

## 1. POLITICS

### REFORM STALLED

#### Government Party Slides Back To Its Ambiguous Past

Romania's government party has been engaged since 2000 in a visible effort to change its image at home and abroad. Willing to leave behind them the image of turncoat communists with barely disguised authoritarian tendencies the Social Democrats followed a twofold strategy. First, they recruited a number of technocrats in key negotiation positions with the West (ministers of Foreign Affairs, Finance, negotiator of EU accession). Second, they employed a young bureaucrat with private sector credentials (Cozmin Gușă) mandated to reform the party and transform it into a modern social-democratic movement. The authority of such people was designed to proceed from the Prime Minister, in his double capacity as a head of government and party leader. Besides this informal empowerment, none of the pro-Western actors did enjoy – or receive – real power in the party.

**WARNING**

While the ministers and the PM were busy with governing and Gușă with improving the party image, the networks of influence within PSD took more and more control of the party machine. Granted impunity by the premier despite credible media allegations on their corruption, the regional 'barons' of PSD have turned the organization into a collection of clans. In July they managed to oust Gușă, the secretary general, who had been instrumental in rallying a few credible opinion leaders and politicians to the government's camp. The secretary general was first offered an executive position, which would have ended his formal task of chief party reformer; when he turned it down, his office was stripped of its powers and left with ceremonial attributions only. Upon his departure, he suggested that "undemocratic" and allegedly corrupt characters like Dan Ioan Popescu, the Economy minister, Miron Mitrea, the Infrastructure minister, and Viorel Hrebenciuc, a prominent PSD parliamentarian, should also step down. Unsurprisingly, none did, despite evidence being published by the leading Romanian daily, *Adevărul*, accusing Hildegard Puwak, Minister of European Integration, of being involved in conflict of interest (both her husband and son have four companies which ran programs through the Leonardo program after she was appointed minister in early 2001).

## Judicial Reform Buried in Scandal

It is not only the PSD internal restructuring which is at stake here. The reform of PSD is a private business – the reform of the country, especially in view of the EU accession, is of public interest. While the economy seems to be on the right track and the government hires lobby groups to advocate for the status of a functional market economy, signs from sensitive sectors, such as justice, raise doubt on the political will to accomplish substantive changes. A year after this report examined the reform of the judiciary the progress is meager. The draft law on the organization of the Superior Council of Magistrates (CSM), the key issue for ensuring the true independence of the judiciary, was still not made public and discussed with the civil society and international donors. Worse, the behavior of the barely renovated CSM (which produced a document in July attacking the President of the Supreme Court of Justice for 'human rights abuse', meaning the call to order of a prosecutor in a trial) shows that the Council will be allowed to gain strength only to the extent that its composition can be controlled. In effect, it will replace the Ministry of Justice as a more discrete form of political control over the judiciary.

**Fig. 1. Reform of the judiciary**

	<b>Current legal situation</b>	<b>Current practice</b>	<b>Proposed reforms</b>
<i>Extraordinary appeals against definitive sentences</i>	Possible only in criminal trials after revision of Procedures of Civil Code	156 appeals admitted in criminal law suits and 238 in civil law suits since January 1 <sup>st</sup> , 2003. <sup>1</sup>	Intention to keep them in criminal cases despite international disapproval
<i>Appointment of CSM</i>	Screening by Parliament of proposals after restricted vote by judges	Judges from higher Courts favored; screening by the Committees actually turned into selection; CSM rushed to endorse the position of the Ministry of Justice in recent scandals	Unknown, draft law secret, constitutional provisions vague
<i>Independence of the Supreme Court of Justice</i>	Judges six years tenure only Influence in CSM small	President of the Court under strong attack by Minister of Justice, President of the state	Judges to be granted full tenure after constitutional reform case by case when their tenure expires
<i>Enforcement of European Court of Human Rights decisions</i>	Current constitution admits international law overrides national one in human rights law	Stalling of most ruling over property (the govt lost all of them) Infringement of the ruling limiting the right of the prosecutor to decide over preventive custody (the Pantea case) in the recent 'Ciucă' scandal.	Constitutional proposal limits application of international law if it is different than constitution, requiring its modification first; constitution can be modified only with 2/3rds majority and referendum

<sup>1</sup> Source: Apador- Romanian Helsinki Committee, quoting statistics obtained from Department of Justice on the basis of Freedom of Information Act.

There is also risk of political appointments to the new Court of Cassation, as most of the current judges will lose tenure in the next two years. The political signals are ambiguous, as hastily conceived legal acts are passed overnight, more often than not through emergency ordinances, while actual practices that blatantly contradict them continue unabated.

Fig. 1 makes clear the distance between proposed reforms and current practice, as the latter is the best indicator of the real political intentions. Where there is no will, there is no way, could well be its summary. Newspapers were flooded during the summer months by scandals engulfing these issues. While the official policy – for international consumption – is to abolish extraordinary appeals, the number accepted this year shows a strong political determination to keep them. The extraordinary appeal may be a powerful weapon in case a corruption trial goes wrong, a political opponent is set free or a client is sentenced. The General Prosecutor appeals very often, hurting the already low authority of the judiciary and sending the signal that a trial is over only when a politically convenient result is achieved. Judges from the Supreme Court who reversed original sentences after extraordinary appeals following political pressure and had meanwhile had their sentences invalidated by the European Courts of Human Rights should be reprimanded. Instead, they are promoted in the Department of Justice, CSM or awarded state medals<sup>2</sup>.

**Judicial reform:  
where there is  
no will, there is  
no way**

### **Cabinet Reshuffle Leaves the Public Skeptical**

Its captive rural constituency aside, PSD declines steadily in urban areas, the real indicator of political change in Romania. Two independent surveys, SAR-CURS for this PWR, and the *Barometer of Public Opinion* (BOP, sponsored by Open Society Foundation) found a significant decline in urban areas compared to last fall, despite the success of NATO accession. As stated in previous issues of our reports, NATO accession does not alter much the trends of public opinion.

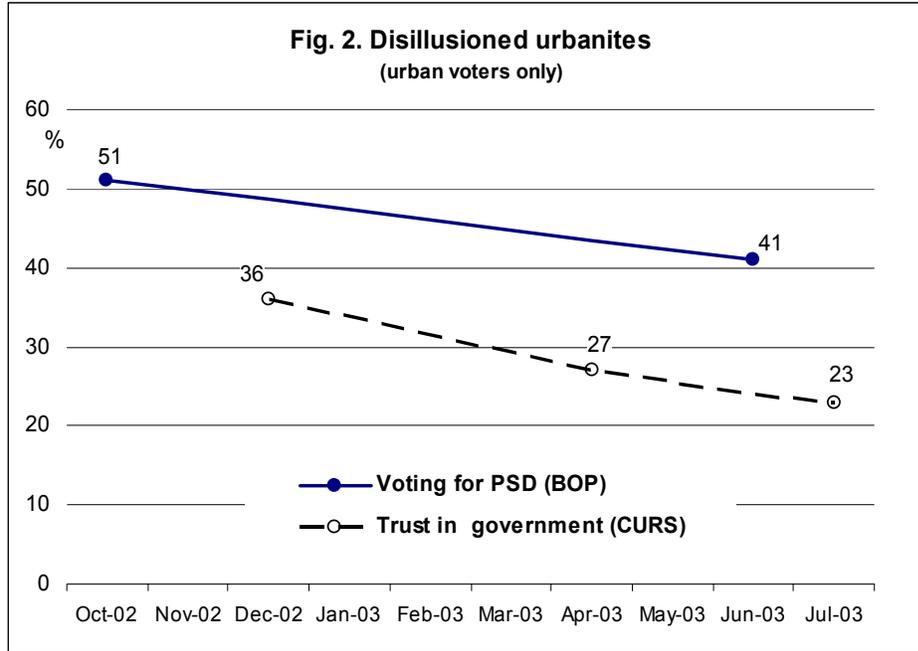
Which means, however, that PSD still keeps its voters from the 2000 elections. Its much higher figures when party preference is tested are due to severe underestimation of votes for small parties (3% in surveys compared to 12% in last elections) and extremely high rate of abstention (55.4%). In absolute figures, the government party has about the same slice as in 2000. But the erosion in urban areas is significant, and bound to continue. As we can see in Fig. 3, PSD is less likely to be supported by the young and the urban inhabitants, but also by people who are disillusioned with the direction the country is heading (who have reached 62.5% and growing). Those make over 50% of the electorate, of which 15% still would vote for PSD (representing 38% of their constituency!). This group is likely to desert the government party to search for an alternative unless something radical is done to assure them the direction has changed.

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<sup>2</sup> The case of judge Ivanov, reported by *Adevarul*, [www.adevarulonline.ro](http://www.adevarulonline.ro)

**PSD is continuously losing young and urban voters**

By contrast, the large number of voters who would refrain from voting or declare themselves undecided (44%) does not carry great potential for a shift in party preference. The relative majority of them (38%) would in fact prefer to have only one political party: these are the disillusioned authoritarians. Were they to vote, they would likely vote for a radical populist alternative, so the fact that they do not plan to vote at all is not such bad news. Mobilizing the democrats within this group remains an issue, but they are not likely to be mobilized by any current alternative: they are demobilized precisely because they perceive the current offer of parties as unappealing.



**Fig. 3. Who would (not) vote for the government party**

Predictors of vote for PSD	Regression coefficient B	Standard error	Significance
Age under 35	-.555	.156	.000
Education	--	--	NS
Larger than village	-.690	.238	.000
Direction wrong	-.766	.139	.000
Constant	-.716	.276	.009

Source: BOP Gallup

The government proceeded in June 2003 to the reshuffle this report advocated a year ago. However, what SAR had argued for was a reshuffle based on the need to streamline the decision-making, increase policy coherence, to eliminate overlaps and redundancies of the central administration units. Evaluations of effectiveness of various compartments and ministers were available at the time of this exercise. However, very few, if any, seem to have been used. How can

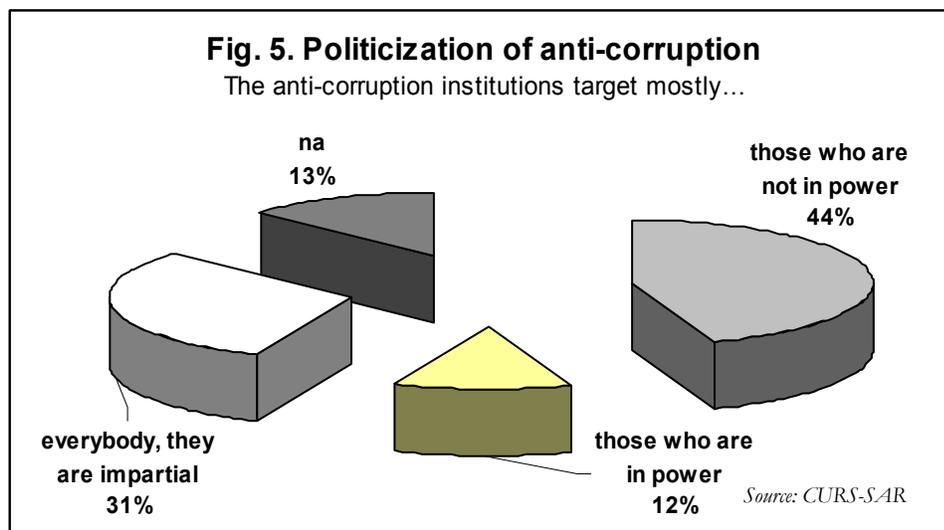
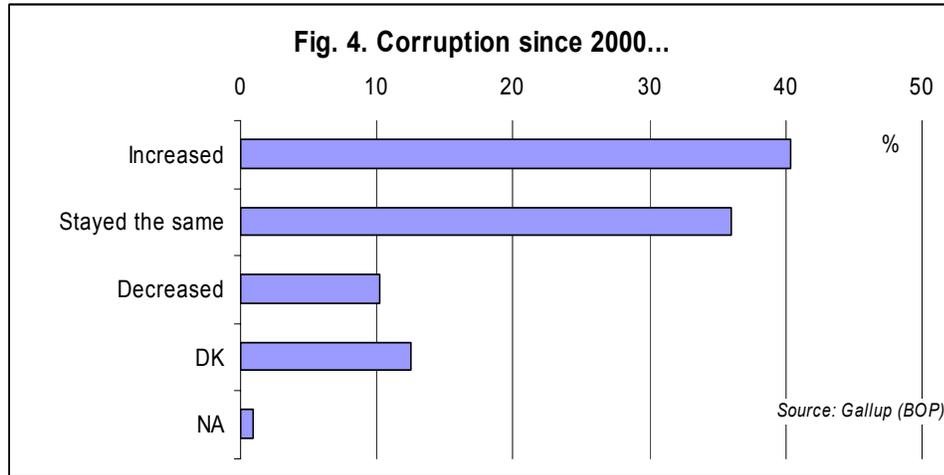
one even invoke policy coherence when THREE different offices have come under the last reshuffle under direct PM subordination, all with the same task of policy analysis and design? The first is what is left of the former Ministry of Information stripped of minorities and Roma departments; the second the National Commission or Prognosis, a leftover from the Minister of Prognosis and Development; and the third, the old Department for Institutional and Social Analysis, an almost informal unit working for the PM's main (foreign) economic advisor. In practice none of them does what they are supposed to do, and as a result is still left to the ministries to design broad policies. No unit is empowered with the explicit task to coordinate among ministries or produce clear guidelines for policy. This complicated design reflects only the need to satisfy various power stakeholders. One would in vain search for a correlation between the ministers reshuffled and an evaluation of their performance, either personal or institutional. True, Dan Matei Agathon was dismissed; but subsequently this former Minister of Tourism and author of the unpopular project Dracula Park was promoted party spokesperson. The ministers of Health and Education were also changed: but the Ministers of Justice and Industry, with even more doubtful performances and ratings, stayed. In the end, tenure seems to correlate only with the strength of personal links to either President or Prime Minister. Little surprise, then, that both the media and the public perceived this reshuffling as barely a makeup for the Thessalonica European Council Summit.

The government party missed therefore the reshuffle as an opportunity to persuade both the domestic and international public opinion that this move was meant to improve performance in view of the hard task to conclude negotiations for European accession by end 2004. However, nobody from the other parties seems to take advantage of this situation, as the Romanian opposition is weak and fragmented. The political spectrum remains therefore severely unbalanced. By the next 2004-2005 elections Romania will have eleven out of fifteen years of transition dominated by the main postcommunist party, now called PSD, with the other four ruled by a broad coalition of anticommunists and postcommunists. This misbalance explains by itself some of Romania's problems in tackling corruption and achieving government performance. *As recent scholarly work proved<sup>3</sup>, performance of the state in East Central Europe is less influenced by size of the government and type of previous Communist regime, as by the pattern of political competition during transition.* Romania's pattern of one dominant party-political clique is the worst. The public perceives it: a sizable majority believes that seats in Parliament are bought, corruption went up after the last change of government. The MPs are rated as the most corrupt social group in Romania. The SAR-CURS public opinion survey also shows that the public is not convinced by the government anti-corruption campaign, perceived as being partisan and ineffective by the majority of the Romanians (Fig. 5)

**Members of the Parliament are perceived as the most corrupt social group in Romania**

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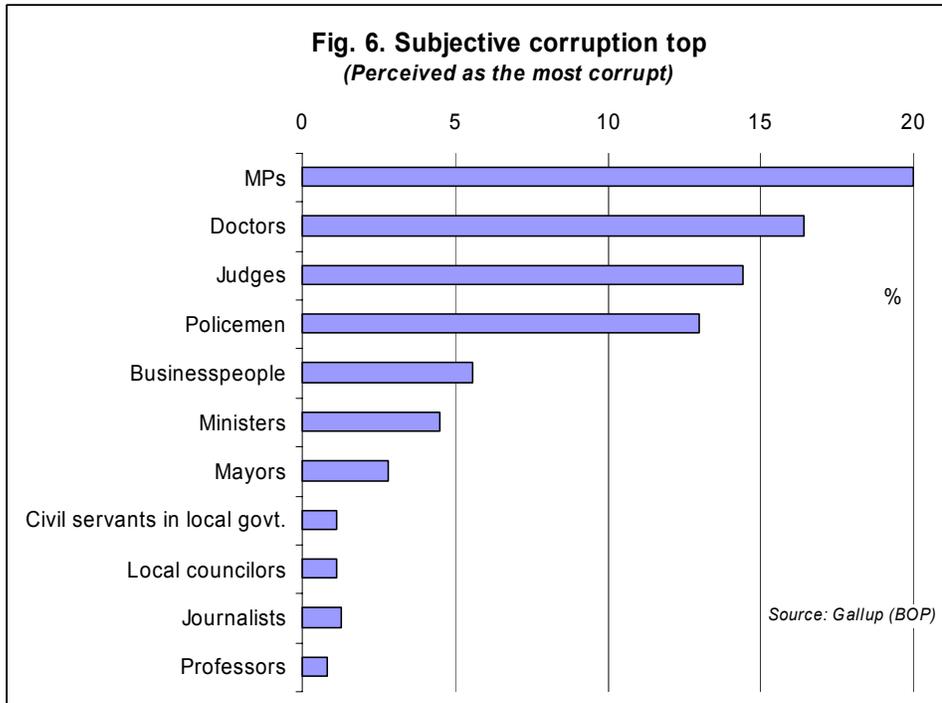
<sup>3</sup> Anna Gryzmala Busse, Yale University. Party Competitions and State Institutions in East Central Europe, paper presented at *Strengthening States, Consolidating Democracies*, Bluebird workshop, European University Institute, May 16-17, 2003



**The Anti-Corruption Chief Prosecutor should be appointed jointly by government and the opposition**

In fact, this campaign is ineffective *because* it is partisan: how can the public be convinced of the impartiality of the still young Anti-Corruption Prosecutor's Office when the only politicians investigated are former and current opposition leaders? In a move which can only destroy any credibility of this office, investigations were reopened on the old file 'Privatization of the Commercial Fleet', said to incriminate the main opposition leader, Bucharest's Mayor Traian Băsescu, former minister of Transportation. The case was however investigated prior to 1996, when the same party as today was in government. At the time both an ad-hoc parliamentary committee and the prosecutors decided there were no elements to prosecute Băsescu, who was the only Romanian politician to give up his immunity as a MP in order to stand investigation. Reopening this file without even the claim of new elements after eight years cannot but show that any anticorruption agency where the leadership is politically appointed cannot but fail miserably. As this report has warned a year ago, only a joint nomination by government and opposition of the anti-corruption prosecutor could eventually work in Romania.

The police has also provoked a scandal in July when it published its personal top of corruption, which candidly showed they arrest mostly professors and doctors, shielding their own as well as persons with political clout. The public opinion blames in fact policemen, judges and politicians in its own – quite different – top.



## A Workable Political Alternative Is Not Yet Born

Despite the crushing defeat of the former coalition parties in the 2000 elections, the years since were not used for any meaningful political construction. The Christian Democrats underwent a series of splits and mergers to end up in sheer obscurity. The Liberals (PNL) changed first their ancient President, Mircea Ionescu-Quintus, with Valeriu Stoica. Although Mr. Quintus was proven a collaborator of the former Securitate, parting with him was no soul-searching experience: indeed, most of the party seemed closer to him still than to the new leader. Stoica was the only one to push for a new political construction. It was precisely because of his plans to make again an alliance with the former coalition partners the Democrats (PD) that he lost power and only managed to secure some influence on the choice of his successor, Theodor Stolojan. Mr. Stolojan has tried since then to centralize the party and accommodate all factions, and recently brought up again the issue of an alliance with the Democrats. The latter had meanwhile suffered serious losses, as many of their local leaders and MPs have crossed the fence over to PSD. Few of the initial leaders the party has one been so proud of are now with Mayor Traian Băsescu, who replaced Petre Roman at the head of the party. These leaders were the largest group of technocrats in the Romanian politics

**What went wrong with the previous centrist coalition?**

and have embodied for many years the ideal of a new middle-aged generation in politics. Now scattered in inferior positions in both PSD and PD (some even crossed to the Liberals) they have ceased to matter at all.

*Is the pre-electoral alliance of PD and PNL the political construction Romania needs to balance its party system? Would this alliance profit the Romanian democracy and the partners? Finally, is it a feasible project? And if not, what alternative is there?*

Let us start with the last question. The Romanian political system could be balanced in two ways. First, by cutting the disproportioned power of one party, which used unscrupulously has meant in the last two years the recruitment of mayors elected under other parties colors, of public officials and businesspeople. This means further fragmentation, but fragmentation is at times preferable to having one dominant pole, especially in a country where state capture by networks of influence is the crucial issue. A Romania with 4-5 parties roughly the same size, forced into coalitions in order to form a government, would be better than a political landscape where one party dominates absolutely. This pattern is frequent in continental Europe. The path would have been open only if Mr. Gușă had had around him a wing of reformers from PSD willing to transform themselves into a more *Third-Way* party (as happened twice before with the split of Democrats and later of Teodor Meleşcanu). As long as Mr Gușă was just a lone reformer, or a man who simply lost in the power game, there was no chance to go down this road.

**Before initiating a new coalition, PNL and PD should try to understand why the previous one (CDR) failed**

The second path is by concentrating the forces of the democratic opposition into one coalition or party able to challenge PSD and win next elections. This is the path tried prior to 1996, and which produced the centrist coalition that governed between 1996 and 2000, made up of four main parties and a host of other smaller organizations. This center-right coalition produced three governments: Victor Ciorbea, Radu Vasile and Mugur Isărescu. Even if these governments had some successes in terms of structural economic reforms and decentralization, the overall coalition management, reflected in the government performance, was perceived as a failure. One serious problem burdening the design of a future coalition is the lack on any thorough analysis on the failure of the precedent one. Bad memories of these coalition governments were not completely erased by the increasing frustration with the PSD 'barons'. Nor were the issues ever clearly addressed by the former coalition leaders, so that the public can see who is to blame for what for the shortcomings of the 1996-2000 mandate. The current strategy, of putting all responsibility on the Christian Democrats, is unlikely to create a majority of supporters for Liberals and Democrats, even if the faults of Christian Democrats were real. The coalition as a whole still has to answer for the unsolved issues of the *Contract with Romania*, the failure to keep their leaders promise to boost foreign investment, the dragging of their feet in Parliament over many issues. There is a negative legacy pending on the credibility of all the former partners, and all have to come up with some

assurances that the problems were understood and addressed. Neither the Liberals, nor the Democrats, have a spotless record from the 1996-2000. A short list with the most obvious mistakes made while in power shows that responsibility must be divided between current opposition parties:

- the indefinite stalling of property restitution legislation between 1996-2000, left for the PSD next legislature (*to be blamed: the Democrats*)
- the delay of privatization of state farms (*to be blamed: the Democrats*)
- the ambiguous positions on the law on screening archives of former Securitate, leading to a poor law whose consequences are felt today in the blocking of CNSAS, the screening authority (*to be blamed: Liberals, Christian Democrats*)
- the inability to pass in 2000 the 'Justiția' legal package, crucial for Romania's reform of the judiciary and EU accession (*to be blamed: Democrats, Christian Democrats*). Romania still struggles in 2003 to reinvent one by one (and pass through emergency ordinance) the elements of the so-called 'Stoica' package.
- the inability to satisfy the basic requests of coalition agreements (eg. on Hungarian issues)
- the low performance on EU accession; for example, the inability to satisfy requirements of Schengen visa lifting procedures, fuzzy reports on the issue (*to be blamed: Christian Democrats*)
- the inability to agree on a single candidate for presidential elections, allowing Vadim Tudor, the radical party leader, to enter the second round of presidential elections (*to be blamed: all partners, including the Hungarian Alliance*).

**The most serious mistakes made by CDR in 1996-2000 were...**

This brief list shows that neither the principles, nor the implementation were truly satisfactory during the 1996-2000 mandate. It is true that Christian Democrats were governing for the first time, but this does not excuse the coalition as whole: Liberals and Democrats had been in government before. It is also true that during the governments of Radu Vasile and Mugur Isărescu the seeds of the present economic recovery were planted – but still, compared to the Slovak coalition which unseated Mr Meciar in 1997, the Romanian democratic parties performed very poorly. In 2000 they were not defeated, they were crushed, while the Slovaks managed to revamp their coalition, isolate Mr Meciar, and come up with a new reformist government. The performance on EU accession was far better in Slovakia compared to Romania during that time.

Due to the intrinsic checks and balances of a multi-party government, corruption in Romania was however lower in 1996-2000 than it is today. This leaves a score of issues on which the former partners need to account for if they put together a new coalition. Relying on a protest

vote against PSD is not enough. The new would-be partnership has to persuade voters that previous cacophony and ferocious partitocratic tendencies (dividing public positions among coalition parties only, regardless of merit) are a thing of the past. But are they? As negotiations progress, the same ugly ghosts raise their heads again. In fact, it may well be that a new coalition proves even worse than the previous one. Two-party coalitions are always a problem, as they push towards permanent cleavages: in three or more partners, cleavages may shift from issue to issue.

## How to Design Coalitions that Work

In neighboring Bulgaria, when anticommunist UFD lost elections due to coalition problems in the early nineties, it was reorganized effectively as single party (keeping the legal identity of parties) by Ivan Kostov, who later made it to premiership. This also allowed a better performance of UNFR and persuaded voters that they were capable of change. The arguments in favor of the three existing alternatives (pre-electoral alliance; post-electoral alliance; and tight coalition, Bulgarian way) are summarized in Fig. 7. We examine the usual five crucial issues of coalition-building: decision-making, support of the government in Parliament, policy cohesion once in government, potential votes and ideological identity. The underlying assumptions are that parties which engage in negotiations seek to gain more votes and offices, win elections, form a government which has support in Parliament and a unitary policy, while preserving their identity. In practice, some trade-offs are unavoidable between party ideology and program, and the overall coalition program. Participants in coalitions must accept some blurring of identities in order to build a government with a coherent set of policies.

**Fig. 7. Three types of coalition**

	Decision-making after office gaining	Parliamentary support	Policy cohesion	Votes	Ideology
<b>Pre-electoral alliance</b>	0	0	0	0	0
<b>Post-electoral alliance</b>	-	-	-	-	-
<b>Unifying coalition</b>	+	+	+	+	0

*Legend: + gains compared to present situation; - losses; 0- no change.*

A post-electoral alliance of opposition parties would represent no gain. Voters would still perceive parties as unable to unite and pursuing their sole interest, programs would not be harmonized, leaving, even in the distant prospect of winning elections, each party with separate ideas and decision making fora. The exercise of harmonization would be postponed until after elections, as it happened in 1996. Needless to say, that experience was a disaster.

The pre-electoral alliance with common lists as currently negotiated would have some advantages. Liberals and Democrats would not compete unnecessarily, getting a chance to unseat Greater Romania Party from its second position. The two parties are unlikely to gain more votes than they have separately, though, as their current identity would be fully preserved, and its popularity is limited. Except some coordination and in-fighting for seats on the common lists it is unlikely that a common decision-making and a coherent program would emerge. Some coordination is better than lack of it, but examining the gains of a pre-electoral coalition one cannot fail to notice that its advantages are slim.

The only move with potential to make a difference would be the creation of a new entity, Bulgarian model, organized as one political party, with a unique chain of command at both the national and local level, a unique planning unit and policy design compartment, which would go behind the narrow ideology which voters do not care about anyway, to embrace a larger, *Third Way*-type platform. In various expressions, voters report in the polls that poverty is the main problem of Romania. When 80% of the voters are chiefly concerned with poverty, and less than 30% have a clear ideological identity (be it center-right or left) insisting on a pure 'liberal' ideology makes little sense. It would mean to confine PNL below 20% of the total pool of votes.

As this hypothetical exercise discusses mainly the Liberals and the Democrats (though other smaller parties may be involved in such a reorganization) it is also useful to check their assumed ideological distance (Fig. 8). Taking into account two items, attitude towards state intervention in economy (proxy: the creation of jobs in the public sector as main strategy against unemployment) and the attitude towards competition, we compared current voters of Democrats and Liberals. If ideology would be a scale of one to ten, the ideological distance between the voters of the two parties would be around 0.7-0.9%, i.e. less than one unit on the scale of ten. The voters the two parties risk alienating are therefore below ten percent for them together.

The secret of building successful coalitions is said to reside in the fulfillment of the self-interest of partners. Parties do not make coalitions out of their concern for the public, but out of their own interest to maximize their gains. Although this axiom relies on two disputable assumptions – that parties behave as unique actors; and that mechanisms are automatically created to help identify their best interest even in relatively new and unconsolidated parties – let us examine what parties would stand to gain or lose out of the two more plausible exercises, pre-electoral alliance or tight coalition.

**If they are to stand a chance in the 2004 elections PNL and PD should form a tight Union with only one leadership, policy unit, program and electoral lists**

**Fig. 8. Ideological distance between the voters of PNL and PD**

	PNL	PD
The state should create jobs in the public sector to cure unemployment, %	29.8	37.9
Competition is beneficial for the economy, %	86.8	76.0

Source: BOP Gallup

**Fig. 9. Expected utilities for PNL and PD**

		PNL		
PD	Electoral alliance	Votes	Offices	Internal cohesion
		(0,0)	(-,-)	(0,0)
	Tight coalition (union)	(+,+)	(+,+)	(-,-)

Both parties risk having internal dissent in the event of a tight coalition (union). Reorganization means that at the local level one person only is in charge of overall coordination. It does not mean, however, that party jobs are cut by half, as the parties would be reorganized in a new formula. Both reorganization and pre-electoral alliance imply common lists. In the event of a pre-electoral alliance the pool of votes may not grow more than the votes for the two parties taken separately<sup>4</sup> (though they would probably score better by benefiting of the maximum utility voting, as the main opposition parties). In the event of a tight coalition presented to the voters as a new product the pool of potential votes would grow: both BOP Gallup and our survey show the potential of a unique opposition party is large. This means that both parties would stand to gain out of the union. As both have been centralized in the past year, the political will of the two leaders would suffice to realize the move. Potential splinters would not be followed by more than ten percent of the constituencies. Most likely, they would not be followed by anybody, because voters are likely to migrate towards the party ideologically closest rather than endorse splinters. For the Democrats the loss of party activists may be more dramatic than the loss of voters; but as the union would be reorganized the party activists who would desert for PSD are not really the reliable people needed to build an alternative.

But eventually the most important argument in favor of a union is that chances of a pre-electoral coalition to gain enough votes to win office are low. If this solution is preferred, gains will be small to non-significant, and the constant bickering issue by issue (should parties ally or compete for this or that office) may even deteriorate relations by the time of general elections. On the contrary, the design of a unique body where decisions are made, a policy unit and an arbitration body would anchor such issues in objective grounds. Decisions would then be based on research of potential of each candidate, leaving the

<sup>4</sup> According to an *Insomar* July 2003 poll.

door open to new recruits with good public profile which would help the coalition increase its number of votes. The public wants an opposition in the form of one party (59%, CURS July 2003), with only 30% agreeing to the formula of several parties alternating to government.

The main argument against union comes from the European affiliation of these two parties. Liberals are affiliated with the Liberal International, Democrats with the Socialist International, where their presence hinders the full legitimizing of PSD in the international arena. A fusion of the two parties would be popular with the international community, but as the Liberals are unlikely to accept to move to the Socialist International it could create difficulties for the Democrats. A union in which the two parties would be reorganized as one, while keeping their legal identities separate would not create these problems. Legally the new entity would be just a coalition: the Kostov model shows however that the only coalitions effective are those organized as one party. In short, even assuming that the international affiliations of parties would have produced important gains in the past decade – in fact they have not – this is just an imagined obstacle to the creation of a union.

**A union would not affect PNL and PD's membership to the Liberal and Socialist International**

## **RECOMMENDATIONS**

### **To the Romanian government**

1. The scandal concerning Ms. Puwak, the Minister of EU Integration, is de facto covered by article 72.1 of the current law 161/2003 (Title IV, Section 2) if the article is interpreted correctly. But as European funds (and other funds from donors) are not specifically assimilated to Romanian public funds and a minister may not be hold responsible for a tender with the involvement of her department, but without her personal presence, a clearer legal provision is needed here.

*Amend conflict of interest legislation with a clear article regulating public expenditure with a specific mentioning of EU funds. One single article would be enough, stating that no person working in any capacity for an authority involved in allocating or managing public is allowed to gain material profit for itself or family members out of the tenders organized by the authority. The current anticorruption package, lengthy as it is, has some good provisions, but also many loopholes.*

Address the public concern over partisanship of the anticorruption campaign. Investigate the mayor of Bucharest for current wrongdoings (if any), but do not open files already closed. Charge at least now and then members of the government party, or at least expel them from the party when proved corrupt. Recent allegations against Hildegard Puwak or Miron Mitrea should not be dismissed without investigations.

2. The reform of the judiciary should be urgently brought on the right track. While reform of the civil service, at least formally, recorded

some progress, reform of the judiciary is trailing miserably behind. The laws promulgated as emergency ordinances – codes of procedure for civil and criminal courts, for instance – were all part of the 2000 package presented by the former Minister of Justice Valeriu Stoica to the Parliament at that moment. The package was drafted with international assistance and even admitting the current government wants to operate important changes there is no reason why three years later the drafts are produced one by one, and many pieces are still missing. There is no excuse for the delay and the lack of transparency of the process. Also, it is about time the extraordinary appeal and its underlying assumption, that Courts are often wrong but the government is always right, was given up entirely.

*Empower the judiciary through the adoption of a CSM law liberalizing the election of its members (by giving more say to judges from lower echelons), an enhanced role to the Supreme Court, and reducing the capacity of the Parliament to revert the selection. The spirit of the Constitutional amendments is for better separation of powers; make this effective by ending the subordination of the judiciary. Abolish the extraordinary appeals and instead introduce professional evaluations of judges by the new CSM, which would make those pronouncing 'wrong' rulings pay a career cost. Give up the political reversals of rulings, or else the Romanian judiciary will never have real authority. Dismiss the personnel involved in the process of reform if deadlines are not met.*

### **To opposition parties**

*When planning to create a new coalition, address the public concern that this may function as badly as the last one. If you find the political will to do it, go for the union, not the loose alliance. Coming before the public with a new construction is the only way to distance from the past coalition and its shortcomings. This will not secure electoral victory by itself, of course, but anything less will not work for certain. The challenger of PSD will have this time to show not only a clear program, but also new people, not tainted by scandals. The sooner the union presents a shadow cabinet working the more the public will be convinced this time it might work.*

Decoupling presidential and parliamentary elections is a bad idea. This implies Romania would have a full electoral year (local in mid 2004, presidential in the fall, legislative in spring 2005). The uncertainty and campaigning should be reduced to a minimum not to impede Romania's EU accession. The disproportion among presidential candidates is at this time smaller than the disproportion among parties, so disjoining the legislative and presidential elections could only benefit PSD. *Opposition parties should resist suggestions from the President and/or government to disjoin presidential and parliamentary elections. By January 2005 Romania needs a new government to*

embark on the difficult task of implementing the commitments undertaken during negotiations.

