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**How many thieves, murderers, benefited so far from Romania's new law on early release?**

Romania Insider (27.10.2017) - <http://bit.ly/2iLgVJI> - Almost 530 inmates were released earlier from prison in just five days, between October 19-23, after a new law that provides a 6-day sentence reduction for each 30 days a detainee spends in improper conditions came into force. Many more are to benefit from the law as well.

Statistics provided by the National Penitentiary Administration at the request of local Digi24 show that most of those who got out of prison earlier were thieves and robbers, namely 319. However, the law also got out of prison 33 murderers and 47 rapists.

The numbers are alarming especially because most of the thieves who benefited from the new law were convicted for qualified theft. Moreover, many of the murderers were sentenced to jail for qualified murder. This may also include premeditated murder.

Romania's general prosecutor Augustin Lazar said on Thursday that he would like to see the impact studies made by the authorities before talking about the crime situation as a result of applying the law on early release. A few days earlier, justice minister Tudorel Toader expressed his hopes that the new law would not increase the crime rate in Romania.

However, the justice minister reacted to the prosecutor general's statement on the impact studies, saying in a Facebook post that Augustin Lazar was part of the plenum of the Superior Council of Magistracy (CSM) when this institution gave a favorable opinion on this law, but now he "talks about the lack of an impact study."

In the same Facebook post, Tudorel Toader explained that the impact study is being done in the process of drafting and adopting the law, and that the provisions of the law are implemented once the law comes into force.

Earlier this week, the justice minister also wrote another Facebook post via which he said that this legislative initiative belonged to the former justice minister, who sent the draft bill to CSM for approval. CSM gave a favorable opinion on the law at that time. Then, the new Government sent the bill to the Senate in late-January, when he was not justice minister. However, the initial bill provided a 3-day sentence reduction for each 30 days a detainee spends in improper conditions. The Parliament later doubled this to six days. However, the justice minister said that the impact study is done during the law-making procedure, not in the law enforcement phase.

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## **Romania's Supreme Court asks Parliament to send justice laws back to Justice Ministry**

By Irina Marica

Romania Insider (26.10.2017) - <http://bit.ly/2gMG3LW> - Cristina Tarcea, the president of Romania's High Court of Cassation and Justice (ICCJ) criticized the way the Justice Ministry has handled the project to amend the justice laws.

The ICCJ president has demanded the presidents of the two chambers of the Romanian Parliament and the special parliamentary committee in charge with analyzing the justice laws to send the project back to the Justice Ministry, so as to allow it to "complete the legal procedure it has assumed as initiator." She added that it's necessary to clarify the legal framework on which these changes would be discussed "because the adoption of some normative acts implies rigor, transparency and predictability".

According to Cristina Tarcea, the independence and efficiency of the judiciary were exigencies that Romania had to meet. Thus, "it should be stressed that, at the moment

of Romania's accession to the European Union, the Cooperation and Verification Mechanism (MCV) was established to remedy the deficiencies reforming the judiciary and to fight corruption," she wrote in a letter, reports local [Digi24](#). She also said that, in the last report of the Commission to the European Parliament and the Council, it is emphasized that a "combination of legislative and institutional measures" is needed to meet the benchmarks of the mechanism.

"This requires, first of all, transparency, cooperation and inter-institutional dialogue. Also, the mechanism of adopting laws, regardless of their subject of regulation, requires compliance with the legal provisions under which this mechanism operates."

The ICCJ president also said that the whole course of the proposals to amend the three laws adopted in 2004 "shows that there was no transparency, cooperation and inter-institutional dialogue and that the legal provisions regulating the mechanism for the drafting and adoption of normative acts was not respected."

Tarcea also reiterated the fact that the Ministry of Justice has assumed the legislative initiative, and was to propose the amendments to the three laws to the Government. However, instead of completing the procedure it has assumed, the Ministry took note that it should submit its proposals to the joint special committee. It's not clear in what capacity and based on what procedures the minister submitted his proposals to the special committee.

Thus, the Supreme Court president added that, before any discussion on the content of the proposed amendments, it's necessary to "clarify the legal framework on which they will be discussed, because the adoption of normative acts – especially when it comes to the laws of justice – requires rigor, transparency and predictability." In consequence, she asked the Parliament to send the project back to the Ministry of Justice.

Justice minister Tudorel Toader presented the project to amend the justice laws to the special parliamentary committee on Wednesday, October 25, after the ruling coalition decided to no longer promote it as a government bill but as a parliamentary initiative. The project has been widely criticized by magistrates' associations.

[Battle around key justice institution in Romania continues](#)

[Over half of Romanian judges and prosecutors are against proposed changes to justice laws](#)

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## **Romania's former President Ion Iliescu sent to court for crimes against humanity**

Romania Insider (14.06.2017) - <http://bit.ly/2rjLjdN> - Former Romanian President Ion Iliescu was sent to court yesterday in a case related to the violent crackdown of the antigovernment protests in Bucharest in June 1990, also known as the "miners' riot."

The prosecutors investigating the case officially indicted him for crimes against humanity. The announcement was made symbolically on the day that marked 27 years since the violent events on June 13-15, 1990.

Ion Iliescu is believed to have called the miners in Valea Jiului, the country's main coal basin, to Bucharest to violently attack the peaceful protesters in Bucharest's University Square, who were against his new political regime.

"This attack illegally involved forces of the Interior Ministry, Defense Ministry, Romanian Intelligence Service, as well as over 10,000 miners and workers from various areas of the country," reads a statement of the General Prosecutor's Office.

Four people were killed and 1,388 were injured during the violent events while 1,250 were illegally held.

Former Prime Minister Petre Roman, deputy prime minister Gelu Voican Voiculescu, and former SRI director Virgil Magureanu were also sent to court on the same charge of crimes against humanity. Other former officials involved in the crackdown were sent to court, including local media mogul Adrian Sarbu, PM Petre Roman's chief of staff, and Miron Cozma, the leader of the miners' union.

The case will be tried by the High Court of Cassation and Justice.

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## **Anticorruption prosecutors want Romanian Archbishop placed under house arrest**

By Irina Popescu

Romania Insider (16.05.2017) - <http://bit.ly/2qr28pi> - Prosecutors from the National Anticorruption Department (DNA) want Archbishop Teodosie Petrescu, a senior official of the Romanian Orthodox Church, to be placed under house arrest.

Archbishop Teodosie, who is the head of the Orthodox Church in Constanta county, is currently under judicial control and will stand trial for using or presenting false documents to obtain EU funds.

However, DNA says that he broke the terms of the judicial control as he initiated projects to access EU funds although the judicial control conditions forbade him to do such things. Moreover, he also entered into contact another defendant in the same case, which is also forbidden by judicial control rules. Thus, the DNA prosecutors want the Archbishop to be placed under house arrest.

Teodosie Petrescu was placed under judicial control and later sent to court in a case in which he is accused of using and submitting false declarations to the Agency for Payments and Intervention in Agriculture (APIA), between 2010 and 2016, to obtain EU funds. In these documents, the Archbishop and the other defendants falsely stated that they were using some land plots to cultivate grapes although those cultures didn't exist anymore.

Moreover, they also said that they complied with the good agricultural and environmental conditions (GAEC) during their agricultural activities, although the land plots in question were abandoned and full of weeds.

The defendants obtained total EU funds of over RON 1.39 million (some EUR 300,000), according to DNA.

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## **Romania abuses the European Arrest Warrant, a new report says**

HRWF (10.04.2017) - *Human Rights Without Frontiers* has just released a 30-page report entitled "**The European Arrest Warrant in Question. Study Case: Alexander Adamescu**" which can be found at <http://hrwf.eu/wp-content/uploads/2017/04/EAW-Report-March-2017.pdf>

The report details the case of Alexander Adamescu, a German citizen and the son of a prominent Romanian businessman. Adamescu was arrested on 13<sup>th</sup> June 2016 in London on the basis of a European Arrest Warrant (EAW) issued by the Romanian government which accuses him of complicity with his father in allegedly condoning bribes to judges. Adamescu denies the charges. He claims that the jail sentence against his father was based only on the false testimony of a former employee in one of the group's companies and that he and his family are being politically persecuted by the Romanian Government. Obviously, there have been serious flaws in the judicial process of this case as a court decision has recently revealed.

### ***A court recommends that Romania provisionally withdraws or suspends the European Arrest Warrant against Alexander Adamescu***

On 29<sup>th</sup> March 2017, the International Centre for Settlement of Investment Disputes (ICSID)\* stated in a dispute opposing Alexander Adamescu's Dutch holding company Nova Group Investments, B.V. v. Romania (Case No. ARB/16/19):

a. The Tribunal recommends, pursuant to Article 47 of the ICSID Convention, that Romania withdraw (or otherwise suspend operation of) the transmission of European Arrest Warrant Ref. 3576/2/2016 by the Romanian Ministry of Justice and associated request for extradition submitted to the Home Office of the United Kingdom on 6 June 2016, and refrain from reissuing or transmitting this or any other European Arrest Warrant or other request for extradition for Alexander Adamescu related to the subject matter of this arbitration until the Final Award in this case is rendered.

b. This recommendation is conditional on Mr. Adamescu's strict compliance with the undertakings and mechanisms outlined in Section VII.E.1 of this Decision, in order to maintain the status quo which prevents his departure from England, Scotland or Wales during the pendency of this arbitration, except as necessary to attend an arbitration hearing in Washington, D.C. As one of these conditions involves the continued sequestration of Mr. Adamescu's passport in the event it is relinquished by the UK authorities, the Tribunal requests the Parties to confer promptly about the potential custodian for the passport, as well as suggestions for appropriate terms and conditions, consistent with the general framework the Tribunal has outlined herein. The Tribunal requests the Parties to report back (jointly or separately) regarding such mechanisms within two weeks of the date of this Decision.

As of 10<sup>th</sup> April 2017, Romania has not reacted to the ICSID decision.

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## **Solution to prison overcrowding in Romania: Some convicts to do time only in weekends**

By Irina Popescu

Romania Insider (06.03.2017) - <http://bit.ly/2lzuJHK> - A group of MPs from the National Liberal Party (PNL) have initiated a draft bill that aims to solve the overcrowding problem

of prisons in Romania in a different way: those sentenced to less than four years in prison would stay behind bars only on Saturdays and Sundays.

The draft bill proposed by the MPs, which also includes other alternative measures, was already submitted to the Senate, reports local Digi24.

One of the measures included in the bill targets those who get prison sentences of less than three years. They could be placed under house arrest, being monitored with the help of electronic bracelets.

Another measure targets those sentenced to a maximum of four years in prison. They would have to choose between two alternatives: they could do time only on Saturdays and Sundays in centers especially arranged for this purpose, or they could do community work. In the second case, two days of community work would represent one day of prison.

However, these provisions would not apply to those convicted of offences committed with violence, or to those who have committed criminal acts related to corruption. Moreover, the recidivists would also not benefit from these measures.

The Romanian Parliament is currently discussing a draft bill on pardoning certain categories of prisoners, which would also help with the overcrowding issue of Romanian prisons. The idea of pardon was initiated by the Ministry of Justice, which in mid-January put up for public debate an emergency ordinance that was establishing what categories of prisoners would benefit from pardon. After street protests, the Ministry gave up the idea of introducing pardon through emergency ordinance, and turned it into a draft bill, letting the Parliament decide on it.

Last week, the Superior Council of Magistracy (CSM) gave a favorable opinion on the draft bill on pardoning some prisoners, but with two observations.

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## **EC: Romania shows regress in the irreversibility of reforms**

Romania-Insider (07.02.2017) - <http://bit.ly/2kKK3O3> - Romania has registered a regress in proving the irreversibility of reforms, which might have affected the chances of lifting the Cooperation and Verification Mechanism (CVM) until the end of the current European Commission mandate, as previously promised by the EC President Jean-Claude Juncker, said yesterday the spokesperson of the European Commission, Margaritis Schinas.

One year ago, Juncker promised former Romanian MP Dacian Ciolos to soon lift the CVM.

“What matters is not the irreversibility of promise, but the irreversibility of reforms so that the promise is kept,” said Schinas.

The European Commission’s warning comes after the Romanian Government passed on January 31 a controversial emergency ordinance that partly decriminalized some corruption offences. The Government repealed the ordinance on Sunday after massive protests in Romania and negative reactions from the country’s international partners, including the European Commission.

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On Monday, Frans Timmermans, first vice president of the European Commission, told the Romanian Foreign Affairs Minister Teodor Melescanu that combating corruption should continue in Romania.

"The European Commission is ready to work with Romania to update the objectives of the Mechanism of Cooperation and Verification (MVC)", said EC spokesman.

EC will continue to monitor Romania's justice reform under the CVM until process irreversible.

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## **Subiectul conditiilor de detentie in Romania este fierbinte**

***Cu o saptamana inainte de decesul lui Dan Adamescu aflat in regim de detentie, echipa Human Rights Without Frontiers s-a aflat intr-o misiune de investigatii in Bucuresti.***



(Image source: <http://ind.pn/2kGuN6S>)

HRWF (30.01.2017) - Desi se bucura de o reputatie buna in ceea ce priveste aplicarea legilor unui stat de drept, Romania continua sa incalce cu succes drepturile omului. Numai in 2015 Curtea Europeana a Drepturilor Omului a emis 72 citatii impotriva Romaniei (fiecare acuzand cel putin o abatere de la obligatii), cel mai mare numar emis in numele vreunui stat membru UE. Printre cele 47 state membre in Consiliul Europei, Romania s-a situat pe locul 3 in Topul celor mai abuzive tari, dupa Federatia Rusa (109 citatii) si Turcia (79 citatii).

In mod ingrijorator, 27 dintre abaterile din Romania au tinut de conditiile improprii (art.2) și de tratamentul inuman si degradant din închisori (art.3). 13 dintre cazuri făceau referire la lipsa investigatiilor eficiente iar in alte 13 cazuri, de lipsa unui proces echitabil.

Inchisorile sunt supraaglomerate in Romania. Opt dintre ele se afla la o capacitate de 200%, iar rata medie de ocupare a inchisorilor locale de este aproximativ 150%. Daca Romania nu rezolva aceasta problema, Comisia Europeana a Drepturilor Omului (CEDO) va obliga statul sa achite compensatii catre detinuti, pentru fiecare zi de detentie, in conditii improprii. Aceste compensatii se ridica în total la suma de aproximativ 80 milioane euro pe an.

***Rapoartele privind conditiile de detentie din Romania***

Decesul lui Dan Adamescu (68 ani), aflat in regim de detentie, pune din nou intr-o lumina tragica conditiile inchisorilor din Romania, asupra carora s-a atras atentia in fiecare an de catre:

- CEDO in raportul UN Periodic Universal din 2013 (<https://www.upr-info.org/en/review/Romania/Session-15---January-2013/Civil-society-and-other-submissions#top>)
- In Raportul Departamentului de stat SUA din 2015 (<https://www.state.gov/j/drl/rls/hrrpt/2015/eur/252891.htm>)
- De catre Avocatul Poporului din Romania in raportul din 2015 ([http://www.avp.ro/index.php?option=com\\_content&view=article&id=51&Itemid=77&lang=en](http://www.avp.ro/index.php?option=com_content&view=article&id=51&Itemid=77&lang=en))
- De catre Comitetul Preventiei Torturii in cadrul Consiliului Europei in 2015 (<http://www.cpt.coe.int/documents/rom/2015-31-inf-fra.pdf>)

### **Raportul Departamentului de Stat al SUA 2015**

In sectiunea intitulata "Tortura sau alte tratamente ori pedepse crude, inumane sau degradante", Departamentul de Stat al SUA a subliniat faptul ca "au fost rapoarte ale organizatiilor non-guvernamentale (ONG) si ale mass-media, conform carora, politisti sau jandarmi maltratau sau abuzau prizonieri, detinuti aflatii in arest preventiv, romi si alti cetateni, in special prin utilizarea fortei excesive, inclusiv a batailor aplicate. Mass-media a semnalat astfel de cazuri in Bucuresti, Vinga, Botosani, Braila, Arad si alte localitati. In cele mai multe cazuri ofiterii de politie implicati au fost achitati".

De asemenea a fost evidentiat faptul ca o sesizare a Asociatiei pentru Apararea Drepturilor Helsinki Omului Comitetul (APADOR-CH), privind situatia din Racos - judetul Brasov, unde se afla o comunitate de romi cu peste 1200 membri, a fost sustinuta de Raportul din SUA, dupa cum urmeaza: "Membrii comunitatii au reclamat ca politia i-a terorizat si i-a batut in mod repetat in ultimii trei ani si ca procuratura Brasov a instrumentat plangerile lor in mod necorespunzator, inchizand toate cazurile. APADOR-CH a criticat esecul autoritatilor de impunere a legii, pentru a investiga in detaliu situatia din Racos si a lua masurile adecvate. Un raport ulterior al APADOR-CH din luna august a aratat ca din 3,034 plangeri depuse impotriva abuzurilor politiei intre 2012 si 2014, 14 au mers in instanta, iar numai 4 dintre aceste cazuri au condamnat ofiterii de politie pentru comportament abuziv.

In sectiunea "Penitenciarul si conditiile din centrele de detentie", raportul SUA relateaza:

Conditiiile din penitenciare au ramas aspre si nu au indeplinit standardele internationale. Abuzul detinutilor de catre autoritati si alti detinuti au continuat sa fie o problema.

Conditii fizice: conform cifrelor oficiale, suprapopularea a fost o problema iar unele inchisori nu au respectat standardul de 4mp pentru fiecare detinut, asa cum este stabilit de Comitetul pentru Prevenirea Torturii al Consiliului Europei.

Conform unui alt raport al Administratiei Nationale a Penitenciarelor, 502 persoane au murit in inchisori in perioada cuprinsa intre 2010 si 2014, dintre care 425 au murit din cauza unor conditii medicale, 73 s-au sinucis, 3 au fost ucisi iar unul a murit prin inecare cu mancare. Pana la sfarsitul lunii septembrie mai multe decese au avut loc in inchisori. La 7 septembrie un adolescent, aflat in detentie preventiva in cadrul penitenciarul Tichilesti, a murit dupa ce a fost batut sever de



colegul sau de celula. De asemenea a fost raportata moartea a 2 prizonieri in penitenciarele din Craiova si Colibasi.

Potrivit mass-media si rapoartelor ONG-urilor, au existat acte de agresiune și de abuz ale unor prizonieri din partea gardienilor și chiar a colegilor de detentie.

Unele închisori au oferit îngrijiri medicale precare, produse alimentare de calitate inferioara, sau uneori în cantitati insuficiente. In unele penitenciare incalzirea si ventilatia au fost inadecvate iar lumina insuficienta. APADOR-CH si Asociatia pentru Drepturile Omului si a Persoanelor Private de Libertate au raportat ca cele mai multe penitenciare au fost supra-aglomerate și, în unele, au observat conditii inadecvate, inclusiv îngrijire medicala precara, mancare de calitate proasta, mucegai in bucatarii și in celule, lipsa de personal, un numar insuficient de bai, igiena precara, insecte, un numar insuficient de medici (inclusiv lipsa psihologilor in unele unitati), lipsa activitatilor, precum si activitati educationale inadecvate. APADOR-CH a criticat, de asemenea, lipsa unui tratament adecvat, cu substante de substitutie, pentru fostii dependenti de droguri.

APADOR-CH a afirmat ca majoritatea centrelor de detentie preventiva din cadrul sectiilor de poliție aveau condiții inadecvate. Astfel de facilitati, adesea situate in subsoluri, nu aveau lumina naturala sau instalatii sanitare. In unele centre de detentie preventiva si inchisori nu exista nicio posibilitate pentru intrevederi confidentiale intre detinuti si familiile lor sau avocati.

Din luna mai CEDO a emis 16 hotarari impotriva statului roman, care a trebuit sa plateasca o compensatie de 85,540 euro (\$ 94,100) pentru conditiile de detentie precare si a tratamentului inuman si degradant din inchisori.

Administratia: Autoritatile independente nu au investigat intotdeauna acuzațiile credibile legate de conditiile inumane.

Pe 24 martie Curtea Europeana a Drepturilor Omului (CEDO) a emis o hotarare impotriva tarii pentru incapacitatea de a efectua o ancheta efectiva cu privire la moartea din 2007 a lui Ionel Garcea, un prizonier cu probleme psihice din inchisoarea spitalului Rahova. Dupa ce Garcea s-a plans in repetate randuri ca a fost agresat de gardieni, el si-a batut cuie in cap in semn de protest iar autoritatile l-au internat in spital de mai multe ori dupa ce a fost diagnosticat cu o boala psihiatrica si alte probleme medicale. De asemenea, el a incercat sa se sinucida si a refuzat sa ia medicamente. A murit la o luna dupa o interventie chirurgicala menita a-i inlatura un cui din cap. Investigatiile sunt inca in asteptare in acest caz.

### ***Evaluare periodica universala (2013)***

In 2013 un ONG a depus un raport la Evaluarea Periodica Universala, care acoperea, printre alte probleme, tratamentul si conditiile de detentie inumane si degradante:

1. Romania continua sa ofere măsuri inadecvate ca raspuns la eradicarea si prevenirea torturii. In conformitate cu angajamentele sale din 07.05.2012, ar fi trebuit sa fie instituit un mecanism național de prevenire, in colaborare cu avocatul poporului și a societatii civile, in concordanta cu OPCAT (Optional Protocol to the Convention against Torture). Mai mult decat atat, reforma destinata Ministerului Justitiei (prin "Iovitura de stat data de catre Parlament", care a provocat demiterea politica a echipei PDL a guvernului), cu privire la punerea in aplicare a recomandarilor cuprinse in raportul Comitetului European pentru prevenirea torturii, puse la dispozitia publicului la data 24.11.2011 (CPT / INF (2011)31, precum si raspunsul la procedura emisa de către Curtea Europeană

a Drepturilor Omului (CEDO), (cazul Jacob Stanciu 35972/05) la începutul anului 2010, vor sublinia disfuncțiile sistemului legate de suprapopularea în condiții de detenție, condițiile precare de igienă din penitenciare, absența sau instabilitatea asistenței medicale (în cazurile Bragadireanu, Al-Agha, Marian Marinescu, Jiga, Ogica, Racareanu, Iamandi, Ciupercescu, Dimakos, Florea, Coman, Marcu, Cucolas, Grozavu, Ali, Porumb, Dobri, Colesnicov) etc., natura legilor privind intreruperea executării sentințelor (cazul Ahron Schwarz).

Exista, de asemenea, lipsa de preocupare a puterii executive pentru construirea de unități moderne și întârzierea includerii parteneriatului public-privat în mecanismul de externalizare a unora dintre serviciile și activitățile independente, destinate să asigure deținuților condiții care implinesc demnitatea umană. Se adaugă problemele grave ale penitenciarelor și aplicarea unor măsuri precare pentru protecția deținuților la fumatul pasiv cu toate că România a ratificat Convenția-cadru 2006 pentru controlul Tabacului OMS. Cu toate că, în 2010, Statul Roman a fost pedepsit de către Curtea Europeană, în cazul Florea (37186/03), privind fumatul pasiv în condiții de detenție, după care au urmat și alte pedepse, Parlamentul României a adoptat în 2011 un profil național de lege, care exclude sancționarea în cazul fumatului în camerele de detenție.

2. Camerele de arest ale poliției prezintă caracteristici care afectează demnitatea umană, având condiții care pot fi asociate cu tortura: acestea sunt înființate încă din timpul regimului comunist, în subsolul secțiilor de poliție, au o suprafață mică, grupuri sanitare fără diviziune, ferestre mici dublate de gratii de metal, ventilație insuficientă iar în tuburile de instalații sunt dispuse împreună atât conductele pentru apă, gaz cât și cele de termoficare, prezentând un mare risc în caz de avarie.

Un raport intitulat "Copiii privați de libertate în Europa Centrală și de Est" [8], care a fost publicat de mai multe ONG-uri în 2014, a declarat următoarele despre centrele de detenție generale din România:

Principalele probleme identificate în instituțiile de detenție: (...) centrele de detenție din România sunt încă afectate de probleme serioase. Ele nu se încadrează în standardele Curtii Europene a Drepturilor Omului (CEDO), ale Comitetului European pentru Prevenirea Torturii și a Tratatelor Inumane sau Degradante (CPT), ceea ce duce în multe cazuri la grave încălcări ale drepturilor omului:

\* Condițiile de detenție: Una dintre cele mai grave probleme în ceea ce privește condițiile de detenție este faptul că închisorile din România sunt grav supraaglomerate (puțin peste 2mp pe persoană). O altă problemă generală în ceea ce privește condițiile de detenție este că toate camerele sunt frecvent neigienizate și se află într-o stare deplorabilă. (...)

\* Ingrijirea sănătății: Asistența medicală este foarte problematică în instituțiile de detenție din România. Una dintre principalele probleme este lipsa acută a personalului de specialitate. Fondurile alocate (de la bugetul de stat și din asigurările sociale) sunt insuficiente pentru nevoile sistemului penitenciar iar o problemă majoră o reprezintă și lipsa medicamentelor vitale. Problemele de sănătate mintală sunt prezente, mai ales că în cele mai multe penitenciare nu există psihiatri. Atunci când este nevoie de unul, penitenciarele trebuie să se adreseze fie unei alte închisori, fie în afara sistemului de detenție.

***Cazurile lui Dan și Alexander Adamescu: Procese echitabile?***

Dan Adamescu a fost un om de afaceri german, nascut in Romania, care in 1979 a emigrat in Germania si s-a intors in tara in anii '90. El a investit timp, bani si efort in sprijinirea ziarului ,Romania Libera', un ziar national de top, infiintat in 1877. Sub conducerea sa aceasta publicatie renumita a expus in mod constant actele de coruptie ale multor lideri aflati in pozitii de conducere la nivel national.

Aparator al valorilor democratice si al statului de drept, ziarul ,Romania Libera' a fost extrem de critic la adresa elitelor post-comuniste din Romania, serviciilor de securitate, Partidului Social Democrat - PSD (partidul succesori al Partidului Comunist din epoca Ceausescu) si a liderului sau, premierul Victor Ponta - care a detinut functia din mai 2012 pana in noiembrie 2015. ,Romania Libera' a criticat in mod regulat PSD pentru actele de coruptie extinsa, nepotism si lacomie. Acest lucru a transformat atat ziarul cat si pe Dan Adamescu in tinte ale persecutiei membrilor puternici ai elitei conducatoare din PSD.

Ziarul a criticat, de asemenea, implicarea serviciilor de informatii din Romania in functionarea sistemului judiciar in 2015. Exista dovezi puternice ca, in timpul detinerii functiei de premier, Ponta a ordonat, personal, actiuni impotriva lui Dan Adamescu privind sanctionarea acestuia pentru luare de mita (in valoare de 20.000 euro), printre altele, ca pedeapsa pentru o prezentare in presa mai putin flatanta. Dan Adamescu a fost arestat de catre politia mascata anti-terorista, care l-a pus sa isi arate catusele in fata camerelor TV, fiind tratat mai rau ca un criminal si a fost declarat vinovat de catre judecator inca din prima zi a procesului sau. Acesta a fost un proces spectaculos de rapid, care a dus la condamnarea lui Adamescu la o pedeapsa cu inchisoarea de patru ani si patru luni, pe baza unui singur denunt al unui martor corupt. In mod ironic, mai tarziu, dupa ce se pare ca a cazut din gratiile atat a DNA cat si a SRI, insusi Ponta a fost urmarit penal de DNA, avand la baza acuzatii de coruptie (fals, spalare de bani si evaziune fiscala). Dan Adamescu inainte sa moara in spital, isi ispasea pedeapsa in inchisoare in conditiile de detentie ingrozitoare care au fost descrise mai sus.

De la arestarea sa, Dan Adamescu a experimentat in mod direct brutalitatea inchisorilor din Romania. In mai multe randuri i-a fost refuzat tratamentul medical adecvat, de catre autoritatile romane, in ciuda solicitarilor repetate ale avocatului sau si a Societatii de Drept din Anglia si Wales. El s-a prabusit de doua ori de la incarcerarea sa din mai 2016. A avut un soc septic in ziua de Crăciun, la finalul anului 2016, si a fost sub terapie intensiva si dializa, iar medicii s-au luptat pentru viata lui. Cererea sa de eliberare conditionata a fost respinsa in mod repetat in instanta de judecata. In cele din urma a murit pe 24 ianuarie 2017.

Fiul lui Dan Adamescu, Alexander Adamescu, un cetatean german si dramaturg in devenire, traieste in Londra impreuna cu sotia sa si cei trei copii. El este acuzat de catre Directia Nationala Anticoruptie din Romania (DNA) cum ca ar fi comis exact aceleasi fapte pentru care tatal sau a fost condamnat, avand la baza exact aceleasi probe. Instantele din Romania au emis doua mandate de arestare nationale impotriva lui Alexander Adamescu: un prim mandat la 4 mai in 2016, care a fost anulat pe 19 mai si un al doilea mandat de arestare, care a fost emis in aceeasi zi de 19 mai 2016 si apoi transformat intr-un mandat european de arestare la 06 iunie 2016. Alexander Adamescu a fost arestat la Londra, la data de 13 iunie si in prezent se confrunta cu extradarea in Romania.

Este semnificativ faptul ca un mandat european de arestare a fost emis numai dupa ce Alexandru a protestat in legatura cu modul in care tatal sau a fost tratat si dupa ce a angajat avocati, care sa inceapa procedurile de arbitraj impotriva guvernului roman care a confiscat si lichidat, din motive politice, inca una dintre companiile tatălui sau. Inainte de a-si prezenta criticile impotriva Guvernului Roman, Alexandru nu fusese cercetat in vederea arestarii.

## ***Cazul lui Alexander Adamescu': incalcati ale legislatiei romanesti si internationale***

Doua mandate de arestare, care contin incalcati grave ale principiilor de drept national si international, au fost emise pe numele lui Alexander Adamescu:

- DNA nu l-a acuzat pe Alexander Adamescu in iunie 2014, cand cazul a fost adus in fata instantei de judecata impotriva tatalui sau. Dosarul a fost reactivat abia in septembrie 2015, dupa ce Alexander Adamescu a angajat avocati care au dat in judecata statul roman.

- In ciuda unei lungi inactivitati de aproape doi ani, la 25 martie 2016, procurorul-sef Laura Codruta Kovesi, a anuntat brusc, in direct la TV, intentia DNA de a-l aresta pe Alexandru Adamescu, numindu-l fugar si 'o amenintare la adresa ordinii publice', conform observatiilor DNA. Kovesi a mai declarat ca agentia ei stia unde se afla, dar apoi, in aceeasi zi, a solicitat instantei ca procedura de mandat de arestare sa fie accelerata, deoarece locul acestuia nu era cunoscut.

- Pentru prima audiere in mandatul de arestare din 4 mai 2016, Alexandru Adamescu a fost citat prin intermediul unor adrese de e-mail, care nu ii apartineau, si prin apel la numere telefonice, care, desigur, erau incorecte.

- In hotararea emisa la 4 mai 2016, judecatorul Malaliu a copiat si inserat raportul DNA bazandu-si decizia de a-l aresta Alexander Adamescu urmand rationamentul DNA, conform caruia acesta trebuie sa fie vinovat pentru infractiunile pentru care a fost acuzat.

- In apelul din 19 mai 2016, dupa ce judecatoarea Nita a facut cunoscut faptul ca a intentioneaza sa anuleze primul mandat de arestare din motive procedurale, un al doilea judecator, Matei, a fost desemnat imediat pentru a re-judeca mandatul de arestare fara o alocare aleatorie, garantata de dreptul procedural roman si inainte de a fi publicata hotararea judecatorului Nita.

- Audierea a fost programata pentru 19 mai 2016, la ora 13:30. Actele au fost tiparite la ora 13:00, dar inregistrate ca fiind depuse la ora 11:00, de catre un agent juridic.

- Alexander Adamescu a fost somat la ora 13:00, in fata salii de judecata, avand termen sa apara in fata instantei in jumatate de ora.

- Audierea a inceput la 14:40 si s-a incheiat intre 15:10-15:20. La 15:40 Curtea a trimis un fax Politiei Municipiului Bucuresti cu ordinul de arest. Judecatorul Matei a avut mai putin de o jumatate de ora pentru a citi dosarul, care contine mii de pagini, a delibera la argumentele ambelor parti si a trimite sentinta Politiei Bucuresti.

- sentinta judecatorului Matei a fost transmisa imediat mass-media de catre autoritatile romane. La 17:06 noul mandat de arestare lui Alexander Adamescu a aparut pe un site de stiri.

- recursul lui Alexander Adamescu privind al doilea mandat de arestare, a fost respins la 25 mai in 2016 de catre judecatorul Ghena, pe motiv ca o masura mai putin severa ar determina o reactie negativa puternica in randul opiniei publice.

Mandatul de arestare al lui Alexander Adamescu a fost emis cu o incalcare flagranta a dreptului la un proces echitabil, fiind o actiune impotriva statului de drept. In primul rand, DNA a creat imaginea unui fugar periculos, care ar fi in mod atat de evident vinovat, incat arestarea lui a fost necesara pentru a proteja publicul de persoana sa. Apoi,

instanțele din România au acceptat această acțiune a DNA, necondiționat și în totalitate, fără a încerca nici măcar să dea aparența de desfășurare a unui proces echitabil.

Graba cu care Curtea de Apel a manevrat situația în ziua de 19 mai 2016 pare să indice faptul că întregul scop al procedurii a fost acela de a-l aresta neapărat pe Alexandru Adamescu. Într-o serie fără precedent de încălcări ale drepturilor sale fundamentale, i-a fost refuzat un judecător independent, nu a fost chemat la procesul său și i s-a dat un verdict, care a fost pus în executare atât de rapid, încât pare că a fost hotărât înainte de a fi început judecarea procesului. Scurgerea imediată a unor informații către mass media cu privire la mandatul său de arestare, a dovedit că lui Alexandru Adamescu nu i s-a permis să fie un om liber, chiar dacă acest lucru a însemnat încălcarea legii.

Cazul lui Alexandru Adamescu arată discrepanța dintre progresul retoric al României de a deveni un stat democratic și liberal, angajat într-un sistem judiciar independent, și realitatea crudă cu care se confruntă cetățenii săi. Este emblematic pentru adevărata natură a unora dintre cazurile anticorupție laudate ale României, care confera acoperire pentru opresiunea vocilor disidente, stabilirea unor scoruri politice, a raidurilor economice și a asasinării personajelor vociferante. Pentru o schimbare reală, atât comunitatea internațională, cât și cei cu puterea de a adopta reformele judiciare de urgență, necesare în România, trebuie să ia în considerare toate aceste probleme.

Cazul împotriva familiei Adamescu poartă toate semnele distincte ale urmăririi penale cu motivație politică. New York Times clasifică rețelele de tratament din România împotriva lui Dan Adamescu, ca un exemplu al modului în care o "campanie anti-corupție s-a transformat rapid într-o cruciadă ne-liberală". [9] Faptul că există amenințarea că fiul acestuia să se confrunte cu o soartă similară cu cea a tatălui său, solicită o atenție imediată asupra mandatului european de arestare emis de statul român.

***Read this article in English below: UPDATED: Detention Conditions in Romania under fire***

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## **Updated: Detention conditions in Romania under fire**

***On the eve of Dan Adamescu's decease during his detention, a team of Human Rights Without Frontiers was on a fact-finding mission in Bucharest last week***

HRWF (30.01.2017) - Despite a blossoming reputation as a rule of law country, Romania continues to be a prolific human rights abuser. In 2015 alone, the ECtHR delivered 72 judgments (each citing at least one violation) against Romania, the highest number of any EU member state. Among the 47 member states of the Council of Europe, Romania ranked the third highest human rights abuser after the Russian Federation (109 judgments) and Turkey (79 judgments). (1)

Worryingly, 27 of those violations in Romania were for inhumane or degrading treatment (Article 3), with many relating to the appalling conditions and treatment in Romanian prisons (2). In 13 cases, the violations were due to the lack of effective investigation and in 13 other cases to the lack of a fair trial.

Prisons are overcrowded in Romania: eight of them have an occupancy rate of over 200%, and the average occupancy rate in local prisons is of some 150%. If Romania doesn't solve this problem, the European Court of Human Rights may rule that the

country must pay compensations to all inmates for each day of detention in improper conditions. These compensations would amount to some EUR 80 million per year.

### ***Reports on detention conditions in Romania***

The decease of Dan Adamescu (68) while in detention sheds once again some tragic light on the appalling prison conditions in Romania which have been denounced year after year:

- By the European Court of Human Rights at the UN Universal Periodic Review in 2013 (<https://www.upr-info.org/en/review/Romania/Session-15---January-2013/Civil-society-and-other-submissions#top>)
- In the US Department Report in 2015 (<https://www.state.gov/j/drl/rls/hrrpt/2015/eur/252891.htm>)
- By Romania's Ombudsman in his 2015 report ([http://www.avp.ro/index.php?option=com\\_content&view=article&id=51&Itemid=77&lang=en](http://www.avp.ro/index.php?option=com_content&view=article&id=51&Itemid=77&lang=en))
- By the Committee of Prevention of Torture at the Council of Europe in 2015 (<http://www.cpt.coe.int/documents/rom/2015-31-inf-fra.pdf>)

### ***U.S. Department of State Report 2015***

In the section entitled "Torture and other cruel, inhuman, or degrading treatment or punishment", the U.S. Department of State stressed that "there were reports from nongovernmental organizations (NGOs) and the media that police and gendarmes mistreated and abused prisoners, pretrial detainees, Roma, and other citizens, primarily through the use of excessive force, including beatings. The media reported such cases in Bucharest, Vinga, Botosani, Braila, Arad, and other localities. In most cases the police officers involved were exonerated." And it also stated that:

A report of the Association for the Defense of Human Rights-Helsinki Committee (APADOR-CH) on the situation in Racos, Brasov County, where a Romani community of more than 1,200 persons was located was endorsed by the U.S. Report as follows: "Community members complained that police had terrorized and repeatedly beaten them over the previous three years and that the Brasov prosecutor's office had handled their complaints improperly, closing all cases. APADOR-CH criticized the failure of law enforcement authorities to investigate the situation thoroughly in Racos and take appropriate countermeasures. A subsequent report by APADOR-CH in August revealed that, of the 3,034 abuse complaints filed against police between 2012 and 2014, 14 went to court and the courts convicted police officers for abusive behavior in four of these cases.

In the section "Prison and detention center conditions", the U.S. Report reads as follows:

Prison conditions remained harsh and did not meet international standards. The abuse of prisoners by authorities and other prisoners reportedly continued to be a problem.

*Physical Conditions:* According to official figures, overcrowding was a problem, and some prisons did not meet the standard of 43 square feet per prisoner, as set by the Council of Europe's Committee for the Prevention of Torture.

According to a report by the National Administration of Penitentiaries, 502 persons died in prisons in between 2010 and 2014, of whom 425 died due to medical conditions, 73 committed suicide, three were killed, and one died from choking on food. As of the end of September, several deaths had occurred in prisons. On September 7, a teenager died after his cellmate severely beat him in pretrial detention in Tichilesti penitentiary. The deaths of two prisoners in the penitentiaries in Craiova and Colibasi were also reported.

According to media and NGO reports, guards assaulted prisoners and at times prisoners assaulted and abused fellow inmates.

Some prisons provided insufficient medical care, and food quality was poor and sometimes insufficient in quantity. In some prisons the heating and ventilation were inadequate, and there was poor lighting. APADOR-CH and the Association for Human Rights and People Deprived of Freedom reported that most prisons were overcrowded and noted inadequate conditions in some prisons, including insufficient medical care, poor food quality, mold in kitchens and cells, understaffing, an insufficient number of bathrooms, poor hygiene, insects, an insufficient number of doctors (including no psychologists in some prisons), lack of work, and inadequate educational activities. APADOR-CH also criticized the lack of adequate treatment with substitute substances for former drug addicts.

APADOR-CH stated that most police pretrial detention facilities had inadequate conditions. Such facilities were often located in basements and had no natural light or sanitary installations. In some pretrial facilities and prisons, there was no possibility for confidential meetings between detainees and their families or attorneys.

As of May the ECHR issued 16 rulings against the state, which had to pay compensation of 85,540 euros (\$94,100) for poor prison conditions and inhuman and degrading treatment in prisons.

*Administration:* Independent authorities did not always investigate credible allegations of inhuman conditions.

On March 24, the European Court of Human Rights (ECHR) issued a ruling against the country for failing to conduct an effective investigation into the 2007 death of Ionel Garcea, a prisoner with psychiatric problems in the Rahova hospital prison. After Garcea repeatedly complained that prison guards assaulted him, he hammered nails into his own head in protest, and authorities hospitalized him several times after he was diagnosed with a psychiatric disease and other medical problems. He also tried to commit suicide and refused to take medicine. He died a month after surgery to remove a nail from his head. Investigations are still pending in the case.

## **Universal Periodic Review (2013)**

In 2013, a NGO made a submission to the Universal Periodic Review covering, among other issues, inhuman and degrading treatment and detention conditions:

1. Romania continues to offer an inadequate response measures in the eradication and prevention torture. In accordance with its commitments from the date of 07.05.2012, should have been instated national prevention mechanism in accordance with OPCAT in collaboration between the Ombudsman and civil society. More than that, Reform aimed at the Ministry of Justice (by "coup d'etat by the parliament" which has caused political dismissal of PDL team of the government) on the implementation of recommendations contained in the report of the Committee for the prevention of torture european released to the public on the date of 24.11.2011 (CPT/INF(2011)31, and the reply to the procedure whether asserted by legal proceedings issued by the European Court of Human Rights (ECHR ( the case Jacob Stanciu 35972/05) at the beginning of the year 2010 will emphasize the system dysfunctions related to overpopulation in detention, precarious conditions of hygiene, absence or unsteadiness medical care (the cases Bragadireanu, Al-Agha, Marian Marinescu, Jiga, Ogica, Racareanu, Iamandi, Ciupercescu, Dimakos, Florea, Coman, Marcu, Cucolas, grozavu, Ali, Porumb, Dobri, Colesnicov) etc., the nature of the laws in the field of disruption of execution of the sentence (cause Ahron Schwarz). There is also the lack of concern of executive power for the construction of modern establishments and delaying inclusion public-private partnership in the mechanism of outsourcing some of the services and independent activities intended to ensure detainees' conditions that satisfy human dignity. Serious problems of penitentiaries are added and the application of precarious measures for the protection of detainees to the no smoking active with all that Romania has ratified the 2006 framework Convention for the control of OMS tabacului. With all that Romania was condemned in 2010 by the European Court in the case Florea (37186/03) to passive smoking in conditions of detention, after which they followed and other sentences, the Parliament of Romania has adopted in 2011 national law profile, being exempted for the penalties no smoking in the rooms of the detention.

2. Police lock-ups have characteristics which affect human dignity by conditions which may be assimilated with torture: police lock-ups are so arranged during the communist regime in the basement of the police headquarters, the rooms are small, with group health without division, with small windows which are doubled with metal site to access natural light and ventilation with insufficient ventilation, by the route aisles are arranged the pipes to transport water, gas, heat which present a hazard in the event of damage.

A report entitled "Children deprived of liberty in Central and Eastern Europe"[\[8\]](#) which was published by several NGOs in 2014 said the following about the general detention facilities in Romania:

Main issues identified in criminal justice detention facilities: (...) Romanian detention facilities are still plagued with serious problems. They fall short of the European Court of Human Rights (ECtHR) and European Committee for the



Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards, leading in many instances to serious human rights violations:

\* *Detention conditions:* One of the most serious problems regarding detention conditions is that Romanian prisons are severely overcrowded (a little over two square metres per person). Another general problem regarding detention conditions is that rooms are frequently unhygienic and in a deplorable condition. (...)

\* *Health care:* Access to health care is very problematic in Romanian detention facilities. One of the main issues is the severe understaffing in health care units. Assigned funds (state budget and social insurance) are insufficient for the needs of the prison system, and a major problem in many penitentiaries is the lack of vital medication. Mental health issues are particularly pressing because in most penitentiaries, there is no psychiatrist. In practice, when a psychiatrist is needed, penitentiaries have to refer to a psychiatrist either from another penitentiary or from outside the prison system.

### ***The cases of Dan and Alexander Adamescu: Fair trials?***

**Dan Adamescu**, a German businessman of Romanian birth who emigrated to Germany in 1979 and went back to Romania in the 1990s. He invested time, money and effort in supporting *România Liberă*, a leading national newspaper originally established in 1877. Under his stewardship, this popular outlet consistently uncovered and exposed the corruption of many in national positions of authority.

Championing democratic values and the rule of law, *România Liberă* was highly critical of Romania's post-Communist elites, the security services, the Social Democratic Party, or "PSD" (the successor party to the Communist Party of the Ceaușescu era), and its leader, the Romanian Prime Minister Victor Ponta who held office from May 2012 to November 2015. *România Liberă* regularly criticized the PSD for the extensive corruption, nepotism and greed that plagued its ranks. This rendered both the newspaper and Dan Adamescu a target for persecution by powerful members of the ruling elite and the PSD.

The newspaper also criticized the involvement of the Romanian Intelligence Services in the functioning of the judiciary in 2015. There is strong evidence that, during his time in office, Ponta personally ordered the proceedings against Dan Adamescu on bribery charges of 20.000 Euros, amongst other things, as retribution for the paper's unflattering press coverage. Dan Adamescu was arrested by masked anti-terror police, paraded in handcuffs in front of TV cameras, brandished a criminal on TV, and declared guilty by the sitting judge on the first day of his trial. A swift show trial resulted in Adamescu being sentenced to a prison term of four years and four months on the basis of a single denunciation by a tainted witness. Ironically, Ponta himself was later prosecuted by the DNA on unrelated corruption charges (forgery, money laundering and tax evasion) after he apparently fell out of favor with both the DNA and the SRI. Dan Adamescu, before dying in hospital, was serving his prison term in the appalling detention conditions that have been described above.

Since his arrest, Dan Adamescu experienced the brutality of Romanian prisons first-hand. On multiple occasions he was refused adequate medical treatment by the Romanian

authorities despite repeated requests from his counsel, and the Law Society of England and Wales<sup>16</sup>. He collapsed twice since his incarceration in May 2016. He had a septic shock on Christmas Day 2016 and was under intensive care and dialysis, with doctors fighting for his life. His request for conditional release was repeatedly refused in court. He finally died on 24<sup>th</sup> January 2017.

The son of Dan Adamescu, **Alexander Adamescu**, a German citizen and budding playwright, lives in London with his wife and three young children. He is accused by Romania's National Anticorruption Directorate (DNA) of committing precisely the same crimes for which his father was convicted and based on exactly the same evidence, i.e. one tainted prosecution witness. Romanian courts issued two national arrest warrants against Alexander Adamescu: a first warrant on 4 May 2016 which was cancelled on 19 May and a second arrest warrant that was issued on the very same day, 19 May 2016 and then converted into a European Arrest Warrant on 6 June 2016. Alexander Adamescu was arrested in London on 13 June and faces extradition to Romania.

It is significant that an EAW was issued only after Alexander protested at the treatment of his father and instructed lawyers to file arbitration proceedings against the Romanian government for the politically motivated seizure and liquidation of another one of his father's companies. Prior to raising his vocal criticism of the Romanian government, Alexander was not actively pursued for arrest.

### ***Alexander Adamescu's case: Violations of Romanian and international law***

Alexander Adamescu's two arrest warrants were issued in gross violations of key tenets of Romanian and international law:

- The DNA did not charge Alexander Adamescu in June 2014 when the case was brought to trial against his father, but reactivated the file only in September 2015 after Alexander Adamescu engaged lawyers who sued Romania.
- Despite an almost two-year long inactivity, Chief-prosecutor Laura Kovesi suddenly announced the DNA's intention to arrest Alexander Adamescu on live TV on 25 March 2016 calling him a fugitive and a threat to public order in the DNA's submissions. Kovesi also declared that her agency knew where he was, but then on the same day wrote to the court to demand that the arrest warrant procedure be speeded up since his whereabouts were not known.
- For the first arrest warrant hearing on 4 May 2016, Alexander Adamescu was summoned via e-mail addresses that were not his and by calling phone numbers that were admittedly incorrect.
- In his judgement issued on 4 May 2016, Judge Malaliu copied and pasted the DNA report, grounding his decision to arrest Alexander Adamescu on the DNA reasoning that he must be guilty for the offences for which he was charged.
- On appeal on 19 May 2016, after Judge Nita made it known that she intended to cancel the first arrest warrant on procedural grounds, a second judge, Judge Matei, was immediately assigned to re-judge the arrest warrant without the safeguard of random allocation as guaranteed by Romanian procedural law and before Judge Nita's judgement had been published.

- The hearing was scheduled for 1.30 pm on 19 May 2016. The paper was printed at 1pm but pre-dated by a court agent to have been filled out at 11 am.
- Alexander Adamescu was summoned at 1pm on the court door to appear in half an hour in front of the court.
- The hearing began at 2.40 pm and closed at between 3.10-3.20 pm. At 3.40 pm, the Court sent a fax of the arrest order to the Municipal Police of Bucharest. Judge Matei had no more than half an hour to read the case file containing thousands of pages, deliberate on the arguments of the parties, write down his sentence and have it sent to the Bucharest Police.
- Judge Matei's sentence was immediately leaked to the media by the Romanian authorities. At 5.06 pm Alexander Adamescu's new arrest warrant appeared on a news website.
- Alexander Adamescu's appeal on the second arrest warrant was rejected on 25 May 2016 by Judge Ghena on the grounds that a more lenient measure would determine a strong negative reaction among the public opinion.

Alexander Adamescu's arrest warrant was issued with a blatant disregard for due process and the rule of law. First, the DNA created the image of a dangerous fugitive at large who is so obviously guilty that his arrest was needed to protect the public from his person. Then the Courts in Romania unconditionally, and in full, accepted this account of the DNA, without even trying to give the semblance of granting him a fair trial.

The haste with which the Court of Appeals, on 19 May 2016 turned the matters around would appear to show that the whole purpose of the exercise was to arrest Alexander Adamescu no matter what. In an unprecedented series of breaches of his fundamental rights, he was denied an independent judge, not summoned to his trial, and handed a decision that was implemented so rapidly that it could only have been taken before his trial had started. The immediate leaking of his arrest warrant to the Romanian media showed that Alexander Adamescu was not allowed to be a free man even if this meant dispensing with the law altogether.

Alexander Adamescu's case is totemic of the vast gulf between Romania's rhetoric on its progress towards becoming a liberal democracy committed to an independent judiciary and the stark reality faced by its citizens. It is emblematic for the true nature of some of Romania's praised anti-corruption cases which provide cover for the oppression of dissenting voices, political score settling, economic raids and outright character assassinations. For there to be real change, both the international community and those with the power to enact the urgently needed judicial reforms in Romania must finally take heed of this.

**The case against the Adamescus bears all the hallmarks of a politically motivated prosecution. The New York Times cites Romania's treatment of Dan Adamescu as an example of how the state's "anti-corruption campaign has rapidly metastasized into an illiberal crusade".<sup>[9]</sup> The added threat of his son facing a similar fate, calls for immediate attention to the bogus EAWs put forth by Romania.**

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## **Romania's Govt. approves changes to the criminal law by emergency ordinance in evening session**

Romania Insider (31.01.2017) - <http://bit.ly/2kQgU76> - Romania's Government approved on Tuesday evening several important changes to the criminal law via emergency ordinance. The cabinet led by Sorin Grindeanu met to approve the 2017 budget project, at 19:40, and unexpectedly introduced this ordinance on the meeting's agenda and adopted it. The final text of the emergency ordinance wasn't made public before the Government meeting.

**Update: The Government's emergency ordinance was published in the Official Gazette around 1:00 AM on Wednesday morning. The website crashed due to the high number of visitors. The ordinance states that the changes come into force in ten days.**

The initial emergency ordinance draft published by the Justice Ministry on January 18 included several important changes to the criminal law. It redefined the abuse of power and conflict of interest charges partially decriminalizing them.

Justice minister Florin Iordache said after the cabinet meeting that the ordinance included some of the observations received in the last two weeks. For example, investigating a public official for abuse of power won't be conditioned by the existence of a complaint from the damaged side, as the initial draft provided. However, the Government maintained the RON 200,000 (EUR 44,400) limit for abuse of power to become a criminal offence, Iordache said.

This means that public officials who cause damages under RON 200,000 won't be prosecuted. The ordinance also applies to the ongoing investigations and even to the cases already sent to court.

The ordinance, which comes into force the moment it is published in the Official Gazette, will likely help top politicians such as the Social Democratic Party (PSD) leader Liviu Dragnea, former interior minister Gabriel Oprea, and former transport minister Dan Sova, who have been sent to court by the National Anticorruption Directorate (DNA) for abuse of power, according to local Hotnews.ro.

Justice minister Florin Iordache was repeatedly asked by the journalists if the ordinance helped his party leader Liviu Dragnea solve his justice problems, but he avoided a direct answer and said that the ordinance was not adopted to help one person or another but because the Constitutional Court ruled that some provisions included in the criminal law were unconstitutional. However, as the General Prosecutor pointed out, the changes brought by the Government to the criminal law far exceeded the Constitutional Court's recommendations.

The ordinance will likely impact more than 2,100 abuse of office cases currently investigated by the anticorruption prosecutors, according to DNA. Between 2014 and 2016, some 1,171 people and 34 legal entities have been sent to court on abuse of power charges. The total damages in these cases amount to over EUR 1 billion.

The Government also decided on Tuesday to let the Parliament decide on the other project, which aims to pardon thousands of convicts.

The Government was expected to approve the Penal Code changes by emergency ordinance but in the Wednesday meeting. New protests were also expected to take place in Bucharest on Wednesday.

However, after the justice minister announced the approval of the ordinance, people started gathering in Bucharest's Victoriei Square, in front of the Government building.

President Klaus Iohannis reacted to the Government's decision saying that justice enemies have dealt a powerful blow to the rule of law in Romania.

Here's a chronology of the events and reactions that have preceded the Government's decision to change the Penal Code:

Wednesday, January 18: Romania's President attends Government meeting as changes to criminal laws are considered; Who does Romania's Ministry of Justice plan to pardon?; Romania's Government plans to redefine abuse of power in criminal law

January 19: Romania's General Prosecutor takes firm stand against changes in criminal law

January 20: Romania's President urges Govt. to withdraw ordinances that change the criminal law

Sunday, January 22: Romania's President joins 20,000 people who protest in Bucharest against Govt.'s changes to criminal law

January 23: Romania's President calls for referendum on justice laws; Romanian SocDem leader wants referendums on traditional family and politicians' immunity

January 25: EC will continue to monitor Romania's justice reform under the CVM until process irreversible; Senate president: Romania should pull out from CVM

January 26: Romania's majority leader says he doesn't fully understand Govt.'s initiative on justice

January 27: German Chancellor calls Romanian President over justice worries

Sunday, January 29: Tens of thousands of Romanians march against prison pardons, changes to the criminal law; Romanian PM waits for justice minister's decision on justice bills

Monday, January 30: Romania's justice minister promises to eliminate unclear provisions in justice bills; French foreign affairs official: Romania must continue to strengthen rule of law.

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## **Leading businessman Dan Adamescu dies in prison**

***Leading Romanian businessman Dan Adamescu has become the latest victim of Romania's "failing" penal and judicial system.***

By Martin Banks

Eurereporter (25.01.2017) - <http://bit.ly/2kvVWX2> - Adamescu was serving a four year sentence for alleged bribery but had been seriously ill for some time and died in a hospital in Bucharest, aged 68.

A leading campaign group says Adamescu should have been released from prison both on health and age grounds and the case highlights a "total breakdown in the rule of law" in the country.

Willy Fautre, director of the Brussels-based NGO Human Rights Without Frontiers (HRWF), says the EU has an important role in such matters and should "closely monitor" the situation in Romania.

He told this website: "This is not an isolated case. I was in Romania last week and personally saw the huge public demonstrations about this issue."

Adamescu, whose fortune was estimated by Forbes at €550m, had asked judges in late 2016 to let him get out of jail sooner because of his age and due to the fact that he was already investigated while in preventive arrest. However, the court rejected his request.

A German citizen of Romanian origin, he founded the Nova Group (TNG), which holds stakes in Romanian real estate like the InterContinental Hotel Bucharest and Unirea Shopping Centre.

In May 2014, he was imprisoned and sentenced to four years and four months on charges of bribery and corruption after what is widely seen as a show trial in February 2015. He vehemently denied the accusation and his family now say that the conditions in which he was held, and lack of medical care afforded to him, contributed to his death.

His son, Alexander Adamescu, has been fighting to clear his father's name, says he has also become a target for the Romanian authorities who are requesting his extradition and incarceration.

London-based Alexander said: "My sadness at this time is tinged with anger directed towards the Romanian state, whose persecution of my father caused his death. My father was vilified, haunted and assassinated to satisfy Romania's thirst for trophies in its ill-conceived anti-corruption mania. Now my turn has come to face the same fate. The trial and imprisonment on trumped-up charges left my father facing not only a justice system which blatantly failed to guarantee him a fair trial but also a prison system which is in breach of fundamental human rights."

Fautre, whose organization highlights human rights abuses around the world, said Adamescu's death while in detention "sheds once again some tragic light on the appalling prison conditions" in Romania which, he says, have been denounced "year after year" by the European Court of Human Rights.

He said "negative reports" on the state of the penal and judicial system in Romania have also been issued since 2013 by the Strasbourg-based Council of Europe's Committee of Prevention of Torture and the U.S State Department.

Similar concern has been expressed by Romania's Ombudsman in his 2015 report.

Fautre added: "Adamescu was known to be in very bad health but his requests for an early release were disregarded by the authorities. Prisons are overcrowded in Romania: eight of them have an occupancy rate of over 200%, and the average occupancy rate in local prisons is of some 150%."

If Romania does not solve the problems, the European Court of Human Rights has said it will rule that the country – a member of the European Union – must pay compensations to all inmates for each day of detention in improper conditions.

These compensations would amount to some € 80 million per year.

Fautre went on: "Given his condition, Adamescu should not have been kept in detention and our NGO considers that the EU should closely monitor the respect of fundamental human rights in Romania."

According to research, Romania is the European country with the highest number of its expats in prison in the EU (11,511).

In July 2016, prison protests spread across Romania as inmates expressed their dissatisfaction with poor conditions.

Romanian jails still fall below European standards, with overcrowding, inadequate medical attention and poor diet remain the main problems, according to activists. Its jails are said to still have inadequate hygiene conditions, with insufficient access to warm water, insufficient sanitary facilities, insufficient natural lighting and ventilation, and poor food quality.

A Council of Europe source said: "The Adamescu case illustrates the failing penal and judicial system in Romania."

Alexander Adamescu says that, despite his failing health, his father fought "injustices to the end".

He added: "As a family, we are determined to continue the fight to make the truth known, restore his legacy and bring an end to the oppression of basic freedoms in Romania."

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## **Businessman and newspaper owner, Dan Adamescu aged 68, dies during his detention in Romania**



### **Press release by Adamescu family**

(24.01.2017) Businessman and owner of the *Romania Libera* newspaper Dan Adamescu has died in a hospital in Bucharest following mistreatment by the Romanian state. He was 68.

A German citizen of Romanian origin, Dan Adamescu was the founder of The Nova Group (TNG), which holds stakes in prized Romanian real estate like the InterContinental Hotel Bucharest and Unirea Shopping Center.

Dan Adamescu financed *Romania Libera* after its relaunch as independent newspaper in 1990. The newspaper is one of the oldest in Romania, founded in 1877. Since the fall of communism, it has been a staunch supporter of democracy, the rule of law and has continually exposed corruption in Romanian politics and bureaucracy.

In May 2014, Mr Adamescu was imprisoned in Romania, and sentenced to four years and four months on charges of bribery and corruption after a swift show trial in February 2015, which he and his family vehemently denied. His family say that the conditions in

which he was held, and the lack of medical care afforded to him, contributed to his early death.

The Adamescu family contends that Dan was falsely convicted on trumped up charges because the Romanian state wants to control the newspaper and expropriate TNG's businesses.

His son, Alexander Adamescu, has been fighting for justice for his father and has also become a target for the Romanian authorities who are requesting his extradition and incarceration.

Speaking from his London home, from which he faces extradition to Romania on precisely the same corruption charges for which his father was wrongly convicted, a devastated Alexander Adamescu says:

"My sadness at this time is tinged with anger directed towards the Romanian state, whose persecution of my father caused his death. He has been vilified, haunted and assassinated to satisfy Romania's thirst for trophies in its ill-conceived anti-corruption mania. And now my turn has come to face the same fate.

"Romania's attempts to control the *Romania Libera* newspaper, the coordinated destruction of the Astra insurance business which he built and his arrest, trial and imprisonment on trumped-up charges, left my father facing not only a justice system which blatantly failed to guarantee him a fair trial but also a prison system which is in breach of fundamental human rights.

"Despite his failing health, he fought these injustices to the end. As a family, we are determined to continue the fight to make the truth known, restore his legacy and bring an end to the oppression of basic freedoms in Romania."

In conclusion, Alexander Adamescu said:

"The appalling treatment of my father demonstrates the total breakdown of the rule of law and due process in Romania, and the vindictive persecution that its government authorities have inflicted upon him. Should the UK ignore my, and many others' warnings, about the parlous state of justice in Romania and fail to prevent my unlawful extradition, it is inevitable that I will be subject to the same persecution and abuse that claimed my father's life."

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## **Detention conditions in Romania under fire**

HRWF (25.01.2017) - Despite a blossoming reputation as a rule of law country, Romania continues to be a prolific human rights abuser. In 2015 alone, the ECtHR delivered 72 judgments (each citing at least one violation) against Romania, the highest number of any EU member state. Among the 47 member states of the Council of Europe, Romania ranked the third highest human rights abuser after the Russian Federation (109 judgments) and Turkey (79 judgments). (1)

Worryingly, 27 of those violations in Romania were for inhumane or degrading treatment (Article 3), with many relating to the appalling conditions and treatment in Romanian prisons (2). In 13 cases, the violations were due to the lack of effective investigation and in 13 other cases to the lack of a fair trial.



Prisons are overcrowded in Romania: eight of them have an occupancy rate of over 200%, and the average occupancy rate in local prisons is of some 150%. If Romania doesn't solve this problem, the European Court of Human Rights may rule that the country must pay compensations to all inmates for each day of detention in improper conditions. These compensations would amount to some EUR 80 million per year.

### ***Reports on detention conditions in Romania***

The death of Dan Adamescu (68) while in detention sheds once again some tragic light on the appalling prison conditions in Romania, of which have been denounced year after year:

- By the European Court of Human Rights at the UN Universal Periodic Review in 2013: (<https://www.upr-info.org/en/review/Romania/Session-15---January-2013/Civil-society-and-other-submissions#top>)
- In the 2015 US Department Report: (<https://www.state.gov/j/drl/rls/hrrpt/2015/eur/252891.htm>)
- By Romania's Ombudsman in his 2015 report: ([http://www.avp.ro/index.php?option=com\\_content&view=article&id=51&Itemid=77&lang=en](http://www.avp.ro/index.php?option=com_content&view=article&id=51&Itemid=77&lang=en))
- By the Committee of Prevention of Torture at the Council of Europe in 2015: (<http://www.cpt.coe.int/documents/rom/2015-31-inf-fra.pdf>)

#### *U.S. Department of State Report 2015*

In the section entitled "Torture and other cruel, inhuman, or degrading treatment or punishment", the U.S. Department of State stressed that "there were reports from nongovernmental organizations (NGOs) and the media that police and gendarmes mistreated and abused prisoners, pretrial detainees, Roma, and other citizens, primarily through the use of excessive force, including beatings. The media reported such cases in Bucharest, Vinga, Botosani, Braila, Arad, and other localities. In most cases the police officers involved were exonerated."

#### *Romania's Ombudsman Report*

This report comprises several hundreds of pages.

In Chapter V "Medical assistance provided to detainees in prisons and detention and remand centres", the People's Advocate of Romania states "In certain prisons, there was a deficit of medical staff, either through lack of general practitioners, dentists, psychiatrists, psychologists or by the shortage of general practitioners or the shortage of nurses."

In Chapter VII devoted to death, suicide and physical assaults, the report states:

"The investigations conducted by the representatives of the People's Advocate institution revealed that one of the causes of death was suicide, usually by hanging. Three cases were registered at Galati Penitentiary, one case on Craiova, Codlea, Aiud, Bacau, Tulcea Penitentiaries.

Regarding the medical conditions in prisons, there was a predominance of deaths from cardiorespiratory insufficiency, heart attack while other deaths were caused by hepatitis, infection diseases, pneumonia, HIV/AIDS, decompensated cirrhosis, broncho-pneumonia, etc.”

UN Universal Periodic Review: NGO submission (2013)

“Police lock-ups have characteristics which affect human dignity by conditions which may be assimilated with torture: police lock-ups are so arranged during the communist regime in the basement of the police headquarters, the rooms are small, with group health without division, with small windows which are doubled with metal site to access natural light and ventilation with insufficient ventilation, by the route aisles are arranged the pipes to transport water, gas, heat which present a hazard in the event of damage...

...Access to health care is very problematic in Romanian detention facilities. One of the main issues is the severe understaffing in health care units. Assigned funds (state budget and social insurance) are insufficient for the needs of the prison system, and a major problem in many penitentiaries is the lack of vital medication.”

- (1) European Court of Human Rights, Statistics: “Violations by Article and by State 2015”, echr.coe.int, Accessed 08 November 2016, [http://www.echr.coe.int/Documents/Stats\\_violation\\_2015\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2015_ENG.pdf)
- (2) Ibid.

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## **The European Arrest Warrant and Human Rights in Romania**

HRWF (17.01.2017) - The European Arrest Warrant (EAW) is an important tool in combating serious cross-border crime. An efficient system of extradition within the European Union is needed, especially to fight terrorism successfully. However, functioning inter-state cooperation in judicial matters inside the EU must not be at the expense of basic principles of fairness and justice. Currently there are a number of flaws in the EAW system that need to be remedied if we want to avoid future cases of injustice and increased mistrust in the EAW. Such injustice and denunciation can be a result of a state failure to protect the basic rights of individuals when issuing EAWs. To ensure operational judicial cooperation, it is our responsibility as a collective group to be the watchdog for such cases that threaten this system. Regrettably, there are currently cases in which EAWs are being respected despite serious and well-founded human rights concerns. Such circumstances put the unifying judicial system in Europe at grave risk.

Romania is one of the countries that is problematic in this regard. The persistent lack of independence of the judiciary and the appalling detention conditions in Romania should be taken into consideration for the possible implementation of Recital 13 of the Preamble of the Framework Decision regulating the European judicial cooperation, which reads: **"No person should be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment."**

Apart from the mandatory and optional grounds for refusing to execute a warrant outlined in the EU Framework Decision (2002), many member states have enacted additional reasons related to human rights when refusing to respect a warrant, such as

the risk of an unfair trial. That was the case a few years ago when Sweden refused to surrender a Romanian citizen to Bucharest. Now, it is the turn of the UK to take or not a similar decision concerning a Romanian request to extradite Alexander Adamescu, a German citizen living and working in London as a playwright. Concerns about fair trials and detention conditions in Romania are indeed based on solid facts.

### ***Interference of the Romanian Intelligence Service in the judiciary***

The interference in the work of the judiciary by some powerful external powers is a chronic disease that has expanded unabated over the years despite the resistance of some judges. One of the actors currently in the dock is the Romanian Intelligence Service (SRI).

Dana Girbovan, a judge at the Court of Appeal in Cluj-Napoca and president of the National Union of the Romanian Judges (UNJR), is spearheading the campaign of Romanian judges against the covert involvement of the SRI in the judiciary. Under the pretext of fighting corruption, the SRI has increased its influence to a point where the independence of the judiciary and the rule of law have become strongly questionable.

The scandal of the SRI's involvement in the judicial process became public in April of 2015. General Dumitru Dumbrava, the head of SRI's legal department, then stated in an interview<sup>1</sup> that the SRI would not "withdraw from the tactical field once the indictment was presented to the court" and that the SRI maintained its "(...) interest/attention until the final resolution of every case is reached". He also stated the SRI was profiling judges to detect patterns of criminal behavior, regardless of reported suspicion. This raised serious concerns about the independence of the whole Romanian judiciary as the SRI is prohibited by law to interfere with courts and prosecution.

At the SRI's 25<sup>th</sup> anniversary, Eduard Hellvig, the current SRI Director, made matters worse, by explaining<sup>2</sup> that magistrates had to be monitored "to avoid situations like in the past when the judges and prosecutors forgot on the road that they serve the Romanian State and had other preoccupations than to serve the Romanian State". The guest of honor at this event was General Iulian Vlad, the last head of Securitate, the former communist secret police.<sup>3</sup>

This affair has led to a variety of concerned comments by Romanian and foreign judges' organizations<sup>4</sup> while the European Union seems hesitant to intervene in favor of the

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1 <http://www.juridice.ro/373666/dumitru-dumbrava-sri-este-unul-dintre-anticorpii-bine-dezvoltati-si-echipati-pentru-insanatosirea-societatii-si-eliminarea-coruptiei.html>

2 <http://www.evz.ro/hellvig-despre-implicarea-sri-in-justitie-serviciul-lucreaza-bine-dar-din-pacate-comunica-prost.html>

[http://www.dcnews.ro/directorul-sri-eduard-hellvig-lamure-te-declara-ia-gen-dumbrava\\_476395.html](http://www.dcnews.ro/directorul-sri-eduard-hellvig-lamure-te-declara-ia-gen-dumbrava_476395.html)

3 <http://www.flux24.ro/seful-securitatii-comuniste-invitat-special-la-aniversarea-sri/>

[http://www.stiripesurse.ro/eduard-hellvig-noul-ef-al-sri-da-ordine-in-serviciu-de-fa-a-cu-florian-coldea\\_956664.html](http://www.stiripesurse.ro/eduard-hellvig-noul-ef-al-sri-da-ordine-in-serviciu-de-fa-a-cu-florian-coldea_956664.html)

<http://www.ziaristionline.ro/2015/05/24/monografia-sri-25-de-ani-lansare-extraordinara-la-bookfest-2015-cu-gen-iulian-vlad-virgil-magureanu-george-maior-florian-coldea-si-eduard-hellvig-foto/>

4 <http://www.unjr.ro/stiri/55-europeanmagistratesconcernedabouttheinfluenceofintelligenceagencyoverthejudiciaryprocessinromania.html> (May 23, 2015)

Romanian judiciary, fearing it would restrain the combat against corruption which was perceived as a success story until now.

In light of these statements and considering Romania's totalitarian history, **the National Union of the Romanian Judges (UNJR)** raised concerns about the independence of the judiciary system in Romania and asked the state institutions to clarify in a transparent manner the involvement of the SRI in the judiciary. However, for over a year the government has refused to publish the decisions of the Supreme Council of National Defense (CSAT) because they are classified as "state secret".

In parallel, the UNJR along with hundreds of individual judges petitioned **the Superior Council of the Magistracy (CSM)** - the judicial body with a constitutional duty to "guarantee the independence of the judiciary" - to defend the autonomy of the judiciary by clarifying publicly what General Dumbrava meant when he referred to the courts as a "tactical field" for the SRI. Unfortunately, the CSM failed to do so. The CSM received a classified reply from the SRI that it did not share with the UNJR, thereby further undermining people's confidence in courts and judges.

On 11 August 2015, **Romania Libera** revealed that magistrates in key positions had obtained doctoral degrees at the SRI Academy.<sup>5</sup> This Academy is not only under the jurisdiction of the SRI but it is the school where future SRI officers and spies are trained. In the summer of 2015 the academy initiated a program with European funds to "train" a targeted group of 1,000 magistrates, out of which 500 had to be in leadership positions in courts or prosecutors' offices. Enrolling magistrates had to provide their personal information to the academy and at the end of the training they were evaluated by SRI Officers.

There are about 4,700 civil, criminal and administrative judges and 2,800 prosecutors in total in Romania. Therefore, having 1,000 judges and prosecutors trained by the SRI has an enormous impact on the judiciary. In order to understand the extent of the SRI's influence over Romanian judges and prosecutors, the UNJR asked the SRI Academy to provide the names of all magistrates that took part in any of its classes and trainings. The request was based on the law on access to public information but was ultimately rejected. Consequently, UNJR filed a lawsuit which is currently pending.

On 16 March 2016, the Paris-based Magistrates Association **MEDEL (Magistrats européens pour la Démocratie et les Libertés)** published a declaration entitled « Is Europe under Siege? », in which it stated:

In Romania, a general of the Romanian Intelligence Service (SRI) has admitted that the courts became "tactical fields" for this secret service, that all the judges are profiled using behavioural patterns and that this secret intelligence agency is currently "maintaining its interest/attention until a final court decision has been reached in each case".

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<http://unjr.ro/75-europeanmagistratesconcernedthattheinvolvementofthesecretservicesintheromanianjudiciaryprocesshasnotbeenclarifiedyet.html> (November 21, 2015)

<http://www.unjr.ro/comunicate-de-presa/90-medeldeclARATION-iseuropeundersiege.html> (March 12, 2016)

5 <http://www.romanialibera.ro/politica/institutii/magistrati-si-sefi-de-institutii-au-fost-facuti-doctori-de-generalul-politician-gabriel-oprea-388840>

This raises serious concerns about the integrity of the judiciary system as a whole, as well as the independence of the judges. In almost a year since this scandal erupted, the Romanian authorities have failed to clarify the involvement of SRI in the judiciary process. The SRI director stated publicly that this secret service agency is in partnership with the prosecutors to conduct criminal investigations, an activity that it is forbidden by the law. At the same time, invoking classified procedures and secret protocols, the Romanian authorities have failed to explain in a transparent way how they conducted the investigation to conclude that there are no undercover agents of any intelligence agencies among the magistrates.

In the context that SRI is part of the criminal investigation and it is also involved in the courts, corroborated with the failure of authorities to clarify transparently these matters, this raises serious doubts about the respect for basic human rights and the guarantee of a fair and just trial of any person accused by the state. The most recent attacks to the Romanian Constitutional Court, for ruling unconstitutional the article used by prosecutors to delegate SRI to conduct acts of penal investigation, confirms that there is an unhealthy involvement of SRI in the judiciary process.

The solution of the Romanian Government to fix this unconstitutional article in the law, by passing an emergency ordinance making SRI a "special organ" to conduct penal investigations, legalizes actually the involvement of a secret intelligence agency in the judiciary process which is undermining its independence. With SRI legally participating now in the penal investigation, and with SRI transforming the courts as their "tactical fields", profiling judges and "maintaining their interest/attention until a final court decision is been reached in each case", Romania is violating the human rights, independence of the judiciary, rule of law and separation of power principles.

### ***Romania: Unfair trials and inhumane detention conditions***

Despite a blossoming reputation as a rule of law country, Romania continues to be a prolific human rights abuser. In 2015 alone, the ECtHR delivered 72 judgments (each citing at least one violation) against Romania, the highest number of any EU member state<sup>6</sup>. Among the 47 member states of the Council of Europe, Romania ranked the third highest human rights abuser after the Russian Federation (109 judgments) and Turkey (79 judgments).

Worryingly, 27 of those violations in Romania were for inhumane or degrading treatment (Article 3), with many relating to the appalling conditions and treatment in Romanian prisons<sup>7</sup>. In 13 cases, the violations were due to the lack of effective investigation and in 13 other cases to the lack of a fair trial.

### ***U.S. Department of State Report 2015***

In the section entitled "Torture and other cruel, inhuman, or degrading treatment or punishment", the U.S. Department of State stressed that "there were reports from nongovernmental organizations (NGOs) and the media that police and gendarmes mistreated and abused prisoners, pretrial detainees, Roma, and other citizens, primarily through the use of excessive force, including beatings. The media reported such cases in

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<sup>6</sup> European Court of Human Rights, Statistics: "Violations by Article and by State 2015", [echr.coe.int](http://www.echr.coe.int), Accessed 08 November 2016, [http://www.echr.coe.int/Documents/Stats\\_violation\\_2015\\_ENG.pdf](http://www.echr.coe.int/Documents/Stats_violation_2015_ENG.pdf)

<sup>7</sup> Ibid.

Bucharest, Vinga, Botosani, Braila, Arad, and other localities. In most cases the police officers involved were exonerated." And it also stated that:

A report of the Association for the Defense of Human Rights-Helsinki Committee (APADOR-CH) on the situation in Racos, Brasov County, where a Romani community of more than 1,200 persons was located was endorsed by the U.S. Report as follows: "Community members complained that police had terrorized and repeatedly beaten them over the previous three years and that the Brasov prosecutor's office had handled their complaints improperly, closing all cases. APADOR-CH criticized the failure of law enforcement authorities to investigate the situation thoroughly in Racos and take appropriate countermeasures. A subsequent report by APADOR-CH in August revealed that, of the 3,034 abuse complaints filed against police between 2012 and 2014, 14 went to court and the courts convicted police officers for abusive behavior in four of these cases.

In the section "Prison and detention center conditions", the U.S. Report reads as follows:

Prison conditions remained harsh and did not meet international standards. The abuse of prisoners by authorities and other prisoners reportedly continued to be a problem.

*Physical Conditions:* According to official figures, overcrowding was a problem, and some prisons did not meet the standard of 43 square feet per prisoner, as set by the Council of Europe's Committee for the Prevention of Torture.

According to a report by the National Administration of Penitentiaries, 502 persons died in prisons in between 2010 and 2014, of whom 425 died due to medical conditions, 73 committed suicide, three were killed, and one died from choking on food. As of the end of September, several deaths had occurred in prisons. On September 7, a teenager died after his cellmate severely beat him in pretrial detention in Tichilesti penitentiary. The deaths of two prisoners in the penitentiaries in Craiova and Colibasi were also reported.

According to media and NGO reports, guards assaulted prisoners and at times prisoners assaulted and abused fellow inmates.

Some prisons provided insufficient medical care, and food quality was poor and sometimes insufficient in quantity. In some prisons the heating and ventilation were inadequate, and there was poor lighting. APADOR-CH and the Association for Human Rights and People Deprived of Freedom reported that most prisons were overcrowded and noted inadequate conditions in some prisons, including insufficient medical care, poor food quality, mold in kitchens and cells, understaffing, an insufficient number of bathrooms, poor hygiene, insects, an insufficient number of doctors (including no psychologists in some prisons), lack of work, and inadequate educational activities. APADOR-CH also criticized the lack of adequate treatment with substitute substances for former drug addicts.

APADOR-CH stated that most police pretrial detention facilities had inadequate conditions. Such facilities were often located in basements and had no natural light or sanitary installations. In some pretrial facilities and prisons, there was no possibility for confidential meetings between detainees and their families or attorneys.

As of May the ECHR issued 16 rulings against the state, which had to pay compensation of 85,540 euros (\$94,100) for poor prison conditions and inhuman and degrading treatment in prisons.

*Administration:* Independent authorities did not always investigate credible allegations of inhuman conditions.

On March 24, the European Court of Human Rights (ECHR) issued a ruling against the country for failing to conduct an effective investigation into the 2007 death of Ionel Garcea, a prisoner with psychiatric problems in the Rahova hospital prison. After Garcea repeatedly complained that prison guards assaulted him, he hammered nails into his own head in protest, and authorities hospitalized him several times after he was diagnosed with a psychiatric disease and other medical problems. He also tried to commit suicide and refused to take medicine. He died a month after surgery to remove a nail from his head. Investigations are still pending in the case.

### **Universal Periodic Review (2013)**

In 2013, a NGO made a submission to the Universal Periodic Review covering, among other issues, inhuman and degrading treatment and detention conditions:

"1. Romania continues to offer an inadequate response measures in the eradication and prevention torture. In accordance with its commitments from the date of 07.05.2012, should have been instated national prevention mechanism in accordance with OPCAT in collaboration between the Ombudsman and civil society. More than that, Reform aimed at the Ministry of Justice (by "coup d'etat by the parliament" which has caused political dismissal of PDL team of the government) on the implementation of recommendations contained in the report of the Committee for the prevention of torture european released to the public on the date of 24.11.2011 (CPT/INF(2011)31, and the reply to the procedure whether asserted by legal proceedings issued by the European Court of Human Rights (ECHR ( the case Jacob Stanciu 35972/05) at the beginning of the year 2010 will emphasize the system dysfunctions related to overpopulation in detention, precarious conditions of hygiene, absence or unsteadiness medical care (the cases Bragadireanu, Al-Agha, Marian Marinescu, Jiga, Ogica, Racareanu, Iamandi, Ciupercescu, Dimakos, Florea, Coman, Marcu, Cucolas, grozavu, Ali, Porumb, Dobri, Colesnicov) etc., the nature of the laws in the field of disruption of execution of the sentence (cause Ahron Schwarz). There is also the lack of concern of executive power for the construction of modern establishments and delaying inclusion public-private partnership in the mechanism of outsourcing some of the services and independent activities intended to ensure detainees' conditions that satisfy human dignity. Serious problems of penitentiaries are added and the application of precarious measures for the protection of detainees to the no smoking active with all that Romania has ratified the 2006 framework Convention for the control of OMS tabacului. With all that Romania was condemned in 2010 by the European Court in the case Florea (37186/03) to passive smoking in conditions of detention, after which they followed and other sentences, the Parliament of Romania has adopted in 2011 national law profile, being exempted for the penalties no smoking in the rooms of the detention.

2. Police lock-ups have characteristics which affect human dignity by conditions which may be assimilated with torture: police lock-ups are so arranged during the communist regime in the basement of the police headquarters, the rooms are small, with group health without division, with small windows which are doubled with metal site to access natural light and ventilation with insufficient ventilation, by the route aisles are arranged the pipes to transport water, gas, heat which present a hazard in the event of damage."

A report entitled "Children deprived of liberty in Central and Eastern Europe"<sup>8</sup> which was published by several NGOs in 2014 said the following about the general detention facilities in Romania:

Main issues identified in criminal justice detention facilities: (...) Romanian detention facilities are still plagued with serious problems. They fall short of the European Court of Human Rights (ECtHR) and European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) standards, leading in many instances to serious human rights violations:

- *Detention conditions:* One of the most serious problems regarding detention conditions is that Romanian prisons are severely overcrowded (a little over two square metres per person). Another general problem regarding detention conditions is that rooms are frequently unhygienic and in a deplorable condition. (...)
- *Health care:* Access to health care is very problematic in Romanian detention facilities. One of the main issues is the severe understaffing in health care units. Assigned funds (state budget and social insurance) are insufficient for the needs of the prison system, and a major problem in many penitentiaries is the lack of vital medication. Mental health issues are particularly pressing because in most penitentiaries, there is no psychiatrist. In practice, when a psychiatrist is needed, penitentiaries have to refer to a psychiatrist either from another penitentiary or from outside the prison system.

### ***The cases of Dan and Alexander Adamescu: Fair trials?***

**Dan Adamescu**, a German businessman of Romanian birth who emigrated to Germany in 1979 and went back to Romania in the 1990s. He invested time, money and effort in supporting *România Liberă*, a leading national newspaper originally established in 1877. Under his stewardship, this popular outlet consistently uncovered and exposed the corruption of many in national positions of authority.

Championing democratic values and the rule of law, *România Liberă* was highly critical of Romania's post-Communist elites, the security services, the Social Democratic Party, or "PSD" (the successor party to the Communist Party of the Ceaușescu era), and its leader, the Romanian Prime Minister Victor Ponta who held office from May 2012 to November 2015. *România Liberă* regularly criticized the PSD for the extensive corruption, nepotism and greed that plagued its ranks. This rendered both the newspaper and Dan Adamescu a target for persecution by powerful members of the ruling elite and the PSD.

As previously mentioned, the newspaper criticized the involvement of the Romanian Intelligence Services in the functioning of the judiciary in 2015. There is strong evidence that, during his time in office, Ponta personally ordered the proceedings against Dan Adamescu on bribery charges of 20.000 Euros, amongst other things, as retribution for the paper's unflattering press coverage. Dan Adamescu was arrested by masked anti-terror police, paraded in handcuffs in front of TV cameras, brandished a criminal on TV, and declared guilty by the sitting judge on the first day of his trial. A swift show trial resulted in Adamescu being sentenced to a prison term of four years and four months on the basis of a single denunciation by a tainted witness. Ironically, Ponta himself was later prosecuted by the DNA on unrelated corruption charges (forgery, money laundering and tax evasion) after he apparently fell out of favor with both the DNA and the SRI. Dan

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<sup>8</sup>[http://www.bghelsinki.org/en/media/uploads/documents/reports/special/bhc\\_\(2014\)\\_children\\_deprived\\_from\\_liberty\\_en.pdf](http://www.bghelsinki.org/en/media/uploads/documents/reports/special/bhc_(2014)_children_deprived_from_liberty_en.pdf)



Adamescu is currently serving his prison term in the appalling detention conditions that have been described above.

Since his arrest, Dan Adamescu has experienced the brutality of Romanian prisons first-hand. On multiple occasions he's been refused adequate medical treatment by the Romanian authorities despite repeated requests from his counsel, and the Law Society of England and Wales<sup>16</sup>. He's collapsed twice since his incarceration in May 2016. He's had a septic shock on Christmas Day 2016 and is now under intensive care and dialysis, with doctors fighting for his life. Only a few days earlier, his request for conditional release was refused in court on the request of the DNA which argued that he had spent too much time in hospital instead of prison.

The son of Dan Adamescu, **Alexander Adamescu**, a German citizen and budding playwright, lives in London with his wife and three young children. He is accused by Romania's National Anticorruption Directorate (DNA) of committing precisely the same crimes for which his father was convicted and based on exactly the same evidence, i.e. one tainted prosecution witness. Romanian courts issued two national arrest warrants against Alexander Adamescu: a first warrant on 4 May 2016 which was cancelled on 19 May and a second arrest warrant that was issued on the very same day, 19 May 2016 and then converted into a European Arrest Warrant on 6 June 2016. Alexander Adamescu was arrested in London on 13 June and faces extradition to Romania.

It is significant that an EAW was issued only after Alexander protested at the treatment of his father and instructed lawyers to file arbitration proceedings against the Romanian government for the politically motivated seizure and liquidation of another one of his father's companies. Prior to raising his vocal criticism of the Romanian government, Alexander was not actively pursued for arrest.

### ***Alexander Adamescu's case: Violations of Romanian and international law***

Alexander Adamescu's two arrest warrants were issued in gross violations of key tenets of Romanian and international law:

- The DNA did not charge Alexander Adamescu in June 2014 when the case was brought to trial against his father, but reactivated the file only in September 2015 after Alexander Adamescu engaged lawyers who sued Romania.
- Despite an almost two-year long inactivity, Chief-prosecutor Laura Kovesi suddenly announced the DNA's intention to arrest Alexander Adamescu on live TV on 25 March 2016 calling him a fugitive and a threat to public order in the DNA's submissions. Kovesi also declared that her agency knew where he was, but then on the same day wrote to the court to demand that the arrest warrant procedure be speeded up since his whereabouts were not known.
- For the first arrest warrant hearing on 4 May 2016, Alexander Adamescu was summoned via e-mail addresses that were not his and by calling phone numbers that were admittedly incorrect.
- In his judgement issued on 4 May 2016, Judge Malaliu copied and pasted the DNA report, grounding his decision to arrest Alexander Adamescu on the DNA reasoning that he must be guilty for the offences for which he was charged.
- On appeal on 19 May 2016, after Judge Nita made it known that she intended to cancel the first arrest warrant on procedural grounds, a second judge, Judge Matei, was immediately assigned to re-judge the arrest warrant without the safeguard of random allocation as guaranteed by Romanian procedural law and before Judge Nita's judgement had been published.

- The hearing was scheduled for 1.30 pm on 19 May 2016. The paper was printed at 1pm but pre-dated by a court agent to have been filled out at 11 am.
- Alexander Adamescu was summoned at 1pm on the court door to appear in half an hour in front of the court.
- The hearing began at 2.40 pm and closed at between 3.10-3.20 pm. At 3.40 pm, the Court sent a fax of the arrest order to the Municipal Police of Bucharest. Judge Matei had no more than half an hour to read the case file containing thousands of pages, deliberate on the arguments of the parties, write down his sentence and have it sent to the Bucharest Police.
- Judge Matei's sentence was immediately leaked to the media by the Romanian authorities. At 5.06 pm Alexander Adamescu's new arrest warrant appeared on a news website.
- Alexander Adamescu's appeal on the second arrest warrant was rejected on 25 May 2016 by Judge Ghena on the grounds that a more lenient measure would determine a strong negative reaction among the public opinion.

Alexander Adamescu's arrest warrant was issued with a blatant disregard for due process and the rule of law. First, the DNA created the image of a dangerous fugitive at large who is so obviously guilty that his arrest was needed to protect the public from his person. Then the Courts in Romania unconditionally, and in full, accepted this account of the DNA, without even trying to give the semblance of granting him a fair trial.

The haste with which the Court of Appeals, on 19 May 2016 turned the matters around would appear to show that the whole purpose of the exercise was to arrest Alexander Adamescu no matter what. In an unprecedented series of breaches of his fundamental rights, he was denied an independent judge, not summoned to his trial, and handed a decision that was implemented so rapidly that it could only have been taken before his trial had started. The immediate leaking of his arrest warrant to the Romanian media showed that Alexander Adamescu was not allowed to be a free man even if this meant dispensing with the law altogether.

Alexander Adamescu's case is totemic of the vast gulf between Romania's rhetoric on its progress towards becoming a liberal democracy committed to an independent judiciary and the stark reality faced by its citizens. It is emblematic for the true nature of some of Romania's praised anti-corruption cases which provide cover for the oppression of dissenting voices, political score settling, economic raids and outright character assassinations. For there to be real change, both the international community and those with the power to enact the urgently needed judicial reforms in Romania must finally take heed of this.

**The case against the Adamescus bears all the hallmarks of a politically motivated prosecution. The New York Times cites Romania's treatment of Dan Adamescu as an example of how the state's "anti-corruption campaign has rapidly metastasized into an illiberal crusade".<sup>9</sup> The added threat of his son facing a similar fate, calls for immediate attention to the bogus EAWs put forth by Romania.**

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<sup>9</sup> See Patrick Basham: "Romania's Anti-Corruption Mania", New York Times, 4 March 2015

## **Fighting corruption with con tricks: Romania's assault on the rule of law**

Henry Jackson Society (04.01.17) - <http://bit.ly/2iccFlg> - A new report from The Henry Jackson Society, *Fighting Corruption with Con Tricks: Romania's Assault on the Rule of Law*, has found that Romanian politicians are engaged in political score-settling and serious violations of human rights which are dressed up as anti-corruption efforts. The report warns that practices which show considerable continuity with the communist era are taking place. The National Anti-corruption Directorate (DNA), for example, is an active participant in political struggles, and there is a strong correlation between those targeted for prosecution and the interests of those in power. Politicians are able to exert influence over the DNA using their control of key appointments, and by directing high-profile investigations. There is growing concern that the intelligence services are also involved, and with the DNA they are believed to be undermining judicial independence. All of this has the effect of weakening of the rule of law.

The report's key findings include:

- There are concerns that the intelligence services are covertly directing anti-corruption prosecutions. However, the government has refused to investigate allegations that the intelligence services have infiltrated the judiciary and prosecution services.
- There have been numerous abuses of process. Arrested individuals have been paraded before the media in handcuffs, relatives of suspects have been threatened with indictment, suspects have been offered immunity for implicating someone more newsworthy, and evidence has been systematically leaked to the media.
- Crucial principles of justice enshrined in the European Convention on Human Rights, as well as the European Union's Charter of Fundamental Rights, are being routinely violated. This includes the right to a fair trial and the presumption of innocence.

Romania's international partners should consider these as matters of serious concern, and should act. The report recommends a range of measures through existing mechanisms on the part of the UK, the EU, and the US State Department. In particular, the European Commission should trigger its Rule of Law Mechanism, which is designed to deal with emerging systemic threats to the rule of law within the EU. Additionally, the UK should either reform or replace the European Arrest Warrant (EAW) to include stronger human rights safeguards; there have been two recent cases where the Romanian authorities were able to use the EAW to pursue politically motivated legal actions through UK courts.

David Clark, the report author, said;

*"Europe's leaders have been exceptionally naive in accepting Romania's claim to be cracking down on corruption, Romania's anti-corruption drive has itself become a tool of political corruption.*

*There is considerable evidence that investigations are used to settle political scores, that prosecutors collude with government, that judges are improperly influenced to maintain high conviction rates, that the domestic intelligence service plays a covert role in manipulating the criminal justice system and that abuses of due process are routine.*

*The result is that basic standards of human rights are being regularly infringed, including the right to a fair trial and the right to a presumption of innocence.*

*The EU's complacency about Romania creates the very real risk of creeping authoritarianism as other countries realise that anti-corruption campaigns provide convenient cover for bypassing the democratic standards that are supposed to bind together all European countries."*

[See the full report here.](#)

**For additional information, see The Guardian's article "Romania's corruption fight is a smokescreen to weaken its democracy":**

<https://www.theguardian.com/world/2017/jan/10/romanias-corruption-fight-is-a-smokescreen-to-weaken-its-democracy>

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## **Romanian state 'blamed' for attempted kidnap of businessman's wife on London street**



By Patrick Sawyer

Telegraph (08.01.2017) - <http://bit.ly/2i9fBgR> - The wife of a British resident fighting plans to extradite him to Romania on "unfounded" corruption charges has accused its government of attempting to kidnap her from a London street.

Adriana Constantinescu has spoken for the first time of the moment two masked men tried to drag her into a car outside her St John's Wood home.

Speaking ahead of her husband Alexander Adamescu appearing in court to answer a European Arrest Warrant demanding his removal to Romania, she said the kidnap attempt was part of a state-sponsored campaign to intimidate him and his family.

She said: "There was nothing random about this kidnap attempt – it is symptomatic of the attempts by the Romanian prosecutors and intelligence agents to intimidate us and show us what they are capable of doing."

MPs and justice campaigners have called for urgent reforms to the controversial EAW system, saying it is being used by corrupt officials to target Mr Adamescu on "unfounded" bribery charges and that the case has highlighted serious flaws in the system.

Mr Adamescu, 38, who is a German citizen, was arrested last June and locked up in Wandsworth Prison for two nights before being released on bail pending a hearing into his case in April.

The Romanian authorities are demanding his extradition as part of a wider case against Mr Adamescu's father Dan, a businessman and proprietor of the opposition newspaper Romania Libera, which has long been a thorn in the side of the Government.

Mrs Constantinescu described the attack on her by two masked men in March last year as "terrifying".

She said: "They were both wearing bandanas and gloves. They drove a Mini cooper with fake number plates – as I was later told by the police. And they didn't steal anything despite the fact that I was wearing diamond earrings, and had my car keys in my hand.

"When they approached me, I threw myself on the ground, and fought with them until a neighbour heard my screaming and came running out to me. At the same time, a cab driver with a passenger in the back seat pulled over next to me and called the police. That was the moment I was saved. The two men ran to their car and quickly drove away. I was lucky."

Mrs Constantinescu added: "Although the kidnapers didn't speak, I knew they had been engaged by the Romanians because they specifically targeted me and did not have any intent to rob me. We are a normal family in London and don't show off at all. You don't go to kidnap somebody randomly in front of a nursery where two toddlers have been dropped off.

"It is the typical Romanian neo-Communist fashion to go after the entire family, wife, children, babies, when you want to destroy a person."

Scotland Yard said the incident was still subject to an ongoing investigation, but that no arrests had been made and there had been few leads to pursue.

Mr Adamescu's father was recently moved from his prison cell to a hospital ward to receive treatment for sepsis, leading to fears for his long-term well-being.

Mrs Constantinescu, a marketing specialist, said: "Dan is in a life-threatening condition and held in intensive care after a septic shock. We don't know if he'll survive. His health has been ruined by the intentional mistreatment he's received at the hands of the Romanian state. Alexander will be similarly tortured. I fear for his life if he's to be returned."

She added: "As a wife and mother, I try to remain positive about the outcome of the extradition attempt, but fear greatly for Alexander and our children who will potentially be separated from both their father and grandfather in the future. I do hope that the new Romanian government who has promised to uphold the rule of law will keep its promise."

The family's supporters claim former-Communist elements within Romania's security services fabricated a bribery case against the Astra insurance company run by Mr Adamescu Snr, which had grown to become the country's largest.

They claim that in February 2014 the then-Romanian Prime Minister Victor Ponta instructed market regulators to take control of the firm, which was subsequently liquidated.

The EU routinely labels the country as one of the most corrupt in Europe and has placed it, along with neighbouring Bulgaria, under a corruption monitoring scheme. A European parliament study estimated Romania lost about 15 per cent of its GDP to corruption.

However, observers say the Romanian authorities have put significant effort into prosecuting corrupt businessmen and politicians as part of their bid to win closer European integration, including accession to the Eurozone.

Under the campaign some of the country's most powerful businessmen have been brought down, along with a string of high-profile government ministers. They include Mr Ponta, who is currently battling corruption charges of his own, including tax evasion and money laundering.

The Romanian National Anti-corruption Directorate (DNA) denied conspiring to seize the Adamescus' business holdings and said Mr Adamescu Snr had received a fair trial.

The DNA did not comment on Mrs Constantinescu's kidnap allegations, but the agency repeated its claim that it had only used the EAW because Alexander Adamescu had refused to appear before prosecutors.

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## **Romania's anti-corruption services are reminiscent of Securitate**

***SRI, Romania's domestic intelligence service, is evolving into what many regard as the Securitate Version 2.0, a reference to Nicolae Ceaușescu's feared security service, writes Nick Kochan.***

By Nick Kochan

EurActiv (09.12.2016) - <http://bit.ly/2gvz7W0> - Romania entered the European Union on the basis that it had dealt with its legacy of corruption inherited from Nicolae Ceaușescu, the leader of one of the most corrupt and ruthless regimes in Central Europe. That corruption accompanied its early privatisations and persuaded the EU to pause its membership until 2007. The energetic work of an anti-corruption agency called the National Anticorruption Directorate, (DNA) persuaded the EU powers that the country was serious about clamping down on its corrupt system. In due course, a former prime minister, a number of ministers and many other politicians were prosecuted by the agency.

The question the EU must urgently address now is whether that clampdown on corruption has gone too far. The anti-corruption system, say its many critics, regards itself as above the law and, together with the SRI, Romania's domestic intelligence service, is evolving into what many regard as the Securitate Version 2.0, a reference to Ceaușescu's feared security service.

There are countless clues pointing in this direction, including intimidation of judges, use of investigative powers against political or even personal foes, excessive pre-trial publicity and "preventive detention", improper and potentially illegal forms of plea-bargaining to secure testimony against high-profile perpetrators, and continued use, despite court prohibitions, of intrusive counter-terrorism methods in the investigation of corruption cases.

Corruption in Romania remains a serious problem, hampering the country's economic development and dividing people from their politicians. According to the latest Corruption Perceptions Index published by Transparency International, it is the third worst in the EU, just ahead of Italy. More disturbing for the Romanians who are very keen to join the Schengen agreement guaranteeing freedom of movement across EU country borders, Romania's standing on TI ratings is falling.

What appears like a successful prosecutor on the basis of its conviction rate of 92% of all cases brought is more reminiscent of a Chinese court where the judge is too afraid of the prosecutor to acquit a defendant for fear of retribution. European officials like Jean-Claude Juncker, who has spoken positively about the country's prospects of joining Schengen, should know that this greatly exceeds rates obtained in Western countries.

The massive number of cases in Romania where corruption has been alleged – over 10,000 as of 2015 – produced just 1,200 indictments, an indication of the way the agency manipulates corruption allegations to support its cases. Another quasi-judicial tactic used to threaten defendants is that of pre-trial detention, where a defendant can be detained for 180 days while the case is being investigated. The threat of this form of detention is enough to persuade many defendants to cooperate.

The DNA has as its tool a corruption law that is exceptionally wide by European standards. This allows politicians to be charged with 'abuse of office' as well as with more standard corruption charges such as giving or accepting bribes. So the former deputy prime minister Gabriel Oprea was charged by the DNA after his police outrider was killed in a traffic accident. His right to the outrider was challenged by the DNA who claimed it was an 'abuse of office.'

The most serious allegation brought against the DNA is that it is no longer accountable to anyone. While the broad corruption law can easily be applied to many individuals in a country where corruption is endemic, such vendettas require the connivance of the agency and its leadership. Here particular flak is thrown at the head of the DNA, Laura Kövesi, a 43-year-old lawyer. The daughter of a chief prosecutor in the Transylvania County of Sibiu, she rose swiftly through the ranks and in 2006 was appointed chief prosecutor for Sibiu city with DIICOT, the Directorate for Investigating Organized Crime and Terrorism. Nine months later she became the first woman and the youngest Prosecutor General for the nation. She was appointed DNA's chief in 2013.

The geography and Kövesi's background are important because, coincidentally, while she was a rising young star in the Sibiu prosecutor's office, Romanian President Klaus Iohannis was the local mayor. Iohannis was a physics teacher and later a school inspector before being elected mayor in 2000, a position he held until 2014 when he ran for and won the nation's presidency.

Local mayors are not paid much in Romania. In 2000 Iohannis and his wife acquired several properties locally. The seller had acquired them through Romania's restitution program, through which descendants were entitled to claim back from state ownership properties expropriated by the former Communist regime. Restitution fraud has been a serious problem, with some experts estimating that at least 20% of restitution claims have been fraudulent.

The Iohannis family earned an estimated €600,000 from rents on its Sibiu properties, roughly €37,500 annually, a comfortable supplementary income in a low-wage economy like Romania.

That income has now come to a halt. Sibiu County municipal authorities went to court claiming that the restitution claim that ownership was based on was false. The courts agreed and titles to the properties were returned to the municipality. Though Iohannis appealed, higher courts have ruled against him. His lawyers have now returned to court using an unusual legal technicality to seek nullification of the result. However, the ruling on the fraudulence of the original restitution claim cannot now be overturned.

This was a civil case. No criminal charges have ever been brought. But private investigators who have alleged they were engaged on the president's behalf last year have since said they were told he was worried.

The Israeli sleuths, arrested in mid-investigation of Kövesi, later told Israeli police that Iohannis was afraid that the DNA would bring his wife in for interrogation, according to leaked transcripts of the police interviews, widely published in the Romanian media in recent weeks. Mrs. Iohannis and her mother are reportedly co-signatories on some of the former Iohannis properties.

Kövesi works hand in glove with the SRI, to entrap targets and obtain evidence against them. In some cases the SRI brings a case to the agency, in other cases the agency brings in the SRI to support its case with wiretapping of targets. Defendants speak of humiliation in front of the media, the threatening of relatives of defendants with investigation and prosecution if they fail to comply with prosecutors' demands and the use of compromising material to damage a target's standing. Judges who fail to deliver a prosecution are said to have been threatened.

The way the agency routinely breaches Chinese walls between the executive, judiciary and law enforcement represents a flagrant breach of individual rights. This is clearly incompatible with EU objectives not to say membership. At the very least, careful thought needs to be given to the country's membership of Schengen unless its so-called anti-corruption system is reined in.

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## The European Arrest Warrant in the Dock



**Alexander Adamescu**

HRWF (29.10.2016) - On 13<sup>th</sup> June 2016, **Alexander Adamescu**, a German citizen and the son of a prominent Romanian businessman, was arrested in London on the basis of a European Arrest Warrant (EAW) issued by the Romanian government which accused him of complicity with his father in bribing judges. He was on his way to deliver a statement to reporters at London's Frontline Club, a well-known gathering spot for journalists, when London Metropolitan Police officers took him into custody.

Alexander Adamescu denies the charges. He claims that the jail sentence against his father was based only on the false testimony of a former employee in one of the group's



companies and that he and his family are being politically persecuted by the Romanian Government.

The arrest in London of Alexander Adamescu was the result of investigations by prosecutors in Romania's National Anti-corruption Directorate (DNA).

According to the DNA, in June and December 2013, **Dan Adamescu** and his son Alexander remitted through intermediaries the amounts of EUR 15,000 and RON 23,000 to two judges from a court in Bucharest in order for them to provide favorable solutions to one of the firms involved in insolvency procedures where Dan Adamescu, a 68-year old businessman, was a shareholder. He was arrested in June 2014 and later sentenced to 4 years and 4 months in prison.

On May 4, 2016, a first proposal for Alexander Adamescu's arrest was granted by a first instance court in Bucharest to the DNA. His lawyer challenged that decision on procedural grounds which were granted on May 19, 2016. Within a couple of hours, Alexander Adamescu had a new arrest warrant issued against him. On the very same day, he was summoned at the door of the court at 11:00 for a hearing at 13:30. Alexander Adamescu's lawyer rushed to court unprepared and made his plea as best he could. Within 30 minutes after the end of the hearing, Alexander Adamescu's new arrest warrant was on the electronic court register. The new judge had deliberated on the arguments of both side, taken a decision, admitted a new arrest warrant and had also found the time to write his decision on the court electronic system within that half hour. Alexander Adamescu's next court hearing in London is scheduled for 24<sup>th</sup> April 2017 and his handing over will be decided.

Alexander Adamescu is a 38-year old playwright. His father is the owner of a business group that includes real estate assets such as Unirea Shopping Center in Bucharest, Intercontinental Bucharest and Rex Hotel in Black Sea resort Mamaia, newspaper *România Liberă* and insurance company Astra Asigurari. Since his father's incarceration, he has been managing the family's business.

Alexander Adamescu is now residing in London with his wife and three young children where he studies at the Royal Central School of Speech and Drama.

### ***Alexander Adamescu: breaches of human rights***

#### *Article 5(1)(c)*

The European Convention, by the provisions of Article 5 paragraph 1, guarantees to any individual "his/her right to freedom and safety". It imposes the obligation on the State not to retain an individual unless "legal means were employed", limiting thus the force of the discretionary power of the State. The violation of the right to freedom and safety for Alexander Adamescu is proven by the way his arrest was ordered.

Alexander Adamescu's case file consists of 37 volumes. The haste of the court to judge the request of the DNA against Alexander Adamescu and the extremely short time given to deliberation and decision-making show that it was impossible for the judge to have read the entire case file of 37 volumes let alone analyse the evidence and arguments that were presented to him. In his decision the judge almost entirely copy-pasted the reasoning of the DNA and admitted automatically the proposal of taking the measure of Alexander Adamescu's arrest.

#### *Article 6(2)*

Article 6 of the Convention for protecting human rights and fundamental freedoms, ratified by the Romanian State by Law no. 79 dated June 6, 1995, guarantees that: «any person has the right to a fair trial .... » and paragraph 2 of the same article enshrines the principle of presumption of innocence. Similar to Dan Adamescu's trial, judges repeatedly verbally mentioned and wrote about the alleged illegality of Alexander Adamescu's acts before he was sent to trial. In the light of his father's treatment and conviction, Alexander Adamescu's conviction seems to be a fait accompli.

### **Some press articles among many:**

The Telegraph

<http://www.telegraph.co.uk/news/2016/10/19/the-european-arrest-warrant-is-making-britain-complicit-in-polit/>

UK Business News

<http://www.uk-business-news.co.uk/why-the-european-arrest-warrant-is-not-good-for-the-uk-the-case-of-alexander-adamescu/1070>

Voice of America

<http://www.voanews.com/a/british-action-european-arrest-warrant-sparks-criticism/3378554.html>

EURACTIV

<http://www.euractiv.com/section/europe-s-east/video/the-state-vs-adamescu/>

CAPX

<http://capx.co/brexit-will-set-our-justice-system-free/>

### ***Alexander Adamescu: a politically motivated case***

Many observers of political and judicial life in Romania believe that Alexander Adamescu is the victim of his father's and his own criticisms and actions against the Romanian government.

It is indeed noteworthy that the DNA completely ignored any involvement of Alexander Adamescu in his father's case until Romania was slapped with an GBP 200 million arbitration claim for the purposeful destruction of a group of companies controlled by Dan Adamescu - The Nova Group - which include Romania's liberal newspaper *România Liberă* and one of Romania's largest insurance companies Astra Asigurari.

Moreover, Alexander Adamescu pointed his finger at former Prime Minister Victor Ponta, who he considers responsible for fueling public outrage against his father and his companies. He accused Victor Ponta of illegally changing Astra Asigurari's board in February 2014 and of naming Misu Negritoiu as president of the Financial Supervisory Authority (ASF) which made a series of arbitrary decisions that consequentially led to the bankruptcy of Astra in August 2015.

Alexander Adamescu obviously angered the Romanian authorities and as a reaction to the arbitration, it appears as though the DNA decided to orchestrate his arrest by using the EAW system and thereby deter him from pursuing his legal action.

The use of the EAW "to neutralise" Alexander Adamescu arrives at a time when this system is in the dock in the UK because of a number of serious shortcomings. One of them is that it can easily be instrumentalised and misused for political score-settling by some EU member states where the judiciary lacks independence and is vulnerable to

political pressure. In this regard, Romania and some others are on the black list of human rights organizations. (1)

Another serious weakness is that no evidence of criminal wrongdoing against Alexander Adamescu was presented and none is in fact needed under the EAW. Before the introduction of the EAW in 2004, the Romanian authorities would have had to prove they had a credible case against him. Now, with the European Arrest Warrant, they simply have to prove that their paperwork is in order. No matter how strong Mr Adamescu's arguments are, or how unconvinced a British court might be by Romania's case, the UK is by international law obliged to hand him over unless it can be proved there are human rights abuses attached to the case or that it is politically motivated.

**Peter Alan Osborne**, a British journalist, who is the associate editor of the *Spectator* and former chief political commentator of the *Daily Telegraph*, quickly took up Alexander Adamescu's defence, writing in the Daily Mail (<http://dailym.ai/2dSeFhr>) a few days after his arrest:

"This week, I spoke at a press conference to publicise the plight of Alexander Adamescu, the London-resident son of a Romanian newspaper owner who is being pursued by his own government for what look like ugly political motives.

He is accused, in what I believe are trumped-up charges, of bribing judges presiding over cases involving his family's firms.

I fear he will not get a fair trial in Romania, where a notoriously corrupt government is intent on eliminating all domestic opposition - and, in his case, getting its hands on his father's assets."

And the author of *The Rise of Political Lying* and *The Triumph of the Political Class*, well-known for his acerbic commentary on the hypocrisy and apparent mendacity of contemporary politicians continued:

"Using the controversial European Arrest Warrant (designed to speed up the extradition process for EU citizens who have fled one country and are wanted for criminal proceedings in another), a British police officer arrested Mr Adamescu two hours before our press conference was due to begin. I don't blame our police, who had no choice under European law. However, it is grotesque that the British system of justice is suborned to help a corrupt government persecute someone who stands a negligible chance of a fair trial when he gets home.

The European Arrest Warrant system is a small but telling example of why British membership of the EU is not working properly.

It wrongly assumes that the rule of law prevails in all 28 member countries - which it most certainly does not. It is an unjust system."

**Stephen Pollard** in the 3<sup>rd</sup> September issue of *The Spectator* (<http://bit.ly/2damlZA>) wrote in an article questioning the UK's 'Brexit' from the European Arrest Warrant system:

The European Arrest Warrant clearly has benefits. But it has a fundamental flaw. It can lead to the incarceration of good people who fall foul of bad regimes.

The key problem with this agreement is the premise on which it is built - that all 28 EU member states have equally robust legal systems and independent judiciaries. They do not. And the consequences of that imbalance are becoming clear.

After referring to the case of Sky News journalist Stuart Ramsay and his film crew, prosecuted by Bucharest for their report on alleged gun-running in Romania (2) as a case of repression of freedom of expression, Stephen Pollard raises the cases of Alexander Adamescu and his father:

Most likely the Romanians are using the Sky News case to scare off other journalists. One can see why, because there is much to investigate in Romania. Such as the case of Alexander Adamescu, a German citizen who lives in London and is the son of a Romanian newspaper owner. *Romania Libera* is a moderate centre-right paper but is a thorn in the side of Romania's left-wing government. Adamescu's father has already been imprisoned on trumped-up charges of bribing judges. Now the government is going after the son in the same way - in part to get full control of his father's assets (he owns an insurance company).

### ***Alexander Adamescu's father: a politically motivated case***

His father, Dan Adamescu, is currently serving a four-year and four-months prison term in Romania for allegedly bribing two judges - Elena Roventa and Ion Stanciu - who handled insolvency cases involving his companies. Noteworthy, he began being targeted after his newspaper *Romania Libera* criticized the then left-wing government of Socialist Prime Minister Victor Ponta.

Critics accuse Romania's government of frequently using the country's National Anti-Corruption Directorate (DNA) to target the opposition.

On 11<sup>th</sup> October 2016, British MP Graham Brady was quoted as saying in his article « Brexit will set our justice system free » published by CAPX (<http://capx.co/brexit-will-set-our-justice-system-free/>):

After criticising the Romanian government for their treatment of his father, who was jailed on charges of bribery in a case highlighted by the respected NGO Fair Trials International as having "failed to respect the presumption of innocence", we learn that Alexander Adamescu soon found himself accused of exactly the same crime, leading to an EAW issued against him. Perhaps of most concern is the fact that - conveniently for the Romanian authorities - he was arrested by British police two hours before he was due to attend an event at London's Frontline foreign correspondents' club to highlight his case. He now faces an extradition hearing in the New Year. Despite the suspicion of political motivation for his arrest, British judges cannot review the case against him and must treat any EAW issued by Romania with a wholly unmerited level of reciprocity.

Senior human rights lawyers and several highly respected NGOs, including Liberty, Fair Trials International and Big Brother Watch, have detailed numerous instances where an EAW has been issued for sentences resulting from an unfair trial, as well as in cases later found to be major miscarriages of justice. There is a worrying trend emerging whereby the issuing state has sought extradition for what might be deemed personal or political reasons, or where evidence has been obtained through police brutality. Crucially, were British judges able to scrutinise the evidence prior to extradition, many of these cases would have been thrown out, yet the EAW assumes a parity of legal systems within the EU. So it's a case of "Extradite first, ask questions later".

On 21<sup>st</sup> April 2015, **James Clappison, a member of the Parliamentary Assembly of the Council of Europe**, who had some concerns about the trial of Dan Adamescu, tabled a motion for a resolution (Doc. 13761). Signed by 20 MPs, it stated:

In February 2015, Mr Dan Adamescu, a German citizen and a businessman was convicted in a Romanian court of alleged offenses of corruption and received a sentence of four years and four months imprisonment without parole.

Before the trial of Mr Adamescu took place, the Prime Minister of Romania publicly accused him of "leading a network of corruption to such great effect over a period of many years".

In a pre-trial hearing the Judge referred to the matters alleged in respect of Mr Adamescu as established facts rather than allegations and denied bail on the basis that Mr Adamescu had refused to admit guilt.

Amongst other matters Mr Adamescu had been the owner of Romania Libera, a newspaper that was critical of the Romanian Government.

The Parliamentary Assembly affirms its belief that the presumption of innocence and the right to a fair trial are indispensable in the administration of justice and the maintenance of human rights and shall call on all member States to ensure that these legal principles are scrupulously observed.

### ***The European Arrest Warrant***

The European Arrest Warrant (EAW) is an arrest warrant valid throughout all member states of the European Union. By removing the political and administrative stages and hurdles of individual states, it allows for the arrest and unquestioned extradition of a named criminal suspect or sentenced individual from one-member state to another so that the person can be put on trial or complete a detention period.

An EAW can only be issued for the purposes of conducting a criminal prosecution (not merely an investigation), or enforcing a custodial sentence. It can only be issued for offences carrying a minimum penalty of 12 months or more in prison. In cases where a sentence has already been passed an EAW can only be issued if the prison term to be enforced is at least four months long.

The introduction of the EAW system was intended to increase the speed and ease of extradition throughout EU countries by removing the political and administrative phases of decision-making which had characterised the previous system of extradition in Europe and by converting the process into a system run entirely by the judiciary. Since it was first implemented in 2004 the use of the EAW has steadily risen.

Advocates of human rights and commentators from both the left and right of UK politics, have argued that the Romanian government's case against Alexander Adamescu is flawed and politically motivated. Furthermore, they argue that the British police should not be forced into the unenviable position of arresting a German citizen living in London under the pretense of the European Arrest Warrant, which obliges member states of the European Union to blindly trust a foreign government and carry out arrests on its orders.

[Fair Trials International](#) (FTI), the London-based human rights non-governmental organisation, claims to have highlighted a number of cases which demonstrate that the European Arrest Warrant system is causing serious injustice and jeopardising the right to a fair trial. In particular, FTI alleges that:

- European Arrest Warrants have been issued many years after the alleged offence was committed;
- Once warrants have been issued there is no effective way of removing them, even after extradition has been refused;
- They have been used to send people to another EU member state to serve a prison sentence resulting from an unfair trial;
- Warrants have been used to force a person to face trial when the charges are based on evidence obtained by police brutality;

- Sometimes people surrendered under an Arrest Warrant have to spend months or even years in detention before they can appear in court to establish their innocence.

Moreover, the EAW issue related to the Adamescu case is not confined to Romania as there are increasingly clear signals that some EU member states may use the EAW system for political purposes. In Poland, the governing Law and Justice party has recently announced legislation which would criminalise references to 'Polish concentration camps' or 'Polish death camps'. Claiming that Polish people or the Polish state collaborated with the Nazis during the Holocaust could become a criminal offense, punishable with up to three years in prison. In this case, the EAW might be misused to prosecute journalists and researchers. Freedom of expression and academic freedom might be under increasing threat in the EU in the future if a reform of the EAW system is not envisaged.

### ***Recommendations concerning the EAW***

Considering that not all EU countries have fair legal systems and the EAW is vulnerable to abuse;

Considering that the EAW's own authority is being undermined while innocent people can be imprisoned for months, have their reputations destroyed and their lives ruined;

Considering that the EAW is sometimes operating in a legal black hole;

***Human Rights Without Frontiers recommends that the EU revise the functioning regulations so that:***

- the EAW system can only be used for the most serious crimes;
- "wanted person" alerts can only be circulated throughout the EU with its stamp of approval after examination of possible abuses ;
- the EU member state requested to hand over a "wanted person" keeps some margin of appreciation in its decision-making process;
- victims of abuse can have access to redress mechanisms through a fair, open and impartial process.

***Human Rights Without Frontiers recommends that the European Parliament, the European Commission and the European Council fully participate in the revision of the functioning regulations of the EAW system.***

***Human Rights Without Frontiers recommends that the Council of Europe and the OSCE bring possible cases of abuse of the EAW to the attention of the EU.***

### ***Recommendations concerning the case of Alexander Adamescu***

Brexit will affect the UK membership of the EAW system which is reserved to EU member states. It will also impact the debate between the supporters and opponents to it. Before the referendum on Brexit, some wanted to leave the EAW system and recover their judicial sovereignty because British courts were deprived of a part of their powers and the rule of law in UK could be violated without any possibility of recourse. Others want to keep their collaboration with the EAW under a new form of partnership.

*Human Rights Without Frontiers* is not taking a position in this debate but the political follow up of the case of Alexander Adamescu in the UK cannot be separated from this unstable geopolitical and legal configuration.

## **Recommendations of *Human Rights Without Frontiers* to Romania**

***Human Rights Without Frontiers* recognizes that anti-corruption measures are very important but considers that Romania should take this issue seriously to eliminate all sorts of corruption rather than using it for political purposes.**

***Human Rights Without Frontiers* therefore recommends that Romania**

- ensures the rule of law and fair trials in line with EU standards and values;
- guarantees the independence of the judges;
- respects fundamental human rights;
- makes sure justice is not misused for political purposes;
- only uses the EAW system for the most serious crimes;
- withdraws the EAW issued against Alexander Adamescu;
- puts an end to the personal and economic harassment against Alexander Adamescu, his father and their businesses

### **Footnotes**

(1) In the last few years, *Human Rights Without Frontiers* has dealt with another similar case of extradition requested by Romanian authorities.

(2) In August 2016, the award-winning chief correspondent of Sky News, Stuart Ramsay, reported on alleged gun-running in Romania. It was a shocking story and received a lot of attention.

The Romanian government's response was to say his story was a lie. The country's Directorate for Combatting Terrorism and Organised Crime asserted that Ramsay and his crew faked the whole report. The Romanian authorities reacted to the story with a formal request addressed to the UK for legal assistance into a criminal investigation. The Sky journalists have been charged with spreading false information to the detriment of Romania's national security.

Stuart Ramsay and his colleagues have been prosecuted for forming an "organised criminal group" by Romania's anti-terrorism unit on the grounds of an obscure national security law of "giving out false information."

## **ANNEX**

**Name:** Adamescu, Bogdan Alexander

**Date and place of birth:** 06.05.1978 Bucharest/Romania

**Nationality:** German

**Spoken languages:** German, Romanian, English, French, Spanish, Portuguese

### **Education**

<b>1980</b>	Emigration to Germany and naturalization
<b>1990s</b>	Successful junior tennis player at German national level
<b>1996</b>	National Summer Academy for highly-gifted pupils in Braunschweig
<b>1997</b>	Abitur in Germany, grade: (1.2) very good
<b>1997-99</b>	Studies at Humboldt-University Berlin
<b>1999-2002</b>	Studies at ENSAE and Paris-Sorbonne
<b>2002</b>	Participation in International Mathematics Olympics for students in Warsaw
<b>2003</b>	Diploma of economics at Humboldt-University Berlin Thesis on Equilibria in Oligopolies with Prof Ulrich Kamecke Grade: very good (1.3)
<b>2003</b>	Diplome d'economie et statistique ENSAE
<b>2004</b>	Diploma of mathematics at Humboldt-University Berlin

Thesis on Superbranching processes with Prof Hans Foellmer and Prof Steve Evans (Berkeley)

Grade: very good - (1.0) published as DFG research project

### **Professional career**

- 2005** New York University; Courant institute of Mathematical Sciences, 251 Mercer Street, NY 10012, USA  
Position: Research Fellow  
Activity: Research in stochastics;
- 2005 - 2006** McKinsey & Comp. Germany  
Position: Associate  
Activity: Management consulting
- 2006 - 2012** TNG - The Nova Group  
Position: Member of the Board of Directors  
Activity: Family Office
- 2012- present** Writer
- 2013** Theatre play *54'5' North 10'53 East* staged at Sibiu Festival in Romania
- 2015** MA at Central School of Speech and Drama

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## **The European Arrest Warrant is making Britain complicit in political persecution**

By Ben Kelly

The Telegraph (19.10.2016) - <http://bit.ly/2dpxIP9> - Brexit may mean Brexit (whatever that eventually means), but does it entail abolishing the European Arrest warrant? Indeed it should, but as our Prime Minister is a keen advocate of the EAW, it currently seems rather unlikely.

The EAW is based on the cursory assumption that all criminal justice systems in the EU are equal and uphold similar levels of equity between the citizen and the state. This is underpinned by the downright dangerous delusion that the European Convention on Human Rights is earnestly and correctly adhered to by all requesting nations.

The evidence points to the contrary. In fact, perhaps it should be explicitly acknowledged: not all justice systems in Europe are equal. Some do not operate separately from the state and some are blatantly corrupt.

Now, in the case of Alexander Adamescu, Britain has the opportunity to impart some integrity and uphold a measure of justice. Alexander, a German citizen and writer, was arrested in London in June this year by means of an EAW issued by the Romanian authorities just two hours before he was due to speak at a conference about the abuses of the EAW system. The Romanian embassy had instructed the London Metropolitan Police to apprehend Alexander before the event to prevent his appearance; they shamefully obliged.

Alexander, who moved to London in 2012, is accused of alleged offenses of corruption in Romania for which his father received a sentence of four years and four months imprisonment in what clearly amounts to a case of political persecution.



Dan Adamescu, a German citizen and businessman, was the owner of Romania's biggest insurer, Astra, and the conservative newspaper Romania Libera. After the fall of communism, the newspaper became known for its editorial independence and support of democratic values and the transition of Romania into a market economy.

It was a fierce critic of the Social Democratic Party, the successor organisation of the Communist Party, and regularly attacked the party's last leader Victor Ponta, who served as Prime Minister from 2012 – 2015. This criticism, and its outspoken support of Ponta's political rival, Traian Basecu, made the Adamescu family many powerful enemies.

Ponta's revenge for the years of criticism has been merciless and thorough. The government, the regulators and courts have colluded to drive Astra into liquidation and then nationalisation, and cut off Adamescu's funding to Romania Libera thereby curbing its influence.

In May 2014, Dan was accused of bribing judges and summoned as a suspect by prosecutors. Only two days after Dan Adamescu's summons, in an act that would be seen as a fundamental subversion of the people's rights in any truly free country, Prime Minister Victor Ponta made a public statement on television in which he directly accused Dan Adamescu, in the first of several public accusations, of leading a "network of corruption" and concluding his allegations with the chilling prediction: "I am certain that we will shortly be hearing even more things about this from the state prosecutor's office".

Sure enough, within a fortnight, masked and armed anti-terror police raided Mr Adamescu's home and arrested him. He was subsequently paraded in front of TV cameras and denounced as a criminal in the state-backed media.

The very next day, he was stood before a judge accused of witness tampering for helping to organise a lawyer for his Finance Director (subsequently a prosecution witness). The judge declared that he "must be exposed to public shame".

Indeed, he must have reflected on the cost of speaking freely in Romania as he sat in his dirty, overcrowded cell for the first time and granted only one hour a day in an 'outdoor space' with a metal grate roof and a floor smeared with human excrement. It was just the beginning of his cruel and inhumane treatment.

In October 2014 his show trial was swift and based on the testimony of one witness who was plainly shown to be contradicting himself. Prosecuting lawyers were frequently interrupted and cut short, as was Mr Adamescu himself. The guilty verdict was inevitable. In 2015 an appeal was heard and dismissed with a key prosecution witness bizarrely being allowed to absent himself from the proceedings.

Dan Adamescu was repeatedly refused bail, with presiding judges making numerous pronouncements that make a mockery of the notion of the presumption of innocence, a right enshrined in the ECHR. They argued that he and the other defendants couldn't be freed because they "continued to deny committing the crimes of which they are accused". As if protesting one's innocence was itself a crime worthy of detention! Another judge referred to "the seriousness of the illegal actions committed by him", a statement of almost comical absurdity.

Dan Adamescu is now wheelchair-bound due to crippling knee arthrosis for which he has been refused much needed surgery. His various medical ailments include an eye infection that has rendered him blind in one eye due to the denial of proper treatment and he has been declared unfit for imprisonment by his German doctor.

Despite this he still languishes in Romania's medieval prison system, having to be helped to the toilet (a hole in the ground) by his fellow inmates. He fears being forgotten by the international community and that he will perish in prison.

Somehow, this reprehensible abuse is occurring in a fellow EU member state in 2016. Now Britain must do the right thing and refuse to send Alexander Adamescu to face the same kangaroo court. It is evident that the warrant is politically motivated and Alexander Adamescu's human rights are likely to be violated. There's little chance of a fair trial when guilt has been spuriously attributed from the outset.

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## **President Klaus Iohannis receives a call to pardon Gregorian Bivolaru**

HRWF (01.08.2016) - On 26th July 2016, Gabriel Andreescu, one of Romania's biggest anticommunist dissidents and director of the human rights NGO APADOR, sent a letter to Romania's President Klaus Iohannis to ask him to pardon Gregorian Bivolaru sentenced to 6 years in prison and extradited by France in July last. From among his various works, it is worth mentioning:

- *"The repression of the yoga movement in the 80's"* (Polirom, 2008)
- *"MISA. The X-ray of a repression"* (Polirom, 2013)
- APADOR-CH reports on the MISA case.

The letter was published by the website of Ziarulring:

<http://www.ziarulring.ro/scrisoare-gratiere-gregorian-bivolaru-iohannis>

### **"To His Excellency, Mr. Klaus Iohannis, President of Romania**

#### **Concerns: Call to pardon Gregorian Bivolaru addressed to His Excellency, Mr. Klaus Iohannis, President of Romania**

Dear Mr President,

I am sending you now a request to pardon Gregorian Bivolaru, Romanian citizen sentenced in 2013 by the HCCJ (High Court of Cassation and Justice) to 6 years of prison. Having obtained political asylum in Sweden, he has been caught in February this year in France, and brought to Romania in compliance with the extradition decision of the French judges from July 13th, 2016. The decision made by the HCCJ in a show-session has trespassed elementary fairness requirements and denies the fact that at the time of the declared offence, "sexual relationship with a minor", she was 17, consent age, and she denied having had such a relationship. In 2015, the Bucharest Court has set that the interceptions used in the trial were illegal.

I address you this request as Gregorian Bivolaru and the adepts of the Movement created by him, MISA, are the victims of a large conspiracy involving public agents and institutions. The repressive action against Gregorian Bivolaru has started in the communist years, when he was arrested, tortured, sent to a psychiatric hospital because he was promoting yoga. The political police character of these acts has been recognised by the Bucharest Court in 2011. His repression, together with his adepts, went on after 1990 and took extreme shapes - including assaults of gendarmes troops accompanied by prosecutors and SRI (Romanian Information Service) officers, declared "barbarous" and based upon "absurd" accusations in 2015 by the Court of Appeal in Cluj. Even Gregorian Bivolaru's arrest in France has been made by forging his sentence by the Romanian

Police. "Sexual relationship with a minor" has been transformed, in order to engage the international authorities, into "sexual exploitation of minors and infantile pornography".

The fact that the investigations against Gregorian Bivolaru and MISA, initiated more than 20 years ago, for which the state has spent millions of euros and in which hundreds of public agents have been involved, have led to the sentence for "sexual act with a 17-year-old minor", and nothing else that could motivate such display of force, proves the exceptional nature of this case. The Prosecution, the SRI, the gendarmery, the Ministry of Justice, the Romanian Police have collaborated in order to manufacture "the Bivolaru file". Meanwhile, for the actions against the victims in the Bivolaru - MISA case, the European Court of Human Rights has sentenced the Romanian state to pay over 300.000 euro in the causes *Atudorei v. Romania* (2015) and *Amarandei and co. v. Romania* (2016). Other complaints filed by Gregorian Bivolaru and MISA have been considered admissible by the ECHR and the trial is coming to an end.

Of course, there are many situations that raise question marks regarding the fairness of the researches and the decisions, or in which we discover painful human histories. I am fully aware that a president cannot be asked, as ultimate authority, to bring justice or to offer compassion in all of these cases. What is happening to Gregorian Bivolaru, however, reaches a critical point: the yoga teacher is the victim of a state conspiracy.

By virtue of his competence to "watch over the observation of the Constitution and over the good functioning of the public authorities" and to ensure "the mediation among the powers of the state, as well as between the state and society", the president of Romania, using the prerogative of "granting individual pardon", can lift a burden from the shoulders of the Romanian state. There is no way for the Romanian democracy to become honourable, therefore stable, as long as against all evidences, power institutions of the state act openly, under the eyes of public opinion, that they lie to in order to mobilise it and to obtain its solidarity, in order to repress a yoga teacher and his adepts.

In support of this pardon request, I mention that Gregorian Bivolaru's physical integrity and life are in danger. For tens of years, instigations to lynch the yoga teacher have been made repeatedly, in collaboration with public agents, and the detention conditions can favour fatal aggressions. In May this year, a yogi has been stabbed at the entrance of a MISA building, in the perimeter of which it had been written, on the walls, "Death to Bivolaru". In June, another yogi has been beaten to blood. The aggressors were blaming his association to Gregorian Bivolaru. The outbursts have followed the announcement made by the Romanian Police, that the yoga teacher had been sentenced for "sexual exploitation of minors and infantile pornography", a forgery and an incitement to violence.

It is for all these are reasons, Mr. President, that I am turning to you and asking you to pardon the Romanian citizen Gregorian Bivolaru, who has already spent about a year behind bars, in Sweden and in France, as a result of the steps taken by the Romanian authorities in connection to the HCCJ decision from 2013. It is, I know, a delicate decision and not popular at all, but so natural coming from a prime high dignitary, faithful to his calling to "watch upon the good functioning of the public authorities" and "the observance of the Constitution".

Given the particular relevance of the Gregorian Bivolaru case for the Romanian society, I make this call for pardon public.

With consideration,  
Gabriel Andreescu

(Author of the APADOR-CH reports on the MISA case)"

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## **Two Swedish MEPs criticized France's decision to extradite Gregorian Bivolaru, a refugee in Sweden**

Brussels, June 24, 2016

To whom it concerns at the Ministry of Foreign Affairs

### **The case Magnus Auroldsson (former Gregorian Bivolaru)**

The Romanian citizen Magnus Auroldsson (former Gregorian Bivolaru, born 13<sup>th</sup> of March 1952) was convicted in his absence in a Romanian court. He applied for asylum in Sweden 24<sup>th</sup> of March 2005.

During the asylum process he was requested by the Romanian court. The question of extradition was tested by the Supreme Court the 21<sup>st</sup> of October 2005 (case no. Ö2913-05) which stated that Auroldsson is at risk of persecution if he returns to Romania. In addition to this, the government rejected the proposal of extradition through the Ministry of Justice [JuBIRS2005/1024].

On 23rd of December 2005, the Migration Board granted Auroldsson asylum and refugee status in accordance with Article 1 of the Geneva Convention.

Then Romania issued a European arrest warrant against Auroldsson. A few years later, he was arrested in France where he is now in prison awaiting extradition to Romania.

The French Court, the Cour d'Appel de Paris, according to the decision 2016/01312, has decided to extradite Auroldsson to Romania.

As members of the European Parliament we want to alert the State Department that the French court's decision is contrary to previous decisions made in Sweden and to the principle of mutual recognition of decisions and judgments given by other EU countries. This risks creating a problematic precedent for future interpretation of EU-law.

The right to a fair and impartial trial is guaranteed in both the European and international law and must be protected. The extradition of Auroldsson by France would therefore conflict with the principle of non-refoulement of refugees, as guaranteed by the Geneva Convention.

The European Parliament has repeatedly made the European Commission aware of the international legal problems related to the European arrest warrant. Sweden should as far as possible ensure that the European arrest warrant does not take precedence over international refugee conventions and public international law.

We consider that Sweden should act in a consular way to maintain the refugee status of Auroldsson and that France should respect the decision of the Supreme Court.

Member of European Parliament:

Bodil Balero

Marita Ulvskog

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## **A yoga group wins an important case at the European Court: Romania must pay EUR 291,000 to the victims**

*Amarandei and Others v. Romania (no. 1443/10)\**

**See video showing the violence of the Romanian police and their disrespect for the yoga practitioners at <http://bit.ly/1rzs4N3>**

HRWF (28.04.2016) – *Human Rights Without Frontiers Int'l (HRWF Int'l)* hails the decision of the European Court in a case filed against Romania by yoga practitioners of the "Movement for Spiritual Integration into the Absolute" (MISA).

From 8th to 16th May 2013, *Human Rights Without Frontiers Int'l (HRWF Int'l)* carried out a fact-finding mission in Bucharest to investigate a wide range of problems faced by yoga practitioners in Romania and published a [23-page report](#) entitled "MISA, Gregorian Bivolaru & Yoga Practitioners in Romania" covering the following issues:

- Introduction
- MISA and its Yoga Schools: Now and Before
- Mediabolization & Social Panic
- Testimonies of Victims
- Conclusions

*HRWF Int'l* delegation met numerous people who were victims of judicial and media harassment as well as discrimination, because they were practising yoga in MISA schools: artists, teachers, engineers, medical doctors, professors and so on. Some even lost their job or their clients because of anti-MISA media campaigns intruding in their private life: a judge, a military, a policeman, a journalist, a medical doctor... An exceptional case involved a young female adult who was abducted by her family, confined to a psychiatric hospital, forcibly submitted to an inhuman medical treatment during two months and further confined by her family for nine more months in order to convince her to give up her yoga practice.

*HRWF Int'l* also talked with the chair of MISA's board of directors, the personal representative of MISA's spiritual leader Gregorian Bivolaru who is now living in Sweden as a political refugee, lawyers defending the rights of their clients, a former military judge, the head of APADOR (Association for the Defence of Human Rights in Romania) as well as a representative of Romanian civil society at the European Economic and Social Committee.

*HRWF Int'l* visited an ashram and the library of MISA which was vandalized several times.

*HRWF Int'l* also had meetings with the National Institute of Human Rights, the National Council Combatting Discrimination and the Ombudsman (The Lawyer of the People) as well as with a representative of the Swedish embassy. The spiritual leader of MISA, Gregorian Bivolaru, had asked and obtained political asylum in Sweden in 2005 on the basis of a decision of the Supreme Court in Stockholm.

*HRWF Int'l* studied many court decisions, the media coverage of the 18th March 2004 police crackdown on 16 private homes of yoga practitioners and the ensuing judicial proceedings, two sociological surveys about MISA and the report of a Swedish anti-sect expert and theologian.

Last but not least, *HRWF Int'l* attended a hearing of the Supreme Court of Romania in the case of Gregorian Bivolaru, initiated against him in 2004, for charges of trafficking and engaging in sexual intercourse with several minors.

Gregorian Bivolaru and the people practicing yoga according to his teachings started to be harassed and repressed as early as the 1980s when Ceausescu banned this sort of activity. The accusations targeting Mr Bivolaru, distorted and amplified by the media, are

the main source of the problems faced by MISA yoga practitioners in their personal and professional lives over the last ten years.

In this report, *HRWF Int'l* decided not to publicize the names of those who were interviewed; instead, their initials are used so as to preserve their privacy. Many of them had already tremendously suffered from unwanted media exposure and are still traumatized by this experience.

### ***Press release of the European Court***

The applicants are 26 Romanian nationals who are members or supporters of the "Movement for Spiritual Integration into the Absolute" (MISA), a not-for-profit association registered under Romanian law.

The case concerned the applicants' allegations of abuse during a police operation to search a number of buildings belonging to the association.

On 18 March 2004 a police operation was carried out in 16 apartment blocks housing members of MISA who were suspected by the public prosecutor's office at the Bucharest Court of Appeal of making fraudulent use of computer software to produce and disseminate pornographic images on the Internet and of sending members of the association abroad for the purposes of prostitution.

Around 130 members of a military anti-terrorist squad took part in the operation. According to the applicants, the operation began with the doors and windows being broken while most of them were asleep. Heavily armed and masked members of the armed forces allegedly burst into their rooms and forced the applicants to lie on the floor until the arrival of the prosecutors, who refused to show a search warrant or to inform the applicants of the reasons for the operation. The applicants' mobile phones and numerous personal items were confiscated. The applicants also allege that they were insulted and humiliated and were deprived of food and water. They were only allowed to go to the toilet accompanied by a law-enforcement officer and were forced to leave the door open. The operation was allegedly filmed and extracts were broadcast in the media. That afternoon, the applicants were taken to the offices of the prosecution service for questioning. They were allegedly threatened and insulted with a view to obtaining statements, which were partly dictated by the prosecutors, relating to their intimate private lives and implicating the leader of the MISA. The applicants further allege that they were not informed of the reasons for their detention and were refused access to a lawyer. They were released after several hours in detention and no charges were brought against them. The Government contest the applicants' version of events, stating in particular that no verbal or physical violence was used during the searches or the transfer to the prosecutor's office, or when the applicants were being questioned.

On various dates the applicants lodged a number of complaints concerning the abuse to which they had allegedly been subjected on the day of the operation, the conduct of the prosecutors and the members of the armed forces, and their detention. The proceedings resulted in decisions not to prosecute which were upheld by the competent higher courts.

Relying on Article 3 (prohibition of inhuman or degrading treatment), the applicants complained of being subjected to ill-treatment during the police operation on 18 March 2004 and of the lack of an effective investigation. Under Article 5 § 1 (right to liberty and security), they alleged that they had been detained arbitrarily on 18 March 2004 during the search, during their transfer to the offices of the prosecution service and when they had been questioned. Relying on Article 8 (right to respect for private and family life), they complained about the house and body searches carried out, the seizure of their personal items and the broadcasting in the media of footage filmed during the police operation.

**Violation of Article 3 (degrading treatment)** – in respect of Liliana Amarandei, Mirela Avădăanii, Nicoleta Roxana Cojocaru, Oana Roxana Doldor, Violeta Enăchescu (Hoscevaia), Elena Simona Frînculeasa, Mariana Cipriana Lazăr, Amalia Lucachi, Iulia Lupescu, Rose Marie Mândru, Laura Obreja, Simona Opreapopa, Ana Maria Panescu, Beatrice Camelia Pelin, Rodica Petre, Iuliana Radu, Elena Sima, Daniel Stanciu, Catrinel Stoenescu, Ștefan Raul Szanto, Tatiana Tănasă, Constantin Tănase and Florin Mihăiță Țuțu

**Violation of Article 3 (investigation)** – in respect of Liliana Amarandei, Mirela Avădăanii, Nicoleta Roxana Cojocaru, Oana Roxana Doldor, Violeta Enăchescu (Hoscevaia), Elena Simona Frînculeasa, Mariana Cipriana Lazăr, Amalia Lucachi, Iulia Lupescu, Rose Marie Mândru, Laura Obreja, Simona Opreapopa, Ana Maria Panescu, Beatrice Camelia Pelin, Rodica Petre, Iuliana Radu, Elena Sima, Daniel Stanciu, Catrinel Stoenescu, Ștefan Raul Szanto, Tatiana Tănasă, Constantin Tănase and Florin Mihăiță Țuțu

**Violation of Article 5 § 1** – in respect of Liliana Amarandei, Mirela Avădăanii, Nicoleta Roxana Cojocaru, Oana Roxana Doldor, Violeta Enăchescu (Hoscevaia), Elena Simona Frînculeasa, Mariana Cipriana Lazăr, Amalia Lucachi, Iulia Lupescu, Rose Marie Mândru, Marius Monete, Laura Obreja, Simona Opreapopa, Ana Maria Panescu, Beatrice Camelia Pelin, Rodica Petre, Iuliana Radu, Elena Sima, Daniel Stanciu, Catrinel Stoenescu, Ștefan Raul Szanto, Tatiana Tănasă, Constantin Tănase and Florin Mihăiță Țuțu

**Violation of Article 8** – in respect of all 26 applicants

**Just satisfaction:** EUR 12,000 each to Liliana Amarandei, Mirela Avădăanii, Nicoleta Roxana Cojocaru, Oana Roxana Doldor, Violeta Enăchescu (Hoscevaia), Elena Simona Frînculeasa, Mariana Cipriana Lazăr, Amalia Lucachi, Iulia Lupescu, Rose Marie Mândru, Laura Obreja, Simona Opreapopa, Ana Maria Panescu, Beatrice Camelia Pelin, Rodica Petre, Iuliana Radu, Elena Sima, Daniel Stanciu, Catrinel Stoenescu, Ștefan Raul Szanto, Tatiana Tănasă, Constantin Tănase and Florin Mihăiță Țuțu, EUR 6,000 to Marius Monete and EUR 4,500 each to Ioana Mihaela Butum and Liliana Motocel in respect of non-pecuniary damage.

***ECHR unequivocally states that Romanian authorities have majorly violated human rights when handling the case of MISA***

Soteria International (27.04.2016) - For almost a decade Soteria International has been raising awareness among international and European politicians and Human Rights NGOs about violations of the freedom of religion and belief in Romania in the case of the spiritual movement MISA and its founder Gregorian Bivolaru.

To remind briefly the case: on 18 March 2004 Romanian conducted an unprecedented, massive attack on the spiritual community of MISA yoga school, using brutal force and weapons against its peaceful inhabitants. The attack was broadcasted nationwide, marking the beginning of one of the most devastating and sinister defamation and marginalization campaign in Romanian media directed against the movement MISA and its followers.

During time, Romania refused to at least look at the human rights violations in this case, and continued with the discrimination of MISA participants.

However, on 26.04.2016 European Court for Human Rights has ruled in favor of MISA participants who were affected by the attack in 2004. ECHR unequivocally states that

Romanian authorities have majorly violated human rights when handling the case of MISA!

ECHR decided that the Romanian police operation violated:

- Article 3 - prohibition of inhuman or degrading treatment (the yogis were subjected to ill-treatment during the police operation on 18 March 2004 and of the lack of an effective investigation).
- Article 5 § 1 – right to liberty and security (the yogis had been detained arbitrarily on 18 March 2004 during the search, during their transfer to the offices of the prosecution service and when they had been questioned).
- Article 8 - right to respect for private and family life (the way of house and body searches carried out, the seizure of their personal items and the broadcasting in the media of footage filmed during the police operation).

There are several striking elements in ECHR decision. Among others it states that the operation of 18 March 2004 was planned much beforehand by Romanian authorities, that it was not an emergency response to a threat. Romanian authorities have kept the movement under surveillance for a long time prior to the operation and thus were aware of the nonviolent character of its members. Despite that, Romanian authorities "failed" to inform the executioners of the operation that it is not a military commando operation, but merely a probe searching operation, thus use of such force was not necessary. One of the most serious findings of the ECHR was possible diversion by prosecutors of the object of the search warrant issued by the Court of Appeal: "The Court noted other shortcomings in preparing the operation. Thus, although the warrant issued by the court of appeal the subject of the search was limited to the seizure of information, it seems that this has not been made aware to the Gendarmerie. The latter were informed about an operation to fight drug trafficking and prostitution and therefore have committed a force specific to this type of operation with increased risk. "

This statement once again proves the position adopted by Soteria International in this case and namely that the abovementioned operation was specifically intended to destroy the movement through intimidation, use of force and harassment in court using false pretext of combatting illegal activities. Framing the operation in such a way, gave Romanian authorities the "excuse" to claim that the case is not about freedom of religion and belief, when human rights NGOs were bringing up MISA case.

There is another element in ECHR decision which comes in support to what Soteria International has been vehemently criticizing Romania for. In the follow up of the 18 March 2004 events there were hundreds of complaints submitted to Romanian authorities by yoga practitioners of MISA against unlawful and abusive measures of the commando and prosecutors. ECHR notes that Romanian authorities have not even tried to regard those complaints and to duly investigate what happened and dismissed all those complaints without ground. This once again proves to us that the premeditated nature of the operation was to swiftly annihilate the movement paying no regard to democratic values and human rights considerations. It also proves that Romanian authorities have acted in a discriminatory way towards yoga practitioners – a fact that Romanian authorities have denied all this time.

On the same day, 18th March 2004, having found no incriminating evidence, prosecutors resorted to forceful extortion, using physical and psychological intimidation and manipulation from one of the minors (17 y.o. at that time) who was residing (temporarily) in the spiritual community. Based on this forced statement, which the respective minor has withdrawn as soon as she was released from police and could contact her lawyer, prosecutors built a court case, which was dismissed in the first trial



court and in the appeal court. However the Supreme Court of Romania annulled previous courts' decisions and ruled against Gregorian Bivolaru in a very abusive trial. Romanian authorities continued with abuses and in January 2016 wrongfully included Bivolaru in the list of Europol's Most wanted fugitives.

Drawing a parallel with what happened in 2004 and the fact that human rights violations committed by Romanian authorities have been proven now by the ECHR decision, Soteria International reiterates that the inclusion of Gregorian Bivolaru in the Europol's Most Wanted list is yet another premeditated abuse by Romanian authorities. Just as in 2004 Romanian authorities illegally and disproportionately used force with the purpose of intimidation, also now Romanian authorities illegally and disproportionately use European instruments and mechanisms to intimidate and annihilate the spiritual movement MISA, by targeting its founder Gregorian Bivolaru.

Soteria International hopes that European authorities will not tolerate such "bullying" behavior from Romanian authorities, especially since Romania's ascension to the EU was conditioned by MCV in the field of Justice, which obviously still lags much behind.

### ***Romania must pay EUR 291,000 to controversial yoga group members***

Romania Insider (27.04.2016) - Romania must pay EUR 291,000 to 26 members of the Movement for Spiritual Integration into the Absolute (MISA), whose rights had been violated during a police operation that took place in March 2004, the European Court for Human Rights (ECHR) in Strasbourg ruled on Tuesday, April 26.

MISA is a famous yoga movement founded by controversial Romanian guru Gregorian Bivolaru. MISA and its leader Gregorian Bivolaru have been accused of various illegal activities over the years and Bivolaru has even been convicted by Romanian courts. However, MISA representatives have always claimed that they were persecuted by the Romanian authorities.

On 18 March 2004, the Romanian police carried out an operation in 16 apartment blocks housing members of MISA, who were suspected of using computer software to produce and disseminate pornographic images on the Internet and of sending members of the association abroad for prostitution.

Around 130 members of a military anti-terrorist squad took part in the operation, which was aimed at gathering evidence against MISA leader Gregorian Bivolaru.

The MISA members have complained to the ECHR that the police broke the doors and windows while they were asleep, forced them to lie on the floor, confiscated their mobile phones and personal items, insulted and humiliated them, and deprived them of food and water, without even showing a search warrant.

"They were only allowed to go to the toilet accompanied by a law-enforcement officer and were forced to leave the door open. The operation was allegedly filmed and extracts were broadcast in the media," according to the complaint filed to the ECHR.

The prosecutors took them for questioning and allegedly threatened and insulted them to get them to sign partly dictated statements against the MISA leader. These statements also included details from their intimate private lives. They were released after a few hours of questioning and the prosecutors filed no charges against them.

"The Government contest the applicants' version of events, stating in particular that no verbal or physical violence was used during the searches or the transfer to the prosecutor's office, or when the applicants were being questioned," the ECHR noted. The allegedly abused MISA members filed complaints in Romanian courts but these were rejected, so they decided to seek justice at the Human Rights Court.

The Court awarded EUR 12,000 just satisfaction to 23 of the applicants, EUR 6,000 to another one, and EUR 4,500 to two other. This is the second big case Romania has lost at the European Human Rights Court in the past weeks.

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## **Romania reopens door on brutal communist era**

***Romanian authorities have begun filing genocide charges against officials allegedly behind communist-era crimes. But critics say that prosecutors are aiming too low.***

CSM (29.10.2013) - Since the 1989 revolution that toppled [Romania's](#) communist government, only its leader, Nicolae Ceausescu; his wife; and a handful of their aides have been charged with crimes related to the country's communist-era brutality.

Romanian authorities have begun issuing genocide charges against 35 individuals named on a list given to state prosecutors in July by the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile (IICCMER), an organization set up by the Romanian government in 2006 to address crimes of the communist era. The charges against Alexandru Visinescu, a former prison warden, and Ion Ficior, a one-time labor camp commander, mark a major step toward addressing the crimes of the communist period.

But some experts worry that the Romanian government's efforts aim too low, only at lower-level officials in the former security apparatus. And some are even concerned that the charges being brought may hinder efforts to bring wrongdoers to justice.

### **A cruel history**

Under the Romanian Communist Party's rule, which lasted from 1947 to 1989, a vast secret police apparatus kept dossiers on a huge percentage of the population, and used torture and systematic abuse against perceived enemies of the state, with critics of the regime regularly beaten and put in jail. Of the estimated 617,000 political prisoners locked up in Romania during the communist era, some 120,000 died in jail.

And despite their history, members of the security apparatus, like Mr. Visinescu, have continued to receive state pensions, adding to the discontent that many Romanians feel about the situation.

"Romania had one of the cruelest communist regimes in the region," says Laura Ștefan, an anti-corruption expert and a former director in the Romanian Ministry of Justice.

"We had 50 years of communism, and then for the last 20 years the people responsible were left alone. Today they have pensions, nice housing," Ms. Ștefan adds.

But that started to change early last month, when Visinescu, who is now 88 and lives in retirement in the Romanian capital, was charged with crimes of genocide related to activities dating from the 1950s and '60s, when he was head of Ramnicu Sarat prison, which was notorious for holding political prisoners under the communist regime. Visinescu is accused of direct involvement in six deaths.

And last week, authorities brought similar charges against 85-year-old Mr. Ficior, who oversaw Periprava, a labor camp in the east of Romania where earlier this month authorities confirmed the discovery of a mass grave.

The discovery revealed the "brutality and primitivism in the management of the colony," wrote IICCMER chief Andrei Muraru in a statement to the press.

### ***'Only small cogs'***

Still, many Romanians feel that to date little has been done to address the crimes of the communist period, nor punish those responsible for the worst excesses.

"There has been a collective amnesia, which politicians have participated in," says Vladimir Tismaneanu, a professor at the University of Maryland who headed a 2006-07 government commission to examine communist-era crimes.

The commission was formed after Traian Basescu, Romania's president, officially condemned the communist regime. It wasn't until March 2012, however, that Romania changed the statute of limitations for serious crimes, allowing for the prosecution of those whose crimes went back more than 40 years.

Romania's parliament also moved to reduce state support for communist-era crimes, late last month approving a draft law whereby former communist-era bosses found guilty of grave human rights abuses would have to pay up to 70 percent of their monthly incomes to surviving former political prisoners. Around 3,500 survivors are alive today.

Despite these developments many doubt the government's willingness to go after higher-ranking officials, or cases related to the later days of communist rule, when some of those still in positions of power were coming through the ranks.

"So far it is only small cogs in the communist machine, like Visinescu, that have been targeted, not the major figures from that period," says Dr. Tismaneanu.

There have also been question marks raised over why it is only cases from the earlier years of the regime that have been targeted. Those involved, however, say that this is just the first step.

"The list of 35 names is a starting point," says Adelina Tintariu, the deputy general manager of IICCMER.

"We have other crimes that took place in later periods of the communist regime to look into, but we had pressure to focus on this earlier period due to the advanced age of those involved."

Visinescu, the prison warden, has told prosecutors he was simply following orders and that he never killed anyone. Speaking on national television, he said: "Yes, people died, but people died in other places, too."

### ***The wrong charge?***

The charge of genocide leveled against Visinescu and Ficior has raised eyebrows, however, as the crime normally applies to attempts to eradicate ethnic and religious groups rather than political opponents.

"They should be charged with crimes against humanity, not genocide," says Tismaneanu, who believes that the genocide charge may actually complicate any future trials by making the charges harder to prove and increasing the possibility of legal challenges at the European Court of Human Rights in Strasbourg.

"Visinescu is a murderer, I have no doubt, but the genocide charge is not right," says Anca Cernea, whose father spent 17 years behind bars as a political prisoner, including a spell at Ramnicu Sarat prison.

Ms. Cernea set up the Ioan Barbus Foundation, named in her father's honor, to document the stories of those who suffered abuse under the previous regime, and to encourage strong political debate.

"I think that overall this is simply a PR operation by the government, but even if that is the case it is a good chance for us as a country to reflect on and remember what happened in those dark times," she says.

Ms. Ştefan, the anti-corruption expert, agrees. "It is a disgrace that it has been left so long to get justice, but Romanians who lived through the communist times need closure and at the end of the day this might be the best we can get."

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## **Six years in prison for Gregorian Bivolaru, the founder of the largest yoga movement in Romania**

***Human Rights Without Frontiers* which monitored the work of the Supreme Court in Bucharest in May calls upon the European Commission to check the legality of this controversial trial and publish its opinion in the next report on Romania's progress under the Co-operation and Verification Mechanism.**

**On two occasions in the last 12 months, the European Commission already expressed its concerns about the lack of respect for the independence of the judiciary.**

HRWF (17.06.2013) - After nine years of controversial legal proceedings, Gregorian Bivolaru, famous political dissident imprisoned three times under Ceausescu regime and founder of the largest yoga movement in Romania, was sentenced on 14 June 2013 by the Romanian Supreme Court to six years in prison. He was convicted for sexual relations with a minor.

The charge was formulated in result of an unprecedented police attack on 18 March 2004 when 300 masked and heavily armed policemen raided 16 private homes of yoga practitioners.

The concerned minor (17 years ½) was then interrogated for 13 hours and forced to write a statement that was misused as a complaint. Despite the fact that with the help of a lawyer she retracted her statement the next morning, the case was channelled through irreversible judicial proceedings.

Her request was denied and she was dragged through courts for nine years, instrumentalized as a victim in the trial against Bivolaru, with whom she continuously denied having sexual relations.

In the last trial session on 14 June 2013 she tried once again to step out of the case by filing one more affidavit stating she never had sexual relations to Bivolaru, was never seduced or trafficked by him and that she does not have any complaints against him. The judge harshly refused the declaration.

### ***Bivolaru declared not-guilty in 2010 and 2011***

On 23<sup>rd</sup> April 2010, after numerous judicial proceedings, the president of the panel of judges of Sibiu Tribunal (Criminal Department), Daniela Czika, pronounced a not guilty decision for Gregorian Bivolaru on all the charges brought against him: sexual intercourse with a minor, human trafficking and exploitation. The Prosecutor's Office appealed the decision but on 14<sup>th</sup> March 2011, the Court of Appeal of Alba Iulia rejected "as ungrounded the appeal formulated by the Prosecutor's Office attached to the Sibiu Tribunal against criminal sentence no. 86 of 04.23.2010 given by Sibiu tribunal – Criminal Section, in file no. 405/85/2005".

### ***The High Court for Cassation and Justice orders a re-trial in 2012***

On 12<sup>th</sup> April 2012, the High Court for Cassation and Justice dismissed the decision of the Sibiu Tribunal and the Alba Iulia Court and ordered a retrial on the merits of the trial of judges Ionut Matei, Ioana Bogdan and Cristina Rotaru. Nine years after the raid, the case is still on-going.

On 9<sup>th</sup> May 2013, the Supreme Court in Bucharest held a new hearing in the lawsuit against Gregorian Bivolaru who got the status of political asylum in Sweden in 2005. The lawyers of Bivolaru then repeated their urgent request that their client be heard by a Romanian rogatory commission in Sweden where the Supreme Court in Stockholm had refused to extradite him and had granted him political asylum. *HRWF Int'l* was present at that hearing which was officially announced as dealing with the charge of trafficking and not sexual intercourse with a minor.

Five weeks later, the Supreme Court failed to wait for the green light of Stockholm, accusing the Swedish authorities of "superficiality and lack of seriousness" and hurriedly came to a final decision: 6 years in prison.

### ***The judiciary in Romania under surveillance of the European Commission***

In July 2012, the European Commission published its regular report on Romania's progress under the Co-operation and Verification Mechanism. At that time important questions were raised about the rule of law and the independence of the judiciary in Romania. The EU's executive commission said it was particularly concerned by "manipulations which affect institutions and members of the judiciary and have a serious impact on society as a whole."

The Commission then made a number of recommendations to Romania and also indicated that it would make a report on how its recommendations had been followed up six months later.

In the follow up report adopted on 30<sup>th</sup> January 2013, the Commission found that Romania had implemented several but not all of its recommendations.

The Commission stressed again that the lack of respect for the independence of the judiciary and the instability faced by judicial institutions remain a source of concern.

The next report is in preparation.

***HRWF Int'l will soon publish the report of its fact-finding mission to Romania from 8 to 16 May 2013. Those interested in this report can contact HRWF Int'l by sending an email to [international.secretariat.brussels@hrwf.net](mailto:international.secretariat.brussels@hrwf.net)***

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