Criminalizing the Past and Re-constructing Collective Memory: the Romanian Truth Commission
-Monica Ciobanu-

In post-communist Romania memory, history and justice have become embedded in an ongoing struggle for political power between the surviving forces of the old regime and those who believe in a complete break with the pre-1989 nationalist-communist regime led by former dictator Nicolae Ceausescu. While representatives of the first group perceive the interrogation of the past as an opportunity to preserve and even enhance their positions of privilege and influence, their opponents have argued for the necessity of some moral purification from past repression and the “empire of lies” of the totalitarian system. Those interested in pursuing such a purification - former dissidents, civil society groups, and members of the pre–War World War II political elites - envision a democratic society in which the persisting influence of former members of the communist nomenklatura and the secret police, along with the ideologues of nationalist-communist doctrine, can be nothing less than detrimental. However, because of the dominant position of the successor party to the communist party during the country’s transition to democracy in the 1990’s and beyond, the issue of criminalizing the past was not actually addressed until January 2007 when President Traian Basescu endorsed in parliament a report issued by the Presidential Commission for the Analysis of Communist Dictatorship in Romania, a report Basescu himself had commissioned. The main focus of this paper is the significance of this report for the politics of truth and justice in Romania. More specifically, the problem addressed is the extent to which a new historical narrative of an aspiring liberal state is in process of being adopted and whether it potentially can become a prelude to genuine transitional justice policies.

1. Preliminary Remarks on Post-Communist Transitional Justice

It has become a common place that immediately after 1989, in the post-communist countries of East and Central Europe, while there was wide agreement towards embracing the liberal democratic project among the proponents of democratic transition, the problematic status of the communist past generated much less consensus and support. Both the former anti-communist opposition, dissident movements and the
successors to the former communist parties were hesitant and inconsistent in addressing issues of remembrance, truth, justice and guilt in either a legalistic or a non-legalistic fashion. This appears puzzling on the surface given that most students of transitional justice and democratization recognize the existence of a fundamental relationship between a liberal democratic ideology embedded in accountability and the rule of law and policies of truth and justice (Boreman 1997, Calhoun 2004, Kritz 1995, Teitel 2000).

However, this ambiguity appears less problematic as the evidence clearly points towards two distinctive responses to transitional justice and mechanisms for dealing with it. The first corresponds to the experience of post-authoritarian societies, especially those that suffered the repression of shorter-lived military dictatorships in Latin America. These cases were characterized by their immediacy and a clear ability to identify both victims and perpetrators. The second found in post-totalitarian post-soviet societies, was much more delayed and embraced various tentative forms of partial justice and partial truth. The most common approaches were non-criminal based, including lustration or the disqualification and removal of certain categories of officials under the prior regime from public office and the practice of setting up independent bodies invested with the authority to manage the secret archives of the communist regimes’ secret police services and to grant access to these files to individuals. Thus, these different approaches and practices seem to reflect different levels of repression exerted by the two types of former regimes and their respective political authorities upon their subjects. The most important differences between authoritarian and totalitarian systems reflect the varying degrees of political, economic and social pluralism, the existence of a guiding ideology and the type of political mobilization. Unlike authoritarian regimes that had allowed some economic and social pluralism and did not pursue intensive political mobilization on the basis of a universalistic ideology, the repression exerted by totalitarian soviet systems was all encompassing and inhibited the development of any form of pluralism. It was derived from a Marxist-communist ideology that required total societal mobilization and penetrated not merely the public sphere, but also effectively deprived citizens of their private existence (Linz and Stepan, 1996, pp. 44-45). Ultimately, totalitarian soviet regimes relied on the passive consent and cooptation of the population. This was accomplished after Stalinist repression and Soviet military occupation ended. After the
late 1950’s, these regimes began to employ new means of legitimation in addition to party ideology such as nationalism, paternalism, and the cult of personality. One other form of cooptation that significantly framed the debates regarding truth and justice after 1989 was the widespread use by the repressive apparatus of collaborators, spies and informers among civilians as a further means of control.

These legacies of communist totalitarianism shaped to a large extent the policies of transitional justice in restraining the number and success of criminal trials. Since these trials were not ordinarily limited to prosecuting individual crimes, but crimes rooted in state repression that may reflect collective responsibility, transitional criminal trials presented serious challenges for the criminal justice system. Added to the difficulties in assigning responsibility at the various level of the political hierarchy within the structures of the former communist parties, as well as in the state apparatus of the police and secret services, were legal complications derived from the legal rights to due process that were guaranteed by the new democratic constitutional order. The cases of Erich Honecker, the former leader of East Germany (GDR) who was freed after being charged with ordering the shootings of those trying to escape to the West across the Berlin Wall, or of the former communist leader of Bulgaria, Theodor Zhivkov, who received a seven-year sentence for minor charges, are good examples. Moreover, the model of democratic transition that most former socialist countries adopted, that of peaceful negotiated transitions, gave the representatives of the old regime enough power to set up the terms of the legal transformation. As a result, very little punishment after 1989 was meted out in Bulgaria, the former Czechoslovakia, East Germany, Hungary and Poland. The only country in the region that initially engaged in immediate summary retribution was Romania where the revolutionary break had been abrupt and violent. Elsewhere, lustration, rehabilitation, compensation of the victims and truth telling became more viable transitional justice options. (Calhoun, 2004, pp. 8-15).

Truth-telling in its various forms – opening the archives, carrying out parliamentary inquiries or establishing a truth commission - had the potential of balancing the tensions between procedural and substantive justice and the advantage of containing elements of both restitution and restoration. However, the application of these measures requires a critical revisitation of the past from a new historical angle. This
became a controversial and difficult undertaking given that soviet-type totalitarian regimes had attempted to monopolize completely the historical and cultural domains and had produced one-sided single official historical narratives by suppressing all possible competing narratives and erasing inconvenient memories. Nonetheless in post-socialist transitions both legal mechanisms and historical narratives produced by historians and journalists began to reconstruct collective memory. History and memory became equally intertwined and involved in the legitimization process of the new democratic regimes. Political forces engaged in competition for power began to elaborate and disseminate their own historical narratives. As Michael Shafir points out, once the single official history has been displaced memory and history become competitors (Shafir, 2006). The issue became one of legitimating the new regime and delegitimating the old. Transitional societies began to produce competitive memories that reflected various and often divergent individual and group identities and experiences in relation to the old regime.

One of the most difficult questions has been and still is that of defining and locating repression. The search for answers revealed uncomfortable information not merely about the institutional mechanisms of repression, but increasingly about the collaboration and cooptation of a wide range of individuals: ordinary people including neighbors, friends and relatives, well-known personalities, and current office-holders. The struggle over managing communist history and collective memory became part of post-1989 electoral politics and was quite often shaped by passing or contingent circumstances. Even during the first days of the revolutionary transformations incidents involving the destruction or removal of documents and files from the archives of the secret police occurred in East Germany and in Romania. So, access to the secret archives of former secret services became instrumental and integral to this struggle. Numerous incidents showed that individual files were used as blackmail against political opponents, or as compromising material implicating public figures and higher-level employees of the justice system and public administration. This state of affairs limited and distorted the liberal component of transitional justice, that is, to promote openness and accountability in politics. It led to the rise of what Lavinia Stan calls the shared myths of the post-communist politics of memory (Stan, 2006). Among those myths that Stan lists and that have direct relevance for how public opinion was influenced and manipulated by those
groups with an interest in monopolizing pre-1989 historical memory are: justice is no more than assigning blame, spies were guiltier than party officials, everyone had a secret file, and informers were victims themselves (Stan, 2006, pp. 392-410).


As noted, Romania was the single former communist country whose initial response to the crimes of the old regime was swift retribution in the form of a military trial that convicted and sentenced to death Nicolae Ceausescu the country’s president and leader of the Romanian Communist Party (PCR). His wife, Elena Ceausescu, was similarly sentenced. The executions took place on December 24 1989, immediately following the trial in a climate of violence and uncertainty regarding the defeat of the old regime. This act invested the new provisional political body, the National Salvation Front (NSF), with revolutionary legitimacy. The NSF rallied former members of the communist nomenklatura led by Ion Iliescu together with former dissidents and other assorted revolutionaries. At the same time, in identifying the old regime with the dictator the NSF avoided implicating the involvement of segments of the army and the secret police (Securitate) in the bloody repression of the popular uprising that had begun on December 16 in Timisoara. This culminated on December 21 with Ceausescu’s abrupt departure from Bucharest after his failure to rally mass support. The charges leveled against the presidential couple - genocide and responsibility for the deaths of 60,000 persons, subversion of the state by ordering the massacre of unarmed civilians, destruction of communal property, subversion of the economy and attempt to escape from the country - could not, however be proved. Moreover, the very legality of the trial was dubious given that the execution was carried out immediately after sentence was pronounced and given also that the defense attorney acted as prosecutor. This instant retributive justice involved what Boreman describes as simple scapegoating, a macabre personification of the regime, however appropriate it might have seemed at the time, that would prevent or delay bringing others more directly responsible to justice (Boreman, 1997, p. 9). The

1 For a full transcript of the trial see www.timisoara.com/timisoara/rev/trialscript.html.
2 Edward Behr in Kiss the Hand You Cannot Bite (1991), New York: Villard Books provides an in-depth account of the trial.
manner in which the trial and execution were conducted compromised from the beginning the emerging democratic order, subverting the honest intention of building a political system based on the rule of law. It further created skepticism regarding the revolutionary nature of the NSF and its break with the past. This was especially the case after the withdrawal of former dissidents such as Mircea Dinescu, Doina Cornea and Ana Blandiana who accused the NSF and Iliescu of neo-communism.

Under these circumstances the question of lustration was raised less as an issue of transitional justice than as a continuation of the revolutionary process. The Proclamation of Timisoara of March 1990, initiated by George Serban, which attempted to clarify the objectives of the revolution centrally including lustration, became the guiding principle for groups opposed to the NSF. It was the eighth point of the Declaration, declaring that any person associated with the communist nomenklatura should not be permitted to hold public office, that determined the nature of discussion about guilt and responsibility for the past. If implemented, the Proclamation of Timisoara could well have prevented Iliescu from running for the presidency in 1990, as well as later in 1992, 1996 and 2000. The manifesto was highly popular among the opposition and became the focus of much public debate during the 1990 demonstration in Bucharest’s University Square, a debate that lasted almost three months in the form of a public forum for discussion. It ended in mid June when it was violently smashed by the authorities.

Although the Proclamation of Timisoara during the 1990’s continued to be at the heart of intellectual and electoral debate among the anti-communist opposition movement represented by civic groups such as the Civic Alliance (AC), the Group for Social Dialogue (GDS), the Association of Former Political Prisoners (AFDPR), and two of the newly re-established pre-WW II political parties, the National Peasant-Christian Democratic Party (PNTCD) and the National Liberal Party (PNL), it did not become the basis for a lustration law until 2005. The leaders of the successor parties to the NSF presented it as nothing less than a witch-hunt against the nearly three million members of the PCR. It was also portrayed as an attempt by opposition forces to restore the properties of the former bourgeoisie and the royal family by stripping ordinary people of all the good things that communism had provided them including housing, jobs, health care, education. Thus, the communist past quickly became a contested terrain involving two
competing narratives: one presented the communist regime as a modernizing stage in the country’s history and also as a force for national liberation from the Soviet Union, while the second saw the history of 1947-1989 as simply a period of complete suppression, moral and cultural destruction, stagnation, and anti-national in its character. Yet it was predominantly the first account that influenced public perception and undermined attempts between 1989-2005 at elaborating and developing policies of truth and justice.

For a clearer understanding of this situation some analysis of the continuities in legal and historical processes is necessary - respectively the transformation of Securitate and its assumption of new roles and the historical production of the past after 1989. The secret police, in concert with nationalist-communist propaganda, represented two fundamental pillars of Ceausescu’s regime. The secret police or Securitate became directly subordinated to Ceausescu after 1978 when Ion Mihai Pacepa, subminister of the Ministry of Internal Affairs (MAI) and subminister of the Department of External Information (DIA), escaped to the United States. The use of physical and psychological terror allowed Securitate to exercise widespread control over the population and prevented any attempt at opposition or revolt. Among those targeted were not just those who were undesirable to the regime because of family background, previous political activities or dissident acts, but also individuals who held important positions in the state and police apparatus. Rumors concerning Securitate’s omnipresence in the public and private sphere through spies, collaborators and phone tapping effectively succeeded in paralyzing the population and created a climate of uncertainty, fear and mistrust.³ In December 1989 it was in fact revealed that the number of Securitate employees was not all that impressive: 15,312 employees of whom 1,228 were civil personnel, but at least 400,000 informers, or one for every 57 members of the population (Oprea, 2004a, p. 48).

On December 24, the Council of the FSN issued a statement announcing that all units belonging to the Ministry of Interior (MI) were to become part of the Ministry of National Defense (MapN). After Securitate officers were assured they were not to become a target of the new regime, the reorganization of the secret services began. Seven new units were created that retained much of the old personnel (Oprea, 2004b; Deletant, ³ For an analysis of Securitate see Dennis Deletant Ceausescu and the Securitate. Coercion and Dissent in Romania, 1965-1989, C. Hurst & Co. Publishers, 1995 and also Marius Oprea Banalitatea raului. O istorie a Securitatii in documente [The banality of evil. A history of Securitate in documents], Iasi: Polirom, 2003.
2004). In consequence, elements of the old apparatus of terror were encouraged to serve the interests of their new protectors. According to Marius Oprea, for example, reactivated officers of the old Securitate were involved in the surveillance and intimidation of leaders of the University Square protest and demonstration and participated with the miners in the attacks on students, journalists, former dissidents and leaders of the historical parties (Oprea, 2004a, p.111). Securitate’s involvement in these events was documented by the media in 1991 showing that the new Romanian Information Service buried seven tons of documents over a precipice located in the vicinity of Berevoiesti village in Arges county (Bacanu, Romania Libera, May 20 1991). Journalists led by Petre Mihai Bacanu discovered not only documents taken from the archives of the opposition parties in June 1990 but also pre-1989 files of secret surveillance. Again, after 1989 many former Securitate officers went into business and benefited from the privatization of state assets or retained positions of influence within the new structures of the secret services. In effect, they became members of the new power elite and ardent supporters of the post-communist elite. For this they were rewarded with positions of power and influence in the government led by Nicolae Vacaroiu between 1992-1996 and later by Adrian Nastase’s government between 2000-2004 (Mungiu-Pippidi, 1997; Oprea, 2004a; Ute Gabanyi, 2004).

In regard to nationalist propaganda manufactured in Ceausescu’s regime, it is important to emphasize a similar appropriation by the post-communist political elite. Six years after the Soviet Union’s 1958 withdrawal Ceausescu’s predecessor, Gheorghe Gheorghiu-Dej, issued a declaration of independence. Beginning in the early 1960’s national history was gradually re-written. Historian Serban Papacostea distinguishes two stages of communist historiography: first, between 1944-1965 the main themes were communist internationalism and the positive role played by the Soviet Union; the second stage between 1964-1989 reflected the development of what came to be known as nationalist communism (Papacostea, 2004, pp. 223-224). Ceausescu took nationalist-

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4 The miners from Jiu Valley came to Bucharest in June 1990 to defend the government armed with wooden staves and iron bars. They were persuaded by Iliescu’s propaganda that the protestors from University Square were fascists and hooligans.

5 The example of Ristea Priboi, a former head of a Securitate service in charge of supervising dissident activities abroad in the 1980’s and appointed in 2000 the head of a parliamentary committee supervising the activity of the SRI, illustrates this reliance of the political class on former Securitate elements.
communist doctrine to extremes and used it to elaborate and sustain a cult of personality. This was achieved with the help of historians and humanist intellectuals - novelists, philosophers, poets, artists - who promoted in their works not only a personality cult, but also a theoretical identification between the state, the party, the proletariat and the nation. Moreover, along with this particular historical production a myth of Romanian exceptionalism was created based on claims that Romania was a small nation with a large role to play in the world and that the Romanian state was one of the oldest in Europe (Boia, 1998). After 1989 nationalist ideology continued to be employed by former propagandists in Ceausescu’s regime but now regrouped in newly created xenophobic political parties and associations that supported, either through electoral politics or mass-media, the pseudo-democratic actions of the post-communist elite.

The most notorious case involved the poet Corneliu Vadim Tudor who had previously supported Ceausescu’s cult of personality. This time, as president of the xenophobic-nationalist Party of Great Romania (PRM) and editor in-chief of the journal Great Romania, he attempted to compromise the image of the re-created historical parties and former dissidents as unpatriotic and subservient to the Western powers. He also promoted an image of the pre-1989 activities of Securitate as patriotic. The presence of former Securitate officers in the PRM and their contribution in undermining the search for truth regarding both the communist past and the December 1989 revolution is well documented. Former officers of Securitate, turned novelists and journalists, published memoirs and pseudo-scientific historical analyses that similarly contributed to shaping the myth of a patriotic Securitate. By avoiding any critical discussion of the communist past historians themselves allowed these groups to promote a positive image of the

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7 One of the most relevant examples of a former Securitate officer who became a member of the PRM and a parliamentarian between 2000-2004 is that of Ilie Merce (see Oprea 2004a, op. cit.). For an analysis of the xenophobic message promoted by Tudor and his party see also Michael Shafir “The Greater Romania Party and the 2000 Elections in Romania: a Retrospective Analysis,” in RFE/RL East European Perspectives, 2001, vol. 3, nos. 14-15.

8 Among the most successful such “journalists” was Pavel Corut, former chief of the counterinformations bureau of the Military Directions of Counterinformations between 1985-1989. Since 1990 he began to publish several novels that portrayed a romantic image of the work performed by former Securitate officers imbued with nationalistic tones and the myth of Romanian exceptionalism. The series Octogonul became a best seller and several million of copies were sold.
former regime. They justified this silence by claiming that it was too early to analyze the communist period objectively and, anyway, that they lacked access to documents (Boia, 1998, p. 237).

The important influence exerted by former Securitate elements in the areas of politics, secret services, privatization of state assets and media, sustained by interlocking financial and political interests with the old communist elite, raised serious obstacles to introducing and implementing transitional justice policies. In 1993 Ticu Dumitrescu, president of the Association of Former Political Prisoners (AFDP), submitted to the Senate a proposal for a Law of Access to Files and Exposure of Securitate as Political Police. It was rejected but resubmitted in January 1997 and approved in November as Law 187 known as the ‘Ticu law’. The committee charged with management of the files, a council of 11 members, was nominated by those political parties represented in parliament for a term of six years and not by politically independent individuals as required in Dumitrescu’s proposal. There were two other provisions that also altered the original text and restricted the application of the law: only those files whose content posed no threat to national security could be made public and secondly, that all archives were to remain under the jurisdiction of those institutions that had produced these files. One of them, the being the Secret Information Service (SRI), was set up by an unpublished decree of March 1990 and organized according to Law 14 of March 1992. The aspect of the legislation acknowledging the existence of a “good” and a “bad” Securitate – one defending the national interest and the other engaged in political policing - persuaded Dumitrescu to renounce his authorship of the law (Stan 2002; Dumitrescu, Muller-Enberg & Secasiu, 2005).

It can be argued that during these years justice became the work of those groups that attempted and to a certain extent succeeded in preserving some of the privileges and powers that the previous communist regime had granted them. However, there was one aspect that could not be controlled even by an ineffective justice system. They were the memories of those who had had direct experience of the brutality of the early Stalinist repression and Ceausescu’s later apparatus of terror. These were former political prisoners of the Romanian gulag, dissidents, activists who tried to organize an anti-communist opposition and Romanian exiles who continued their political struggle from
abroad. In consequence, an impressive number of memories, autobiographical accounts, and oral histories have been published.\(^9\) The most coordinated initiative attempted in gathering documents and testimonies about communist repression materialized in 1997 when the Sighet Memorial was constituted by Law 95 as a national historical site. It consists of a museum located in the same building that had been operated as a Stalinist jail where pre-WW II political elites were incarcerated. It also now houses the Center for International Studies of Communism.\(^10\) The project was launched in 1993 by novelists Ana Blandiana and Romulus Rusan. Despite the campaign against it organized by the “brown-red coalition government” at the time (these were former communists in alliance with nationalist forces including the PRM), the attempt at compromising the memorial as a neofascist undertaking failed. In 1995, the Council of Europe took it under its patronage (Blandiana & Rusan, 2006, pp. 367-396). The motto used by the memorial – When justice

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\(^10\) The memorial and its activities can be found on its website (www.memorial.sighet.ro).
is unable to act as a form of memory, memory alone can be a form of justice – illustrates very well the competing dynamic between memory and justice. Civil society’s attempt at re-creating a collective memory of communist repression that might substitute for the present absence of justice may even perhaps bring about real justice at some point in the future.

3. The “Tismaneanu report”: From memory to truth and justice?

The next part of the paper provides an examination of the report issued on January 18, 2007 by the Presidential Commission for the Analysis of Communist Dictatorship in Romania also known as the “Tismaneanu report” after its chairman, Vladimir Tismaneanu, presently at the University of Maryland.

Given its mandate - to reveal the institutional mechanisms of communist repression, to recommend legal reforms for compensating the victims of repression, and to outline the criminal and illegal nature of the former regime – the Tismaneanu Commission can properly be described as a historical truth commission. The following practical and theoretical aspects of the commission will be considered: the context in which it was set up; the professional and personal background of its members; the methodological and conceptual framework used in preparing the ensuing report; problems encountered during the investigation, and the reactions of political and social actors as well as in the academic establishment. Finally, knowledge of the functioning of the commission may give some insight into the extent to which the report could become the national narrative of a liberal state and thus potentially a prelude to judicial proceedings.

History of the Formation of the Tismaneanu Commission

Although the “Ticu law” was enacted in 1997 when the country was governed by a center-right coalition which included the historical parties and the civic association under the umbrella of the Democratic Convention (CDR), it had little impact in limiting the access to public office of former members of the communist nomenklatura or

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11In one of the most comprehensive works on truth-commissions Unspeakable truths facing the challenge of truths commissions, New York: Routledge, 2002, based on the experiences of 21 truth-commissions, Priscilla Hayner shows how these elements directly affect a successful outcome of such an inquiry.
Securitate officers, collaborators and informers. Moreover, the return of the ex-communists to power in the 2000 elections, this time as the Social-Democratic Party (PSD), again inhibited the activity of the CNSAS as well as more serious consideration of transitional justice policies.\textsuperscript{12} Even concerns expressed by some NATO officials (Romania became a member in 2004) that the continuing presence of former Securitate members in the national security apparatus - allegedly engaged in illegal economic transactions with Middle Eastern countries that jeopardized the secrecy of its operations - could not produce any needed purification of the SRI or of the political class in general (Oprea, 2004). However, the results of the 2004 elections that brought to power a liberal coalition government, the Truth and Justice Alliance (DA), raised hopes among civil society groups. This alliance consisted of the PNL and the Democratic Party (PD), a splinter faction of the FSN that officially renounced affiliation to the Socialist International and joined the European Popular Party in September 2005. Such hopes increased further after public statements prepared for the media, by the new president Traian Basescu both before and after his election. By then Basescu, president of the PD and before 1989 a captain of the commercial fleet Navrom, mayor of Bucharest between 2000-2004 and then re-elected, was already known as a shrewd politician capable of surprising his opponents and the public. Unlike many members of the political class who attempted to conceal or defend their connection to the communist past, Basescu was willing to admit that the continuity of communist elites after 1989 was a serious problem of which he himself was also a part.

In two interviews that he gave in the summer of 2005 to the daily Romania Libera and the weekly journal 22, he declared that an official condemnation of the communist regime must require a scientific investigation. This came particularly to the attention of Sorin Iliesiu, a producer and film-maker by profession and vice-president of the Civic Alliance and a member of the Group for Social Dialogue (GDS). Iliesiu was the initiator of two important recent appeals: The Appeal for Romania endorsed by all civil society groups in June 2005 and published in Romania Libera and The Appeal for the

\textsuperscript{12} In “Spies, files and lies: explaining the failure of access to Securitate files” (Communist and Post-Communist Studies, 37, 2004, 341-359), Lavinia Stan examines the following factors that constrained the activity of the CNSAS: unclear formulations in the law regarding the status of CNSAS and the statutes and procedures to follow in formulating verdicts; the alteration of the archive; the obstructive attitude of SRI and the political class in general and dissensions within the body itself.
International Condemnation of the Criminality and Illegitimacy of Communism launched in April 2005 and endorsed by civic associations, former dissidents as well as cultural personalities and social scientists. Moreover, on the basis of the documentation provided by the Sighet Memorial and a documentary, *The Victim’s Memory*, Iliesiu provided Basescu in October with an unofficial report of 11 pages whose 18 main accusations were later found reproduced in the official Tismaneanu report containing 21 accusations including the original 18. Ultimately the president was persuaded and responded to Iliesiu’s appeal by officially announcing in April 2006 the formation of a presidential commission that would develop an official report within six months. In order to understand the subsequent reaction towards the report by members of the PNL, it is important to note that at the time the governing coalition was shaken up by an ongoing conflict between Basescu and the prime minister, Calin Popescu-Tariceanu. Prior to the establishment of the presidential commission, Tariceanu had created in December 2005 the Institute for the Investigation of the Crimes of Communism in Romania which began to operate in June 2006. Two other important historical events are crucial in understanding the broader context under which Basescu’s commission was set up. In January 2006, the Council of Europe voted a resolution condemning the crimes committed by communist regimes and then, in January 2007, Romania was finally admitted to membership of the European Union.

The Make-Up and Mandate of the Presidential Commission

Basescu’s choice of Vladimir Tismaneanu as president of the commission was motivated by his professional and public reputation both within and outside Romania. Tismaneanu is a well-known professor of political science at the University of Maryland, College Park and has resided in the USA since 1982. After 1989, he became actively involved in public and academic life in Romania. Tismaneanu is the author of numerous books and articles that analyze both communist and post-communist regimes. One of his

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13 Personal interview conducted with Sorin Iliesiu in July 2007 in Bucharest and also issue 876, December 2006 of “22”.
14 Along with the tasks of collecting evidence of crimes perpetrated by the communist regime and of elaborating some educational programs, the scope of the Institute was also linked to the necessity of expressing a public condemnation of the past regime. One of the directors of the institute is Marius Oprea the author of numerous studies of Securitate (some of them referred to in this paper) and also Tariceanu’s personal advisor on issues of national security. See more on the website of the Institute: [www.iiccr.ro](http://www.iiccr.ro).
latest, *Stalinism for All Seasons* (University of California Press, 2003) is considered a significant contribution to the history of the PCR. However, his critics used his family background, specifically the political role of his father, Leonte Tisminetky, in the 1950’s and 1960’s, as an argument compromising his credibility.15 Interestingly enough, Leonte Tisminetky was included in the report listed as one of the principal members of the Romanian stalinist regime which included Gheorghe Gheorghiu-Dej, Ana Pauker, Iosif Chisinevschi and Leonte Rautu. This was despite Tisminetky’s lesser position of authority in the communist apparatus.

It was left to Tismaneanu to decide the mandate of the commission, including the methodology of data collection and the option of naming or not naming perpetrators. In regard to methodology, three types of sources were chosen: 1. archive documents, to which (for the first time) unrestricted access to researchers was granted by the presidency; 2. secondary sources, represented by sociological, historical and political analyses of the communist and post-communist regimes produced by Romanian and foreign scholars; and 3. memoirs of those who were either victimized or had been part of the repressive mechanism. The commission did not undertake any interviews with victims. Tismaneanu was also entrusted with the authority to appoint the members of the commission.

Given the complexity of the report and the short time mandated for its completion, the commission became one of the largest truth-commissions ever mounted. It included 19 members and 18 experts - of whom two were also members - and three experts with special status.16 Before the commission began its work, two of the members withdrew given a revelation of their alleged ties to Securitate. The other members were known to the public not only for their professional qualifications as philologists and historians, but also for their anti-communist credentials both before and after 1989 as well as for their involvement with civil society groups. While names like Sorin Alexandrescu, Virgil Ierunca, Monica Lovinescu are significant in the world of exiled

15 Tismaneanu’s father Leonte Tisminetky joined the communist party in the 1930’s and was educated in Moscow. In 1949 he was appointed director of the publishing house Politica and, later, chair of Marxism-Leninism at the University of Bucharest. In 1960 he was expelled from the PCR for “revisionist-type deviationism” and then regained membership after Dej’s death.

16 These features set the Tismaneanu commission apart from other truth-commissions. See Lavinia Stan “Comisia Tismaneanu intre adevar si reconciliere” [Tismaneanu commission: between truth and reconciliation], in 22, no. 886, March 2-8 2007.
dissident intellectuals, those of Constantin Ticus Dumitrescu, Radu Filipescu, Sorin Iliesiu, Nicolae Manolescu, Marius Oprea, Horia Patapievici, Andrei Pippidi, Romulus Rusan, Stelian Tanase, Alexandru Zub are also associated with civic and intellectual groups that opposed the continuing influence of former communists and Securitate elements in public life after 1989.\textsuperscript{17} The prominence within the commission of individuals sharing a critical attitude towards the former communist regime, however, gave those that perceive the communist past through a more favorable lens – the Social Democratic Party (PSD) and Tudor’s Party of Great Romania (PRM) – an opportunity to contest the legitimacy of the report. It was also alleged that negative memories of experiences under communism, combined with the literary background and inclinations of some members, biased or compromised what should have become an objective historical document based on an empirical document-based methodology.\textsuperscript{18}

In contrast to many of the members, the majority of experts retained by the commission tended to be recent PhDs in social science and history with an active research agenda in the area of communist repression and its anti-communist opposition. These include Adrian Cioflinca, Dorin Dobrinca, Robert Furtos, Cristian Vasile, Ioana Boca and Ruxandra Cesareanu. As researchers appointed by the presidency their work was remunerated while the official members contributed their time pro bono.\textsuperscript{19} The apparently symbolic presence of some members of the commission who made only a limited contribution, for example, Alexandru Zub, a prominent historian and member of the Romanian Academy, gave the academic community an excuse to contest the scientific validity of the report. Such suspicions were also heightened by the fact that with one exception (the section on the Chronology and Geography of Repression undertaken by Romulus Rusan), various other parts of the report failed to bear the signatures of those responsible for them.

\textsuperscript{17} A full list and detailed CVs of all members and experts is available on www.presidency.ro.
\textsuperscript{18} One of the critics of the Tismaneanu Report, Michael Shafir, whose scholarly contributions in the areas of Romanian communism and the issue of memory in post-communism are well-acknowledged, concludes that the document produced by the commission is one of memory and not one of history. (Michael Shafir, “Raportul Tismaneanu: Note din public si din culise” [Tismaneanu reports: Notes from the public and from backstage], Tribuna (Cluj), no. 108, 1-15 March 2007, Supliment Tribuna Documenta, no. 7/2007, pp. I-X).
\textsuperscript{19} See Rodica Palade’s interview with Tismaneanu “Raportul nu e un rechizitori” [The report is not an inquisitorial] in 22, no. 876, December 19-25 2006.
The analysis of the communist regime (1945-1989) is covered in almost 700 report pages. An introduction “The nature, scope and effects of the totalitarian communist regime: ideology, power and political practices in Romania, 1945-1989”, lays the ground for the condemnation of the regime as a moral, intellectual, political and social obligation and establishes the thesis of its criminal nature rooted in illegality and illegitimacy. The twin pillars of the regime, sustaining its total control and authority, were the secret police (Securitate) and state propaganda both similarly characterized as criminal, illegal and illegitimate. This argument is further supported by the recognition of a fundamental continuity between the soviet-era phase up to 1964 and nationalist-communism initiated by Gheorghiu-Dej in 1964 and continued until 1989. Yet despite its claim to national independence from the Soviet Union, the nationalist-communist regime never renounced its totalitarian practice. Nationalist ideology in no way altered the nature of the regime, but, to the contrary, enhanced and assured the authority of the PCR and its leadership. Given that some views and practices of nationalist-communism – anti-pluralism, anti-westernism and anti-intellectualism – continued to persist between 1990-1996 in Iliescu’s government (which inhibited the institutionalization of democracy) the scope of the report is not only one of recollection but of warning as well.

The demonstration of this thesis is fully covered in the three chapters of the report: The Romanian Communist Party (106 pages), Repression (240 pages) and Society, Economy and Culture (220 pages). The first chapter on the PCR devotes more space to the first phase of the communist regime beginning in 1948 and ending with the death of Gheorghiu Dej in 1965. Under Soviet military occupation party monopolized power after the elimination of the historical parties in the fraudulent elections of 1946 and the forced abdication of the king in 1947. The analysis focuses on the relationships between the PCR and Moscow and its tensions as well as on the struggles within the party between a nationalist-stalinist faction led by Dej and a Moscow faction represented by Anna Pauker, Vasile Luca and Teohari Georgescu that resulted in the elimination of the latter in 1952. The history of the party is one of continued infighting and intrigue dominated by tensions generated by internationalism, factionalism and nationalism. The quite detailed biographies of Lucretiu Patrascu (the intellectual Leninist who was
executed in 1954) and of Anna Pauker (the main figure in the Moscow faction who came to Bucharest in 1944 with the Red Army and was minister of Foreign Affairs between 1947 until her expulsion from the party in 1952) support this argument. However, the victory of Dej’s faction and his 1964 declaration of independence are presented in the report as simply a means for PCR’s leadership to consolidate its power and avoid destalinization.

On the other hand, the years of Ceausescu’s own brand of dynastic communism (1965-1989) are covered in a minimal 23 pages. This is extremely brief given the difficulty of explaining the ability of the regime to maintain power despite its evident growing loss of ideological appeal. The explanation that extreme nationalist propaganda made possible the labeling of any opposition as unpatriotic is not convincingly spelled out in this section although the second and third chapters add more substance to the argument. This chapter also includes an examination of the Union of Communist Youth (UTC), which at 22 pages is almost as extensive as the space devoted to Ceausescu’s regime. Although in some instances this disproportionate emphasis was due to practical difficulties encountered by the commission that are discussed later, the unequal space devoted to these two different stages of communist history raised concern within the academic community about the scientific or objective value of the report.20 It also set the stage for personalized attacks against commission members accused of holding various privileged positions during the Ceausescu’s era.21

The second part of the report attempts to establish a more convincing conceptual framework and provide detailed empirical evidence sustaining the thesis of the criminality and illegitimacy of the regime. The conceptual characterization of repression as involving genocide creates major difficulties in any attempt at demonstrating that it was a well-planned act perpetrated on a large scale and aimed at some ultimate destruction of the nation. The earliest planning of any alleged genocide is situated in

20On March 29 2006 a group of historians, sociologists, theologians, journalists and professors from the University of Bucharest organized a conference titled “To whom does the Tismaneanu report belong? The final report: political document or scientific study, source of legality or a trotskist fight?” (www.civicmedia.ro). The conceptual and empirical weaknesses of the report were also criticized by Dorel Abraham in “Procesul istoriografic a ‘Procesului comunismului’” [The historiographic process of the trial of communism] in Arhivele Totalitarismului, 2007.

August 1944 when the Soviet army took approximately 100,000 prisoners, both civilian and military, even though Romania at the time was virtually an ally of the Soviet Union after breaking with Nazi Germany.\(^{22}\) It continued with the brutal repression of an anti-communist demonstration in 1945, the falsifying of the 1946 election results, and large-scale political terror launched in 1948 when hundreds of thousands of political arrests were made by the secret police. As for how the communist regime accomplished this genocidal destruction, the report argues that it was as much accomplished through direct physical repression – incarceration and assassination in prisons and forced labor camps of more than two million people of different ages and socio-economic background between 1945-1989 - as indirectly through various policies implemented by the regime. Respecting the latter, the third part of the report analyzes particularly economic, educational and cultural policies. The politics of forced industrialization that eventually led to an economy of shortages, a poor health-care system, a severely restricted politics of reproduction resulting in high rates of infant mortality and morbidity, the highest number of handicapped persons in Europe and a generally low capacity for physical and intellectual effort among the population are hallmarks of these policies. The forced imposition of communist-nationalist ideology in literary works and subsequent censorship, intimidation and harassment to which many were subjected who attempted even oblique critical views of the regime is characterized in the report as intellectual genocide.

It is important to remember that the commission’s work was not without precedent for it represents a continuation of the analysis initiated in 1997 when the first edition of *The Black Book of Communism* edited by Stephane Courtois appeared (Robert Laffont, Paris). The Romanian edition published in 1998 included an addendum on the Romanian gulag, which was based on the report the “Census of the population incarcerated in Romania between 1945-1989” produced by the International Center for the Study of Communism at the Sighet Memorial and which had already defined the communist regime as state terrorism. This characterization is supported by socio-demographic data on the gulag’s population indicating that repression was not directed

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\(^{22}\) Romania entered the war as an ally of Nazi Germany in 1940 under the military rule of General Ion Antonescu. In August 1944 Romania switched sides and became an ally of the Soviet Union.
only against class enemies of the socialist revolution, but also against the same groups for which the revolution was fought. This included both the working-class and the peasantry. Out of the total number imprisoned, 28.8% were peasants and 13.5% members of the working class or almost half the total. By subscribing to the Courtois equation of the “class genocide” of communism with the “race genocide” of Nazism, the Tismaneanu Commission placed itself in a delicate situation and gave its critics the opportunity to open a Pandora’s box of controversial issues. According to Romulus Rusan, the proper usage of “class genocide” derives from the nature of large-scale repression engaged in by a totalitarian communist system that sought not only the physical destruction of a “class enemy”, but also the complete ideological subordination and socio-political homogenization of everybody else. These goals, he argued, were achieved in Romania at the cost of victimizing half of the country’s 1950’s population of 16-17 million people (Rusan, 2007, pp. 61-64). This number was calculated on the basis of an estimated but not definitive number of two million victims of direct repression. It included 600,000 political detainees, 200,000 administrative internees, peasants condemned for refusal to submit to collectivization, deportees, those subjected to home residency, prisoners of war, 520,000 young people forced into labor, and women who died of complications of illegal abortions. Rusan calculated that the number of victims of repression far exceeds the estimates given by Sighet as it fails to include family members and other affected. The number of those who suffered from direct or indirect causes may in fact then reach as many as six to eight million. In much the same way that the number victims under communism in the Soviet Union (estimated at 20 million) was disputed, the problems encountered by the commission in accessing the archives, together with inaccuracies in many official documents, combined to make it difficult to do more than loosely estimate the number of direct victims at somewhere between 500,000 and 2,000,000. Moreover, the inclusion among the victims of repression of heroes of the anti-communist resistance, as well as of persons whose anti-communism was founded in the indigenous ideology of Iron Guard fascism is problematic. 23 In doing so, the report enters the very controversial

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23 One such example is Gavrila Ogoreanu, a former member of the youth organization of Iron Guard, whose biography was extensively presented in the report (see Michael Shafir “Tismaneanu Report: Notes from public and backstage”, op. cit.).
domain of competitive martirology, i.e. between the two major totalitarian regimes of the 20th century, fascism and communism (Shafir, 2007).

Equally problematic questions are generated by sections of the report that present various types of opposition to the communist regime, for example, the armed anti-communist resistance of 1944-1960; worker protests against the regime, of which the most significant was the miners’ strike in Jiu Valley in 1977; the activities of the Worker’s Free Union from Romania (SLOMR) founded in 1979 by a physician, Ionel Cana, and the revolts of industrial workers in Brasov in 1987. Also included are various form of dissidence between 1977 and 1989 represented by those who chose or were forced to leave the country and continued their opposition in exile as well as those who chose to stay. Religious dissidents are similarly included. Controversies surrounding these issues are rooted in the very specificity and fragmentation of the Romanian opposition. Unlike its Central European counterparts, opposition did not produce a large-scale unified movement of the Polish Solidarity type. Nor did it produce high-profile dissidents such as Vaclav Havel in the former Czechoslovakia or Adam Michnik in Poland, or even significant intellectual centers of independent thought and critical debate as occurred in the Hungarian universities. Given that the report emphasizes the weakness of these various movements in challenging the authority of the regime by placing them in a comparative regional perspective, or of actively participating in the 1989 revolution, many felt excluded from the report’s new historical narrative and that their own sacrifices were not properly acknowledged. Added to this, different groups reacted by competing among themselves for the highest honors in this anti-communist narrative, claiming a leading role that they may or may not have had.

Both members of the armed anti-communist resistance and leaders of the workers’ union protest complained that dissidents received too much undeserved credit. Virulent attacks on the honesty and accuracy of the report were initiated by Constantin Dobre, one of the leaders of the miners’ strike, and by Cana, the founder of SLOMR. Dobre’s irritation that the 1977 protest was presented as simply from within the system,

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24 Among those dissidents who were forced to leave the country, the report discusses (among others) the cases of the novelist Paul Goma, historian Vlad Georgescu and journalist Dorin Tudoran. As for those who pursued their dissident activities in Romania some detail about the poet Mircea Dinescu, journalist Gabriel Andreeescu, university professor Doina Cornea and the engineer Radu Filipescu is provided.
seeking only social and economic reforms, and not in opposition to it, was further aggravated by the fact that he was pronounced dead even if the mistake was immediately rectified (see www.jurnalulnational.ro, April 20 2007). Cana also argued that SLOMR was the first independent union in the communist bloc and that in fact it represented a real rapprochement between the intelligentsia and the working class. He ranked dissident movements in the following order of importance: the SLOMR form of organized group dissidence, amorphous dissident groups represented by for example, the novelist Paul Goma, and various other forms of individual dissidence (see www.ziua.ro, April 16 2007).

The reactions provoked by the characterization of religious dissidence have to be understood in relationship to the section included in third chapter of the report, which addresses issues of the relationship between the communist regime and religious groups but primarily, of course, the Orthodox Church. This section analyses the subordination of the Romanian Orthodox Church (BOR) to the state after the 1948 suppression of anti-communist priests, monks and nuns, theologians (some of whom had no prior political affiliation though others were connected to the fascist Iron Guard), and the cooptation of some members of the clergy by Securitate as informers. The overt support provided by Teoctist, the patriarch of BOR between 1987 until his death in 2007, for Ceausescu’s policies and his passivity in the face of the demolition of churches are well-known and sharply criticized in the report. These complicit attitudes seem to be even more condemnable when the status of other churches is examined, particularly in relation to the suppression of the Greek Catholic Church through its incorporation into the BOR in 1948 and the crack-down on the hierarchy of the Roman Catholic Church. Faced with such accusations, BOR was quick to react and to defend itself. At a meeting of the Synod in February 2007 the creation of its own commission to study the activity of the church under communism was announced. At the same time, in an article published in the journal of the Faculty of Theology, several members of the Tismaneanu Commission were accused of duplicity. The three contributing authors of the section dealing with religion under communism were accused of personal bias vis-à-vis the Orthodox Church and for not consulting studies that documented BOR’s strategy of preserving the institution at the cost of compromise and of minimizing the suffering of the orthodox
clergy (Gabor, 2005-2006, pp. 185-208). This defensive attitude, as well as the rejection of evidence illustrating complicity with the repressive apparatus, continues to be their official response.

Finally, in the last part of the report the commission reaffirmed a definite continuity between the two stages of communism opposing the “revisionist tendencies and the myths of the Ceausescu epoch” and set out various concrete legal and non-legal recommendations for the analysis, repudiation and condemnation of a communist dictatorship guilty of crimes against humanity. These recommendations referred both to issues of memory and justice. Concrete measures were proposed in the following five areas: 1. the condemnation of communism including the RCP and Securitate; 2. memorialization of the victims of communism; 3. legislation and judicial proceedings involving lustration, the rehabilitation and compensation of victims and the criminalization of any type of apology for the regime or its leaders including any public display of communist symbols; 4. archival research including unlimited access to communist files held by the national archives and various ministries of government as well as the professionalization of archival work; 5. education oriented towards the analysis of communist history in both schools and research institutions. The last section of the paper will consider the prospects for the implementation of these measures.

**Practical Difficulties Encountered by the Tismaneanu Commission**

The two main obstacles encountered by the commission – the relatively short duration under which the report had to be produced and the problems raised by access and use of archives – have already been alluded to. In regard to the second question, it is important to emphasize that thanks to President Basescu’s initial authorization it was the first time since 1989 that researchers were granted full access to the archives of the various institutions and ministries that house documentation relating to communist repression. These include penitentiaries, military archives and archives under the control of the Ministry of Justice, Ministry of Interior, Ministry of Health or with local authorities. Until then, under Law 16 of 1996, access to archives was restricted to documents issued only after 1977. However, despite a presidential request that all relevant institutions should facilitate access to documents by the commission, there were
a number of situations in which access was either refused or restricted. Sensitive information regarding Securitate’s dealings with journalists and others in the Romanian section of Radio Free Europe - including the suspicious deaths of former directors - could not be clarified because of the uncooperative attitude of the Direction of External Information (SIE). One member of the commission, Gail Kligman, who requested information from the Ministry of Internal Affairs relating to the criminalization of abortion under Ceausescu was given only selective access to the files (Tismaneanu, 2006).25 Even when commissioners were granted full and unrestricted opportunities to consult documents, ineffective management of the archives frequently posed obstacles to the development of accurate information. Under the given time constraints it was often difficult to locate files that were not indexed or documents that were not properly filed. There were also cases in which the archives were unable to provide correct information because it was either dispersed among institutional agencies or partially deleted on the orders of previous communist authorities. Rusan enumerates, for example, factors that prevented an accurate estimation of the numbers of those who died in detention. In the late 1950’s retroactive death certificates were issued for those who died in detention as a result of torture and inhumane treatment; a significant number of deaths that occurred in penitentiaries and labor camps were not registered (a fact admitted by Securitate during its own internal investigation in 1967); and access to reports issued by operative groups in charge of counter information from within penitentiaries was unavailable (Rusan, 2007, pp. 57-58).

In respect to the limited amount of time (six months) that the commission was given to complete its work, this can be attributed to the current political context dominated by the Romania’s long awaited accession to the European Union in January 2007. This particular moment was seized on by Basescu as a golden opportunity for a symbolic break with the previous government (2000-2004) and for an attempt at purification of the political class. As a result, the members and experts of the commission were appointed hurriedly and primarily on the basis of political, intellectual and personal affinities or through personal recommendations. While in some cases the assignment of various sections of the report was requested in accordance with the specific expertise of

25 See Rodica Palade’s interview with Tismaneanu (ibid.).
particular members and experts, ad-hoc decisions were made in June 2006 at the commission’s first meeting when at least two or more participants unfamiliar with the subject were asked to co-author certain parts together.\textsuperscript{26} The uneven level of familiarity with the topic under investigation, and insufficient coordination between the authors of various parts of the report, led to some overlap or repetition and ultimately affected the unity and homogeneity of the commission report.

Political Reactions Towards the Tismaneanu Report

While the reactions of some segments of the academic community and others, representing both the past institutional structure of the communist regime and opposition to it, were often highly critical, a number of current political actors violently rejected the report. What was intended to be an event of national reconciliation, a solemn and grave break with the past and a recognition of a new beginning as a nation now finally accepted into the democratic European family, was unfortunately transformed into an embarrassing and undignified scene of guerilla theater proportions. Basescu’s speech officially endorsing the report on January 18, 2007 in the Parliament was challenged by the two main opposition parties – the Social Democratic Party (PSD) and the Party of Great Romania (PRM) – in what can only be described as a thoroughly uncivil manner. A number of supporters of the PRM, illegally brought into the legislature, physically and verbally threatened members of the commission. Law enforcement officials and the presiding chair of the Senate, Nicolae Vacaroiu who represented the PSD, failed to intervene in any effective fashion. Perhaps more disturbing was the absence of Bogdan Olteanu, chair of the Chamber of Deputies, representing the Liberal Party (PNL), which was at the time a partner in the coalition government.\textsuperscript{27} But here it is important to re-emphasize that at the time the PNL and its prime minister, Calin Popescu-Tariceanu, were at odds with both their coalition partner the Democratic Party (PD) and with Basescu.

\textsuperscript{26} I had the opportunity to learn about some of the behind the scene affairs of the Tismaneanu Commission from two of its experts, Ioana Boca and Dorin Dobrincu, whom I met in July 2007 in Bucharest. I thank them both for their help.

\textsuperscript{27} The event was widely described and analyzed by the Romanian media at the time (www.ziare.ro).
These reactions are not especially surprising given that the leaders of the two opposition parties – Ion Iliescu and Corneliu Vadim Tudor – were listed in the report as agents or elements in the general apparatus of communist repression. In addition, some of the measures proposed by the report towards the condemnation of communism referred directly to post-1989 events involving both the National Salvation Front (FSN) and its former leader Iliescu. In requesting judicial investigations of the suppression of anti-communist manifestations held between December 1989 and April 1990, and of the miners’ militant excursions to Bucharest in 1990, 1991 and 1999, the report in essence accused Iliescu and other former communists associated with the FSN of attempting to undermine the trajectory of the December 1989 revolution. In effect, the Tismaneanu narrative deprived two groups (former communists and nationalists) of an honorable place in national history. Competing narratives of the past thus became inextricably intertwined with ongoing post-1989 developments in the battle for power in Romanian politics.

4. Some Brief Conclusions on the Tismaneanu Commission

Two questions need to be addressed. First, what are the potential consequences of the report within the context of transitional justice policies in Romania. And second, what is the significance of Tismaneanu’s truth commission in general for conceptions of truth and justice in post-totalitarian countries of the former communist bloc.

In regard to the first question, based on the preceding analysis and on current developments in Romania, the answer may be that while there are some concrete signs that the work of the commission is likely to advance the politics of memory initiated since the 1990’s by civil society groups, it is less likely that it will have a similar impact on transitional justice policies especially in the areas of lustration and criminal trials. A positive sign, indicating that there is a commitment for moving the report beyond the obvious political opportunity provided by EU accession, has been Basescu’s decision to establish the Advisory Presidential Commission for the Analysis of Communist Dictatorship in April 2007. The scope of this commission, whose mandate is set to expire at the end of 2009 (coinciding with the conclusion of Basescu’s presidential term), is to provide the president with expert advice on how to implement the recommendations of
the report in the areas of legislation, research, archives and education. An important step has already been taken in editing the Tismaneanu report for publication in the fall together with a volume of supporting documents. Also attesting to a developing commitment to a consistent policy of truth-telling has been the appointment of Dorin Dobrincu (an expert on the commission and a historian known for his contributions to understanding the communist past) as head of the national archives. These archives, containing the files of the communist party and its adjacent organizations, are presently disorganized and generally inaccessible. Dobrincu has expressed his intention to modernize the archives and to promote interest in a new law governing universal access to them that would eliminate discretionary access to documents (see www.romanialibera,, July 30, 2007). Unrestricted access to a well-organized archival system should constitute a powerful incentive for historians, social scientists and others to research the recent past without inhibition or interference.

Given the current state of politics in Romania the prospect for a lustration law in the near future is less realistic. The text of a proposal initiated by four members of the PNL in May 2005, which was discussed and revised by two parliamentary commissions a year later, resulted in a much restricted version of the nomenklatura categories that could be potentially affected by a lustration law (Burcea & Bumbes, 2006, pp. 255-296). The authors of the same study list, for example, at least 100 members of the current legislature whose past positions within the communist apparatus would make them unsuitable or unacceptable for public office. As of this writing, there is no consensus regarding lustration in the political class in general and parliament has not reached a final decision on the issue. The public, for that matter, does not consider it a particularly important question, whether out of exhaustion with the general issues or apathy regarding the past, is unclear.

In the area of judicial proceedings, the Institute for the Investigation of the Crimes of Communism (IICCR) filed two legal notifications. The first accuses 210 former commandants of penitentiaries and labor camps of genocide who were identified during the IICCR’s research in the Archives of the National Administration Center for

28 The full text regarding the legal status and objectives of the presidential commission can be found at www.presidency.ro.
Penitentiaries (ANP). Those accused are to be interrogated by the military prosecutor’s office. The second refers to six former Securitate officers in Sibiu county who are alleged to have recruited minors while serving there. However, it is improbable that these legal inquires will result in eventual prosecution. At most, it is likely that they will only trigger media publicity and inform the public of instances of past repression. Whether further judicial action will be undertaken in the near future is for the moment open to question.

From the more general perspective of truth, memory, and justice the main lesson to be drawn from the experience of the Tismaneanu Commission is the extreme difficulty of dismantling what has been the official narrative of an established totalitarian system and of replacing it with one that does justice to the realities of the past. By arguing that the regime was illegal and illegitimate, and that it claimed a complete monopoly over the interests of its citizens, the report seems merely to relegate this stage of national history to the status of a failed system. But, the report continues, it was nonetheless a system involving ongoing human suffering which it describes as social genocide. While one can not deny the systematic repression of “class enemies” during Gheorghiu-Dej’s era or Ceausescu’s megalomaniac cult of personality and his manipulation of nationalist symbols, it is hardly possible to accept the idea that misconceived policies – whether economic, demographic, or cultural – constitute an intentional plan of destruction of a large part of the population. This is a conceptual interpretation of the idea of genocide at its most tendentious. Genocide is also much in dispute, it goes without saying, in international law. Conceptual weakness of this order may in fact further constrain the likelihood that the work of the commission could become a prelude to justice. It is also an indication of the difficulty of coming up with a clear-cut answer regarding the assignation of guilt in a totalitarian system that controlled all areas of life including the cultural and the private spheres.

The peculiar political context in which the commission was established, and the practical difficulties under which it issued its report, emphasizes most of all its transitional rather than its foundational character. So far, lacking the endorsement of the legislature, the Tismaneanu report has yet to become the sole accepted national narrative. Lastly, and it is a reason for pessimism, as long as members of the former elites continue

29 See www.iicc.ro.
to play a significant role in the polity, the possibility of an emerging consensus on how to view and deal with the past will probably remain remote.

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