

TRANSITIONAL JUSTICE IN POST-COMMUNIST ROMANIA

A close examination of an understudied European Union member state such as Romania reveals that since 1989, post-communist state and non-state actors have adopted a wide range of methods, processes, and practices of working through the communist past. Both the timing and the sequencing of these transitional justice methods prove to be significant in determining the efficacy of addressing and redressing the crimes of 1945–1989. In addition, there is evidence that some of these methods have directly facilitated the democratization process, while the absence of other methods has undermined the rule of law. This is the first volume to overview the complex Romanian transitional justice effort by accessing secret archives and investigating court trials of former communist perpetrators, lustration, compensation and rehabilitation, property restitution, the truth commission, the rewriting of history books, and unofficial truth projects. It details the political negotiations that have led to the adoption of relevant legislation and assesses these processes in terms of their timing, sequencing, and impact on democratization.

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Transitional Justice in Post-Communist Romania

THE POLITICS OF MEMORY

LAVINIA STAN

St. Francis Xavier University



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
 978-1-107-02053-5 — Transitional Justice in Post-Communist Romania
 Lavinia Stan
 Frontmatter
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CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
 One Liberty Plaza, 20th Floor, New York, NY 10006, USA
 477 Williamstown Road, Port Melbourne, VIC 3207, Australia
 314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi - 110025, India
 103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of the University of Cambridge.

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www.cambridge.org

Information on this title: www.cambridge.org/9781107020535

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First published 2013

First paperback edition 2014

A catalogue record for this publication is available from the British Library

Library of Congress Cataloging in Publication data

Stan, Lavinia.

Transitional justice in post-communist Romania : the politics of memory / Lavinia Stan.
 p. cm.

Includes bibliographical references and index.

ISBN 978-1-107-02053-5 (hardback)

1. Transitional justice – Romania. 2. Law reform – Romania. 3. Justice, Administration of – Romania. I. Title.

KKR471.S73 2012

949.803–dc23 2012023655

ISBN 978-1-107-02053-5 Hardback

ISBN 978-1-107-42925-3 Paperback

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Cambridge University Press
978-1-107-02053-5 — Transitional Justice in Post-Communist Romania
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To my family

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Foreword

Mark Kramer
Harvard University

Coming to terms with mass atrocities is a difficult task for any country. Even now, nearly 150 years after the American Civil War ended, the United States has not made a full reckoning with the abomination of slavery and the century of violent racial segregation that followed. In countries that were ruled by repressive dictatorships in recent decades, notably the communist regimes of Central and Eastern Europe and the former Soviet Union, the process of reckoning with the past has been slow and erratic. A few of these countries have done essentially nothing to account for past crimes; most of the others have made at least a nominal effort; but not a single one has come fully to grips with questions of individual and collective responsibility and complicity.

This new book by Lavinia Stan illuminates why the process of facing up to the communist past has been so difficult in Romania, a country that was subjected to extreme tyranny during the Stalinist era (1944–1953) and that remained under dictatorial rule throughout the communist period, even after the worst of the Stalinist abuses were over.¹ Although Nicolae Ceaușescu briefly pursued a course of relative liberalization after he came to power in 1965, he soon abandoned it and plunged the country back under increasingly harsh rule.² Ceaușescu's nearly quarter-century as First Secretary of the Romanian Communist Party (RCP) came to an ignominious end in 1989 when he and his wife were forced to flee Bucharest on December 22 amid widening popular unrest and violent instability. The two of them were quickly captured in Târgoviște and then executed by firing squad on Christmas Day after a perfunctory trial.

¹ For an overview of the Stalinist period in Romania and the early years after, see Dennis Deletant, *Communist Terror in Romania: Gheorghiu-Dej and the Police State, 1948–1965* (New York: St. Martin's Press, 2000).

² Vladimir Tismaneanu, *Stalinism for All Seasons: A Political History of Romanian Communism* (Berkeley: University of California Press, 2003), ch. 7. See also Dennis Deletant, *Romania under Communist Rule*, rev. ed. (Bucharest: Centrul de Studii Românești, 1999), pp. 114–172.

The violent upheavals that led to the Ceaușescu's downfall resulted in extensive bloodshed, but the large majority of casualties in Romania in December 1989 and early January 1990 – a total of more than 1,100 deaths and 3,350 injuries – occurred *after* Ceaușescu and his wife had fled and were no longer in a position to control any of the forces engaging in armed clashes.³ Precisely who ordered the use of deadly force on such a massive scale has never been clarified.

Lavinia Stan is an ideal person to undertake a comprehensive assessment of the official and unofficial efforts in post-1989 Romania to come to grips with the crimes and abuses of the communist era. Not only has she published several excellent books about political and social changes in Romania since 1989; she has also been at the cutting edge of scholarship exploring the conceptual and practical dimensions of transitional justice (the diverse set of measures intended to achieve redress for egregious human rights abuses) in the former communist world. Stan's in-depth research on this topic led to the publication in 2009 of *Transitional Justice in Eastern Europe and the Former Soviet Union: Reckoning with the Communist Past* (of which she was editor and chief author) and will also be the basis for the forthcoming publication by Cambridge University Press of the *Encyclopedia of Transitional Justice*, a landmark three-volume compendium that Stan coedited with Nadya Nedelsky. In these groundbreaking studies, Stan combines social science methods with extensive fieldwork to address questions that not only are of great scholarly importance but also affect the everyday lives of people residing in the former communist states. The combination of methodological rigor with empirical richness makes Stan's work on transitional justice in former Warsaw Pact countries, especially Romania, stand out.

In the current book, Stan brings together her major areas of expertise – the political and social dynamics of post-1989 Romania, and the theoretical and empirical aspects of transitional justice in former authoritarian states – to produce a splendid analysis of the challenges of transitional justice in a country that has only sporadically shed its authoritarian past. After Ceaușescu's ouster at the end of 1989, many observers both inside and outside Romania were hopeful that democratization would take hold in Romania and that the country might, for the first time in its history, have a chance of moving toward Western standards of openness, accountability, and democratic governance. Despite the damage inflicted by some forty-five years of communist rule, the idea was that, with the Ceaușescu finally gone, Romanian pro-democracy activists and nongovernmental organizations (NGOs) would grow in numbers and influence. In due course, they would gain sufficient strength to pull Romania firmly away from its dictatorial past.

³ Peter Siani-Davies, *The Romanian Revolution of 1989* (Ithaca, NY: Cornell University Press, 2007), pp. 97–143.

Some individuals and groups in Romania did seek to promote liberal democracy after 1989, but the basic obstacle they confronted was that the political leaders who removed Ceaușescu and who gained control of Romania's polity were former high-ranking communist officials, most of whom had worked loyally under the Ceaușescu regime. The new leader of the country, Ion Iliescu, had been one of Ceaușescu's closest aides until the early 1970s, when the two men had a falling-out. Iliescu thereafter was gradually deprived of his posts in the RCP's ruling organs and was assigned to relatively obscure ministerial posts. As the head of the ruling National Salvation Front (Frontul Salvării Naționale, or FSN) that took over in the wake of Ceaușescu's departure, Iliescu pledged to reform Romania's communist system, but not to dismantle it.⁴ He and other leading FSN officials called for the near-term adoption of "original democracy" in Romania that would keep most of the basic elements of the communist system in place.

Subsequently, after consolidating his power via the FSN in the May 1990 parliamentary elections, Iliescu formed his own National Salvation Democratic Front, which he later renamed the Party of Social Democracy and then the Social Democratic Party. In keeping with practices of the communist era, Iliescu used thuggish, extralegal violence in June 1990 to bolster his power in the face of popular unrest, and he continued to rely on unaccountable security organs to silence and intimidate opponents. Iliescu gained easy reelection as president in late 1992, enabling him to extend his domination of Romania's polity, including its treatment of the past. Hopes of meaningful democratization were stymied during the seven years that Romania languished under his rule in the 1990s.⁵ After he lost his bid for a third presidential term in November 1996, Romania did make significant progress toward greater openness and accountability under Emil Constantinescu, but renewed political turmoil facilitated Iliescu's return to power in the December 2000 presidential election, giving him another four-year term. Romania managed to gain admission into the North Atlantic Treaty Organization (NATO) in 2002–2004, even though NATO officials were well aware of Iliescu's unsavory past. In 2007, a few years after Iliescu left office for good, Romania was granted entry into the European Union (EU).

Nevertheless, despite having gained membership in both NATO and the EU, Romania (along with Bulgaria) remained an outlier in the former Soviet bloc, a

⁴ For useful background information on Iliescu, see the lengthy two-part U.S. embassy cable, "Romanian President Ion Iliescu – A Political Biography," No. 006434, 23 June 1995, classified Secret, posted on numerous Web sites through Wikileaks.

⁵ Steven D. Roper, *Romania: The Unfinished Revolution* (Amsterdam: Harwood Academic Publishers, 2000), pp. 65–86. See also Frank Sellin, "Democratization in the Shadows: Post-Communist Patrimonialism," in Henry F. Carey, ed., *Romania Since 1989: Politics, Economics, and Society* (Lanham, MD: Lexington Books, 2004), esp. pp. 120–125.

country plagued by the lingering residue of the communist era. In these circumstances, attempts by the Romanian government to make a reckoning with the crimes of the communist regime were mostly stillborn, especially during Iliescu's presidency in the 1990s. Prominent holdovers from the Ceaușescu era, who were present at all levels of the political, judicial, and security structures, had no interest in embarking on a thorough, no-holds-barred investigation of past misdeeds or in pursuing redress and justice for victims of the communist regime. Nor were the authorities inclined to disclose the identities of Securitate officers or the names of the hundreds of thousands of informants (*informatori*) and collaborators (*colaboratori*) who secretly aided the Securitate's repressive apparatus. To the extent that the Romanian government took any punitive action against those responsible for communist-era atrocities, this was done mostly as a way of settling political scores or deflecting pressure "from below" (i.e., from NGOs and activists) for far more sweeping action. Much the same was true about attempts to provide compensation to some of the victims of communist repression. Such measures had to be pushed forward by activists outside the government, often over the objections of senior officials, members of parliament, and judges.

In a series of fascinating thematic chapters, Stan explores every dimension of transitional justice in post-Ceaușescu Romania – judicial and nonjudicial, official and unofficial, local and countrywide, national and international. She shows that in one or two areas, notably the removal of symbols of the communist regime (e.g., the ubiquitous portraits of Ceaușescu, the statues of leading communist figures, sundry objects adorned with the hammer-and-sickle or with the RCP's insignia and flags) and the renaming of streets, bridges, and buildings, the Romanian government did act relatively swiftly to make a break with the past. But in almost all other areas, such as the proposed overhaul of the state security sector, the rewriting of history books for public schools, the establishment of a truth and reconciliation commission, the construction of new public symbols (including statues, memorials, and museums dedicated to the victims of communism), lustration, the initiation of judicial proceedings against the worst perpetrators of abuses and in support of victims, and the granting of access to secret police files, the Romanian authorities either were very slow to act or declined to do anything at all. Even when they did act, the steps they took rarely had much lasting effect. The impact was negligible in many cases because the resources allocated for the specific activities were too meager; in other cases the proclaimed measures were never actually put into effect. Programs initiated by NGOs and other groups outside the government made up part of the gap, but some of these programs (e.g., an unofficial trial of the RCP, the scattered naming of Securitate officers) had very little impact and were never sufficient to make up for the woeful lag in transitional justice in the first half of the 1990s.

Moreover, as Stan shows, the task was complicated because Romania after 1989 had three distinct periods for which transitional justice was needed: (1) the wartime years (1940–1944) when Romania was ruled by a brutal, pro-Nazi regime; (2) the period from 1944 to 1989 when Romania was ruled by a communist dictatorship; and (3) the revolution and bloodshed of December 1989. For various reasons the third period commanded highest priority for the Romanian authorities, many of whom stood to benefit personally from their participation (real or otherwise) on the side of the revolution. Because the violence was clearly etched in people's memories, and because the victims were active in seeking redress, the 1989 revolution tended to dominate the agenda for official transitional justice programs (especially during Iliescu's initial two terms), often at the expense of attempts to remedy injustices that occurred during the earlier periods.

Stan's wide-ranging survey of the different elements of transitional justice in Romania underscores the large number of actors who have been involved. Political leaders, bureaucrats, legislators, and judges have been supplemented (and often outdone) by NGOs, victims' groups, religious denominations, and international organizations such as the EU, NATO, the European Council, and the European Court of Human Rights. The presidential truth commission that was set up in 2006 under Vladimir Tismaneanu played an important and salutary role in the process, compiling a detailed report about the atrocities perpetrated by the communist regime.⁶ The impact of the report may have been ephemeral, but it amassed evidence that could not easily be glossed over. Institutes that were established to investigate communist crimes and to study the Romanian exile (the institutes were merged in 2009–2010) also were centrally involved in transitional justice efforts, including exhumations and forensic investigations as well as historical research.⁷

Stan captures these diverse efforts in all their complexity and detail without losing sight of the larger picture. Although the book focuses on transitional justice in Romania, it offers illuminating comparisons with experiences elsewhere. The book

⁶ *Comisia Prezidențială pentru Analiza Dictaturii Comuniste din România: Raport Final*, Bucharest, 2006. On the report and its impact, see, in addition to Stan's discussion here, Charles King, "Remembering Romanian Communism," *Slavic Review*, Vol. 66, No. 4 (Winter 2007), pp. 718–723; Vladimir Tismaneanu, "Confronting Romania's Communist Past: A Response to Charles King," *Slavic Review*, Vol. 66, No. 4 (Winter 2007), pp. 724–727; Cosmina Tanasoiu, "The Tismaneanu Report: Romania Revisits Its Past," *Problems of Post-Communism*, Vol. 54, No. 4 (July–August 2007), pp. 60–69; and Alina Hoge, "Coming to Terms with the Communist Past in Romania: An Analysis of the Political and Media Discourse Concerning the Tismăneanu Report," *Studies of Transition States and Societies*, Vol. 2, No. 1 (June 2010), pp. 16–30.

⁷ Stan and I served on the academic advisory board of the unified Institute for the Investigation of Communist Crimes and Memory of the Romanian Exile from 2010 to 2012. Both she and I stepped down from the board in mid-2012 after the change of government in Romania led to political interference in the institute's complexion and work.

allows readers to ponder key questions about the reciprocal connection between democratization and transitional justice and the means by which former authoritarian countries can remedy past abuses and overcome the baleful legacy they have inherited. Stan's discussion of fundamental issues, including whether democratization is likely to facilitate transitional justice (and vice versa), whether some methods of transitional justice are more conducive than others to democratization, and whether some instruments of transitional justice may actually stymie democratization, will be of broad interest to political scientists in several fields: comparative politics, political theory, and international relations.

A sizable literature has emerged over the past two decades about specific elements of transitional justice in Romania and other former communist countries, but Stan's book is the first attempt to bring these far-flung strands together into a coherent whole. It is an ambitious task, but Stan passes with flying colors. She has produced a comprehensive, in-depth analysis of the obstacles, tribulations, setbacks, and occasional successes in the pursuit of transitional justice in Romania. Her book is a model for all future studies of transitional justice in Eastern Europe and elsewhere.

Acknowledgments

I have studied the transitional justice methods discussed in this book for more than a decade, ever since a chance re-encounter with Nadya Nedelsky convinced me that the “politics of the past” was worthy of close examination. A grant from the Social Sciences and Humanities Research Council of Canada helped me study transitional justice in Romania, and Eastern Europe more generally, and ponder over the theoretical and empirical questions raised in this book. The generosity of the Council, which also funded my work on religion and politics, facilitated yearly field trips to Eastern Europe, participation in international conferences, and frequent meetings with colleagues from other universities, research institutes, and civil society organizations working on similar topics.

Over the years, a number of close friends and collaborators have assisted me in bringing this project to completion. Nadya Nedelsky of Macalester College has supported me in this and other projects, with patience, many good words, and timely expert advice. Helga Welsh agreed to share her unpublished work with me and guide me through important lines of inquiry and literature that I might have otherwise overlooked. Eva-Clarita Onken Pettai of the University of Tartu, Estonia, clarified the differences separating truth commissions from historical commissions in terms of their organization, membership, and transitional justice role. Laurence Whitehead of Oxford University; Elazar Barkan, John Micgiel, and David L. Phillips of Columbia University; A. James McAdams of the University of Notre Dame; Tom Gallagher of the University of Bradford; Vladimir Tismaneanu of the University of Maryland at College Park; Vesselin Popovski of the United Nations University in Tokyo; Joan DeBardeleben of Carleton University; Louis Bickford of the International Center for Transitional Justice in New York; Dennis Deletant of University College of London; Gary Bruce of the University of Waterloo; Roman David of Newcastle University; Peter Solomon and Alexei Trochev of the University of Toronto; Klaus Bachmann of the University of Wroclaw; Monica Ciobanu of the State University of New York at Plattsburgh; F. Peter Wagner of the University of

Wisconsin at Whitewater; and some of my colleagues at St. Francis Xavier University have all raised questions or provided suggestions on various book chapters, articles, or reports that I wrote on Romania's efforts to work through its communist past. Carlos Closa Montero coordinated the monumental project on "How the memory of crimes committed by totalitarian regimes is dealt with in the member states," commissioned by the Direction D: Fundamental Rights and Citizenship of the Directorate-General for Justice, Freedom and Security of the European Commission in 2009, and then organized a wonderful conference in Spain in 2010. My participation in that project spearheaded the present volume, whose publication owes much to the generosity, patience, and support of John Berger, my editor at Cambridge University Press. My copy editor, Susan Kauffman of PETT Fox, Inc., was instrumental in revisiting the volume's accuracy and improving its quality, as was Bindu Vinod. The students in my classes on transitional justice and intelligence services at both Concordia University and St. Francis Xavier University, especially Philip Jones, Thomas Lattimer, Alyssa MacDonald, Maureen McEwan, Justin Rafton, and Ross Watt, have challenged me to explain more fully the need to reckon with the recent past during transitions to democracy.

In Romania, Florin Abraham, Gabriel Bădescu, Romulus Brâncoveanu, Cosmin Budeanca, Gabriel Catalan, Bogdan and Cristina Cazacu, Adrian Cioflâncă, Bogdan Din, Sabin Drăgulin, Constantin Ticu Dumitrescu, George Dobrescu, John Gledhill, Ema Grama, Alexandru Gussi, Bogdan Iacob, Gabriel Marin, Mihaela Miroiu, Silviu Moldovan, Iulia Motoc, Daniel Neacșu, Viorel Neamțu, Stejărel Olaru, Damiana Oțoiu, Mircea Stănescu, Justina Sora and Iulian Tudorică, Ioan Stanomir, Raluca Ursachi, Diane Vancea, Adellaine Voicu, Larry Watts, Rodica Milena Zaharia, and Răzvan Zaharia have assisted me in obtaining valuable data or simply navigating my visits to that country. Claudiu Secăreș, Margareta Drăghici, and Dragoș Petrescu from the National Council for the Study of Securitate Archives released data I used in Chapters 3 and 4. Carmen Lascu, a lawyer with the Constanta Bar Association, generously agreed to explain the pluses and minuses of the legislation on compensation and rehabilitation, reading several drafts of Chapter 7. Gabriel, Daniela, and Liviu Andreescu have been a constant support, sharing their opinions with me and helping me gain access to valuable publications. Levente Salat patiently assisted me in rewriting key sections of Chapter 1. Raluca Grosecu, Bogdan Murgescu, and his wife, historian Luminița Mirela Murgescu, have been instrumental in bringing Chapter 8 to completion. In his apartment in Paris, close to a decade ago, writer Paul Goma agreed to show me photographs from Lătești and to talk about his experience in Romanian communist prisons. In London, longtime friends Mura and Gautam Ghosh showed us the wonderful book collections housed with the University of London library.

Acknowledgments

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Above all, my family has provided me with invaluable endorsement in everything I ever attempted. This book was no exception. I thank my husband, Lucian Turcescu, for keeping an eye on relevant news, reading the manuscript with a critical eye, and standing by me for close to thirty years, especially the months during which the Securitate decided to make me their target. Our work on the property restitution conflict that has divided the Romanian Orthodox Church and the Greek Catholic Church is reflected in Chapter 6, while that on the collaboration of priests with the Securitate informs Chapters 3 and 4. Our son, Luc, and my mother, Sabina, a former scientist, have always enthusiastically supported all my efforts and ambitions. My thanks to all, especially to Mark Kramer of Harvard University, for taking the time to write the foreword to the present volume.

Romanian Institutions, Initiatives, and Names

Appeal for Romania (Apelul pentru România)
 Association 21 December 1989 (Asociația 21 Decembrie 1989)
 Association for Private Property (Asociația pentru Proprietate Privată)
 Association of Former Political Prisoners and Anticommunist Fighters (Asociația Foștilor Deținuți Politici și Luptători Anticomuniști)
 Association of Former Political Prisoners in Romania (Asociația Foștilor Deținuți Politici din România)
 Association of Owners Abusively Deprived of Their Property, Former Deportees and Refugees (Asociația Persoanelor Deposedate Abuziv, Foștilor Deportați Refugiați din România)
 Association of Owners of Property Abusively Confiscated by the State (Asociația Proprietarilor Deposedate Abuziv de Stat)
 Association of Publishers in Romania (Asociația Editorilor din România)
 Association of Tenants Living in Nationalized Dwellings (Asociația Chiriașilor din Casele Naționalizate)
 Association of Tenants Who Acquired Ownership through Law 112/1995 (Asociația Proprietarilor pe Legea 112/1995)
 Association of Victims of Magistrates (Asociația Victimelor Magistraților din România)
 Association of Victims of the Bolshevik Communist System and Its Legacy (Asociația Victimelor Sistemului Comunist Bolșevic și a Sechelelor Sale)
 Braila Big Island (Insula Mare a Brăilei)
 Bus Trial (Procesul Autobuzul)
 Carol Foundation (Fundația Carol)
 Civic Academy (Academia Civică)
 Civic Alliance (Alianța Civică)
 Coalition for a Clean Government (Coaliția pentru un Guvern Curat)
 Coalition for a Clean Parliament (Coaliția pentru un Parlament Curat)

- Coalition for Clean Universities (Coaliția pentru Universități Curate)
- Community of Legitimate Owners and Descendants in Romania (Comunitatea Moștenitorilor și Proprietarilor Legitimi din România)
- Conservative Party (Partidul Conservator)
- Contract with Romania (Contractul cu România)
- December 1989 Commission (Comisia Decembrie 1989)
- Declaration for National Reconciliation (Declarația de Reconciliere Națională)
- Declaration for Romania (Proclamația pentru România)
- Democratic Convention of Romania (Convenția Democrată din România)
- Democratic Party (Partidul Democrat)
- Domestic Red (Roșu domestic)
- External Information Service (Serviciul Extern de Informații)
- Fagarasi Fortress (Cetatea Făgăraș)
- Free Press House (Casa Presei Libere)
- French Association for Defending Property Rights in Romania (Asociația Franceză pentru Apărarea Drepturilor de Proprietate în România)
- Gheorghe Ursu Foundation (Fundația Gheorghe Ursu)
- Greater Romania Party (Partidul România Mare)
- Group for Social Dialogue (Grupul pentru Dialog Social)
- House of the People (Casa Poporului)
- Institute for Military History (Institutul de Istorie Militară)
- Institute for Research in Pedagogy and Psychology (Institutul de Cercetări Pedagogice și Psihologice)
- Institute for the Investigation of Communist Crimes and the Memory of Romanian Exile (Institutul de Investigare a Crimelor Comuniste și Memoriei Exilului Românesc)
- Institute for the Investigation of Communist Crimes in Romania (Institutul de Investigare a Crimelor Comunismului în România)
- International Centre for the Study of Communism (Centrul Internațional de Studii asupra Comunismului)
- International Commission on the Holocaust in Romania (Comisia Internațională pentru Studiarea Holocaustului în România)
- Ion Gavrilă Ogoranu Foundation (Fundația Ion Gavrilă Ogoranu)
- Justice and Truth Alliance (Alianța Dreptate și Adevăr)
- Memorial Museum of Anticomunist Resistance Fagarasi (Muzeul Memorial Rezistența Anticomunistă Făgărași)
- Memorial of Victims of Communism and of the Resistance (Memorialul Victimelor Comunismului și al Rezistenței)
- Miners' Street (Strada Minerilor)

- Motherland and Honor Solidarity Foundation (Fundația Solidaritatea Patrie și Onoare)
 National Anticorruption Department (Departamentul Național Anticorupție)
 National Archives of Romania (Arhivele Naționale ale României)
 National Council for Textbook Approval (Consiliului Național pentru Aprobarea Manualelor)
 National Council for the Study of Securitate Archives (Consiliul Național pentru Studiul Arhivelor Securității)
 National Salvation Front (Frontul Salvării Naționale)
 Negru Voda Cultural Foundation (Fundația Culturală Negru Vodă)
 Ombudsman (Avocatul Poporului)
 Party of Social Democracy (Partidul Social Democrat)
 Peasants' Street (Strada Agricultorilor)
 Presidential Advisory Commission for the Analysis of the Communist Dictatorship in Romania (Comisia Prezidențială Consultativă pentru Analiza Dictaturii Comuniste din România)
 Presidential Commission for Analysis and Policy-Making in Education and Research in Romania (Comisia Prezidențială pentru Analiza și Elaborarea Politicilor din Domeniile Educației și Cercetării din România)
 Presidential Commission for Analysis and Policy-Making in Health Care in Romania (Comisia Prezidențială pentru Analiza și Elaborarea Politicilor din Domeniul Sănătății Publice din România)
 Presidential Commission for the Analysis of the Communist Dictatorship in Romania (Comisia Prezidențială pentru Analiza Dictaturii Comuniste în România)
 Presidential Commission for the Analysis of the Romanian Political and Constitutional Regime (Comisia Prezidențială de Analiză a Regimului Politic și Constituțional din România)
 Property Fund (Fondul Proprietatea)
 Red Flag (Steagul Roșu) factory
 Restitution in Romania (Interessenvertretung Restitution in Rumanien)
 Revolution Square (Piața Revoluției)
 Romanian Academic Society (Societatea Academică Română)
 Romanian Communist Party (Partidul Comunist Român)
 Romanian Information Service (Serviciul Român de Informații)
 Royal Palace (Palatul Regal)
 Social Democrat Party (Partidul Social Democrat)
 State Secretary for Religious Affairs (Secretariatul de Stat pentru Culte)
 The Plague (Plaga)
 The Spark (*Scînteia*)

Timisoara Society (Societatea Timișoara)
Union of War Veterans of Cluj (Uniunea Veteranilor de Război Cluj)
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