

USAID/Romania

**Democracy and Governance
Assessment of Romania**

Submitted to:

USAID/Romania



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ACRONYMS AND ABBREVIATIONS

| | |
|-------|--|
| CDR | Democratic Convention |
| COA | Court of Accounts |
| CSO | Civil Society Organization |
| DG | Democracy and Governance |
| EC | European Commission |
| EHSB | Ethnic Hungarian Status Bill |
| EIU | Economist Intelligence Unit |
| EU | European Union |
| FOIA | Freedom of Information Act |
| FSN | National Salvation Front |
| GDP | Gross Domestic Product |
| GoR | Government of Romania |
| IMF | International Monetary Fund |
| MP | Member of Parliament |
| NATO | North Atlantic Treaty Organization |
| NDI | National Democratic Institute |
| NGO | Nongovernmental Organization |
| PAC | Civil Alliance Party |
| PCR | Romanian Communist Party |
| PD | Democratic Party |
| PDSR | Party of Social Democracy in Romania |
| PNL | National Liberal Party |
| PNTCD | National Peasant Christian Democratic Party |
| PRM | Greater Romania Party |
| PSD | Social Democratic Party |
| PSDR | Romanian Social Democratic Party |
| RMA | Romanian Magistrates Association |
| SDF | Social Development Fund |
| SO | Strategic Objective |
| UDMR | Hungarian Democratic Union in Romania |
| UNDP | United Nations Development Program |
| USAID | United States Agency for International Development |
| USD | Social Democratic Union |

EXECUTIVE SUMMARY

This DG assessment of Romania begins by identifying the problems and challenges that impede the ongoing transition towards democracy. The political trends and dynamics of the system of governance are examined. A review of the key actors and their interests help understand potential coalitions for and against further reform. Institutional arenas are evaluated to ascertain where the most promising areas of intervention might be found. Some strategic recommendations and programmatic guidelines are advanced that provide an analytical foundation for the Mission's elaboration of a DG strategy.

The eleven and a half years since the revolution have provided a good opportunity to assess the functioning of the political system under several different governments. It is by now apparent that several strengths and shortcomings of the system have been consistent over time, which provide some indication of the unfinished nature of the transition from authoritarianism to democratic governance. On the positive side, the elections and the peaceful transfer of power are quite remarkable given the continued dominance of an informal network of the political elite that successfully adapted to the new conditions after the revolution. Another remarkably positive step towards democratic governance is the consolidation of freedom of speech and association. Thirdly, another positive sign in terms of the prospects for a democratic transition is that the leadership and top echelons of the PDSR show an increasing sophistication in terms of the political and economic reforms that need to take place for sustainable development to take root.

The last eleven years have also brought some shortcomings of the new political system into sharp relief. The system of governance suffers from severe institutional weaknesses, especially in the parliament and the judiciary. A lack of consensus over how to proceed with reforms has plagued every government and paralyzed urgently needed changes. A general lack of accountability has led to an ingrained corruption that has virtually become a hallmark of post-revolutionary Romania. The legitimacy of the political system itself is gradually being questioned as citizens lose faith in the developmental potential of the new regime.

The dilemma in Romania is how to promote further and more fundamental changes when the interests of many with influence tend to mitigate against further transition towards democratic governance. In brief, the basic political conundrum in Romania is that the nature of the national political system creates a series of incentives that favor the use of state prerogatives by the elite for short-term personal gain at the expense of longer-term public good. The generalized lack of accountability that pervades the system means that control over government has been used as a means for economic advancement. At the heart of this problematic system is an electoral system that generates political party structures that are impervious to democratic practices except for periodic elections. Thus parties engage in an inter-elite rivalry for control over the state. This has led to a situation where the concept of public good has tended to be subordinated to partisan and more personalistic interests. The judiciary, for example, has been subordinated to the executive and hence to partisan interests, strongly contributing to the institutionalization of corruption. The result of all this is a growing alienation of the population from the political system and weak political capacity to carry out the difficult structural reforms that need to be made.

The transition to a democratic market economy has thus been hindered by the rules of the political game and party practices that are inappropriate for guiding the country through the difficult economic and political changes needed to achieve sustainable development. The political logic of the contemporary Romanian system of governance is relatively insulated from the strong developmental pressures building from below, and responds largely to which of the parties is best able at a given time to distribute resources to its adherents, much like the classic vision of a political machine. The PDSR has proved to be by far the most capable of the parties to deliver goods to its followers, but by the same token it is difficult to protect the interests of the core group of party constituents while also following through with structural changes that mitigate against some of them.

Donors thus have a key role to play at this critical juncture in Romania's history. Post-communist Romania has made some promising preliminary strides in regards to elections and the peaceful transfer of power, as well as individual and associative liberties. But the remaining steps with regard above all to issues of accountability and representation will require even greater political courage and determination. This is a critical time for donors to weigh in with encouragement and incentives to focus on the fundamental and systemic obstacles that need to be overcome in both political and economic domains. Constraints to good governance impinge not only on the transition to democracy but also represent critical obstacles to sustainable economic growth. Donors need through their actions and priorities to support the regime in moving beyond talk to action in tackling what are very difficult issues.

Romania currently has the potential to move further towards democratic governance through a managed transition towards democracy. Ironically, the PSD (formerly PDSR), which was once seen by many as a lingering reminder of the past, is the best placed political actor to move the country out of the impasse in which it became mired during the coalition government. The self-destruction of the coalition government when it could not overcome the structural constraints to liberalizing reform led to the return to power of a stronger, effective, and more sophisticated PSD. For the first time in its modern history, the Romanian ruling party has a position of consolidated strength that should allow them greater freedom and ability to pursue reforms that are fundamental to economic growth but go against the vested interests of influential groups and persons. The PSD has eclipsed the fragmented parties across the rest of the political spectrum and now has the field open to systematically implement the reforms that all agree are needed to move the country forward into a market economy and greater integration with Europe.

Whether or not Romania moves forward on the path towards a managed transition will primarily be up to the Romanians, especially the PSD government. There is little donors can do to impel the needed reform without the political will and vision of the governing party leaders. USAID is especially constrained by the limits of its DG resources, which are insufficient to make the fundamental difference between a trend towards democratic governance versus corrupt authoritarianism.

The most appropriate role for USAID given its limited resources and the depth of the challenges that exist in the DG area is to support reform initiatives that have materialized, most notably in the area of local governance, while carefully targeting national-level assistance on key themes as triggered by domestic initiatives themselves. In particular, greater progress in achieving greater

transparency, accountability, and oversight is essential to both economic growth and good governance. Without progress in these related areas, Romania's governance systems will remain prone to corruption, will frustrate private sector growth, and will continue to decline in legitimacy.

A two-pronged set of recommendations follows from this DG assessment. First, the Mission should continue to build on the decentralization initiatives that the Romanians have undertaken in recent years. While the decentralization process remains incomplete, the experiment is underway, and some dynamic reaction is manifesting itself at the local level. Achieving results by working to expand the political space at the local level that has been opened by the reforms is a low risk approach that has the potential to help build the confidence that is needed for the government to further decentralize control over financial resources. Second, a higher risk set of priorities should be clearly established in order to draw attention to certain key deficiencies of the national system of governance, most notably in the areas of transparency, accountability, and oversight. An additional advantage of focusing the Mission's DG resources around a result of greater transparency, accountability, and oversight, is that these are all attributes of a system of governance that also contribute to economic growth. DG thus provides not only an ample opportunity as an independent SO, but also offers considerable promise for crosscutting activities and synergies.

Modest expectations should condition the Mission's DG strategy. It is the nature of a managed transition that change is likely to be incremental and gradual. USAID is not going to be responsible for any breakthrough to democracy, but can instead coax and nurture positive steps by those who have the power to determine the future of governance in the country. A results package can be realistic and meaningful at the same time if it builds on existing opportunities while favoring linchpin progress that is not in itself revolutionary.

1.0 INTRODUCTION AND BACKGROUND

*Awake, Ye, Romanian, from your lethargic sleep
Into which your barbarous tyrants have sunken you so deeply*

-Verse from the Romanian National Anthem¹

This verse was first performed in 1848, but its resonance in postcommunist Romania was such that it was adopted as the national anthem in 1990. The song's theme professes that the Romanian people have been dragged down by tyranny, creating a wide gap between the rulers and ruled, and that as a result of poor governance the citizens have become lethargic and nonparticipatory. At that time, Nicolae Ceausescu was the recently departed "barbarous tyrant." The 1989 revolution was heralded by Romania's leaders as a new beginning.

Eleven years later, a common explanation for Romania's stalled transition to democratic governance is that the citizens of that country remain in a lethargy induced by the former communist rule, apparently not having heard the clarion call of the new national anthem. Many Romanians are disappointed that the bright hopes raised by the revolution of 1989 and then again by the elections of 1996 ended with more questions about the benefits of a market-based democracy than with any economic or material benefits associated with such changes. One argument advanced by those seeking to explain the difficulties in moving further towards participatory democracy is that the Romanian people lack the appropriate political culture, and continue to look to the state rather than themselves to guide them through the hard choices that lie ahead. If only the Romanians would wake up from their "lethargy", democracy would have a better chance of taking root.

The other explanation frequently advanced to explain Romania's lack of a more fundamental transition towards democratic governance has a more ominous tone. Namely, that the revolution was hijacked by an elite formerly part of, or closely connected to, the prior dictatorship. This pessimistic interpretation posits a seizure of state control by individuals and groups that have no interest in a broader public good and whom have derailed Romania's transition and development. From this perspective, the "tyrants" remain a key factor in Romanian political life.

The findings of this democracy and governance (DG) assessment in Romania suggest that neither of these simplistic explanations holds much currency. Romanian citizens speak openly, freely, and often about their political system and direction of change. Their so-called lethargy is best attributed to political structures that inhibit popular influence on public decision-making, thereby discouraging greater participation. The new ruling elite of Romania does not have some hidden dark side, but is largely composed of individuals who rationally consider the incentives and constraints that they confront and behave accordingly. The central finding of this DG assessment is that certain structural constraints continue to place limits on the transition to a market-based democracy, and that it is politically difficult for any government or ruling party to promote the fundamental reforms that are needed to move forward more decisively. Many of the same problems that plagued the coalition government of Emil Constantinescu continue to bedevil the government of the reconstituted Party of Social Democracy in Romania (PDSR). The

¹ Written by Andrei Muresanu, score by Anton Pann.

situation is far from hopeless, but the DG challenges are not simply a lack of technical capacity or exposure to western models. Rather, the central DG challenge in Romania is how to consummate the 1989 revolution through risky reforms while maintaining political order.

1.1 Background

1.1.1 A Legacy of Authoritarianism

Romania's modern history did not provide a favorable legacy for an easy transition to democratic governance. The state historically was subject to a high degree of foreign influence. The country's roots reflect the influence of international affairs as much as a deep national consciousness. The unification of the Ottoman principalities of Moldavia and Wallachia in 1859 constituted the core of the modern Romanian state, but did not at that time include the Romanian populations in the Hungarian-ruled Transylvania, the Russian-controlled Bessarabia, or the Bulgarian Dobrudja. It was not until the end of the First World War that Romania acquired these other territories as part of the settlement imposed by the victorious allies. These territorial gains were largely reversed in 1940 by the Soviets and by the Germans awarding Transylvania back to the Hungarians. Romania's borders changed yet again after the war in 1947, when Transylvania again became an integral part of its territory, although Bessarabia and northern Bukovina were allocated by the Soviets to Moldova and Ukraine. Southern Dobrudja remained part of Bulgaria.

Foreign imposition was a further factor in Romania's political history when the Soviets backed the Romanian Communist Party's (PCR) seizure of power in 1945. The state began to adopt the essential features of the Stalinist centralized system and consolidated its political dominance through heavy-handed tactics. The monarchy was abolished in 1947 and King Mihai I expelled from the country. The other political parties were also virtually stamped out and numerous opposition leaders either arrested or driven into exile. The National Peasant Party and the National Liberal Party were dissolved and the practice of state terror was instituted to ensure a compliant citizenry. The Communist Party's Politburo made key state decisions that were adopted by the Council of Ministers. The separation of the executive and the judiciary was renounced and the government created the Department of State Security (*Departamentul Securitatii Statului*), popularly known as the Securitate, or secret police. The country's banks and much of its industrial, mining, transportation, and insurance industries were nationalized. Agricultural collectivization was imposed in order to feed an increasingly urban population and to generate capital for forced industrial development. Intellectual freedom was stifled and the Romanian Orthodox Church brought under the control of the government.

The attempts to consolidate power within the party succeeded in stifling democratic aspirations among the population at large, but an internal struggle within the communist party led to a purge of Stalinists by Gheorghiu-Dej. Gheorghiu-Dej began to distance Romania from the Soviet Union and managed to get Khrushchev to agree to remove Soviet troops from Romanian soil in 1958. The state began to embrace a more nationalist Romanian ideology and began a campaign of Romanianization, which resulted in the rolling back of some concessions granted to the Hungarian minority in favor of some systematic discrimination.

Gheorghiu-Dej died in 1965 and was succeeded by Nicolae Ceausescu, a former shoemaker's apprentice who had risen through the ranks of the communist party after joining at the age of

fourteen. Ceausescu set about consolidating power and eliminating rivals. During the 1970s, he concentrated power and blended party and state structures to better suit the requisites of a cultish dictatorship with Ceausescu at the apex of a pyramid of power. By 1989, the Securitate numbered tens of thousands of full-time staff and informants. Collective leadership through the Politburo of the party was annihilated as part of Ceausescu's obsession with his own omnipotence. The PCR degenerated into a nepotistic clan, with key posts held by Ceausescu and members or close associates of his family.

1.1.2 The Democratic Opening

Ceausescu's megalomania eventually led to a cruel disregard for the welfare of the people. The command economy sputtered and eventually failed as a decline in oil output was followed by a devastating earthquake, drought, and high world interest rates. Romania fell into a balance of payments crisis and in 1981 was forced to request a rescheduling of its hard currency debts. In order to pay off foreign obligations, Ceausescu squeezed the people, imposing terrible hardships on the average citizens. Severe shortages of foodstuffs were complemented by the rationing of energy that was enforced through control squads. The "golden age of Ceausescu" lost all meaning to the Romanian people who had seen a gradual relaxation of Soviet style communism in other countries of the Comecon in sharp contradistinction to Romania's regressive dictatorship.

Organized opposition remained limited, largely because of the dreaded and ever present Securitate. But Romania was not immune to the currents of change that were sweeping the rest of Eastern Europe and finally large-scale public demonstrations against the state resulted in the ouster and summary execution of Ceausescu and his reviled wife, Elena. But the abrupt and sudden nature of the Romanian revolution meant that a momentary vacuum of power was filled overnight by the decisive action of a section of the former party elite that had fallen out of favor with the dictator. Led by Ion Iliescu, a National Salvation Front (FSN) was formed and declared themselves in charge of the country. Many political analysts point to this adroit move by former party apparatchiks as a hijacking of the revolution and responsible for its transformation into a palace coup.

The FSN leaders quickly sought to distance themselves from the old regime by reversing a number of Ceausescu's most unpopular policies. Romania's legendary political repression was relaxed, allowing for the prolific growth of a number of new political parties, associations, trade unions, and independent media outlets. Elections were held in 1990 and a new constitution was promulgated in 1991, as a new era of Romanian democracy was inaugurated. The FSN used its control over the state and its reformist rhetoric to win a decisive mandate, although the promises of rapid reform were soon tempered by miners' agitation against market reforms proposed under the short-lived premiership of Petre Roman. The FSN split, with Roman leaving to form the Democratic Party (PD), whose primary agenda was more rapid market reform. The dominant faction after the split was eventually renamed the Party of Social Democracy in Romania, and went on to win the 1992 elections, with Iliescu winning the presidential mandate and his party forming a minority government.

The period of 1992 to 1996 was characterized by a slow pace of economic reform. It was a fairly politically stable period, with hopes still high after the revolution. But corruption soon became

endemic and especially pronounced in regards to the banking system and state-owned enterprises. There was little decentralization and almost no local autonomy during this period. An independent media began to emerge, but the opposition remained fragmented until around 1996.

The nature of Romania's revolution and its aftermath conditioned the transition from authoritarianism to the parliamentary republic that emerged with the constitution of 1991. The leitmotif of the new regime rapidly became incremental and cautious change, where vested interests were protected, and the political elite managed to transform itself to adapt to new conditions. Former communist party personnel remained in control of the pace of change, and the emerging private sector was soon dominated by an informal network that included previous top Securitate officers. The lack of democratic foundations prior to 1989 meant that the transformation of the revolution into a palace coup took place without the state ever fully losing control of the situation.

The former communist state and Ceausescu's dictatorship had left the citizenry with a distrust of the state, and the slow pace of reform over the first years frustrated many of the hopes for a more rapid move towards market democracy. But the elections of 1996 and the coming to power of the Democratic Convention (CDR) provided a new ray of hope for those who wanted more fundamental change.

1.1.3 The Second Missed Opportunity

The slow pace of reform between 1992 to 1996 was compounded by high inflationary pressures, a reinstatement of price and currency controls, and finally a devaluation of the lei. The population was frustrated by the slow pace of reform and disappointed with the perceived high incidence of corruption in government and public administration. In 1996, an electoral coalition was formed by the principal center-right parties, most notably the National Peasant Christian Democratic Party (PNTCD), the National Liberal Party (PNL), the Civic Alliance Party (PAC), and a few less important parties. CDR was the main political force in the coalition that ruled the country between 1996 and 2000, together with the Social Democratic Union (USD), and the Hungarian Democratic Union in Romania (UDMR). This coalition was recognized in 1996 as the principal parliamentary opposition to the PDSR. In the elections of November 1996, the coalition won 30 percent of the legislative vote, while the CDR candidate, Emil Constantinescu, won a second round run-off against Mr. Iliescu by taking 54 percent of the vote. A coalition government was formed, led by Victor Ciorbea. Tremendous expectations and great enthusiasm on the part of the population accompanied the first democratic transfer of power.

Great expectations were also raised among western observers as a result of this election, since there had been a tendency to question the authenticity of the democratic revolution of 1989 given the continued dominance of former communist party cadre in the 1992-1996 government. The election of the new government was seen as the belated triumph of the forces for market democracy by many, and this impression at first seemed to be confirmed by the introduction of market-oriented economic reforms and the liberalization of the controls on foreign exchange. Remaining price controls were also reduced. Yet a disturbing trend began to be noticed in that the coalition government soon ran into constraints in tackling the difficult privatization and restructuring of parastatal industries. After high layoffs in the first two years (especially in

mining areas), the government began to fall into disarray, especially after several corruption scandals further damaged the government's reputation.

Part of the problem with the coalition government was the difficulty in establishing consensus. The various parties and personalities within the coalition became known for their squabbling and inability to move forward decisively on important issues. This perceived inefficiency was compounded when the standard of living for many began to plummet in 1997, with real wages falling by 22.8 percent, largely due to the reduction of price supports and subsidies without a concomitant increase in wages. Radu Vasile replaced Mr. Ciorbea as Prime Minister in 1998. Vasile tried his hand at speeding up some structural economic reforms and began to make some limited headway. But the broader economic crisis deepened as the country's recession, which began in 1997, continued. In December 1999, the merry-go-round of coalition prime ministers continued, with Vasile replaced by Mugur Isarescu, the former head of the central bank.

The economic recession continued in 1999. By 2000, the gross domestic product (GDP) had shrunk to just 79 percent of what it was prior to the revolution of 1989. Although some of the high paid professions saw some improvement in their level of earnings vis-à-vis inflation, most Romanians saw themselves falling further behind as prices escalated as a result of the removal of subsidies on meats, vegetables, energy, and services such as urban transport and water. Close to half of the population was estimated to be living in poverty at the end of the century.

In the face of these worsening material conditions, the coalition government proved incapable of living up to its promises and rhetoric of accelerated reform. Privatization was resisted by the unions and by the bureaucracy, and the failure to privatize the state banks had the subsequent effect of damaging the functioning of the financial system. Several pyramid schemes and financial scandals further undermined confidence. Both the European Commission (EC) and the International Monetary Fund (IMF) began to publicly criticize the pace of reform in Romania, which was lagging behind the majority of other Central and East European countries. On the positive side, a decentralization initiative was launched which laid the groundwork for greater political dynamism at the local level.

The parliamentary and presidential elections of November 2000 may in part be interpreted as a negative vote on the performance of the prior government. The CDR and its coalition partners were soundly defeated by the PDSR, which returned to power by winning the largest number of seats in parliament and by forming a single-party minority government. The CDR did not even manage to retain its representation in parliament. The biggest surprise of the 2000 elections was the strong performance of the ultra-nationalist Greater Romania Party (PRM), which won 20 percent of the popular vote and became the second largest party in both houses of parliament.

Those promoting reform in Romania were thus disappointed by the inability of the coalition government to deliver on their plans to accelerate the pace of change. With the return of the PDSR to power, it seemed at first as if Romania was to become mired in its past. The population has become increasingly disenchanted with the lack of economic growth since the revolution, and many are questioning the benefits that the tentative moves towards market democracy have brought them.

But in the months since being elected, the leadership of the PDSR has shown a high level of sophistication and has expressed a willingness to pursue the changes necessary to achieve membership in both the North Atlantic Treaty Organization (NATO) and the EU. Romania's leaders continue to make promising statements, but the nature of the political system itself mitigates against rapid reform, both in regards to governance and the economy.

1.1.4 Romania's Political Conundrum

The eleven and a half years since the revolution have provided a good opportunity to assess the functioning of the political system under several different governments. It is by now apparent that several strengths and shortcomings of the system have been consistent over time, which provide some indication of the unfinished nature of the transition from authoritarianism to democratic governance. On the positive side, the elections and the peaceful transfer of power are quite remarkable given the continued dominance of an informal network of the political elite that successfully adapted to the new conditions after the revolution. Another remarkably positive step towards democratic governance is the consolidation of freedom of speech and association. Given the high degree of repression prior to 1989, this suggests that younger generations will be exposed to a whole new set of ideas and the generational shift of power that is gradually beginning to occur is likely to be quite significant. Thirdly, another positive sign in terms of the prospects for a democratic transition is that the leadership and top echelons of the PDSR show an increasing sophistication in terms of the political and economic reforms that need to take place for sustainable development to take root. Many of the sources for this assessment felt that good intentions and political will existed in the high ranks of the government. What was not so sure is how far the willingness to reform extends down into the bureaucracy and whether the good intentions are matched by the political capital or capacity to actually carry out reforms that would be contrary to some vested interests.

The last eleven years have also brought some shortcomings of the new political system into sharp relief. The system of governance suffers from severe institutional weaknesses, especially in the parliament and the judiciary. A lack of consensus over how to proceed with reforms has plagued every government and paralyzed urgently needed changes. A general lack of accountability has led to an ingrained corruption that has virtually become a hallmark of post-revolutionary Romania. The legitimacy of the political system itself is gradually being questioned as citizens lose faith in the developmental potential of the new regime. In a recent poll, 52 percent of Romanians believe that things are going in the wrong direction. Regarding governmental institutions, a staggering 82 percent categorically agreed that "laws are neither applied, nor complied with." Three quarters of those polled think that the political parties are not trustworthy.² These are disturbing figures that suggest that the practice of free and fair elections that is being established is in itself insufficient to lay the foundations for democratic governance.

These snapshot images of the positive and negative characteristics of democratic governance in Romania, however, do not capture the essential dynamics that are the central challenge facing development in that country. The dilemma in Romania is how to promote further and more fundamental changes when the interests of many with influence tend to mitigate against further transition towards democratic governance. In brief, the basic political conundrum in Romania is

² Public Opinion Barometer, the Foundation for an Open Society, June 2001.

that the nature of the national political system creates a series of incentives that favor the use of state prerogatives by the elite for short-term personal gain at the expense of longer-term public good. The generalized lack of accountability that pervades the system means that control over government has been used as a means for economic advancement. At the heart of this problematic system is an electoral system that generates political party structures that are impervious to democratic practices except for periodic elections. Thus parties engage in an inter-elite rivalry for control over the state. This has led to a situation where the concept of public good has tended to be subordinated to partisan and more personalistic interests. The judiciary, for example, has been subordinated to the executive and hence to partisan interests, strongly contributing to the institutionalization of corruption. The result of all this is a growing alienation of the population from the political system and weak political capacity to carry out the difficult structural reforms that need to be made.

A generalized and systemic lack of accountability has allowed for this situation to persist. A negative vote every four years is about the only means by which the broader population can exert control over the political elite. The absence of effective oversight measures means that politicians and often even bureaucrats may act with relative immunity. There is a free press, but it currently only plays a small role because of an interpenetration between business and political interests. The potential role of trade unions has also been constrained largely because after 1990 most of the unions allied themselves with the parties and have been coopted by the logic of party politics as a result. One exception is Cartel Alfa, a major labor confederation (approximately one million members) that has never allied itself with a political party. The core political elite is relatively small and homogeneous, based to a certain extent around leaders from the 1989 revolution and bureaucrats who transformed themselves to the new system. Former members of the nomenclatura who had links to international trade under the old regime but were able to adapt are prominent among the new elite, as are some newcomers to business and politics.

The transition to a democratic market economy has thus been hindered by the rules of the political game and party practices that are inappropriate for guiding the country through the difficult economic and political changes needed to achieve sustainable development. The political logic of the contemporary Romanian system of governance is thus relatively insulated from the strong developmental pressures building from below, and responds largely to which of the parties is best able at a given time to distribute resources to its adherents, much like the classic vision of a political machine. The PDSR has proved to be by far the most capable of the parties to deliver goods to its followers, but by the same token it is difficult to protect the interests of the core group of party constituents while also following through with structural changes that mitigate against some of them.

The core of the problem is that the state is accountable primarily to relatively undemocratic political party structures, rather than to oversight bodies. To break out of the stalemate that is likely to persist until the next national elections in four years would require rare political leadership. To satisfy party constituents, the ruling party is pushed towards giving priority to maintaining existing networks of influence and control. To engage in more fundamental yet critically needed reform would jeopardize the perquisites of those who benefit from the current state of affairs. Although internal pressures for change are mounting as a result of persistent

economic hardships and frustration with the material benefits of democratic governance, there are few channels for these populist pressures to bear influence.

Accession to NATO, and more importantly, the European Union (EU), currently is the main impetus for reform since domestic political structures have insulated the regime from internal pressures for change. Romania opened negotiations for EU membership in March 2000. But given the distance that is needed to go before accession is feasible, informed observers are already ruling out Romania's ability to become a member of the EU on the current schedule, if at all. The EC has made it clear that Romania lags well behind other East European countries in meeting membership criteria, and must substantially accelerate economic and political reforms before it can even be seriously considered for accession. The prestigious Economist Intelligence Unit (EIU) recently reported that, "There is little realistic possibility that Romania will be admitted to the EU in 2007, as the government officially hopes."³

It is difficult to ascribe too optimistic or too pessimistic an interpretation to the leadership of the PSD.⁴ While the leaders of the party and government attest to their political will to accelerate reforms, the question remains as to whether that will extend far enough down in the party apparatus to push the reforms through in the face of vested interests that benefit from the current state of affairs. In addition, splits within the ruling party also make it difficult to take the bold steps that are needed to meet the deadlines for the EU accession.

Donors thus have a key role to play at this critical juncture in Romania's history. Post-communist Romania has made some promising preliminary strides in regards to elections and the peaceful transfer of power, as well as individual and associative liberties. But remaining steps with regard above all to issues of accountability and representation will require even greater political courage and determination. As the following analysis will demonstrate, this is a critical time for donors to weigh in with encouragement and incentives to focus on the fundamental and systemic obstacles that need to be overcome in both political and economic domains. Constraints to good governance impinge not only on the transition to democracy but also represent critical obstacles to sustainable economic growth. Donors need through their actions and priorities to support the regime in moving beyond talk to action in tackling what are very difficult issues.

Given the depth and systemic nature of the obstacles to further transition towards democratic governance, the Mission needs to adopt targeted and modest expectations. At the same time, it needs to develop a strategy that builds squarely upon the need for some progress in fundamental areas in addition to continuing to work in areas that have a more reliable payoff. This report will thus recommend that the Mission continue to invest in areas where results are likely to be achieved at the local level, but to also complement these "safe" investments with interventions at national levels to promote more far-reaching reform regarding the more systemic obstacles.

The following section seeks to elaborate an analysis of the key challenges to democratic governance by focusing on five analytical variables – consensus, inclusion, competition, governance, and rule of law.

³ Economist Intelligence Unit, *Romania Country Profile*, March 6, 2001.

⁴ The Social Democratic Party (PSD) is the new name for the PDSR after it merged with the smaller Romanian Social Democratic Party (PSDR) in June 2001.

2.0 THE DG PROBLEM

2.1 Consensus

Consensus regarding the fundamental rules of the political game appears relatively high in Romania. That is, while many point out that Romania's political system would benefit from systemic reform, the vast majority is willing to work within the system to effect such change. The political elite and the parties all tend to accept the basic constitutional provisions, as amply demonstrated by the peaceful transfer of power which has now happened after the last two electoral cycles, in 1996 and again in 2000. Similarly, the popular political culture is such that citizens also tend to accept the basic elements of the political system as a given. While sophisticated analysts point to the behavior of the political parties as being conditioned by the electoral system, most citizens tend to blame individuals in positions of power for the deficiencies in governance rather than the rules of the game.

However, the apparent consensus over the post-revolutionary constitutional provisions and political practices is starting to wear a bit thin, as cynicism is becoming more widespread regarding the material benefits of democratic governance. The surprise performance by the PRM in the last elections may be interpreted as a popular questioning of business as usual in Romanian politics, a form of a protest vote against the weak performance of the preceding coalition government. The PRM received a striking 19 percent of the vote in parliamentary elections, with young voters voting for that party at a remarkable rate of 30 percent. While at first glance, this may appear as support for the existing political framework, the votes for the PRM are somewhat different because they are seen as advocating a much more authoritarian regime than currently exists. Part of the appeal of the PRM was its staunch emphasis on law and order as well as its anti-Hungarian and anti-Semitic platform. In short, the PRM may be located outside of the mainstream political spectrum, and so a vote for them may in fact represent a fracturing of consensus over the rules of the game.

Another indication that the rules of Romania's political game are not yet fully consolidated is that many sophisticated analysts and members of the political class are increasingly drawing attention to some of the elements of the constitution that have enabled dysfunctional political tendencies. Areas of concern include the electoral system, a judicial system that is subject to heavy partisan influence, the heavy use of emergency ordinances to enact legislation, and a bipolar executive with the respective authorities of the president and prime minister not as clear in practice as in the constitution. In addition, there are gray areas in which consensus over how to proceed has not even yet been established, with some laws existing on the books, but not applied in practice. For instance, it is unclear how ministers might actually be disciplined by parliament. Another example of the divergence between formal rules and practice is that although campaigning is prohibited 48 hours before an election, this tends to happen anyway with no repercussions.

It would be a mistake to collapse consensus over the rules of the game with the legitimacy of the political system. A honeymoon period naturally followed the overthrow of Ceausescu's unpopular dictatorship and the establishment of a new democratic republic. In comparison to the *ancien regime*, the new constitution along with free and fair presidential and parliamentary elections were a breath of fresh air. But the structural problems that pervade Romania's political

system contribute to a growing disillusionment with the elite and a perception that the country's rulers tend to be endemically corrupt. A scant 14 percent of Romanians now feel that they have any influence over public policy at the national level, with only 18 percent feeling they can have an impact on local politics. Consensus over the rules of the game is starting to suffer as a result of poor regime performance, opening the door to more radical challenges, such as the PRM.

The legitimacy of the state will no doubt increasingly come under question if the state cannot deliver better guarantees about the standard of living and economic welfare for its citizens. These guarantees could well take the form of an enabling environment for a vibrant market economy rather than the public subsidies of old. The problem with the current deadlock is that the political system itself is standing in the way of the economic growth and conditions that are needed to propel the country forward. Disillusionment and what now may appear as apathy suggests a soft consensus that could evaporate in the absence of improved economic opportunities and material prospects for the bulk of Romania's citizens.

In sum, the consensus over the rules of the game that characterized the extended honeymoon after the overthrow of Ceausescu is increasingly coming under question as a result of high perceptions of corruption, popular feelings of alienation from the political system, and bitter appraisals of the poor performance of the past government. The Romanian political class still has a chance to refine the rules of the game to try to recapture the state's dwindling legitimacy, but as with accession to the EU, time is starting to run out. The need for systemic reform is pressing.

Another somewhat taboo subject regarding consensus has to do with the inclusion of Transylvania as part of greater Romania. Transylvania, which historically has a stronger economy than the rest of Romania and produces a disproportionately high share of the GDP, is characterized by cultural and ethnic differences from the rest of Romania, and has distinct historical legacies from having been part of the Austrian Empire. But this is not an issue that is very pertinent at the present, unless it becomes more so as a result of the Hungarian question, dealt with in more detail in the following section.

2.2 Inclusion

Consideration of inclusion in Romania may be focused along three principal dimensions: participation, ethnic minorities, and gender issues.

There are indications that overall participation is in decline as a result of the disillusionment with the political parties and the general failure of civic advocacy nongovernmental organizations (NGOs) to be genuinely representative of citizen concerns. Local participation tends to be somewhat higher than national participation, which reflects the spark of dynamism that has emerged at the local level. The basic problem is that there are no genuine vehicles for representation or for accountability at the national level. The political parties are ingrown creatures who answer primarily to their own hierarchies, and a lack of accountability means that most public institutions and bureaucrats are relatively impervious to public scrutiny or meaningful involvement in public affairs by citizens. Local politics is seen to have a more direct impact on daily life, and mayors are elected directly rather than through the parties, so it is not surprising that there is more activism at that level. But even at the local level, there is a legacy of nonparticipation that is difficult to overcome. Decentralization is a relatively new phenomenon,

and the prefects and municipal councils still help to reinforce the feeling that decision-making tends to reflect top down rather than bottom up influences.

Young people in Romania tend to be more eager to participate and to change things. But many of those who are politically engaged tend to vote for the right and to lean towards the authoritarian appeal of Vadim Tudor and the PRM. Part of the frustration may be traced to the heavy-handed suppression of student demonstrations in 1990 after which many students sought refuge overseas. Further frustration occurred after the heightened expectations of 1996, which has led to something of a “betrayed lovers syndrome,” since the young had previously heavily backed the CDR.

There is a huge gap between cities and the countryside, and participation tends to be higher in urban rather than rural areas. Rural economies still tend to be heavily agricultural, while the urban economic environment offers many more opportunities in the financial and services areas. But the PSD still has a strong rural base, and these linkages tend to somewhat offset an under-representation of the rural areas even despite the lower rates of participation in the countryside.

One of the indicators of the weak culture and practices of participation has been the poor performance of the civic advocacy NGOs. With the notable exception of Pro Democracy, the leading Romanian civil society organization (CSO), they have by and large been unable to establish roots within the broader population, largely remaining creations of foreign donors and viewed with considerable suspicion by the people. Business associations and other special interest groups tend to be better received because they have a more natural constituency that is more likely to perceive the potential benefits of collective action.

The situation regarding ethnic minorities is currently only of concern with respect to two of the country’s 19 ethnic minorities, the Rroma (gypsies) and the Hungarians. The Rroma continue to be viewed and to a certain extent treated as a shiftless underclass, leading to a less than ideal integration into the political and economic systems. Indeed, at the local level, authorities tend not even to view the Rroma as part of the community, but as itinerant travelers. Many Rroma do not have legal identification and have a subculture that has adapted to exclusion. The percentage of Rroma children attending public schools is actually in decline. Efforts to improve their integration and greater participation into the political system have been stymied by a lack of unified or strong representatives from the Rroma community. A multiplicity of shallow channels thus undermines effective integration, in contrast to the Hungarians, whose superior organizational skills has led to among the most effective representation in the Romanian political system. There are many would-be Rroma representatives, but few with widespread credibility. This has made it very difficult to address their plight. The poor integration of the Rroma into the political system has prompted fears within the EU that accession by Romania might lead to an influx of Rroma to the richer Western European centers, where the problems of assimilation would be transferred to their systems.

For the moment, the Hungarian population tends to be coexisting very well with the rest of the Romanians. Despite some discrimination in the past, the Hungarians have done a remarkable job organizing themselves politically as well as economically. However, this vertical social cleavage

remains a potential flashpoint for foreign influence, as shown by the strong Romanian reaction to recent nationalist legislation passed by neighboring Hungary (see text box on this subject).

The Government of Romania (GoR) gets high marks for its efforts to develop a comprehensive policy for ethnic minorities. The state has developed mechanisms to institutionalize sensitivity to diversity and provides for adequate political representation. Each of Romania's 19 minorities has the right to send representatives to parliament, with a quota of seven percent of the parliamentary seats reserved for this. In each of Romania's 41 counties, there is a person in charge of Roma affairs who is actually a member of the Roma community themselves, and each prefect has an adviser on the Roma situation. The education system is very accommodating to minorities. For instance, if there is a group of five minority schoolchildren, they are entitled to a class in their own language. This compares to the minimum number of ten Romanian students needed to qualify for a class.

To help coordinate and monitor the government's ethnic minority programs and policies, the government has established a Council on Ethnic Minorities, which operates as a consultative body of the executive, subordinated to the Ministry of Public Information. This Council functions as a regular liaison with legally established ethnic minority organizations. The leaders of this government unit are quite dynamic and dedicated, showing both the commitment of the GoR to preserving and promoting ethnic diversity in Romania and the importance given to keeping a finger on the pulse of potentially divisive issues. The programs funded by this unit include educational activities, training, and cultural events. They have also elaborated an anti-discrimination policy in Romania and have developed a government strategy for improving the condition of the Roma.

The Roma population benefits from the same governmental entitlements as the other minorities, but have been given even more attention than the others, since they have tended to be more impervious to the types of support offered. The problem with the Roma is compounded since they have such a poor public image, which contributes to informal discrimination and sometimes rough treatment by officers of the law seeking to prevent crime and maintain order. The EU has made the improvement of the Roma situation one of their priorities, however, and is well positioned to take a lead role in any donor assistance program targeting the Roma.

Gender issues also remain germane in Romania. National politics tend to be dominated by males and women don't have the same access to resources. Although the Council of Ministers contains a handful of women, this is not matched by their representation in the parliament at large and even less in ranking positions in local government. Most of this disenfranchisement is done at the informal level, and so is not very susceptible to assistance efforts to ameliorate the situation. Women tend to be more involved in public affairs at the community levels, but even here cultural patterns of exclusion tend to predominate if decisions affect the public domain.

In general, the assessment team did not identify human rights as a critical issue of governance. While some concern within the EU persists regarding the Roma human rights, and it is true that more could be done to promote gender equality, the team was very impressed with the overall improvement of human rights in the post-Ceausescu era.

Romanian Reaction to the Ethnic Hungarian Status Bill

Developments affecting the Hungarian minority during June 2001 served as a reminder that ethnic relations in Romania remain vulnerable to events occurring in neighboring countries. On June 19, 2001, the Hungarian Parliament approved the so-called Ethnic Hungarian Status Bill (EHSB). This new law was driven by Budapest's efforts to strengthen the ethnic identity of Hungarian communities outside Hungary, thereby promoting a form of "Hungarian Europeanism" involving closer relations between Budapest and Hungarian minorities in neighboring Slovakia, Serbia, Romania, and Ukraine.

The EHSB is intended to make it possible for ethnic Hungarians living outside Hungary to qualify for significant financial and educational benefits provided by Budapest. The new law will allow between 30,000 and 40,000 ethnic Hungarians looking for a job to enter Hungary each year. It also provides for financing by Budapest of the education of ethnic Hungarians attending institutions of higher education located in neighboring countries, but in which the teaching is conducted in Hungarian. The new law is supposed to come into force on January 1, 2002.

To qualify for the benefits granted under the EHSB, individuals will need to apply for Hungarian ID cards issued by the authorities in Budapest. To obtain these cards (which will not entitle their holders to Hungarian citizenship), applicants will have to declare themselves Hungarian. They also will be required to speak the Hungarian language and demonstrate some knowledge of Hungarian history and culture. In Romania, the UDMR would be expected to collect the applications of individuals seeking to receive a Hungarian ID card.

From the moment the EHSB was introduced in Budapest, Romanian authorities voiced strong objections. The GoR protested what it described as the extra-territorial character of some of the provisions in the bill, noting that the latter would have the effect of establishing distinctions between different categories of Romanian citizens, extending to some of them (ethnic Hungarians) benefits denied to all others. It was on those grounds that the GoR argued that the EHSB was in violation of European legislation, and that it appealed to the European authorities to rule on it. The GoR also expressed concerns that the bill would create hostilities toward ethnic Hungarians in Romania, and that it would result in an artificial rise in the number of Romanians identifying themselves as ethnic Hungarians in order to benefit from the advantages granted by the EHSB. In addition, the GoR complained that the EHSB would prompt thousands of ethnic Hungarians to immigrate permanently to Hungary.

The strong objections of Bucharest and other governments in the region did not prevent the Hungarian parliament from approving the EHSB by an overwhelming majority of 306 votes in favor, 17 votes against, and one abstention. Predictably, this development created in Romania a rift between most of the country's political forces, which condemned the new law as divisive and dangerous, and spokespersons for the Hungarian minority, who welcomed the decision of the parliament in Budapest, though they remained aware of the need to tread carefully on this sensitive issue.

The GoR stated ever more vigorously its opposition to the new law, expressing outrage that the authorities in Budapest had disregarded Romania's objections to the EHSB, and threatening to suspend some bilateral accords and treaties with Hungary. "Romania is not a colonial country from where Hungary gets its labor force," Prime Minister Adrian Nastase was quoted as saying, as he pledged to block the enforcement of the EHSB on Romanian territory.

On this issue, Romania's opposition parties by and large found themselves aligned with the government's position, though they sometimes condemned its handling of it. For instance, PD Member of Parliament (MP) Emil Bloc called on the government and parliament to adopt measures to prevent implementation of the EHSB on Romanian territory. Similarly, representatives of PNL described the EHSB as discriminatory, and worried that the law would cause a manpower exodus from Romania to Hungary.

Predictably, the PRM seized the opportunity to exploit the new law for political advantage, denouncing it as "racist" and as a threat to national security. Vadim Tudor's party advocated that sanctions be adopted against future Romanian holders of Hungarian ID cards (in contrast to PD leader Traian Basescu, who urged Prime Minister Nastase not to fuel hostility toward Romania's ethnic Hungarian community). Immediately upon the passing of the law by the Budapest parliament, the parliamentary group of the PRM in the Chamber of Deputies submitted a bill intended to deny Romanian citizens holding an Hungarian ID card the right to run for elections and buy property in Romania. This PRM-originated draft law would have the effect of assimilating Romanian holders of Hungarian ID cards with Romanians holding dual citizenship, who are not allowed to hold public office.

In sharp contrast, Marko Bella, President of the UDMR declared himself "delighted" that the parliament in Budapest has passed the law. He added "Romania should have no interest in fueling this scandal over an artificial and overrated subject" and denounced what he described as dangerous attempts by Romanian politicians to exploit the law for political gain. He also contended that Hungary was entitled to look after the ethnic Hungarian minorities living in neighboring countries the same way that Romania does for ethnic Romanians in the region. He denied that the law had any extra-territorial character, arguing that its effects would be felt not in Romania but in Hungary. Bella urged the Romanian authorities to remain calm and not let themselves be driven by "nationalism or ultra-nationalism." Similarly, Attila Kelemen, leader of the UDMR's parliamentary group in the Chamber of Deputies, declared that the Hungarian Status Law was not a "disruptive law", adding that Slovakia and Ukraine have similar legislation, and reminding the public that Romania itself had adopted special measures for ethnic Romanians living in neighboring countries.

In short, an event originating in Budapest created shockwaves throughout the Romanian political landscape, and threatened to disrupt the country's generally peaceful ethnic relations. Almost overnight, the adoption of the EHSB created political tensions that squarely reflected ethnic cleavages while cutting across the government-opposition divide. While government and opposition representatives found themselves united in condemning the law, the UDMR — the PSD's key coalition partner — found itself at odds with the ruling party. Such developments stand as a reminder that the generally peaceful nature of inter-ethnic relations in Romania should not be taken for granted, and that this is an area that ought to be monitored carefully.

2.3 Competition

At first glance, it would appear that Romania's national elections indicate a vibrant degree of political competition. The two instances of peaceful transition give an impression of a healthy democracy. But in fact, this electoral competition has been deceiving and does not capture the weak representational characteristics of the party system. The party structures have served as a filter through which the national political process operates, estranging it from effective and open citizen participation.

The deficiencies in the democratic functions played by the parties are the result of the laws governing parties. There is a reliance on party lists, which make party moguls the big players in determining who has a chance to be elected. Most decisions as to who is on the list are made behind closed doors, with parties structured in a hierarchical rather than internally democratic fashion. This, of course, encourages clientelistic relationships and the makeup of party lists is said to be heavily influenced by financial contributions to either the party or to party officials. Such systems tend to invite corruption, with who gets elected in large part dependent on the will of those that make up the lists.

The parties are thus the unrepresentative and unaccountable gatekeepers of the national political game. The result is that a relatively enclosed political elite has developed that compete among themselves for the levers of power. But they are essentially playing a game that excludes broader and more meaningful participation. Citizens have little means to influence the internal decision-making of the parties, leaving the field open to cronyism and encouraging shadowy campaign financing, which has become a pronounced feature of the contemporary political scene since it is one of the few ways to gain influence.

The gradual moves towards a market economy has further reduced competition in that those with political power and influence under the old Ceausescu regime were in many cases able to convert their prior positions of power to dominance in the new market economy. The informal networks of collusion that characterize the leading heights of the Romanian economy are the basis for an interpenetration of politics and business by the elite.

An example of the effects of the interpenetration of business and politics may be seen with regard to the private media. In an ideal democracy, a free media contributes to a healthy competition by facilitating the flow of information, providing for both a more informed public and a higher degree of accountability on the part of those in power. In Romania, on the other hand, there is a marked collusion between business, media, and political interests that inhibits media from fulfilling its democratic role. While there is a profusion of independent news outlets with differing perspectives, the dependence of barely solvent operations upon commercial support means that a high degree of self-censorship is practiced. Circulation figures are relatively low for the number of outlets, and a financial dependence by the media on a small number of monetary sources has had a muzzling effect, especially on investigative reporting. In short, the state control over the media that existed under the old regime has been replaced by a media that while independent from government control is subject to influence exercised through the marketplace. The private sector in many democracies naturally has a strong influence on the

media, but the small size of the Romanian market means that it has been dominated by a relatively restricted elite that also tends to control the political sphere.

While the freedom of expression and association contribute to competition, citizens have not availed themselves effectively in this regard. The weaknesses of advocacy NGOs have had a particularly damaging effect on competition since they failed to provide an effective alternative to the political parties. Advocacy NGOs were often created in response to the opportunity of donor funding, and remained more responsive to donors and their priorities than to domestic constituencies. The state structures so dominated by the closed party hierarchies proved relatively impervious to the advocacy efforts of the NGOs, so they had a hard time convincing the public that they were really an effective means of participating in or influencing public decision-making. Some of the public has developed a cynicism about the advocacy NGOs, seeing them as vehicles for tapping into donor funding rather than as expressions of altruism. The advocacy NGOs are currently in a slump in Romania as the flow of funding has stemmed as a result of the relative ineffectiveness of the NGOs. There are, of course, some rare exceptions, such as Pro Democracy, which has managed to both establish roots in local communities and develop a broad credibility, the latter in large part due to their work at election monitoring.

Business and professional associations as well as community service organizations tend to have fared better than the advocacy NGOs in terms of public credibility. That is because they have a more natural constituency and their promotion of self-interest is more transparent than the pseudo-participatory rhetoric engaged in by many of the so-called champions of democracy. Once again, though, the problem lies with the supply side of the government/civil society equation, with few channels available for associations to effectively influence legislation or public policy. Community grassroots organizations are beginning to develop a more positive reputation as their actions are reaping dividends in terms of improved services at the local level. The World Bank's Social Development Fund (SDF) is premised upon the potential of such organizations, and provides a good target of opportunity for leveraging USAID assistance. USAID cooperated with World Bank consultants in the design of the program and the establishment of the implementing organization. Between 1998 and 1999, the Mission also provided institution-building assistance to the new organization (developed start-up implementation plan and public relations strategy, designed the management information system) as well as community development assistance (developed Community Facilitation Handbook and trained community facilitators, assisted communities to organize themselves and develop project proposals for SDF funding).

Competition or the balance between branches of government suffers from both a constitutional predisposition towards a strong executive and an unchecked party control over state structures. The judiciary is not independent, and is at times overly subject to partisan influence. The legislature is both ineffective in regards to exercising oversight over the executive and is rendered relatively unresponsive to public inputs as a result of the heavy hand of the party structures.

Distinctions between levels of government is improving as a result of the incremental decentralization that has been occurring. Most notable about the dynamism at the local level is the growing competition between the directly elected mayors and the other local and regional

government structures, notably the municipal councils and the prefects. The municipal councils are elected according to party lists, and so they often reflect the dominance of national party agendas and squabbles. The prefects are the agents of the Ministry of Public Administration, and so they are accountable to the central administration, again controlled by the party or coalition in power. One of the impacts of decentralization has been that the discretionary powers of mayors has increased, which has led to a higher degree of conflict with municipal councils and prefects in the cases where the mayors are not of the ruling party. This increasing political competition is seen, for example, in the high profile roles played by the feisty mayor of Cluj and the charismatic mayor of Bucharest.

2.4 Rule of Law

Romania's DG problems are most striking and perhaps most severe in the rule of law area. The EIU has forecast that the judiciary will prove to be the Achilles' heel of Romania's aspirations to EU membership. The EC has raised serious questions about the political neutrality of the judiciary, low levels of training and qualifications, and a lack of familiarity with EU law. The EC has concluded that Romania is currently incapable of enforcing the *acquis communautaire* (body of EU law) in certain key areas, including border control, drugs, corruption, and the fight against organized crime.

The Romanian judiciary is not independent of the executive, although there are some halting attempts to amend this. The biggest proponents of change are the western donors, with the carrot being the appeal of accession to the EU. The courts are administratively overseen by the Ministry of Justice, who therefore has the ability to affect the lives and welfare of the judges. Within the GoR, little political will is evident for a more independent judiciary. There is no effective coalition for reform. Judges tend to be interested in reforms that would increase their autonomy, but they have little power to promote such change. As long as the judiciary remains seen as incompetent and corrupt, there is little prospect that the executive will embrace reform agendas that would increase the discretion of that branch of government.

The permeable nature of the judiciary to political interference has led to what is sometimes termed "telephone justice." The Romanian judiciary is considered to be especially susceptible to informal influence, with phone calls from political cronies often said to determine or influence the outcome of cases. Judges are not well paid and some are corrupt. Bribes are often paid to middle men, such as lawyers, rather than directly to judges. The peddlers of influence tend to know which judges are susceptible to corruption and won't blow the whistle when attempts are made to sway the outcome of cases by extra-legal means. Particularly corrosive to the impartial functioning of the judicial system has been suspected collusion between prosecutors, police, and judges.

The judiciary and police are essentially extensions of the national executive and are further linked through informal personalistic networks of influence. Upper echelons of the police tend to have been former servants of the communist regime. When many former Securitate and police were forced to retire in 1990, it was common for them to do three years of military police school, which has an equivalency of three years in university. They were then able to graduate in law that way and a number went straight into the justice system, especially as prosecutors. A small

elite linked through personal relationships thus characterizes relationships between these key actors in the rule of law area.

The systemic problems faced by the judiciary are compounded by operational problems. These include slow procedures and poor court administration skills. The system is vulnerable to organized crime schemes. Well-conceived and multi-layered crime operations have proven difficult for the GoR to control. In addition to the susceptibility of the judiciary to influence, the length of prosecution is also a problem, with prosecutions taking an average of four years. Once sentence is passed, it can then be appealed again, further drawing out the process. The police and prosecutors are not known for their efficiency in working together to put together good cases.

Moreover, the judiciary has become a centerpiece of the “black” economy, favoring corruption rather than providing independent and impartial mechanisms of mediation or oversight. In Romania’s new market economy, justice has the reputation of being up for sale to the highest bidder. This has had deleterious effects both on economic growth and on regime legitimacy.

The need for fundamental reform in the rule of law area is pressing and of great importance. But the challenges are also monumental and not easily tackled without significant resources. The political will for sweeping reform of the judicial sector is not in evidence, as is the case with most oversight mechanisms. It is thus risky to contemplate donor investment in this subsector without some clear signals regarding the GoR’s commitment to the independence and integrity of the judiciary. There has not yet been a much needed systematic assessment of this sector by donors to date, although the World Bank is in the midst of carrying out a study of the judiciary.

The Romanian Magistrates Associations (RMA) is relatively weak, but they have recently brought some of the deficiencies of the judiciary to light. In June 2001, they held a press conference where they accused the judiciary of being politically and financially dependent upon other state authorities. They complained that the Ministry of Justice has been extending its control over the judiciary, and stated that “All of us, with no exception, believe that politicians have increased their pressures on the judiciary after 2000, and they are doing so more often.”⁵ The magistrates believe that “the political influence is out in the open as far as the prosecutors are concerned, because the prosecutors are directly subordinated to the justice minister, who is a politician (which is against the law).”⁶ The magistrates would like to see the law changed so that prosecutors are independent and the Attorney General appointed by parliamentary vote. The Attorney General is currently appointed by the President. The magistrates also severely criticized the Superior Magistrates Council (their control body) as being subordinate to the justice ministry.

Regarding personal security, no systematic abuse of freedoms still exist. During the latter part of Constantinescu’s presidency, the police were in fact seen as weak because of violent clashes between the police and miners. This contributed to an impression of a decline of authority, but this has been reversed since the elections of 2000 and there are now noticeably more police officers seen on the street.

⁵ Quoted in Dana Fagarasanu, “Magistrates Protest over Political Interference”, *Nine O’Clock*, Wednesday, June 20, 2001, page 4.

⁶ Ibid.

2.5 Good Governance

Romania's system of governance is characterized by several flaws that impede sustainable development. In brief, the systemic problems described above have combined to lead to a marked lack of accountability that in turn discourages private investment. There appears to be weak political will to tackle the fundamental shortcomings of the system because those in positions to make decisions also tend to benefit from unchecked partisan control over the state. The lack of accountability encourages an impunity which in turn allows corruption in public institutions to flourish.

The prevalence of corruption is the most visible symptom of Romania's governance problems. Bribes relating to public administration are now commonplace. What at one time started with token gifts such as a pack of coffee has now become routinized into envelopes of money. Construction permits, for example, often require the greasing of palms. Corruption is particularly high in regards to medical services, education, and the judicial system. The corruption has spanned more than one party or coalition in power and has more to do with low transparency and a high degree of discretion in public life as well as the stark lack of accountability that pervades the system.

Two elements have exacerbated and perpetuated the gap between party practices and good governance. The first is the electoral system, where those elected owe their allegiance and accountability to the party leadership, rather than to their constituents. As described above in the section on competition, the party leadership decides who is to be on the party lists submitted to the electorate and these decisions are made in a very hierarchical process that is not transparent. The second factor undermining democratic practice is the strong and shady influence of campaign financing, which is widely viewed by knowledgeable sources to be a mainstay of both political corruption and of money laundering. Yet another shortcoming of the parties is that despite their centrality to the political process they don't have clear agendas or platforms to facilitate choice by the electorate. Rather, they are dominated by personalities and interests. The distinctions between parties have become even more blurred by the migration of politicians from one party to the other, such as the recent influx of liberals into the social democrat camp.

The rivalries between the parties has led to them becoming more like political machines, with the winners at the ballot box seeking to use state resources to reward their followers. While in a healthy democracy a certain amount of such practices naturally occurs, in Romania the strong lack of oversight and accountability means such practices are taken more to extremes. Parliament, which in an ideal situation, would be able to provide some check on a ruling party in control of the executive, has not come close to playing this role of checks and balances. In fact, a heavy use of emergency ordinances to pass legislation has further marginalized the role of parliament. The previous government used emergency decrees hundreds of times while the current government has already invoked this constitutional clause over 100 times in less than one year in office.

The weakness of the role of parliament hurts other oversight mechanisms as well. One promising development in countering the absence of accountability and oversight was the creation of an ombudsman's office as per the new constitution of 1991. The actual creation of the office was

delayed until March 1997, a sign of the weak political will regarding accountability and oversight that has spanned several governments. According to the 1997 law (Law No. 35/1997), the ombudsman's office deals with the rights of individuals, not groups, and their purview excludes parliament, the president and the Council of Ministers, although each minister is subject to examination. Oversight of the judiciary is also excluded from the mandate of the ombudsman. The limited purview of the ombudsman under the 1997 law appears to be different than envisaged under the constitution, where the role of the ombudsman (referred to as the Advocate of the People in the constitution) is implied to be in regard to all public authorities.⁷

The citizens have responded to the creation of the ombudsman office by utilizing this mechanism with significantly increasing frequency. In 1997, only 1,000 complaints were registered. This rose to 3,000 in 1998, 4,500 in 1999, and 6,000 last year. The most common cases brought before the ombudsman have to do with the restitution of property, with about a third of the complaints dealing with this issue. Another important area of recurring complaint is the justice system which is seen as both too expensive and corrupt.

But the effectiveness of the ombudsman's office in providing oversight and accountability has been constrained by two factors. First, the 1997 law strongly limited the areas of competency of the ombudsmen, and the types of complaints brought by citizens to this office are very frequently out of its jurisdiction. Secondly, the powers of the ombudsman are linked to actions by the notoriously weak parliament. At the end of each year, the ombudsman gives a report to parliament, but public authorities are not bound in any way by the recommendations of the ombudsman. If the public authority in question does not react satisfactorily, the ombudsman then usually goes to a higher authority. For example, if a mayor who is the subject of a complaint does not provide satisfaction, the ombudsman will go first to the prefect, then to the minister of public administration, then to parliament. In practice, however, the key power of the ombudsman is moral authority.

While the powers of the ombudsman may be limited, the increasing use of this office by the citizens illustrates their thirst for mechanisms of redress against perceived government excesses or wrongdoings. Unfortunately, the potential and development of this institution is reliant upon a sluggish and recalcitrant parliament, which again displays the generalized lack of political will for effective oversight and accountability. Not only did it take six years for the ombudsman's office to be created after it was mandated in the constitution, but the parliament has thus far failed to name a replacement for the first ombudsman, Paul Mitroi, whose mandate expired on June 18, 2001 and who is not submitting his candidacy for a new term. In fact, parliament did not even review the ombudsman's report on the year 2000 before the term of Mitroi expired.

Demand for governmental accountability and oversight is particularly strong from the private sector. Some financial oversight units exist, such as the National Council for Competition (supported by USAID), which is subordinated to the parliament, and the Office of Competition, which is part of the Ministry of Finance. But the overall environment and will for improved accountability actually seems to be in decline as witnessed by the developments regarding the Court of Accounts (COA), covered in the accompanying text box.

⁷ Chapter IV, Article 56 of the 1991 Constitution.

According to the 1992 law that established it, the COA is also the only organism in the country that is empowered to exercise control over the origin and use of funds for political parties. This makes it a particularly important institution, considering that we have identified the shady nature of political party financing as being one of the key obstacles to progress toward DG in Romania. Among those aspects of party financing which the law empowers the COA to control, one finds:

The governance situation is not quite so bleak at the local level. This is not so much because of a high capacity of government institutions but because the situation does not appear as stalemated as at the national level. While the decentralization process remains incomplete without greater local control over financial resources, there is a spark of dynamism indicating that a tentative transition towards democratic governance is evident. There are two aspects of the current situation that lead to this positive evaluation. First, the mayors tend to be more responsive to constituents since they are directly elected and citizens are more likely to get involved in public issues as a means of self-help. The mayors tend to be less influenced than their national counterparts by the party machinery. This is especially apparent in their often troubled relationships with the municipal councils, which are elected by party lists and therefore more subject to the hierarchic dictates of the party. Citizen participation in local decision-making therefore offers more promise than similar efforts at the national level. Already there are good examples of progress in Brasov, Alexandria, Ramnicu Valcea, Baia Mare, etc., where citizens now participate in local budget hearings. The mayor of Mangalia is also known for facilitating excellent participation by its inhabitants, and Mangalia is known as one of the best administered cities in Romania.

Secondly, the passage of decentralizing legislation in recent years has succeeded in passing increasing responsibilities to local government. While this positive trend has not yet been complemented by a full transfer of fiscal authority, it has permitted a gradual development of confidence in the benefits of empowered local administration as an alternative to the more unresponsive centralized administration of yore. The increasing responsibilities of local government provide incentives for greater citizen participation.

Since the parties have so much impact on public administration, an analysis of governance would be incomplete without considering the dynamics of the ruling party, in this case the PSD. The PSD is increasingly utilizing its abilities to concentrate power in its hands. It has developed very professionalized capabilities that work like a political machine that is encouraged by the electoral structures, utilizing the bureaucracy effectively to consolidate its hold on power. Politicians of different hues are responding to the consolidation of the PSD's dominance by defecting from their own parties and going over to the PSD to try to compete for influence within that party structure.

The PDSR (predecessor to the PSD) successfully repackaged itself after its loss of power in the 1996 elections. Those controlling the party tend to have formerly been in the communist party prior to the revolution. The party tends to have a mentality of top-down control in how they manage power, although there are several important clans within the party, which are organized by regions: Moldavia, Oltenia, and Transylvania. The PDSR, now the PSD, has a reputation for trying to control as much as possible within their jurisdiction. The party is said to influence the judiciary, the local administration, and other local authorities by threatening people with blackmail, extortion, and so forth. Despite these accusations of illicit influence, the fact is that the main reason other parties have not effectively provided a counterweight to the PSD is that they lack grassroots while the PSD is a more effective political machine. Without any real ideological anchors or distinct platforms, parties rely on the provision of jobs or the distribution of other public resources and the PSD is simply far and away the best at this. The PSD's support

remains particularly strong among older voters and rural workers, who still see the party as a surrogate for a state that will take care of their essential needs. Similarly, the party depends on the support of the unions and so is reluctant to impose policies that will endanger the interests of organized labor.

Governance in Romania is thus heavily influenced by the political logic of a sophisticated party machine. The public administration naturally runs more according to central partisan dictates than criteria of efficiency, transparency, and accountability. This can have a distorting effect on how public agencies perform and on how they are perceived. At the local level, the tensions between the prefects and the mayors attest to some of these problems. Likewise, the reluctance to transfer more control over revenues to the local level reflects a desire to be able to allocate resources according to partisan criteria.

The political logic that undermines good governance in Romania manifests itself with considerable clarity with regard to privatization. Despite the fact that the GoR is under international pressure to privatize more rapidly, the PSD is constrained from doing so in part by an internal desire to avoid alienating the unions. In addition, the privatization process has been distorted as a result of the opportunities it presents for lining the pockets of those with power and influence, another essential attribute of a political machine like the PSD. It should be no surprise that the government is not united in its professed commitment to reform and lacks the political will to move decisively on privatizing state enterprises. While privatization was slowed by the disarray and lack of capacity in the previous coalition government, the current government faces a disincentive caused by its responsibilities to its own constituencies, notably the unions. The PSDR orchestrated a social accord between employers and unions, which has brought a certain degree of social peace in a country that is prone to serious labor unrest. Moreover, the state enterprises that remain to be privatized will be more unsettling to the unions and therefore more politically difficult than the privatization accomplished to date. While the government is pressured towards privatization by the heavy financial weight of supporting bloated and inefficient state enterprises, the political logic of the party system goes in another direction. Hence, Prime Minister Adrian Nastase recently insisted on the need to balance the financial need for privatization with the responsibilities for maintaining a “social balance.”⁸

In sum, Romania faces serious DG problems in the area of governance that result not only from a lack of technical capacity or lack of good faith on the part of its leaders, but also from a political logic that emanates from key political structures, most notably the party system. In order to remain in power, the dominant party operates as a political machine, dispensing favors and resources in order to maintain the allegiance of a relatively small and insulated political elite, as well as other core constituencies, such as the unions. What allows for the perpetuation of such a system is the almost complete lack of well functioning mechanisms for accountability and oversight, except for the legislative and presidential elections every four years. The result of this system is a democratic transition that has stalled in its tracks, unable to move forward without some bold and courageous actions by leaders of parties that may not be well received by rank and file.

⁸ “Privatization must not be a purpose in itself: PM Adrian Nastase in Cluj Napoca,” Nine O’Clock Business and Finance, Wednesday, June 20, 2001, page 1.

Convincingly capturing the direction of political change in Romania is something that has eluded analysts since the 1989 revolution. What appeared as a bottom up and rapid jump towards democracy quickly became seen as a top down resurrection of control by the elite. Initially, there was a modicum of liberalization thrown in to preserve stability and remedy the systemic faults that were the hallmark of both the Ceausescu dictatorship and the centralizing communist structures over which it was overlaid. With the 1996 elections, it appeared as though the pessimists had been wrong in thinking that the revolution was hijacked, and the country was moving forward towards democratic transition after all. A peaceful transfer of power had occurred, and the new center right coalition appeared to have a reformist bent. But once again, things were not so simple, and corruption, intragovernmental squabbling, and backsliding on reform promises soon tarnished the image of the coalition government. With the 2000 elections returning to power a repackaged and stronger PDSR, there is a tendency to see a reversal of the tentative transition towards democracy. Yet the PDSR is itself consistently speaking about the need for reform and has publicly committed itself to the path towards a mature market economy, decentralized local government, and more solid foundations for democratic governance. At the same time, the dominant party must also respond to its own internal dynamics, which do not necessarily favor the type of change that would propel Romania's transition forward.

The return of the PDSR to power has one key advantage in terms of the prospect for carrying through with reforms. Namely, the consolidation of its own political dominance and power gives it the ability to take more risks and challenge the status quo with much needed reforms. Whether it does so or not will depend on the will of the leadership and their ability to bring the rest of the administration along with it. While political will is an intangible element that is resistant to easy measurement or judgement, there are certain litmus tests that can help donors assess the degree to which the reformist rhetoric of the new PDSR is more than talk. Above all, the governance and rule of law problems in Romania are manifested by, and in large part due to, the deficiencies in mechanisms of accountability and oversight. If the government is serious both about promoting democratic governance and a market economy, it needs to make some improvements in these domains. There are several issues currently on the table in Romania that would reflect serious intent on the part of the government. These include the Freedom of Information Act (FOIA), party campaign financing, and a genuine dialogue over constitutional reform. If the government moves to make progress on these fronts, it would be very promising for breaking the stalemate that has up to now bogged down Romania's transition toward democracy.

2.6 Distilling the DG Problem

The greatest DG problems in Romania are in the rule of law and governance areas. However, to overcome these problems, the competition problems in regards to the rules and incentives that condition political party behavior are also germane. The depth and scale of the obstacles that need to be overcome are such that they are not feasibly capable of being overcome through USAID resources alone, but require complementary efforts by other donors as well as a political will on the part of the country's leaders that has yet to be proven or consolidated.

The character of the regime is still very much in the making. Certain key foundations of democracy have been put in place, such as the freedom of speech and association. However, the bleak economic performance of Romania is jeopardizing the credibility of the democratic

transition. In order for the transition to be completed and consolidated, the regime will need to take more bold steps in overcoming persistent constraints to private investment. The current trends in Romania reflect an emerging dominance of the PDSR over the multi-party system. While on the one hand, this suggests that the party will seek to use its control over government to consolidate its power, on the other hand the leaders of this party may have more freedom of maneuver to put in place the fundamental reforms that need to be undertaken.

3.0 POLITICAL ACTORS

Now that the basic political dynamics and key DG problems have been identified, this section will examine the key political actors to further get a sense as to which types of donor interventions will be feasible and well received. This brief analysis of the nature, resources, and interests of the actors will provide a better sense not just of the players in Romanian politics, but of the constituents and possible opponents to further democratic transition.

3.1 Contextual Pressures for Change

Political actors generally respond to their context, and in Romania there are certain pressures for change which are seen as the primary motivating factors behind the push for reform. As seen in the preceding section, the internal dynamics of the party-dominated status quo would tend to lead to a situation where the elite and other vested interests resist serious reform. But there are both external and internal incentives to reform that could propel a forward-looking leadership to seek to overcome the inertia that has gripped the Romanian political system over the last few years.

As mentioned earlier, the most commonly cited incentive for change is the appeal of accession to the EU, and secondarily to NATO. But the reason accession to the EU is so important is primarily due to the economic opportunities that membership is likely to provide. Romanians have always been particularly sensitive to their international reputation and standing, but the principal attraction to accession is that it is seen as offering some relief from the dismal economic situation and performance of the past few years.

The current situation in Romania is untenable in that the status quo is highly unlikely to produce the growth needed to resolve the country's difficult economic situation. The GDP has fallen in each year from 1997 to 1999, recovering only slightly in 2000. GDP in fact declined by a substantial 14.1 percent between 1997 and 1999. Gross fixed investment fell between 1997 and 2000 by 20 percent. The development of a modern economy, with a strong service sector and competitive industries, has been painfully slow. Most Romanians now consider that they were better off under communism than under the parliamentary republic installed since 1991. The prospects for rapid domestic economic growth remain muted, as the unreliable rule of law situation actively discourages private investment as does unclear business practices and procedures. The foreign debt has risen sharply in the 1990s and there was almost a crisis in 1999 when Romania had to draw down its foreign exchange reserves to service its obligations. The small size of the middle class is an obstacle to economic growth and investment, as well as to democracy.

Internal pressures for change are thus quite real and likely to mount as the population becomes increasingly uncertain of their future security, since the tentative steps towards market reform have not been accompanied by material benefits, but quite the contrary. Moreover, it is unclear what direction these growing pressures are likely to take, and it is not sure that they will favor the transition towards democracy. The surprising surge in popularity of the PRM indicates that a growing minority of Romanians might actually favor a return to greater authoritarianism.

A further factor favoring change is often thought to be a generational shift in power that will come with time. Such a perspective is based on a hope that the undemocratic and nonparticipatory political culture which had its roots in the communist past will fade with a new generation whose political consciousness postdates the 1989 revolution. It is certainly true that a lack of elite circulation has hampered the pace of change in Romania despite the revolution, with personalistic informal networks leading to the preservation of old ways. But hoping that a change in generations will be enough to overcome the structural incentives that have led to the current impasses may well involve some wishful thinking. It is equally likely that the means of recruitment and advancement in political parties will help to perpetuate structures despite new blood.

3.2 Key Actors and their Interests

3.2.1 Political Parties

Contemporary Romanian electoral law ensures proportional representation and voting according to party lists. This system renders MPs more accountable to the party leaders than to their own constituencies. The UDMR was the only party to have an internal election before the general election. For MPs to advance and gain influence, they need to be disciplined soldiers of their own parties. This is one of the reasons that Romanians have such low trust in the parliament and the political parties. The system also encourages a selection of candidates who are able to purchase a high enough spot on the list to be eligible for election. As a result of the top-down hierarchical mechanisms of party control, the parties rarely have clear doctrines and people are often confused about what they stand for.

Changing the current electoral law to a mixed system (single vote/lists) might increase the accountability of MPs to their constituents. Many of the parties after the 2000 elections agreed to consider changing the law. However, some fear that the dominant PSD will seek to structure things to their advantage, such as by gerrymandering which new voting districts should be established for the single vote slates.

Party campaign financing has become a critical issue in Romanian politics. There is a striking lack of transparency in this regard and a lack of clear legislation to regulate the financing of political parties. What laws do exist are often violated with impunity. Much of the financing is said to come from businesses (some international) and from money laundering. Public funds are also often tapped for campaign budgets. Monies from the private sector tend to be a *quid pro quo* for hidden favors granted to companies by the government. A Pro Democracy report estimates that the PDSR campaign spent \$4 M, but only declared \$1 M, and this is a pattern repeated with the other parties.

One of the principal sources of campaign financing is thought to come from the redistribution of state assets through crony privatization. The bright side of this diversion of public funds to party treasuries is that it might increase the political will to privatize and help overcome the resistance of those with entrenched positions in state enterprises that are concerned with the maintenance of their privileges. On the other hand, the lack of transparency regarding privatization to date has encouraged malpractices, corruption, and an unjust redistribution of social benefits. Many of the

state-owned enterprises have been undersold, and the profits used for private gain by those with political influence.

The electoral framework, internal structures, and financing of the political parties thus weaken their interest in reform and turns them into instruments for intra-elite cooperation and competition. The center-right coalition collapsed in disgrace after its poor showing in government, and there is currently little prospect for its resuscitation. This has left the field open to the PDSR, which under its new banner of the PSD has emerged as by far and away the dominant actor among the political parties. The PSD has 45 percent of the seats in parliament, with the PRM coming in a distant second with 25 percent. The PD, riding on the popularity of the dynamic mayor of Bucharest, comes next but even further back, with only nine percent. In fact, the extent of the PSD's dominance in party politics is in part the result of a popular rejection of the multipartyism that led to the political immobilism of 1996-2000. The PSD is far from a monolithic entity, containing pragmatists, reformists, and opportunists, with the pragmatists currently thought to be in the strongest position.

As a political machine, the PSD distinguishes itself from the others not only for its national dominance, but also for its ability to establish roots in local politics. Over 65 percent of the mayors are adherents of that party. The PSD has a very strong Minister of Public Administration, who is close to the president, reflecting the priority which that party gives to local affairs. The prefects are also linked into the party structures since they are the watchdogs of the central government and controlled by the Ministry of Public Administration.

The constituency of the PSD is primarily composed of adults of fifty years or older and rural residents, especially in Moldavia and Muntenia. That part of the population is disproportionately affected by poverty and dependent on assistance from the state. These constituents tend to resist reforms as they are concerned about a degradation of their living standards due to a transition towards a market economy and a reduction in the beneficence of the state. What many Romanians in this category are really looking for in their government is stability – stable prices, state guaranteed wages, and state guaranteed jobs.

3.2.2 Political Leaders

With the parties lacking widespread credibility, individual leaders take on more importance. Polls suggest that there are only three political leaders with a high level of trust in contemporary Romania. These are Traian Basescu, the President of the PD, Adrian Nastase, the Prime Minister and President of the PSD, and Ion Iliescu, the PSD President of the country. However, as the popularity of politicians rises, they tend to be the targets of cooptation by business interests, such as was the case with Melescanu. Already Basescu has been courted by competing interests seeking to ride the coattails of his popularity.

In the past years, it has been hoped that a new generation of political leaders would help to professionalize parties and politics in Romania. Many training programs were put in place and numerous young political leaders have benefited from overseas experiences. But hopes are dimming that this training of young potential leaders will be able to surmount the rigid tendencies of the political system, with recruitment and promotion within parties still based on conformity to existing practices. One telling example was the PNTCD from 1996 to 2000.

Before the 1996 elections, many young members of that party reached important positions in a party that was otherwise dominated by a gerontocracy. However, the young comers soon got the reputation of being essentially clones of those who promoted them. In any case, the PNTCD lost parliamentary representation as well as credibility, and a subsequent major transformation of the party occurred as both the young and old leaders were swept aside in unusually free internal elections. The lesson here was that it is not enough just to pin hopes on a new generation, but more important to reform structures and rules that condition behavior.

3.2.3 Civil Society Organizations

Although there are now some social service delivery NGOs, there is not much of a tradition in associative life, as might be expected in a postcommunist state. The profusion of NGOs that took place after 1990 featured a great number that were concentrated in advocacy work, sometimes termed as CSOs. The principal problem with Romanian CSOs is that they lack any natural constituency. Most were begun as top-down organizations, primarily “rent-seeking” groups responding to international funds and lacking much sustainability. These groups tend to be in the hands of a few individuals who see themselves as an enlightened vanguard with the mission of leading others on the road to democracy. Most of these organizations exist in the urban areas and in the western part of the country. These organizations tend to be marked by low internal transparency and accountability. Their credibility among the population suffers because they do not deliver tangible benefits, and it is likely that people would be more receptive to groups that did help provide services in the wake of a retrenching state rather than what are perceived as opportunists trying to cash in on donor naiveté.

Donors not only helped to create this group of actors but were inadvertently instrumental in perpetuating their weaknesses. The creation of CSOs was not a natural phenomenon, nor was it based on any community needs. After the elections of 1996 transferred the mantle of “democratizers” to the CDR and its coalition partners, many CSO leaders left for other pursuits, leading to a decapitation and deprofessionalization of many CSOs. A tendency towards fraud and corruption, with double billing and dubious accounting further undermined the reputation of these groups.

The notable exception to the disappointing development of Romanian CSOs is Pro Democracy. This group has in fact distinguished itself in the region as an example of what a CSO should be. It evolved from a focus on education programs to a more elaborate strategy based around monitoring political parties (especially campaign financing) and advocating changes in legislation. Although its first president came from the Brasov chapter, the organization is headquartered in Bucharest with multiple branches all over the country. Pro Democracy is currently refocusing part of its energies on the local level, taking advantage of the decentralization initiatives to promote greater citizen participation in local decision-making. National Democratic Institute (NDI) played a key role in facilitating the development of this organization.

3.2.4 Business Associations

These are the most active and efficient manifestations of associative life in Romania. This is largely because they have established themselves from the bottom up, having a natural

constituency that is highly aware of their interests and that is willing to provide sufficient resources for sustainability. Under the present regulatory regime, most small and medium enterprises face great difficulties in prospering. But they are increasingly developing an effective lobby for changing regulations in their favor or at least developing a stable and predictable environment for conducting business. CSOs would do well to form coalitions with business associations in promoting reform, but thus far it appears that interaction between these two groups of actors has been sporadic and characterized by uneven success. This is in part due to the distorting effect that a donor overemphasis on political advocacy has had, neglecting the importance of lobbying for self-interest for the sake of supposed political altruism.

3.2.5 Research and Academic Groups

Another domain of associative life that affects politics is in the area of think tanks. There are several academic and research groups that gather and analyze information about various elements of the Romanian political system. The experts that make up these groups have been trained both in Romania and abroad. These groups, such as the Romanian Academic Society, sometimes provide input and information more accurate than official sources, such as the National Institute for Statistics. However, these groups tend to be fragmented and in some disarray, being dominated by a disparate group of individuals who tend not to collaborate closely. The individuals belonging to the various groups have increasing access to decision makers and they thus are in a position to influence policies and promote reforms on various topics. While the objectivity of such analyses depends upon the perspectives, aspirations, and interests of the various leaders, the existence of this subsector of Romanian associations does provide an alternative source of information for public decision-making.

3.2.6 Media

The Romanian media is largely independent of formal government control, and there is a large number of national and local private outlets. About 1,600 new publications have been launched since 1989. However, despite the independence of the media, freedom of expression has sometimes been muted by charges brought against journalists of slander and causing offense to the authorities. For example, one cartoonist was sentenced to a \$400 fine for depicting a mayor as a pig. Papers are also sometimes sued for publishing letters from readers. The press is also constrained by dwindling circulation and rising input costs.

Only the public television chains (TVR1 and TVR2) are in the hands of the public authorities, although as of last year efforts have been made to make them nonpartisan. But since most major private television stations use only the cable system to broadcast their coverage, it is really only the public stations which reach the entire nation. For example, in many rural areas, there is no cable service, although the public television can almost always be received with an antenna. Local private television stations are usually branches of a national station.

Despite its relative freedom from government interference, there exists a strong collusion between political and business interests in the Romanian media. To speak of the independence of the media, therefore, is to only refer to formal government control, and not the informal domination of the media by the wealthy and powerful. This collusion begins with the owners, who tend to serve as instruments of political forces or business groups. Indeed, it is widely

claimed that it is not uncommon for those with sufficient money to start up a media outlet to do so as a means to fight against enemies or to obtain privileges from politicians. Unfortunately, it is not uncommon for blackmail and extortion to be among the tactics used in the modern media business, where stories are threatened to be printed unless favors are granted. For example, bargaining over advertising is sometimes performed with compromising files and information on the table.

Truly independent journalists are not easy to find, since most are hired as mercenaries to serve the particularistic interests of the owners. The professionalism of Romanian journalists also leaves a lot to be desired. Many do not have a background in journalism, and it is sometimes said that there are as many engineers in media as in the industrial sector. One reason for this lack of relevant background is that higher education in communist Romania concentrated on technical areas, which is why today one finds engineers in almost all fields of activity – from public administration to media to CSOs. There is no clear code of ethics for journalists, although a professional solidarity is indeed growing, as journalists seek to counteract the pressures brought by editors and owners.

The case of Media Pro is illustrative of the difficulties faced by private media. Media Pro is a huge media corporation in Romania. It developed very rapidly after 1995, with very impressive growth in its audience and circulation levels. It is often said that Pro TV made a significant contribution to the first democratic transfer of power in 1996. However, after 1996, it became clear that Media Pro had accumulated large debts to the state, largely because they did not pay adequate taxes for its large numbers of employees. Apparently a “tax exemption” had been granted to Media Pro in exchange for favorable attitudes in the news towards the former government and also for contributions to the electoral campaign. Now Media Pro has fallen upon hard times as a result of a new political party (PDSR) coming into power while the debts are still there. It is thought that the various news outlets owned by Media Pro must accommodate the new power simply to survive.

3.2.7 Unions

Under the communist era, Romanian trade unions were an extension of the state and organized under a single federation, the General Trade Union Federation of Romania. After the 1989 revolution, there was a growth of new independent unions, as well as some state-dominated unions that continued to exist. But what has tended to replace the old state control of unions has been close and sometimes informal relationships with political parties, which has in turn undermined the independence and integrity of the unions. The blurring of the lines between national party politics and labor issues has actually led to the transformation of labor leaders into prominent national politicians, as was the case with a former prime minister (1997-1998), Victor Ciorbea, and the current Minister of Transportation and Vice President of the PDSR, Miron Mitrea, who had originally been hailed as the first truly independent union leader in Romania.

The representative nature and political independence of many of the current unions is thus highly questionable. The power of the unions and their leaders depends in part on their capacity to disrupt the economy, such as by paralyzing transportation or interrupting energy supplies. In the mining sector, unions tend to be more powerful because miners are spatially concentrated and have a history of collective mobilization. Unions in health and education are for these reasons

less powerful than their counterparts in the mining, electrical, or railroad industries, which explains why the complaints of these former unions have been relatively ignored by the government over the last decade. The miners' union in Valea Jiului was significantly weakened after the arrest and prosecution of Miron Cozma (their unchallenged leader) in 1999, but other industrial unions remain powerful. An example of unions flexing their muscles may recently be seen in the case of Resita. This company had been privatized and bought by an American company, but after three months of street protests by union members the government decided to repudiate the privatization contract. It is in fact fairly common for unions to ally with the management of state-owned enterprises to frustrate and obstruct efforts at privatization. This management/labor collusion is one factor that makes state enterprises relatively unattractive for foreign investors, especially in view of the provision that new private owners must retain the current labor force of the respective company for five years after privatization.

As mentioned above, the confederation Cartel Alfa has distinguished itself by not allying with political parties. It is now quietly collaborating with a coalition effort to reform election law together with Pro Democracy. Cartel Alfa thus represents a potential asset to be mobilized in support of the Mission portfolio.

The growing partnership between unions and the government may have some unintended consequences. Just prior to the 2000 elections, the PDSR coopted some union leaders within the party and offered them eligible slots on the electoral lists. It was hoped that this would prevent or at least reduce labor unrest during the first years of the new government. But union leaders do not have the same control over their members as they once did, and there is concern that spontaneous social turmoil could result due to the appearance that the union leadership had formed a pact with the government without obtaining sufficient benefits for members.

3.2.8 Church Groups

There are three major churches in Romania: Orthodox, Catholic, and Greek-Catholic. There are also important protestant communities, especially in regions with large Hungarian populations. The Catholic and Greek-Catholic are primarily concentrated in Transylvania. The relationship between the Orthodox and Greek-Catholic churches has been strongly marked by a dispute over the disposition of former church property. This dispute has at times spilled over to open conflict between respective followers of the two religions, especially in northwestern Transylvania, where there are communities of mixed creeds. In addition to the three major religions, there are some other Neo-Protestant religions with little tradition but an increasing number of proselytes, who benefit from western financial support. The poor (even the Roma) tend to be attracted to the Neo-Protestants who appear to have more resources to offer. This has been of concern to many of the Orthodox priests who have become increasingly vocal in their opposition to the newcomers. There is thus a latent tension between these two groups with some potential for conflict between the followers.

In general, the church is the institution with the highest credibility and trust among Romanians. However, individual priests do not benefit from the same degree of trust. It is often the case that Orthodox priests claim high prices for their services, or at least this is the perception of many laypersons. There is also some widespread suspicion that not all priests subscribe to the rules they preach. This tendency to look askance at individuals associated with the church despite the

high trust accorded the institution may in part be explained as a remnant of the totalitarian political culture that characterized the communist era.

The Orthodox Church has thus far not played a major political role in Romania, despite their latent potential to do so. In fact, one could say that the Orthodox church has a history of trying to accommodate themselves to the powers that be that dates back to 1945 and even before. There were Orthodox priests collaborating with the extreme right movement known as the Legion Party during the 1930s, which made them easily compromised after the communists came into power after 1945. There was no significant opposition or protests by the heads of the Orthodox church to the atheistic education promoted by Ceausescu, nor even to the demolition of churches in Bucharest during the 1980s. Compared to the Catholic Church, there is little tradition on the part of the Orthodox in providing social services to the community, which has hindered the involvement of the church in public affairs through collaboration with NGOs. However, considerable potential exists for a constructive partnership built on the credibility of the church and the social activism of some community groups, should social needs generate such innovation.

3.2.9 Ethnic Minorities

The situation regarding ethnic minorities has already been dealt with in some detail in the above section on inclusion (Section 2.2). The two principal minorities in terms of significant political actors are the Hungarians and the Rroma. The ways they are represented are quite different. The Hungarians are well organized in pursuing their collective interests and have proved quite adept at gaining representation in parliament and even in the government, either being directly involved in the coalition in power between 1996-2000 or as tacit supporters of the current PDSR minority government. They have strong representation in Bucharest and benefit from articulate lobbies in both the USA and the EU. As a result of their extraordinary organizational and advocacy skills, they have been granted significant concessions and rights by the Romanian state in recent years, such as in the domains of language and education. One of their major advantages has been their territorial concentration, in contrast to the Rroma.

The Rroma suffer from being dispersed throughout the country with little cohesion amongst their own ethnic group. The Rroma as a group has never been able to assimilate into Romanian society effectively, nor even to communicate as a single actor. Their lack of integration and occupation of the bottom strata of Romanian society is an embarrassment to the country that has gained prominence as a result of EU concerns that accession might trigger a mass emigration to western Europe. As a result of intensive donor interest, large sums of money have been poured into NGOs which presumably represent the Rroma. In fact, most of these organizations are artificial and lack roots in the disparate Rroma peoples of Romania. Entrepreneurial gypsies have rushed to claim representation of the Rroma for pecuniary reasons, but none has yet proved capable of mobilizing or reaching any more than a scattered handful of the dispersed community. In fact the governmental inter-ethnic department within the Ministry of Public Information is better placed to address the key issues of access to education and health for this dispossessed minority, and they appear to have the political will to do so. In light of the heavy international attention given to this issue, care must be taken not to go overboard and exacerbate tensions with the majority by providing affirmative action-like programs that provide undue entitlements to the many Rroma who have actually succeeded in obtaining decent living standards through legal

business practices. As with the other minorities, enforcement of civil rights guarantees must be ensured for the Roma, but more effort should be made to target those citizens most in need of special assistance. The aforementioned governmental unit that was recently established is well placed to play just such a role.

3.2.10 International Donors

This section on political actors in Romania would be incomplete without mention of international donors. In addition to USAID, these actors include the World Bank, the EU, the Open Society Foundation (Soros Foundation) and United Nations Development Program (UNDP). The foreign donors have an unusually high capacity to influence governance because of Romanian sensitivity to international opinion and pressures. The PDSR is especially sensitive to their international image after having felt slighted during their reign in power between 1992-1996.

However, there is room for improved coordination within the DG sector among the donors in Romania. This represents an opportunity for better identification of concerns common to the donor community and to pool resources and influences to overcome obstacles that all may have identified as standing in the way to further development. The simple feat of increasing donor dialogue on key issues, such as the lack of accountability in public institutions, could have an impact equivalent to several million dollars worth of assistance by individual parties. USAID has considerably more experience than the other donors combined in the DG area, and is therefore well placed to take a position of leadership in sharpening and coordinating the donor efforts to encourage improvement in Romania's governance.

3.3 Filtering in Context, Actors, and Interests

This section on context, actors, and interests confirms the trends identified in the preceding section. The political immobilism associated with flawed multipartyism has potentially given way to the emergence of a dominant actor, in the PSD. However, the PSD itself has been internally reliant on problematic patterns of governance that will not be easy for its leaders to overcome despite acute contextual pressures for change. The reformists within the PSD thus need support in weaning its own adherents away from rent-seeking practices that impede prospects for economic growth. International donors have considerable influence and so DG assistance assumes an important catalytic function in encouraging the government to take the bold steps needed to move Romania's transition forward.

4.0 KEY INSTITUTIONAL ARENAS

The above analysis has focused on identifying the nature of the political dynamics in modern Romania, the principal DG problems to be overcome in facilitating the transition to democracy, and on considering the various political actors that might be either proponents or opponents to reform. Left to be evaluated are the public arenas in which politics is played out. This section seeks to identify the key institutional arenas and in what ways they are susceptible to reform.

4.1 Constitutional Sphere

Constitutions set forward the basic rules by which the political system is played out. In the case of Romania, the constitution is relatively recent, having only been promulgated in 1991. Before this, the communist dictatorship of Ceausescu had in place a fundamentally different set of rules so the changes enshrined in the 1991 constitution were quite radical in terms of what had existed before.

But in the ensuing years since 1991, it has become clear that there are several areas of the constitution, which need modification in order to improve democratic governance. These areas include the heavy use of emergency decrees to legislate, a bipolar executive, two parliamentary chambers with duplicative functions, an electoral law that distorts and inhibits representation and accountability, and a judiciary that is overly sensitive to political influences. Most of these issues have already been described in the above text. Regarding the bipolar executive, the situation is that the president is perceived as one of the most, if not the most, important political figure. Yet the Romanian president's authority is in fact much more limited than commonly perceived, and there is not much they can do without party blessing. For instance, the president cannot dismiss the Prime Minister or any minister for that matter. Once elected, the president can make suggestions and exercise moral authority, but most of his decisions are not binding on parliament, which is dominated by the political party hierarchies. The Prime Minister does thus not necessarily answer to the president, which can lead to confusion and problems if there is conflict between two strong personalities.

Revision of the constitution has been high on the agenda of interparty dialogue, due to the shortcomings of the current system, which have become quite apparent after several governments in power. The PSD has recently called for the resumption of discussions over constitutional reform, and this could be a window of opportunity for improving several aspects of governance (see recommendations, below).

4.2 Legal and Judicial Sphere

The legal system was instrumentalized into a tool of Soviet-style domination and repression in the late 1940s and early 1950s. To this day, it has not yet recovered from the distortion this caused regarding both the principle of separation of powers and the efficient administration of justice. In addition to systemic flaws that characterize this arena, there are problems with low judicial salaries, inadequate courtrooms, equipment and materials, and high level political interference in judicial decisions. These problems have all been discussed elsewhere in this report.

The judiciary and legal system are in dire need of considerable reform and the DG transition will continue to be severely obstructed until the government manifests considerable political will in moving such reform forward. Donor encouragement of major reform of this subsector will be influential in helping to convince the GoR of the importance of improvement in this sector. The World Bank is carrying out a study to lay the groundwork for some significant intervention in this sector, and the recommendations of this assessment include a comprehensive judicial assessment to help lay the foundations for effective assistance to this troubled sphere of governance.

4.3 Governance Arenas

The parliament has been singled out as ineffective and subject to the will of the political parties through an electoral system that distorts representation and hinders accountability. The Senate has 140 seats and the Chamber of Deputies has 345 MPs. Both chambers are directly elected from 42 multimember districts, which include 41 counties and the municipality of Bucharest. Election to parliament is by proportional representation from party lists. The two houses basically duplicate themselves without clear reconciliation measures to bridge the work between the two branches. This leads to a heavy use of emergency decrees out of expediency.

There is basically a dysfunctional relationship between the executive and the legislature. Once a party gains power, they can essentially select who they want to staff the public administration, so the allegiance is to the parties, rather than to a professionalized civil service. The executive's use of emergency decrees has become routine, and so there are currently hundreds of ordinances that have not been reviewed by parliament. It is likely that some will be rejected, although many will be rubber-stamped. For parliament to become more functional and effective, the best hope for progress is in constitutional reform rather than technical assistance.

The public administration is characterized by a high turnover as a result of electoral changes in government. Civil service reform is needed to improve the professionalism and accountability of the bureaucracy. In the meantime, the high degree of discretion afforded bureaucrats has helped facilitate the flourishing of corruption. A recent World Bank study has criticized the high levels of corruption in Romanian public life and has called for significant reform in the system of administration. The study pointed to the predominance of cronyism and the importance of bribery in obtaining routine services such as healthcare.

4.4 Local Government

The Mission has invested heavily in local government over past years, and so has gained a comparative advantage in understanding this dynamic subsector and the constraints that remain to be overcome. While there has been a gradual devolution of authority to the local level over the last decade, the transfer of fiscal authorities has not kept pace with the transfer of responsibilities. About 50 percent of revenues still come from the national level, and the exact amount is often conditioned by political considerations. There is thus considerable uncertainty regarding local government budgets from one year to another. For example, the town of Giurgiu with its liberal (PNL) mayor saw the percentage of its budget that was obtained from the central

administration drop by 75 percent after the change of government from the CDR coalition to the PDSR. This has made it difficult to develop capacity at the local level.

In addition to fiscal and budgetary uncertainties, local government is at times hampered by conflictual relationships between the mayors and local councils. The mayors have no assurance of council majorities, as the councils are elected by party lists whereas the mayors are elected directly. To further compound the problem the large size of municipal councils (31 members) makes it difficult to achieve consensus. The result is a certain tendency towards immobilism in local politics despite the gradual devolution of responsibilities to the local level. However, the political diversity occasioned by the disparate affiliations of mayors and council members may represent a chance to promote and develop pluralistic representation.

4.5 Filtering in Institutional Considerations

Regarding the prioritization of potential targets for assistance, it is clear that the more systematic problems at the national level (such as in the rule of law area) will be more difficult to overcome than local level problems of governance. The local level offers not only less entrenched vested interests to overcome, but also shows more dynamism. Overcoming the national-level DG problems in rule of law and governance is beyond the scope of Mission resources. However, the Mission could identify linchpin targets of reform and assistance at the national level that will help enable more far-reaching reform. Such linchpin targets include transparency, oversight, and accountability.

5.0 STRATEGIC AND PROGRAMMATIC RECOMMENDATIONS

5.1 Towards a Managed Transition

Romania currently has the potential to move further towards democratic governance through a managed transition. Ironically, the PSD (formerly PDSR), which was once seen by many as a lingering reminder of the past, is the best placed political actor to move the country out of the impasse in which it became mired during the coalition government. The self-destruction of the coalition government when it could not overcome the structural constraints to liberalizing reform led to the return to power of a stronger, effective, and more sophisticated PSD. For the first time in its modern history, the Romanian ruling party has a position of consolidated strength that should allow them greater freedom and ability to pursue reforms that are fundamental to economic growth but go against the vested interests of influential groups and persons. The PSD has eclipsed the fragmented parties across the rest of the political spectrum and now has the field open to systematically implement the reforms that all agree are needed to move the country forward into a market economy and greater integration with Europe.

However, while the current dominance of the PSD gives the government greater freedom of maneuver, it is not at all clear that they will actually take the bold steps needed to move Romania's transition towards democratic governance forward. As with the other parties, there is a strong interpenetration between the PSD and an informal network of influential behind-the-scenes movers who currently control the heights of the business sector. Likewise, the profits that are to be made from a distorted privatization process that will use the state assets as payoffs to influential groups will not be easily foregone. In general, the corruption that is such a part of the system in Romania will help generate internal resistance to greater transparency in government since that would eliminate supplementary income sources for many whose regular salaries are beneath what they would like them to be.

But the transition towards democratic governance is propelled by need and not just good will by enlightened leaders. Without significantly greater transparency, accountability, and oversight in government, both foreign and domestic private investment will continue to flounder and economic growth will be limited. Without economic growth, domestic pressures will continue to build at the same time that state finances are bled by continued subsidies on inefficient state enterprises. The current stalemate regarding economic and political reform is unsustainable, and the PSD is the best placed actor to lead the charge to change, should it be able to overcome the internal influences that mitigate against such reform. The PSD government has consolidated its hold over public life very effectively, and so is in a position to manage the transition towards democratic governance in a way that could very well preserve political stability during a period of fundamental change. The big question remains, though, whether the PSD leadership will be able to move such change forward in the face of opposition from both within the party and powerful vested interests that will not benefit from the reforms.

USAID and the other donors could play a key role in helping to catalyze the fundamental and systemic reforms that are needed to facilitate economic growth. Romania is very sensitive to international opinion and pressures, and some encouragement and reward for taking positive steps could have a significant impact upon political will, especially if the donors are coordinated

in their identification of the key problems to be overcome. The donor community would do well to encourage positive governmental actions while at the same time continuing to draw attention to potentially dysfunctional patterns of governance.

5.2 Strategic Considerations for the Mission's DG portfolio

Whether or not Romania moves forward on the path towards a managed transition will primarily be up to the Romanians, especially the PSD government. There is little donors can do to impel the needed reform without the political will and vision of the governing party leaders. USAID is especially constrained by the limits of its DG resources, which are insufficient to make the fundamental difference between a trend towards democratic governance versus corrupt authoritarianism. The EU not only has more resources to nudge Romania's leaders in the right direction, but they also offer the potent attraction of accession to the union. But the EU itself appears unwilling to systematically press the Romanian authorities to address the key issues that need fundamental reform, such as in the rule of law area. Rather, the EU has set standards and conditions for accession that are unlikely to be met, but they do not seem too interested in using their assistance to instigate any change on the Romanian part in a proactive fashion.

The most appropriate role for USAID given its limited resources and the depth of the challenges that exist in the DG area is to support reform initiatives that have materialized, most notably in the area of local governance, while carefully targeting national-level assistance on key themes as triggered by domestic initiatives themselves. In particular, greater progress in achieving greater transparency, accountability, and oversight is essential to both economic growth and good governance. Without progress in these related areas, Romania's governance systems will remain prone to corruption, will frustrate private sector growth, and will continue to decline in legitimacy. There are several areas in which the Romanian political class is considering various reforms that would contribute to better performance in these key governance characteristics. Should the government move forward with reforms, USAID could provide timely assistance in helping to consolidate and deepen the positive moves. Should the PSD regime frustrate and block greater transparency, accountability, and oversight, the Mission should exercise great caution in devoting resources to support a public administration and system of governance that could easily give in to the structural tendencies towards greater authoritarianism and corruption. The onus is on the PSD government to make a tangible commitment towards a managed transition that must necessarily entail greater checks on the arbitrary exercise of power and authority if it is to become sustainable.

A two pronged set of recommendations follows from this DG assessment. First, the Mission should continue to build on the decentralization initiatives that the Romanians have undertaken in recent years. While the decentralization process remains incomplete, the experiment is underway, and some dynamic reaction is manifesting itself at the local level. Achieving results by working to expand the political space at the local level that has been opened by the reforms is a low risk approach that has the potential to help build the confidence that is needed for the government to further decentralize control over financial resources.

Second, a higher risk set of priorities should be clearly established in order to draw attention to certain key deficiencies of the national system of governance, most notably in the areas of

transparency, accountability, and oversight. Since this second track of activities is higher risk as it depends upon bold reforms despite the inhibiting effects of existing political structures, the assistance could be in part triggered by and tied to concrete steps taken by the regime and political parties.

The interventions at the local level would build on an existing window of opportunity, and would therefore more reliably yield measurable results. But the local level activities should not be expected to lead to or even significantly contribute to an overcoming of the fundamental DG challenges at the national level. It is for that reason that the Mission should remain engaged at the national level although the prospects for progress are less certain. Without progress in addressing the key deficiencies of the system at the national level, Romania's transition to democratic governance is likely to slip backward or fail. Even with limited investment, the Mission can have an impact by helping to catalyze reforms that are being considered but have not yet been effected.

The Mission should avoid spreading itself too thin in its promotion of good governance. There is so much to be done and so much room for improvement that the bulk of reform will have to be tackled by Romanians themselves. USAID should focus its limited assistance on linchpin areas at this stage, and then down the line consider augmenting resources should the GoR succeed in breaking the grip of the structural causes of the stalemate that caused the coalition government to fail and which threaten further reform in both the economic and political spheres. The rule of law subsector, for instance, is a tricky area for assistance due to the monumental nature of the challenge. To date, small efforts by USAID have helped leverage much more comprehensive efforts by the EU, and further donor pooling of resources may be needed in this area. Enormous amounts of assistance could be swallowed up in the halls of the vast parliament building without generating the constitutional reform that is needed to make the political parties more representative and accountable to the electorate. To be sure, these are all areas that need attention in Romania, but the Mission needs to target its limited resources carefully. There is a danger that providing assistance to institutions that are fundamentally flawed to begin with could serve to enable dysfunctional behavior, or to send a message that reform can be postponed or possibly avoided through technical innovation rather than systemic reform.

An additional advantage of focusing the Mission's DG resources around a result of greater transparency, accountability, and oversight, is that these are all attributes of a system of governance that also contribute to economic growth. It makes a lot of sense to develop synergies between those two SOs in the Mission. For example, the economic growth SO team's work with business associations directly relates to some of the associative work mentioned before and the DG team could also incorporate business associations in their work to help improve their advocacy capacities. Likewise, the efforts to streamline regulations and bureaucracy for foreign investments could also be linked to DG efforts to promote transparency and accountability, and therefore regularity and predictability in public affairs.

DG thus provides not only ample opportunities as an independent SO, but also offers considerable promise for crosscutting activities and synergies. As the Mission works to define a role and niche in the rule of law area that is complementary to other more ambitious donor initiatives, it would do well to focus its scarce resources on areas of commercial law. Private

investment will continue to be deterred by a lack of predictability, transparency, and regularity in the application and laws that govern commercial and financial interactions. A more accessible, rapid, and reliable system of commercial arbitration also is an important target of opportunity that could be linked to other DG work at the local level. The Mission's work at the local level could also provide key synergies with the promotion of small and medium enterprises. For example, the Mission's work to support the improved use of national investment funds could well be directed towards small economic growth ventures at the local level. Similarly, the Mission's work to improve the welfare of children may also dovetail with the DG focus on local governance. The litmus test of a legitimate system of governance is improved public services at the local level, and the area of child welfare provides a logical entry point to explore synergies between the Humanitarian Assistance and DG SOs.

Modest expectations should condition the Mission's DG strategy. It is the nature of a managed transition that change is likely to be incremental and gradual. USAID is not going to be responsible for any breakthrough to democracy, but can instead coax and nurture positive steps by those who have the power to determine the future of governance in the country. There is no credible critical mass on the demand side of the political equation that can be mobilized to insist on dramatic strides towards democratization. The parties are part of the problem and the advocacy NGOs have with few exceptions been distorted by donor over-enthusiasm during the 1990s. The results package can be realistic and meaningful at the same time if it builds on existing opportunities while favoring linchpin progress that is not in itself revolutionary.

Donor coordination has been an underutilized instrument for encouraging the managed transition. Greater donor dialogue on the key obstacles to democratization and good governance would itself be likely to have a positive impact. Many of the assessment sources stated categorically that it appears that international pressures have actually decreased as a result of frustration and disappointment with the failure of the coalition government. The GoR's sensitivity to its international standing cannot be overstated, and donor coordination in at least commonly identifying the key DG challenges could have a markedly positive effect. The World Bank in particular appears to have the vision and resources to be a good partner for USAID's coordination efforts. The World Bank has recently called for a more transparent system of party funding, a stronger and more independent judiciary, the creation of a meritocratic and better rewarded civil service, and greater freedom of information. All of these areas of intervention could provide a good basis for consultation and coordination between the Mission and the Bank.

5.3 Results, Impacts, and Programmatic Tactics

The strategy suggested by the above analysis places priority on two tracks. The first is increased transparency, accountability, and oversight at both the national and local levels. Achieving this broad result will be done by a number of targeted interventions with specific different impacts whose selection in large part depends upon windows of opportunity that come open in response to the GoR's political will to effect reform. For example, constitutional reforms may lead to greater accountability through an improved electoral process. Transparency might be increased by legislation conceived and initiated regarding party campaign financing. An impact of assistance to think tanks and advocacy organizations around the theme of campaign financing

would be to increase civil society demands for transparency. A more capable ombudsman's office would be an impact that would contribute to improved oversight mechanisms.

The second strategic priority identified by the assessment would be more effective, accountable, and responsive local governance. The result of more effective local governance could be achieved through technical assistance and training to municipal administration. More responsive local governance could be achieved through increasing citizen participation in local decision-making over public affairs. Local governance would also be more efficient and responsive were it to gain more autonomy and powers as a result of policy changes at the national level. Work with municipal associations and federations would help increase likelihood that enabling legislation would be passed to improve the environment for local governance. Local government will also be made more accountable by rendering its budgetary process and expenditures more transparent.

5.3.1 Local Governance

Local governance provides the greatest evidence of dynamism and widening political space in the current Romanian political system. The Mission has already made substantial investments in this area and so has foundations upon which to build combined with an in-depth knowledge and understanding of this subsector. The decentralization initiatives that were begun in the late 1990s provide a window of opportunity that has already opened and which has sparked greater citizen interest and involvement at the local level. Retaining Mission involvement in this important area would help preserve the gradually expanding political space at the local level while encouraging the GoR to continue to promulgate new and more far-reaching legislation that would increase the financial resources under the control of local authorities.

While targeting more important strategic problems at the national level might achieve more of a breakthrough in terms of the transition to democratic governance, there is much less likelihood that these higher level problems will actually be overcome as a result of DG assistance by foreign donors. Rather, the Mission can help to facilitate progress on those higher level problems should the PSD government decide to make a genuine effort to tackle them themselves. Working in the area of local governance, on the other hand, is much more likely to yield concrete and measurable impact from donor assistance that is still important to democratization, even if in itself this will not overcome the key national-level DG problems.

Several constraints to local governance need to be overcome in order to promote development. There is a lack of citizen engagement. The so-called slate system for electing local councils contributes to citizen apathy. The size of local councils is too large. Mayors are not accustomed to delegating much authority, impeding more efficient delivery of public services. Unfunded mandates remain a significant problem. In spite of all the decentralization initiatives, the central government through the ruling party machinery controls a lot of local actions.

Working on both the demand and supply sides of the local governance equation has promise. Citizens are starting to get more engaged in municipal affairs, and there are some examples of participation in citizen review of municipal budgets, as in Brasov. Strengthening this type of involvement both promotes greater citizen participation and transparency and accountability, and opens the door to popular pressures for greater oversight. Local government does not have a

great deal of capacity or experience in dealing with the new responsibilities that have resulted from decentralization, and capacity building in the areas of strategic planning, revenue generation and collection, and expenditure decisions continue to remain valuable objectives.

Developing the associations of local government actors can help strengthen the voice of local authorities at the national level. The Ministry of Public Administration has also expressed enthusiasm for such representation and has taken steps to institutionalize it. However, some caution needs to be taken as some mayors are voicing concerns that such associations could risk becoming coopted and become instrumentalized into tools for greater central control over increasingly autonomous local actors. How this evolves will in part depend on the leadership of the associations and federations of local authorities. Despite this caveat, building upon these associations and federations represents a promising avenue for helping to promote further decentralizing policy reforms by the national government, since the increased contact and means of interaction should help to build confidence.

A focus on local governance also offers the opportunity to leverage a significant amount of other donor resources, most notably through the World Bank's multimillion dollar Social Development Fund (SDF) and its Rural Development Project. Both of these substantial interventions target among other things the interaction between community groups and local authorities in prioritizing and providing improved services. One of the stated objectives of the SDF is "increasing the capacity of local authorities to respond to demands and to use participatory approaches". The Mission's local governance activities would do well to use the SDF as a "carrot" to generate high levels of interest and involvement in citizen/local government interactive processes. World Bank representatives indicated to the DG assessment team that they would welcome complementary activities on the part of USAID, and this could help serve as a building block for greater donor coordination.

5.3.2 Transparency, Accountability, and Oversight

One of the principal findings of this DG assessment is that priority should be placed on redressing the systemic lack of transparency, accountability, and oversight. Progress in these areas would begin to get at the most fundamental DG problems facing Romania, including corruption. This would also signal some promising trends that had the potential for significant improvements in the enabling environment for economic growth. Without greater transparency, accountability, and oversight, further progress in other areas would be unlikely to significantly advance the democratic transition. Progress on transparency, accountability and oversight is essential to Romania's managed transition.

There are multiple areas of intervention that the Mission could pursue to advance these objectives, depending on windows of opportunity. For example, the FOIA that is currently under legislative review could provide an important opportunity should it be passed in a meaningful form, which currently appears likely. The draft law was passed in the Chamber of Representatives in March 2001 and is currently before the Senate. If properly enforced and utilized, it could be a great tool for both transparency and for accountability. The media could gain an important new means of access to critical information, as could some of the think tanks. The Mission would do well to seek out means to exploit this window of opportunity should it become passed as is expected.

Another possible area of intervention along the key themes of transparency, accountability, and oversight would be work with the ombudsman's office. While the statutory powers of this office have been limited by its subordination to parliament, it showed tremendous promise in its early years through providing a point of access to citizens for the redress of their grievances. The ombudsman's office could also benefit from the FOIA in resolving or at least throwing light on potential government abuses. Greater Mission involvement with this office would help to not only build its capacities, but accord it greater legitimacy that would encourage the government and parliament to continue to take its development seriously.

Party finance reform is another promising item on the national political agenda these days that would be worthy of Mission support were it to lead to concrete actions on the part of the government or parliament. Likewise, the Romanian political community is increasingly considering and debating the need for constitutional reform in certain key areas. The PD, for example, is proposing some changes that would include a single-vote system for the Senate while retaining party lists for the Chamber. Also, differing functions for the two chambers of parliament need to be better elaborated, as does more clearly distinct roles for the President and Prime Minister. The Mission could enlarge the forum for debate and dialogue over constitutional issues by working with partners outside of the current party structures such as Pro Democracy, the Romanian Academic Society, and Centras, not to mention individuals such as Dudu Ionescu, the former Christian Democratic minister whose current distance from the political fray allows for an informed but more balanced perspective than politicians in the midst of the fray.

5.3.3 Rule of Law

The rule of law area is a tricky one, since the systemic challenges to be overcome are of such magnitude that serious reform of this sector is well beyond the scope of Mission resources. Moreover, the danger exists that technical support and training in this sector might have the unintentional consequence of providing an endorsement of current structures and enabling the better functioning of a flawed system. It is therefore recommended that the Mission commission an in-depth judicial assessment in order to better identify and evaluate paths for overcoming the monumental challenges in this subsector. This assessment should contain an emphasis on what is needed to improve the state of commercial law in Romania, to better foster synergies between Mission SOs. Conducting a judicial assessment would also have the advantage of providing a further basis for donor dialogue on this issue, since the World Bank has also begun work on an assessment of the legal and judicial system as a basis for further assistance to the Ministry of Justice.

5.3.4 Civil Society Development

Working with associations to help strengthen oversight functions and to press for accountability provides a way to focus assistance to CSOs. Past efforts to increase the demand side by creating a vibrant civil society to press for democratization writ large have not succeeded. A more focused effort as recommended here would reduce overall exposure to disappointing results in civil society development while still providing the opportunity to work with a handful of credible organizations to promote reforms in targeted areas, such as the constitutional dialogue and the push for accountability.

Work with business and professional organizations also has promise in that these organizations have more credibility to begin with, and can help to make the government more responsive to citizen input. These types of associations have considerable potential in advocacy regarding governance reforms that would help overcome obstacles to economic growth.

5.3.5 Ethnic Minorities

Mission resources are insufficient to have a measurable impact on the Hungarian and Roma minority issues. However, these sources of vertical social cleavage carry the potential for some conflict in the future. The GoR has taken a positive lead in addressing these areas through the creation of the new interethnic department within the Ministry of Public Information. This new department has approached USAID to seek some discrete and modest assistance in organizational development that would be well worth the Mission's while. Not only would the Mission be able to fill a gap in coordinating between the GoR and donors in interethnic issues, but would be able to help develop the capacity of the government to better combat discrimination and promote diversity. The EU is already embarking on an ambitious program to help Roma organizations deliver better services to their constituencies, and Mission support to the new GoR unit would provide a good complement to the EU efforts.

APPENDIX A. INTERVIEWS

AURELIU, Dumitrescu: Director General: Ministry of Public Administration

AVADANI, Ioana: Executive Director, Center for Independent Journalism

BABES, Alexa: Program Director, Foundation for Pluralism

BABOI-STROE, Adrian: Executive Director, Romanian Association for Transparency

BARBU-PARVU, Simion: Project Manager, ACIDI VOCA Romanian Agribusiness Development Project

BLAKE, Steven: Political/Economic Counselor, Embassy of the United States of America

BONACQUIST, Harold: Liason, American Bar Association, Romania

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