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A comparative study of lustration in Central and Eastern Europe

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Dissertation

**A COMPARATIVE STUDY OF LUSTRATION
IN CENTRAL AND EASTERN EUROPE**

by

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ABSTRACT

The dissertation examines transitional justice mechanisms implemented in post-communist Central and Eastern Europe. The question of how to deal with the legacies of communist repression has been an important source of political divisions in the region. The post-communist states of Central and Eastern Europe had an array of choices to consider when addressing demands for retrospective justice: from criminal prosecution of important officials, to restitution of property and declassifying of secret files for public inspection. The two most common paths taken in the region have consisted of lustration laws and the decisions surrounding public access to secret police files. Lustration laws involve the disqualification of certain categories of former communist officials and secret police collaborators from public positions under the new regime.

The dissertation explores differences in lustration laws and access to secret files across four cases that represent variation along a spectrum of outcomes: the Czech Republic having the strongest type of lustration, Poland and Hungary having a weaker form, and Romania lacking institutionalized lustration. The extant literature has focused

on instances where such laws have been instituted, but has little to say about cases where it failed. The dissertation pays special attention to the case of Romania, with the goal of explaining its failure to enact lustration in spite of repeated attempts.

The analysis is organized in two main sections. The first evaluates the existing patterns of lustration in the region. The second offers an in-depth analysis of the understudied case of Romania with the intent of filling the vacant niche in the existing literature. Primary sources examined include the proposed projects of lustration laws, the final drafts of laws, parliamentary debates and media reports on the issue. The dissertation concludes that differences in lustration patterns can be fully explained only by simultaneously considering the impact of several factors: the pervasiveness of security apparatus during the last phase of communist rule, the type of regime change, and the extent to which political actors embraced the lustration agenda.

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Table 1 Old Elites and Democratization47

List of Abbreviations

BStU - Office of Federal Commissioner for the Stasi Archives

CNSAS - National Council for the Study of Former Securitate's Archives

GDR - German Democratic Republic

KGB - Committee for State Security

MP – Member of Parliament

NSF - National Salvation Front

PRM – Greater Romania Party

RCP - Romanian Communist Party

SRI – Romanian Intelligence Service

StB - Státní Bezpečnost

UDMR - Democratic Union of Hungarians in Romania

USSR - Union of Soviet Socialist Republics

Introduction

By 1989 the whole world had been organized for decades in a bipolar system dominated by the two superpowers, the United States and the Soviet Union. The only change which had occurred had been incremental, and a consensus had emerged that nothing could transform the political map of Europe or the Soviet Union's dominance over the Eastern part of the continent. However, over the next few months the presence of communist regimes throughout the region was to disappear. The emancipation of satellite states from Eastern and Central Europe from the authority of Union of Soviet Socialist Republics differed in terms of speed, citizen involvement and degree of violence¹, but eventually what all experts predicted might never happen - the implosion of the communist establishment- became reality.

Soon after, the early phases of the post-communist transition engendered important dilemmas. The West did not know what to do about the future and was concerned with the consolidation of democracy. Meanwhile, the East did not know what to do with its past and debated transitional justice alternatives. My thesis will deal with this central question of dealing with the past and focus on lustration, as a mechanism to achieve justice in times of transition from state repression.

¹ Sharon L. Wolchik and Jane L. Curry ed., *Central and East European Politics : From Communism to Democracy* (Lanham: Rowman & Littlefield Publishers, 2007), 22

The question of how to deal with the legacies of authoritarianism has been an important source of political divisions in post-communist Central and Eastern Europe. The states from this region could choose from among several possibilities when deciding how to pursue retrospective justice, from criminal prosecution of top officials, to restitution of property and declassification of secret files for public inspection. However, none of these options fully answered an important question: “What should be done with the large number of individuals involved in the abuses committed by the communist state and its repressive apparatus?” The controversial response to these dilemmas was lustration: the screening of officials for links to the former communist regime. Lustration laws generally relied on information contained in the secret police files.

In a resolution on measures to dismantle the heritage of former communist totalitarian systems, the Council of Europe asserted that:

“Lustration is meant to create a breathing space for democracy, where it can lay down roots without the danger that the people in high positions of power will try to undermine it. The aim of lustration is not to punish people presumed guilty – this is the task of prosecutors using criminal law – but to protect the newly-emerged democracy.”²

Twenty-four years after the demise of communism, the debates surrounding lustration remain extremely relevant for assessing the legitimacy and accountability of the newly established democracies. Many different sets of questions regarding both the circumstances of lustration enactment and their consequences remain, however,

² Council of Europe, “Measures to dismantle the heritage of the former communist totalitarian systems”, Doc. 7568, 3 June 1996, accessed April 10, 2013, <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta96/ERES1096.htm>

unanswered. The absence of a verdict on whether lustration was detrimental, or, on the contrary, favorable to the newly emerging democracies further complicates the picture. Thus, one conclusion of analysis was that lustration generated far more heat than light.

Lustration laws, however, were not instituted everywhere or with equal zeal. My thesis will examine the circumstances in which these laws came into being and the factors influencing this process. This examination will be comprised of three components. First, I evaluate the existing patterns of lustration in Central and Eastern Europe. Secondly, I assemble an in-depth analysis of the understudied case of Romania with the intent of filling this vacant niche in the existing literature. Finally, this dissertation will explain the differences in lustration patterns by focusing simultaneously on the role of three temporal dimensions: the communist period, the moment of regime change, and the subsequent phase of transition.

My research explores the specificity and the circumstances of the lustration process using a multivariate framework of analysis. I propose that the differences in lustration patterns can be fully explained only by considering simultaneously the impact of three factors: the severity of the communist regime, the type of regime change, and the democratic strength of the early transition period. Furthermore, my working hypothesis was that in Romania three variables had strong explanatory power in elucidating why the country did not adopt decommunization. In chronological order, these three variables have been: the restructuring and strengthening of the repression apparatus, the politicized takeover of the 1989 revolution, and the parliamentary debates in the early transition period.

Throughout this thesis, I will refer to lustration as the screening of individuals who had been high-ranked communist officials or informants of the communist secret police for appointee positions in the new democratic regime. Lustration implies the existence of a screening law that vets individuals based on their relationship to the ancien regime. The rationale is that “the people in question, their attitudes and competence, and the networks of solidarity existing among them, would constitute a threat to the orderly functioning of the new democratic regime if they were allowed access to important political, administrative or professional positions.”³

In the context of post-communist transitions, the Lustration Laws are the legal instruments that authorize governments to screen candidates for high positions in the state. Such laws comprise a key component of the means by which new democracies addressed the question of transitional justice⁴, and thus represent a fundamental question in the literature on democratization. In order to explore the various models of the Lustration Laws, I focused on the cases of the Czech Republic, Hungary, Romania and Poland within the period of post-communist transition. My work is based on the general principle that coping with the past is a prerequisite for successful long-term democracies in countries that formerly experienced authoritarian regimes.

³ Offe, Claus, *Varieties of Transition. The East European and East German Experience*. Cambridge: Polity Press, 1996, 93

⁴ According to The International Center for Transitional Justice, “Transitional justice refers to a range of approaches that societies undertake to reckon with legacies of widespread or systematic human rights abuse as they move from a period of violent conflict or oppression towards peace, democracy, the rule of law, and respect for individual and collective rights.” There are five main areas of transitional justice: prosecutions, truth-telling, reconciliation, reparations, and institutional reform.

The primary sources to be examined are the proposed projects of Lustration Laws, the final drafts of laws, parliamentary debates and media reports on the issue. To perform this research, I utilized textual analysis and interviews with experts in the field. The choice of text analysis allowed a precise examination of the documents. The interviews helped clarify some narrower aspects of the project. Among the elements to be examined are:

- the existence or the absence of lustration laws in the country,
- the timeframe in which the laws were enacted (early or late),
- the window of time in which states could execute the lustration process (limited to a few years or referring to an extended period),
- the scope of the laws (the number of communist high state positions subject to lustration, the current high state positions subject to lustration and the estimated number of people targeted) and
- the transparency and availability of primary information regarding the communist past (who was entitled to study the Secret Police files and who can access the results of the files investigation).

The thesis starts with a literature review, presenting the main theories about the different paths to lustration. My claim is that, to a lesser or greater extent, none of their hypotheses by themselves withstood careful examination. Neither the means by which communism collapsed, nor the existence of a dissident movement, nor the electoral success of communist successor parties have a satisfactory explanatory power. None of

these can explain why some post-communist countries strongly confronted their past, while others rejected initiatives to face recent repressive history.

The second chapter proposes a review of important concepts, contexts and questions about lustration. Important issues are discussed at length, from the advantages and disadvantages of lustration to the problem of democracy consolidation. In chapter three, I focus on patterns of lustration in Central and Eastern Europe. The country cases included in my study are selected to represent variation along a spectrum of lustration law outcomes: the Czech Republic having the strongest type of lustration, Poland and Hungary having a weaker form and Romania lacking institutionalized lustration.

Chapter four examines in a comparative manner both the lustration laws and the laws on secret service file access. A critical problem faced by countries emerging from governance by repressive regimes was the way in which they confronted (or did not confront) their troubled and convoluted past. In Central and Eastern Europe states chose to take the path of lustration and the opening of secret service files. This chapter analyzes the legislation in this field, including the problems related to the screening of high ranked officials and the access to secret service files.

Chapter five explores the case of Romania, a country that proved to be poor at remembering, but also unable to forget. The 1989 revolution left the impression of a hybrid transition (partly negotiated, partially based on the popular will), and, later on, no lustration law was enacted. My analysis centers on two main possible explanations. On the one hand, we can assert that lustration was not passed due to the absence of any interest or will among the ruling elite, a circumstance that could be interpreted as tacit

self-denunciation. On the other hand, the situation might have stemmed from a lack of convergence between society's expectations and political strategies. In the conclusion, I summarize the findings and restate the hypothesis accordingly.

Finally, I wish to indicate my perspective on my mission as a young researcher. In Central and Eastern Europe, the 20th century witnessed the rise of extreme ideologies and authoritarian regimes that had a strong, negative impact on millions of lives. At the dawn of the new millennium, it is the responsibility of young scholars who had the chance to live after the collapse of communism to think and write about the legacies of past injustices. In a different historical context, German chancellor Helmut Kohl discussed "the grace of late birth", and explained that he was thankful that his generation did not have to deal with the question of guilt for past crimes. I believe that the privilege of "the grace of late birth" comes together with the responsibility to examine and denounce the heritage of widespread and systematic human rights abuses.

Chapter 1

Literature Review

In an article, published in February 2009, Lavinia Stan identifies an important missing piece in the study of post-communist transitional justice.

“Countries in Eastern Europe and the former Soviet Union were considered ideal from a comparative point of view because they all experienced similar repressive regimes roughly at the same time, and they all effected regime change to democracy in the relatively short period of time between 1989 and 1991. Most of these theories have contrasted the performance of only a handful of post-communist countries, focused primarily on the early 1990s, and reduced transitional justice to lustration. Very few of them have considered non-cases, that is, countries that have systematically avoided confronting the past.”⁵

In the large normative literature on post-communist transitional justice, several political theories offered arguments on why and how new democracies should deal with their past. Important theoretical frameworks have been proposed by Samuel P. Huntington, John Moran, Helga Walsh, Nadya Nedelsky, Natalia Letki and Monika Nalepa.

⁵ Stan, Lavinia 2009, Post-Communist Transitional Justice Predictors, SciTopics, Category Sociology and Political Science

The analysis is organized in two main sections. The first examines the theories discussing where to expect lustration. The second offers an analysis of when is lustration likely to be enacted. One of my propositions in this dissertation is that we need to broaden our analysis of the timeframe we look at in explaining lustration. While most of the authors discussed below focus only on the type of exit of the communist regime, my claim is that lustration patterns can be explained by focusing simultaneously on the role of three temporal dimensions: the communist period, the moment of regime change, and the subsequent phase of transition.

Where to Expect Lustration?

In his work on the third wave⁶ of democratization, Samuel P. Huntington⁷ addresses the question of whether new democracies are likely to enact transitional justice, and focuses on the link between policy and the authoritarian regime's "mode of exit". Huntington argued that only where former elites have been removed from their position against their wish, would there be a desire for retribution. When analyzing the Eastern European cases, Huntington concludes that it was only in East Germany and Romania that the communist governments lost power until they collapsed or were brought down by a revolution. By contrast, in Hungary, progressive communist officials gradually changed

⁶ A wave of democratization is defined by Huntington as "a group of transitions from nondemocratic to democratic regimes that occur within a specified period of time and that significantly outnumber transitions in the opposite direction."

⁷ Huntington, Samuel P. 1991, *The Third Wave Democratization in the Late Twentieth Century*, University of Oklahoma Press

the regime into a democracy. In Poland and Czechoslovakia peaceful negotiations occurred between communists and the opposition, as none of the sides was influential enough to impose its ideas alone. Based on this observation, Huntington suggested that “in Eastern Europe, apart from Romania and East Germany, the initial overall tendency was to forgive and forget”⁸. Contrary to his early prediction, a number of Central European countries (such as Czech Republic, Hungary and Poland) pursued active programs of lustration, more articulate than the ones in East Germany and Romania.

In a reply to Huntington’s analysis, John Moran focused on the “tough” or “soft” nature of repression during the final decades of the communist regimes⁹. If the citizens were not allowed to talk or to express their disagreement, then there should be more pressure for finding the guilty ones. Moran argues that “the link that Huntington attempts to make between the independent variable of democratization process and the dependent variable of outcome of the torturer problem¹⁰ is a specious one in the Eastern European context”¹¹. Moran’s analysis is based on Huntington’s concepts of “exit” and “voice”. In his analysis, “voice” meant the option of political dissidence under the previous regime, while “exit” meant the option to leave the country. Moran’s hypothesis is that where the communist regime did not allow either “exit” or “voice”, the citizens would be more likely to demand vengeance after democratization.

⁸ Ibid., p. 228

⁹ Moran, John P. 1994, *The Communist Torturers of Eastern Europe: Prosecute and Punish or Forgive and Forget?*, *Communist and Post-Communist Studies*, 27, p. 95

¹⁰ The outcome of the torturer problem refers to the method of addressing past abuses. Societies have the option to pursue a policy of "prosecute and punish" or one of "forgive and forget".

¹¹ Ibid., p.95

Moran underlines that after the fall of communism, each government faced the choice between two options: punishment or forgiveness. The manner in which these two options were framed varied slightly from country to country, but their ultimate aim was to ease the transition to democracy. The course of action taken by the new government is, according to Moran, essential to the success of the new regime. Moran argues that the relationship between the “democratization process” and the outcome of the “torturer problem” is not what it appears to be, especially in the East-European context, in contrast to what Samuel Huntington proposed as a conceptual framework for the democratization process. Huntington had concluded that in fact what happened was little affected by moral and legal considerations. The process was shaped by the political circumstances of the country and the nature of the democratization process. Furthermore, the process of democratization could unfold in four ways: transformation, transplacement, replacement and intervention. Thus, the likelihood of a newly democratized state would depend on which transition type it adopts. By contrast, Moran argued that the psychology of the people plays a huge part in the outcome of the “torturer problem”.

The response adopted by newly democratized states early on would determine the success of lustration. The pattern observed in Eastern Europe, setting aside Romania and East Germany is that many have established the tendency to forgive and forget in contrast to punishment. Once this way of thinking was established, the quickly discredited groups associated with the authoritarian regime re-establish their legitimacy and influence. The screening process comes either swiftly or it does not come at all.

Moran argues that what actually happened in Eastern Europe in the two years after the publishing of Huntington's book directly contradicts his theories and predictions. He observes no causal link between the "democratization process" and the "outcome of the torturer problem". Moreover, these were followed by the important differences between the East European countries, especially in regard to aspects of mass psychology that played a key role in determining the solution given to the "torturer problem." Moran then goes on to prove his point by choosing a country from each of Huntington's "process types": East Germany (replacement), Czechoslovakia (transplacement) and Bulgaria (transformation). According to his analysis, Czechoslovakia, a transplacement country, and Bulgaria, a transformation country, exhibit more of a tendency to prosecute and punish than the East Germany, a replacement country. Instead, the presence of psychological variables of "exit" and "voice" was much more important to the eventual resolution of the "torturer problem" in comparison to Huntington's structural paradigm.

Moran starts by pointing out that the East Germany was a unique case in comparison to other Eastern European countries due to the legacy of Honecker's mode of "exit." This allowed East Germans to transition into their version of democratization in a less vengeful way. The process through which the new political party in East Germany brought about democratization started with the dismantling of the Stasi, the institution that created an environment for prosecution and punishment. Prime Minister Modrow announced the necessity to establish a new security service to "prevent a security vacuum", this met with strong opposition from both the public and the opposition party. The public opinion actions sent a strong signal to the leadership.

It was therefore obvious that the people wanted vengeance on the Stasi and a clear end to the period when a secret security service was spying on them. In an attempt to soothe the public, efforts were made by the new government to eliminate the Stasi in a civilized manner. Peter-Michael Diestel, East Germany's Interior Minister, took into consideration the consequences of fostering a conflict with the Stasi because up to twenty percent of all Stasi files were still in their possession. Diestel desired to extend a blanket amnesty to all Stasi members who were not involved in violent activities but this was prevented by West Germany's desire to prosecute those who were involved. The Interior Minister was mostly interested in a "closure" procedure, while the public was more concerned with the government's handling of the Stasi's secret files. Eventually, the government decided to disclose the files to the public.

However, the public's concern with moral and legal arguments did not stop there. In summer 1991, opinions started to shift. At first glance, this appeared to happen due to the persistence of economic troubles and the occurrence of a right-wing coup with KGB involvement in the Soviet Union. After this episode, East Germans demanded a greater measure of punishment for the "torturers".

The shift in East Germany's lustration efforts was demonstrated by a law passed on January 2, 1992 which gave every citizen a right to read his or her own file. The effort was framed by the government as giving people a taste of freedom - something they needed after years of authoritarian rule. However, in practice the release of secret files opened a Pandora box that destroyed numerous friendships and plunged many Eastern

Germans into anger and depression. It was becoming increasingly difficult to trust anyone, even one's family.

According to Moran there were unique variables that set East Germany apart from other Eastern European countries. The most noticeable was the role played by the Stasi that created a culture of distrust and uncertainty. The Stasi manipulation led East Germans to find it hard to trust authority, especially priests and ministers. This happened because many commoners were forced to work for the Stasi and although the collaboration was unofficial, the Stasi network worked extensively and efficiently. This web of connections created a culture of danger different from those of other Eastern European countries.

Moran also emphasizes East Germany's unique political culture as one of the factors that differentiate it from Third Wave countries in other regions of the world. On the one hand, East German developments had been heavily influenced by West Germany. On the other hand, the KGB served as a role model for the Stasi and profoundly influenced its actions and policies. Lastly, the East Germany's Nazi past had conditioned the country to a cycle of confrontation-atonement-forgiveness model, where war crimes were remembered but not punishable if one admitted his wrong doings. Additionally, the physical existence of millions of secret files made East Germany case a very complicated one.

However, when it might be expected that these variables should have propelled East Germany into a call for prosecution, East Germany reacted with a call for non-prosecution. Moran attempts to explain this surprising reaction:

“One concept that could explain this unexpected tendency can be illustrated using that individual loyalty tends to exhibit itself in “voice” (that is verbally attempting to reverse a decline in a system or nation). Those politically active individuals who do not have this voice option (for whatever reason), have the option of “exit” from the nation or system. Not wanting to allow for “voice” in its system, the GDR had consistently embraced this “exit” option for politically active oppositionists. This was seen mainly in its pre-Berlin Wall policies and in its policies during the “Trebiexodus” of 1989. In this way, the GDR communists somewhat successfully depoliticized the populace by letting the politically active ones out.”¹²

The concepts of “exit” and “voice” have also good explanatory power for the cases of Poland and Hungary. Moran then turns to countries where neither exit nor voice was allowed under the old regime, such as Bulgaria and Czechoslovakia and concludes that the desire for revenge comes into play only in the countries where “voice” and “exit” were not options.

Observing Czechoslovakia, Moran comes to the conclusion that although many conditions were similar to the GDR, psychological factors and a poor economical situation led the Czechs to react differently. The new Democratic Party promised to eliminate the idea of state security but the weak call for punishment led many to be unsatisfied with the steps taken by the new government. People wanted a stronger ideological shift from the authoritarian rule and it was obvious that Richard Sacher, the Minister of Internal Affairs, was attempting to approach the task of reorganization in a rather lenient and non-vengeful manner.

However, when economic difficulties mounted and reformed efforts slowed down, people became discouraged as to why progress was so limited. To the public, this slow

¹² Ibid., p. 101

rhythm of reform was determined by the old guards that were still manipulating the new administration. A lustration act was passed in an attempt to resolve the “torturer problem” by banning former communist officials for a five-year period, from high-level jobs. Despite initial opposition from President Václav Havel, the lustration act was passed, and secret files were made available to the public.

Moran believed that the implementation of a lustration act represents a move from rational forgiveness to emotional vengeance. Huntington’s prediction that “transplacements” would be followed by general amnesties granted by the newly democratized governments did not materialize in Czechoslovakia. Moran suggests that what differentiated Czechoslovakia from the GDR was its history of political pluralism, which made political debate natural to Czechs. He also observed that people seeking vengeance were neither communists nor dissidents. The impulse that stems from a guilty conscience was what Moran argues determined the resolution to the “torturer problem” in Czechoslovakia.

Moran observes a similar pattern in Bulgaria, in spite of its different path of regime exit. Psychological factors played an important role in pushing for lustration. It had however a very different type of regime exit. The Bulgarian Communist Party managed to survive the transition phase by removing Todor Zhivkov from power. Police forces were kept intact and their aim was to uphold new laws. However, the institution had a bad reputation involving the use of corruption and brutality. All this changed when a major shift in governmental policy occurred in 1991 and President Zhelyu Zhelev announced that the past activities of the Bulgarian intelligence services should be

revealed to the public, calling for transparency within the new government. Highly publicized cases asked for transparency. Former leaders were also required to explain the country's political and economic crisis. Moran's analysis is that Bulgaria has evolved from a position of forgive and forget (an arrangement to be expected from a "transformation" process) to one of prosecution and punishment. He notes that one surprising fact about Bulgaria is that the "torturers" were being prosecuted for somewhat insignificant crimes in comparison to the GDR and Czechoslovakia. This suggests the reverse of Huntington's model: a "replacement" country becomes the most tolerant towards the torturers, while a "transformation" country the least.

Finally, Moran points out that the process of lustration depends heavily on the newly elected government. In countries such as Poland and Hungary, the new governments moved quickly to solve the "torturer problem" and to allow for a closure of the communist period. In the examples used, the author explores the emotional and psychological appeal that lustration had on the Third Wave countries, something Huntington failed to take into consideration. Lustration acts were largely done so as to advance the conclusion that the human rights violations of the communist era finally came to an end. However, as seen in the cases of East Germany and Czechoslovakia, the releasing of secret police files not only did not help them to seek closure, but instead deepened existing anger and further distrust in relationships, which spurred the need for punishment.

In Helga Welsh's effort to elaborate the conditions for a serious approach to the past in the politics of the post-communist transition she argues that if the former elites

remained in power the chances for a successful lustration process are lower¹³. Her main point is that: “The extent of political repression and penetration of society by the state security forces, including the time elapsed since acts of terror and political crimes have taken place, are among the factors that explain post-communist policies, as is the impact of different modes of transition. Increasingly, however, the 'weight of the past' is being replaced by 'politics of the present'.”¹⁴ The overarching thesis of her paper was that “despite important systematic differences among transition processes, the stages, concerns and tasks that are part of democratization process bear considerable resemblance to one another even across different regime types.”¹⁵ Her work addresses four questions related to lustration: the way to deal with the communist past, the statute of limitations, the situation of files, the predictors of explanations, the modes of transition, and the politics of the present.

Welsh's work asks whether or not “policies of retribution or reconciliation serve the interests of emerging democracies the best.”¹⁶ Though Welsh's work focuses primarily on other cases, she briefly explores the counterintuitive case of Romania. Looking at the ways in which the communist history conditioned the democratization of Eastern European countries, Welsh notes that Romania experienced one of the most violent communist regimes and the only bloody revolution of 1989. The expectation was therefore that the former leaders would be repressed, and society would quickly embrace

¹³ Welsh, Helga. 1996. Dealing with the communist past: Central and East European experiences after 1990, Europe-Asia Studies, Volume III

¹⁴ Welsh, Helga. 1996. Dealing with the communist past: Central and East European experiences after 1990, Europe-Asia Studies, Volume III, p.419

¹⁵ Ibid., p. 413

¹⁶ Ibid., p. 425

democracy. Instead, Romania initially postponed and eventually blocked lustration and did not make strong attempts to bring former violent leaders to justice. In fact, the first leader democratically elected was a former high-ranked communist. And during the first years of transition, many people grew nostalgic for the communist past. Welsh explains this phenomenon in the following terms: “maintaining a policy of leniency will provide a basis for national reconciliation and will foster spirit of tolerance crucial to the building of a democratic political culture”.¹⁷ Furthermore, another important point tied to the idea that lustration laws were not driven primarily by grudges of the masses was that “while the sentiment was widely shared that the powers of the old elite needed to be diffused, the wisdom of completely disarming them was also questioned”.¹⁸

Welsh remarks the implications that come from stripping former leaders of power and respect. She expands on the idea that, although many of these former leaders took doubtful decisions, it would be fundamentally unethical to treat them poorly. It is therefore important to pay attention to who is drafting the lustration laws. It also implies maintaining moderation as well as respecting the elderly. As a side note to this point, Welsh also points out that many of the violent leaders of the Stalinist era were well into their retirement age by the time communism was overthrown and that their age was actually a deterrent in seeking justice and punishment. This seems to be an important addendum to why some nations haven't sought more vindictive measures.

¹⁷ Ibid., p.414

¹⁸ Ibid., p.420

Welsh also makes two other observations. She states that lustration is usually limited to the public sector. She also claims that “the absence of revenge seeking may also call into question common Western perceptions of the ‘totalitarian’ nature and the causes for the collapse of the communist regimes.”¹⁹ Welsh suggests that modern society placed an overly negative stigma on totalitarian regimes, and that it is possible that they are not as terrible as our history books have contended. The fact that the citizens did not feel the need for revenge might prove this point.

Does Timing Matter?

Nadya Nedelsky was the first author to examine more carefully the circumstances in which the lustration laws were designed, enacted and implemented²⁰. Her analysis is based on the cases of the Czech Republic and Slovakia. Nedelsky builds a “bridge” between the communist past and the democratic present, by pointing out that “a stronger influencing factor affecting lustration, responses to crimes committed under communism, and levels of access to secret police files is represented by the level of the preceding regime’s legitimacy, as indicated during the communist period by levels of societal cooptation, opposition or internal exile, and during the post-communist period by levels of elite re-legitimization and public interest in de-communization”.²¹

¹⁹ Ibid., p.423

²⁰ Nedelsky, Nadya. 2004. Divergent Responses to a Common Past? Transitional Justice in the Czech Republic and Slovakia, *Theory and Society*, vol. 33, p. 65-115.

²¹ Ibid., p. 65

The consequence of this finding is that, in those countries where the former régime was perceived to a bigger extent as legitimate, the probability of old elites to return to power would be higher and, as a result, the determination to pursue lustration would be weaker.

The work of Natalia Letki also seeks to explain the process of post-communist transition and lustration in various Eastern European countries and the outcomes of its implementation –successful or not.²²

Letki defines lustration as a process aimed to reconcile effectively the society in post-communism transition. This includes procedures for screening people seeking high ranked public positions for their involvement with the communist regime. The lustration process was initially conducted in apprehension that previous communist officials continued to be in power even after the end of the regime.

Letki also investigates the consolidation of democracy. This idea is difficult to accurately quantify because different schools of thought place emphasis on various factors. Letki follows Schedler's concept of the continuum of democratic consolidation, consisting of three main types of democracy: electoral, liberal, and advanced. Electoral democracy is the most basic criterion represented by a democratic system where an opposition party is allowed to compete, win and assume office. The second filter of liberal and advanced democracy is the level of guarantees of democratic values: civil liberties and political rights. In this article, Letki also aims to investigate the idea of

²² Letki, Natalia. 2002. Lustration and Democratisation in East-Central Europe, *Europe - Asia Studies* 54, no. 4

consolidated democracy. An additional element she considers essential to the quality of democracy is public opinion. Therefore, the third condition used is the rejection of non-democratic forms of government by the public of post-communist regimes. The inclusion of such a factor aims to further measure the accuracy of the rejection of non-democratic alternatives rather than analyzing citizens' commitment to democracy, as it is less dependent on a country's present political and economic situation.

Letki links the question of lustration to the question of democratic consolidation. An emerging democracy's decision to come to terms with the past is only one of the possible strategies of transition. Most forms of transition involve confrontation with past experiences or punishment of previous leaders in an attempt to seek justice. Letki seeks to reconstruct the 'ideal type' of lustration, one that is believed to be partly adopted by the Eastern European countries. The following analysis will reconstruct it from the main elements of the Eastern European lustrations and will present some general considerations on the purpose of lustration, its possible sources and eventual results.

Lustration aims to allow a country to come to terms with the past through political decisions centered around the legacy of the past. However, Letki states that this overlooks important differences between measures such as criminal proceedings and lustration. Although both are efforts to address past actions, the types of these actions, as well as the legal, moral, and political dimensions of their consequences are most dissimilar.

Firstly, in most Eastern European countries the attempts to clarify things by means of criminal justice have focused on "crimes against humanity". However, it was

later recognized that human right abuses were mostly in the form of mass surveillance that strongly violated the private spheres of individuals. Accepting this approach addressed the problem of the extension of the statute of limitations. It brought about the problem of a distinction between crimes subject to the penal code versus crimes that were legal at the time when they were committed. Therefore, it could have been argued that crimes under the penal code of the communist regime should have negative or retributive measures of punishment, while those legal when committed should be analyzed on a case-by-case basis. For instance, in the event that a former torturer would aspire again to hold a political position.

Letki brings up another important issue for discussing the problem of lustration: whether a country aims for “backward-looking justice” or “forward-looking justification”. Arguments seeking forward-looking justification represent the main and most popular argument for introducing the screening law: “the people in question, their attitudes and competence, and the networks of solidarity existing among them, would constitute a threat to the orderly functioning of the new democratic regime if they were allowed access to important political, administrative or professional positions”.²³ From this perspective, lustration is not defined as punishment or revenge but more like a forward-looking perspective that would ease the country’s transition into democracy.

Letki suggests three possible sources of influence in the drafting of formal screening procedures.

²³ Offe, Claus. 1996. *Varieties of Transition: The East European and East German Experience*, Cambridge: Polity Press, p. 93.

- a. From the perspective of public opinion, despite the popular belief that people in East-Central Europe are uninterested in dealing with the past, some societies did actually show support for lustration and even demand it. Four major cases were surveyed: Poland, Hungary, Czech Republic and the Slovak Republic. The goal was to quantify the support for the removal of former secret service collaborators from positions of influence.
- b. The second component is the will of the elite. While we might expect this to reflect people's opinions, Letki points out that practice seems to differ from theory. Although transitions in the four countries Letki surveys were directed towards democratic practices, one of their main features was that it is elite-centered. Eastern European countries represent different patterns of transition such as transformation, replacement and transplacement. They were also often praised for achieving peaceful transitions as a result of elite negotiation although the leaders' decisions were not validated through public approval. The round-table talks were set up to facilitate the process of transition into democracy. Agreements and decisions were made in the name of the public good but were in fact strictly determined by bargaining between the communists and the opposition.
- c. Lustration was also perceived as the outcome of such negotiations. The situation was further complicated by the struggle within the elite and the coexistence of factions supporting or avoiding lustration, but it becomes even more complex with the third element – external factors. External factors are

essentially limited to the 'international climate'. The attitudes of Western democratic regimes played an important role in shaping the effectiveness of lustration in Eastern European countries. And contrary to most expectations, these regimes viewed lustration as politically incorrect and incompatible with the ideals of universal human rights. These circumstances made decisions taken in Eastern Europe extremely sensitive to Western criticism. The importance of the Western approach towards lustration was furthermore reflected in the activities of international organizations.

One of the main arguments in favor of lustration is the so-called public interest. Networks of solidarity and cooperation are usually considered to be the main elements of social capital and are assumed to hold the state and economy together. However, the societies in transition to democracy have also to face bad social capital. Consequently, in order for progress to be made, these post-communist cliques should be dismantled. Additionally, this would remove the mistrust associated with the public service. When obvious overhauls are made to the system, it helps to further convince members of the public that the new government is moving towards democracy.

Lastly, Letki reviews some of the disadvantages of lustration. Lustration does not represent the equivalent of exclusion but merely the limitation of certain civil and political rights. If a reasonable argument for such limitation is to be used, it should point to the lustrated individuals' support and loyalty for the non-democratic principles. The second argument was the fear of violence and disorder. Purging was believed to provoke turmoil and defensive reactions from communist elites. Third, another problem to be

considered was the lack of personnel ready to replace the screened individuals and to implement further reforms. The last argument against lustration refers to the reliability and completeness of the secret files. As the security services have been restructured, a significant number of files has been destroyed. Some even raised the question of whether the problems with files' completeness and reliability should result in the abandonment of the idea of lustration.

In conclusion, according to Letki, there are three main criteria that seem essential for a successful lustration: its actual implementation, the practicality of the scope, and the impartiality of the act. Firstly, the enforcement of the lustration act is the most basic criterion. Secondly, we must aim to determine efficiently a practicable number of people who were involved in the purging act. Although quantifying them might oversimplify figures, recognizing a rough estimate would help determine the success and effectiveness of lustration. Lastly, lustration acts were aimed at certain social groups and emerged from the political struggle between post-communist and post-opposition parties.

In the final analysis, Letki concludes:

“The relationship between lustration and the consolidation of democracy seems to be simple, but nevertheless important: theoretical analyses, as well as empirical findings, have shown that there exists a positive link between these two phenomena. This is not to say that the relationship between them is causal, i.e. that adopting screening procedures will certainly lead to the consolidation of democratic institutions, but, at the same time, it may be expected to aid this process. Of course, successful lustration is, itself, contingent on the existence of

certain elements of a democratic system, e.g. the basic features of the rule of law are necessary for the successful implementation of screening procedures. However, while lustration can be problematic both ethically and practically, when it is used as an 'ad hoc' political tool, if it is implemented as an element of planned transition strategy it is valuable in overcoming the legacy of a non-democratic regime, as shown by the examples of East Germany, the Czech Republic, Hungary and Poland.”²⁴

Another important contribution to the literature on lustration is Monika Nalepa’s article “Lustration and Survival of Parliamentary Parties.” Nalepa’s piece focuses on the origins of pro-lustration parties, the different strategies of dissident movements (open opposition, clandestine conspiracy, and mixed strategies) and the implications of dissident movement strategies for lustration policies.²⁵

Nalepa’s main thesis is that “over time, new parties free of infiltration will emerge and compete in democratic elections with the former communist and former dissident parties.”²⁶ This point states that as time heals the wounds of the violent communist dictatorships of the past, the communist party will not just disappear, but rather remain as a legitimate party group that will co-exist with other parties that participate in democratic elections.

²⁴ Letki, p. 549

²⁵ Nalepa, Monika. 2009. “Lustration and Survival of Parliamentary Parties.” *Taiwan Journal of Democracy* 5(2) : 45-68

²⁶ Nalepa, p.45

Nalepa first describes how parties form a pro-lustration agenda mainly with their young members. This seems to be the logical path, considering that older citizens would have established their political careers under communism. She then analyzes how new parties gained importance in society and moves on to discussion of the dissident movements. She explains the mission of groups like the Committee for Protection of Workers (KOR) which provided aid to workers discriminated against in the work force for their participation in strikes. Groups like these grew into anti-communist open opposition groups. Nalepa also presented the groups that quietly fought communism in ‘clandestine conspiracy’ such as Solidarity ’80 and the Confederacy for Independent Poland and she included a small section about opposition groups that had both a public and an underground aspect.

Nalepa highlights the importance of dissident movements for lustration policies. She explains how the groups that had a strict screening process had little fear of lustration, and therefore more to gain, and were great supporters of it. Therefore, in places with more organized dissident groups, such as Poland, the lustration laws were more severe. She also suggests that these locations had more exposure of former leader’s private information and that parties have become slightly more supportive of lustration, but not significantly. She states that “only two parties included any Communist Negative statements in their manifestos”, and makes an example of Poland and Hungary by pointing out that their pro-lustration parties emerged later but that their lustration laws were harsher. The final point she makes before concluding is that overall, younger legislators do select into more pro-lustration parties, although, once again, this is not

significant. For example, she claims that “a legislator who is twenty years older is 3 percent less supportive of lustration.”

Nalepa makes the point that a party is only anti-lustration if they are risk averse; which they would only be if they had something to hide. This suggests that all others should be pro-lustration because they would not suffer humiliation or serious action and for the most part, the changes would benefit those parties with few ex-collaborators. This seems to imply that one can determine where blame is placed for crimes of the communist period on one’s political opinions of lustration. Nalepa also proposes the idea of “delayed lustration that emphasizes the interests of office-seeking parties, which propose lustration when they stand to benefit, but avoid it when they fear damage to their electoral prospects.”

The essay offers a comprehensive overview of how lustration laws affected the political development of Eastern Europe. Her final words best summarize the article: “such parties have more to gain from lustration than older parties, since, on average, the former had fewer links to the former communist police”.

Thesis Statement

All in all, my claim is that, to a lesser or greater extent, all these theories failed in their prediction. Romania’s experience is particularly challenging to understand from the standpoint of the literature.

Contrary to Huntington’s hypothesis, Lustration Laws have been adopted in countries where transition was peacefully negotiated and where the communist regime

did actually allow people to publicly express their discontent. Quite the reverse, lustration is absent in the only country that experienced a bloody revolution and that severely limited the freedom of speech in the last decades of communism. In the same way, Moran's framework is invalidated by the cases of Poland and the Czech Republic where the communist regime allowed to a certain extent both "exit" nor "voice", and yet the demands for lustration have been strong and materialized in landmark pieces of legislation. Furthermore, while Welsh's considerations regarding the key role played in the transition period by the communist heir parties have explanatory power, they leave unsolved the question of why in some countries (like Romania for instance between 1996 and 2000) the right wing parties that governed did not support the project of lustration. Lastly, Nedelsky's hypothesis regarding the level of the preceding regime's legitimacy cannot be fully validated outside the Czech and Slovak cases. In many other Eastern European countries, the successor communist parties and their leaders scored high in first democratic elections with no direct logical correlation with the legitimacy of the former communist regime.

Considering all this, my thesis attempted to identify the missing pieces in the puzzle of why some post-communist countries strongly confronted their past, while others rejected initiatives to face the recent repressive history. Currently, I am working on the first step of the research. For this, I attempt to put together an in-depth analysis of the understudied case of Romania. My goal is to explain the lack of an unambiguous lustration process by focusing simultaneously on three temporal dimensions: the communist rule, the moment of regime change and the subsequent phase of transition.

The project concludes that differences in lustration patterns can be fully explained only by simultaneously considering the impact of several factors: the pervasiveness of security apparatus during the last phase of communist rule, the type of regime change, and the extent to which political actors embraced the lustration agenda. Considering all this, my thesis will attempt to identify the missing pieces in the puzzle of why some post-communist countries strongly confronted their past, while others rejected initiatives to face recent repressive history. My research is intended to fill gaps in the literature and to increase the knowledge and understanding of the lustration process.

I will do that in several ways. First, I aim to evaluate the existing patterns of lustration in Central and Eastern Europe. Secondly, I explore in-depth the understudied case of Romania with the intent of filling this vacant niche in the existing literature. Finally, to better explain the differences in lustration patterns I consider it important to take into account three temporal dimensions: the communist period, the moment of regime change, and the subsequent phase of transition.

My research question explored the specificity and the circumstances of the lustration process using a multivariate framework of analysis. My view is that the differences in lustration patterns can be fully explained only by considering simultaneously the impact of three factors: the severity of the communist regime, the type of regime change, and the democratic strength of the early transition period. In the case of Romania, I hypothesize that three variables had strong explanatory power in elucidating why the country did not adopt decommunization. In chronological order, these three variables have been: the

restructuring and strengthening of the repression apparatus, the politicized takeover of the 1989 revolution, and the parliamentary debates in the early transition period.

Chapter 2

Context, Concepts and Questions

Lustration is defined as the screening of individuals who had been high-ranked communist officials or informants of the communist secret police for appointed positions in the new democratic regime. The defining moments of lustration enactment include the publication of lists with former secret service agents or collaborators and the public debates regarding lustration's methods of implementation (indispensable in order to avoid accentuating social cleavages or revengeful demands and to reach a consensus or a compromise regarding the path to reconciliation with the past). Lustration generally involves the need of a decisive and genuine legitimation of new regimes through the renewal of the political elite, the disqualification of people proved to be responsible in the old regime and the banning of their candidacy for new public offices.

The lustration process is an example of retroactive or transitional justice and might be accompanied by other types of transitional justice procedures: "The first type includes criminal proceedings against members of the elites and authorities over the lower ranks of the state bureaucracy. These may be conducted according to existing or specifically established rules that can differ from the traditional legal culture, as in the Nuremberg Trials. The second are mass and screening procedures, which are conducted to identify collaborators, party members or employees of state organizations (e.g. the

police; security agencies) mainly from the middle and lower ranks of the hierarchy. These are the typical procedures of denazification, destalinization, and decommunization.”²⁷

The two types of actions are treated differently, according to their gravity. First, “the torturer problem” refers to individuals that committed crimes and abuses which were subject to penal punishments under the old regime’s own legal code. Second, the offenses (that were legal at the time when committed), such as being a Communist party member or collaborating with the Communist secret-services are subject to punishments only under certain circumstances, namely if the former communist officials want again to gain public office. Such cases are ruled through a “negotiable, volunteer and purification” process of lustration.

Claus Offe distinguishes between “backward-looking justice” and “forward-looking justification”, lustration belonging to the second category since it does not have a retroactive character and it does not modify the legal status of past actions. Lustration and the “projected justification” imply the existence of a screening law that monitors and filters the lustrated individuals: “the people in question, their attitudes and competence, and the networks of solidarity existing among them, would constitute a threat to the orderly functioning of the new democratic regime if they were allowed access to important political, administrative or professional positions.”²⁸ Through this mechanism of preliminary diagnosis, Natalia Letki considers that lustration can be identified “as one

²⁷ Karstedt, Susanne. “Coming to Terms with The Past in Germany after 1945 and 1989: Public Judgments on Procedures and Justice” in *Law and Policy* 20, 1998, 16

²⁸ Offe, Claus, *Varieties of Transition. The East European and East German Experience*. Cambridge: Polity Press, 1996, 93

of the possible measures taken to minimise the influence of the legacy of the non-democratic past on the democratising present. This strategy is used when it is assumed to contribute to the consolidation of the emerging political system.”²⁹

The Context of Democratic Transitions in Central and Eastern Europe

According to Linz and Stephan, democratic transitions can be considered complete “when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the direct result of a free and popular vote, when this government de facto has the authority to generate new policies, and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies de jure”³⁰. The authors identify several types of consolidated democracies and for this reason, additional dimensions are to be taken into account while evaluating a consolidated democracy: the behavioral dimension (when the democratic regime is not seriously threatened by any political group), the attitudinal dimension (when the environment is characterized by a firm and stable attachment to democracy and its values) and the Constitutional dimension (when the political conflicts are solved through legally established procedures).

²⁹ Letki, Natalia, “Lustration and Democratization in East-Central Europe” in *Europe-Asia Studies*, Vol. 54, No. 4 (Jun., 2002), 535

³⁰ Linz, Juan José and Alfred C. Stepan, “Democracy and Its Arenas” in *Problems of Democratic Transition and Consolidation*. Baltimore, London: Johns Hopkins University Press, 1996, 3

Building on Linz and Stepan, Wolfgang Merkel puts together an analysis of democratic consolidation on four levels³¹. The first one is founded on the Constitutional consolidation and refers to the strengthening of the main state institutions: the President, the Cabinet, the Parliament, and the judicial system. The next phase is the representative consolidation that is directly linked to the previous aspect and implies a fair and free representation on both territorial and functional levels. The outcome of this stage influences the third level, namely the behavioral consolidation which aims at diminishing the traditional alternatives used by key political figures to serve their own interest outside the legal framework. The democratic consolidation of civic culture and civic society fulfills the stabilization of democratic structures. This last level is also the most stable one, as reflected by the experiences of the countries in the 2nd wave of democratization.

As an alternative, Andreas Schedler promotes the concept of a “continuum” in democratic consolidation and uses Robert Dahl’s terminology in defining three types or stages of democracy: liberal (polyarchies with civil and political rights and fair elections), electoral (marginal cases that have some, but not all the essential characteristics of a liberal democracy) and advanced (with some positive elements on top of the minimum criteria that define liberal democracies). The electoral factor represents therefore a minimum condition for starting the consolidation process. As stated by Adam Przeworski, this occurs when “the opposition has some chance of winning office as a consequence of

³¹ Merkel, Wolfgang, “Germany’s Failure and Success of Democratic Consolidation during the Twentieth Century. Part I: Institutional Design and Democratic Consolidation”, in *Problems of Democratic Consolidation in East and West*, JPSA-ESPR Research Group Meeting, Tokyo, 1999

elections” and the indicator of such a criterion is the number of executive turnovers, specifically the test of alternation to executive power during the transition period.³²

A 1998 Freedom House report identified ten countries from Central and Eastern Europe (Bulgaria, Czech Republic, Estonia, Germany, Latvia, Lithuania, Poland, Romania, Slovakia, Hungary) as free, two (Albania and Ukraine) as partially free and one (Belarus) not free. However, among the countries indicated as free, considerable differences could be noted from the perspective of the observance of political rights, civic liberties and of the rejection of non-democratic forms of government. Such a situation allows a reclassification of the countries of Central and Eastern Europe:

- Belarus: “non-democracy”
- Ukraine and Albania: “electoral democracies” (although –through the revision and the resumption of the electoral process at the elections from 2004/2005 by the decision of the Supreme Court of Justice to invalidate the victory of the old political power, because of the suspicion of fraud, and by the subsequent winning of the elections by the opposition – Ukraine proved that it is heading towards a ‘liberal’ democracy)
- Bulgaria, Romania, Slovakia: “liberal democracies”
- Czech Republic, Estonia, Germany, Latvia, Lithuania, Poland, Hungary: “advanced democracies”.

³² Przeworski, Adam and Fernando Limongi. “Modernization: Theories and Facts”. *World Politics* 49, 1997: 155-183

According to these criteria for complete democratic transitions, we can add lustration as a measure of break up with the past. We can categorize as “lustrated” only the countries that have actually provided solutions for solving the situation of the former secret services files and that have implemented legal procedures for monitoring and filtering them. Through the analysis of specific cases, one can observe that lustration was supported especially by the “advanced democracies”, although one can also note that the stage of democracy during the consolidation process is not an exact indicator of lustration’s implementation, or an exclusive proof of its success. Moreover, the success of the transition is not unanimously and equally guaranteed to all the regimes.³³ The key role of the lustration process makes it one of the top priorities on the list of measures taken to promote change. The most successful instances show that it was necessary to apply it in the most transparent manner, immediately after the collapse of communism. Any repeated delay of the settlement’s terms, endangered therefore the consistency of the lustration process. At the same time, any temporal distance from the first moments of post-communist transition may alter the perception of the legal instruments needed to promote change.

Moreover, lustration is an important process based on moral principles and on the idea of system purification. It strengthens responsibility and encourages sanction dosed according to the level of guilt. At the same time, it is a measure of politicians’ egos and ambitions and their understanding of guilt. In the absence of lustration, the person identified as socially and politically responsible from the point of view of conventional

³³ Letki, 532

morality may attempt to plead for discrimination (distancing himself from previous responsibilities) or even complete exoneration. Lustration has an impact on all areas affected by the old regime, from the revision of the legislative, executive, administrative and judicial systems to the disclosure of all important nomenklatura positions, occupied through appointments directly ordered by the old regime. Consequently, I estimate that to be successful, lustration should have had strategic support at the national level from both the high-ranked political decision-makers and the academic world charged to research the crimes of the ancien régime.

Assessing Lustration's Success

As specified by Natalia Letki³⁴, lustration's success might be determined by three criteria: proper implementation, degree of practicability, and impartiality of its results. According to Letki "the Eastern European lustrations should have resulted from popular will transferred into political decisions by the elites, with minor significance attaching to international climate. [...] the will of the elite, should be convergent with people's opinions and expectations."³⁵ The difficulties of this double transformation did not hold back in Eastern Europe popular support for lustration and the need of decommunization. However, the intensity of this support varied significantly across the region.

³⁴ Letki, 535-538

³⁵ Ibid., 536

Neat lists of criteria for the evaluation of lustration often encounter some complications. Thus, the peaceful Velvet Revolution in Czechoslovakia dominated by student demonstrations and round table elite negotiation was continued by the most radical lustration method (to which Slovakia did not adhere after its 1993 separation from The Czech Republic). The Czech Republic's far-reaching lustration model had more limited popular support than Poland's moderate method. However, it was implemented much faster - in Poland the names of the Secret Service collaborators were published only in March 1999. It also benefited from having broader effects. By contrast, the Polish lustration law did not determine as punishable the collaboration with the Secret Services, but merely disqualified those that concealed the collaboration or lied about its nature. The version adopted in Poland aimed at lustration through transparency rather than lustration through removal. Thus, we may find a series of trade-offs in lustration processes that make a simple conclusion on their success difficult to establish.

On the other side of the spectrum, in Romania, where the revolution left the impression of a hybrid transition (partly negotiated, partially based on the popular will) no lustration law was enacted. Two hypotheses seem to have explanatory power in this case. On the one hand, it may be claimed that lustration faulted due to the absence of any interest or will of the ruling elite, circumstance that could be interpreted as tacit self-denunciation. On the other hand, the situation might have been the result of a lack of convergence between society's expectations and political strategies. Additionally, the special case of the trial and execution of Nicolae and Elena Ceausescu was interpreted by some as the only transitional justice act in Central and Eastern Europe fulfilled in the

most radical way. It was also seen as a “lustration that would conclude all the other potential lustrations” or as “the sole necessary lustration for communism’s abolition”. To know how to assess lustration, we first need to think of lustration as a phenomenon involving different objectives.

Lustration Objectives

The results of lustration, measured both in terms of the amplitude of the process or the number of positions and in terms of the depth of the process or profundity of reform show that the implementation of the screening procedures brings important institutional benefits. Such benefits brought legitimization to the process of institutional transformation despite the fact that most lustration procedures aimed mainly at the top governmental positions and could not be extended onwards.

Taking into consideration all this, I suggest the following classification of the lustration objectives:

- the exclusion of the communist regime officials (the case of Czech Republic);
- the disclosure of all the elements of the former regime and their partial removal aimed at limiting personal vendettas or vindictive measures that would generate social tensions (the case of Poland and Hungary)
- symbolic measures, alternative that encountered legal difficulties in establishing the level of moral and physical damages (the case of Romania).

Advantages and Disadvantages of Lustration

Lustration laws, even when applied efficiently can produce unwanted consequences and draw backs. Among these are the psychological effects that appeared after the disclosure of Secret Service informers, the political activists and collaborators of the surveillance apparatus.

As will be illustrated in the following chapter, in Eastern Germany the study of the archives revealed that the ratio of those who worked for the Secret Service versus those who did not was one to six citizens. The magnitude of the collaboration produced a desolidarization of the population in the early transition period. It increased the mistrust among individuals and it seriously affected the idea of national interest. In those years, animosity took the place of social apprehension and in the particular case of Germany, it emphasized even more the gap between East and West and the difficulties of synchronization.

On the other hand, lustration also had unintended positive effects. Lustrated individuals could be held accountable not only for their actions during the communist period, but also for what they did during the years of transition: the non-withdrawal from political life, the refusal to accept guilt or the desire to profit from a democratic regime while maintaining a totalitarian mentality. All such outcomes would be sanctioned in a lustration law. Its advocates were therefore claiming that lustration would bring about the long-desired reconciliation of post-totalitarian societies in at least

three ways: first by solidarizing the population, second, by uniting different social categories under the same imperative and lastly, by redefining a common national interest (namely, a social retribution through justified culpabilization). The acknowledgement of the collective guilt of the communist political class hence represents another positive effect of lustration. Simultaneously, the process raised awareness of the democratic needs and requirements as a civic responsibility.

The analysis of lustration's benefits and drawbacks helps establish the social 'scale' with the biggest weight and which prevails in the evaluation of this type of extensive process.

Below is a summary of what I identify as the main advantages of lustration:

✓ setting the basis for a new beginning and a new mentality
✓ the satisfaction of the need for truth and reconciliation with the past
✓ the domestic legitimation of the new regime
✓ introducing new practices and procedures (namely, new institutional structures and formulas within a modernized framework of power)
✓ the external recognition of the legitimacy of the new regime and of its new type of authority
✓ the risk reduction of a totalitarian or authoritarian come-back

✓ the renewal of the leading political class and elite
✓ the promotion based on the basis of merit, competences and superior performances.

In addition I consider that the disadvantages of lustration are:

✓ the difficulties occurring in defining guilt and in indicating the guilty individuals
✓ the distinction that has to be settled between free-choice collaboration and constrained collaboration with the communist regime
✓ the structure of committees or institutions that are to decide who is guilty and to designate the guilty deeds
✓ the dangers of politicizing the issue and of subjectivizing the process
✓ the loss of the expertise and skill of older professionals and the absence of a transfer of expertise
✓ the large costs involved
✓ promoting social tensions and further disputes rather than concord.

In a realistic scenario, no cost-benefit analysis can entirely anticipate the negative and positive effects of the lustration process or the manner in which the advantages and disadvantages balance each other when transformed into public policies. Then again, what can be easily estimated is the high degree of difficulty in trying to remedy the drawbacks caused by the lack of lustration. Among the harms that can be predicted, one can list: the politicization of the issue, the high probability for blackmail and corruption, the lack of legitimacy of the ruling class, and political instability in the absence of transparent democratic criteria.

Lustration and the Consolidation of Democracy

In their empirical study of transitions in Eastren Europe, Jon Elster and Claus Offe concluded that in Eastern and Central Europe, only Germany, Czech Republic, Hungary and Poland can be considered advanced democracies and lustrated countries.³⁶ Lithuania is at the borderline between lustrated and insufficiently lustrated. Estonia and Latvia are considered advanced democracies, but non-lustrated countries. Bulgaria, Romania, and Slovakia are present as liberal non lustrated democracies, while Albania and Ukraine are electoral non-lustrated democracies and Belarus is non-democracy and non-lustrated. The positive correlation between lustration and democratic consolidation is further supported by Elster in his description of the

³⁶ Jon Elster and Claus Offe, U.K. Preuss, *Institutional Design in Post-Communist Societies: Rebuilding the Ship at Sea*. Cambridge, Cambridge University Press, 1998, p. 59-60

alternative methods to end a non-democratic regime and to make use of the new public space. “The resulting new space for action and for the potential for innovation which emerged - gradually or suddenly could have been exploited in quite different ways. It could have been “invested” into the creation of new institutions, or it could have been “consumed” for the accumulation of power and the ad-hoc dealing with problems. Furthermore, both alternatives are conceivable as either excluding or including the elites of the old regime.”³⁷

Elster classifies the new space of action as “investive” in countries like the German Democratic Republic, the Czech Republic, Poland and Hungary and “consumptive” in Slovakia, Romania, and Bulgaria. Furthermore, what defines the two-fold typology is the manner in which these countries dealt with their old elites: excluding them from public life in the case of the German Democratic Republic, the Czech Republic and Slovakia and, by contrast, including them in Poland, Hungary, Romania and Bulgaria.

³⁷ Ibid p.60

	Exclusion of old elites	Inclusion of old elites
“investive” use of new space of action	GDR Czech Republic (1)	Poland Hungary (2)
“consumptive” use of new space of action	Czechoslovakia Slovakia (3)	Romania Bulgaria (4)

Table 1 Old Elites and Democratization

Lastly, Elster concludes that case (1) represents the most uncompromising attempt to construct an entirely new set of rules and institutions. At the other extreme of the spectrum, case (4) represents political arrangements in which “the actors are less concerned with rules, institutions, structures than with the distribution of power, contested between old and new elites.”³⁸

To sum up, a review of the goals targeted by lustration would include the following:

a) the depoliticization of state officials, of the judicial and of the military structures to make the central administration more efficient and to remove bureaucracy’s negative effects;

b) the reform of the legal system within which many judges had to be subjected to a lustration screening to create a new legal-constitutional culture and to improve the image of this deeply corrupted system;

d) the transition from one party-state to political pluralism and establishment of the rule of law

e) the increased dependency between the economic development and the irreversibility of the democratic process until the clear rejection of the possibility to return to communism;

³⁸ Ibid., p.60

f) the transparency of the socio-political processes and the protection of the ethical standards through “the most elusive, invisible part of transformation, the change of the moral culture”.³⁹

Transition is a challenging period in which the need for a clear separation between the old and the new order becomes imperative. The society feels the need for a “rite of passage” that will mark the progress from one status to another and that will indicate the rejection of the old mentality. Political relations are also redefined through the identification of an undesirable group (the communist nomenklatura) and their subsequent isolation through withdrawal of privileges and interdiction of access to the decision-making level. In some cases, the conviction of the previous regime through legal actions is also present.

The “opening to the future” through “the closure of the past” positively influenced the legitimacy of the political system. Anthropologically speaking, the power of symbols (in this case, symbols of liberation and renewal) helped society reconcile with its historical transformation. Furthermore, through the transparency of governmental acts and their orientation towards reforms implemented by legitimate leaders (others than the communist ones) the population’s mistrust in public institutions could be

³⁹ Cepl, Vojtech. *The Transformation of Hearts and Minds in Eastern Europe*. Cato Journal, 17(2), 229-234, 1997

diminished. Lastly, Elster and Offe make a case for considering lustration as a key element in democratic transitions of Central and Eastern Europe.

Chapter 3

Patterns of Lustration in Central and Eastern Europe

In this chapter, I review the outcomes of lustration processes in four Eastern European countries: the Czech Republic, Poland, Hungary and Romania. On a scale of lustration results⁴⁰, the Czech Republic has a firm law and carried out purges that affected large numbers of people. Poland and Hungary have a law, but few trials have been conducted. In Romania there is no law and de-communicization has been limited to symbolic gestures.

Four Case Studies of Lustration

In the Czech Republic, the new government moved quickly to confront the communist regime's legacy of injustice. The situation of more than 100 000 individuals mentioned in the secret police (Státní bezpečnost) files as collaborators or informants was settled on October 4, 1991 through the Law on Lustration. This measure barred from a wide range of elected and appointed state positions all those identified as "conscious collaborators" in the Státní bezpečnost records.

⁴⁰ Roman David, *Lustration and Transitional Justice : Personnel Systems in the Czech Republic, Hungary, and Poland*, 1st ed., Pennsylvania Studies in Human Rights (Philadelphia: University of Pennsylvania Press, 2011).

In Poland, the issue of lustration has been one of the most divisive in political life under democracy. It was not until 1997 that the Congress passed only in 1997 a Screening Law stipulating that all deputies, senators, judges or high ranking civil servants had to issue a statement declaring whether they collaborated or worked in the communist apparatus or in the secret services. A screening court was to check those statements and only those making false statements would be banned from any high ranking position.

In Hungary, the general public, the intellectuals and the majority of politicians have not been overly interested in political justice. After several failed attempts to legislate lustration, the Screening Law that was passed in 1994 affected about 10 000 positions, including members of Parliament, ministers, deans and heads of universities, judges and editors of leading newspapers. However, the law provoked harsh criticism on whether it will be able to fulfill its objective of “decommunization” and provide a fair screening process.

Despite signs of “revolutionary violence” during December 1989 (the mass demonstrations, the bloody repression and the execution of Nicolae Ceausescu), the political developments in Romania have revealed the resilience of the ruling elite. In March 1997, the Romanian Parliament proposed a Law on Access of Former Communist Officials and Members of the Totalitarian Regime to Public and Political Positions. The draft has not been adopted as being inconsistent with Romanian Election Law and violating Article 16 of the Constitution, which states that “all citizens are equal before the law and public authorities, without privilege or discrimination.” In addition to the different intensity of lustration, I have selected for comparison countries representing

different models of lustration to see what similarities and contrasts might explain the differences in the scope and nature of the policies adopted.

The countries of Central and Eastern Europe have not adopted a single unitary model of lustration that aimed at vetting the former communist officials. The Czech Republic, Poland, Hungary and Romania adopted one by one four different lustration models, strongly determined by each country's political conditions. Although different, all these models acknowledged the discontinuity with the past, even when they allowed those targeted to maintain their public positions.

This chapter will focus on the patterns of lustration in Central and Eastern Europe. First, I analyze the advantages and disadvantages of each lustration model. Secondly, I examine the specific legislation on lustration and secret service collaboration in the four countries under scrutiny. Thirdly, I explore the problem of Secret Service files access.

The Czech Republic

Initially, lustration was a procedure applied in the 1970's in the Czechoslovakian secret services (Státní bezpečnost) to identify double agents. Over time, this initial meaning changed radically and Czechoslovakia was actually the first country to adopt lustration in 1991 with the purpose of removing the former secret service collaborators from high ranked positions in fields like government, academia, research or business. After the dissolution of the federal state, the Czech Republic continued to implement lustration, maintaining a ban on participation in political life for the categories identified

initially, while Slovakia has abandoned the project of lustration and then resumed it in 2001.

The model implemented in the Czech Republic allowed post-communist leaders to break with the past by removing certain categories of personnel associated with the old regime. People who had worked in certain government agencies and participated in some activities held by the former regime were excluded from leadership positions specified by law. Once collaboration was recognized, the model only allowed dismissal or downgrading to a position not subject to lustration (that was usually inferior in importance). Thus, the key positions in the new structures could be filled by new staff.

Arguments in favor of this model include the fact that those who had worked for the communist structures or for the repressive political police might continue to abuse power, to blackmail or to be blackmailed, to undermine the new system from the inside or to diminish the confidence in state institutions. Even more important, the model allowed for correcting old injustices. In order to rectify them, former victims were given priority in obtaining positions in the new system.

In the Czech Republic, those who held or who intended to occupy a public office had to submit to the Ministry of the Interior a statement regarding their collaboration (or lack of collaboration) with the communist secret services and another statement that they did not belong to other collaboration categories stipulated by law. If the person belonged to one of these categories, he or she should be dismissed or downgraded. The lustration certificate and the act of resignation could be appealed in court. The process was initially settled as secret. However, in 2003 the list of collaborators was officially published.

This type of lustration was adopted in Czechoslovakia, Bulgaria, Albania and to some extent in Serbia. In the Czech Republic, courts have limited the law applicability, but not its exclusive character. In Bulgaria, only one of the laws in the legislative package has been validated, while in Albania the law was canceled soon after its approval.

The model has been criticized by those who recognized the need for change, but not the way it was put into practice. According to some commentators, the general nature of the law left space for collective punishment that violates fundamental human rights such as the right to opinion or the right not to be discriminated against.

In the Czech Republic, lustration led only to the exclusion from the public sphere of members of the communist gerontocracy or of the nomenklatura, while other categories, from a rather grey area (without a clear affiliation to the repressive state) have remained untouched. Contrary to most expectations, the old members of the nomenklatura have adapted to the new conditions, reinventing their biographies by using privatization to become successful businessmen.

Hungary

The lustration model adopted in Hungary focused on the protection of human rights. The model allowed new leaders to embrace ideological change rather than a change of personnel. Civil servants are allowed to maintain their positions, despite a possible former collaboration with the oppressive communist structures, if they are open about disclosing their past. The public office is negotiated in exchange of admitting the truth. It is therefore assumed that once the truth is learned, the public will be able to

control the future political career of the collaborator by refusing to vote for him. If the person decides to keep his past secret, he is allowed to resign without any public explanations.

This type of lustration seems therefore to be based on forgiveness and tolerance and on the presupposition that the system, rather than the individual, is to be blamed. The collaborators have sinned for not being strong enough to resist the pressures they were subjected to. But the new regime should give them a second chance.

Instead of dismissal, the Hungarian lustration consisted in the public identification of former communist collaborators. Forgiveness was offered in exchange for transparency. At the same time the possibilities of blackmail or of power abuse have been reduced. The public officials holding the positions specified by the lustration law have been verified regarding their membership in the communist repression apparatus and the Nazi Party. If a court made of three judges found the public official guilty of cooperation, he was required to resign within a given period. The defendant could request a reexamination of his case. In case of refusal to resign, the name is made public by publication in the official gazette.

Lustration as recognition of the past, offers the option of reconciliation between new and old political elites. It also corresponds with the democratic requirement to provide equal opportunities for all citizens, regardless of their past, to start a new life under the new regime.

A big disadvantage of this type of lustration is that it maintains and perpetuates the old social divisions under a new appearance. In 2002 several government members

were proved to be former repression collaborators. The Hungarian model has therefore been criticized as inefficient and burdensome, especially because it is based only on information from the secret archives, which may be incomplete, distorted or difficult to interpret.

Poland

The lustration model adopted in Poland was the result of political negotiations and the inability to punish past crimes through court decisions. Additionally, it illustrated the balance of power between the representatives of the old and new regime in the first stages of post-communist transition.

This lustration was presented as being able to promote national reconciliation and political compromise, by diminishing both the desire to revenge by the victims and the severity of the policies imposed by the authoritarian regime. Similar in objectives with the Truth and Reconciliation Commission from South Africa, the lustration in Poland allowed old elites to keep their positions by publicly acknowledging their past.

Under the 1997 Lustration Law, former collaborators of the Polish Political Police were allowed to hold influential positions in the new regime, if they voluntarily disclosed their past. The public statements were tested and verified by a Lustration Court. Former collaborators had the option to tell the truth (and maintain their position even when they committed serious crimes) or to deny it (and to resign).

One was also given the possibility to resign or to transfer to a position that was not subject to lustration. Both the disclosure of the past and the discovery of a falsehood were made public. Similar with the model used in Hungary, the truth is intended to become public, but the disclosure is made by the verified person, not by the state institutions. The statements were meant to represent a test of loyalty to the new regime and also a proof that the attitude of the person under scrutiny changed. The open recognition of the past marks a change of position and shows that the former collaborator condemns his past. By signing such a statement, he also demonstrates that he deserves a second chance.

In Poland, the former culprits did not have to face their victim to ask for forgiveness, as was the case in South Africa. Statements were verified at the request of a prosecutor and a Lustration Court decided if the statements corresponded to the truth or not.

In his article, “Lustration Systems, Collective Memory and Transformative Perspective of Transitional Justice”, David Roman remarked that in post-communist societies, the public officials were divided in three groups: those who did not collaborate with the Secret Services, those who collaborated and recognized their past and those who choose to conceal their complicity with the system.

In Poland the perception was that the second group demonstrated a change of mentality and earned their right to maintain the functions, while the third group was dismissed and prevented to occupy any positions in the public administration and in the government for the following ten years. The decisions of the Lustration Law could not

be contested. However, the reasons and the consequences of collaboration were not made public and thus public opinion was only to some extent informed about the mechanisms of repression and about the abuses of the communist institutions.

Romania

In Romania, while requests for radical lustration emerged during the 1989 December Revolution, the process was initially delayed and eventually blocked. The model lacked a coherent legal framework and opted against the exclusion of former communist officials from public life.

Despite signs of revolutionary violence in December 1989, the political developments in Romania have revealed the resilience of the ruling elite. The Secret Service which had about 38 000 members and 400 000 informers was officially dissolved in January 1990. In 1992 the files in its archives were declared secret for forty years, preventing any attempt to start a lustration process.

On March 1997, The Romania Parliament proposed a draft “Law on Access of Former Communist Officials and Members of the Totalitarian Regime to Public and Political Positions”. Those who held between March 1945 and December 1989 important positions in the Communist Party, in the executive, in the judiciary, in the Great National Assembly or in the former Office of the Secret Service (Securitate) were denied access for the next 8 years to the main positions in the state apparatus. The communist positions that were targeted meant members of the Central Committee (at the regional, district, and county levels), members of the government, members of the judiciary, officers of the

Securitate and officers of the Army. All these people were not eligible for being Prime Minister, member of government, public prosecutor, president of the court, governor, director of the national Television Company or ambassador. In addition, they were not allowed to run for the Constitutional Court, the Supreme Court, the Superior Council of Magistrates, The Romanian Academy or the Audio-Visual Media National Council.

However, the draft has not been adopted by the Parliament as being inconsistent with Romanian Election Law and violating the Article 16 of Constitution, which states that “all citizens are equal before the law and public authorities, without privilege or discrimination.”

The limited access to the political police archives, the partial disclosure of the collaborationists of the regime and the trials of some leaders, all led to growing public discontent following the failure of the 1997 proposal. In this context, the only compensatory gesture was represented by the Law 187 from December 1999 that allowed the free access of every Romanian citizen to his or her personal secret file. From the beginning, this project was criticized for the ambiguous use of key terms (like Secret Police collaborator) and for the bureaucratic path to the file itself. The institution created to facilitate the access to the file was the The National Council for the Study of Former Securitate's Archives (CNSAS). The specificity in the design of this council was that its members were not only administrators of the files, but those to decide by vote if a person was or was not collaborator with the former Securitate.

Twenty years after the violent events that ended the communist dictatorship of Nicolae Ceausescu, the country has made insignificant progress in acknowledging and

dealing with its communist past. Nonetheless, the Lustration Law and the process of transitional justice have been delayed, despite the fact that Romania experienced one of the toughest versions of communism in the region.

Legislation on Lustration and Secret Service Collaboration

A critical problem faced by countries coming out of repressive regimes was the way in which they confronted or not their convoluted past. Countries like Argentina or South Africa chose the Truth and Reconciliation Commissions, Spain chose the course of reconciliation, while former Yugoslavia proceeded with the investigation and prosecution of crimes.

In Central and Eastern Europe the chosen path was lustration and the opening of secret service files. The following pages will analyze the specific pieces of legislation debated in each country, including the problems related to the screening of high ranked officials and the access to secret service files.

The Czech Republic

Czechoslovakia was the first state to initiate the vetting of candidates elected or appointed to public service. Unofficially, lustration made its appearance even before the first free democratic elections of June 1990. As a measure of precaution, all the parties screened their candidates, even if their names were not mentioned in the files of the

former State Secret Police. However, the candidates whose names were found on the lists with collaborators were not compelled to withdraw from the electoral race.

The peak moment was reached in the fall of 1991 when the Parliament initiated a lustration law. It established that many individuals - from high-ranked party officials to members of the communist Militia - would be excluded from a wide range of positions in the public services area.

Three categories of collaborators have been established:

- those from the first category were former agents, informants or owners of conspirational houses,
- the second category comprised “conscious collaborators” registered as “reliable”,
- the third category was that of simple collaborators.

In February 1992, the Independent Committee for Appeal was created to investigate the allegations of unjust accusation of collaboration with the communist institutions of repression. Previously, the verdicts had been established on the basis of a sometimes superficial examination of the secret police reports and other official documents according to the criteria established by the lustration law. That law was subject to intense controversy. After signing it, even President Havel expressed publicly his profound dissatisfaction with its principles based on the presumption of guilt. In a 1991 interview Havel said:

“Just imagine someone who was importuned all his life by the secret police, and has learned how to take evasive action, to prevaricate and equivocate. At last, he thinks he has just about escaped their clutches, that he has successfully deceived them. After the revolution, this person feels an enormous sense of relief; now he can breathe easily because they, the secret police, can no longer bother him. . . .

And now, suddenly, there is a new fear: he hears how, one after another, people who were marked as secret police collaborators swore they had never been collaborators, that someone had put them on a list without their knowledge, that on the basis of a single meeting in a cafe they were entered on a list of “candidates” for secret collaboration or something worse, just so some cop would get to chalk up the credit.”⁴¹

Indeed, often publicly accused individuals did not even have the right to an appeal under the 1991 lustration law. In some isolated instances they merely benefited from the right to a limited appeal. In addition, the basic principle ruling the law was that of collective guilt, the accused being ones that had to prove their innocence.

Moreover, the European Council and the Helsinki International Committee protested against lustration. The International Labour Organization in Geneva claimed that the law violated Article 111 of its convention: the amendment on discrimination in respect to employment and occupation. The document states: “Each Member for which

⁴¹ “Uncertain Strength: An Interview With Václav Havel”, conducted by Dana Emingerova and Lubos Beniak, translated from the Czech by Paul Wilson, *New York Review of Books*, 15 August 1991, 6-8

this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminate any discrimination in respect thereof.”⁴²

The law was however in practice only for a limited period until the division of Czechoslovakia, specifically less than a year. While in the Czech Republic, a somehow modified version was applied, Slovakia chose to keep the law in a “stand by” mode (it was never applied).

The effects of the law were valid for an initial period of 5 years, but the term was prolonged until 2001, thus rejecting Havel’s objections. He opposed the prolongation on grounds that the law was relevant only in the initial revolutionary phase and that it was time to introduce “the rule of law” which did not tolerate the concept of collective guilt. In the final analysis, it is certain that lustration removed a number of discredited communist officials from Czech Republic’s public life, but the phenomenon did not occur in Slovakia. According to Timothy Garton Ash:

“The Czechoslovak lustration was fully effective in its original form for little more than a year, since Czechoslovakia then broke into two. While the Czech Republic continued with a slightly modified version, Slovakia virtually dropped it.

Yet there is no doubt that the law did keep a number of highly compromised

⁴² International Labour Organisation. Convention 111. *Discrimination in Respect of Employment and Occupation*. Geneva: International Labour Organisation, 1958.

persons out of public life in the Czech lands, while such persons remained to do much damage in Slovakia.”⁴³

Poland

In Poland, where the transition from communism to democracy happened incrementally, the Lustration Law was only adopted in June 1997. According to this law, those that occupy important positions in the public life and in the state media were compelled to sign a statement in which they would show if they had collaborated or not with the political police services between July 22nd 1944-May 10th 1990. Such a statement must have also been filed by those occupying such positions at the date the law came into practice. Exempted from the law were those born after May 10th 1972, who didn't have to fill in such a declaration.

In Poland a special court (entitled The Lustration Court) had the responsibility to verify these statements. The debates were not made public. In the end, a written sentence was issued. The sentence was expected to mention if the lustrated individual collaborated under blackmail or under the fear of losing the life and health of themselves or of their close relatives.

An important aspect of the law was that admitting the collaboration would not have prevented somebody from occupying a public position, but a false statement would have determined the exclusion from public positions for a period of 10 years.

⁴³ Ash, Timothy Garton. “Trials, Purges and History Lessons in History of the Present”, *History of the Present: Essays, Sketches and Despatches from Europe in the 1990s*, Penguin, 2000: 294-314

The law was further analyzed by the Constitutional Court. Its critics claimed that it should have not included military and civil espionage organs on the list of incriminated institutions. Furthermore, based on the law, a person could not be verified (lustrated) upon request, but only if he was accused by another person. Additionally, the person could not have access to his own file⁴⁴ on his initiative and could not demand that the Lustration Court pronounce a sentence concerning his relations with the secret police services.

This first Lustration attempt in Poland took an overall moderate stand, but its terms were modified nine years later by a more radical form of the law. In 2006 a newly elected right wing coalition declared the pressing need of passing a new and broad lustration law.⁴⁵ An important feature of the process was the list of former communists that included not only high-ranked officials, but also middle level bureaucrats and even university professors, journalists, lawyers or board members of important state companies.⁴⁶ The law also certified public access to the secret service archives. Additionally, the Institute of National Remembrance, established by the Polish Parliament in December 1998, was authorized to make public the names of all those who collaborated with the former communist secret services.

Penalties were also established for the first time for those lying or refusing to submit a document disclosing the relationship with the former repressive apparatus.

⁴⁴ The Law of Access to Secret Service Files was only passed on November 1998.

⁴⁵ Safjan, Marek. "Transitional Justice: The Polish Example, the Case of Lustration" *European Journal of Legal Studies*, 2007, 1, 2.

⁴⁶ *Ibid.*, 11

Among such penalties, a severe one was the loss of the right to run or be appointed in a public position for no less than 10 years.

The head of the Institute of National Remembrance, Janusz Kurtyka, emphasized the importance of the new project: “Poland needs this law. The country is still in the process of leaving the communist period behind and tackling the long-term social and political effects of the dictatorship.”⁴⁷

Hungary

If the first lustration law in Poland was based on the confession of the lustrated individuals, the Hungarian lustration law was based on the exposure of compromised state officials. According to Roman David, “Hungary adopted this system under the pretext of human rights for all. The inclusive systems are perceived as human rights friendly, especially in contrast to exclusive models. ‘Naming collaborators’, which resembles ‘naming perpetrators’, and is part of truth commission practice, is considered a fairer option to outright dismissals.”⁴⁸

Citizens were informed about the truth of the past, yet a second chance (rather than elimination from public life) was offered to the lustrated individuals. This way, the state and its leaders were protected from blackmail, while the truth was still established.

⁴⁷ Komorowsky, Cezar, “Poland’s new “lustration” law - a profound attack on democratic rights” on <http://www.wsws.org/articles/2007/apr2007/pol-a18.shtml>

⁴⁸ David, Roman. “From Prague to Baghdad: Lustration Systems and their Political Effects”, *Government and Opposition*, Vol. 41, No. 3, 2006, pp. 358

According to the Hungarian lustration law of 1994, the officials in high-ranked positions were subject to verification by two or several committees each composed of three judges. If the result was a positive one, and the verified person would not resign from his position, the committee will make the decision public in the Hungarian Official Gazette and through the Hungarian Press Agency.

As a consequence, the danger of losing a position was not as big as in Germany or Czechoslovakia. An interesting example was offered by the former Hungarian Prime Minister, Gyula Horn. He admitted that he was correctly evaluated as a collaborator in terms of the law as he was part of the repressive formations that suppressed the revolution of 1956. In December 1956, he joined the "pufajkás" brigades, a communist paramilitary body set up to help the invading Soviet troops restore the communist regime, and he served there until June 1957.

Afterwards, as minister of Foreign Affairs, he managed information gathered by the secret services, activity that was later incriminated by the lustration law. Nonetheless, he refused to resign from the Prime Minister position and he remained in office from 1994–1998. His official position was that the subject of collaboration with former communist authorities is closed as far as he is concerned. When he was questioned and criticized over that part of his life, he only said: "I was a pufajkás. So what?"

It is also important to note that the Hungarian law (similarly to the Polish one) reduced the number of lustrated individuals and this element was particularly important for their consequences. According to Roman David: "as a result of the scandals that

erupted in 2002 after government officials were found to be former clandestine collaborators, the Hungarian model was criticized as toothless and ineffective.”⁴⁹

Romania

In Romania, the first lustration initiative was the Proclamation of Timisoara from March 1990. Drawn up in radical terms, the 8th point of the document stipulated the interdiction of former members of the nomenklatura to participate in the political life. The initiative was not successful, as the elections of May 1990 proved. In these first free elections after the fall of the Communist regime Ion Iliescu (a former communist official) was elected President with 85.1% of the votes, while his party (the National Salvation Front) won 263 of the 395 seats in the Chamber of Deputies and 91 of the 118 seats in the Senate.⁵⁰

A few years later, the author of Timisoara’s Proclamation point 8, George Serban, elected in the Romanian Parliament in November 1996, tried to bring back the idea by initiating a lustration law. He faced the opposition of almost all political actors, the result was a failure and Serban’s death represented the demise of this initiative.

Introduced in the discussion of the Parliament in 1997 and subjected to numerous amendments, another legislative initiative, that of Senator Constantin Ticu Dumitrescu, was going to become the Law number 187 from December 9th 1999 concerning the Access to One’s Own File and the Disclosure of Romanian Secret Police (Securitate) as

⁴⁹ Ibid., 359

⁵⁰ Nohlen, Dieter and Stöver, Philip. *Elections in Europe: A Data Handbook*, Nomos, 2010. p 1591

political police. In order to implement the provisions of the law a new institution was founded, namely the National Council for the Study of the Former Secret Police Archives. Its activity was supervised by a College comprising 11 members and representing all political parties.

According to article 3 of the law, anyone aspiring to be elected or appointed to one of the public positions listed under article 2 was compelled to give an authentic statement on his own liability and according to the penal code, concerning the participation or non-participation as an agent or collaborator to the former Securitate (Secret Police) as political police.

Although the College members had verified past and current members of the Parliament, the vast majority of those discovered as collaborators of the former Secret Police did not resign nor have they been removed from office. The only sanction they potentially faced was that of being sued for false statements.

The mission assumed by the members of the College was considered a difficult one because of the obligation to give decisive “black or white” verdicts that were subsequently made public. Additionally, among the greatest challenges in implementing the law one can notice the partial or total destruction of many of the compromising files in the early years of the transition period.

Other Cases

East Germany and Bulgaria are not cases treated systematically in this study for reasons of time constraint. Nevertheless, they deserve a brief discussion. East Germany

was the only other country in the region that addressed the problem as early and as unambiguous as the Czech Republic. After the reunification, Germany devoted more time to the problem and treated it with greater attention. The law concerning the secret documents from the former German Democratic Republic (GDR) was passed on December 20th 1991 and allowed public or private institutions to require the verification of the employees starting with the persons occupying high-ranked positions and down to simple clerks. As an exception, the exercise of this entitlement was banned in the case that the investigated person was under 18 years old at the date when they have supposedly committed the deeds. Also, there was a time frame of 15 years from the promulgation of the law in which the investigation of the cases of collaboration with the Stasi were allowed (this meant investigations would stop by 2006).

Germany also established a special federal office called the Office of Federal Commissioner for the Stasi Archives of the former GDR (officially abbreviated BStU). This office was founded in 1990 by members of the civic and human rights movements in order to keep the Stasi archives in the former German Democratic Republic. A federal commissioner elected by the Bundestag (German Parliament) was leading the institution. From 1990 to 2000 the position was occupied by Joachim Gauck (the current President of Germany, since 18 March 2012) and therefore the office was often referred to as the Gauck office.

The process of examination would start when the institution for which the person whose activity was investigated received from the Gauck Authority a summary of the evidence from the employee's Stasi file. Then the fact of having benefited from

leadership positions in the state or party apparatus of the former GDR was not followed by any concrete consequences. Not even the proven collaboration with the Stasi would represent a sufficient reason for the removal from office. Additionally, the employee could file for appeal at the Labour Court.

Even in the field of public services, two thirds of those holding a negative vote from the investigation committee kept their jobs. According to the April 1997 declaration of the German Minister of Interior: “of the 4342 public servants with decisions of explicit collaboration with the Stasi, only 1300 have been discharged (most of from the Minister of Interior).”

In the final analysis, the work method raised questions of impartiality, due to the fact that the assessment criteria and the subsequent decisions were dubitable. These facts led to the existence of some cases of extreme harshness or, on the contrary of excessive leniency.

In Bulgaria, even though the Union of Democratic Forces (a coalition of anti-communist parties) advocated broad public access to the files of the secret police and their use in screening, a January 1993 penal code closed the files on national security grounds and imposed penalties for dissemination of information from the files.

After rejecting two screening laws adopted by the parliament as anti-constitutional, on February 19, 1993, the Constitutional court upheld a third purge law: “The Law on the Temporary Introduction of Additional Requirements for Members of the Executive Bodies of the Scientific Organizations and of the Higher Certifying Commission” (commonly referred to the Panev Law). Article 3 of the law stated that

positions in the executives bodies of scientific organizations can only be held by people who can show that they have not been member of the Political Bureau or of the Central committee of the former Bulgarian Communist Party, did not hold positions which are directly accountable to the Communist Party, have not been on the staff or voluntary collaborators of the State Security, have not been on the teaching and research staff of the Academy for Social Sciences, have not taught history of communism or Marxist philosophy. The Law required all persons working in the executive bodies of scientific organizations to provide written statements regarding their prior employment and party activities. The refusal to provide such a statement was regarded as an admission that the person does not meet the requirements.

Thus the law concerning the collaboration with the former State Safety left the appearance to have solved the matters rapidly. The verification of individuals holding important positions in the state apparatus was made by a committee whose president was the Minister of Interior. He had to present to the Parliament the results of the verifications. The disclosure would include the name from the identification card, the position occupied at the time of the verification, the quality of the person in relation with the former State Safety and the division in which the person activated, as well as the period of activity.

Although the list with the names of the collaborators was released to the public, it did not lead up to any resignation or dismissal of a high official. The model adapted was comprehensive, but did not have tangible results.

Legislation on Secret Service Files Access

In Central and Eastern Europe, Lustration Laws represented the response to the dilemma of how to deal with officials that collaborated with the communist repressive apparatus. These laws generally rely on information contained in secret police files and therefore the legislation that granted access to the Secret Service Archives was of equal importance.

Historical research played an extremely important part in bringing to light the image of repressive regimes, their manner of functioning and their mechanisms of building legal support. Used carelessly, the archives of the Eastern European states that had functioned for 45 years under organized lies and manipulation, may have ruined lives. The data gathered through Secret Service surveillance tested the critical ability of the historians. An objective approach was needed that required the observer to be fair, open-minded, even-handed, dispassionate and neutral.

In the following pages, case studies have been screened based on the following criteria:

- a. the opening of Secret Service Archives to the public,
- b. the transparency of the process and
- c. the precedence given to the scientific study of the data.

The Czech Republic

In the Czech Republic, the institution designated to conduct access to the communist archives was the Ministry of Interior. Its mission was to communicate the following at the request of a citizen of the Czech Republic, Slovakia or of the former Czechoslovakia:

a) if in the database of files drawn up through the activity of the former State Security the person is recorded with a personal file and if that file with personal data is yet preserved;

b) in case the file still existed, hand a copy of the report to the surveyed individual (article 1 of the Law Concerning the Access to the Files drawn up through the Activity of the Former State Security).

If the person in question was dead, the first degree relatives would have access to his file, excluding the case in which the deceased person has indicated otherwise.

The law of access to personal files was enacted in the Czech Republic in 1995, but it did not have a major impact because the lustration law was already in practice. According to many, “the files law” served only to satisfy the curiosity of individuals targeted by the former Secret Police. The number of demands has not been very big because the problem was no longer an acute one.

Hungary

Among the petitioners asking for access to their own file, there were simple people, as well as former dissidents or former political prisoners. They all wanted to find out from examining the files the manner in which the repressive institutions interfered in the most private aspects of life. The surveillance has often influenced the trajectory of their life and was behind their professional discrimination. As stated before, another important aspect was represented by the victims' right to know the real identity of those who offered information about them. Consequently, they also wanted to know how will the perpetrators be held to account.

The Hungarian law recognized the right of every citizen to access their own personal data recorded (paragraph 25). The regulations asserted the right to informational self-determination. Thus, an unusual amendment offered to every individual the right to correct the information contained in the personal file by attaching to the document a note with the accurate information, without modifying however the initial document. Moreover, he could even demand the removal of his personal data (with the exception of personal data comprised in documents that are considered of national interest (section 25)).

Regarding the historical research, the Hungarian law assigned to a special department of history the task of ensuring the accuracy of research and the publication of archive documents (paragraph 25). Concerning the use of personal data, Hungary followed the example of Germany.

Romania

Sooner or later, the other countries in the region tried to follow Germany, the country that led the way in opening to the public the files of the secret police. Paragraphs from the German law was adopted under different forms.

In Romania, the text emphasized that: “Any Romanian citizen and any foreign citizen who acquired Romanian citizenship after 1945 has the right to access its personal file drawn up by the former Secret Police. This right will be exercised upon request and will consist of the direct study of the file and of the release of official copies and other documents providing evidence about the contents of the file.”

The Law 187 from 1999 and the Organization and Functioning Regulations of the National Council for the Study of Securitate Archives followed the German example. Thus, article 33, paragraphs 2 and 3 from the regulations allow the access of researchers to the files and to the documents concerning the individuals that have played a part in the history of the country, starting with 1945. In order to ensure the protection of the privacy, this was done exclusively for documents concerning “agents and collaborators of the organs of the secret police as political police.”

Other Cases

Germany under the Gauck Administration led the way in opening to the public the files of the secret police. They did this not only to allow the investigation of past offenses and the purification of the new political system, but also to allow potential victims or collaborators to access their own file. Thus, the ultimate decision lies with each individual that could decide to read or not his file.

The paragraph 1 of third section from the German law read: “Every person has the right to demand clarifications from the Federal Committee if the documents that became publicly accessible contained information regarding their past. In that case, the person had the right to research the relevant documents.” The solution adopted made Timothy Garton Ash conclude that “what united Germany in this regard since 1990 has been exemplary: the parliamentary commission, the open archives, the unique opportunity for a very personal history lesson given by access to the Stasi files.”⁵¹

As expected, Germany was also more systematic in terms of opening the archives for research. An entire chapter of the law has been dedicated entirely to the use of the Stasi documents in the media and with the purpose of conducting political and historical research.

The publication and the scientific study of documents that did not contain information about individuals were allowed. Otherwise, the documents had to become anonymous or the authorization of the person in question must have been obtained.

⁵¹ Ash, Timothy Garton. “Trials, Purges and History Lessons in History of the Present”, *History of the Present: Essays, Sketches and Despatches from Europe in the 1990s*, Penguin, 2000: 294-314

Exempted from this provision were the Stasi collaborators (to the extent to which the document doesn't deal with activities undertaken before the age of 18) as well as important contemporary leaders, holders of high ranked political positions or public administration officials, in the exercise of their function (to the extent to which the relevant documents would not refer to or affect third parties).

Another important aspect was represented by the victims' right to know the real identity of those who had provided information about them.

In Germany this right was only limited if the denouncer or the Stasi collaborator was under 18 years old at the time of the action undertaken against the affected person.

In Bulgaria, any citizen had the right to demand, through a written request addressed to the Minister of Interior, clarifications about the fact that the former State Security gathered information about him.

However, the Bulgarian law guaranteed the anonymity of the active collaborators currently enrolled in the security services (article 12). Private life was protected by law and the security of the third parties was also ensured by making the copies anonymous.

The 9th article of the Bulgarian law acknowledged that any person has the right to demand secrecy concerning entire documents (or parts of them) if the documents represent personal or family secrets. The request should take the form of a written demand sent to the Ministry of the Interior. According to the same 9th article the secrecy can be maintained for a limited period of time, no more than 100 years from the individual's date of birth. In case the incriminated individual was dead, the first degree relatives had the same right to ask for a period of maintaining the secret. According to the

9th article, the secret could be kept for no more than 25 years after the death of the incriminated individual. Finally, Bulgaria (as well as The Czech Republic) makes no reference to the research activity of communist era in similar laws.

Conclusions

The examination of the files revealed many uncomfortable aspects, such as betrayals committed by friends, relatives or even life partners, but also instances of civil bravery from people who did not hesitate to resist even in face of threats and retaliations.

In the final analysis, the archives of the repression are extremely important for the study of the communist past, but the witnesses of those times must not be left behind, because their absence might negatively impact the historical understanding. Quite often unfortunately, we see that some witnesses die, others forget or change their memories, and the biggest horrors remain insufficiently documented in the archives.

In an attempt to investigate the legacies of the communist period, in most of countries in the region, parliamentary inquiry committees have been founded in the early 90s. However, as the results indicate, they tended to focus the attention on few rather major events (such as the Hungarian Revolution of 1956 or the Prague Spring of 1968 in Czechoslovakia). Their final reports served merely documentary purposes and they have been rarely accompanied by historical verdicts.

If that was perceived as a priority in the early phases of the transition period, more recently the economic hardships faced by region tended to transfer the center interest from the moral reconstruction of the society towards the recovery and transformation of its economic structures. This might be one of the reasons for which the young generation seems to lose interest in the times in which their parents lived.

This is why, the few institutions designated as guardians of the archives or judges of collaboration status, need to take their role further by advocating a systematic appeal to memory. The alternative would gradually leave more space for a “memory of oblivion.” As the Romanian writer, Octavian Paler once said: “We forget that the past is linked not only to archives -that it is not limited to what was- but that it continues to live. The past walks through the streets. Ghosts talk to us, and sometimes we see them on television. Now and then we are our own ghosts without even knowing it.”

Chapter 4

The Romanian Lustration

My research project attempts to identify the missing pieces in the puzzle of why some post-communist countries strongly confronted their past, while others rejected initiatives to face the recent repressive history. For this, I attempt to put together an in-depth analysis of the understudied case of Romania. My goal is to explain the lack of an unambiguous lustration process by focusing simultaneously on three temporal dimensions: the communist rule, the moment of regime change and the subsequent phase of transition.

The Communist Department of State Security

Officially established in August 1948, the Romanian Communist Secret Service (commonly known as the Securitate) was disbanded in December 1989, during the Revolution that ended the regime of Nicolae Ceausescu. Throughout its 41 years of activity, the institution aimed primarily at eradicating any opposition movement and maintaining the Communist Party in office. The Securitate was one of the most cruel secret police forces in the world, responsible for the arrests, torture and deaths of hundreds of thousands of victims. As Vladimir Tismăneanu wrote, “to understand the

origins and role of the Securitate is essential in any political analysis of Romanian communism.”⁵²

The Securitate played the leading role in the human rights abuses of the communist regime. It carried out, organized and implemented the repression. During the first years of authoritarian rule, from 1945 to 1965, all party opponents were imprisoned or sent to labor camps, where they were subject to an extermination regime of hunger, exhaustion and humiliation. Arrests were typically made for political reasons: plotting, propaganda against the regime or conspiracy against the social order .

On March 19th 1965, the death of Gheorghe Gheorghiu-Dej, the first communist leader of Romania, prompted Nicolae Ceausescu to the leadership of the party. On March 23rd 1965 his appointment to the position of first secretary of the Romanian Workers' Party was announced. From this point on, Ceausescu aimed to become recognized before the other communists holding key positions as the sole new head of government. In order to succeed, he promoted a new type of leadership.⁵³

While his predecessor consolidated his position through an authoritarian rule, Ceausescu looked tolerant, open to dialogue and willing to share his power. In the beginning, he distanced himself from the crimes committed by the Ministry of Interior and the Securitate against party members in the Gheorghiu-Dej period. This position provided him with alleged reasons to redefine the relations between the party and the

⁵² Tismaneanu, Vladimir. *Stalinism for All Seasons: A Political History of Romanian Communism*. Berkeley: University of California Press, 2003: 20

⁵³ Granville, Johanna. "Dej-a-Vu: Early Roots of Romania's Independence," *East European Quarterly*, vol. XLII, no. 4 (Winter 2008): 365-404.

Secret Police, institutions of critical importance. Through the exploitation of concepts such as collective work and legality repeated consistently in all party documents of that time, and through institutional changes that he promoted, Ceausescu soon managed to obtain absolute control, although he did so in other ways than Dej had done.

During the August 1968 invasion of Czechoslovakia by the Warsaw Pact armies, Ceausescu decided not to intervene. Romania did not send troops to support the Soviet Army, therefore disrespecting Moscow's direct orders. Next, during the Sino-Soviet split (the worsening of political relations between China and the USSR) Ceausescu favored China and visited it in 1971. He took great interest in the idea of total national transformation as embodied in the programs of China's Cultural Revolution. His open support to China led to harsh criticism from Soviet Union. Ceausescu's Romania was also the only Communist country that kept diplomatic relations with Israel after the launch of the Six-Day War in 1967, another mark of independence from Soviet dominance.

The position adopted in international relations and in particular, the decision of non-interference in Czechoslovakia, managed to expand Ceausescu's popularity domestically and outside Romania's borders. Consequently, for a short period of time, Romania underwent a period of relaxation that managed to mislead many people.

“Throughout the late 1960s and early 1970s, Ceausescu's nationalist stance endeared him to the West. Seen as a maverick within the Soviet camp, Ceausescu became the darling of Western governments. But Ceausescu never threatened to dislodge Romania from the Soviet bloc (...) This meant that, Romania's brand of communism was closer than what might be called “national Stalinism” – a skillful

blend of centrally planned economy, the ideology of national uniqueness and the cult of a supreme leader.”⁵⁴

As the years passed, however, Ceausescu modified his position and became more drastic in his aspiration to surpress any dissidence to his authority. A first important moment in this chronology is the 9th Congress of the Romanian Communist Party (RCP) that took place in July 1965. Then, Ceausescu stated for the first time the principle “of collective work and leadership”. It was the first gesture of detachment from the previous regime. In the Congress’ resolution, it was established that the party apparatus should establish its entire activity on the principle of collective work and leadership.⁵⁵ The ultimate goal of the government was now the process of changing all means of work and ownership to collective endeavors. It further mentioned that any breach of this principle would lead to the isolation of the party member from the group they belong to.⁵⁶ Additionally, it stated that a party member could occupy only a single position of political leadership, which required a full-time occupation, either in the party organizations or in the state institutions. This measure allowed Ceausescu to make some important changes in the state and party leadership, his first victim being one of his objectors and rivals, Alexandru Draghici. Draghici was discharged from his positions of vice-president of the

⁵⁴ Wolchik, Sharon L. and Jane L. Curry. *Central and East European Politics: From Communism to Democracy*. Rowman & Littlefield Publishers: 2010, p. 315

⁵⁵ Partidul Comunist Român. Comitetul Central. *Raportul Comitetului Central al Partidului Comunist Român cu privire la activitatea partidului în perioada dintre Congresul al VIII-lea și Congresul al IX-lea al P.C.R.: 19 iulie 1965*. București : Editura Politică, 1965, p. 78

⁵⁶ Matachita, Mihaela. “Toamna fierbinte a Congresului al XIV-lea” (eng. “The Torrid Fall of the 9th Congress”). *Jurnalul National*: November 2009

Council of Ministries and Minister of Internal Affairs, keeping only the position of secretary of the Central Committee of the Romanian Communist Party.

However, the above mentioned principles would not last very long. In December 1967 Nicolae Ceausescu was appointed, besides his position of general secretary of the Romanian Communist Party's Central Committee, the president of the State Council, a position held up to that date by Chivu Stoica, one of Dej's former intimates.⁵⁷ This was a significant step in acquiring full control over the country's government.

The gradual detachment from the Dej regime started during this congress and was initially achieved only at a symbolic level. The Romanian Workers' Party became the Romanian Communist Party, and the position of party first secretary was replaced with that of general secretary of RCP's Central Committee. The New Constitution adopted in august 1965, proclaimed the Romanian Socialist Republic instead of the Romanian Popular Republic. Furthermore, in November 1965 under the pretext of establishing the truth in the cases of Lucretiu Patrascanu and Stefan Foris, on the basis of the decision of the Secretariate of RCP's Central Committee, an investigation commission was founded. During the leadership of Gheorghiu-Dej, the two former high-ranked communist officials had been condemned and ultimately executed for disagreeing with Stalinist principles.⁵⁸ In reality, this commission had to provide Ceausescu with the arguments for the removal

⁵⁷ The Biographies of Nomenklatura Members by Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile published at http://www.iiccr.ro/ro/biografiile_nomenklaturii/#Stoica Chivu accessed December 1st 2012

⁵⁸ Campeanu, Pavel. "Cazul Patrascanu" (eng. "The Patrascanu Case"). *Observatorul Cultural* 37, November 2000

of this rival, Draghici from the leadership positions within the party and ensure his ultimate triumph over Dej's faithful collaborators.

Two years after the 9th Congress, Nicolae Ceausescu started a series of attacks concerning the abuses and illegalities committed by the Ministry of Interior under the leadership of Alexandru Draghici, by summoning a plenary meeting of the Communist Party's Central Committee on June 26th 1967, during which he brought the first direct accusations against Draghici. The moment represented also a landmark decision in redefining the relations between the party and the Secret Police.

The report presented in the plenary meeting brought to the foreground the Secret Police and the discussion of its position in relation to the party. The document acknowledged the achievements of the Secret Police in suppressing opposition to the communist regime. But, it went on to state that, during the last years, the state and party leadership had become increasingly concerned with the activity of the Ministry of Interior. They therefore decided to increase the party's control over this institution.

Nicolae Ceausescu condemned some actions of the Ministry of the Interior and of the Secret Police, especially referring to the abuses committed by these institutions when dealing with party members. However, he did not support a decrease of their role, recommending "an increase in vigilance and severe hatred for those that are plotting against the state".⁵⁹

⁵⁹ Partidul Comunist Român. Comitetul Central. *Raportul Comitetului Central al Partidului Comunist Român cu privire la activitatea partidului în perioada dintre Congresul al VIII-lea și Congresul al IX-lea al P.C.R.: 19 iulie 1965*. București : Editura Politică, 1965, p. 79

This was illustrated in the criticism of the 1964 amnesty decree for political prisoners: “We must say that the release from prison in 1964 of the counter-revolutionary elements, of which many were legionary fanatics⁶⁰, created a certain confusion. They have been released without the adequate measures to monitor them by the Police. Moreover the measures taken have not been the result of a solid collective analysis within the party’s leadership.”⁶¹

Thus, Ceausescu clearly indicated that the tolerance for the party members shouldn’t be expanded to the opponents of the regime. The workers of the Ministry of Interior were asked to operate by directing their attention to the citizens that plan hostile actions and that bring prejudice to the state security and the national economy.

Next, the report closely explored the abuses of the Dej administration. Thus, the report stated:

“During these years, there have been some exaggerations and abuses, breaches of legality. Some citizens without having committed any crimes, have been labeled as hostile elements, arrested, investigated with illegal means and convicted. Such means have been used even against activists and party members -some of them with a long-term activity in the movement- thus creating an abnormal situation of intervention of the state institutions in the internal matters of the party. All these facts have fed tendencies of superposition and elusion from the party’s control –

⁶⁰ The Legionary Movement was the name of the far-right, fascist and anti-communist movement in Romania in the period from 1927 till the beginning of World War II.

⁶¹ Ibid., 82

were negatively reflected in the activity and the reputation of the Political Police”.⁶²

The idea of the Secret Police accountability to the Communist Party was reemphasized. The opinion that the Secret Police was a mere instrument of the party was not new. It has been acknowledged several times in the past. However, now Ceausescu demanded the adoption of an unambiguous decision that would establish precise hierarchical relations between the Secret Police workers and the party activists. In response to the accusations brought against the Ministry of Interior, Alexandru Draghici attempted to exculpate himself. In his speech, Draghici placed the entire blame for the former abuses and for the position of insubordination towards the Party on the Soviet advisers that had in fact coordinated the activity of the institution.

Nicolae Ceausescu drew the conclusion of the meeting. In his vision, the Secret Police was an institution subordinated to the party, which must act only on its command. The party's leadership was placed above that of the security apparatus and they could take decisions inaccessible to the Secret Police:

“We must make sure that the workers of the Secret Police serve the party, serve the government, execute and fulfill the duties they receive from the party and we should not make them solve different matters that appear within the party. When we let the workers of the Secret Police solve the problems within the party, we

⁶² Ibid., 90

chose the path to the dissolution of the party, of its political influence, of its leadership role. And the events that occurred in other countries prove it.”⁶³

According to Ceausescu, the importance of control over the Secret Police had been illustrated by the events which were taking place in the Middle East, where Israel had obtained a quick victory against the coalition of the Arab states, due to a well organized intelligence service.

The historic meeting decided to modify the organizational structure of the Ministry of Interior by establishing within the ministry the Department of State Security managed by the Council of State Security, an organ subordinated to the party. The Department of State Security was going to coordinate, monitor and guide the entire activity of the Secret Police in order to guarantee the prevention, exposure and eradication of any actions against the state security. The Council of State Security was subordinated to the Ministry of Interior and was accountable to the state and party leadership for the entire activity undertaken by the Securitate. This organization of the Ministry of Interior was maintained until April 4th 1968 when the Decree no. 295 was adopted.

The Decree no. 295 from 1968⁶⁴ reorganized the Romanian Communist Secret Services by placing it under the strict control of the Communist Party. According to the

⁶³ Ibid., p. 90

⁶⁴ Consiliul de Stat al Republicii Socialiste România. *Decret nr. 295/1968 privind înființarea, organizarea și funcționarea Consiliului Securității Statului*. Bucharest: Buletinul Oficial al Republicii Socialiste România, 1968. http://www.cnsas.ro/documente/istoria_sec/documente_securitate/organizare_interna/1968%20Decret.pdf (accessed December 10, 2012).

new piece of legislation, the Department of State Security disappeared, and the Council of State Security was organized as a central body of state administration. Its major task was the implementation of state and party policy in the field of the defense of the state's security. According to article 2, the Council of State Security was to be led by the Central Committee of Romanian Communist Party and the Council of Ministries. Additionally, article 3 stipulated that: "In the fulfillment of its tasks, the Council of State Security collaborates with the ministries, the state administration and relies on the support of the citizens and the working class".⁶⁵

The relations of the new institution with the party were further regulated through the Decision 119 of the Executive Committee of the Central Committee of the Romanian Communist Party from March 16th 1968. The decision reasserted the consolidation of the party's control over the activity of the Secret Police and of the Militia.⁶⁶

Anticipated by previous debates, the decision confirmed the subordination of the Political Police to the party. Thus, the party's county and city committees were going to control and guide the entire activity "of the Political Police and Militia for the fulfillment of the tasks and duties established for them by the state and party decisions."⁶⁷ The activity of the Secret Police was constantly monitored by the party that was authorized to receive periodical reports from all units of the intelligence agency. Thus, article 3 asserted: "the heads of the Militia and Political Police were compelled to systematically

⁶⁵ Ibid., 2

⁶⁶ Militia was the official name of the civilian police in communist Romania.

⁶⁷ Ibid., 2

inform the first secretaries and the secretariats of the party's county and city committees on their entire activity".⁶⁸

The decision made a clear distinction between ordinary party members and those who were part of the state and party nomenklatura. The latter had a certain degree of immunity in front of the Political Police, their prosecution being possible only with the approval of a superior committee of the party. Only this committee could decide, on the basis of an in-depth analysis, if these persons could be prosecuted or held accountable for their actions. The simple party members as well as those who did not hold positions in the higher echelons of the Communist Party or of the Political Police were in a different situation. They could be prosecuted without restrictions. The Political Police had only the obligation to inform the party organizations of which the persons were members.

Another important aspect referred to the activity of party members as informers of the Political Police. "In order to uphold the work of Political Police and Militia, the secretaries of the party's county and city committees will decide when party members will have to provide information concerning suspect activities and will have to help as residents or hosts of conspiracy houses."⁶⁹ The activity of the party members receiving such tasks would not be the subject of any files or documents concerning their collaboration with the Political Police. Furthermore, they were obliged to support the activity of the Political Police only during the period necessary for the conclusion of that specific action. The secretaries of the party's county and city committees would have the

⁶⁸ Ibid., 2

⁶⁹ Ibid., 3

responsability to discuss in person with those party members asked to collaborate with the Political Police. This was instrumental for explaining them the importance of the tasks they had to fulfill, and the obligation to keep the strictest secrecy on the actions in which they were involved and on the methods used by the Political Police and Militia.

It is not difficult to estimate the consequences of this decision for the period that followed. The document opened the way for the party's direct implication in the activity of the Political Police, the close knowledge of the methods used by this institution and the coordination of its actions by the leaders of the party. Unfortunately, the decision to not create informer's files makes it impossible for researchers today to find out the number of party members involved in the actions of the Political Police. Through this landmark piece of legislation, Ceausescu managed to create a very effective control system using the joint power of the Communist Party and the Political Police. These decisions deeply influenced the atmosphere of terror (that reached its peak in the 1980's) in Ceausescu's Romania.

In the following years, Ceausescu managed to fully consolidate his position. This was demonstrated by the exclusion of his former opponent Alexandru Draghici, by the modest positions occupied by Dej's former collaborators and by the fact that all the high-ranked officials praised the changes determined by the 9th Congress, considering it a landmark moment in the history of the Securitate .

In May 1968 several meetings of the Council of State Security took place, followed by debates held in all County Inspectorates of the Political Police. During these meetings, the participants revealed other abuses committed in the Ministry of Interior

during the previous administration and ended up condemning the activity of Alexandru Draghici. In the end, telegrams were sent to the party leadership and to Nicolae Ceausescu personally, in which the Political Police expressed its entire endorsement of the policies of the Romanian Communist Party.

Nevertheless, the statement of the State Security Council president regarding the removal from office of implicated Political Police workers -following the abuses committed- lacked any consequence. On the contrary, during the the celebration of the 20 anniversary of the establishment of the Political Police, 1094 workers were decorated with different orders and medals, 681 workers were rewarded with in-kind benefits and 276 officers and sub-officers were promoted. All this proves that the purpose of the reform was simply to remove an opponent (namely Alexandru Draghici) and to obtain full authority over the intelligence units.

The atmosphere among the employees of the Political Police changed soon after the 1968 meetings. Used to fulfilling orders without questioning them, the Political Police workers were now required to thoroughly analyze an order before executing it. More importantly, they were held accountable for their work before the party committee. The decisions had however also the role to confuse the officers of the Political Police, as they were unable to clearly understand what was referred as “abuses” in the new policy. In an attempt to adress this uncertainty, the party tried to clarify that no attenuation of the Political Police activities was intended. In order to fulfill the tasks recently established, a massive mobilization was required. The party guidelines drew attention to the fact that

difficulties were encountered in mobilizing certain employees that under the pretence of not making a mistake avoided any responsibility.

Five years later, a new scandal would prove the fact that, despite the attempted 1968 “reforms”, the Secret Police could not give up the work style imposed initially by the soviet advisers. On the morning of March 14th 1973, Nicolae Ceausescu’s personal general practitioner, dr. Schachter, committed suicide. In the meeting of the Central Committee organized the same day, Ceausescu explained his suicide by a depression caused by the pressures he was subjected to by the Secret Police, in its attempt to transform him into an informer. Moreover, Ceausescu stated that he entered into the possession of his personal Secret Police file, which dealt mainly with his state of health, but also other issues. The documents contained names, information about the medical treatment, discussions among physicians and even the account of a visit made by a French professor. The file was created in 1948 and recorded information up to 1973. Because the recent directives were therefore disrespected and a high-ranked communist official was placed under surveillance, the president of the State Security Council was removed from office.

In the end, it was reemphasized that it is forbidden to ask for references about party leaders, concerning their state of health or other matters. No authorization was given for an archive with written informative notes about the Central Committee members. Although during the meeting Ceausescu seemed disappointed with the Political Police employees, in the end he underlined that the Political Police apparatus should not suffer from the mistakes committed by one unit. He asserted that he was only disturbed

by the discovery that he was under surveillance and not by the entire activity of the Political Police.

Furthermore, it is important to examine a report drawn up by the Political Police, following the meeting of April 1968. It reveals the wide amplitude of Securitate's actions in the pursuit of eliminating all potential and proven opponents of the regime. All citizens with a background in politics and all those with any kind of relations with the West were regarded as a danger to the state's security. Thus, by 1965, 7 million citizens, representing over one third of the country's population, were under surveillance, as proved by the general records of the State Security. If this figure was related to the number of adult people, it would result that over half of the Romanian citizens were watched by the Political Police. In order to achieve an effective apparatus of such amplitude, the Political Police has put together for years in a row an enormous network of informers in which, in one way or another, approximately half a million citizens were involved. Moreover, the figure did not include the informative network of the Militia in which hundreds of thousands of persons were also involved as collaborators.

To sum up, Nicolae Ceausescu managed through consistent legislative revisions to obtain the control over all the power structures of communist Romania, setting the basis for his personal dictatorship. Within the party, his authority was unquestionable. His rapid rise to power was possible due to an attitude of absolute obedience to the leader, attitude inherited from the Stalinist period.

Assuming the prerogatives of a leader, he insisted upon clearly redefining the relations between the Communist Party and the Political Police. Through several

legislative revisions, he finally obtained the subordination of all intelligence agencies. Throughout the process, Ceausescu did not aim to change the objective of the Political Police that remained, just as in the past, the struggle against the opponents of the regime. He just wanted to ensure that the party and the Political Police combine their actions and strategies for the consolidation of the communist regime. Moreover, in the 1980s the Securitate conceived a program of mass indoctrination and manipulation, through the creation of conflicts between the different segments of the population, through public humiliation, severe censorship or the repression of all dissident voices.

Ceausescu's tactics of delimitation from the past did not represent new ideas in the communist block. It is however surprising how easy he succeeded -through manipulation and censorship- to become a totalitarian ruler, while maintaining the counterfeit image of an open-minded and pro-Western leader.

In his first years of rule (1965-1970), one identifies the first indications of the expansion of his personality cult, one of the landmark characteristics of "Ceausescu era". Nicolae Ceausescu's speeches are quoted and praised by his colleagues, his proposals are accepted unanimously. The IXth Congress that had consecrated him at the leadership of the party is presented as a remarkable historical event.

In the decisions taken during these decisive years one can identify the causes of the gloomy realities that marked the Romanian version of communism. The traces of human rights violations and the extreme violations of the private sphere of individuals could not be easily removed and they persist to this day in the mindset of people who lived during that time.

The Romanian Revolution. Creating a New Political Discourse.

The emancipation of the satellite states from Eastern and Central Europe from the authority of the Union of Soviet Socialist Republics has often been described as a series of revolutions. However, with the exception of Romania no real fighting occurred. Transitions were marked by round-table discussions, mass demonstrations and clashes with the police. By the end of 1989, Poland, Hungary, Czechoslovakia, East Germany and Bulgaria witnessed the decisive transfer of power. In this context, the Romanian dictator Nicolae Ceausescu obstructed any development towards reform and proclaimed himself the last defender of communism.

It would take a more forceful course of events to bring his regime to an end. The uprising that started in the western city of Timisoara and continued from the 21st of December 1989 in Bucharest was a violent one. According to the official sources, during the street fights, 1104 people were killed and 3552 were wounded. As Samuel Huntington highlighted, a good indication of the nature of decommunization policies is the authoritarian regime's "mode of exit". In December 1989, while the Romanian Revolution was unfolding, other Central and Eastern European nations were peacefully making the transition to a multi party democracy. The increasingly violent riots culminated in a summary trial and the execution of Nicolae Ceausescu and his wife Elena.

During the last years of communism, the public television was subject to strict censorship in Romania and its program was mainly devoted to the personality cults of

Nicolae and Elena Ceausescu. The first valid pieces of information about the consequences of Ceausescu's dictatorship appeared on December 22, 1989 during the live broadcast of the revolution. The delegitimation of the communist regime was realized through references to the political and economic situation of the country. First, the political regime was portrayed as a "sultanistic"⁷⁰ dictatorship. Furthermore, it was revealed that the communist regime abused, ignored, or denied basic human rights and reprimanded any tentative of dissidence. Second, the economic situation was marked by difficulties. In an effort to pay off the large foreign debt that his government had accumulated, Ceausescu ordered in 1980 the export of almost all of the country's agricultural and industrial production. The resulting drastic shortages of food, fuel, energy, medicines, and other basic necessities drove Romania from a state of relative economic well-being to near starvation. The physical well-being of the population had deteriorated through malnutrition, pollution and the decline in the health sector.

If initially the protests started in Timisoara mainly as an anti-communist uprising, the events in Bucharest subsequently transformed it into a revolt aimed mainly at dethroning Nicolae and Elena Ceausescu, portrayed as the cause of all evil, as opposed to the initial anti-communist approach. This twist is an important explanatory variable for the future lack of lustration. In the following pages, I will analyze this important ideological turning point as reflected in the speeches delivered during the Romanian Revolution. The

⁷⁰ Sultanism is a form of authoritarian government characterized by the extreme personal presence of the ruler in all elements of governance.

creation of a new political discourse and the construction of a novel identity for the new leaders is also under scrutiny.

a. The New Political Discourse

Out of the many figures that gain visibility through their participation in the Revolution, two leaders succeeded in securing public credibility: Petre Roman, the future prime-minister and Ion Iliescu, the future president of Romania. The former was a new appearance on the political scene; the later had a long career in the communist structures of power, but had been relegated since 1971. They both faced the problem of constructing a plausible identity as a new political leader.

Roman and Iliescu used different strategies of legitimation. Petre Roman was a young engineering professor at the largest technical university in Romania. During the 1989 Revolution, he fought on barricades and participated in street protests. Roman was among the first leaders of the Revolution to arrive at the State Television Headquarters, where he was designated to read the People's Declaration, the first official announcement to the nation:

“Compatriots, brothers! Today, the 22nd of December thanks to the unity of the people and with the direct help of the Army, the dictator was removed. In this moment, the people, together with the Army, require that political power be rendered to democratic institutions chosen by free people. In the name of the citizens of

Bucharest, who are now protesting in the streets and controlling the building of the Central Committee, we make an appeal to the entire nation, to maintain the calm and the public order so that we can organize a free and democratic life. ⁷¹

According to a later interview, the declaration was drafted “urgently, by four or five people who were there with me.”⁷² Petre Roman became therefore the spokesman of the youth participating in the uprising. Since the accepted claim was that young people had waged the revolution on the streets, Roman was considered the governmental representative of revolutionary youth.

By contrast, Ion Iliescu was the voice of experience. He made a career in the Romanian nomenklatura, becoming from 1965 on, a member of the Central Committee of the Communist Party and from 1967, the Minister of Youth Problems. At one point, he even served as the head of the Central Committee's Department of Propaganda. However, in 1971, due to his criticism towards Ceausescu's policies, he was marginalized and sacked from all his political functions.

Iliescu appeared a few hours after Ceausescu's escape, at the studio 4 of the Romanian Television and was introduced with enthusiasm by the anchorman: “We have

⁷¹ Tatulici, Mihai. *Revolutia Romana in direct*. Bucuresti, 1990, 230

⁷² *Ibid.*, 234

the great joy to host here, in the studio, Ion Iliescu. He is the son of a revolutionary⁷³ and patriot and he is a patriot himself.”⁷⁴

Delivering his first speech, Iliescu displayed assurance and authority:

“Twenty minutes ago, I spoke on the phone with General Stanculescu, the acting Defense Minister. He issued an order. The troops spread around the city with orders to shoot have been withdrawn. He turned back a column of armored vehicles which had been sent from Pitesti to Bucharest...Therefore, comrades, at this moment we have guarantees that the army is supporting the people.”⁷⁵

He continued by announcing the formation of a Committee of National Salvation, with the aim of restoring order. Throughout the afternoon of December 22nd, Iliescu received considerable recognition and support. His leadership was accepted with little criticism and no contest. With a power void to be filled and no other leader or group strong enough to assume power, he had basically no obstacle to overcome and no rival to defeat.

Iliescu announced the creation of the National Salvation Front (NSF) in a radio and television address. Within four days, a provisional government was formed, with Petre Roman as Prime Minister and Iliescu as president of the Front and interim president of the country.

⁷³ Ion Iliescu was the son of a railroad worker, who was one of the members of the pre-war Romanian Communist Party. Therefore, his father was a revolutionary, but in a different historical context.

⁷⁴ Ibid., 41

⁷⁵ Ibid., 42

The identity of the new leaders was constructed based their relationship between to the people. After the extreme experience of totalitarian rule, the choice was between a rapport based on authority and one characterized by solidarity.

Regarding this option, the use of pronouns is worth examining. The pronoun “we” was typically used to include the audience. Petre Roman announced: “We all obtained a historic victory against the dictatorship”⁷⁶. However, a few times the pronoun was used exclusively referring to the new leadership. “We have now the mission to organize the destiny of the country,”⁷⁷ said Ion Iliescu. This last feature was typical of Ceausescu’s speeches that aimed at separating him from the crowd. By contrast, the inclusive uses of “we” became a common feature of the new political discourse. Using it, solidarity could be claimed (since everybody was now in the same boat), while authority was still regarded with respect.

b. The Revolution as a Mode of Legitimation

The National Salvation Front and its successor parties used the revolution as a mode of legitimation. According to their claim, the Front had been the standard bearer of the event and representative of the crowd. The new leaders declared that they had been democratically raised to their positions when they received the direct approval of the crowd during their appearance on the balcony of the Central Committee building and in

⁷⁶ Ibid., 34

⁷⁷ Ibid., 47

the studios of the Romanian Television. Iliescu and the others NSF leaders relentlessly repeated this line of argumentation in their public interventions.

Arguing that the Revolution had imposed a broad consensus in Romania, the new leaders attempted to build a new political system, which allowed for the dialogue between different political opinions, but diminished any confrontation. The pattern of cooperation implied considerable influence for the NSF leaders. The organization was the goal setter, the mediator and the executor of all decisions.

As a consequence, even if seventy-three parties participated in the first democratic elections (held on May 20, 1990), the NSF candidates received an overwhelming 67% of the votes. Petre Roman was reconfirmed as Prime Minister. The candidate to Presidency, Ion Iliescu received 86% of the popular vote. The success of the NSF in the first post-communist elections was higher than any other other East European party. Many analysts linked this unprecedented victory with the successful rhetoric claiming the “appropriation” of the Romanian Revolution.

The mechanism behind this successful strategy of legitimation can be revealed by carefully examining the televised interventions and the live broadcast of the Romanian Revolution.

An important first event took place at the Central Committee headquarters, after the announcement regarding the creation of the Committee of National Salvation. Ion Iliescu and Petre Roman arrived there to meet former Party and government representatives relegated by Ceausescu, a few dissidents and some active and retired Army officials. The atmosphere was tense and little substantive information could be heard. An agreement

regarding the necessity to form a provisional structure of power was reached. Its name however caused controversy:

“Roman: Salvation is not OK. Salvation makes one think of a coup d’etat.

The Front of National Democracy!

Iliescu: Democracy implies everybody’s involvement.

Roman: But what does “salvation” even mean? Comrade Iliescu, when I spoke on the balcony, I said “People’s Unity Front.”

Militaru: Let’s call it “The National Salvation Front.”

Iliescu: Yes, but salvation will create state of panic...”⁷⁸

Regarding the announcement to be made on public television, a first draft was already outlined by the time of the meeting. This detail provoked a long chain of controversies, as it appeared that Ion Iliescu prepared way in advance the key points of the message. After long arguments and counter arguments, a 10 point program of the National Salvation Front was completed. It included the aspirations to freedom, democracy, prosperity and independence of the new high ranked government officials.

Ion Iliescu announced the formation of the Council of National Salvation Front, its membership and its program live on public television:

⁷⁸ Ratesh, Nestor, *Romania: the Entangled Revolution*, Praeger, The Washington Papers, 1991, p. 54

“A new page opened in the history of Romania. In these difficult moments, we decided to form the National Salvation Front, as an ally of the Army. The Front welcomed citizens regardless of their nationality and all organisations and groups that bravely participated in the defence of liberty and dignity. The purpose of the National Salvation Front is to bring about democracy, freedom and dignity for the Romanian people. From this moment on, all power structures belonging to the Ceausescu clan are dissolved. The government is abolished. The State Council and its institutions will cease their activity. The Council of the National Salvation Front takes over the entire executive power.”⁷⁹

Furthermore, the political principles adopted marked a return to pluralism and a human rights discourse. Among them, important requests asked for:

- the establishment of a pluralist and democratic system of government
- free and fair elections in April
- the separation of legislative, executive and judicial power and
- the division of power among a legislature, an executive, and a judiciary, each with independent powers and areas of responsibility so that no branch has more power than the other branches
- the election of the President for no more than two terms
- protection of minority rights

⁷⁹ Tatulici, Mihai. *Revolutia Romana in direct*. Bucuresti, 1990, p. 240

- domestic and foreign policies based on the needs and interests of the individual
- respect for the fundamental civic rights and freedoms.

By comparison with the political principles, the economic problems were treated ambiguously and contradictorily. Among the reforms mentioned were:

- the reconstruction of the economy with the aim of obtaining efficiency and effectiveness
- the reduction of exports
- the support for small farms production
- the reorganization of trade in order to meet the daily needs of the population.

The declaration represented the official decisive moment expected domestically and internationally. Its live broadcast transformed the birth of a new political power from a local event into a performance watched by spectators from all over the world. Romanian Television received in the days to come, messages of support from all over the world, from the United States of America and the Union of Soviet Socialist Republics to all the new governments in Eastern and Central Europe. Moral support was followed by material support. Large quantities of food, medicines, cloths and medical equipment were sent to Romania. Around the world, the media dedicated entire pages and sometimes even special issues to the Romanian Revolution and its consequences.

The first critical reactions to the Council of the National Salvation Front focused on their appeal to legitimacy. An important reproach was the connection of Ion

Iliescu and of most of the other members of the National Salvation Front to the Romanian Communist Party. The question on everyone's lips was if former communists would be able to adapt to democracy and at the same time, liberate themselves from their authoritarian background. In the case of Iliescu, the concerns were amplified by the fact that he was not just a simple party member, but one of its leading militants. During his first interventions and interviews, he seemed contaminated by the Communist imagery and discourse. Speaking in front of the cameras, he constantly used the designation “comrade”, and people addressed him with the same term.

In a landmark declaration revealing his true convictions, Iliescu tried to separate the Party and the communist ideology from Ceausescu’s personal tyranny.

“They ⁸⁰ proclaimed themselves leaders, they proclaimed themselves representatives of the people and they proclaimed themselves communists. But they don’t have anything to do with socialism or with the ideology of scientific communism. They disparaged the name of the Romanian Communist Party and they defiled the memory of those who died for the principle of socialism in this country...”⁸¹

⁸⁰ Reference to Nicolae Ceausescu and his wife Elena

⁸¹ Ibid.,p. 46

Many analysts interpreted these statements as an attempt to excuse and preserve the Communist Party. In any case, Iliescu's choice of words and political ideas reflected a vision in contradiction with the anti-communist revolution. And although, gradually he changed his manner of address, many indications of Iliescu's incapability to free himself from his Communist past persisted over the years. For example, in April 2005, sixteen years after the Romanian Revolution, at a conference of the Social Democrat Party Iliescu introduced a speaker using the term "comrade."

All those accused of collaboration with the former regime, including Ion Iliescu, used as a defence strategy the focus on their personal disputes with Ceausescu in the last years of his rule and the relegations and sentences that followed their opposition. In a later testimony, Iliescu remembered that: "I was under surveillance for several years, but starting with the spring of 1989 this surveillance became very serious and obvious. Three Securitate agents were incessantly following me, my wife and anyone who came to see us."⁸²

These confessions did not yet clarify the question of whether or not former communist officials should be entitled to represent an anti-communist movement and to continue to exercise control over the government. A few weeks after the December events, on January 12 1990, the first serious wave of criticism towards the new power emerged. Thousands of people demonstrated in front of the headquarters

⁸² Ibid., p. 222

of the new government. The protesters expressed their anti-communist demands and their opposition to a regime dominated by communists.

As noted by Julia Brotea and Daniel Beland, “Despite the NSF’s efforts to deny its connection with the previous Communist Party, it soon became obvious to many Romanians that the party’s anti-communism was of a more recent vintage. Furthermore, FNS’s refusal to outlaw the Romanian Communist Party and the first arrival of miners on January 29 — followed by another group on February 18 — to restore order in Bucharest generated doubts amongst many Romanian intellectuals about the success of the 1989 Revolution.”⁸³

Later on, from April till June 1990, a peaceful protest was organized in the University Square of Bucharest against the supremacy of former communists in the new regime. The protest was violently repressed, but the problem remained on the public agenda and continues to be one of the major topics of debate. “The University Square Phenomenon continues to be evoked as the mass protest which initiated de-communization, a process which marks a society’s attempt to come to terms with its authoritarian past in political as well as in social and cultural manners.”⁸⁴ The ideas of the anti-communist manifestations in the early transition period might be best summarized by the iconic slogan: “We only have one solution: another Revolution!”

⁸³ Brotea, Julia and Daniel Béland, “Better Dead than Communist! Contentious Politics and Identity Formation in 1990 Romania,” *Spaces of Identity*, 7, no. 2 (2007): 77–100.

⁸⁴ *Ibid.*

c. The Hijacked Legitimacy

To sum up, in the days of the Romanian Revolution the new political leaders constructed their new identity and legitimation through their public interventions broadcasted live around the world. Three important findings must be underlined:

- the new leaders presented themselves as representatives of the people and constructed their legitimacy on this assertion,
- the relationship between leaders and citizens was constructed on the idea of solidarity, as opposed to the communist relationship based on authority and
- the break was with Ceausescu and his wife, but not with communism per se.

Next, I analyzed two aspects of the live broadcast the Romanian Revolution. First, after a broadcast characterized by chaos and contradictions, the announcement made by leaders of the National Salvation Front represented the first official source of information coming from the new authorities. The demands and the expectations of the protesters took the unambiguous form of a declaration broadcasted to the country. After years of manipulation and censorship, the national television channel broadcasted the first reliable piece of information. Second, through this announcement the new political power claimed legitimation. The leaders presented themselves as alternatives to the totalitarian rule. The audience was created in their discourses through heroic attributes and through the inclusive use of the pronoun

“we”. The new leaders claimed that they represent the revolution and they identify themselves with the popular demands.

Consequently, the National Salvation Front was accused of hijacking the Revolution and of using it for political purposes and electoral gain. Another accusation questioned their legitimacy, as the new representatives took part in the old communist structures of power. The accusations were never addressed directly or answered properly and hence, the legitimation and the authenticity of the new political discourse are still subject to controversy.

The appropriated legitimation strategy brought about the overwhelming success of the NSF in the first free elections. The physical elimination of Ceausescu and his wife was presented as the panacea needed to clear up with the past and move forward.

In a 1992 interview regarding the situation of former communists voted into new office, human rights specialist George Zarycky pointed out about Eastern Europe:

“The iron repression of the bad old days may no longer rule these places. But what does distinguish them is continued leadership by partly reconstructed party members who are learning to manipulate new electoral processes and play on fear of capitalistic chaos to win votes. Ex-communist parties still have extensive resources at their disposal, even after the sudden loss of power and prestige most experienced at the turn of the decade. Apparatchiks indispensable to the continued function of government still fill posts throughout the region, even in internal security forces. Romania, where veteran bureaucrat Ion Iliescu was

reelected as president on Sunday, is perhaps the region's preeminent laggard in democracy.⁸⁵

In regards to transitional justice or retributive measures, Iliescu's viewpoint was that they were pointless and dangerous at the same time: "Lustration is a national shame, a Stalinist idea turned upside down. The approach is similar to the lustration of the 1940s, when members of former democratic political parties were removed from public life."⁸⁶

⁸⁵ Grier, Peter. "Some East European Communist Leaders Are Clinging to Power in Their Countries". The Christian Science Monitor, October 14, 1992

⁸⁶ Iliescu, Ion. "Legea lustrației este un stalinism întors pe dos și o rușine națională". Amos News, 2006

The Decommunization Debates in Romania

The political debates concerning lustration, access to one's personal file and the situation of the former Secret Services archives dominated in many Eastern European countries the early phases of post-communist transition. In the following pages, I will review some of the projects, legislative proposals and Parliamentary documents considered relevant for the discussion of coming to terms with the past in Romania.

The political debates surrounding the investigation of the communist past and the documents elaborated by de former Secret Police have been initiated in the first place by the civil society. They included mass demonstrations in the main square of Bucharest (The University Square), the Proclamation of Timisoara⁸⁷ and the denunciation of individuals guilty of the abuses and offences committed during the communist period⁸⁸. In the second place, such initiatives have also been linked to the concern that the legacy of the former secret police might be destroyed. Among the events nourishing this fear, one can recall the attempt to set on fire a transport of documents on Jietului Valley⁸⁹ and the discovery of some abandoned and destroyed files in Berevoiesti⁹⁰. The political

⁸⁷ On March 11th 1990, the Timisoara participants in the Romanian Revolution voiced their concerns in a thirteen-point document entitled "The Proclamation of Timișoara". One of the most important civic and political documents from the post-communist transition period, this proclamation advocated a return to the original liberal-democratic ideals of the December Revolution and above all to its deep anti-communist character.

⁸⁸ The denunciation was initiated by The Association of Former Political Prisoners.

⁸⁹ The event has been narrated by Constantin Ticu Dumitrescu in a later interview at <http://www.formula-as.ro/2008/806/spectator-38/asul-zilei-constantin-ticu-dumitrescu-9133-print>

⁹⁰ A large portion of the Secret Service Files have been burned in a forest or abandoned in a pit near the village of Berevoiești, Arges county. The case was uncovered and caused a major press scandal. <http://istoriacomunismului.blogspot.com/2008/02/scandalul-berevoieti.html>

debates of post-communist transition materialized in several legislative projects and proposals that can be grouped in four subgroups, based on the goals pursued:

- the regulation of citizen's access to his or her personal file,
- the verification of individuals appointed or elected in public positions,
- the definition of notions such as "agent" or "collaborator" of the former Secret Police and
- and the takeover and new administration of the Secret Police Archives.

In the following pages, I will review the short history of decommunization initiatives and the way in which these contestatory voices emerged and were articulated. My objective is to explore why, in the final analysis, these voices did not receive the necessary support and decommunization has been limited to symbolic gestures.

a. Lustration Proposals

In 1990, soon after the fall of the communism, within the provisional National Salvation Front⁹¹, Constantin Ticu Dumitrescu (a former political prisoner and the president of the Association of Romanian Former Political Prisoners) proposed a law on the protection of the Secret Police Archives. The proposal did not make it to the government agenda and remained unanswered.

Next, a legislative proposal concerning the restitution of literary manuscripts, personal documents and works of art confiscated by the organs of repression between

⁹¹ The National Salvation Front was the governing body of Romania in the first weeks after the Romanian Revolution of 1989. It subsequently turned into a political party.

1945 and 1989 was initiated by the parliamentary group of The Christian-Democratic National Peasants' Party⁹² and registered on January 14th, 1992. The proposal suggested the creation of a committee comprising nine members of Parliament which will track the fate of these documents and which will function within the Committee for the Investigation of Abuses. The committee duration was established at three months. However, the technical department of the lower chamber of the Parliament did not approve the proposal because at that time, the jurisdiction offered the possibility of recovering those goods by formulating a civil lawsuit in a court of law.

Soon after, a draft law on the right to scrutiny of the files drawn up through the surveillance of the former Secret Police was initiated by the Committee for the Investigation of Abuses. The project, registered on February 18th, 1992, stipulated that any Romanian citizen residing in the country or abroad should have access to a free and complete examination of his personal file drawn up by the Securitate in the period March 6th 1945-December 22nd 1989. If the person was deceased, close family members should receive the legal authority to inspect the file. The media access to the file was made possible only with the written approval of the surveyed individual or of his legal successors. This time, the technical department approved the project and proposed some amendments that should be found in the Project of Law concerning the Right of Persons Investigated or Judged for Political Reasons to Examine their Files Drawn up by the Former Secret Police. The initiative was registered on March 17th, 1992.

⁹² The Christian-Democratic National Peasants' Party was the post-1989 successor of the pre-Cold War National Peasants' Party.

On June 11th 1992, a draft law regarding the transfer of the former State Security archive into the Parliament's storehouse and the method to make use of this archive was initiated by a group of deputies from the opposition and registered. It recommended the setting up of an Office for the Preservation and Administration of the Department of State Security Archive under the control and coordination of a parliamentary committee comprising nine deputies and six senators. The office's projected activity was set for a period of at least 15 years. The importance of this law project came from the requirement that all members of the Parliament who spied on their acquaintances or worked for the former Secret Police had to resign in a 30 days from the law enactment. Those who refused to resign would have been investigated by a parliamentary committee empowered to recommend to the two chambers of the Parliament removal from office of the person founded guilty. Also, any appointment of a dignitary in the subsequent 20 years would have been based on a Parliament decision that would certify the lack of collaboration with former Secret Services. At the same time, the draft law granted to the victims of Secret Police investigations, the right to take legal action against the prosecutors in order to obtain moral and material compensations. The Technical Legislative Department approved the law proposal. The only amendment was that the budget proposal for 1992 must include the funds necessary the functioning of the new proposed institution, namely the Office for the Preservation and Administration of the Department of State Security Archive.

Another proposal concerning the Disclosure of Secret Police and the Access of Citizens to their Personal File was initiated by Senator Constantin Ticu Dumitrescu and

registered at the Senate's Administrative Office on December 29th 1993. The proposal asked for the screening of high-state officials and their removal from office if they collaborated with the former Secret Police. The conservation of the archive should have been administered by a Council formed by members of the civil society. Among these members, three were expected to represent the Association of Former Political Prisoners from Romania.

On June 18, 1995, a new draft law was registered. It recommended the taking over of the Secret Police archive by the Romanian Parliament. The proposal initiated by a representative of the Civic Alliance Party, the M.P. Vasile Popovici was debated and rejected in the meeting of the lower chamber of the Parliament from December 11, 1997. The opponents of the idea claimed that it was unconstitutional for the Parliament to manage an archive as its only Constitutional attribute was to initiate and pass legislation. Later that year, the senator Vasile Vacaru filed a law project concerning the files of the former Secret Police. The project was not approved by the Legislative Council.

Upon his return from Germany, where he studied the Stasi archives and the German Law concerning the Access to Personal File, the senator Ticu Dumitrescu withdrew his initial law project and filed a new one in January 1997. Subsequently, some articles from a parallel project of Senator Nicolae Cerveni were added to the new initiative.

The new law project guaranteed access to every citizen that has been surveilled by the Secret Police to their own file. The same time, it promised

the citizens' protection from the blackmail or terror caused by leaks from the Secret Police records on their activity and public, political or private life (article 1).

According to the new law, informants were defined as individuals who had collaborated after March 6th 1945 with the Romanian Secret Police or with other similar foreign institutions. This included anyone who wrote notes or reports in which they denounced anti-communist or anti-soviet political beliefs of Romanian or foreign citizens (article 4). In addition, they were considered informers irrespective of the fact that they gathered information in detention or in exile, as a covert agent, under a fake name, compensated or not and irrespective of the fact that the information endangered the denounced persons or not (article 4, paragraph 2). Informants and Secret Police officers were declared unworthy of occupying any elected or appointed high-ranked position that required the exercise of state authority under any form, as well as any position of responsibility in the public life. Militia⁹³ officers or party activists that asked or forced a person to collaborate with the Secret Services became subjects of the same interdiction. (article 5).

The institution established to implement the law was a Special Parliamentary Committee. The board consisted of fifteen members of which seven would be elected among the members of the Chamber of Deputies⁹⁴, five among the members of the

⁹³ The Romanian Police is the national police force and main civil law enforcement agency in Romania. On January 23rd 1949 the name of the institution was changed to Romanian Militia. The name has been changed back to Romanian Police on December 27th 1989.

⁹⁴ The Chamber of Deputies is the lower house in Romania's bicameral parliament. It has 315 seats, to which deputies are elected by direct popular vote.

Senate⁹⁵ and three amongst the representatives of the Association of the Former Political Prisoners from Romania (article 7). In addition to the Committee, the technical aspects of the law were monitored by a Specialty Technical Commission lead by a Superior Court judge appointed by the Parliament (articles 8, 9).

Another legislative initiative concerning the access to files created until February 24th 1992⁹⁶ was initiated by a group of deputies of the National Liberal Party: Adrian Tudor Moroianu-Geaman, Liviu Gheorghe Negoita and Didi Spiridon. It proposed the categories of positions and public dignities that would be subject to verification –the President of Romania representing a notable exception- as well as the prohibition to publish the identity of agents, collaborators and informers (with the exception of candidates for public positions). The proposal wanted to establish an Institute for the Study of the Secret Police Archives with a primary mission of 6 years that could be prolonged at least once. The Legislative Council approved the proposal that was then sent for debate in the Senate’s Legal Commission.

Another law proposal regarding access to the documents of the former Department of State Security was initiated by opposition deputies Mihai Gheorghiu and Radu Ghidau and it was registered on December 8th 1997. It proposed that citizens’ requests concerning access to their personal file should be taken over by the institution of Ombudsman. This was an independent governmental institution, responsible for

⁹⁵ The Senate is the upper house in the bicameral Parliament of Romania. It has 137 seats to which members are elected by direct popular vote

⁹⁶ The date when the Law on the Functioning of the Romanian Intelligence Service was promulgated.

investigating and addressing complaints made by citizens against other government institutions.

The law project mentioned the positions and public dignitaries subjected to verification, and also the definitions of some newly introduced terms, such as: endangered citizens, agents, collaborators, persons favoured by the Secret Police, personal file or file with personal data. The project received the approval of the Legislative Council with the amendment that the takeover of the former Secret Police archive by the Ombudsman would not be an adequate measure because it would divert the activity of the institution from the purposes for which it was created.

The repeated signals coming from the civil society and the numerous legislative initiatives raised the awareness on the issue of the entire political class. Thus, in the Chamber of Deputies meeting from April 16th 1992, a law project was adopted, regarding the establishment of a committee for the study of files involving members of the new Parliament (elected on May 20th 1990) that appeared in the archives of the former Secret Police. The initiative that started from the proposal of M.P. Claudiu Iordache was discussed in several meetings of the Standing Bureau of the Chamber of Deputies with the leaders of all parliamentary groups. On June 3rd 1992, the united Standing Bureaus of the Chamber of Deputies and of the Senate decided that the project will be advanced for examination and expert opinion to the Committee for Legal Matters and to the Committee for Human Rights, Cults and National Minorities Issues of the two chambers.

On July 1st 1992, the Senate's Committee for Human Rights decided that the project should not be approved, because it was going to be applied only to the case of the

members of the Parliament elected on May 20th 1990. It was also specified that a full analysis of the files of the members of the Parliament elected on May 20th 1990 could not be performed as long as approximately 40.000 files vanished from the archives and the investigations on the events from Berevoiesti⁹⁷ were not finalized. In spite of all this, on July 7th 1992 the common meeting of the Committees for Legal Matters of both parliamentary chambers decided to approve the project with only some amendments.

On December 16th 1993, the two legislative chambers passed a motion, as a formal step to introduce a matter for parliamentary consideration. The motion referred to the former informers of the Secret Police and asserted that they were undeserving to occupy important positions in the state. The document was signed by 178 deputies and 109 senators from the anti-communist opposition. The motion was based on a text wrote in May 1993 by the senator Constantin Ticu Dumitrescu and underlined the fact that “today the appointment or the election to the top echelons of power - in decision-making and leadership positions, in public organizations and in the management and counselling of any educational institution – of all individuals that worked in the period 1945-1989 as informers of the Secret Police (or of other similar foreign services) by providing informational notes or using other ways to denounced the anti-communist or anti-Soviet beliefs of Romanian citizens, regardless of the fact that they have been remunerated or not for this activity has become inconceivable and unworthy”.⁹⁸

⁹⁷ See footnote #5. A large portion of the Secret Service Files have been burned in a forest or abandoned in a pit near the village of Berevoiești, Arges county.

⁹⁸ Constantin Ticu Dumitrescu or Ticu Dumitrescu (27 May 1928 - 5 December 2008) was a Romanian politician and president of the Association of Romanian Former Political Prisoners.

It was also specified that the authors of the document found the informers from the categories mentioned above unworthy of holding an important positions in the state (such as judge, member of the Parliament, member of the National Academy of Sciences, of the Supreme Court of Justice, of the Constitutional Court, of the government, president or prime-minister). Although they lacked the political will for the discussion and approval of the document in the plenary of the two Chambers, the motion, as Constantin Ticu Dumitrescu showed, represented the theoretical basis of the important law proposal adopted in 1997.

This law proposal was based on two previous initiatives: the 1993 legislative initiative of the senator Ticu Dumitrescu and the 1995 project of Senator Vasile Vacaru and of a group of opposition deputies from the National Liberal Party –Democratic Convention. It was recorded at the Senate for discussion on March 13th 1997 and was later sent for debate and approval in the Committee for Legal Matters.

b. The Senate Debates

The text of the law, as it was later adopted by the Senate was based on the report of the Committee for Legal Matters to which several senators added a series of amendments. The law version adopted granted the access of citizens to their personal file and the verification of people elected or appointed in public dignities. It introduced the notion of “political police” and the definition of the terms “agent” and “collaborator of

the Secret Police”⁹⁹. Upon request, the entitled individuals could consult the files drawn up by the former Secret Police. They could also request copies of the documents comprised in these files and a certificate of affiliation or non-affiliation, collaboration or non-collaboration with the former Secret Police. An important step forward was the establishment of the National Council for the Study of Former Securitate's Archives and the election of its first members.

Among the amendments debated in the Senate’s plenary, several stand out as particularly important. They were later embedded in the text of the law.

Senator Mircea Ionescu Quintus demanded that the text of the law comprise a preamble to justify its importance as well as the definition of the notion of a “Secret Police collaborator.” According to a later decision of the National Council for the Study of Former Securitate's Archives published by the Official Gazette of Romania on 29 November 2000, Mircea Ionescu-Quintus was himself listed as a Secret Police collaborator.

Senator Corneliu Turianu asked for several revisions:

- a. the right to personal file access of any person, currently residing in the country or abroad, who had Romanian citizenship after 1945 (article 1, paragraph 1 of the law adopted by the Senate)
- b. a clear working definition in the body of the law of “the Secret Police as Political Police” that will refer to the structures of former Securitate, created to establish

⁹⁹ Article 5, paragraph 1 of the law reads: "The political police refers to all the structures of former Securitate, created to establish and maintain the totalitarian communist power and to suppress or restrict the fundamental human rights and freedoms".

and maintain the totalitarian communist power and to suppress or restrict the fundamental human rights (article 3, paragraph 2 of the law adopted by the Senate).

- c. the formulation of limits and techniques to disclose the Secret Police officers and sub-officers (article 3, paragraph 4 of the law adopted by the Senate).

Senator Ion Moisin requested expanding the number of positions subject to verifications to include persons with leadership positions in:

- a. the Romanian Post and Department of Telecommunications
- b. the local, regional and national major medical institutions,
- c. state-owned Autonomous Administrations,
- d. commercial companies with state-owned majority capital,
- e. research and development institutes (article 2, paragraph 1, letters x, y, and z of the law adopted by the Senate).

Lastly, a series of amendments were rejected because of their significant direct implications on the substance of the proposal.

Opposition senator Victor Fuior suggested that the expression “Securitate as political police” would be replaced with “the safety of the Romanian state”.

Senator Viorel Catarama recommended that restriction of those considered Secret Police collaborators to only those individuals that formally signed a pledge.

Regarding this controversial definition, the final outcome would assert that:

“(3) In the sense of the present law, collaborator of the Securitate as a political police, is the person who:

- a) was remunerated or otherwise compensated for his activity in this capacity;
- b) held a conspiratorial house or a meeting house;
- c) was a resident of the Securitate, in the sense of the present law;
- d) any other person who gave information to the Securitate, through which were affected directly or through other organs, the fundamental rights and liberties. The information comprised in the declarations given during the investigation by the person held or arrested for political reasons regarding the case for which he/she was investigated, tried and sentenced are not the object of this provision.

(4) A collaborator of Securitate as a political police is also considered the person who passed on or facilitated the passing on of information, notes, reports or other documents, by which the activity or attitudes against the totalitarian communist regime were denounces, liable to affect the fundamental human rights and liberties.”

Vivid debates took place also about the storage place of the Secret Police Archives (article 22 of the law adopted by the Senate). On June 2nd 1998 it was decided to send back the article for revision to the Committee for Legal Matters. The main problem that appeared during the debates was that the version according to which the National Council for the Study of Former Securitate's Archives will take over the archive was not accepted due to national security reasons.

The meeting of the Senate’s Committee for Legal Matters addressing the issue took place on June 4th 1998. It was attended by the director of the Romanian Intelligence

Service's Archives, a representative of the Legal Department of the Romanian Intelligence Service and a representative from the Ministry of Interior.

During the debates two major opinions emerged, outlined by senators Mircea Ionescu-Quintus and Razvan Dobrescu. Mircea Ionescu-Quintus proposed an unrestricted access of the Council's College to the documents of the former Secret Police, held in custody by the Romanian Intelligence Service, the Ministry of Interior, the Ministry of Justice, the Ministry of National Defence and the National Archives. Only was exception will be made, for those documents that concerned national security. By contrast, Razvan Dobrescu who advocated the obligation of all institutions that possess documents of the former Secret Police to hand them over to the Council's College. Exempted from this measure would be the documents concerning national security from 1968 on. The two proposals have been debated in the plenary of the Committee and the first version ended up being chosen.

The entire article regulating the access to archives and their study was voted by the Senate on June 25th 1998. In the same meeting the debate of the entire law drafts was concluded and the text was sent for debate to the Chamber of Deputies.

c. The Chamber of Deputies Debates

According to the Constitution¹⁰⁰ adopted in 1991, the two chambers of the Romanian Parliament had identical attributes. A text of a law had to be approved by both

¹⁰⁰ The Constitution of Romania is based on the Constitution of France's Fifth Republic and was approved in a national referendum on 8 December 1991.

houses. If the text differed, a special commission (the Committee on Mediation) was formed by deputies and senators and "negotiated" between the two houses the form of the future law. The report of this commission had to be approved in a joint session of the Parliament.

The text of the law, as it was debated by the Chamber of Deputies took into consideration the version adopted by the Senate, the report of the Committee for Legal Matters of the Chamber of Deputies and the report drawn up by the Committee for Defence, Public Order and National Security. Additionally, several deputies attempted to add law amendments that brought important modifications to the version adopted by the Senate.

Among the amendments discussed by the Chamber of Deputies, I will mention first the ones that have been approved. Mihai Grigoriu requested that the surveilled persons should have the right to find out, upon request, the identity of the Secret Police agents and collaborators that contributed with information to the completion of their personal file (article 1, paragraph 2 of the law adopted by the Chamber of Deputies). Ovidiu Cameliu Petrescu advised that the employees of the intelligence services as well as the diplomatic and consular staff should be excluded from the categories of positions subject to verification (article 2, letters g and j of the law adopted by the Chamber of Deputies). His motivation revealed that the verification of these positions might lead to the disclosure of some employees of the present intelligence services.¹⁰¹

¹⁰¹ The Romanian Intelligence Service (the domestic intelligence service) and The Foreign Intelligence Service (the state body specialized in foreign intelligence).

Miron Mitrea proposed the inclusion on the list of verified positions of political analysts and commentators (article 2, paragraph 1 of the law adopted by the Chamber of Deputies).

Mihai Grigorescu and Adrian Moroianu Geaman supplemented the list of public positions subject to verification with the positions of president, vice-president and secretary general of the employers' organisations and trade unions (article 2, paragraph 1, letter u of the law adopted by the Chamber of Deputies).

Ovidiu Virgil Draganescu demanded the special verification of those holding the title of revolutionary or fighter with special merits in the December 1989 anti-communist Revolution (article 2, paragraph 1, letter z of the law adopted by the Chamber of Deputies).

Mihai Grigoriu called for the exclusion from the provisions defining the concept of collaborator of those persons that furnished information during the Secret Police investigations. Another amendment from the same M.P. stipulated that, among the repressive communist structures should be included also the judicial authorities. Furthermore, among the collaborators should be included those people who had political and legal decision-making competences or who took decisions concerning the activity of the Secret Police through abuse of power (article 4, paragraph 5 of the law adopted by the Chamber of Deputies).

George Gheorghe Serban requested guarantees that the identity of third parties would be protected by law (article 11, paragraph 2 of the law adopted by the Chamber of Deputies).

Additionally, the Committee for Legal Matters approved the amendment according to which the term collaborator would be also used for the person that provided information through which the fundamental human rights and liberties have been affected (article 4, paragraph 2, letter d, of the law adopted by the Chamber of Deputies).

A number of amendments, proposed by some members of the Chamber of Deputies have been rejected. Ovidiu Sincai demanded the removal of the entire first two articles from the text of the law. In his opinion, the recommendations of the Council of Europe are against the idea of lustration and therefore, the access to the personal file must not lead to the limitation of some human rights (like the right to run for office and to be elected in public positions).

Petre Turlea recommended the exclusion from article 2 paragraph 1 of letters d to z. The M.P. considered that the verifications should be limited to those running for President, Parliament and Government.

Ovidiu Cameliu Petrescu suggested:

- a. the elimination of screening procedures for all positions within the Ministry of Interior, on the grounds that in this structure of government there are still active officers from the former Secret Police;
- b. the elimination from article 2, paragraph 1, of all positions listed from letters s to z, because the notions of agent or collaborator are irrelevant for these categories.

Ioan Pinteia considered that the positions targeted by law should also include symbolic and honorary positions. Consequently, he suggested the elimination of

verification of priests as they do not fulfil this quality. However, he accepted that the upper echelon of religious cults' leadership may be subject to verifications.

Regarding the important topic of the former Secret Police archive, the law version adopted by the Chamber of Deputies introduced some important modifications, as for example the proposal that all documents previously held by the Secret Police (except those concerning national security) were going to be taken over into custody of the board of the National Council for the Study of Former Securitate's Archives. By contrast, in the version adopted by the Senate it was only proposed the right of unrestricted access to these documents.

As the law text differed in the two parliamentary chambers, a special commission, named the Committee on Mediation, was formed by deputies and senators to negotiate between the two houses the final form of the law.

The report of the Committee on Mediation introduced the provision according to which from the date of law's coming into force and until the date of the final takeover of the archives, the members of the College have unrestricted access to the documents that will be provisionally kept and studied at the holder's premises (article 20, paragraph 2 of Law no. 187/1999).

The report of the commission was approved in a joint session of the Parliament on October 20th 1999. Upon the unravel of the texts in divergence in the common meeting of the Parliament and after the rejection by the Constitutional Court on November 29th of the unconstitutional objections formulated by the Supreme Court of Justice, the law was sent to President who promulgated the law through the decree number 412/1999. The

Law No. 187/1999 on the Access to the Personal File and the Disclosure of the Securitate as Political Police was published in the Official Gazette of Romania, part I, no. 603/1999 on December 9th 1999. The preamble of the law read:

“During the communist dictatorship, a permanent terror against the country’s citizens, their fundamental rights and liberties was exerted, especially through the organs of the state Securitate as a political police. This justifies the access to the personal file and the disclosure of the Securitate as a political police, under the provisions of the present law.”

d. Law Proposals Modifying and Completing the Law no. 187/1999

The new law on file access was challenged on several grounds. Legislative deficiencies, difficulties in application, as well as pressure from interest groups, represented the causes for which the Law on the Access to the Personal File and the Disclosure of the Securitate as Political Police made the object of several proposals of modification and completion.

Several legislative initiatives have been filed and I will further present them in chronological order.

The law project bringing an addition to the article 8 paragraph 8 from the Law no. 187/1999 was initiated by the deputies George Serban, (independent) and Andrei Chiliman and Puiu Hasoti (National Liberal Party). It was registered at the Standing Bureau of the Chamber of Deputies on December 29th 1999. In the proposal it was shown

that during the communist regime there were very few members of the Romanian Communist Party (RCP) that had the courage to manifest against PCR and the totalitarian regime. These few dissident voices have been excluded from the party and became subject to a wide range of persecutions from the repressive institutions of the communist totalitarian government. Consequently, the project initiators proposed the exclusion from the interdiction of being a member of the College and Council of those persons that became members of the Romanian Communist Party (RCP) and then have been excluded from the party for actions against the communist regime. The initiators proposed the debate of the law project in emergency procedure, but on February 3rd 2000, the Chamber of Deputies rejected the proposal.

The law project for the modification of article 20 from the Law no. 187/1999 was initiated by the deputy Vasile Mandrovicenu and registered at the Standing Bureau of the Chamber of Deputies on April 26th 2000. The project proposed the elimination of the screening procedures of the following categories:

- a. deputy mayors - in order to not further extend the verification procedures to all local councillors among which the deputy mayors are elected;
- b. people with leadership positions within the State Property Fund -because the Fund has been dissolved;
- c. political analysts - because they do not get this title through election or appointment ;
- d. priests – in order to not disturb “pointlessly” the population’s trust in the Church;

- e. as well as individuals holding the title of revolutionary or fighter in the Revolution – as they do not have a major impact in society.

In return, it proposed the introduction of verifications in the case of presidents of every Electoral Commission as well as in the case of all members of the National Electoral Commission.

The proposal of the Committee of Control over the Romanian Intelligence Service's aimed at eliminating the provisions comprised at letter Ț) of the Law as it was considered that the verification of priests breaches the principles of Church autonomy.

The Emergency Ordinance¹⁰² no. 16 of 22 February 2006 aimed at amending and supplementing the Law no. 187/1999 on the Access to the Personal File and the Disclosure of the Securitate as Political Police. According to the ordinance, any Romanian or foreign citizen who after 1945 had Romanian citizenship and any citizen of a member country of the North Atlantic Treaty Organization has the right of access to personal files conducted by the communist Secret Police. It extended access as well to other documents and information concerning the individual, in accordance with the laws on data protection and national security. The same law also benefits any citizen of a member state of the European Union, starting with the day Romania joined the Union.

This right would have been exercised upon request and consists in the direct study of the file and the permission to make copies of the documents on file and of other documents regarding the applicant. The victims of Secret Police surveillance shall be

¹⁰² The Romanian Government is enabled to issue ordinances, which have the same legal powers as ordinary laws. In special circumstances, in which regulation cannot be postponed, the Government may issue emergency ordinances that do not require the approval of Parliament.

entitled, also upon request, to find out the identity of the Securitate agents and collaborators who had contributed with information to the file. The disclosure will only happen if the perpetrators can be identified with certainty. The rights specified above are transferrable to surviving spouses and relatives of fourth degree of the deceased, except if decided otherwise. Candidates who apply for the position of president were requested to give an authentic statement on own responsibility regarding the membership or no membership as agent or collaborator to the former communist Secret Police.

The debates on file access are extremely relevant for today's public discussion regarding the moral, legal and political responsibility of former elites for the crimes committed during their oppressive rule. Some of the most important issues regarding law, morality and politics are raised at such times, as societies look back and struggle to find solutions to the legacies of violence. A fundamental question, that remains still unanswered is if such laws will meet the expectations for which they were designed, namely to reorganize and legitimize the new political elite.

At least for the short and medium future, such a prediction has varying degrees of difficulty. The reorganization of political elites is also dependent on other factors, such as the improvement of the electoral system or the establishment of a legislative ground for the funding of political parties. The economic hardship of the prolonged post-communist transitions continue to favor those who make populist promises, despite their confirmed status as Secret Police collaborators or agents. The persistence over the years of debates and controversies regarding file access is a proof of an incessant instability that weakens the political system.

The Controversial Case of Corneliu Vadim Tudor

Despite signs of revolutionary violence and the events of December 1989 (mass demonstrations, bloody repression and the execution of Ceausescu), the political developments in Romania revealed the resilience of the ruling elite. The former communist Secret Police, that had about 38 000 members and 400 000 informers, was officially dissolved in January 1990. In 1992, the Securitate files were declared top secret for forty years, preventing any attempt to start a lustration process. However, seven years later the access to the personal file became possible as a consequence of the Law 187 passed on December 7, 1999.

On March 1997, The Romania Parliament proposed a draft law on the “Access of Former Communist Officials and Members of the Totalitarian Regime to Public and Political Positions”. The proposal suggested that those who gained important positions between March 6, 1945 and the December 22, 1989 in the Party, in the executive offices, in the judiciary, in the Great National Assembly, or in the former Office of the Securitate could not get access to the main positions in the state-apparatus for the next 8 years. By important positions within the Communist Party the authors of the draft understood members to the Central Committee (at the regional, district, and county levels), members of government, members of judiciary, officers of the Securitate and officers of the Army. All these individuals were ineligible for becoming Prime Minister, member in the government, public prosecutor, governor, director of the National Public Television or ambassador. In addition, they could not be elected in the Constitutional Court, the

Supreme Court, the Superior Council of Magistrates, the Romanian Academy, or the Audio-Visual Media National Council. The draft has not however been adopted as being inconsistent with Romanian Election Law and violating the Article 16 of Constitution, which stated that “[a]ll citizens are equal before the law and public authorities, without privilege or discrimination.”

Throughout the early transition period, public opinion found inefficient the limited access to the political police archives, the partial disclosure of the collaborationists of the regime and the trials of some leaders. Law 187 from December 8, 1999 allowing the free access of every Romanian citizen to his or her personal secret file would be the only compensatory measure.

From the beginning this project was criticized for the ambiguous use of the key terms (like Secret Police collaborator) and for the burdensome path to the file itself.

The institution created to facilitate the access to the Secret service archive was the The National Council for the Study of Former Securitate's Archives (CNSAS). The uniqueness in the design of this council was that its members were not only administrators of the files, but those to decide by vote if a person was or was not collaborator with the former Securitate.

One can assume that the media’s coverage of transitional justice issues affected the salience of the topic and the agenda-setting process. The paradox in the Romanian case was that although there was never a coherent movement in the media to support lustration, the “appetite” for scandals regarding the issue always remained high. During electoral campaigns, but also in the periods between them, one of the main concerns of

the media was to find out if politicians had had any connection with the former Securitate. Out of many important figures accused in the media of collaboration with the Secret Police, a special case is that of Corneliu Vadim Tudor, the leader of the Greater Romania Party (PRM), suspected to be a volunteer collaborator of the Secret Police. The PRM is characterized by the analysts as extremist, xenophobe and anti-Semite. The leader himself is called by some “Romania’s Le Pen”, by others “Romania’s Zhirinovski” and yet by others “Romania’s Csurka.” His figure has for many years now received attention by the print and broadcast media.

The Greater Romania Party was set up in November 1990 by Vadim Tudor, a former Ceausescu “court poet” and by Eugen Barbu, another important writer of the communist period. In the general elections of 1992 the PRM obtained 3.89 percent of the vote for the Chamber of Deputies and 3.85 percent of the votes for the Senate. In the Parliament, the party supported the ruling party the Democratic Front of National Salvation. The coalition broke down once Tudor challenged Ion Iliescu in the presidential election in 1996. Vadim Tudor obtained 4.42 percent, placing fifth in the first round of elections. The PRM received 4.46 percent in the elections for the Lower Chamber and 4.54 percent in the Senate elections.

Four year later, in the elections of November 2000, the Greater Romania Party achieved great and unexpected rise. Vadim Tudor was able to make the runoff with Ion Iliescu (though losing by a large margin) and his party took more than one-fifth of the seats in both the upper and the lower chamber, becoming the second-strongest party in the legislature.

In October 2003 an opinion poll ordered by the Institute for Public Policy and conducted by the Gallup Organization presented a continuous emergence of the party in the preferences of the Romanians: 26 percent of the voters rank it as their first option. A few days after a press conference where the representatives of the Romanian Civil Society presented the results of this last pool and their concerns regarding the emergence of extremist forces, one of the most important central newspapers (“Ziua”) started publishing evidence of the collaboration of Vadim Tudor with the former Securitate.

The first document presented was a commitment that Vadim signed under the conspiracy name “Vali”. Second, the newspaper published the document number 0046818 from the archive of the Department of State Security. Dated March 4, 1981, the report was labelled at that time as top-secret and was considered as property of the branch of the Securitate (Military Unit 0610) that was responsible for political affairs. The content of the file revealed a meeting between the general Aron, the commander of Military Unit 0610 and Corneliu Vadim Tudor. The meeting took place at the request of Tudor. The future leader of PRM comes across as an eager and voluntary Secret Service informant. He denounced fellow writers Dorin Tudoran, Ion Caraion, Virgil Ierunca or Monica Lovinescu as being followers of the extreme-right ideology. He also firmly criticized the activity of art critic Andrei Plesu. Tudor characterized Plesu’s activity as instigating against the activity of state institutions.

The articles were soon reproduced by all important newspapers and the case of Vadim-Tudor became a top subject for breaking news and political debates. Journalists and analysts claimed that given his activity of volunteer informer of the Securitate,

Vadim Tudor should not be allowed to run again for presidency. The legal framework however did not interdict that. Additionally, the documents were to be studied by the The National Council for the Study of Former Securitate's Archives (CNSAS), the only institution entitled to give the final verdict.

Prior to the beginning of the 2004 electoral campaign, several non-governmental organizations and associations representing the civil society asked the Council to analyze the Securitate files of presidential candidate Corneliu Vadim Tudor along with that of Adrian Nastase (the candidate of the Social-Democrat Party). They requested that the investigation be extended into the documentation fund of Pitesti, the part of the archive that had been ignored by the CNSAS till then. The requests submitted to the CNSAS head, Gheorghe Onisoru, mentioned that the investigation was necessary since serious suspicions had been reported in the press, about the involvement in political police activities of both Adrian Nastase and Corneliu Vadim Tudor.

Despite all this, Tudor officially announced his candidature for Romania's presidency during the National Council of the party on October 3, 2004. According to Nicolae Vasilescu, the electoral strategy chief, the fundamental objective of the party was acceding to power, under the electoral slogan: "Food! Heat! Medicines! Justice! Greater Romania in a United Europe!" No reference was made to the candidate's collaboration with the former secret police.

Only two days later, on October 5, the The National Council for the Study of Former Securitate's Archives put on its agenda the situation of Vadim Tudor and the vote on whether he was or he was not a collaborator of the Secret Police. During the meeting,

it was officially decided that he was not involved in political police activities before the fall of communism. Despite evidence proving that the PRM leader was involved in political police activities, four of the members of the CNSAS and its head Gheorghe Onisoru, decided that he was innocent. Nonetheless half of the council's members voted against the decision. According to their account, after months of examining Vadim Tudor's file they reached the conclusion that the PRM leader collaborated in the communist period with the Securitate.

The analysis of this decision must take into account the proximity of the electoral campaign. The vote of the Council was considered to be beneficial to the Social Democrat Party and to his leader and candidate for presidency, Adrian Nastase. It has been claimed that they were considering a post-electoral coalition with the Greater Romania Party. From this perspective, the “good behavior certificate” offered credibility to the controversial leader of PRM. Additionally, it was expected that Vadim will start virulent personal attacks against Nastase’s main competitor, Traian Basescu, the leader of the Democrat-Liberal Alliance.

The act of washing away the sins of Vadim Tudor provoked immediate and intense reactions. Two members of Council, who believed that Vadim Tudor was involved in political police activities, tendered their resignation from CNSAS on October 7. Andrei Plesu was the art critic denounced by Vadim Tudor as being instigator against the communist state institutions. He was now one of the most important representatives of civil society. Together with Mircea Dinescu, a former dissident poet during the Ceausescu era, they decided to quit because they considered the decision “the straw that

broke the camel's back". After such a verdict, "no CNSAS decision will be ever credible"¹⁰³, said Andrei Plesu. Another important member of CNSAS, Horia Roman Patapievici also announced that he will remain in office only until the general elections.

Andrei Plesu dismissed the arguments in favor of the verdict. Plesu explained that in many other cases, people have been found guilty of collaboration even without signing a commitment with their real name. "The existence of a commitment is not an indispensable condition. The Securitate was an institution with imagination and flexible strategies and knew how to handle someone like Vadim Tudor"¹⁰⁴. Moreover, the fact that the Securitate placed Vadim Tudor under surveillance is not a solid argument for him to be absolved of any guilt. Plesu added that during his activity at CNSAS, he had seen many situations in which those who had informer's files were also watched by the Securitate.

A front-page article in one of the most important national newspapers announced: "The CNSAS is half dead. Andrei Plesu and Mircea Dinescu have already resigned, and Horia Roman-Patapievici announced he would do the same after the elections. The decision of his colleagues at the CNSAS (that of the representative of the ethnic Hungarians alliance UDMR included) to absolve Corneliu Vadim Tudor of the guilt of having collaborated with communist era political police Securitate was unforgivable as far as they were concerned. Thus a new page in the

¹⁰³ Palade, Rodica. "Andrei Plesu si Mircea Dinescu demisioneaza din CNSAS". Dilema Veche, 10/13/2004 at <http://www.revista22.ro/andrei-plesu-si-mircea-dinescu-demisioneaza-din-cnsas-1207.html> accessed on January 10, 2013

¹⁰⁴ Ibid.

history of a failed project has been written. A defeat burdening the shoulders of each one of us. We are still seeing the same faces in politics as in 1990 also because we have not done enough, neither the mass-media, nor the civil society - from the public campaign, meetings to the hunger strike - for at least exposing the evil network of visible or under cover agents that was based on the communist system and that is still ruling the country?”¹⁰⁵

The activity of the CNSAS College was blocked after the resignations, as the board could not constitute the quorum needed. Given the situation of crisis, Mircea Dinescu reconsidered his position and decided to remain in the Council.

During the electoral campaign, several other references to secret police files appeared on the agenda. On November 1st, the press presented another declaration of Mircea Dinescu: “Around 4 to 5% of the candidates running for a seat in the Parliament collaborated with the former Securitate”.¹⁰⁶ Dinescu added that most cases belong to the Greater Romania Party. He also admitted that for the moment, CNSAS did not receive all information requested in this respect.

The reaction of Vadim Tudor was, as expected, a strong counter-attack. In the weekly issue of his magazine *Romania Mare* as well as on a television show he launched an attack against Mircea Dinescu whom he accused of having ties with the Securitate. Following the attack, The Romanian Intelligence Service (SRI) released a declaration

¹⁰⁵ “CNSAS is half dead”. *Evenimentul Zilei*, November 9, 2004

¹⁰⁶ “4-5% dintre candidatii la Parlament au colaborat cu Securitatea”. Ziarul de Iasi at <http://www.ziaruldeiasi.ro/national-extern/4-5-dintre-candidatii-la-parlament-au-colaborat-cu-securitatea~ni3i9o/print> accessed on January 10, 2013

denying having issued a document that presented Mircea Dinescu was a collaborator and informer of the communist political police, as claimed in an article published in Romania Mare. “The document published on page 23 of issue 747 on November 5, 2004, of Romania Mare weekly does not belong to the Romanian Intelligence Service. The identification insignia of the SRI are totally different from those in the document made public by Romania Mare magazine. The signature on the note does not belong to Costin Georgescu (former SRI Head)”.¹⁰⁷

Despite the CNSAS verdict, the Greater Romania Party leader failed in his third attempt at the position of head of state. In the first round of elections, he received 12.57 percent of the vote, finishing behind the representative of the Social Democrat Party, Adrian Nastase, who received 40.94 percent and the leader of the Democrat-Liberal Alliance, Traian Basescu, who received 33.92 percent.

As understood from its application throughout Eastern Europe, the process of lustration had the intention to “clear the air” of the post-communist transition and to create the feeling of transparency that lacked during the Communist regime. Lustration also implied the identification of those responsible for human rights abuses and their disqualification or removal from office.

From this perspective, the Romanin process seemed incomplete from at least two criteria. First, the lack of restrictions on former informers implies that lustration was actually never achieved. Second, the identification of those suspected to collaborate turn

¹⁰⁷ *Evenimentul Zilei*, November 7, 2004

out to be an extremely politicized process. The action served as an instrument to discredit political competitors and to start media scandals, but no one seemed to remember the fundamental importance of the screening process.

The succession of scandals that sum up the case of Corneliu Vadim Tudor is representative for the process of lustration in Romania. No law establishes penalties or restrictions for those in charge of the abuses committed by the communist regime's repression apparatus. The lack of legislation left the door open for sterile and perpetual negotiations and debates regarding the key notion of collaborator. Above all, the worst signal was sent by the abuses and mistakes, possible when and if the political interest required them.

For all these reasons, one can conclude that the main characteristic of the so-called process of lustration in Romania was its politicization. The process of decommunization represented one of the main sources of political rivalry. However, interest of politicians across all political parties was to stop the process from advancing. The protection of political leaders' biographies satisfied their ambitions, revealed the bias of state institutions and encroached upon the main scope of lustration: establishing transparency.

Final Considerations

There are few people today willing to talk publicly about the memories of their communist past in Romania. A few years ago, the director Cristian Mungiu made a surprising movie out of it and won at Cannes Palme d'Or. In 2009, the Nobel Prize for literature was awarded to Herta Müller who, far away in time and space, continues to write about her years of growing up in a dictatorship.

“For me, every trip to Romania is also a journey to another time, when I was never sure what was a hazard and what was a set-up in my own life.”¹⁰⁸ In a July 2009 interview for the weekly *Die Zeit*, the writer discloses the drama of her youth, when she had been forced to live under the surveillance of the Romanian communist secret services. The text appeared after the author was finally able to access her “file of informative observation” containing no less than 914 pages.

The file and the recent visits to her homeland, gave Müller the certainty of a vicious continuity of the repressive apparatus. She notes that despite the 1990 name-change of the institution from *Securitate* in Romanian Information Service, 40% of the personnel was kept on the same positions and the rest of 60% was sent in pension with generous earnings. Comparing the post-communist de-communication processes of East Germany and Romania, Herta Müller voices the regret that Romanian intellectuals cared as little about the faith of secret services files as they cared about the faith of those

¹⁰⁸ “Die Securitate ist noch im Dienst” in *Die Zeit*, Nr. 31, 23rd of July 2009. Available at <http://www.zeit.de/2009/31/Securitate>

persecuted in communist times. The writer ends her testimony with a shivering statement: “In my file, I am two different women. The first one, called "Cristina" is the public enemy and is criticized. To compromise this "Cristina", in the forgeries manufactory of the Department of D (Disinformation) they invented a fake character, with all the attributes that would hurt me the most: devout communist, unscrupulous agent, party member (something I never was). Wherever I went, I had to live with this fake. That was not only sent to follow me, but was in a hurry to outrun me. Although from the beginning and ever since, I always wrote against the dictatorship, the fake still exists today and follows its own paths. While the dictatorship is part of the past for twenty years now, the fake continues to rush over stock and block. For how much longer?”

The question of how to deal with the legacies of repression has been an important source of political divisions in post-communist Central and Eastern Europe. The states from this region had several possibilities available when deciding how to pursue transitional justice: criminal prosecution of important officials, restitution of property or declassifying of secret files for public inspection.

However, none of these options fully answered an important question: “What should and can be done with those involved in the abuses committed by the communist state and by the security services?” The controversial response to these dilemmas was lustration: the vetting of officials for links to the former communist regime. The Lustration Laws generally rely on information contained in the Secret Police files. In enacting and implementing the Lustration Laws, the countries in the region followed different paths and described lustration patterns that reveal significant variation.

In an article published in February 2009, Lavinia Stan identifies the major drawbacks and the missing pieces in the puzzle of post-communist transitional justice: “Countries in Eastern Europe and the former Soviet Union were considered ideal from a comparative point of view because they all experienced similar repressive regimes roughly at the same time, and they all effected regime change to democracy in the relatively short period of time between 1989 and 1991. Most of these theories have contrasted the performance of only a handful of post-communist countries, focused primarily on the early 1990s, and reduced transitional justice to lustration. Very few of them have considered non-cases, that is, countries that have systematically avoided confronting the past.”¹⁰⁹

My claim is that, to a lesser or greater extent, all the theories explaining lustration patterns failed in their prediction. Contrary to Huntington’s hypothesis, Lustration Laws have been adopted in countries where transition was peacefully negotiated and where the communist regime did actually allow people to publicly express to some extent their discontent. Quite the reverse, lustration is absent in the only country that experienced a bloody revolution and that severely limited the freedom of speech in the last decades of communism. In the same way, Moran’s framework is invalidated for example by the cases of Poland and the Czech Republic where the communist regime allowed to a certain extent both “exit” and “voice”, and yet the demands for lustration have been strong and materialized in landmark pieces of legislation. Furthermore, while Welsh’s

¹⁰⁹ Stan, Lavinia 2009, Post-Communist Transitional Justice Predictors, SciTopics, Category Sociology and Political Science

considerations regarding the key role played in the transition period by the communist heir parties have a good explanatory power, they leave however unsolved the question of why in some countries (like Romania for instance between 1996 and 2000) the right wing parties that governed the country did not support the prospect of a Lustration Law. Lastly, Nedelsky's hypothesis regarding the level of the preceding regime's legitimacy cannot be fully validated outside the Czech and Slovak cases. In many other Eastern European countries, the successor communist parties and their leaders scored high in first democratic elections with no direct logical correlation with the legitimacy of the former communist regime.

Considering all this, my thesis attempted to identify the missing pieces in the puzzle of why some post-communist countries strongly confronted their past, while others rejected initiatives to face the recent repressive history. Currently, I am working on the first step of the research. For this, I attempt to put together an in-depth analysis of the understudied case of Romania. My goal is to explain the lack of an unambiguous lustration process by focusing simultaneously on three temporal dimensions: the communist rule, the moment of regime change and the subsequent phase of transition. The project concludes that differences in lustration patterns can be fully explained only by simultaneously considering the impact of several factors: the pervasiveness of security apparatus during the last phase of communist rule, the type of regime change, and the extent to which political actors embraced the lustration agenda.

In Romania, the history of failed lustration attempts started with the December 1989 revolution and the election of Ion Iliescu, as the new president representing the National Salvation Front (NSF). In the years that followed, a largely accepted claim was that the NSF and its successor parties used the revolution as a mode of legitimation. The claim was that this organization has been the main carrier of the event and the voice of the crowd. The new leaders asserted that they achieved their positions through direct approval of the crowd during their appearance on the balcony of the Central Committee and in the studios of the Television. Throughout the years, this theme has been constantly repeated in their speeches by Ion Iliescu and the others NSF leaders.

Arguing that the Revolution had imposed a broad consensus in Romania, they tried to set up a new political system, which permitted the dialogue between different political opinions, but diminished any confrontation. The exact limits of this model were never fixed, but within it, the powers of NSF would have been considerable. The formation was the goal setter, the mediator of the debates and the executor of decisions taken. As a consequence, even if seventy-three parties participated in the first democratic elections, held on the 20th of May 1990, the NSF candidates received an overwhelming 67% of the votes. The candidate for Presidency, Ion Iliescu received 86% of the votes. The success of the NSF in the first post-communist elections was unlike any other East European party and one cause for their score might be the “confiscation” of the Romanian Revolution.

Nonetheless, the critical voices did not cease to appear. The history of decommunization initiatives and the way in which these contestatory voices emerged and

were articulated represents an important chapter of the country's recent past. However, in the final analysis, these voices did not receive the necessary support and the decommunization has been limited to symbolic gestures.

The first serious challenge to the new power emerged only a few days after the Revolution, on the 12th of January 1990. Thousands of people demonstrated in Bucharest in front of the building that became the headquarters of the new government. They clearly expressed their anti-communist ideas and their opposition to a regime dominated by neocommunists, but none of their requests was taken into consideration.

Three months later, on March 11th 1990, the Timisoara participants in the Romanian Revolution voiced their concerns in a thirteen-point document entitled "The Proclamation of Timișoara". One of the most important civic and political documents from the post-communist transition period, this proclamation was drafted under the coordination of writer and intellectual George Serban. The aim of the document was a return to the original liberal-democratic ideals of the December Revolution and above all to its deep anti-communist character. Out of the 13 requirements, the best-known remains the 8th point, calling for radical restrictions imposed to former party Nomenklatura members and secret service cadres.

"As a consequence of the previous point, we propose that the electoral law will forbid, for the first three consecutive legislatures, the right to candidate, on any list, of the former communist activists and of the former secret service officers. Their presence in the country's political life is the main source of tensions and suspicions that break the Romanian society today. Until the stabilization of the situation and the establishment of

national reconciliation, their absence from public life is absolutely necessary. Additionally, we ask that in the electoral law a special paragraph will prohibit former communist activists to candidate for country's presidency. The President of Romania should be one of the symbols of our separation of communism. Being a communist party member is not considered a fault. We all know to what extent having a red membership was a condition in people's life, from professional achievement to receiving housing, and what serious consequences had its lost. But activists were people who abandoned their professions to serve the Communist Party and to enjoy the special privileges offered. A man who made such a choice presents no moral guarantees as a President. We also suggest reducing the prerogatives of this function, as it is the case in many civilized countries of the world. Thus, for the office of President of Romania might also candidate personalities of the cultural and scientific life, without a great political experience. In this context, we also propose that the first legislature will only be of two years, time required to strengthen democratic institutions and to clarify the ideological position of each of the many parties that appeared. Only then we will be able to make an educated choice in an informed manner and to declare one's hand."

Over the following months, the Proclamation of Timisoara was accepted and advocated by many civic associations and millions of signatures have been gathered in sign of support for including the 8th point in the new electoral law.

This last amendment was also one of the main requests of the protests organized in the University Square of Bucharest from April until mid-June 1990. This event was yet

another attempt to completely break with the past and move towards a fully democratic model.

During the 52 days of protest, the participants in the public demonstration drew attention to the danger of leaving the country on the hands of the National Salvation Front (NSF), the party that originated in the provisional organization that was intended to operate as a temporary government until the first free elections. Among the leaders of this structure, that soon became the most important political party, many were former communist activists or high ranked officials.

The main target was Ion Iliescu, the new leader whom legitimized himself as the voice of “experience”. He had previously made a career in the Romanian Nomenklatura, becoming in 1965 a member of the Central Committee of the Communist Party and in 1967, the Minister of Youth Problems. However, in 1971, due to his critics on Ceausescu’s policies, he was marginalized and later sacked from all his political functions. During the 1989 Revolution, he explicitly emphasized the abusive character of the personal dictatorship of Nicolae Ceausescu, who he thought defiled the name of the Communist Party and the memory of those who died for the cause of socialism.

As contesters of such a type of discourse and biography, the protesters in the University Square of Bucharest asked for three types of solutions. The first was the implementation of the 8th point of the Proclamation of Timisoara, asking explicitly that chief members of the Communist Party and secret services will not have the right to candidate in elections. Next, they requested free access to the only TV station of the moment (the national state-owned public service television broadcaster) for all the

political parties and candidates and not, as it was the case, exclusively for the representatives of the NSF. Finally, there was the demand to postpone the first free democratic elections, as the only party that had resources to run a campaign was the NSF.

In a 2007 article, Julia Brotea and Daniel Béland explain:

“The University Square was in many ways a cultural event where artistic expression in the form of slogans or songs served the moral and political goals of the protesters. Their signs exclaimed, for example, “Yesterday hooligans, today thugs,” “Today in the capital, tomorrow in the whole country,” “We do not go home, the dead won’t let us,” and “We will die but we’ll be free.” (...) These slogans and songs established a spiritual continuity between the 1989 Revolution and the University Square events of the following year. The University Square movement even adopted its own anthem, “Anthem of the Golani,” whose lyrics were sung from the Geology Department’s balcony with the crowd joining in from below: “Better hoodlum, than traitor / Better hooligan than dictator / Better scamp than activist / Better dead than communist!”¹¹⁰

The peaceful manifestations from University Square ended violently during the Mineriad of 13-15 June 1990. A brutal encounter between the protesters and a big group of miners from Jiu Valley led to the dispersal of the demonstrators. Hundreds were

¹¹⁰ Brotea Julia, Béland Daniel. 2007. “Better Dead than Communist!” Contentious Politics and Identity Formation in 1990 Romania” *Spaces of Identity*, 7(2): 77-100.

wounded and several killed, the number of victims varying from seven (according to official reports) to a hundred (according to eyewitnesses).

Six years later, when George Serban, the initiator of the 8th point from the Proclamation of Timisoara, was elected in the Parliament, he tried to bring back the topic on the public agenda. He initiated a Lustration Law, similar with the documents already enacted in the neighboring countries, but did not receive the necessary support. His death brought the end of the proposal.

On March 1997, the Romania Parliament proposed a draft “Law on Access of Former Communist Officials and Members of the Totalitarian Regime to Public and Political Positions”. The document stipulated that those who held important positions in the Communist Party between March 1945 and December 1989, including the executive, the judiciary, the Great National Assembly or in the former Office of the Secret Service (Securitate) were denied access for the next 8 years to the main positions in the state apparatus. The communist positions that were targeted meant members of the Central Committee (at the regional, district, and county levels), members of the government, members of the judiciary, officers of the Securitate and officers of the Army. None of these people were eligible for being Prime Minister, member of government, public prosecutor, president of the court, governor, director of the national Television Company or ambassador. In addition, they were not allowed to run for the Constitutional Court, the Supreme Court, the Superior Council of Magistrates, the Romanian Academy or the Audio-Visual Media National Council. Nonetheless, the draft has not been adopted by the Parliament because it was inconsistent with Romanian Election Law and violated the

Article 16 of Constitution, which states that “all citizens are equal before the law and public authorities, without privilege or discrimination.”

The public found inefficient the limited access to the political police archives, the partial disclosure of the collaborationists of the regime and the trials of some leaders. In this context, the only compensatory gesture was represented by the Law 187 from December 1999 that allowed the free access of every Romanian citizen to his personal secret file. From the beginning, this project was criticized for the ambiguous use of key terms (like Secret Police collaborator) and for the bureaucratic path to the file itself. The institution created to facilitate the access to the file was the National Council for the Study of Former Securitate's Archives (CNSAS). The specificity in the design of this council was that its members were not only administrators of the files, but those to decide by vote if a person was or was not collaborator with the former Securitate.

In May 2005, another Lustration Law draft was initiated by Liberal MP Mona Musca and was initially supported by the parliamentary group of the National Liberal Party in the Chamber of Deputies (the Lower Chamber of the Parliament). The project required that those who were part of the governing structures of the communist regime could not hold in the future important public offices. The project proposed by liberal lawmakers was based on the requirements of the Proclamation of Timisoara. It prohibited, that for ten years upon its enactment, the former Communist Party activists will be prohibited from running for any public office in the presidential administration, in Parliament and in the public administration (be it central or local). Additionally, those who worked in the secret services, even only as informants, could not occupy positions in

the judiciary. However, soon after the project was initiated, its promoter, Mona Musca, resigned from the Parliament and quitted all her political activities following a decision of CNSAS (the independent body studying the archives of Communist-era secret police) that ruled that she collaborated with the Securitate. The verdict was confirmed by the Court of Appeal. The Lustration Law project of 2005 remained blocked in the Parliament after it was passed by the Senate, but not by the Chamber of Deputies.

The only symbolic gesture that followed was the presentation in December 2006 of a report condemning Romania's communist regime. The document was read by president Traian Basescu in front of the Parliament. The report put up by the "Tismaneanu commission"¹¹¹ was presented as the most complete description and analysis of Romanian communism. As a consequence of the tense political situation in the country, the report and its contents have been highly politicized and the media has criticized it for the lack of homogeneity and for its too pathetic and non-academic a tone.

In the final analysis, the Romanian process of decommunization seems caught between radical demands for lustration on the one hand and the lack of a straightforward legislative framework on the other hand. My attempt to explain such gap between ambitions and accomplishments will be directed simultaneously in three temporal directions: the last decade of communist rule, the moment of regime change and the subsequent phase of transition.

¹¹¹ Named after its chair, Vladimir Tismăneanu, a Romanian and American political scientist

My operating hypothesis is that such patterns can be fully explained only by considering together the impact of three factors: the severity of the communist regime, the type of regime change and the democratic strength of the early transition period.

First, compared to the other countries in the region, Romania experienced a severe dictatorship in the 1980s. While following an independent policy in foreign relations, the leader Nicolae Ceausescu adhered very closely to the communist centralized administration at home. In an effort to pay off the large foreign debt, Ceausescu ordered in 1980 the export of almost all of the country's agricultural and industrial production. The resulting drastic shortages of food, fuel, energy, medicines, and other basic necessities drove Romania from a state of relative economic well-being to near starvation. Additionally, the period was dominated by the expansion of a personality cult for both Ceausescu and his wife, Elena. Their tenure was known as the "golden era," while the media referred to him as the "genius of the Carpathians" or the "visionary architect of the nation's future". Censorship was omnipresent: experts who were faithful to the regime checked with vigilance each newspaper story and each broadcast. In the late 1980s, the agenda of the only existing TV station was strictly limited: only two hours per day, most of which were devoted to the cult of personalities of Nicolae and Elena Ceausescu. The content meant to impose the image of the new man and worship its only personification, the supreme leader. Furthermore, the Securitate (the Romanian Communist Secret Service) was controlling the public and private spheres of life. It conceived a methodical program of mass indoctrination and manipulation, through creation of conflicts between

the different segments of the population, public humiliation, hardening censorship or repressing the smallest gesture of independence by intellectuals.

The exploration of the fluctuant process of decommunization is important from two perspectives. On the one hand, it explains why a part of the population, reared at the end of the 1980s in a state of hunger, exhaustion and humiliation, demanded after the fall of the regime that those in charge of the crimes should be punished or at least eliminated from the public life. On the other hand however, the strength of the communist apparatus and the dimensions of its Secret Service (which was surpassed in the region only by the KGB and had about 38 000 members and 400 000 informers) reveal why such a purge was difficult to put into practice. The system was deeply contaminated by abuses and none of its direct or indirect supporters had the interest to further investigate it.

Second, as Samuel Huntington highlighted, another indication of the nature of decommunization policies might be the authoritarian regime's "mode of exit". In December 1989, while the Romanian Revolution was unfolding, other Central and Eastern European nations were peacefully making the transition to a multi party democracy. The increasingly violent riots culminated in a summary trial and the execution of Nicolae Ceausescu and his wife Elena. If initially the protests started in Timisoara mainly as an anti-communist uprising, the events in Bucharest subsequently transformed it into a revolt aimed mainly at dethroning Nicolae and Elena Ceausescu, portrayed as the cause of all evil.

Representative for this important ideological turning point remains the speech delivered during the Romanian Revolution by the new leader Ion Iliescu:

“Dear comrades, fellow citizens, I want to say a few words in addition to what I said before. The greatest danger that we face right now is anarchy. To prevent this, we need the contribution, the participation, the presence of the working people, the active participation of the people and not of some leaders who proclaimed themselves leaders, who proclaimed themselves elected by the people or who proclaimed themselves communists. They have nothing to do neither with socialism nor with the ideology of scientific communism. They have stained the name of the Romanian Communist Party, they have stained the memory of those who gave their lives for the cause of socialism in our country. On the contrary we, we must organize, we must reestablish the normal course of things.”¹¹²

This perspective became soon the mainstream approach and its success was legitimized by Iliescu’s overwhelming success in the first free elections. The physical elimination of Ceausescu and his wife was envisioned as the panacea needed to clear up with the past and move forward. As for other forms of retributive measures, Iliescu’s viewpoint was that they were pointless and dangerous in the same time: “Lustration is a national shame, a Stalinist idea turned upside down. The approach is similar to the “lustration” of the 1940s, when members of former democratic political parties were removed from public life.”

Lastly, political developments of the last two decades of post-communist transition have also a good explanatory power in regards to the dynamics of decommunization. A widely accepted starting point is the hypothesis stating that the

¹¹² “Revolutia Romana in direct”, coordinated by Mihai Tatulici, Bucuresti 1990, p.46

intensity of political competition affected the form of the Lustration Law, as parties attempted to restructure the scope of the law in order to strengthen their electoral power when facing competitors. As traditionally the Social-Democrat Party (formed from the conservative branch of the NSF) and its leader Ion Iliescu opposed any attempt of dealing with the past, the expectation was that its right-wing opponents will try to push forward for lustration and to expand the scope of the law.

However, the 1996-2000 and 2004-2008 periods when the power belonged to coalitions of right-wing parties, did not bring any significant changes in legislating lustration, though a couple of drafts have been debated in the Parliament. The pre-communist so called historical parties (the liberals and the Christian-democrats) did occasionally put forward the issue while on electoral campaign, but during their years in power lustration became secondary. Rather than a priority on the political agenda, it seemed to be an idea advocated by only a few anti-communists voices like Constantin Ticu Dumitrescu, Nicolae Manolescu, Andrei Plesu or Mircea Dinescu. Hence, a cautious analysis reveals solely that the lustration initiatives have been supported at the most by a handful of politicians, usually former political prisoners or dissidents. On the contrary, against such projects stood a non-transparent trans-party coalition of politicians that managed in the long run to block on different grounds the enactment of all Lustration Law drafts.

Twenty-four years after the Revolution of 1989, Romanian decommunization process is characterized by duplicity and moral ambiguity. Contrary to most expectations, the public interest for the topic did not decrease over the years. The media constantly

report on various cases of public figures who allegedly collaborated with the Securitate. Even the victory in the most recent presidential elections belonged to the candidate who used again the anti-communist rhetoric, making the Wall Street Journal to state “it appears that economic liberalism won a squeaker against the heirs to Nicolae Ceausescu's communists.”¹¹³ However, no legislative framework has been proposed for the future possible screening of former communist party officials. Decommunization has been limited to symbolic gestures. In another recent interview for *Le Monde*, Herta Müller confesses: “If I had stayed, if I had to see how everything continued after the fall of the Wall, I would have gone mad.”¹¹⁴

¹¹³ “Recession Bad, Communism Worse in Romania” in the Wall Street Journal, December 8th 2009 available at <http://online.wsj.com/article/SB10001424052748703558004574583760256609716.html>

¹¹⁴ “Herta Müller, Nobel sauvée par l’écriture” in *Le Monde des Livres*, December 4th 2009

Conclusions

In the context of post-communist transitions, the Lustration Laws are the legal instruments that authorize governments to screen candidates for appointed high positions in the state with the goal of protecting the newly-emerged democracy. Such laws represent a key feature of how the new democracies addressed the question of transitional justice and thus, represent a fundamental problem in the literature on democratization.

My research question explored why some countries passed lustration laws while others initially postponed and eventually blocked similar initiatives. The cases included in my study have been selected to represent variation along a spectrum of lustration law outcomes: the Czech Republic having the strongest type of lustration, Poland and Hungary having a weaker form and Romania lacking institutionalized lustration. The dissertation examined the circumstances in which these laws came into being and the factors influencing this process. The examination was comprised of two parts. First, I evaluated the existing patterns of lustration in Central and Eastern Europe. Secondly, I assembled an in-depth analysis of the understudied case of Romania with the intent of filling this vacant niche in the existing literature.

My research question was answered at the beginning by the hypothesis claiming that differences in lustration patterns can be explained by focusing simultaneously on the role of three temporal dimensions: the communist period, the moment of regime change, and the subsequent phase of transition. In order to verify this premise, the primary

sources examined included the proposed projects of lustration laws, the final drafts of laws, parliamentary debates and media reports on the issue.

The research findings justify the restatement of the working hypothesis. *The differences in lustration patterns can be fully explained only by simultaneously considering the impact of three factors: the pervasiveness of security apparatus during the last phase of communist rule, the consequences of the regime change, and the extent to which political actors embraced the lustration agenda.*

For the case of Romania, the three important moments have been confirmed, but a more detailed presentation of their importance is needed.

I. The pervasiveness of the security apparatus during the last phase of communist rule explains the resilience of the old ruling elite. The Securitate played the leading role in the human rights abuses of the communist regime. It carried out, organized and implemented the repression. By 1989, Nicolae Ceausescu and his entourage managed to fully consolidate their position by taking total control of the Securitate that had about 40 000 members and 400 000 informers. After the revolution, very few had therefore the will to dig deep into the past or call for an opening of the secret files. The country saw elite reproduction instead of elite replacement and lacked an unambiguous lustration process.

II. The controversial exit from communism had also implications for the subsequent attempts of transitional justice. If initially the protests started in Timisoara mainly as an anti-communist uprising, the events in Bucharest subsequently transformed it into a revolt aimed mainly at dethroning Nicolae and Elena Ceausescu, portrayed as the cause

of all evil, as opposed to the initial anti-communist approach. The National Salvation Front was accused of hijacking the Revolution and of using it for political purposes and electoral gain. The new leader, Ion Iliescu tried to separate the Communist Party and the communist ideology from Ceausescu's personal tyranny and continued to defend the ideals of the former. He was also the most important opponent of lustration, by claiming that it is a Stalinist idea.

III. The extent to which political actors embraced or not the lustration agenda constitutes the last important explanatory factor in my analysis. In Romania, the absence of a political coalition defending the project allowed former communists to enter public life and postponed the opening of the secret service files. Additionally, the hijacking of the transitional justice process for political ends led ultimately to the demise of the idea. As shown in the case of Corneliu Vadim Tudor, lustration was highly politicized and used by politicians for political gains. This eventually led to the failure to detach the Romanian political life from its communist past.

My final considerations will point out a possible future continuation of the research. My thesis concludes with a model describing the factors shaping the process of lustration. Further on, I aim to translate the findings of my dissertation into a policy-relevant framework of analysis for cases where democratic transitions are currently taking place. As the recent developments in the Middle East and North Africa confirm, democratic transitions face critical challenges. Among those, the pursuit of retrospective justice highlights the fundamental character of the new order to be established, an order based on the rule of law and on the respect for the dignity of each individual. Many

observers argue that, in this respect, experiences of Eastern Europe provide reasons for short term optimism, but medium-term pessimism for political developments in Egypt, Libya and beyond.

Bibliography

- Albu, Mihai. 2008. Informatorul. Studiu asupra colaborarii cu securitatea. Bucuresti: Editura Polirom
- Bertschi, Charles C. 1995. Lustration and the Transition to Democracy. The Cases of Poland and Bulgaria. *East European Quarterly* 2, 4: 435-51.
- Boed, Roman. 1998. An Evaluation of the Legality and Efficacy of Lustration as a Tool of Transitional Justice. *Columbia Journal of Transnational Law* 37, 2: 357-402.
- Bren, Paulina. 1993. Lustration in the Czech and Slovak Republics. *RFE/RL Research Reports* 2, 29: 16-22.
- Cepl, Vojtech, and Gillis, Mark. 1996. Making Amends after Communism. *Journal of Democracy* 7, 4: 118-24.
- Cohn, Ellen S., and White, Susan O. 1997. Legal Socialization Effects on Democratization. *International Social Science Journal*, 152: 151-71.
- Dawisha, Karen, ed. 1997. *The Consolidation of Democracy in East-Central Europe*. Cambridge: Cambridge Univ. Press.
- Ellis, Mark S. 1996. Purging the Past: The Current State of Lustration Laws in the Former Communist Bloc. *Law and Contemporary Problems* 59, 4: 181-96.
- Feldman, Lily Gardner. 1999. Germany's Reconciliation with France, Israel, Poland and the Czech Republic. *Die Friedens-Warte* 74, 4: 477-90.

- Feldman, Lily Gardner. 1999. Germany's Reconciliation with France, Israel, Poland and the Czech Republic. *Die Friedens-Warte* 74, 4: 477-90.
- Halmai, Gabor , Scheppele, K. 1997. Living well is the best revenge: The Hungarian approach to judging the past, in *Transitional Justice and the Rule of Law in New Democracies*, ed. by J. A. McAdams (Notre Dame: University of Notre Dame Press, 1997), pp.155-84.
- Halmai, Gabor. *Spies and Files: The Problem of Lustration in Hungary*, H.C.L.U., 1997, pp. 56-59.
- Ierunca, Virgil. 1990. *Fenomenul Pitesti*. Bucuresti: Editura Humanitas
- Jablonski, Andrzej W. and Meyer, Gerd, eds. 1996. *The Political Culture of Poland in Transition*. Wroclaw: Wydawnictwo Uniwersytetu Wroclawskiego.
- Legislatia Romaniei. 2000. *Legea privind accesul la propriul dosar si deconspirarea securitatii ca politie politica* .Bucuresti
- Linz, Juan J., and Stepan, Alfred. 1996. *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-communist Europe*. Baltimore: John Hopkins Univ. Press.
- Los, Maria. 1995. Lustration and Truth Claims: Unfinished Revolutions in Central Europe. *Law and Social Inquiry* 20, 1: 117-61.
- Michnik, Adam, and Havel, V. 1993. Justice or Revenge? *Journal of Democracy* 4, 1: 20-27.
- Michnik, Adam. 1996. Testament of Lies. *Index of Censorship* 25, 5: 145-47.

- Moran, John P. 1994. The Communist Torturers of Eastern-Europe. Prosecute and Punish or Forgive and Forget. *Communist and Post- Communist Studies* 27, 1: 95-109.
- Nina, Daniel. 1994. Learning from Experiences of the Past: Reflections on Truth and Reconciliation Commissions in Latin America and the Situation in Eastern Europe. Cape Town: Institute of Criminology, University of Cape Town, Occasional Paper 4-94.
- Oltay, Edith. 1994. Hungary's screening law. *RFE/RL Research Report* 3, 15: 13-15.
- Osmani, Patricia. 1997 *Law and Nation in Post-Communist Romania*. Institute on East Central Europe
- Pataki, J. 1995. Dealing with Hungarian Communist Crimes, in *Transitional Justice*, vol. II, pp. 647-52.
- Plassner, Fritz, ed. 1996. *Political Culture in East Central Europe*. Aldershot: Avebury.
- *Revista* 22, 1992-2000
- Rose, Richard. 1997. Public Opinion in New Democracies: Where are Post-Communist Countries Going? *Journal of Democracy* 8, 3: 92-108.
- Rosenberg, Tina. 1995a. Overcoming the Legacies of Dictatorship. *Foreign Affairs* 74, 3: 134-53.
- Rosenberg, Tina. 1995b. *The Haunted Land. Facing Europe's Ghosts after Communism*. Random House.
- Rupnik, Jacques. 1992. Europe centrale: le desenchantement? *Politique internationale*, 55: 23-32.

- Scheppele, Kim Lane Gabor Halmai and Laszlo Majtenyi. 1995. Confronting the Past: The Hungarian Constitutional Court's Lustration Decision of 1994, *East European Human Rights Review* vol. 1, no. 1, pp. 111-128.
- Schwartz, Herman. 1994. Lustration in Eastern Europe. *Parker School Journal of East European Law* 1,2: 141-71.
- Senat. 1998. Legea privind accesul la propriul dosar si deconspirarea Securitatii, ca politie politica
- Serre, Delphine. 1999. O politie politica in dezbatere: Fenomenul Stasi. Iasi: Institutul European
- Smolar, Aleksander. 1994b. The dissolution of solidarity. *Journal of Democracy* 5, 1: 70-84.
- Smolar, Aleksander. 1994c. Strategies des changements post-communistes en Pologne. *Revue d'etudes comparatives est-ouest* 25, 4: 163-81.
- Tismaneanu, Vladimir, ed. 1995. *Political Culture and Civil Society in Russia and the New States of Eurasia*. Armonk, NY: Sharpe.
- Tismaneanu, Vladimir. 1995. *Democracy, Romanian Style*. Iasi: Polirom
- Tismaneanu, Vladimir. 1998. *Fantasmele Salvarii*. Iasi: Polirom
- Volgyes, I. 1989. Hungary: Dancing in the Shackles of the Past. *Current History. The Monthly Magazine of World Affairs*, Nov: 381.
- Volgyes, I. 1989. Hungary: Dancing in the Shackles of the Past. *Current History. The Monthly Magazine of World Affairs*, Nov: 381

- Welsh, Helga A. 1996. Dealing with the communist past. Central and East European experiences after 1990. *Europe-Asia Studies* 48, 3: 413-28.
- White, Anne. 1995. The Memorial Society in the Russian Provinces. *Europe-Asian Studies* 47, 8: 1343-66.
- Wolchik, Sharon L. 1993. The repluralization of politics in Czechoslovakia. *Communist and Post-Communist Studies* 26, 4: 412-31.
- Yasmann, Victor. 1993. Legislation on screening and state security in Russia. *RFE/RL Research Report* 2, 32: 11-16.

Curriculum Vitae

















