

Testimony Before the Commission on Security and Cooperation in Europe  
“The Romanian Anti-Corruption Process: Successes and Excesses”  
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Mr. Chairman, members of the Commission, thank you for this opportunity to testify today on a matter of national security: the battle of Western democracies to defeat corruption. For far too long, tackling corruption as well as promoting good governance and the rule of law were considered the work of our development assistance colleagues and not the work of foreign policy and security experts. And for far too long, these issues simply went unaddressed in our foreign policy debates. In the “too little, too late” category I fear, we have now come to understand that corruption is a systemic weakness within a country that is exploited and influenced by adversaries and from which no country is immune, including the United States.

Today’s hearing appropriately focuses on a very important NATO ally to the United States. Romania has played and continues to play a critical security and defense role in Southern Europe and the Black Sea region. The United States has a treaty obligation to come to Romania’s defense in case of attack. This is why it is essential that we have a transparent and public discussion regarding Romania’s persistent corruption and the limits thus far of their anti-corruption efforts, and why I am particularly grateful for this Commission’s efforts to shine a light on this topic. I strongly encourage the Commission to continue to examine the anti-corruption efforts of America’s NATO allies, both in Central and Western Europe, as endemic corruption erodes democratic standards to the point where significant breaches of the rule of law can occur (which has taken place in Hungary and Bulgaria, for example).

I will focus my testimony today on Romania’s evolution in fighting corruption from when the country aspired to join NATO to the present day. This is a very personal subject to me, as I served as Deputy Assistant Secretary of State for European and Eurasian Affairs responsible for U.S.-Romanian bilateral relations when Romania received its formal invitation to join NATO at the 2002 Prague Summit, and during its initial phase of accession talks with the European Union which it later joined in 2007. At the time, our conclusion – and that of the entire U.S. inter-agency team – was that Romania’s greatest national security vulnerability was corruption identified in the judiciary, executive function and in public procurement. Then-Prime Minister Nastase himself called it a “threat to democracy” and vowed to make the fight against corruption his number one priority, while our U.S. ambassador to Romania, Michael Guest, repeatedly warned it was the top obstacle to the country’s NATO accession and to its stability.<sup>1</sup> Similar warnings came from the State Department’s Country Reports on Human Rights Practices,<sup>2</sup> from the World Bank, and

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<sup>1</sup> Eugen Tomiuc, “Romania/Bulgaria: Balkan Neighbors Press Ahead With NATO Bid, Vow To Tackle Corruption,” Radio Free Europe/Radio Liberty, February 7, 2002, <https://www.rferl.org/a/1098732.html>.

<sup>2</sup> Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 2002*, U.S. Department of State, March 31, 2003, <https://www.state.gov/j/drl/rls/hrrpt/2002/18387.htm>.

the American Chamber of Commerce in Bucharest.<sup>3</sup> In light of this overwhelming chorus, Romania vowed to press on in its effort to uproot corruption.

This is why the U.S. government spent an enormous amount of time and effort analyzing Romania's anti-corruption legislation and, most importantly, the implementation of this legislation and the prosecution of corruption cases – particularly very politically sensitive cases as well as cases at the local and mid-level. We spoke directly to the Prime Minister, Foreign Minister, Defense Minister, and senior parliamentarians repeatedly about the need to meaningfully tackle corruption. Candidly, I felt sometimes that U.S. officials felt more deeply about this issue than senior Romanian officials. Although there was sufficient political energy to pass anti-corruption laws, implementation was sporadic. Cases that were prosecuted were more symbolic and at lower bureaucratic levels. Romania's first major anti-corruption drive was launched in 2004.<sup>4</sup>

However, prioritizing the tackling of Romania's endemic corruption was not just work undertaken by NATO; it was also a top priority for the EU. Although two very different organizations with different mandates, from the early 2000's, the European Union shared Washington's concerns regarding corruption in Romania. So concerned were they in fact that the EU postponed the country's accession from 2004 to 2007, amid diminished public support for enlargement in general and concerns about the free movement of peoples. Lamenting the lack of progress on lowering the perceived level of corruption and increasing corruption-related prosecutions, the EU assessed in 2003 that corruption "undermines the effectiveness and legitimacy of state institutions and restricts Romania's economic development."<sup>5</sup> The EU prioritized aligning Romanian corruption and conflict of interest legislation on EU standards, with particular emphasis on prosecuting high-level corruption and reinforcing institutions tasked with leading anti-corruption efforts, particularly the National Anti-Corruption Prosecution Office.<sup>6</sup> Significant concerns regarding the government's actions against corruption led the EU to create its first-ever post-accession conditionality mechanism through the Cooperation and Verification Mechanism (CVM) which was an acknowledgement that Romania still had progress to make in the areas of judicial reform and fighting corruption and organized crime, to safeguard the EU's institutions and policies.<sup>7</sup> Created a decade ago, the CVM remains in place today and provides us with an important lesson: anti-corruption efforts are a constant battle that requires constant policy vigilance.

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<sup>3</sup> Radio Free Europe/Radio Liberty, "Newline – April 17, 2003," April 17, 2003, <https://www.rferl.org/a/1142900.html>.

<sup>4</sup> David Clark, "Fighting Corruption with Con Tricks: Romania's Assault on the Rule of Law," *The Henry Jackson Society*, January 4, 2017, <http://henryjacksonsociety.org/wp-content/uploads/2017/01/Romania-paper.pdf>, p.8.

<sup>5</sup> European Commission, *Regular Report on Romania's progress towards accession*, 2003, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/archives/pdf/key\\_documents/2003/rr\\_ro\\_final\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/archives/pdf/key_documents/2003/rr_ro_final_en.pdf), p. 20.

<sup>6</sup> European Commission, *Regular Report on Romania's progress towards accession*, 2004, [http://www.esiweb.org/pdf/romania\\_EC-Romania%20Monitoring%20report-2004%20October\\_en.pdf](http://www.esiweb.org/pdf/romania_EC-Romania%20Monitoring%20report-2004%20October_en.pdf).

<sup>7</sup> European Parliamentary Research Service, "Cooperation and Verification Mechanism with regard to Romania and Bulgaria," European Parliament, March 2015, [http://www.europarl.europa.eu/meetdocs/2014\\_2019/documents/cont/dv/eprs\\_request\\_on\\_cvm\\_/epres\\_request\\_on\\_cvm\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/cont/dv/eprs_request_on_cvm_/epres_request_on_cvm_en.pdf).

Both NATO and the EU had put their finger on the same weakness: Romania was vulnerable to the debilitating combination of deep-seated corruption and weak institutions which caused them to be unable to effectively implement a viable anti-corruption legal framework. The Romanian government was giving the impression of taking action by passing legislation but was not implementing these laws fully and at the highest levels.

Looking back, U.S. policymakers made a terrible assumption. We believed that Romania's membership into NATO and the EU was the policy finishing line. In fact, it was just the starting line, without the leverage. Confident in the benefits and transformational potential of NATO and future EU membership, after 2004 when the U.S. Senate ratified the amended Washington Treaty, the U.S. focused on Romania's geostrategic location and its security contributions to the U.S. and to NATO. We reduced our foreign assistance presence and engagement in Romania at the exact moment when we should have increased U.S. assistance to protect hard-fought gains, and insisted on progress in anti-corruption efforts in lieu of security assistance requests, strengthened institutions and enhanced civil society. In 2002, the U.S. provided \$163.86 million in aid to Romania which 10% accounted for government and civil society.<sup>8</sup> In 2006, that number was down to \$34.35 million, with 18% committed to governance, democracy and human rights; \$14.76 million in 2010, all spent on peace and security; and committed aid went under the \$10 million bar in 2014 with \$9.81 (still on peace and security), remaining under that limit since then.<sup>9</sup> This is what leaving the policy playing field looks like.

And we have paid a high price for our departure. In 2016, Romania still ranked 57<sup>th</sup> out of 176 on Transparency International's Corruption Perceptions Index, after a tepid improvement in the past five years.<sup>10</sup> The EU's CVM remains in place, and high-level corruption, corruption in local government, and in public procurement all remain a major challenge.<sup>11</sup> In early 2017 the Romanian government faced the biggest protest the country had seen since 1989 after attempting to pass an emergency decree that would have lowered penalties for graft and corruption crimes, decriminalized official misconduct, and pardoned some past offenders.<sup>12</sup> And despite an improved National Anticorruption Directorate that indicted several high-ranking officials in 2015, including former Prime Minister Victor Ponta for tax evasion and money laundering, bribes and perceived favoritism in decisions by government officials continue to plague Romania's economic health.<sup>13</sup> Romania appears unable to break out of this "unvirtuous circle of corruption"<sup>14</sup> which facilitates democratic backsliding and returns Romania to where it was fifteen years ago.

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<sup>8</sup> AidData, <http://aiddata.org/>.

<sup>9</sup> Foreign Assistance, *Romania*, <http://foreignassistance.gov/explore/country/Romania>.

<sup>10</sup> Transparency International, *Corruption Perceptions Index 2016*, January 25, 2017, [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016).

<sup>11</sup> European Commission, *Report from the Commission to the European Parliament and the Council: On Progress in Romania under the Co-operation and Verification Mechanism*, COM(2017) 44 final, January 25, 2017.

<sup>12</sup> Associated Press, "Romania crisis deepens as anti-corruption protest enters fourth day," *The Guardian*, February 3, 2017, <https://www.theguardian.com/world/2017/feb/03/romania-crisis-deepens-as-anti-corruption-protest-enters-fourth-day>.

<sup>13</sup> *Freedom in the World 2016: Romania*, Freedom House, <https://freedomhouse.org/report/freedom-world/2016/romania>.

<sup>14</sup> Heather A. Conley and Ruslan Stefanov, *The Kremlin Playbook: Understanding Russian Influence in Central and Eastern Europe* (Lanham: Rowman & Littlefield, 2016), p. x.

Corruption is a form of cancer that destroys democracies from within by weakening or destroying institutions, ultimately eroding public confidence in democratic leaders and societies. Corruption can also be a channel of influence used by adversaries to alter or sway public opinion against democratic systems and support for a country's transatlantic orientation. We have observed how Russia has exploited this weakness to great effect throughout Central and Eastern Europe, which is in fact part of Russia's "New Generation Warfare" which is "primarily a strategy of influence, not of brute force" and seeks to "break the internal coherence of enemy system."<sup>15</sup>

Democratic institutions do not exist for their own sake or stand in impervious isolation; their sole duty is to defend citizens and their rights. Institutions cannot protect those who participate in corrupt acts. Because corruption so severely damages institutions, it is a threat to the safety, security and liberty of Romanian citizens. Corruption is an affront to liberal democracies and to the liberty and the dignity of the individual. It was this affront to human dignity that spontaneously drove 500,000 Romanians out in the streets in the middle of a freezing winter night to say no to the government's attempt to force an emergency decree to weaken Romania's anti-corruption laws. Although the government did not proceed with the emergency ordinance, it again tried to weaken anti-corruption measures. It is ironic that it took such a bold government act to fully awaken Romanian civil society, for it is the individual who must work to protect democratic freedoms each and every day by ensuring that institutions effectively work and holding leaders accountable.

Romania, like many other Western democracies, is at a crossroads. Western societies appear uncertain about their future course, stuck in a nostalgic desire for the past when citizens felt they understood the "rules" of security and success. These 'good old days' seem safer to citizens than the fast-paced, rapidly changing, unequal and competitive societies we live in today. For countries like Romania, the "good old days" tragically represent a time when a small circle of political elites governed for personal enrichment and power. Romania cannot nor should it wish to return to those days even though some in the elite would like to do just that. More importantly, this sentiment endangers Romania's and NATO's security. Adversaries, like Russia, take advantage of the public's fear and uncertainty combined with a government's known institutional weakness, and exploit them to their benefit.

What Western democracies must do is confidently embrace the modern era where information technology and a globalized economy awaken the individual in new ways, and create a thirst for transparency and accountability in which the old nomenklatura, Communist-era networks can never thrive.

In looking back over the past decade, I have learned the following lessons:

- America's security relationship with its allies is paramount but good governance, judicial reform, the rule of law, and anti-corruption efforts are also vital elements of a country's national security for they represent the ultimate protection of the citizen.
- Former Communist countries that have joined or are joining Euro-Atlantic institutions like NATO and the EU have not completed their national transformation, they have only begun.
- Anti-corruption efforts are a constant battle that requires constant policy vigilance.

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<sup>15</sup> *Ibid.*

- The U.S. must remain as engaged with its allies as it is focused on the challenges presented by its adversaries. When engaging allies on anti-corruption and rule of law issues, the U.S. must do so at all levels of the country: government, private sector, civil society, and at the grassroots level.
- U.S. companies and entrepreneurs should be considered “canaries in the mine” of a country in which institutions begin to succumb to corruption. Challenges to contracts, the judicial system and institutions that uphold transparency, accountability and fairness in the economic sphere may be in the process of being disarmed. Be aware that these types of concerns represent a democracy struggling to defend itself against the attack of corruption and the enemy from within. This should be viewed as a flashing red light on the dashboard that requires immediate policy attention.