

Lavinia Stan

Marian Zulean

St. Francis Xavier University, Canada
lstan@stfx.ca

University of Bucharest, Romania

Abstract

Since 1989, reforms have sought to align the Romanian post-communist intelligence community with its counterparts in established democracies. Enacted reluctantly and belatedly at the pressure of civil society actors eager to curb the mass surveillance of communist times and international partners wishing to rein in Romania's foreign espionage and cut its ties to intelligence services of non-NATO countries, these reforms have revamped legislation on state security, retrained secret agents, and allowed for participation in NATO operations, but paid less attention to oversight and respect for human rights. Drawing on democratization, transitional justice, and security studies, this article evaluates the capacity of the Romanian post-communist intelligence reforms to break with communist security practices of unchecked surveillance and repression and to adopt democratic values of oversight and respect for human rights. We discuss the presence of communist traits after 1989 (seen as continuity) and their absence (seen as discontinuity) by offering a wealth of examples. The article is the first to evaluate security reforms in post-communist Romania in terms of their capacity to not only overhaul the personnel and operations inherited from the Securitate and strengthen oversight by elected officials, but also make intelligence services respectful of basic human rights.

Introduction

Since transitioning away from communist dictatorship in 1989, Romania has become a liberal democracy and a member of the European Union (EU) and NATO. As elsewhere in Central and Eastern Europe where the communist secret police had conducted repression, in Romania the backbone of democratization was represented by reforms of the intelligence community, understood to comprise all of the intelligence services operating in the country. These reforms have affected the structure and organization of the services; the relative balance of domestic and foreign data collection and analysis; the hiring, promotion, and dismissal of personnel; the nature of secret operations; and the services' relations with Romanian elected officials, foreign governments, and NATO.

This article draws on democratization, transitional justice, and security studies to evaluate Romanian post-communist intelligence reforms. Here, surveillance is considered as part and parcel of intelligence operations before and after 1989, along with personnel changes, secrecy, institutional design, and oversight. Romania's post-1989 security sector was founded on the communist-era Securitate, known for

its gross rights abuses, militarization, ties to the judiciary, and subordination to one party. After the regime change of December 1989, the Securitate split into several intelligence services that inherited its personnel, operations, and archives. Local and foreign observers declared intelligence reforms a success when Romania revamped relevant legislation, retrained secret agents, and participated in NATO operations, but that success is more modest when viewed through the lens of accountability, oversight, and respect for human rights.

We first overview studies that link post-communist democratization to security sector reforms, paying attention to those discussing the communist repressive state security and its successors. Next, we present the Securitate, the impact of the 1989 regime change, the emergence of successor intelligence services, and the legislation that frames their activity. Then we evaluate reforms by looking at three key areas that reflect the distance traveled by the security sector from communist dictatorship to post-communist democracy: the secret services' reluctance to discontinue the personnel and practices inherited from the Securitate, the weak oversight exercised by elected representatives, and the services' (dis)respect for human rights. Examples spanning 1989–2017 show that the Romanian intelligence services have often resisted and occasionally even rejected meaningful reforms.

This article makes a threefold contribution. First, it goes beyond democratization studies to address the crucial but underrecognized negative impact of undemocratic intelligence services on post-communist rule of law and accountability of state decision-makers. As we show, the continuity of communist-era attributes after 1989 has given intelligence services in Romania an unwarranted hold over democratization by allowing them to evade strict oversight. Second, our case study casts doubt on the ease with which some security experts disregard the influence of forms of government and regime change over surveillance and intelligence. In both democracies and non-democracies, surveillance and intelligence retain their secrecy and are somewhat outside the scrutiny of elected officials, but while “high policing” might seek to defend sovereignty, personal and group interests prompt secret police forces in communist and post-communist settings with weak rule-of-law regimes to violate basic rights. Last, this article adds another angle to the literature on Romania, an understudied country, to show that post-communist intelligence services have not completely accepted democratic norms thirty years after the regime change. This finding goes against some of the cursory evaluations proposed to date by Romanian and foreign observers.

While comparable to regional counterparts, the Romanian post-communist intelligence sector has unique characteristics. Its predecessor, the Securitate, was involved in repression throughout the communist period and even during the 1989 bloody revolution, which was unparalleled in the region. Communist dictator Nicolae Ceausescu centralized decision-making in his hands, even in the field of intelligence and surveillance, to a degree that greatly complicated post-communist decentralization, accountability, and oversight. The weakness of the civil society means that alternative viewpoints remain few and are often poorly received by a population that places its trust in official sources.

Democratizing Undemocratic Intelligence: Some Theoretical Markers

Scholars of communism have studied the security services, their involvement in human rights abuses, and ties to the Communist Party. Considerable attention was given to the Soviet KGB by studies that often read like *romans policiers* more than scholarly works (Andrew with Gordievsky 1990; Andrew and Mitrokhin 1999; Haynes, Klehr, and Vassiliev 2009). The East German Stasi has attracted attention for its operations, recruitment practices, and criminal activities, as well as the plight of its victims (Fulbrook 1995; Childs and Popplewell 1996; Dennis 2003; Funder 2003; Glaeser 2006; Macrakis 2008; Bruce 2010). Jenssen and Riste (2001) positioned the Soviet and East German services vis-à-vis established democracies but not communist countries. By contrast, Persak and Kaminski (2005) included a chapter on Romania that summarized the origins, structure, staff, methods, and tasks of the Securitate, its informers,

victims, and archives (Deletant 2005). Ignoring domestic repression, *Red Horizons* focused on ways in which the Securitate assisted dictator Ceausescu's foreign policy goals (Pacepa 1987). Other studies presented the Securitate's repressive tactics, its persecution of civil society actors, its tight collaboration with the judiciary, and the ways in which secret agents engaged in legal infringements unauthorized by the ruling Communist Party (Deletant 1995, 1999; Oprea 2002).

Given the ubiquitous presence of secret services in communist Central and Eastern Europe, and their crimes perpetrated before 1989, the absence of terms like "security" and "intelligence" from the literature on post-communist democratization is surprising. No scholar working on democratization recognized intelligence sector reforms as key to transition (see Linz and Stepan 1996; Diamond and Plattner 2002; Dryzek and Holmes 2002; White, Batt, and Lewis 2003), although the communist secret political police profoundly impacted Romania's political institutions and political culture. Neither have scholars examining the resilience of communist authoritarianism studied the security apparatus that underpinned it (Dimitrov 2013).

In 2001, Deletant undertook the first assessment of the intelligence sector in Romania. While recognizing the new legislative oversight and government control over the sector, Deletant warned that legislative scrutiny remained weak. He hoped that the growing number of legislators with knowledge of security matters would strengthen oversight in the future (Williams and Deletant 2001). The Geneva Centre for the Democratic Control of Armed Forces offered another skeptical assessment. For Liviu Muresan (2003), parliamentary control over the military (as well as surveillance and intelligence) was undermined in Romania by lack of professional staff, a small research support team, and the legislators' convergence on foreign policy goals, which weakens debates. He called for improved transparency in drafting and enforcing intelligence policy, accountability for actions taken, and increased collaboration with the civil society. In the same report, Valentina Farcas (2003) listed instances when intelligence agents had engaged in illegal activities but did not provide a systematic assessment of reform implementation.

Intelligence reforms have pursued two contradictory goals (boosting democratic control and ensuring the effectiveness of intelligence) and have inclined "more toward effectiveness and less toward accountability and democratic control" (Matei 2014: 621). For Marian Zulean, such reforms must overcome "a tradition of politicization of the security sector" and "a popular expectation that 'one wise man' should be in charge" (2011: 88). Larry Watts (2007) claims these reforms were affected by unique factors such as fragile new political institutions, competing reform priorities requiring attention and resources, lack of intelligence expertise, Russian control of local intelligence services, and perceptions that successor intelligence services undermined democracy. Watts noted that only Czechoslovakia started its transition with a comprehensive vetting of intelligence services and criticizes lustration as a subjective policy prone to political manipulation. He naively implied that the former communist security services had the ability to turn into democratic, law-abiding, and rights-respecting intelligence services.

Experience showed Amy Knight that "it is much easier for a democratizing regime to come to terms with a powerful military than with a powerful security police," because these forces "have a vested interest in preserving the old authoritarian system" (1996: 244–45). For Knight, the security police "has no legitimate role to play in a stable democratic society beyond counterintelligence and fighting organized crime," and involvement with a repressive regime makes them "the main obstacle to democracy," unless they accept new recruits; retire their tainted agents; change their methods, targets, and objectives; and renounce their culture of being above the law. Writing in 1996, Knight saw Romania as the least successful in the region "in facing up to and overcoming the legacy of police repression" left behind by the communist regime (246). The transitional justice literature also suggests that former dictatorships cannot democratize without reforms of the secret police, and secret services will continue to involve themselves in abuses after the collapse of the communist regime if oversight is weak and communist-era repressive tactics are not expressly banned by law (Stan and Nedelsky 2013).

Other writers discussed the involvement of post-communist secret services in corruption and privatization and their use of surveillance in order to intimidate their political rivals and economic competitors. Maria Los and Andrzej Zybortowicz (2000) documented the transformation of the Polish communist secret services into the main beneficiary of the post-communist privatization of state-owned assets. Momchil Metodiev (2009) similarly contended that control over privatization and access to the sensitive personal information gathered on individuals during communist times gave the Bulgarian secret services access to vast resources and the willingness to interfere nefariously in elections and judicial investigations. By fueling corruption, these authors argue, secret services have undermined democracy, diverted capital away from much-needed public projects, and retained unjustified privileges.

Security studies provided added insight but blurred the line between democratic, undemocratic, and transitional countries. These authors drew observations from consolidated democracies but ignored the difficulty of applying insights derived from democratic experiences to dictatorships or countries that transition away from authoritarianism. Security sector reforms were considered in isolation from the concerns of democratization experts: path dependency, continuity vs. change, institutions vs. culture, relation to other state and non-state actors. As Hans Born and Thorsten Wetzling argued, intelligence services in democracies “share the paradoxical task of operating in secret in order to defend an open society” (2009: 315). Oversight is thus vital, Mark Lowenthal noted, because services can threaten governments “by controlling information; by having expertise in surveillance, eavesdropping [...] and by operating behind a cloak of secrecy” (2009: 199). The tension between secrecy and effective control means that oversight will never be perfect, the more so in democracies where power is divided among government branches and political officials are responsible to the electorate. Loch Johnson and James Wirtz (2010) warned against the danger of “intelligence politicization,” Kevin Haggerty and Minas Samatas (2010) showed that increased surveillance undermines human rights, while Abram Shulsky and Gary Schmitt (2002) called for the independence of intelligence services from politics.

Writing during the Cold War, Jean-Paul Brodeur (1983) deplored “high policing” in democracy but not political surveillance in communism. For Brodeur (1983, 2010) “high policing” sought to protect sovereignty but involved rights abuses that challenged the democratic nature of the state. In many respects “high policing” resembles political policing in communism, but being deprived of a comparative dimension Brodeur never acknowledged that in democracies “high policing” remains a narrow segment of state activity limited by legislation passed by a representative parliament. In this sense, “high policing” is dissimilar to the mass surveillance enforced in secrecy by an executive unaccountable to the electorate under communism. The “high policing” perspective suggests that intelligence abuses occur in democracies as well, and post-communist transitions like Romania should expect intelligence services to err. Post-communist Romania might exhibit “high policing,” but those activities are legacies of communism and of secret agents reluctant to relinquish power and control to elected officials more than the result of a need to protect a sovereignty that nobody questioned after 1989.

Thus, studies on communist secret services and transitional justice suggest that intelligence sector reforms in post-communist Romania should be judged by the degree to which they effect a resolute break with their repressive predecessors in terms of operations and personnel, whereas security studies recognize that even consolidated democracies have difficulty to rein in intelligence services. Drawing on Knight (1996), we believe that discontinuity in communist and post-communist intelligence hinges on the strength of parliamentary oversight and civilian government control over intelligence activities; the prohibition to target individuals on political grounds; respect for the rule of law; and the narrowing of goals to terrorism, human trafficking, and organized crime. The next section describes the traits of intelligence under communism, whereas the sections that follow explain the degree to which each trait has remained present after 1989 (continuity) or has been modified or eliminated (discontinuity). This article shows that such reforms were legally imperfect and incompletely implemented. Intelligence services continue to cast a

long shadow over the Romanian political process and the mass media because they bypass laws that limit their influence, and political and civil society actors mount weak resistance to them.

The Legacy of the Securitate

Set up in 1948 by Soviet NKVD (People's Commissariat for Internal Affairs) agents on the basis of the pre-communist *Siguranta*, the Securitate served the Communist Party. Under Gheorghe Gheorghiu-Dej, the Securitate terrorized and even eliminated the pre-communist elite. Not even Communist Party leaders were offered protection, as the Securitate recruited informers from their ranks. In 1964, political prisoners were allowed to return home or move to labor camps. By 1969, the Securitate could no longer recruit party members because this disadvantaged the party and exposed party members to pressure, arm-twisting, and blackmail (Stan 2002: 58). Party members employed as collaborators no longer used code names to sign their secret reports on others, and the Securitate needed the approval of party leaders to recruit party members. After Ceausescu centralized power into his hands in the 1980s, the Securitate became his personal tool. As Deletant writes, however, "for all its appalling abuses of human dignity and contempt for human rights, [the Securitate under Ceausescu] never used the tactics of mass arrests and internal deportations that were a feature of much of the Gheorghiu-Dej era" (2005: 285).

The secret police employed full-time officers and part-time informers. An informer became a collaborator upon joining the party, then a paid referent with the prospect of being invited to work full-time for the Securitate (Stan 2002). By the 1950s, the Securitate employed 165,000 persons, including border guards. In 1989, it had 15,087 secret officers, some of whom were deployed abroad, and 144,289 active informers (Stan 2013: 9). The victims who saw their rights infringed in 1948–1989 included individuals who were murdered, arrested, deported, exiled, tortured, deprived of property, expelled from school, or placed in psychiatric wards (for estimates, see Comisia Prezidentiala pentru Analiza Dictaturii Comuniste din Romania 2006).

In many ways, the Securitate resembled other communist security services and was dissimilar to intelligence services in democracies. First, this mega-organization combined several agencies that in democratic countries are distinct from, and often in competition with, each other. Its departments enforced repression domestically, conducted foreign espionage abroad, protected and guarded the party and state leaders, and intercepted private communications. Democracies prefer division of power and responsibility among several intelligence services, both to isolate information leaks and dysfunctionality to the service where first reported and to use competition among intelligence services as a check and balance (Herman 1996, 2001). In time, lack of competition turned the Securitate into a complacent institution, unable to assess its own shortcomings. Centralization ensured that the Securitate leaders, and top party leaders, could promptly gain a holistic view of operations that combined domestic and foreign elements and required the involvement of multiple Securitate agencies. Thus, centralization allowed the Securitate to avoid the most serious difficulties experienced by Western intelligence services and possibly to conduct its operations in a more ruthless, if not always efficient, manner.¹

Second, its mission set the Securitate apart from intelligence services in democracies and closer to Soviet political police structures. The Securitate primarily protected the communist leaders, and their hold over the state and society, from citizens who disliked official ideology and policies. Goals like curbing large-scale corruption; preventing human trafficking, terrorism, and prostitution; and shielding the country from foreign agents were secondary in importance to domestic repression, surveillance, and control. Indeed, most agents worked for the domestic repression departments, which also received a significant fraction of

¹ Lack of cooperation within the intelligence community has been noted most widely in the aftermath of the September 11, 2001, attacks in the United States (Johnson and Wirtz 2010: 1–56).

the Securitate budget. Surveillance through wiretapping and informants was a social control practice under communism, affecting 417,916 people in 1951 and involving 450,000 informers in 1989 (Deletant 2005: 314). In contrast, in the West foreign espionage services employ a larger number of agents and use more funds than services with a domestic focus (Herman 2001: 53). It was only recently, with the rise of homegrown terrorism, that domestic surveillance agencies in those countries started to require more personnel and an expanded budget.

Third, its focus on domestic repression and the protection of communist leaders from the population made the Securitate a political police force more than a service devoted to intelligence gathering and analysis. Most of its targets—especially during the first decades of communism, when authorities needed to consolidate their hold over the country by eliminating opposition—were targeted because of their political beliefs and attitudes. In a monolithic society that rejected pluralism of opinion, criticism, dissent, and opposition were seen as endangering national security and running against communist legislation that extolled the unity of the people around the party leader. The political nature of the Securitate's work is evidenced by the secret archives that document the surveillance of 1.1 million Romanians (Stan 2013: 10). Such political targeting makes Securitate akin to a McCarthyist campaign conducted on a larger scale for a longer time period.

Fourth, the Securitate retained a very close relationship with the communist judiciary, which in turn was subservient to the Communist Party. Socialist legality meant that the accused had to establish her innocence, as the “innocent until proven guilty” principle had little meaning (Comisia Prezidentiala pentru Analiza Dictaturii Comuniste din Romania 2006: 396–405). The judiciary was not called to establish the guilt of a person, but to confirm the guilt already ascribed by the Securitate to its targets. After 1968, an effort was made to conform Securitate's activity to “socialist legality,” but Article 206 of the Penal Code still gave the Directorate VI on Criminal Investigations the power to intervene in criminal investigations.

Fifth, the Securitate was both militarized and outside of meaningful civilian oversight—two characteristics that set it apart from intelligence services in Western democracies. Militarization meant that the Securitate full-time agents had military ranks and obeyed a chain of command that linked petty officers to Securitate leaders, who in turn communicated with Communist Party leaders, and ultimately the dictator. Hierarchical subordination and superior esprit de corps resulted from militarization, which also allowed the Securitate to enjoy autonomy from the citizenry. This autonomy was further augmented by lack of civilian oversight. Neither the party nor the government included oversight bodies, and the judiciary could do little to right the wrongs of the Securitate and expose its abuses if the party decided against it. That was mostly because the communist leaders never believed that the citizenry should be directly involved in monitoring government agencies through mechanisms outside of the party. The party's hierarchical organization, and the dictator's control over the state, preempted the need for other bodies, groups, and citizens to know about and assess the secret activity of an agency that claimed to have the national interest at heart.

Thus, when the communist regime collapsed in 1989, the Securitate was a vast militarized organization that retained a security monopoly in Romania. Decades of subordination to the Communist Party had rendered the Securitate an inefficient colossus whose secret agents were risk-averse, self-interested, and prone to misreporting and lying. The agents' propensity to hire their relatives de-professionalized the political police, which was accountable only to the leader, and enjoyed impunity for the abuses it perpetrated. Most of its agents were monitoring political undesirables, had no understanding of or respect for human rights, and had little desire to see their privileges curtailed by reforms.

The Post-Communist Institutional and Legislative Framework

The 1989 Revolution, which was unique in Central and Eastern Europe in terms of the bloodshed perpetrated by the military and secret police forces, marked the transition to democratization. For a country that sought acceptance into Europe and aimed at building a democracy respectful of human rights, the Securitate was the most embarrassing legacy of the dictatorial past. The country's new leaders declared the Securitate defunct after Ceausescu's ousting and dodged questions about the fate of the secret agents. Soon after the revolution, nine intelligence services were created along the lines of the Securitate departments, inheriting their personnel, operations, archives, mentalities, and working style (Knight 1996: 247). Private companies have also entered the security field, but none of them command the personnel and funds needed to compete with state-controlled services.

The Romanian Information Service (Serviciul Român de Informatii, SRI) and the External Information Service (Serviciul de Informatii Externe, SIE) are the most important secret agencies in post-communist Romania. As heirs to the largest and most ruthless Securitate departments—responsible for domestic repression and foreign espionage, respectively—the SRI and the SIE faced a serious deficit of public trust augmented in the 1990s by revelations detailing the brutal waves of repression to which political prisoners were subjected until the 1960s, the arbitrary confiscations carried out by rapacious Securitate agents eager to dispossess Romanians who chose to emigrate, the Securitate's involvement in spiriting away the money Ceausescu hid away in foreign banks, the deployment of secret informers against dissidents until the end of communist rule, and the use of beatings both before and during the 1989 Revolution. It was expected that only extensive legislative changes could move these intelligence services away from their communist predecessors and closer to services in democratic countries.

The legislation of the early 1990s reflected continuity more than change. The damage done by the Securitate under communism called for post-communist laws that restricted the activities of the intelligence community, prevented it from abusing human rights, increased parliamentary oversight, and retired agents involved in rights abuses. Tellingly, the first post-communist law touching on security issues (Law 51 of July 1991) talked about the importance of safeguarding “national security,” not respecting human rights. It provided a long list of punishable actions that undermined “national security,” defined as “the state of legality, equilibrium and social, economic and political stability needed for Romania's existence and development as a sovereign, unitary, independent and indivisible national state” (Article 1). The SRI and the SIE, among others, were tasked with safeguarding national security. The law paid lip service to respect for human rights that were left unspecified and undefined (Article 16) and allowed intelligence services to collect information on individuals after obtaining a warrant from the Prosecutor General (Article 13).²

Six months later a new constitution enshrined human rights, without mentioning intelligence services (*Constitution of 1991*). This oversight of not mentioning intelligence services reflected both the militarized character of intelligence services and an effort to whitewash the legacy of the Securitate. The constitution made no distinction between the military and the intelligence community, and only passingly referred to the army and its relationship to elected officials. Importantly, Law 51 was not revised after the adoption of the constitution, showing that the law informed the basic law more than the constitution restricted the law. “National security” provided the general framework within which human rights were observed in the new democracy, and rights were to be respected only if not damaging “national security.” The new Romanian democracy depended, thus, on the willingness of intelligence services to respect the rights of those individuals who wanted to limit their political, social, and economic role, since the

² In 2005, warrant approval was assigned to judges, but prosecutors can still approve short-term warrants.

legislation allowed the services to define “national security” and stretch the concept to justify their rights trespasses.

Law 51 provided a precarious foundation for a democratic intelligence community also because it empowered the SRI and the SIE to operate even before their functioning and activity were legally clarified. It was only in 1992 that Law 14 offered a framework for the SRI; in 1998 Law 1 did the same for the SIE. The SRI assesses and counters threats to national security, protects classified information, prevents and counters terrorism, conducts cyber-intelligence, and intercepts communications. The SIE is a foreign intelligence service. The two laws did not demilitarize intelligence services, a key component of democratization,³ but instituted parliamentary oversight and created joint standing committees to monitor secret services. The laws also asked both services to report to the Supreme Council of National Defence (Consiliul Suprem de Aparare a Tarii, CSAT), which is chaired by the President of Romania and includes the prime minister, the ministers of defense, the interior, foreign affairs, and justice, as well as the heads of the SRI and the SIE. The Council assesses national security, decides related priorities, and approves the budget and personnel of the intelligence community (Law 415 of 2002).

During the early 2000s, new laws prepared Romania for NATO and EU accession by granting citizens access to some government information (Laws 544 of 2001 and 182 of 2002). In practice, access remained restricted by bureaucratic resistance and national security concerns. During pre-NATO negotiations, Western partners worried that former Securitate officers in post-communist intelligence agencies could access sensitive NATO information. The Securitate had actively opposed NATO. Under NATO guidance, in 2002 Romania created the Office of the National Register of Secret State Information (Oficiul Registrului National al Informatiilor Secrete de Stat, ORNISS) to vet government officials and secret agents with access to sensitive information. The names of the public luminaries who were granted or were refused access kept the front pages of newspapers for a while, but eventually the ORNISS was able to exclude former Securitate agents to NATO’s satisfaction (Watts 2007). There is no available data on the number of former Securitate agents banned from accessing sensitive data by the ORNISS.

Romania’s acceptance into NATO called for updating its legislation on security, but parliament was unable to agree and thus President Traian Basescu used his position as head of the CSAT to push for reforms.⁴ In 2005–08, Basescu promoted decisions to set up the intelligence community, combat corruption and money laundering, and task the SRI with cyber-intelligence. In mid-2004, President Iliescu had promoted the National Doctrine of Information for Security to boost cooperation among intelligence agencies.

These legislative changes were accompanied by institutional reforms that reduced the number of services. In 1998, the controversial UM0215 was disbanded for acting as a political police force that monitored journalists, politicians, and trade union leaders, and for being involved in corruption scandals. Months before the country joined the EU in 2007, the Independent Protection and Anti-Corruption Service (Serviciul Independent de Protectie si Anticoruptie, SIPA), created in 1991 under the Ministry of Justice, was dismantled on similar grounds.

Change and Continuity in Post-Communist Times

Assessing intelligence sector reforms must consider both written policies and their actual implementation. This section evaluates reforms through the lens of the legacy of the Securitate in terms of operations and personnel, the strength of oversight, and respect for human rights, to prove the strong continuity between

³ Law 45 of 1994 reasserted the point that the armed forces included military intelligence units.

⁴ In 2001–04 Parliament discussed and rejected seven bills on national security (Zamfir 2007: 461).

the communist secret police and the post-communist intelligence services. The section rests on empirical information drawn from the local press and various reports published inside and outside Romania. Note that only the most important and well-known cases are mentioned below, from a list that is much longer.

The Repressive Past and the Opening of the Securitate Archives

As heirs to the Securitate, the SRI and SIE were staunch defenders of the communist secret police and firm critics of efforts to open the communist secret archives. Besides clarifying the past and documenting communist repression, such file opening publicly unveiled the human rights abuses of the Securitate officers, many of whom continued to work in intelligence after 1989. Thus, rejection of file access protected the interests of the post-communist intelligence community as much as those of its communist predecessor.

Convergence of views among President Iliescu, the ruling Social Democrats, and the intelligence community blocked secret file access until 1996. As some former political prisoners detailed past torture and abuse at the hands of the Securitate, the SRI published a limited number of secret notes showing that prominent dissidents and intellectuals were placed under surveillance before 1989 (Serviciul Român de Informatii 1996). This prompted renewed calls for access to other secret documents. Some politicians gained limited access to the Securitate files and then told the press that the archive was extant. The press also reported that the SRI and the SIE actively destroyed secret documents, as proven by the attempt to illegally burn ninety bags of sensitive documents in Berevoiesti in 1990 (Oprea 2004: 124–47).

Opposition from the intelligence community, and the decision of the ruling Democratic Convention to postpone a potentially divisive measure that could pit former victims against secret agents, delayed file access until 1999. That year, Law 187 allowed Romanians to read the Securitate files housed with the SRI, the SIE, the Ministry of Justice, and other state institutions. The law came into effect a decade after Germany opened the Stasi collections and years after Poland and Hungary granted file access. After Law 187 passed, the SRI and the SIE undermined its implementation by convincing the CSAT to limit on grounds of national security the number of secret files the public could reach. The National Council for the Study of Securitate Archives (Consiliul National pentru Studierea Arhivelor Securitatii, CNSAS), which grants Romanians access to their own files, was refused direct access to the archives housed in military units. The Council's requests for files were mostly denied and only some tens of thousands of files were opened, out of the millions the Securitate had compiled (Stan 2013).

This refusal to allow Romanians to access secret files did not mean that nobody accessed them before 2000. Selected historians sympathetic to the Securitate read secret documents and wrote subjective analyses denying or diminishing the strength of repression under Ceausescu, thus exonerating or justifying the past actions of secret agents who continued their careers after 1989. Leaks of information from the archives showed that former agents could damage lives and end careers. These leaks stopped in 2006, when the CSAT transferred over one million Securitate files from the SRI to the Council. Very few of the Securitate files inherited by the SIE were included in the transfer, possibly because public disclosure of the identity of the Romanian secret spies operating abroad would upset NATO.

The reluctance of the Romanian post-communist intelligence services to open the Securitate archives and acknowledge the extensive crimes perpetrated by its predecessor underscores the significant continuity in their *raison d'être*. Truly democratic intelligence services cannot extol an undemocratic, repressive one as patriotic, competent, and professional, and disregard the numerous abuses it has perpetrated on a large scale throughout its existence. In general, NATO documents and assessments have been silent on this issue.

Personnel Changes and Lack of Lustration

Germany and Czechoslovakia enacted radical lustration that retired communist-era agents and renewed the intelligence personnel on grounds that past involvement in repression prevented them from supporting democracy and respecting human rights. In contrast, until the mid-2000s, successive Romanian governments insisted that the Securitate agents were patriotic defenders of the state against ethnic minorities that tried to break it and foreign powers that denied Romanians the need to be masters of their own land. Vetting was seen as detrimental to national security by depriving intelligence services of able technicians who had perfected their intelligence skills for decades. In the absence of comprehensive vetting, retirement was decided by age and the occasional firing due to involvement in publicly known corruption and mismanagement scandals.

The most visible leadership positions were offered to controversial Securitate agents, Virgil Magureanu and Mihai Caraman, proving that continuity, not change, characterized the intelligence community immediately after 1989. A Securitate agent, Magureanu served as head of the SRI from 1990 to 1997. After his appointment, he met secretly with the KGB chief Evghenii Primakov, without informing the Romanian government (Watts 2007). Caraman, the first head of the SIE, was a charismatic Securitate super-agent who during the 1960s maintained a network of agents supplying him with NATO's top secrets. In 1969 Caraman retired at the peak of his career and returned to Bucharest, days shy of being arrested by the French (Accoce and Pouget 1999; Stan and Zaharia 2007). Both appointments suggested Romania's desire to remain in the Soviet sphere of influence and in opposition to NATO.

Since 1997 civilians have led the SRI and the SIE, which remain militarized. That year, the Democratic Convention appointed individuals not involved with the Securitate. The SRI head Costin Georgescu was a civil engineer turned post-communist politician who never collaborated with the secret police. The SIE leader, Catalin Harnagea, was a former engineer monitored by the Securitate in 1987–1988 for meeting with French journalists (Ziua 2016). In 2000, the Social Democrat government appointed new service heads with ties to the Securitate. The SRI head Radu Timofte was an Interior Ministry officer until 1988, whereas the father of the SIE head Gheorghe Fulga led a regional militia branch under communism. None of the SRI and SIE heads appointed afterward had documented links to the Securitate, although Teodor Melescanu (the SIE head in 2012–2014) was a career diplomat under Ceausescu.

Changes in the lower-ranking personnel have been equally slow. The press identified numerous Securitate agents working in intelligence well into the 2000s, as post-communist governments sought to employ the former Securitate agents more than to marginalize or retire them (Oprea 2004). Securitate agents were more senior than the new recruits, and thus they occupied top positions in the intelligence community, which they used to shape its activity and relations with the elected officials, the press, and the public. In some cases, former agents used their influence to erase evidence of their past rights abuses.⁵ The full-time officers of the communist era were only progressively retired and replaced by new recruits. The only exception was the forced dismissal in 1997 by President Emil Constantinescu of one hundred Securitate generals and colonels from the SRI and the SIE (Lazescu 2015). By 2010, the SRI had only one hundred former Securitate agents on the brink of retirement among its three thousand operatives, with the others being younger recruits (Dobre 2010a). It remains to be demonstrated that the new recruits are more inclined to respect human rights and the rule of law.

Information about the secret informers is even more elusive. Former Securitate agents could have retained

⁵ See the case of General Eugen Grigorescu, a Securitate officer who in 1985 ordered a search of the residence and belongings of engineer Gheorghe Ursu to find evidence of his opposition to the regime. Ursu later died after being beaten in the Bucharest militia dungeon. As an SRI officer after 1989, Grigorescu found Ursu's journal in the secret archive and refused to return it to Ursu's relatives (Fundatia Gh. Ursu n.d.).

their informers for the benefit of the post-communist intelligence services, with new informers being recruited to spy on new targets. In the absence of official data, it is impossible to estimate the percentage of the Securitate informers working for the post-communist intelligence agencies or to know how committed they are to democratic principles. A public scandal suggested that intelligence services recruit informers from among journalists who are eager to advance their professional careers and act as opinion leaders.

In 2014, television talk-show host Robert Turcescu confessed to working undercover for a military intelligence service. The confession was surprising because Turcescu, who had accepted payments for informing on colleagues, had never been a military recruit and had spied when no intelligence service compelled him to do so (Business Review 2014). The incident raised concerns about the hold of the intelligence community over the media and the absence of legal prohibitions on recruiting journalists as spies. It prompted allegations that the media lacked the independence to pursue investigative analyses and inform the public correctly about the abuses of intelligence services. Turcescu was one among many journalists, politicians, and magistrates who secretly worked in intelligence (Gheorghiu 2015). Observers noted that secret services recruited these luminaries in order to influence public opinion, make or break political careers, and promote policies and laws that benefited the intelligence community (Mungiu-Pippidi 2014).

In sum, after 1989, intelligence services rejected thorough vetting and adopted personnel practices blending a lot of continuity with little change. The willingness to retain senior Securitate officials involved in rights abuses underscored the link between communist and post-communist secret services, discrediting them in the public's eye and raising concerns among NATO allies. Recruitment of mass-media leaders further suggests that intelligence services are undemocratic and unwilling to uphold the rule of law.

Parliamentary and Presidential Oversight

While strong on paper, oversight is inadequately implemented, leading to infringements of human rights and political interference by intelligence services.

In 1993, parliament created a joint standing commission to oversee the SRI and, five years later, another commission for the SIE. Only the SRI and the SIE were formally placed under parliamentary supervision; other services remained shrouded in secrecy and unaccountable to the house. The commission on the SRI includes nine legislators; the commission on the SIE has five. Legislators representing both the government and the opposition are appointed on these commissions if they have clearance to access sensitive information. The selection of commission members is determined by party affiliation and seniority more than familiarity with security issues or a personal history of non-collaboration with the Securitate. The commissions verify the legality of intelligence activities, assess allegations of illegal misconduct on their part, investigate their agents, and conduct unannounced visits to their facilities.

In 1996–2016, many of the commission members represented the Social Democrats, heir to the Communist Party and the repression system centered on the Securitate. Equally disinclined to question the role of intelligence services in rights abuses were the Greater Romania Party members, who defended the Securitate as patriotic and blamed its victims for betraying the country.⁶ Some deputies served as commission members for a long time (Attila Verestoy since 2000, and Cezar Preda since 2004), but held uncritical positions toward the intelligence community, its failure to remain independent from political actors, and its rights abuses. More alarmingly, some members were communist-era officers (Marcu Tudor and Ristea Priboi) or had built political careers and financial empires with protection from the services (Sebastian Ghita) (Lazescu 2015; Oprea 2004). Their presence weakened oversight by preventing the

⁶ Information collected from the undated Chamber of Deputies, "Comisii parlamentare permanente comune." <http://www.cdep.ro/pls/parlam/structura2015.co?leg=2016&cam=0> [accessed June 5, 2017].

commissions from raising questions about the prominence of tainted Securitate officers and the involvement of post-communist intelligence services in corruption.

The Chamber of Deputies website makes available only three decisions passed by the commission on the SRI in 2014, 2015, and 2017. All three decisions approved the SRI budget in the presence of high-ranking SRI representatives, and with the proviso that the budget allocation could be increased, if needed, so that “lack of funds does not negatively affect the SRI activity of defending national security” (Comisia comuna permanenta a Camerei Deputatilor si Senatului pentru exercitarea controlului parlamentar asupra activitatii Serviciului Roman de Informatii 2017). Similarly, the website provides the text of the decisions through which the other commission approved the SIE’s budget allocation in 2010, 2014, and 2015 (Chamber of Deputies n.d.b). No other information about yearly budgets or the meetings of the two commissions and their agendas is made public.

Equally lacking in transparency are the meetings of the CSAT, which enforces presidential oversight. An earlier request for details about the CSAT meetings was turned down, but the profiles and public declarations of the Romanian post-communist presidents indirectly explain why the CSAT only rarely reined in the SRI and the SIE. As a former communist official, President Iliescu (1990–1996 and 2000–2004) worked with the intelligence services more than against them, an observation also valid for President Traian Basescu (2004–2014), who supplied secret notes to the Securitate before 1989. President Constantinescu (1996–2000) took a public stand against intelligence services, claiming they undermined his efforts to break Romania from its communist past and forced him to be “in office, but not in power” (Gallagher 2005).

In sum, Romania’s oversight of intelligence services has remained weak, as neither the parliament nor the president managed to stop the services from engaging in human rights abuses. Pressure from domestic and foreign actors has done little to strengthen oversight during the past thirty years. The following subsection contends that these abuses have continued throughout post-communism, casting doubt over the degree to which the successors of the Securitate contribute to the consolidation of Romania’s post-communist democracy.

Continuous Disrespect for Human Rights

The Romanian intelligence services have showed disrespect for human rights, as proven by scores of press reports and public scandals since 1989. These abuses have taken place because intelligence services have disregarded the rule of law; some of the political elites have used the services to strike against their political rivals, quash opposition to their policies, and increase their electoral support; many media outlets have been infiltrated by the services (as proven by the Turcescu case); and the local civil society has failed to speak with one voice against such abuses.

In the early 1990s, President Iliescu and his Social Democrats relied on the Securitate’s successors to intimidate the anti-communist opposition. The secret pact between the Communist Party and the Securitate was redrawn so as to tie the Social Democrats to the successor services. Reforms were permitted only if they benefited the new rulers or the services, and nationalism was used to defend an expanded role of intelligence services in public life. The 1990–1996 period registered many rights violations perpetrated by intelligence services against citizens, opposition parties, and ethnic minorities. The most notorious was the involvement of secret agitators in directing miners to the Bucharest headquarters of anti-communist opposition parties during the so-called *Mineriad* of 1990 and 1991 and in inciting inter-ethnic violence in Transylvania in 1990.

Public scandals involving the intelligence services continued to rock Romania during 1996–2000. The Democratic Convention criticized the previous Social Democrat cabinets for using the intelligence services against the anti-communist opposition but retained that practice. In 1996, SRI captain Constantin

Bucur became a whistleblower when he told the press that the SRI was illegally eavesdropping on opposition politicians, journalists, businessmen, and civil society leaders (Dobre 2010b). The press further documented the involvement of SRI officers in the illegal trafficking of cigarettes and export of oil to Yugoslavia, despite a NATO ban (Marin 2017). These reports suggested that the new capitalist market allowed the Romanian secret agents to pursue their own mercantile interests. Access to insider information and control over the secret archives (which contained information that could be used to blackmail competitors) gave them a privileged position when seeking privatization deals or access to public tenders through their many private companies.

New legislation compelled the intelligence community to abide by the rule of law but gave national security precedence over basic human rights. When in 2000–2004 anonymous emails titled “Armageddon” disclosed the ties of Prime Minister Adrian Nastase with shady businessmen and identified former Securitate officers still employed by post-communist intelligence services, Nastase pressured the courts to indict civil society actors he disliked and the services to place those individuals under surveillance (Gazeta de Sud 2002; Stan 2011). This misuse of intelligence power, the subordination of human rights to national security, and the courts’ propensity to side with the state (and the rulers) against the ordinary citizens have tainted Romania’s human rights record.

After Romania’s bid for EU membership was rejected in 2004 due to the pervasive corruption that threatened national security, the SRI joined forces with the National Anti-Corruption Direction (Directia Nationala Anticoruptie, DNA) to secretly monitor politicians suspected of corruption (von Hammerstein, Kraske, and Szandar 2005). This close collaboration initially helped the SRI to improve its public image but became controversial once instances of abuse became public (Lazescu 2015). Scores of politicians were asked to prove their innocence and had their phones intercepted. Some of them claimed that the DNA had threatened their relatives in a bid to extract confessions and publicly discredited them by calling on television stations to show them being arrested and handcuffed. The number of national security mandates increased from 48 in 2004 to 2,497 in 2014, while intelligence services conducted close to 110,000 intercepts in 2010–2015 (Georgescu 2017). A Henry Jackson Society report confirmed these allegations, emphasized “the covert role of the intelligence services in directing anti-corruption prosecutions,” and noted that the SRI initiates DNA investigations and “regards the judicial system as a ‘tactical field’ of operations” (Clark 2017). All these demonstrate that the SRI–DNA partnership undermined judicial independence and led to serious rights violations.

Conclusion

Despite gaining acceptance into NATO and the EU over a decade ago, Romania continues to register rights abuses perpetrated by intelligence services and to maintain weak oversight over them, as evidenced by the cases above. Intelligence services remain dependent on political actors, though they no longer openly intimidate opposition parties nor use violence against them, as they did in the 1990s. An overreliance on surveillance information collected by the intelligence services has opened the anti-corruption fight to criticism, conjuring parallels with communist times when the accused had to prove their innocence and services assumed key roles in the initiation and completion of penal investigations.

Additional efforts are needed for the Romanian intelligence community to become democratic and comparable to communities in Western democracies. To date, few of these shortcomings are reflected in assessments written by Romanian or foreign observers, who seemingly assume that retirement of former Securitate collaborators, recruitment of young agents, and willingness to participate in NATO operations are sufficient in turning the Romanian intelligence community into a democratic one. The refusal to acknowledge the strong organizational continuity between the repressive Securitate and the post-communist SRI and SIE has blocked comprehensive lustration and vetting, protected former Securitate agents involved in repression and retained them in employment after 1989, maintained the subordination

of intelligence to ruling parties eager to use them against their political enemies, and subordinated respect for human rights to some vague goals of national security protection.

Using examples drawn from the 1989–2017 period and information presented to an English-language audience for the first time, this analysis assessed the capacity of intelligence reforms in post-communist Romania to facilitate democracy, curb surveillance based on political reasons, and help the country break with communist repression. Since the main post-communist security services are former Securitate departments that retained Securitate's operations, personnel, archives, and even loyalty to ruling parties after 1989, there is a strong continuity between the communist and post-communist intelligence community in Romania. As we have shown, security sector reforms in that country continue to pay little attention to accountability, democratic control, and respect for human rights, areas that are seen as key by security and transitional justice scholars but ignored to date by experts who are familiar with Central and Eastern European democratization.

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