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Fair trials & religious freedom in Romania

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Over the past two years, HRWF has been conducting research on the judicial system and fair trials in Romania.

What we have found is that a lack of fair trials in combination with general stigma towards new religious movements has created a system that can ‘successfully’ bring false charges against any religious movement that is deemed a threat to the state.

Fair trials

The guarantee of a fair trial is rooted in the health of the judicial system of a nation. In Romania, the interference in the work of the judiciary by powerful external powers is a chronic disease that has expanded unabated.

In particular, the role of Romania’s Intelligence Service (the SRI) has increased its influence to a point where the independence of the judiciary and the rule of law have become strongly questionable.

The scandal of the SRI’s involvement became public in April of 2015. General Dumitru Dumbrava, the head of SRI's legal department, then stated in an interview¹ that the SRI would not “withdraw from the tactical field once the indictment was presented to the court” and that the SRI maintained its “...interest/attention until the final resolution of every case is reached”.¹

He also stated the SRI was profiling judges to detect patterns of criminal behaviour, regardless of reported suspicion.²

Later in 2015, at the SRI’s 25th anniversary, Eduard Hellvig, the current SRI Director, made matters worse, by explaining⁴ that magistrates had to be monitored “to avoid situations like in the past

¹ EU Today. “Romania’s secret services under parliamentary scrutiny”. 19 December 2017.
<https://eutoday.net/news/politics/2017/romania-secret-services-under-parliamentary-scrutiny>

² Ibid.

when the judges and prosecutors forgot on the road that they serve the Romanian State and had other preoccupations than to serve the Romanian State”. The guest of honour at this event was General Iulian Vlad, the last head of Securitate, the former communist secret police.³

These statements have led to a variety of concerned comments by Romanian and foreign judges' organizations.⁴ Comments of which have gone unanswered by the government.

But this is not the only concern, on 11 August 2015, **Romania Libera** revealed that magistrates in key positions had obtained doctoral degrees at the SRI Academy.⁵ This Academy is not only under the jurisdiction of the SRI but it is the school where future SRI officers are trained.

In the summer of 2015 the academy initiated a program to “train” a group of 1,000 magistrates, out of which 500 had to be in leadership positions in courts or prosecutors' offices. Enrolling magistrates had to provide their personal information to the academy and at the end of the training they were evaluated by SRI Officers.

There are about 4,700 civil, criminal and administrative judges and 2,800 prosecutors in total in Romania.⁶ Therefore, having 1,000 judges and prosecutors trained by the SRI has an enormous impact on the judiciary.

What has become apparent on top of these institutional connections, is that courtroom proceedings and evidence gathering tactics are also highly questionable.

The SRI and other governmental organizations have been accused on multiple accounts of falsifying evidence, using illegal phone taps, and intervening in the decisions of the judges during and before hearings.⁷ Some claim that the SRI is merely an extension of the Communist-era security services.

In 2017, Romania remained a perennially prolific human rights abuser with the most cases brought before the ECtHR of any country in the EU (69 in total), and fourth among the 47 nations of the Council of Europe behind just Russia (305), Turkey (116) and Ukraine (87).⁸

³ Flux24. „Şeful Securităţii comuniste, invitat special la aniversarea SRI”. 24.05.2016. Web Accessed: <http://www.flux24.ro/sefulsecuritatii-comuniste-invitat-special-la-aniversarea-sri/>

⁴ Magistrats Europeens pour la Democratie et les Libertes. « Is Europe Under Siege ? » 12.03.2016. Web accessed : <http://bit.ly/2nkZ0dX>

⁵ News20.ro « Cine sunt magistratii si sefi de institutii facuti doctori degeneralul-politician Gabriel Oprea ». Web Accessed : <http://bit.ly/21Y3ZkI>

⁶ Marica, Irina. “Over half of Romanian judges and prosecutors are against proposed changes to justice laws”. Romania Insider. 11 October 2017. <https://www.romania-insider.com/judges-prosecutors-changes-justice-laws/>

⁷ Cartwright, Gary. “Justice Romanian Style: Corrupt, Politicised, Unreformed”. EU Today, 22 January 2018. https://issuu.com/me76878/docs/justice_romanian_style_report_03 ;

Kassandra. “Has the corruption of Romania’s anti-corruption fight been laid bare for the world to see?”. New Europe. 12 February 2018. <https://www.neweurope.eu/article/corruption-romania-anti-corruption-fight-laid-bare-world-see/>

⁸ “Violations by Article and by state 2017”. European Court of Human Rights. 2018. Pg. 2. http://www.echr.coe.int/Documents/Stats_violation_2017_ENG.pdf

Of these, there have been twenty cases involving the prohibition of torture or inhuman treatment brought before the ECtHR in 2017, with several new cases in 2018.⁹

Worryingly, another 32 cases involved a lack of effective investigation (9), the right to liberty and security (5), the right to a fair trial (11), the length of proceedings (6) or non-enforcement (1).¹⁰

While such issues bring concern to all Romanians, when combined with certain social stigmas, problems and risks for certain demographics are increased.

Discrimination against new religious movements

Romania law stipulates that religious or spiritual groups may register with the state in a four-tier system:

Associations with religious activities fall under the law which governs the establishment of NGOs, associations and foundations.

Religious groups/communities are groups of persons who share the same beliefs, they do not need to register, however they are not entitled to legal entities, tax exemptions or state support.

To be registered as a 'religious association', the group must have at least 300 citizens as members who have attained legal status. To register, one must submit their members' personal data, which law stipulates may not be shared with other public institutions.

To receive 'religious' status in Romania, the group must have a minimum membership of 0.1 percent of the population (approximately 19,000 persons) and have continuous activity for over 12 years.

It can be claimed that such laws create a hierarchy of religion within the state, and promote or support the largest and longest-existing religions.

But law is not the only place where discrimination can be questioned. In order to highlight how unfair trials and institutional discrimination play out, I'd like to go into the case of Bivolaru and the MISA group in more detail.

The case of Bivolaru & MISA

The Movement for Spiritual Integration in the Absolute (MISA), founded by 27 individuals, including Gregorian Bivolru, registered as a non-profit organization in 1990 with the purpose 'to raise the cultural and spiritual level of people through an adequate, deeply beneficial preparation, to popularize knowledge in the fields of yoga'.¹¹

⁹ 'Case-Law'. Hudoc – European Court of Human Rights. 2018. <https://hudoc.echr.coe.int>

¹⁰ "Violations by Article and by state 2017". European Court of Human Rights. 2018. Pg. 2. http://www.echr.coe.int/Documents/Stats_violation_2017_ENG.pdf

¹¹ Fautre, Willy. "MISA, Gregorian Bivolaru & Yoga practitioners in Romania". *Human Rights Without Frontiers International*. 2013.

MISA opened a loose network of training centers, yoga schools, and ashrams. Prior to 2004, there were approximately 37,000 practitioners world-wide, 40 ashrams, and 750 practitioners living in Romania.¹²

According to a member of the board of MISA, in 2013, there were approximately 63 ashrams in Bucharest and 28 in other cities with more than 1,000 practitioners in the country. The teachings of MISA ashrams included various forms of yoga, and advocated for: the prohibition of consuming meat, alcohol, coffee, and smoking; practicing yoga for daily for two hours in addition to classes; for residents to partake in household activities, cleaning, maintenance, house shopping, attending hose meetings, etc.¹³

A Swedish new religious movement expert, Karl-Erik Nylund, investigated the group and concluded that:

“MISA cannot be called a rigid spiritual movement...Within MISA, everyone is free to criticize the aspects related to its activity or even the teachers...every person is free to leave the yoga school without fear of retaliation...”¹⁴

He reported that there are no signs of aggression, aversion, alienation, or absolute truth (when religious groups leader/leaders are entitled to the absolute right of interpreting ‘the truth’).¹⁵

Such a narrative has been corroborated by sociologists Carmen Marcus and Angela Anghel.¹⁶

*Political persecution*¹⁷

The spiritual leader of the movement is Gregorian Bivolaru. Born in 1952, by 1970, Bivolaru began teaching yoga. In 1972, he came into contact with Mircea Eliade, a Romanian historian of religion, fiction writer, and professor at the University of Chicago.

Mircea Eliade had been considered an ‘enemy of public order’ by the communist regime of Romania. Bivolaru’s correspondence with Eliade brought him to the attention of the Securitate (secret police of Communist Romania).

¹² Statistics provided by Gregorian Bivolaru during his hearing by the Supreme Court of Sweden in Stockholm in the framework of an extradition to Romania in 2005.

¹³ Fautre, Willy. “MISA, Gregorian Bivolaru & Yoga practitioners in Romania”. *Human Rights Without Frontiers International*. 2013.

¹⁴ Nylund, Karl-Henrik. “Report on Gregorian Bivolaru and the yoga movement MISA”. *Presented to the Supreme Court of Justice in Stockholm*. 11-12 October 2005. <http://www.layms.net/images/docs/MISA/Karl%20Erik%20Nylund%20Report%20on%20MISA%20and%20Gregorian%20Bivolaru%20-%20ENG.pdf>

¹⁵ Ibid.

¹⁶ Fautre, Willy. “MISA, Gregorian Bivolaru & Yoga practitioners in Romania”. *Human Rights Without Frontiers International*. 2013.

¹⁷ Ibid.

In 1977, he was sentenced to one year in jail for alleged 'possession and dissemination of obscene material'. Bivolaru was eventually fully pardoned from these charges.

Over the following 17 years, Bivolaru would again be sentenced to prison and sent to a mental hospital on the grounds of 'illegal dissemination of mystical publications', 'working as a yoga instructor without legal right' and 'dissemination of obscene material'.

While in the mental hospital, his doctor did not find any mental disorder and did not administer any medications to Bivolaru.

On 1 July 2011, in the aftermath of the declassification of the Securitate's archives, the Bucharest Law Court / III Civil Division, ruled that all three criminal sentences against Bivolaru were fabricated by the regime and politically motivated.

However, in 1995 the then new SRI, restarted monitoring the activity of Gregorian Bivolaru and MISA on the alleged ground that they were threatening national security.

From 1996 on, MISA was targeted by media campaigns.

Operation 'CHRIST'¹⁸

In 2004, the campaigns came to ahead when Romanian police conducted operation 'CHRIST'. On 18 March 2004, three-hundred masked policemen from the anti-terrorism division raided the private homes of sixteen yoga practioners, the MISA library and some of the ashrams in Bucharest.

The Helsinki Committee in Romania reported that search warrants were not always produced during these entrances, prosecutors did not take proper minutes during the raids, and did not allow MISA members to contact their lawyers.

It has been reported by members that the police dragged people at gunpoint out of their beds and searched the homes and ashrams. It was reported that in Bivolarus apartment, the police broke down the doors and windows to get in.

The police confiscated literature about yoga, books, brochures, private diaries and tapes that were later leaked to the media.

Police had video recordings of people in humiliating situations (not fully dressed), which were later leaked to the media and widely broadcasted.

After the raid, the Prosecutor's office filed a court case against Bivolaru on the charges of sexual abuse of a minor, sexual perversion, and human trafficking.

The concerned minor was interrogated for thirteen hours without the presence of a lawyer or parents. After the interrogation she was forced to write a statement, which was later misused to

¹⁸ Ibid.

label her as the injured party in court and to incriminate Bivolaru. She claimed that the letter was used in court without her will, and with a lawyer, she attempted, without success, to retract her statement.¹⁹

*The media*²⁰

One month later, photos and videos from the raids were broadcast on television with accompanying incriminating comments. For example, in one video there was a syringe in a home, with comments suggesting illegal drug use. What the reports did not include was that it was a video from the home of a doctor.

Media campaigns following the raid read headlines, like:

During the raids, various substances have been found, of which we cannot tell for sure if they are drugs or not

the raids were triggered by complaints made by several citizens regarding prostitution and drug dealing activities in several slums of Bucharest

Pornographic materials in the home of a university teacher

Throughout the media, the terms ‘sect’ and ‘cult’ were used to describe MISA. The group, and members, faced allegations of drug use, drug trafficking, tax evasion, and brainwashing, amongst other crimes.

According to the local Helsinki Committee, from March 2004 – 2005, national TV stations broadcasted an estimated 570 pieces of news that were deemed hostile towards MISA and Bivolaru.²¹

What this created, was a witch-hunt across Romania for members of the group.

European politicians and human rights organizations all raised criticisms. The Danish MEP in 2004, Mrs. Ulla Sandbaek, even advised that Bivolaru immediately flee persecution and to seek asylum in Sweden.²² In 2005, he did so – the Swedish Supreme Court found him innocent and granted him asylum on the account of persecution for his religious beliefs.

However, ultimately, three charges were brought against Bivolaru: sexual intercourse with minors, human trafficking, and exploitation.

In 2010 and 2011, two courts in Romania ruled Bivolaru not guilty. In 2013, nine years after the raid, the Supreme Court in Bucharest held a new hearing against Bivolaru.

¹⁹ Fautre, Willy. “MISA, Gregorian Bivolaru & Yoga practitioners in Romania”. *Human Rights Without Frontiers International*. 2013.

²⁰ Ibid.

²¹ See: <http://www.adador.org/en>

²² See letter from Sandbaek: http://gregorianbivolaru.net/docs/reaction/2a_Letter_Ulla.pdf

On 14 June 2013, Bivolaru was sentenced to six years in prison. In total, twenty-one other people from MISA yoga school were accused of human trafficking in the years following the raid. In 2015, the Romanian court completely acquitted all charges on individuals from the MISA yoga school.²³

Gregorian Bivolaru was released from prison in 2017.²⁴

The ECtHR

In 2016, the European Court of Human Rights ruled that Romania had violated article 3 (inhuman or degrading treatment), 5.1 (right to liberty and security), and article 8 (respect for one's private and family life) in respect to twenty-six members or supports of MISA during the raids.

The court ultimately ordered that Romania financially compensate the twenty-six individuals in amounts ranging from 4,500 – 12,000 euro.²⁵

Conclusions

The intersectionality of concerns related to anti-religious sentiments, fair trials, and the independence of the judiciary in Romania begs more attention. In combination, these contexts can have detrimental effects on religious groups and movements, and particularly on new religious movements.

Policy makers, scholars, and stakeholders alike should work to recognize and consider how different rights can relate to, and impact, freedom of religion or belief – particularly in countries where rule of law may be questionable.

²³ Soteria international. “Romanian court completely acquits the 21 people from MISA yoga school accused of human trafficking”. *European Interreligious Forum for Religious Freedom*. 20 February 2015. https://www.eifrf-articles.org/Romanian-court-completely-acquits-the-21-people-from-MISA-yoga-school-accused-of-human-trafficking_a161.html

²⁴ Soteria International. “Press Release – The Romanian Yoga Teacher, Gregorian Bivolaru, is Released from Prison”. <http://www.soteriainternational.org/press-release-the-romanian-yoga-teacher-gregorian-bivolaru-is-released-from-prison>

²⁵ European Court of Human Rights. *Case of Atudorei v. Romania*. 2014. <http://hudoc.echr.coe.int/eng?i=001-146379>