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Romania reopens door on brutal communist era

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

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

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

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

A cruel history

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

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

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

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

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

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

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

'Only small cogs'

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

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

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

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

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

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

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

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

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

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

The wrong charge?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Bivolaru declared not-guilty in 2010 and 2011

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

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

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

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

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

The judiciary in Romania under surveillance of the European Commission

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

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

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

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

The next report is in preparation.

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