy and free market economy". In the end, the Senate turned down Ivan's, Câmpeanu's and Cupșa's amendments<sup>1</sup>.

Lustration came to the forefront again on 7 December 1993 when Christian Democrat senator Constantin "Ticu" Dumitrescu introduced a Motion on Securitate informers, a lustration proposal supported by legislators "interested in the good of the country and the high moral requirements needed for democracy and truth recovery". Some 74 percent of all senators (that is, 104), and 46 percent of deputies (178), supported the motion, which allegedly was not revengeful

"since banning former informers from politics is neither political vendetta nor revenge but an act of justice, truth and honesty [...] Nothing solid and long lasting can be erected on a weak foundation. If we want to build a better and more just world, a dignified and solid civil society, if we want to escape communist mentalities and practices we must assume risks, launch moral cleansing and observe basic moral principles".

If the motion were adopted, Dumitrescu believed, "nobody can be blackmailed or smeared by false accusations". "Those worried by potential revenge of the repression apparatus" were told that the motion "will be a lesson only for the guilty ones, but for the nation akin to cutting an infected finger to save the entire organism".

"Committed to help Romania's moral cleansing and the changing of communist practices and mentalities", the motion read, "the signatories see as firmly inadmissible and dishonest the act of nominating, electing or maintaining in state structures, public institutions and education individuals who willingly worked from 1945 to 1989 as paid or unpaid informers of the Securitate or foreign information services, submitting reports or employing other methods to denounce the political beliefs or anticommunist and anti-Soviet attitudes of Romanians". It further argued that "even if this social category – a major force of the Securitate repressive apparatus, present through them everywhere, in our homes as friends, at our workplace as workmates, on the street as mere acquaintances, in jail as prisoners – dissociates itself from and condemns such infamous acts it still remains open to manipulation and blackmail by obscure forces, and thus incompatible with positions of responsibility. By their betrayal, they provoked arrests and suffering to hundreds of thousands, many of whom were killed".

"Since there is no risk for these people to become the target of violent acts, as to date no former political prisoners physically or verbally harassed their torturers, Securitate investigators and judges", the motion called for disseminating informer

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<sup>1</sup> *Ibidem*, pp. 2-10. Dumitrașcu renewed his mandate. Of all the Social Democrat legislators who took a stand for lustration only Gătan was included on Social Democrat party lists in 1992.

names after verifications by a special parliamentary committee and asked "holders of archives not to destroy, hide or give away relevant documents". Securitate informers were "unworthy to occupy important state positions" such as those of president, premier, Academy member, judge, minister, legislator, mayor and army officer. The motion showed to future generations "the people's will never to allow again such deplorable acts take place in Romania and to condemn the activity of informing on others"<sup>1</sup>.

Stoica praised the motion for helping to "consolidate democracy", but warned that "as good Christians, we must neither condemn nor take revenge", while Democratic Union of Magyars senator Szabo Karoly believed that lustration depended on the accuracy of informer lists and urged the Information Service, which controlled the Securitate archive, to unmask secret agents. While in favor of "separating the wheat from the chaff", Greater Romania Party leader Corneliu Vadim Tudor remembered that in his youth "students joked that those not admitting to have spied on others at least once were still spying" and thus believed that "half of [the motion's] supporters would turn against the other half" after the motion was adopted. He saw problems in setting well intentioned, patriotic informers apart from the evil, mercantile spies, since nobody could say for sure "which supreme moral authority can distinguish the act of helping your country in dangerous times from cheap spying", and believed that political parties would resist unmasking their spies and instead say "our informers are good patriots, yours are criminals who must be ostracized". Vadim favored lie detectors to a lustration law, and wondered who will punish collaborators of foreign intelligence services who betrayed their country. Democratic Agrarian Party representative Ion Coja thought that only incomplete informer lists could be drafted, as many secret documents had already been destroyed. Because the lists disclosed by the press allegedly included "only minor informers, not those who drew serious advantages from spying on others", Coja wanted politicians to publicly detail their former ties to the Securitate and

"submit to a rigorous control. To be a political leader drafting the country's laws one needs to accept public scrutiny. Sadly, many legislators worked for these services. After the press published documents incriminating public officials, they kept silent, offered no explanation. After a while, under this wealth of information (some spectacular, other scandalous), we forget what we read half a year ago and find that person in the government".

While for Socialist Adrian Păunescu "to get to lists and files we must trust the Securitate and its officers, that is, we make Securitate the oracle of truth", Civic Alliance senator Ștefan Radof believed that the motion represented "the restoration of our national dignity...Traitors, informers and opportunists were Romanians like us, and thus [the motion] is a first step toward national reconciliation". Revealing that he was "reported on by friends, relatives, former girlfriends, colleagues, employees, leaders and even ministers, out of hatred, envy, passing anger", Social Democrat Sergiu Nicolaescu remained skeptical of the possibility to name Communist Party informers, whom the Securitate could recruit only with the First Secretaries' approval. Claiming that the window of opportunity had closed, nationalist Radu Ceantea revealed that, when first entering his Târgu Mureș senatorial

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<sup>1</sup> "Ședința Senatului din 7 decembrie 1993", *Monitorul Oficial al României, partea a II-a*, 8 December 1993, p. 15.

cabinet, he found scores of files compiled by party activists on victims and informers, including a file unmasking a fellow senator as a spy. Democrat Radu Baltazar worried that, if the motion passed, nobody "will accept to become an informer" and "all those who now spy for the country will refuse". Former political prisoner and Christian Democrat senator Pavel Tăvală insisted that the motion affected only the guilty ones:

"Some accepted the loneliness of communist prison cell instead of agreeing to inform [...] Others provided information for money or out of fear. Who did they serve? They accepted money without work. They eavesdropped on conversations about sport, women or maybe personal troubles, then contacted the Securitate agent, who in turn exaggerated the information when presenting it to his superior in order to be promoted".

For Tăvală, knowing the informers' identity was "the only way suspicion and hatred could disappear". The Senate adopted the motion with 104 votes for, 2 votes against and 2 abstentions<sup>1</sup>.

During debates in the Chamber of Deputies, Social Democrat Ion Nica claimed that the motion introduced unconstitutional hiring and promotion practices and called for verifications of all public servants and changes of the labor, national security and the Information Service laws. In reply, Christian Democrat Constantin Opreș saw the document as "a first step toward the promotion of worthy, credible politicians without a shameful past", because the activity of the Securitate, "which pressured and blackmailed its victims, should be known to everybody. Informer lists should no longer be available only to political rulers". Opreș noted that "even more evil than informers were the Securitate officers and high-ranking party activists. These too are unworthy to occupy high state positions". In a persuasive speech, Liberal Party 93 representative Crin Antonescu reminded that:

"After 1989 Romanian rulers refused to reveal the truth about the communist regime...It did not take long for notorious propagandists to eulogize the Communist Party, the Securitate, Ceaușescu himself. These unofficial spokespersons told Romanians that the communist regime was not that bad, all valuable people were party members, the Securitate defended the country and the people, former political prisoners were traitors and enemies, and the man who humiliated, starved and isolated us from the civilized world with the help of a huge propaganda and repression apparatus was a great patriot".

For Antonescu, some "resist unmasking informers because of the complexity of the recruitment, the reasons why and how they spied, and the tragic position that unmasking would place them in", others

"insist on unmasking because of the informers' possible manipulation by political forces seeking to delay the country's break with the past. Indeed, Securitate informers were not equally guilty, the diabolic mechanism (of threats, luring and blackmail) the Communist Party and its political police employed took advantage of human weakness. Unmasking them would make them uncomfortable".

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<sup>1</sup> "Ședința Senatului din 13 decembrie 1993", *Monitorul Oficial al României, partea a II-a*, 14 December 1993.

Deputies adopted the motion with 178 votes for and 52 against<sup>1</sup>.

While Parliament agreed to identify Securitate informers, neither Chamber discussed the implementation of a motion adopted too late to prevent notorious communist officials and Securitate agents from securing public office in the 1992 elections, and too soon to inspire their vetting in view of the 1996 poll. Because the proposal was presented as a simple motion, not a legislative proposal, its implementation was fraught with difficulties. The Constitution is silent on simple motions, but Article 112 details the role of the motion of censure. Parliament "may withdraw confidence from the government by carrying a motion of censure by a majority vote of the deputies and senators". The motion, initiated by at least one fourth of all legislators, "shall be debated within three days after its presentation in a joint session". If the motion is defeated, its signatories "may not submit another one during the same session, except for the case that the government assumes responsibility". Presumably, the simple motion allows the opposition to present a problem of great importance for the country, without compelling the government to implement an adopted motion, as is the case with legislative proposals.

Two months after this bitter sweet victory, Dumitrescu revealed that "the unmasking of the Securitate, its crimes, methods and tools" the motion called for could not be operated because Senate leaders forbid the Information Service to disclose the Securitate network on grounds that it endangered national security. In a bid to convince legislators, Dumitrescu warned that, by refusing to identify agents and informers, Romanians "will see left and right-wing totalitarianism promising salvation re-emerge from the country's economic and moral disaster", reminded that Romanians "have no vocation for hatred and revenge, treason and reporting" but "seek truth and justice", and urged senators to oppose those seeking to "cover the truth, deny the political crimes, prisons and extermination camps, tell future generations that the communist regime was 'humane' and the Securitate was 'Christian'"<sup>2</sup>. His plea was in vain, as the ruling Social Democrats and Greater Romania Party were unwilling to launch lustration and jeopardize their control over the country.

### *Unfulfilled Expectations (1996-2000)*

In late 1996 the Democratic Convention formed the government and academic Emil Constantinescu assumed the presidency with promises to renew the political class and unmask communist officials and secret agents. With renewed hope, Timișoara Declaration author George Șerban, by then a Christian Democrat deputy, told Parliament that the revolution had been "temporarily defeated by the counter-revolutionary conspiracy of *ancien regime* members" that "halted Romania's transition" up to the 1996 change in government<sup>3</sup>. His hope to see Romania "purify itself of

<sup>1</sup> "Ședința Camerei Deputaților din 16 decembrie 1993," *Monitorul Oficial al României, partea a II-a*, 17 December 1993.

<sup>2</sup> "Ședința Senatului din 3 februarie 1994", *Monitorul Oficial al României, partea a II-a*, 4 February 1994. Two years after his plea was left unanswered, Dumitrescu introduced a legislative proposal on lustrating former communist dignitaries and members of the repression apparatus (PL 153 of 27 October 1995), classified on 20 December 2000.

<sup>3</sup> "Ședința solemnă comună a Camerei Deputaților și Senatului din 22 decembrie 1997", available at [www.cdep.ro](http://www.cdep.ro).

communists" vanished on 20 March 1997 when president Constantinescu visited Timișoara for the Declaration's seventh anniversary and unexpectedly stated that the 1996 poll had rendered Article 8 obsolete and lustration redundant. "If unable to show reforms at the end of their four-year [mandate], the new rulers must abandon politics altogether, ashamed of their defeat". Implementing Article 8 would demonstrate the rulers' "weakness, incompetence and incapacity to use the power given to [them] by the people"<sup>1</sup>. For the sympathetic *Evenimentul Zilei* daily,

"Constantinescu shifted the focus from communist-era biographies to people's ability to solve urgent problems in order to make Romania more dynamic and connect it to Europe. Relegating Article 8 to history, he changed the rules of the political game [and] showed us the way to maximize our capacity. Romania's progress is more important than the past of this or that individual"<sup>2</sup>.

But the president's position stirred condemnation from civil society groups feeling betrayed by the new leaders' haste to renege on their promises at the beginning of their mandate.

Constantinescu's statement effectively stopped lustration in its tracks, as only representatives of his coalition were inclined to support it. During his mandate, lustration was mentioned in Parliament only in relation to the Law on Access to Securitate Files (Law 187/1999, the so-called "Ticu Dumitrescu Law"), which allowed the vetting of neither communist officials nor secret agents, but rather hoped that politicians with a tainted past would refrain from running in elections or gain no popular support to qualify for public office. A National Council for the Study of Securitate Archives, acting as the Securitate archive custodian, was set up to make files available to citizens on request, and issue copies of the files and statements attesting to one's (non)collaboration with the secret police, without having direct access to the archives, still housed with the Romanian Information Service, the External Information Service and the Ministry of Justice. After Parliament amended his initial file access proposal, Dumitrescu introduced a draft banning communist officials and political police officers from politics for eight years but the house never discussed the proposal.

His premature death in January 1999 prevented Șerban from introducing a draft on limiting the access to state and civil offices of communist state and party leaders and verifying the past of all citizens born before 15 December 1971. The proposal did not go to waste, but entered Parliament as "the George Șerban bill" (PL 205 of 27 May 1999) through the efforts of 33 Christian Democrat and two independent deputies. The house sent it to the Legislative Council, the advisory body that "initials draft normative acts for the purpose of a systematic unification and coordination of the whole body of laws" (Article 79 of the Constitution). From the start, the Council chairman, Social Democrat Valeriu Dorneanu, viewed the draft as "socially and morally dated".

"Under [communism] successive generations of Romanians had no moral and political standards other than those provided by the state, the society and the law. It was not their fault that they had no option. Following the

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<sup>1</sup> Ironically, Constantinescu was the proud recipient of the Timișoara Society's Speranța (Hope) prize. For his statement, see Emil CONSTANTINESCU, *Timpul dărâmării, timpul zidirii*, Universală, București, 2002.

<sup>2</sup> *Evenimentul Zilei*, 21 March 1997.

draft, they 'sinned' by being born before 15 December 1971. Given communist life conditions, it is hard to blame them for not being born dissidents or heroes, with no direction other than the official one"<sup>1</sup>.

In his 8-page memo detailing the draft's rejection, Dorneanu argued that 'the political regime should be condemned before individuals are condemned for supporting it' (lustration should follow the trial of communism), and the proposal "mistakenly equates the communist regime with those active under it" and "talks about the guilt of the communist regime and the individual guilt of those who served it" though normally "individuals cannot be deprived by their rights through law at the group level, but individually through court sentences"<sup>2</sup>. To block the draft, Dorneanu registered his response on 31 December 1999 without giving initiators a chance to respond. In February 2001 the Social Democrat parliamentary majority abandoned the draft on grounds that it was never included on the Parliament's agenda, as Article 60.5 of the Constitution required. It is unclear whether the non-inclusion was an oversight of the Standing Committee or a clever strategy to undermine the proposal. When the draft was introduced, the Standing Committee was dominated by the Democratic Convention, where the Christian Democrats had the upper hand. The proposal encountered resistance even from among the divided Christian Democrats. Șerban supported a lustration law, others wanted lustration as a provision of the electoral law. While the "George Șerban law" was introduced in the house, Christian Democrat deputies Mihai Grigoriu and Mihai Gheorghiu asked for changes to the electoral law that would ban communist officials and secret agents (including heads of Communist Party local cells, managers, directors and administrators, state officials, and secret political police, army and militia officers) from running in the 2000 and 2004 general elections. Social Democrats rejected this latter proposal on grounds that it was a disguised attempt to block Iliescu's bid in the 2000 presidential elections. Miron Mitrea confidently stated that promoting Article 8 of the Timișoara Declaration "nine years after the revolution only shows how scared the governing [Democratic Coalition] parties are of Iliescu and how much they consider him a strong electoral competitor"<sup>3</sup>.

Rather than capitalize on the Declaration to weaken Iliescu's legitimacy, president Constantinescu, who by that time had abandoned hopes to renew his mandate, did not visit Timișoara for the Declaration's tenth anniversary, sending instead his security councilor Dorin Marian to read a statement boasting that the president's entire activity

"stood under the sign of the Declaration. During [the first] three years [of Constantinescu's presidential mandate], the Communist Party and Securitate structures received serious blows, as confirmed by the renewed offensive of the old communist elite. To regain their lost positions, former activists and Securitate members tried to block the reform process by every means"<sup>4</sup>.

<sup>1</sup> *Cotidianul*, 13 March 2004.

<sup>2</sup> The Social Democrats supported the opposite view, when arguing that owners of property abusively confiscated by the communist authorities could not seek justice in court but had to wait for Parliament to legislate the issue. See Lavinia STAN, "The Roof over Our Head: Property Restitution in Romania", forthcoming in *Journal of Communist Studies and Transition Politics*, 2005, and "European Justice for Victims of Communism?", paper presented at the ICCEES congress, Berlin, 24 July 2005.

<sup>3</sup> *Evenimentul Zilei*, 10 March 1999.

<sup>4</sup> *Cotidianul*, 13 March 2000.



The statement was mocked by the press and denounced by the civil society and poet Ana Blandiana, who argued that Article 8 had never been transposed into practice because "if applied, it could drastically reduce the number of our politicians"<sup>1</sup>.

With new elections scheduled for later that year, the increasingly weaker and unpopular Democratic Convention refused to use lustration against the Social Democrat opposition, out of fear that the hidden past of many of its leaders would be revealed by the screening process. Only Liberal deputy Vasile Mândroviceanu raised the issue in the house, without support from his governing coalition colleagues, who felt defeated before the start of the electoral race. Mândroviceanu argued that "in Romania issues like the trial of communism, the lustration law, the status of private property, the gigantic blame for bankrupting the country seem to lack pragmatism, are fuelled by revenge and sacrifice the present in the name of the past, whereas our recent communist past, superficially made-up, is ready for a comeback"<sup>2</sup>. He concluded that:

"If in 1945 we were abandoned at the hands of Stalin and his successors, who tried to kill us biologically, today we can blame only ourselves for refusing to launch the trial of communism, adopt lustration, condemn Securitate's crimes, annul political sentences, stop nationalist and communist extremism and implement Article 8 of the Timișoara Declaration. The new man remains the prisoner of Marxist ideology and state paternalism. We pride ourselves with freedom of speech and a favorable international image, but we cannot reach normalcy as long as we share a communist mentality, amplify bureaucracy, tolerate corruption, allow the Securitate mafia to scare foreign investors away, refuse to return property stolen by the totalitarian regime, stall privatization, maintain communist structures in key areas, don't admit to our mistakes, don't stop blaming others, continue to beg, and don't understand that without hard work nothing can be done"<sup>3</sup>.

Revealing that in 1990 graffiti was written in Timișoara reading "death to George Șerban", historian Vasile Docea echoed this position, arguing that lustration was never adopted because in 1989 Romania experienced a change in Communist Party echelons, not a radical regime change, and lacked a coherent and strong anticommunist opposition<sup>4</sup>. Ironically, Constantinescu's prediction that the Convention will step out of politics if unable to complete reforms became reality, not because it admitted to its defeat, but because the popular vote relegated it to the position of a minor, out-of-Parliament formation.

After the 2000 elections, when Iliescu regained the presidency and the Social Democrats formed the government, the word "lustration" was never again mentioned in Parliament. Opposition legislators tried to keep the issue in the public eye, but Romanians were unsupportive. After the Council for the Study of Securitate Archives unmasked 33 Securitate agents turned post-communist politicians, Liberal senator Radu F. Alexandru reaffirmed his support for lustration, on grounds that "a Securitate officer must be banned from leadership positions. Nobody can say for sure what he did for the political police. Those who worked for the Securitate were torturers or accomplices of those who used guns", but Social Democrat Nicolaescu

<sup>1</sup> *Cronica Română*, 20 April 2000.

<sup>2</sup> "Ședința Camerei Deputaților din 23 mai 2000", available at [www.cdep.ro](http://www.cdep.ro).

<sup>3</sup> "Ședința Camerei Deputaților din 6 iunie 2000", available at [www.cdep.ro](http://www.cdep.ro).

<sup>4</sup> *Evenimentul Zilei*, 17 January 2005.

saw lustration as "an unnecessary stupidity. We cannot afford losing the Securitate officers, experts working for the Information Service. The country financed their training. As long as all state leadership positions are occupied by former party activists, why shouldn't Securitate officers have access [to such positions]?"<sup>1</sup>. It seemed the topic was finally buried, never to be revisited again.

### *Renewed Hope*

The condemnation of communist regimes inspired the resolution the European Popular Party, representing 65 center-right formations, adopted at its 16<sup>th</sup> congress. On 10 July 2003 the party introduced in the Council of Europe Parliamentary Assembly Resolution 9875 on the need to condemn totalitarian communism, asking Eastern European countries to declassify archival material and sensitive intelligence documents, and set up commissions to investigate communist-era human rights abuses (like summary executions, abusive domicile searches, persecution of religious faithful, restrictions on association, information and movement, deportations of ethnic minorities, abusive property confiscation, and the absolute control of the citizens' lives by the secret political police). Despite criticism, on 7 February 2004 a modified version of the resolution forbidding members of communist repression organs and individuals involved in crimes against humanity to occupy positions in the European Union structures and asking Eastern Europeans seeking such positions to disclose their communist-era political and professional life was adopted<sup>2</sup>. Irish representative John Burton said that "we should have voted [this resolution] ten years ago". Other groups in the European Parliament, especially the Socialists, attacked the resolution.

The Romanian press praised the resolution as "Article 8 of Brussels". Senator Alexandru declared that "a Securitate officer must be excluded from public office, since no one can tell what he did for the political police", Ticu Dumitrescu believed that "one cannot talk of the Nazi Holocaust without talking about the communist Holocaust", writer Horia Roman Patapievici welcomed the fact that "at last something is done about a regime that resulted in 100 million victims", and journalist Mircea Toma saw the resolution as

"The greatest blow to Romanian mafia-style structures...built on networks of Securitate agents and nomenclatura members to whom they reported. Today stealing is legal because the Securitate and nomenclatura control the government [...] The network no longer hides, but seeks positions in the European Union structures".

Christian Democrat Radu Sârbu pointed out that:

"It is the first time when the West places communist totalitarianism on a par with Nazism, though communist killed more people and destroyed

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<sup>1</sup> *Cotidianul*, 14 February 2001, and also [www.epp-ed.org/Press](http://www.epp-ed.org/Press). In June 1996, Social Democrat Adrian Severin submitted to the Parliamentary Assembly of the Council of Europe a report titled "Some Measures to Dismantle the Heritage of the Totalitarian Communist Systems" (Document 7568) and the accompanying Resolution 1096, which the Assembly adopted. See [http://assembly.coe.int/Documents/Adopted\\_Text/ta96/ERES1096.html](http://assembly.coe.int/Documents/Adopted_Text/ta96/ERES1096.html).

<sup>2</sup> *Cotidianul*, 12 August 2003.

more lives. The resolution proves that Brussels sees that some former communist countries broke incompletely with their past. [Our] country is ruled by a political and financial mafia that controls politics, economics, finances, mass media. If we do not willingly engage in [lustration], [the West] imposes it on us"<sup>1</sup>.

By contrast, the ruling Social Democrats were reserved, erroneously claiming that Romania already had the "Ticu Law" banning communist officials from politics, and thus tainted individuals "cannot occupy European Union positions"<sup>2</sup>.

By 2004 the political class' failure to renew itself concerned Romanians, ever more dissatisfied with corrupt politicians looking for their own interests more than the country's, though concern did not necessarily translate into support for lustration<sup>3</sup>. For journalist Tudor Flueraş:

"Those who criticize former communists and secret agents are labeled extremists, are urged to adapt [to the new times] and are treated arrogantly by Communist Party secretaries and youth leaders, now prosperous businessmen and successful politicians [...] respected, genuine capitalists seeking entrance into the European Union".

Flueraş warned that, unable to change their mindset, these individuals will bring "pull, theft, tricks, rapt and lies, corruption, wooden language and betrayal" into European politics<sup>4</sup>. The Timișoara Society lamented the consequences of not applying Article 8, as "most of those controlling the economy, politics, the judiciary and the mass-media are communist activists and Securitate agents. Communism did not disappear, it privatized itself". The Society opened a Center for Investigating Communist Crimes to collect and disseminate testimonies of former victims such that "every Securitate agent or nomenclatura member is brought before the courts"<sup>5</sup>, and petition the courts "as soon as it completes and verifies cases of communist-era abuses or crimes" because, when it comes to crimes against humanity, there is no statute of limitations. For cases where such limitations do exist, the Center planned to invoke a Criminal Code stipulation stating that, if the courts were not petitioned because of objective reasons, the statute of limitations started from the moment those reasons were removed. As before 1989 the courts could not be petitioned in cases of abuse by Communist Party or Securitate members, for such cases the statute of limitations started in December 1989<sup>6</sup>. That was not the only civil society initiative to renew the political class. The Moral Romania group threatened to publicly identify 350-400 tainted individuals residing in the Transylvanian county of Arad, together with the names of around 3,000 "responsible for

<sup>1</sup> *Ziua*, 10 February 2004.

<sup>2</sup> Deputy Răzvan Ionescu, quoted in *Cotidianul*, 14 February 2001.

<sup>3</sup> For the diversity of opinions Romanians shared at the time, see Robert TURCESCU, *Dans de Bragadiru*, Polirom, Iași, 2004, pp. 173-175.

<sup>4</sup> *Evenimentul Zilei*, 27 July 2004.

<sup>5</sup> Historian Marius Oprea, quoted in *Evenimentul Zilei*, 15 March 2004. The new Center complemented, rather than competed with, the Council for the Study of Securitate Archives. Whereas the Council operated under serious legal limitations imposed by the imperfect Law 187/1999 and focused on identifying Securitate agents and informers, the Center was an independent non-profit organization and targeted Communist Party nomenclatura members who engaged in political police activity.

<sup>6</sup> *Cotidianul*, 15 March 2004.

crimes against our people, genocide, and [unable to] decide on the future of the community"<sup>1</sup>. The group is yet to fulfill its promise.

These initiatives were defended by the Bucharest daily *Evenimentul Zilei*, for which former communists and Securitate agents

"cannot change, no matter how much they try; it's a matter of training and mentality. A former Securitate agent can praise free market economy and democracy, lecture on management, stock market and globalization, but in his heart he retains the reflexes of a system that did not fully disappear in December 1989. Some claim that the Securitate agents are intelligent and capable...but their intelligence is malefic. They were raised in the communist double discourse, were told not to say what they think, obediently flatter their bosses, abuse their employees. Their God is the pull. Their angels are the connections. Their Constitution is the lie, and their supreme joy is the 'bone' [...] Comrades, ideally you should step aside, let others with mores unaltered by socialist-scientific training take your place. Tell us your opinion, but don't make decisions on our behalf. Now you are gentlemen, but you still think like comrades"<sup>2</sup>.

After asking its readers whether they can imagine Romania if Article 8 were adopted as early as 1990, the daily concluded that:

"Article 8 was stillborn, dying before being born as a law. Why? Not only because of the party and Securitate networks Iliescu consolidated, not only because the 'system' impeded civil society to fight to the bitter end for a proposal so vital for a clean Romania. Who stopped the intellectuals to organize and support Article 8 of Timișoara ad infinitum? Who stopped the youth to protest continuously? All gave up too easily because of fatigue, fear or money [...] The blame should be assigned not to the Securitate and party infection, but to a society unable to fight it [...] Romania cannot remain indifferent, but does it have the energy to get rid of the 'red puss', meanwhile enriched at the expense of a population humiliated by poverty? Today, the former party activists and Securitate agents are everywhere. In the shadow or plain view. In politics, business, the press. They have won all elections since 1990. They only need protection for their wealth, immunity from prosecution and seats in the European Parliament"<sup>3</sup>.

While unwilling to heed to international pressure, Romanian politicians resurrected the topic of lustration in the 2004 electoral campaign, when Traian Băsescu and his Truth and Justice Alliance of Liberals and Democrats challenged Adrian Năstase and his Social Democrats. The *Ziua* daily suggested that "the lack of a real political class allows Iliescu to manipulate the population. Distributed equally across all political alliances, the inheritors of communism have the same symbol: the Socialist International rose ... Romania needs another future"<sup>4</sup>. For Democrat Emil Boc:

"The idea to know exactly where we come from, who we are and who rules us is commendable. Romania has another chance in 2004 to effect a second revolution and end the Iliescu era. With the new presidential elections, Romania could change its mentality and forever marginalize the communist

<sup>1</sup> Leader Samuel Caba, quoted in *România Liberă*, 21 February 2005.

<sup>2</sup> *Evenimentul Zilei*, 27 July 2004.

<sup>3</sup> *Evenimentul Zilei*, 29 July 2004.

<sup>4</sup> *Ziua*, 29 November 2004.

structures that engaged in political police actions before 1989. The victim and its torturer cannot sit together at the same table"<sup>1</sup>.

Bănescu endorsed the need to renew the political class in a televised confrontation, when he wondered:

"What kind of curse [was put in effect] for the people to have to choose between two former communists? Between Adrian Năstase and Traian Bănescu. In 15 years no other [politician] emerged from this [post-communist] world, untainted by communist habits [...] Maybe it's time for another candidate to come before the people"<sup>2</sup>.

His candor helped him to win the presidency.

### *Recent Initiatives*

Inspired by Bănescu's statement, several political parties and civil society groups advocated lustration as a way to cleanse Romanian politics of corruption. By summer 2005, there were no less than five different proposals. The first one, put forth by the tiny Christian Democrat Peasant Party and the Union for the Reconstruction of Romania, targeted all nomenclatura and Securitate members. Defending the proposal, the initiators argued that "the time is right, the government changed, it has new mentalities", hoped that lustration would block the inclusion of tainted individuals on party lists for the 2008 elections, but realized that public officials elected or nominated in the 1994 poll could not be removed from their posts. Supported by two out-of-Parliament political formations, this proposal was never discussed by the house.

The second proposal, the anti-nomenclatura draft (BP 129 of 7 April 2005) proposed a ten-year ban of national and local Communist Party leaders, National Assembly and State Council members, Communist Youth leaders, ministers and deputy ministers, and party leaders overseeing the army, the prosecution organs and the Securitate (the State Security Department) (Articles 1-2). These persons could not seek leadership positions in the governmental legislative, executive and judicial branches at central and local level, public administration, National Television, Central Bank, Financial Guard, Customs, Competition Council, Ombudsman, embassies, police and army (Article 3). Former communist officials lost the right to occupy public office 30 days after the law's adoption, their position of incompatibility being attested by personal declaration or verifications by the Ministry of Justice (Article 4). Persons found in incompatibility could defend themselves in court (Article 5). Initiators Cozmin Gușă, Lavinia Șandru and Aurelian Pavelescu unsuccessfully asked the house to examine the draft urgently because its adoption "represented an important step toward normalcy for the Romanian society" and "a strong political signal for the country's European Union integration"<sup>3</sup>.

<sup>1</sup> *Ziua*, 10 February 2004.

<sup>2</sup> *Evenimentul Zilei*, 10 December 2004.

<sup>3</sup> "Adresa inițiatorilor no. 129/7 aprilie 2005", Biroul Permanent al Camerei Deputaților, available at [www.cdep.ro](http://www.cdep.ro).

## For Gușă, the draft

"did not deny the constitutional rights of nomenclatura members, who could continue to be active in the private [economic] sector. But when it comes to governmental decision making, they should be marginalized because of the complicity between them and the reciprocal blackmailing they engage in, that impedes them from supporting Romania's progress and encourages them to promote their group interests"<sup>1</sup>.

Historian Stejărel Olaru echoed this position, arguing that the draft asked "the communist boss to stay away from high public offices" rather than punishing "him criminally, sending him to jail, confiscating his mansions bought with laundered money, closing down his business not paying taxes or kicking his children out of school"<sup>2</sup>. But Ticu Dumitrescu criticized the proposal for being restricted to party leaders and overlooking the Securitate agents.

The proposal gained momentum after Gușă publicly named Social Democrat members of Parliament Ion Iliescu, Viorel Hrebenciuc, Dan Ioan Popescu and Șerban Mihăilescu, but also Truth and Justice Alliance representatives George Copos, Emil Boc, Theodor Stolojan, Vasile Blaga and Traian Băsescu, among those targeted for lustration, and the press further revealed that the newly reconstituted parliamentary committee overseeing the Romanian Information Service included former communist officials Octav Cosmâncă and Constantin Făină<sup>3</sup>. The ensuing public debate made it clear that Romanians did not see membership to the communist nomenclatura a good enough reason for exclusion from post-communist politics, but considered that only communist leaders with ties to the Securitate deserved a harsh treatment. Writer Stelian Tănase insisted that all party leaders had ties to the political police, as did Alliance senator Radu Stroe, who reminded that "the Securitate transposed in practice and fulfilled the orders of the Communist Party [...] The activists and propaganda workers had to collaborate with the Securitate"<sup>4</sup>. But Iliescu denounced lustration as unjust, since "whole social categories must not be eliminated, guilt must be assigned individually"<sup>5</sup>. On 5 May the

<sup>1</sup> *România Liberă*, 17 January 2005, and *Evenimentul Zilei*, 19 January 2005.

<sup>2</sup> *Evenimentul Zilei*, 16 April 2005.

<sup>3</sup> The Communist Party Central Committee member responsible with propaganda before his early 1970s marginalization, Iliescu acted as First Secretary of the Iași and Timiș counties and then head of the party-controlled *Politica* publishing house. During the 1980s, Popescu was an adviser to the Tudor Postelnicu government, Hrebenciuc was a party activist in the Bacău County Council, Boc and Rus were Communist Students Association leaders in Cluj-Napoca, Stolojan worked for the Central Planning Committee, Băsescu officially represented Romania to Antwerp, the Netherlands, before joining the Ministry of Transportation, Cosmâncă was a director with the General Secretariat of the Government, and Făină was a propaganda activist. One of the richest individuals in Romania, Copos reportedly remained a close associate of Nicu, the son Nicolae Ceaușescu groomed as his successor. The press also revealed the Minister of External Affairs Mihai Răzvan Ungureanu was a Communist Youth leader in the late 1980s. For more details on the political careers of Iliescu, Stolojan and Băsescu, see Lavinia STAN, "The Opposition Takes Charge: The Romanian General Elections of 2004", *Problems of Post-Communism*, vol. 52, no. 3, May/June 2005, pp. 3-15, and "Moral Cleansing Romanian Style", *Problems of Post-Communism*, vol. 49, no. 4, July/August 2002, pp. 52-62, and also Vladimir TISMĂNEANU with Ion ILIESCU, *The Great Shock at the End of a Short Century*, East European Monographs, Boulder, 2004.

<sup>4</sup> *Ziua*, 25 March 2005.

<sup>5</sup> *Curentul* and *Ziua*, 4 April 2005.



Legislative Council rejected the law, a move prompting Gușă to criticize the "caste of so-called law experts sheltering Securitate and nomenclatura members"<sup>1</sup>.

The three independent deputies also initiated changes to the Magistrates' Law 303/2004 denying persons who engaged in political police actions or worked for the Securitate leadership positions in the judiciary. The legislative proposal Pl-x 152 of 27 April 2005 asked the Council for the Study of Securitate Archive to verify the declarations magistrates must submit within 30 days of the law's adoption and publicize the names of the magistrates who collaborated with the Securitate. On 6 June, after the parliamentary committees on human rights and labor /social protection rejected the proposal, the three initiators withdrew it. While unwilling to support the independent deputies' initiative, the Truth and Justice government presented Parliament with a similar proposal only days after Gușă, Pavelescu and Șandru withdrew their proposal<sup>2</sup>. To date Parliament was unable to adopt that proposal.

The Timișoara Society initiated its lustration proposal on the 15<sup>th</sup> anniversary of the Timișoara Declaration, after president Băsescu denounced "the lack of will, power and capacity to break with the old system immediately after the Revolution", and assured Romanians that, unlike Constantinescu, who was crushed by Securitate structures, he "will defeat these structures wherever they are". Băsescu did not say how exactly will he conquer the structures, but some believed that his very presence at the anniversary party meant support for lustration<sup>3</sup>. Following pressure from the civil society groups, doubtful of his commitment to lustration following revelations placing him among Securitate collaborators, Băsescu reaffirmed his support for the lustration law. Christian Democrat mayor of Timișoara Gheorghe Ciuhandu asked him to call a referendum if Parliament turned down the draft, but the president ignored the request<sup>4</sup>.

On 1 April, the Timișoara Society declared 2005 the "Year of Lustration" and presented a lustration law based on Șerban's proposal, which Liberal senator Adrian Cioroianu and deputies Eugen Nicolăescu, Viorel Oancea and Mona Muscă introduced in Parliament as BP 303 of 13 June 2005. The proposal helped the country's "moral cleansing of communist mentalities" and "shed light on the past and future, since to assume the guilt and fight to redress its consequences means to become a responsible partner to any democratic state, a dignified collaborator"<sup>5</sup>. Besides the categories banned by the anti-nomenclatura law, it included communist newspaper and publishing house leaders, administrators and faculty of party schools and the "Ștefan Gheorghiu" Academy, Securitate agents and collaborators, and diplomatic representatives abroad (Article 1). These categories were denied the right to occupy the positions listed in the anti-nomenclatura law, but the lustration law went further to spell out the procedure to identify persons in positions of incompatibility and appeal the verdicts. Candidates seeking elected positions must declare their ties to the communist decision-making apparatus. The Council for the Study of Securitate Archive and the District Electoral Bureaus verify these declarations within 30 days (Article 3). Individuals refusing to reveal their past and those admitting to incompatibility lose their positions within 30 days of their

<sup>1</sup> *Ziua*, 5 May 2005.

<sup>2</sup> *România Liberă*, 16 June 2005.

<sup>3</sup> *Ziua*, 12 March 2005, *Evenimentul Zilei*, 13 March 2005 and *România Liberă*, 14 March 2005.

<sup>4</sup> *Ziua*, 15 March 2005. Ciuhandu had entered the 2004 presidential race in the name of the Timișoara Declaration, but was unable to qualify for the second round.

<sup>5</sup> "Expunere de motive", available at [www.cdep.ro](http://www.cdep.ro).

nomination, while those making the nominations must verify the candidates' past (Articles 5-6). Verdicts of incompatibility can be appealed in court (Article 7). Parliament is yet to discuss this proposal.

While Romania witnessed an unprecedented flurry of legislative proposals calling for lustration, public debates were marked by skepticism and a belief that the Truth and Justice Alliance government was unable to fully support such a radical project. Local observers predict that the proposals have slim chances to gather majority support in Parliament, since the ruling coalition is fragmented and fragile, and many legislators are directly affected by the lustration call. For *Cotidianul* daily, if lustration were honestly debated in the house, the big surprise "would come from government and would affect those who genuinely believe in the moral fiber of the ruling political parties". The law was a "truth test for the governing Liberals and Democrats ruling together by chance despite their strikingly different ideologies"<sup>1</sup> more than for the former communist party activists and secret police agents whose political careers acquired a new lease on life under the Party of Social Democracy or Greater Romania Party banners. These predictions seemed to be confirmed when Parliament rejected the anti-nomenclatura law. It is unlikely that the lustration proposals would gather more support once the autumn session begins in September 2005.

As politicians of all ideological persuasions were unwilling to support lustration, the civil society tried to mobilize around the issue. In April 2005, Sorin Ilieșiu launched the Declaration for Romania, an updated version of the Timișoara Declaration calling on voluntary associations and think-tanks to unite into the grand Civil Society for Romania dedicated to the moral reform of the Romanian society, launch of the trial of communism, marginalization of "corrupt individuals, former party activists, Securitate agents and collaborators" from the judiciary, confiscation of illegally obtained assets, adoption of the lustration law, creation of a National Museum for the Study of Communist Horrors, and revision of history textbooks to reflect communist horrors. While pompously presented by the press and vigorously debated by the Group of Social Dialogue, a Bucharest-based organization gathering the country's prominent intellectuals, the manifesto was unable to gain significant popular support, its calls being ignored by politicians, the civil society, the students and the society at large. Such premature death speaks for the deep divisions within the civil society, the self-imposed isolation of Bucharest intellectuals unwilling to support Timișoara's lustration proposals but ready to propose their own, presumably better, version of political action, and the failure of intellectual advocacy groups to connect with the larger population and understand the Romanians' priorities.

### *In Lieu of Conclusion*

As we have seen, in Romania neither the political class nor the civil society was willing or able to make a strong case for lustration. Inspired by concerns about the rampant corruption eroding local politics more than transitional justice demands, the latest attempts to propose legislative amendments denying former

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<sup>1</sup> *Cotidianul*, 10 April 2005.

communist party leaders, prosecutors and secret political police agents the right to occupy public positions have mustered minimal support. Even if adopted, they would come eight years after similar legislation was adopted in Poland, Hungary, Albania and the Czech Republic. It could be that today, more than 15 years after the collapse of the communist regime, the screening exercise would turn futile, as by now many of the potentially targeted politicians managed either to promote their off-springs and spouses to public office or seriously alter the evidence unmasking them as communist decision makers and secret informers. But a more serious concern relates to the lack of political will to purge the judiciary before screening other social categories.

Indeed, as early as July 1990 East Germany allowed mixed committees of magistrates and politicians to decide whether judges already serving deserved to be re-appointed, while the Unification Treaty called on other state organs to dismiss individuals who had violated human rights or had collaborated with the secret police. Similarly, Poland screened prosecutors and Ministry of Interior employees in 1990, and political office-holders seven years later. In Albania, Labor Code amendments permitted the replacement of two-thirds of judges and public prosecutors from 1992 to 1996, and the 1995 Law on Genocide and Crimes against Humanity barred from administrative positions and Parliament, for six years, former Communist Party leaders, members of pre-1991 governments and secret police agents and collaborators. Romania should follow the example of other Eastern European countries which lustrated their judiciaries before any other state agency, thus laying the ground for building stronger, more independent court systems better fit to fight against corruption and organize crime and uphold the rule of law.