

THE STORY OF THE INFAMOUS PSD LEADERSHIP MEETINGS TRANSCRIPTS: A CASE STUDY IN (FAILING) RULE OF LAW IN ROMANIA

The EU Commission has repeatedly signaled that during the Social Democratic Party (PSD) mandate of 2001-2004 Romania was falling short of meeting the Copenhagen criteria for EU admission. In particular, the government was blamed for being slow on the depoliticization of judiciary, ineffective in tackling corruption at the top, and not very keen on media independence. Bucharest has always been prompt in denying such accusations as groundless.

Until November 2004, that is. One week before the first round of the national elections, hundreds of pages of transcripts from the PSD leadership's meetings in the past two years leaked to the public. A couple of newspapers still independent ran full pages with excerpts; one of them edited a book in three volumes with all the documents¹; while the EU Delegation sent to Brussels an English language synthesis of the most interesting parts. The discussions held in these party meetings - some including statements with criminal implications for those who made them - came as a confirmation of the public's most pessimistic expectations. By and large, the PSD leaders were scheming how to manipulate judicial investigations and influence the decisions of courts; how to block the activity of the nominally independent agencies, such as the Court of Accounts, in order to cover the actions of ministers who misused public funds; and how to control more effectively the media, both public and private. What is more, some fragments were only confirming statements made before by other top officials, such as the president of the Court of Accounts, who in his draft annual report for 2003 was mentioning the pressure put on him by "high political circles". After a brief spat with government officials in December 2003 he was forced to withdraw these paragraphs from the final version of his report.

A number of PSD leaders confirmed that the published transcripts were accurate; some said they were not; but most of them kept a deafening silence. Ion Iliescu, the president of Romania at that moment, launched himself into a series of suppositions about who may have stolen the documents from the

1 PSD's Secrets., Printing House Ziua, 3 volumes, Bucharest, 2004

government chancellery and pass them over to the press, before realizing his implicit admission of their authenticity and shutting up. For reasons which are obvious to anybody who reads the following excerpts, no state institution found the courage to launch an official investigation. On the contrary, both the Prosecutor General and the Head of the National Anti-Corruption Prosecutor Office (PNA, special institution created in 2002 with EU assistance) disappeared from public view for a few weeks when this scandal broke out. The only time when the Prosecutor General was seen after that was when he told the media that he was not going to open any case following the complaints of irregularities in the first round of voting until the elections are over - a bizarre and unprecedented example of suspending the enforcement of the Penal Code until it becomes clear who wins power.

Even the brief excerpts published here in PolSci speak volumes about how Romania has been governed by its political class in the last decade and a half (or, should we say, century and a half?). However, much of the blame should be assigned specifically to PSD, the party who has ruled for 11 of the 15 years of transition and, as a post-Communist successor party, contributed most to the continuity with the previous regimes in terms of policies, cadres and institutional culture. Far from being a modern, European-style Social Democratic party, as its leaders like to portray themselves abroad, PSD is in fact a loose federation of rent-seeking groups and former Communist apparatchiks who happened to belong to the wrong clan during the Ceausescu years and thus saw themselves marginalized. Having gained access to wealth and high public office after 1989, the only thing that keeps them together is the need to stay in power. And the means to achieve this are, at the rhetorical level, a mixture of national-populism and social conservatism on which to run elections (which in the European Parliament would place them towards the other end of the political spectrum); and, in practice, a ruthless agenda to colonize the public sector, including the law and order agencies, which are deployed against the competitors whenever their political domination is threatened.

*Translation of transcripts and comments
by Sorin Ionita*

CORRUPTION, POLITICAL CONTROL OF JUDICIARY, TRAFFIC OF INFLUENCE

The Standing Committee of PSD, Oct 20th 2003

Nicolae Vacaroiu (Prime minister 1992-1996; PSD top leader, currently Chair of the Senate):

Mr. president [*Nastase, n.t.*], we must find a way to dissipate this image of PSD as the only corrupt party. All our investigating institutions only expose PSD members. I also talked to Blancelescu [*the minister of Control*] and I said, all right, I agree, you may expose one of ours in a press conference if you have five from PRM, four from PD and two from PNL alongside him. But what we do now is that we go every week only after our own people. Mr. president, it is going to cost us dearly, you cannot imagine how dearly is going to cost us.

[...] So if I may conclude, let's produce three-four more investigation files, to hit them in the head with them, the PNL and PD people. You saw how it was with Basescu [*the opposition's leader, currently Romania's president*], we all pushed the case, but it fell flat. After four-five months nobody is discussing about the "Fleet Case" anymore.

Florin Georgescu (Minister of Finance 1992-1996, PSD top leader; currently deputy governor of the Central Bank):

Mr. president, let's come with a number of concrete cases [*against the opposition, to counterbalance the resignation of 3 ministers in 2003, n.t.*], because these are institutions that we control. I beg you to talk to Mr. Saguna [the head of the Court of Accounts], on behalf of the party, he doesn't listen to me anymore. He should stop all those files and investigations. Only God knows how many telephone calls I have to make to his subordinates, let's finish with all these nasty boys, because if they go to check the budget execution for 2002, they will get to mr. Mitrea [*the Minister of Infrastructure and Transportation, n.t.*], or to somebody else, and find them guilty. Only God knows what I'm doing there to stop the whole issue from getting to you, and keep everything smooth and quiet.

Especially, mr. president, remember that tomorrow - tomorrow! - all these files leave from the Court of Accounts to the ordinary courts. And if a crazy inspector writes something on paper, that file is not going to stay at the Court of Accounts, where we have our people at the top, I can make some telephone calls and have the case closed properly. No, it is going to reach God knows where, in the territorial court in Zimnicea, together with other divorce cases or petty thefts, and it will leak to the media instantly. [...] These guys should go and talk to the ministers and then back away, they should not put the things on paper and throw them at the minister's door, because ministers may not have time to read, or do not want to read, and then they start to write official letters to each other which easily become public, there are lots of PRM people around, and a lot of liberals and democrats left [*from the previous administration, n.t.*], and we will have problems.

I am not complaining here, don't get me wrong, this is just a friendly recommendation, he [*the head of the Court of Accounts, n.t.*] should be more constructive, he should come and talk to us more often. And he should look more often into the budget executions from the past, when he looks at 2002 he should say fine, is Ok, but oops, here is a problem from 1999 [*from the previous center-right administration, n.t.*], the law allows him to investigate 1999. Thank you.

Rodica Stanoiu (Minister of Justice 2001-2003, presidential advisor in 2004; currently PSD senator)

[...] About those files, I must give you three explanations. You all know very well that in Basescu's case I asked you many times - even in top meetings I asked - when do we give the green light. Now we gave the go ahead in this case, though rather late. But the other files are a bit different and I whispered this to our colleagues in private. Now is the moment to say it loud: there are two-three other files on the pipeline, they are coming, and they are hard and important. I have been told that in almost all of them we find people from here involved. These are very complicated files, so I left them in stand by to see how we work them out. What I'm telling you know is just for your consideration, it is not for...

PRIVATIZATION

The Standing Committee of PSD, Oct 13th 2003

Adrian Nastase (Prime minister; currently Chair of the Chamber of Deputies): Ovidiu, we cannot go on like this. For three years you have been sitting on all those privatization stories from 1997-2000 and doing nothing, and we cannot continue like that for ever because we are beginning to respond ourselves for it. Have you ever come with one single issue which may suggest privatizations were not Ok at that time? [...] Because in the electoral campaign this is what they will tell us, you had all the state institutions in your hands, and you haven't proved one single irregularity. This is you problem. If you want, you can continue to argue with me for about thirty more seconds, but I repeat that this is you problem. I'm telling you this here, before the Standing Committee, because I did it many times before in the cabinet meetings and you didn't understand. Now you should set yourself to this job, come up with the papers, because we are entering the electoral campaign.

Ovidiu Musetescu (minister, head of the Privatization Authority, reshuffled at the end of 2003): I handed all those papers to the institutions in charge for investigating these matters.

Adrian Nastase: Rus, did he give you the papers?

Ioan Rus (Minister of Interior until early 2004): No, he didn't. Unless among those papers...

Ovidiu Musetescu: But, prime minister, this is all what I found, how can I produce other papers if this is all I found?

Adrian Nastase: Ovidiu, I notify you here before the Standing Committee. From now on, you do what you want. [...] Dear colleagues, either we are serious from now on, or, if not, we can take a holiday and go straight to Strasbourg to represent our country in the permanent delegation there, in opposition.

CONTROL OF THE MEDIA

The Standing Committee of PSD, Oct 20th 2003

Serban Mihailescu (Minister-Secretary General of the Government, resigned in late 2003; currently an MP)

Now I'm talking you frankly, for all the efforts that we have made, it was not at all ok with the television stations. [...] Here we should use the method that worked so well with Antena 1. Before the program we should call and talk to them, because Adrian [Sirbu, the owner of ProTV station] asks me something every single day, but I didn't have the skill to tell him, hey, don't send reporter X, send Y instead. [...]

Valer Dorneanu (former Chair of the Chamber of Deputies; currently an MP)

By the way, about TV stations, the public one, but the others too, and the rest of the media: I keep wondering why do we continue to support all these press institutions with broad audience in various ways, with the old tax breaks, with sponsoring, with advertising, while what we get in return is just some vague, individual reprieve - at best. I am not even mentioning here the Parliament, we don't matter, we are blamed for everything, we are the main target for the public TV, and all the newspapers we support. But we should stop asking these questions only rhetorically and see what we can actually do about it. I'm not saying we should amend that Government Ordinance with the tax breaks and the rest, it would be a mistake, but we could at least remind these boys about it from time to time. Again, I may be naïve, but I was thinking that, by the time the electoral campaign begins, all these newspapers we care so much about and pamper and help prosper would have torn us apart so terminally that even their consistent support during the campaign might not help us much. [...]

Adrian Nastase (Prime minister):

Yes, so you saw them too. There were two guys in front and following me everytime I was picking the glass, or the briefcase. I don't understand why we have to tolerate such things, all these paparazzi. [...] This means we have to have people to tell them what to do right there [when they edit the tape in the studio,

n.t.], from this second to that second, this is the only image we air, and we air it on all stations, which means control. Somebody who should stay in studios and work with them. [...] We need ten people, each assigned to a TV station, and seven for the newspapers. Who's going to do this for us? [...] We allowed the public TV to air what they wanted, we did not tell them what the message was, and we did not tell ProTV what message we wanted. Somebody should stay there at the control board and see all the material that was shot, and say look, we want this message, and this frame. [...]

Dorina Mihailescu (advisor to the PM):

You don't understand, half of the journalists are anti-PSD. [...] But if we had a very stable team, and if we knew very well what they want from us, what sums of money, it would be another story, we should not expect somebody else to do our job.

COUNTERACTING THE CIVIL SOCIETY

The Standing Committee of PSD, Jan 5th 2004

Adrian Nastase (Prime minister):

Another line of attack against us [is from NGOs]. Today I saw an interview with a madame from the Institut for Public Policies [IPP, a Romanian think tank], who was speaking about the mafia-party-state. From now on we will have to fight not only the [opposition] parties, who will probably fight with elegance, but also a bunch of NGOs who will be the attack submarines of the opposition. We will have to enter this field much more seriously [...] We'll have to make a list next time where each of us mentions all the non-governmental organizations where s/he is a member, how many s/he has created, what exactly can each of us do in this respect. Why do we have a problem to set up another institute - the Institute for Non-public Policies, or the Institute for Private Policies? We can create 15 such institutes and assign precise things to do to each of them. Everyone of us who does not have an NGO at home will be required to set up two NGOs at home. [...]

TRANSPARENCY

The Standing Committee of PSD, Dec 8th 2003

Hildegard Puwak (Minister of EU Integration 2001-03, resigned after being accused for embezzlement):

I think we should reconsider the transparency law [544/2001, freedom of access to information of public interest], and see if we could amend it somehow. Because it gives journalists the right to get all over the place, which

means transparency for everybody, in 24 hours, they can get access to every little file which was not specifically mentioned in the government decision regarding classified information. I believe this law is excessively permissive. [...]

Adrian Severin (Minister of Foreign Affairs under the former center-right administration, he joined PSD after 2001):

I know it sounds more complicated, but my opinion is that common sense cannot be legislated. No matter what law we will have, we also have a common sense [...] and we are the ones who apply this law. The fact that public information is transparent doesn't mean they can request any kind of information from us. [...] We should refuse to disclose information about X or Y, and offer only data about the institution. Depersonalized, as much as possible, and done in an smart way, so that we avoid to give information that can be related to a certain name.