

# THE POLITICAL INSTRUMENTALIZATION OF THE COLLECTIVE MEMORY OF THE COMMUNIST PAST AGAINST THE RULE OF LAW IN ROMANIA BETWEEN 2017-2019

GHEORGHE ANDREI<sup>1</sup>

(École des Hautes Études en Sciences Sociales & University of Bucharest)

**Abstract.** The present paper analyzes how the collective memory of the Romanian people about the Securitate is used by the political leaders of the governing parties between 2017-2019 with the aim to alter the criminal law and the anticorruption strategy. This paper employs the concepts of illiberalism, collective memory, and populism to explore how the “anti-anticorruption” narrative was constructed. A qualitative analysis was conducted on a selection of speeches delivered by leaders of governing parties and Prime Ministers. The findings indicate that political figures seeking to undermine anticorruption efforts attempted to redefine the identity of the Romanian people, portraying them as a nation oppressed and monitored by the so-called “Parallel State.”

**Keywords:** collective memory, illiberalism, populism, Securitate, rule of law

## Introduction

This research paper explores how the collective memory of communist repression in Romania was utilized in the speeches of leaders from the governing coalition – the Social Democratic Party (PSD) and the Alliance of Liberals and Democrats (ALDE) – during the 2017–2019 period. It examines how these references were employed to justify and promote

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<sup>1</sup> Gheorghe Andrei is a PhD student at École des Hautes Études en Sciences Sociales, and Faculty of Political Science, University of Bucharest (andrei.gheorghe@fspub.unibuc.ro).  
Orchid: 0000-0002-5903-8199

an illiberal agenda aimed at undermining the rule of law. Despite the fact that the meaning of the term illiberalism is an intuitive one, as it is described in most of the dictionaries, illiberalism is an emerging concept in political science. It is Fareed Zakaria who in 1997, in his theory about illiberal societies, associated democracy with illiberalism for describing the post-communist transition in some East European and Asian countries.<sup>2</sup> However, during the last decades, a whole field of research was developed around the concept of illiberal democracy, researchers like Ivan Krastev and Stephen Holmes or Jan-Werner Muller trying to explain the challenges encountered by liberal democracy in the twenty-first century.<sup>3</sup> But, it is Marlene Laruelle who tackled the fuzziest use of the term and settled a classification of the definitions of illiberalism and a conceptual framework.<sup>4</sup> For the purpose of the present paper, Wolfgang Merkel and Matthijs Bogaards's vision of illiberalism corresponds better and it will serve as a theoretical ground.<sup>5</sup> In their perspective, illiberalism is characterized as a flawed form of democracy where civil rights are compromised. This is evident in the erosion of judicial independence, unequal treatment of citizens before the law, and insufficient protection against abuses by the state or private entities.

The hypothesis of this paper is that, between 2017 and 2019, leaders of the governing parties used collective memories of the Securitate and its abuses to oppose justice and the rule of law.<sup>6</sup> In this respect, they

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<sup>2</sup> Fareed Zakaria, "The Rise of Illiberal Democracy," *Foreign Affairs* 76, no. 6 (Nov -Dec 1997), <https://doi.org/10.2307/20048274>.

<sup>3</sup> Ivan Krastev and Stephen Holmes, *The Light That Failed: Why the West Is Losing the Fight for Democracy* (New York: Pegasus Books, 2020); Jan-Werner Muller, "The Problem with 'Illiberal Democracy'," *Social Europe* (January 2016), accessed March 27, 2024, <https://www.socialeurope.eu/the-problem-with-illiberal-democracy>.

<sup>4</sup> Marlene Laruelle, "Illiberalism: A Conceptual Introduction," *East European Politics* 38, no. 2 (2022), <https://doi.org/10.1080/21599165.2022.2037079>.

<sup>5</sup> Wolfgang Merkel and Felix Scholl, "Illiberalism, Populism and Democracy in East and West," *Czech Journal of Political Science* 25, no. 1 (2018), <https://doi.org/10.5817/PC2018-1-28>; Matthijs Bogaards, "How to Classify Hybrid Regimes? Defective Democracy and Electoral Authoritarianism," *Democratization* 16, no. 2 (2009), <https://doi.org/10.1080/13510340902777800>.

<sup>6</sup> The *Securitate* was the secret political police in Romanian during the communist regime. The *Securitate* was responsible for the investigation and abusive conviction of tens and hundreds of thousands of people considered political opponents. During this

compared the repression of the communist regime orchestrated by the Securitate, namely abusive interceptions and rigged trials, with the anti-corruption strategy implemented by judicial institutions such as the Supreme Court and the National Anti-Corruption Directorate (DNA), but also by the Romanian Information Service (SRI) intelligence agency.

For a better understanding of the challenges surrounding the topic of anti-corruption it should be mentioned that in 2005 the Supreme Defense Council of the Country (CSAT)<sup>7</sup> included the threat of corruption among the national security issues.<sup>8</sup> This was one of the fundamental themes of Traian Băsescu's 2004 electoral campaign. One of the main arguments of President Băsescu for the inclusion of corruption among national security issues was that with the accession in 2004 to NATO, the classified information to which Romania would have had access would have been in danger of being disclosed to potential enemies due to corruption. Another argument, equally important, was that the accusations of corruption received by Romania during the process of joining the European Union would have jeopardized the completion of the process and the accession to the European Union.<sup>9</sup>

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regime not only the political elite of the interwar was convicted and imprisoned but also a lot of innocent people who expressed their opposition.

<sup>7</sup> CSAT (The Defence Supreme Council) is an administrative authority with attributions in the coordination of national security and defense policies and activities. The CSAT is formed by the president of the country, who is also the president of the CSAT, the presidential adviser on security issues, the Prime Minister, the relevant Ministers on security issues, the directors of the intelligence services and the Chief of Defense Staff.

<sup>8</sup> "BBC: corupția amenință securitatea națională [BBC: Corruption threaten the national security]," Hotnews, March, 2005, accessed March 29, 2004, <https://www.hotnews.ro/stiri-arhiva-1238761-bbc-coruptia-ameninta-securitatea-nationala.htm>; Dora Vulcan, "Infracțiunile de corupție, eliminate de coaliție din mandatele de siguranță națională" [Corruption crimes, eliminated by the Government coalition from national security mandates] *Europa Libera*, April, 2023, accessed March 29, 2024, <https://romania.europalibera.org/a/coalitie-coruptie-siguranta-nationala-eliminare-mandate-sri/32349194.html>.

<sup>9</sup> Horațiu Pepine, "Combaterea corupției ca strategie de Securitate [Combating Corruption as a Security Strategy]," *Deutsche Welle*, February 28, 2005, accessed April 17, 2024, <https://www.dw.com/ro/combaterea-corup%C5%A3iei-ca-strategie-de-securitate/a-2633456>; Dan Tăpălagă and Cristian Sutu, "'Continuitate' vs. 'Corupție'" ['Continuity' vs. 'Corruption'] *Hotnews*, November 2, 2004, accessed April 17, 2024, <https://www.hotnews.ro/stiri-arhiva-1252527-continuitate-coruptie.htm>.

## Theoretical Framework and Existing Literature

The topic of corruption and the rhetoric of anticorruption were widespread throughout the post-communist transition in all East European countries. Leslie Holmes identifies four criteria that define political corruption:

“First, it must be carried out by an individual or a group of individuals occupying a public office, usually a state position [...]. Second, the public office must involve a degree of decision-making or law-enforcing or state-defensive authority [...]. Third, the officials must commit the act at least in part of personal (vested) interest. Fourth, the officials must be aware that their action or non-actions either are or might be considered illegal or improper [...].”<sup>10</sup>

Based on the definition of political corruption, many researchers examining the post-communist transition during the 1990s and early 2000s regarded the staggering corruption, particularly within governments, political administrations, and public institutions of these countries, as a legacy or leftover of the communist regimes.<sup>11</sup> Authors such as Leslie Holmes, Jacques Rupnik, or Rasma Karklins argue that the widespread corruption observed during the post-communist transition stemmed from uncertainty, the failure to replace communist institutions with democratic ones, and, most significantly, the enduring influence of the informal networks that had dominated governance under the communist regimes.<sup>12</sup> Because of the magnitude of the phenomenon, this topic was intensely politicized and used during the electoral campaigns.<sup>13</sup> However, the researchers

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<sup>10</sup> Leslie Holmes, “Corruption and the Crisis of the Post-communist State,” *Crime, Law and Social Change* 27, (1997): 277-278, <https://doi.org/10.1023/A:1008271702238>.

<sup>11</sup> Holmes, “Corruption,” 278-279.

<sup>12</sup> Leslie Holmes, “Postcommunist Transitions and Corruption: Mapping Patterns,” *Social Research: An International Quarterly* 80, no. 4 (2013): 1163-1186, <https://doi.org/10.1353/sor.2013.0074>; Jacques Rupnik, “Eastern Europe a Decade Later: The Postcommunist Divide,” *Journal of Democracy* 10, no. 1 (1999): 57-62, <https://doi.org/10.1353/jod.1999.0016>; Rasma Karklins, *The System Made Me Do It: Corruption in Postcommunist Societies* (London: Routledge, 2005).

<sup>13</sup> *Anticorruption in Transition: A contribution to the Policy Debate* (Washington DC: World Bank, 2000), accessed April 2, 2024, [https://pdf.usaid.gov/pdf\\_docs/pnacs018.pdf](https://pdf.usaid.gov/pdf_docs/pnacs018.pdf); According to Corruption Perceptions Index published by Transparency International since 1995, accessed April 4, 2024, <https://www.transparency.org/en/cpi/2000>; Alexandra

agreed that the levels of corruption among former communist countries in Eastern Europe differ from one country to another, with some performing well in implementing reforms towards achieving liberal democracy, while others failing or making no progress in implementing those reforms that would reduce the levels of corruption.<sup>14</sup> Examples from the latter category include Romania and Bulgaria, which, despite implementing anti-corruption legislation and adhering to the Cooperation and Verification Mechanisms (CVM) agreed upon with the European Commission as a condition for their EU accession, have made limited progress in combating corruption.<sup>15</sup> In the context of the politicization of the anti-corruption fight, meaning the exposing acts of corruption only with the aim of attacking political opponents, the public pressure in favor of anticorruption policies and the condemnation of corrupt politicians, like a “Robiespierrist temptation,” and the “over-zealous anti-corruption struggle” of the judiciary institutions like National Anticorruption Directorate (DNA), a counter-narrative of “anti-anticorruption rhetoric” has emerged.<sup>16</sup>

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Iancu, “Questioning Anticorruption in Postcommunist contexts. Romanian MPs from Commitment to Contestation,” *Comparative Southeast European Studies* 66, no. 3 (2018): 394-395, <https://doi.org/10.1515/soeu-2018-0030>; Sarah Engler, “‘Fighting Corruption’ or ‘Fighting the Corrupt Elite’? Politicizing Corruption Within and Beyond the Populist Divide,” *Democratization* 27, no. 4 (2020), <https://doi.org/10.1080/13510347.2020.1713106>.

<sup>14</sup> Michellie Hess, “Confronting the Past: Corruption in Post-Communist Hungary and Romania,” Honors Program Theses (2016), accessed April 11, 2024, [https://soundideas.pugetsound.edu/honors\\_program\\_theses/19](https://soundideas.pugetsound.edu/honors_program_theses/19).

<sup>15</sup> Cosmina Tănăsioiu and Mihaela Racoviță, “Post-Accession (Anti-) Corruption Record in Romania and Bulgaria,” *L’Europe en Formation* 2, no. 364 (2012): 243-244, <https://doi.org/10.3917/eufor.364.0243>; Conley Heather, “The Romanian Anti-Corruption Process: Successes and Excesses,” Center for Strategic and International Studies (2017), accessed April 11, 2024, <https://www.jstor.org/stable/resrep37593>.

<sup>16</sup> Ivan Krastev, *Shifting Obsessions: Three Essays on the Politics of Anticorruption* (New York: Central European University Press, 2004), 75; Vincent Henry, “La lutte contre la corruption en Roumanie, un éternel recommencement ? [The fight against corruption in Romania, an eternal beginning?],” Institut de Relations Internationales et Stratégiques (March 2017), accessed April 11, 2024, <https://www.iris-france.org/wp-content/uploads/2017/03/Note-de-IIRIS-Roumanie-VH-mars-2017.pdf>; Martin Mendelski, “15 Years of Anticorruption in Romania: Augmentation, Aberration and Acceleration,” *European Politics and Society*

One of the main ideas of the “anti-anticorruption rhetoric” was that the anti-corruption fight threatens precisely the ideological foundation of representative democracy in Romania and the stability of this regime by undermining the popular will.<sup>17</sup> Between 2017 and 2019, the leaders of the governing coalition parties employed a strategy to reinforce the narrative of representative democracy being under threat. They invoked Romanians’ collective memory of communist-era persecution, including abusive arrests and convictions, drawing parallels between these historical injustices and the anti-corruption measures and policies implemented in Romania following its integration into Euro-Atlantic structures. According to the archives and documents at CNSAS and ICCMER, the scale of communist repression – marked by hundreds of thousands of Romanians being arrested and sent to prisons or labor colonies in the 1950s and 1960s, often without trial and based solely on arbitrary decisions by Securitate officers, or by the millions being harassed by the Securitate in the 1970s and 1980s – suggests that many Romanians had close relatives, such as parents or grandparents, who suffered under the communist regime.<sup>18</sup> The extent of the repression with the millions of families affected by the investigations and harassment of the Securitate, as well as the testimonies of those affected by this totalitarian persecution, led to the formation of a collective memory about the communist repression. In other words, as stated by Maurice Halbwachs and Henry L. Roediger,

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22, no. 2 (2021): 1, <https://doi.org/10.1080/23745118.2020.1729051>; Iancu, “Questioning Anticorruption,” 395.

<sup>17</sup> Iancu, “Questioning Anticorruption,” 395, 411.

<sup>18</sup> CNSAS, the National Council for the Study of Securitate Archives, was founded in 2000 and is an institution under the political control of the Romanian Parliament. Of the eleven members of the Council’s leadership, with the rank of State Councilors, who are nominated for a six-year mandate, nine are nominated proportionally by the parties represented in Parliament, and then one each by the Prime Minister and the President. According to the 2023 activity report presented by CNSAS to Parliament, in the CNSAS archive there are approximately 2,500,000 individual or group files, apart from the documentary ones, meaning roughly twenty-eight kilometers of archival material, accessed April 15, 2024, <http://www.cnsas.ro/documente/rapoarte/Raport%20CNSAS%202023.pdf>; ICCMER, the Institute for the Investigation of the Crimes of Communism and Romanian Exile, was founded in 2009 and is subordinate to the Prime Minister of Romania, who appoints the President of the Institute for a five-year term.

the memory of individuals cannot be conceived outside society, because each individual belongs to different social groups, starting with the smallest ones such as the family and ending with the largest ones such as the nation.<sup>19</sup> It can therefore be argued that collective memory emerges from the interplay between an individual's personal memories and the influence of their surroundings, particularly the groups to which they belong. Individuals who interact and live together in various groups – ranging from the most intimate unit of family to broader and more diverse groups of colleagues at work or school, ultimately extending to the largest collective of the nation – cultivate a specific state of collective consciousness, or the so called "l'âme collective."<sup>20</sup> In summary, as Halbwachs claims, memory is a social construct. But, as Barbie Zelizer mentioned, the construction of memory is a dynamic process in which the memory of the past of one group prevails over the memory of the past of another group, and this conflict process and the supremacy of one memory over others has as purpose its imposition as public memory.<sup>21</sup> Moreover, as well observed by John Bodnar, this conflicting dynamic that appears between the memories in competition, does not dispute the past itself but the present vision of the collective public memory and the impact it would have from a cultural or political point of view.<sup>22</sup> However, in Romania, during the post-communist transition of the 1990s and 2000s, two confronting visions about the communist past emerged: one representing the collective memory about the communist repression, and another representing the silence about the communist past and then its oblivion.<sup>23</sup>

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<sup>19</sup> Maurice Halbwachs, *On Collective Memory* (Chicago: University of Chicago Press, 1992), 43; Henry L. Roediger, "Three Facets of Collective Memory," *American Psychologist* 76, no. 9 (2021): 1388-1400, <https://doi.org/10.1037/amp0000938>.

<sup>20</sup> Emile Durkheim, *The Rules of Sociological Method* (New York: Free Press, 1982), 8.

<sup>21</sup> Barbie Zelizer, "Reading the Past Against the Grain: The Shape of Memory Studies," *Critical Studies in Mass Communication* 12, no. 2 (1995): 217, accessed April 16, 2024, [https://blog.richmond.edu/memorializing/files/2017/01/zelizer\\_reading-the-past.pdf](https://blog.richmond.edu/memorializing/files/2017/01/zelizer_reading-the-past.pdf).

<sup>22</sup> John Bodnar, *Remaking America: Public Memory, Commemoration, and Patriotism in the Twentieth Century* (Princeton University Press, 1992), 15.

<sup>23</sup> Mirela Luminița Murgescu, „Romanian Perceptions of Communism,” *Euxeinos* 3 (2012), accessed April 16, 2024, [https://gce.unisg.ch/fileadmin/user\\_upload/HSG\\_RO\\_OT/Institut\\_GCE/Euxeinos/3/Murgescu\\_Euxeinos\\_3\\_2012.pdf](https://gce.unisg.ch/fileadmin/user_upload/HSG_RO_OT/Institut_GCE/Euxeinos/3/Murgescu_Euxeinos_3_2012.pdf); Kristine Avram, "Narrating

This ambiguity regarding the attitude of the Romanian society towards the communist past allowed the manipulation of the communist memory for political purposes, thus creating the premises for the formulation of the comparison between the anti-corruption strategy of the years 2000 and 2010 and the communist repression. According to Peter Verovšek, manipulating the memory of the past serves to legitimize political actions.<sup>24</sup> In the case discussed in this paper, this involves discrediting institutions and anticorruption policies. In line with this idea, political leaders who embrace populist rhetoric are often the most likely to manipulate the past. This is because populism focuses on “the people” and the narratives surrounding their identity, portraying them as a unified and homogeneous group in opposition to an equally unified and homogeneous elite.<sup>25</sup> To construct this idealized notion of “the people,” populist political leaders, or those who use populist rhetoric as a political strategy, manipulate the past and collective memory. This is done to reinforce a sense of community and to clearly define the boundaries of the idealized group. However, the manipulation of the past and history by the populist political leaders does not have as its only objective the construction of that ideal people, but also the recreation of historical confrontations that will advantage the political leader as the saviour hero of the people.<sup>26</sup> Moreover, the recreation of historical confrontations also has the role of portraying a feeling of crisis and the need for urgent intervention to restore truth and justice. It must be said that the crisis and the need for urgent intervention to bypass

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Communist Repression in and Outside the Courtroom: The Case of Former Prison Commander Alexandru Vişinescu and its Resonance with (Societally) Available ‘Narrative Worlds,’” *Social & Legal Studies* 33, no. 1 (2023): 82-103, <https://doi.org/10.1177/09646639221144001>.

<sup>24</sup> Peter J. Verovšek, “Collective Memory, Politics, and the Influence of the Past: The Politics of Memory as a Research Paradigm,” *Politics, Groups, and Identities* 4, no. 3 (2016): 529, <https://doi.org/10.1080/21565503.2016.1167094>.

<sup>25</sup> Jan Werner Muller, *Qu’est-ce que le populisme ?* [What is Populism?] (Paris: Gallimard, 2016); Pierre Rosanvallon, *Le siècle du populisme* [The Century of Populism] (Paris: Éditions du Seuil, 2020).

<sup>26</sup> Meral Ugur Cinar, “Populism and Memory,” in *The Populism Interviews. A Dialogue with Leading Experts*, ed. Luca Manucci (London: Routledge, 2022), <https://doi.org/10.4324/9781003250388>.

democratic constraints are central elements of populism. Besides, as Benjamin Moffitt states in his theory about populism as a new political style, populist leaders often create crises, exacerbating conflict situations, because the crisis represents the “stage” on which they perform the political show.<sup>27</sup>

Between 2017 and 2019, Romanian political leaders from the governing parties employed populist rhetoric to manipulate the past, specifically the collective memory of communist persecution, in order to push for illiberal changes in the rule of law. They achieved this by reinterpreting and reimagining the concept of “the people.”

For the purpose of this research paper, a qualitative analysis was conducted on a selection of five speeches held by top leaders of the governing parties and by Prime Ministers between 2017 and 2019 in Romania. The aim of the qualitative analysis is to decipher how the “anti-anticorruption” narrative is constructed by using the memory of a traumatic past. The analysis approach is a deductive one, looking in the selected speeches for elements of memory about the communist political repression remembered as a current threat to contemporary political freedom in analogy with the anticorruption policies adopted after EU integration. The time frame analyzed, 2017-2019, is relevant for the research because of the intensity of the popular protests triggered by the Emergency Ordinance 13/2017.<sup>28</sup> The wave of protest triggered by the adoption of the Emergency Ordinance 13/2017 was the largest protest movement against the Government since the anticommunist Revolution.<sup>29</sup> Also, the speeches selected are relevant to the research precisely because in their message the narratives about the communist repression were mixed with anti-anticorruption narratives. First of the speeches selection

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<sup>27</sup> Benjamin Moffitt, “How to Perform Crisis: A Model for Understanding the Key Role of Crisis in Contemporary Populism,” *Government and Opposition* 50, no. 2 (2015): 189-217, <https://doi.org/10.1017/gov.2014.13>.

<sup>28</sup> Ordonanță de Urgență nr. 13 din 31 ianuarie 2017 [Emergency Ordinance no. 13/ January 31, 2017] *Monitorul Oficial* 92 (February 1, 2017), <https://legislatie.just.ro/Public/DetaliiDocument/186333>.

<sup>29</sup> Meda Mucundorfeanu, “Framing the Largest Recent Romanian Protests: A Content Analysis of European Online Newspaper,” *Romanian Journal of Political Science* 21, no. 1 (2021): 28-47; Alexandru-Sabin Nicula, Mihnea-Simion Stoica, Elena-Manuela Birsanuc and Titus Cristian Man, “Why Do Romanians Take to the Streets? A Spatial Analysis of Romania’s 2016-2017 Protests,” *Romanian Journal of Political Science* 19, no. 2 (2019): 201-222.

criteria was the moment when they were given, meaning before the adoption of the Emergency Ordinance 13/2017 when the politicians claimed electoral legitimacy in order to justify the planned changes on the Criminal Law, and then after the adoption and withdrawal of the Emergency Ordinance when the same politicians tried to justify that they are the victims of a repressive political system like the interwar elite under the Communist regime. The second criterion considered for the selection of the speeches was the size of the audience in terms of power and number, that is, in front of the members of the Romanian Parliament and that of the European Union or in front of their own party supporters.

Despite the relevance of the selected speeches for the present research, the rarity of this type of speech built on analogies with the past can be a sign of an “official and total allegiance to the European project” of the Romanian politicians, but it can also indicate the difficulty of building such a speech or the ineffectiveness of this type of speech to persuade the audience.<sup>30</sup>

### The Political Background

The December 2016 legislative elections in Romania took place against the backdrop of a major corruption scandal that emerged at the end of 2015, following the Colectiv tragedy.<sup>31</sup> Colectiv and the subsequent crisis management exposed the deep-rooted corruption within Romania’s public institutions. More importantly, it highlighted that corruption is not merely an abstract political issue, it can have devastating, random consequences on anyone.<sup>32</sup>

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<sup>30</sup> Mattia Collini and Sorina Soare, “The Romanian Hidden Tandem Between Populism and Euroscepticism: The Case of 2018 Referendum on the Definition of Family in the Romanian Constitution,” *Est-Europa* (2021): 140; Constantin Trofin, “Politics and Television in Romania,” *Studia Universitatis Babeş-Bolyai Ephemerides* 60, no. 2 (2015): 75-91, <https://studia.reviste.ubbcluj.ro/index.php/subbephemerides/article/view/4608>.

<sup>31</sup> The Colectiv tragedy represents a tragic fire in Bucharest’s Club Colectiv on 30 October 2015 in which fifty-three people died that night. The fire was sparked by use of a pyrotechnic display during a concert in the club. The tragedy revealed that the club was operating despite the absence of safety permits.

<sup>32</sup> Marius Ionuț Ungureanu, Adrian Gheorghe & Ștefan Adrian Voinea, “Patients Are Denied Care Because of Corruption in Romania,” *Lancet* 390, no. 10108 (2017),

In October 2015, mass protests erupted against widespread corruption, including practices such as businesses operating without safety permits in exchange for bribes, as well as the poor state of the medical system. As a result, the PSD government was forced to resign, taking responsibility for the systemic failures that contributed to the tragedy.<sup>33</sup> Despite corruption remaining a prominent issue throughout 2016, following the scandal, PSD won both the local and legislative elections that year, enabling it to form the government. In early 2017, the newly formed PSD-ALDE government's first major initiative was the adoption of an emergency ordinance that amended criminal legislation to favor individuals under investigation for corruption. Emergency Ordinance 13/2017 introduced significant changes to the Criminal Codes, including the decriminalization of negligence and abuse of office when the resulting damage was less than LEI 200,000. Additionally, the penalty for abuse of office was reduced, lowering the maximum prison sentence from seven years to three years. Furthermore, abuse of office was no longer applicable in cases involving the issuance of normative acts, effectively placing legislators above the law.<sup>34</sup> This emergency ordinance sparked a wave of protests in Romania that had not been seen

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[https://doi.org/10.1016/S0140-6736\(17\)32811-8](https://doi.org/10.1016/S0140-6736(17)32811-8); Remus Crețan & Thomas O'Brien, "Corruption and Conflagration: (In)justice and Protest in Bucharest After the Colectiv Fire," *Urban Geography*, 2020, vol. 41, no. 3: 368-388, <https://doi.org/10.1080/02723638.2019.1664252>; Anita Sobjak, "A #Colectiv responsibility to fight corruption: Romania's Nightclub Fire protest singe the system," *Polish Institute of International Affairs Bulletin*, 2015, [http://www.pism.pl/files/?id\\_plik=20906](http://www.pism.pl/files/?id_plik=20906).

<sup>33</sup> "Ponta demisionează după manifestația anticorupție [Ponta resigns after the anti-corruption demonstration]," *Deutsche Welle*, November 4, 2015, accessed April 17, 2024, <https://www.dw.com/ro/ponta-a-demisionat-azi/a-18825106>; "Victor Ponta a demisionat" [Victor Ponta Resigned] *Digi24*, November 4, 2015, accessed April 17, 2024, <https://www.digi24.ro/stiri/actualitate/politica/victor-ponta-a-demisionat-454264>.

<sup>34</sup> Sorana Stănescu, „Ce ar trebui să știi despre Ordonanța de Urgență care a scos oamenii în stradă [What you should know about the Emergency Ordinance that brought people to the streets],” *DOR*, February 2, 2017, accessed April 17, 2024, <https://www.dor.ro/ce-ar-trebuie-sa-stii-despre-ordonanta-de-urgenta-care-a-scos-oamenii-in-strada/>; Cristi Dănilă, "Ordonanța de urgenta de marți noapte pe înțelesul tuturor [Tuesday night's Emergency Ordinance for everyone to understand],” *Juridice*, February 2, 2017, accessed April 17, 2024, <https://www.juridice.ro/491720/ordonanta-de-marti-noapte-pe-intelesul-tuturor.html>.

since the anti-communist Revolution of 1989. Although the ordinance was eventually repealed in response to public pressure, the PSD government continued to attempt to modify criminal law throughout its mandate from 2016 to 2019.

Despite the concerns expressed by the European Commission or the Venice Commission regarding the intended changes in criminal law and the public protests, the PSD-ALDE coalition pressed ahead with its agenda.<sup>35</sup> They frequently justified these changes by claiming an urgent need to amend the law and address deficiencies in the Criminal Code.<sup>36</sup> The sense of urgency and the fabrication of a crisis situation is, as shown above, a populist strategy used to extend the power outside democratic limitations. Another argument put forward was that the European Commission required these changes to align Romanian laws with European legislation. However, as was later revealed by the media, the arguments were false or partially true, which confirms that the use and spread of false information is part of the populist strategy.<sup>37</sup>

<sup>35</sup> Robin Emmott, "European Commission calls on Romania to halt judicial overhaul," *Reuters*, November 13, 2018, accessed April 28, 2024, <https://www.reuters.com/article/us-romania-politics-eu-idUSKCN1NI1WY>; "EU warns, Romania against judicial reforms," *Deutsche Welle*, January 24, 2018, accessed April 28, 2024, <https://www.dw.com/en/eu-warns-romania-against-planned-judicial-reforms/a-42294820>; Alina Grigoraș, "Venice Commission Issues Tough Report on Romania: Amendments on Criminal Justice Laws weaken anti-corruption fight, they should all be re-assessed," *Romania Journal*, October 19, 2018, accessed April 28, 2024, <https://www.romaniajournal.ro/politics/venice-commission-issues-tough-report-on-romania-amendments-on-criminal-justice-laws-weaken-anti-corruption-fight-they-should-be-all-re-assessed>; A.M. Luca, "Romania's Justice Reforms Slated by Venice Commission," *Balkan Insight*, October 19, 2018, accessed April 28, 2024, <https://balkaninsight.com/2018/10/19/coe-body-warns-romania-against-justice-law-changes-10-19-2018>.

<sup>36</sup> "Cum explică Liviu Dragnea ideea unei OUG pe Codurile penale [How does Liviu Dragnea explain the idea of an OUG on the Criminal Codes]," *Digi24*, December 12, 2018, accessed April 17, 2024, <https://www.digi24.ro/stiri/actualitate/politica/cum-explica-liviu-dragnea-ideea-unei-oug-pe-codurile-penale-1046550>.

<sup>37</sup> Dan Tăpălagă, "Două cazuri de false argumente aduse în susținerea amendamentelor devastatoare propuse de PSD-ALDE [Two cases of false arguments brought in support of the devastating amendments proposed by PSD-ALDE]," *Hotnews*, December 15, 2017, accessed April 17, 2024, <https://www.hotnews.ro/stiri-esential-22179253-doua-cazuri-false-argumente-aduse-sustinerea-amendamentelor-devastatoare-propuse-psd-alde.htm>; Jana Laura Egelhofer, Ming Boyer, Sophie Lecheler and Loes Aaldering, "Populist Attitudes

### The Main “Anti-anticorruption” Arguments

The central argument presented by political leaders like Dragnea and Tăriceanu for amending the criminal law was largely philosophical. It emphasized the sovereignty of the Romanian people in legislative matters, asserting the supremacy of the Romanian Parliament and the Constitutional Court over European law and the European Commission. Consequently, they argued for the freedom of elected representatives to legislate in line with the interests of the Romanian people, who had entrusted them with their votes. This type of argument is very common among populist leaders being often invoked by Viktor Orbán, Jarosław Kaczyński or Recep Tayyip Erdoğan, but the present research will focus on a much more specific argument: the role of memory.<sup>38</sup>

Indeed, the argument for the sovereignty of the people, used to justify illiberal changes to legislation, is one of the most accessible strategies employed by many populist leaders in power. This approach is appealing because it does not require a complex cause-and-effect rationale. This argument is the most accessible because it only involves the principle of the majority – an assumed a homogeneous majority composed of a lot of identical individuals – as it gains weight in the populist discourse and gives legitimacy to the discourse. However, the argument of the people’s sovereignty bestowed by a majority is itself illiberal and comes into conflict with the liberal democracy on which the Romanian people embarked after the anti-communist Revolution of 1989. This type of majority and sovereignty instrumentalized by populist leaders is illiberal because its imaginary occupies the “empty place” of democracy exposed by Claude Lefort in his theory on the

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and Politicians’ Disinformation Accusations: Effects on Perceptions of Media and Politicians,” *Journal of Communications* 72, no. 6 (2022): 619-632, <https://doi.org/10.1093/joc/jqac031>; Andrea LP. Pirro and Paul Taggart, “Populist in power and conspiracy theories,” *Party Politics* 29, no. 3 (2023): 413-423, <https://doi.org/10.1177/13540688221077071>.

<sup>38</sup> Nadia Urbinati, “The Populist Substantialization of Popular Sovereignty,” *Rivista Italiana di Filosofia Politica* 1 (2021): 31-53, DOI: 10.36253/rifp-1435; Erin K. Jenne, “How Populist Governments Rewrite Sovereignty and Why,” Central European University, accessed April 17, 2024, <https://www.ceu.edu/sites/default/files/attachment/event/15587/erinjennepolberg-consec-2016.pdf>

essence of democracy.<sup>39</sup> More precisely, the majority and the sovereign people mentioned by populist political leaders refer to a national group made up of individuals with identical opinions, aspirations, desires and needs, and a single culture. In this type of political projects, minorities and opposition have no place, and this homogeneous majority, the “populist people” is the sole holder of sovereignty, invading thus the “empty place” of Claude Lefort’s democracy and evacuating from society the conflict of interests and principles leading to the formation and dissolution of political majorities.

The use of collective memory for amending the criminal law is a much more specific argument, more elaborate and often exploiting a fear from the past - the memory of a traumatic event or period. If populism in the West exploits the fear of an uncertain future compared to current threats, such as migration or multiculturalism, the populist leaders in Eastern European countries exploit the fear of the future by comparison with the traumatic past.<sup>40</sup>

The Romanian case is emblematic for the way in which the traumatic memory of the communist past was manipulated for political purposes in the entire region of Eastern Europe, especially in Hungary and Poland. Thus, the Polish conservative populist leader, Jarosław Kaczyński, recalled the memory of a traumatic past in which Moscow imposed politics in Poland and dominated economically and culturally and compared the Moscow domination with Brussels common policy. Furthermore, he accused the judicial body about the betrayal of the ideals of the anti-communist Revolution of 1989 and of constituting itself in a “caste.”<sup>41</sup> It can be seen in Kaczyński’s speech how he builds the

<sup>39</sup> Claude Lefort, *L’invention démocratique: les limites de la domination totalitaire* [The Democratic Invention: The Limits of Totalitarian Domination] (Paris: Fayard, 1994).

<sup>40</sup> Ionut Valentin Chiruta, “Using the Past in Populist Communicational Strategies: How the Memory of Securitate is Instrumentalized in Romanian Politics,” *Populism* 3, no. 2 (2020): 223-256, <https://doi.org/10.1163/25888072-BJA10013>.

<sup>41</sup> Daniel Tilles, “‘There is a problem with the Rule of Law in Poland,’ says ruling party chief”, Notes from Poland, September 9, 2020, accessed April 28, 2024, <https://not.esfrompoland.com/2020/09/09/there-is-a-problem-with-the-rule-of-law-in-poland-says-ruling-party-chief/>; “Kaczynski calls for shake-up of Polish Judiciary,” *Deutsche Welle*, July 14, 2017, accessed April 28, 2024, <https://www.dw.com/en/top-polish-politician-kaczynski-calls-for-shake-up-of-judiciary/a-39702022>; Gareth Jones, “PM Morawiecki

argument of the need for reform in the judicial system by recalling the memory of the past, freedom and democracy.

In similar fashion, Viktor Orbán, the Hungarian populist leader who has been in power since 2010, motivates the legislative changes in the criminal field using references to the memory of a tragic past, namely the Soviet domination. Orbán draws a parallel between the Soviet domination and the membership to the European Union when he commemorates dramatic moments such as the anti-communist revolt of 1956, suggesting the right of the Hungarian people to build their legislation in opposition to the directives of the European Commission.<sup>42</sup> Orbán, like Kaczyński, uses the memory of the communist dictatorship to justify the illiberal changes brought to the rule of law, but in a rhetoric which equates the liberal requirements of the legislation adopted in Brussels with the authoritarian imperatives of Moscow. Orbán and Kaczyński appeal to the memory of the communist dictatorship to justify the adoption of illiberal rule of law under the pretext of defending democracy.

In the Romanian case, the populist leaders Liviu Dragnea or Călin Popescu Țăriceanu also called to the memory of the communist dictatorship in their attempt to illiberally modify the rule of law.<sup>43</sup> Regarding the existing research on communist memory in Romania, it focused rather on the discourse on memory or on the way in which the memory of the communist past is felt in society, rather than on the way in which it has been instrumentalized for political purposes.<sup>44</sup>

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raps Poland's top court ahead of EU visit," Reuters, June 15, 2018, accessed April 28, 2024, <https://www.reuters.com/article/us-poland-eu-judiciary-idUSKBN1JB20V/>.

<sup>42</sup> Laura Hulsemann, "Orban slams Brussels as a 'bad contemporary parody' of Soviet Union," Politico, October 23, 2023, accessed April 18, 2024, <https://www.politico.eu/article/hungary-viktor-orban-brussels-is-a-bad-contemporary-parody-of-soviet-union/>; Lili Bayer, "Orban calls Brussels 'a bad parody' as he pokes fun over EU's rule of law measures against Hungary during speech – as it happened," The Guardian, October 23, 2023, accessed April 28, 2024, <https://www.theguardian.com/world/live/2023/oct/23/viktor-orban-hungary-eu-parliament-funding-europe-latest-news>.

<sup>43</sup> Ionut Valentin Chiruta, "Challenging the Rule of Law in Romania: The Metamorphosis of Political Discourse towards Populism," *Problems of Post-Communism* 70, no. 1 (2023): 76-93, <https://doi.org/10.1080/10758216.2021.1958690>.

<sup>44</sup> Alexandru Gussi, "Political Uses of Memory and the State in Post-communism", *Studia Politica: Romanian Political Science Review* 13, no. 4 (2013): 721-732, accessed April 18,

Unlike their counterparts, Kaczyński and Orbán, the two Romanian leaders did not compare Brussels with Moscow. Instead, they suggested parallels with the Securitate, the former political police of Romania's communist regime. Essentially, they blamed the rule of law reforms enacted by previous governments, along with the judicial institutions and their personnel, as well as the Romanian Information Service (SRI) – an intelligence agency also responsible for combating state corruption – comparing the current situation to the communist repression imposed by the former Securitate.<sup>45</sup> Thus, the defenders of the rule of law, as well as the institutions charged with its enforcement and compliance, were labelled as *securiști* and the new *Securitate*.<sup>46</sup> Basically, as some researchers show, one of the cleavages on which the post-communist Romanian political system was formed is the *communist - anti-communist* cleavage.<sup>47</sup> Despite this cleavage, Romania failed in confronting the past. Simply put, the *Tismaneanu Report*, a symbolic condemnation of the communist regime, was adopted only in 2006, and in the absence of a lustration and transparency regarding the archive of the former *Securitate*, throughout the transition, accusations and suspicions of collaboration with the former Securitate constituted genuine political disputes.<sup>48</sup> From this perspective,

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2024, <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-447862>; Lavinia Stan, ed., *Transitional Justice in Eastern Europe and the former Soviet Union: Reckoning with the Communist Past* (New York: Routledge, 2009).

<sup>45</sup> The Romanian Domestic Security Service.

<sup>46</sup> Dan Tăpălagă, "Cine au fost securiștii, frate? [Who were the securisti, bro?]," *Hotnews*, December 23, 2011, accessed April 28, 2024, <https://www.hotnews.ro/stiri-11017431-audio-cine-fost-securistii-frate.htm>; Dragoș Paul Aligică, "Despre servicii și securiști [About security services and securisti]," *Contributors*, October 21, 2010, accessed April 28, 2024, <https://www.contributors.ro/despre-servicii-si-securisti/>.

<sup>47</sup> Jean-Michel De Waele, ed., *Les clivages politiques en Europe Centrale et Orientale* [Political divisions in Central and Eastern Europe] (Brussels: Universite de Bruxelles, 2004); Cristian Preda and Sorina Soare, *Regimul, Partidele și Sistemul Politic din România* [The Regime, the Parties and the Political System in Romania] (Bucharest: Nemira, 2008).

<sup>48</sup> Kieran Williams and Dennis Deletant, eds., *Security Intelligence Services in New Democracies: The Czech Republic, Slovakia and Romania* (London: Palgrave, 2001); Lavinia Stan, "Lustration in Romania. The story of a Failure," *Studia Politica: Romanian Political Science Review* 6, no. 1 (2006): 135-156, <https://nbn-resolving.org/urn:nbn:de:0168-ssoar-56150-8>; Comisia Prezidențială pentru Analiza Dictaturii Comuniste din România, "Raport final" [Final Report] *Președintele României* (online), 2006, [https://www.presidency.ro/static/ordine/RAPORT\\_FINAL\\_CPADCR.pdf](https://www.presidency.ro/static/ordine/RAPORT_FINAL_CPADCR.pdf) (web page removed by December 22, 2024).

the label *securiști* or descendants/heirs of the Securitate, even thirty years after the anti-communist Revolution, is like an anathema. The mystification of the past through silence, and the use of the former Securitate's archives as a political weapon have left the issue unresolved, creating an environment where anyone can be subjected to suspicion.

Thus, the speeches of Romanian political leaders Dragnea and Tăriceanu advocating for changes to the criminal law – while denouncing their opponents as *securiști* and collaborators of a new Securitate – should be understood within the context of a mystified and unacknowledged past, whose collective memory remains influential today. What was characteristic of the repression under the communist regime was the arbitrary nature of persecution, marked by unpredictability, a vast number of individuals being targeted, and the restriction of even the most fundamental rights, such as the freedom to discuss news from Radio Free Europe without fearing denunciation to the *Securitate*. This memory of random repression was recovered by the Romanian political leaders mentioned above through populist rhetoric to spread the fear that an antidemocratic repression and freedom restrictions can happen again, even thirty years after the Revolution.

In a way, the Romanian populist leaders of the governing parties between 2017-2019, Liviu Dragnea and Călin Popescu Tăriceanu, built a political crisis out of the need to change the criminal legislation, whose effects could have randomly affected all Romanians, hence the need to intervene as quickly as possible to solve the crisis through an emergency ordinance. As Benjamin Moffitt states in his theory, populism perceived as a political style draws its strength and energy precisely from the permanent dramatization of the crisis outcomes.<sup>49</sup> The use of conspiracies becomes a necessity in the populist discourse. In the face of the perils unveiled by the populist leader, the need to act quickly is presented as the justification for calling into question the main mechanisms of control and limitation of the executive, and more generally the separation of powers.

Thus, in the investiture speech in Parliament of the new government on January 4, 2017, designated Prime Minister, Sorin Grindeanu, stated:

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<sup>49</sup> Benjamin Moffitt, *The Global Rise of Populism. A New Political Style* (Redwood City, CA: Stanford University Press, 2016), 13-14.

“[...] If we want a normal Romania, we must ensure the total independence of the judges who will dispense justice in the letter and spirit of the law and according to their own conscience, without any pressure from anyone. In a normal country, the guilty are punished and the honest are protected.

The fight against corruption and those who steal must be very firm, but we must be equally firm in protecting fundamental human rights, so that every fair citizen feels protected by the law in the face of any possible abuse [...].<sup>50</sup>”

In his speech, Grindeanu presented the idea that the liberties of Romanians were under threat from external pressures on judges, suggesting that every Romanian was at risk of experiencing injustice and having their fundamental rights violated. Throughout his lengthy and comprehensive investiture speech, he emphasized the concept of the Romanian people and the importance of their rights and freedoms.

Then, on the same day, after Prime Minister Grindeanu’s speech in front of the assembled Chambers of the Parliament, Senate President Călin Popescu Țăriceanu stated the following regarding the danger of Romanians losing their freedom due to the abuses of criminal legislation:

“[...] on December 11, Romanians sanctioned those parties that did not understand that respecting the rights and freedoms of citizens is not a fad [...]. In recent years, Romanians have realized that if the presumption of innocence is not applied in the Judiciary, it is only a matter of time until it will be ignored in the actions of other state institutions.

Romanians voted for a country where the rights and freedoms of citizens are respected. A country where major decisions are made by elected leaders and not dictated from outside or influenced by institutions of force.<sup>51</sup> [...] Decisions in a democratic state are made neither against the institutions of force nor in favor of the institutions of force. But outside their influence. Their role is to serve the state and the citizen. Not to become centers of power outside any framework of democratic control.

I would not want us to reach the period when these institutions functioned according to the logic of the comrade Stalin: «There is no such thing as an innocent man, there are only people we haven’t investigated enough» [...]. I tell you openly: less than a month has passed since I looked Romanians in the eyes and promised them that I would fight from Parliament for their rights and freedoms.

What does this mean? Among other things, it involves modifying the Criminal Codes, to bring them in line with the decisions of the Constitutional Court. It

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<sup>50</sup> Sorin Mihai Grindeanu, Speech delivered at the investiture in Parliament (January 4, 2017), accessed April 18, 2024, <https://gov.ro/ro/stiri/discursul-sustinut-de-prim-ministrul-sorin-mihai-grindeanu-la-investirea-in-parlament>.

<sup>51</sup> By force institutions is meant the Domestic Intelligence Service (SRI) or the National Anti-corruption Division (DNA).

means much stricter regulation of how law enforcement agencies can listen to citizens' conversations [...]"<sup>52</sup>

In this speech, Tăriceanu talks about the injustice of the judicial system and the danger for Romanians to lose their freedom and be victims of a repressive system of tragic memory, as happened during the Stalinist communist regime. In the same speech, Tăriceanu talks about the sovereign right of those elected by the people to legislate in their interest and the duty of the majority to correct the errors in the Penal Codes considered to be abusive to the entire Romanian people. Basically, from a private interest, that of the political leaders threatened by the anti-corruption legislation, Tăriceanu, in his speech, transformed the need to change the criminal legislation into national interest.

In the speech held on the occasion of the rally of PSD supporters in June 2018, in front of the Government headquarters, Liviu Dragnea declared the following regarding the rule of law:

"[...] I was asked what the Parallel State means. The answer is simple: it is exactly as the name says, an illegitimate system that uses the institutions of the state, outside and in parallel with democracy, and the will expressed in the vote. All these things can be summed up in one word, *Securitatea* [...]. What are the tools: the corrupt prosecutors remained. You saw them on TV making files. The undercover magistrates remained. The habit of using the secret services and justice for political purposes, to put political heads at the president's feet, remained. Six million Romanians intercepted, blackmailed and threatened [...]. The *Stalinist Securități* want to turn us all into a people of whistleblowers, we are blackmailed into filing complaints against relatives, friends, people we have never seen [...]. Look at the one on your left, on your right, at least one of them has been tapped or intercepted. It may have been both. You yourself have probably been intercepted or are being intercepted. It is possible that you are among the six million Romanians whose rights and freedoms were violated [...]. You should not be under the illusion that only high dignitaries are targets, or those with public positions. You can all become live targets of this hateful system [...]"<sup>53</sup>

<sup>52</sup> "Călin Popescu-Tăriceanu: Dacă prezumția de nevinovăție nu se aplică în Justiție, este doar o problemă de timp până când va fi ignorată și în acțiunile altor instituții ale statului" [Călin Popescu-Tăriceanu: If the presumption of innocence is not applied in the Judiciary, it is only a matter of time until it will be ignored in the actions of other state institutions] *Juridice*, January 4, 2017, accessed April 18, 2024, <https://www.juridice.ro/486478/calin-popescu-tariceanu-daca-prezumptia-de-nevinovatie-nu-se-aplica-in-justitie-este-doar-o-problema-de-timp-pana-cand-va-fi-ignorata-si-in-actiunile-altor-instituti-ale-statului.html>.

<sup>53</sup> "Miting PSD. Piața Victoriei albă de manifestanții PSD-ALDE/ Gabriela Firea: bine ați venit de bunăvoie la București/ Tăriceanu: simt vînt de libertate/ Dragnea: albul simbolizează

In this speech, Liviu Dragnea focuses primarily on the *Parallel State* concept because this concept is important in the construction of the reasoning against the anticorruption strategy.<sup>54</sup> The concept is part of the populist rhetoric, because, according to Liviu Dragnea, under the Parallel State can be found the enemies of the people, the elites enslaved to foreign interests and the national security institutions, notably the Romanian Domestic Information Service. It is a populist rhetoric because the Parallel State is not only against corrupt politicians, but, according to the same political leaders, Tăriceanu and Dragnea, is against all the Romanians and notably the politicians who defend and represent the interests of the Romanian people.<sup>55</sup> For the purpose of the above, Dragnea makes the definitive connection between private and common interest when he talks about millions of intercepted Romanians and the danger in which every citizen finds oneself. Dragnea also uses the distinction between the *securiști* and the ordinary citizens and the victims of the Securitate, making a parallel between the repression during the communist period and what is happening thirty years after the Revolution. In a similar way, as Moffitt also mentions in his theory on

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curățenia și noi asta facem. Curățăm țara de mizeria împrăștiată de șobolani” [PSD rally. Piata Victoriei white with PSD-ALDE demonstrators/ Gabriela Firea: welcome to Bucharest/ Tariceanu: I feel the wind of freedom/ Dragnea: white symbolizes cleanliness and that's what we do. We are cleaning the country from the mess spread by rats] *Mediafax*, June 9, 2018, accessed April 18, 2024, <https://www.mediafax.ro/politic/miting-psd-piata-victoriei-alba-manifestantii-psd-alde-gabriela-firea-bine-ati-venit-bunavoie-bucuresti-tariceanu-simt-vant-libertate-dragnea-albul-simbolizeaza-curatenia-asta-facem-curatam-tara-17248582>.

<sup>54</sup> Alexandra Codău, “The ‘Parallel State’ Metaphor in the Discourse of Romanian Online News and Political Analysis Platforms,” *The Annals of Ovidius University of Constanța: Philology Series* 30, no. 2 (2019): 345-360, accessed April 18, 2024, [https://litere.univ-ovidius.ro/Anale/volumul\\_xxx\\_2\\_2019/27.%20Alexandra%20Cod%C4%83u\\_The%20Parallel%20State%20Metaphor%20.pdf](https://litere.univ-ovidius.ro/Anale/volumul_xxx_2_2019/27.%20Alexandra%20Cod%C4%83u_The%20Parallel%20State%20Metaphor%20.pdf).

<sup>55</sup> “Doar eliminând statul paralel, România va fi puternică în UE” [Only by eliminating qaccessed April 18, 2024, <https://www.cotidianul.ro/doar-eliminand-statul-paralel-romania-va-fi-puternica-ue>; Valentin Busuioc, “STRANSOAREA HIDREI [Hydra’s Grip],” *Lumea Justiției*, September 20, 2018, accessed April 18, 2024, <https://www.luju.ro/stransoarea-hidrei-deputatul-liviu-plesoianu-avertizeaza-asupra-riscului-ca-statul-paralel-sa-acapareze-din-nou-romania-sclavii-noii-securitati-vor-sa-puna-mana-pe-psd-pe-ntru-ca-au-inteles-foarte-bine-cum-opereaza-noua-securitate-cum-se-fac-dosarele-de-po>.

populism as a political style, Dragnea uses various conspiracies and false information, such as the six million intercepted Romanians or the *Deep State*, to maintain that sense of siege and the need for urgent measures: the adoption of a new criminal law and the suppression of the rule of law.<sup>56</sup>

Also, in a speech held by Tăriceanu in front of the presidents of the Senates of European countries, he likened the justice system and criminal legislation in Romania after joining the European Union to the communist repression of the 1950s:

“[...] In Romania, after the integration into the European Union, a repressive system similar to the *Securitate* model of the 1950s was created [...]. Justice and equity are important aspects of cohesion at the national level, aspects that must be protected from dangerous influences, piloted by the exponents of a so-called Deep State.”<sup>57</sup>

In the last speech chosen for this research, Viorica Dăncilă, the Prime Minister of Romania in 2018, resumes before the European Parliament the topic of abuses and repression to which the Romanian people are subjected due to a corrupt legislation and a repressive judicial system:

“[...] It is legitimate to ask ourselves: in what way did the CVM<sup>58</sup> protect Romanian citizens from the serious violation of their rights? The CVM reports talked a lot about institutions, about the appointments of magistrates, about the anti-corruption fight. It is very good! But I didn't see anything about the violations of human rights, about the secret protocols between the intelligence services and the judicial institutions. Based on these protocols, millions of Romanians were under the surveillance of the secret services, in the name of the anti-corruption fight [...]. The Venice Commission said that «in the Soviet system, the prosecutor's office represented a powerful means of controlling the judiciary. » In the last four years, more than 3,000 magistrates were investigated by the DNA. Practically, half of the

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<sup>56</sup> Moffitt, *The Global Rise of Populism*, 113.

<sup>57</sup> “Tăriceanu, discurs furibund împotriva ‘statului paralel’: În România a fost creat un sistem represiv asemănător cu modelul Securității din anii 1950. Atac la Comisia Europeană” [Tariceanu, furious speech against the ‘Parallel State’: In Romania, a repressive system similar to the Securitate model of the 1950s was created. Attack on the European Commission] *G4Media*, June 15, 2018, accessed April 18, 2024, <https://www.g4media.ro/tariceanu-discurs-furibund-impotriva-statului-paralel-in-romania-a-fost-creat-un-sistem-represiv-asemanator-cu-modelul-securitatii-din-anii-1950.html>

<sup>58</sup> Cooperation and Verification Mechanism established by European Commission at the accession of Romania to the European Union.

magistrates in Romania had, for years, files, through which they were probably influenced to give solutions established outside the courtroom.”<sup>59</sup>

Just like in the previous speeches of Dragnea or Tăriceanu, Prime Minister Dăncilă takes up the theme of random Stalinist terror, of the Deep State, but also of the abused Romanian people. Also, Prime Minister Dăncilă’s speech uses both the theme of Stalinist repression and false information to maintain the feeling of crisis and danger for the Romanian people, such as “millions of Romanians intercepted” or “3,000 judges investigated by DNA.”<sup>60</sup>

## Conclusion

The selected speeches are significant in illustrating how the tragic collective memory of Romania’s communist past was utilized during the period from 2017 to 2019 to justify illiberal policies. As Verovšek states, in their speeches, political leaders often mobilize memory of the past, especially its popular understanding, as a political tool.<sup>61</sup> Also, as Robert Hayden

<sup>59</sup> Elena Dumitrache, “PREMIERUL ROMANIEI L-A NENOROCIT PE TIMMERMANS – Viorica Dancila ii calca in picioare pe #rezistentii din Parlamentul European [...]” [THE PRIME MINISTER OF ROMANIA DESTROYED TIMMERMANS – Viorica Dancila tramples on the #resisters in the European Parliament] *Lumea Justitiei*, October 3, 2018, accessed April 18, 2024, <https://www.luju.ro/premierul-romaniei-l-a-nenorocit-pe-timmermans-viorica-dancila-ii-calca-in-picioare-pe-rezistentii-din-parlamentul-european-in-ce-fel-a-aparat-mcv-cetatenii-romani-de-incalcarea-grava-a-drepturilor-lor-nu-am-vazut-nimic-despre-incalcarile-drepturilor-omul>.

<sup>60</sup> Vasile Popa, “Dezvăluiri surprinzătoare din Comisia SRI! Câte persoane au fost interceptate în realitate în 10 ani” [Surprising revelations from the SRI Commission! How many people were actually intercepted in 10 years] *Capital*, March 13, 2019, accessed April 18, 2024, <https://www.capital.ro/dezvaluiri-surprinzatoare-din-comisia-sri-cate-persoane-au-fost-interceptate-in-realitate-in-10-ani.html>; “‘Verdict: Fals!’ Am verificat cât adevăr este în afirmația premierului Dăncilă făcută la PE: ‘În ultimii 4 ani, peste 3.000 de magistrați au fost cercetați de DNA’ [‘Verdict: False!’ I checked how much truth there is in Prime Minister Dăncilă’s statement made at the EP: ‘In the last 4 years, over 3,000 magistrates have been investigated by the DNA’] *Republica*, October 3, 2018, accessed April 18, 2024, <https://republica.ro/zverdict-fals-am-verificat-cat-adevar-este-in-afirmatia-premierului-dancila-facuta-la-pe-zin-ultimii-4>

<sup>61</sup> Verovšek, “Collective Memory,” 529-530.

and Tony Judt observe, as part of political strategy, political leaders can use significant moments in their people's past by manipulating the memory of these moments in order to legitimize their actions.<sup>62</sup> From this perspective of the political use of the memory of the past, the speeches of the leaders of the PSD-ALDE governing coalition, Dragnea and Tăriceanu, use the manipulation of the memory of the past as a political tool to legitimize their own policies regarding the rule of law.

Furthermore, because they manipulated not just the collective memory about the communist past, but also current facts and information about the anticorruption strategy, stating that millions of Romanians were surveilled by the Parallel State, that no Romanian is safe anymore, that that anyone can be arrested at any time as politicians were arrested, they attempted to build a new concept of Romanian people: the surveilled, deprived of rights and freedoms people. This manipulation of the memory of the past enters the realm of illiberalism when it is used against the rule of law. On the one hand, it is about the argument of the majority of the people and their sovereignty, which comes to replace the rule of law.<sup>63</sup> In this sense, in the speeches of Dragnea, Tăriceanu or Dăncilă, one can distinguish the claim that they speak in the name of the Romanian people who voted for them and of the millions of Romanians who suffered the abuses of "Stalinist justice" after joining the European Union. On the other hand, as it was defined by Bogaards, it is about the quality of democracy and the impact on civil rights as "individual protection against state and private actors and the right to equal access to and treatment by courts."<sup>64</sup> In other words, manipulating the memory of communist repression to advocate for changes in criminal legislation regarding corruption leads to unequal treatment in the courts. Although Dragnea and Tăriceanu claimed in their speeches that any Romanian could become a victim of judicial abuse – not just politicians or officials – the actual changes to criminal legislation have an illiberal character.

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<sup>62</sup> Tony Judt, "The Past is Another Country: Myth and Memory in Postwar Europe," *Daedalus* 121, no. 4 (1992): 83-118, accessed April 18, 2024, <https://www.eastjournal.net/wp-content/uploads/2018/05/judt-1992.pdf>; Robert M. Hayden, "Balancing Discussion of Jasenovac and the Manipulation of History," *East European Politics and Societies* 6, no. 2 (1992): 207-212, <https://doi.org/10.1177/0888325492006002006>.

<sup>63</sup> Wolfgang and Scholl, "Illiberalism," 38.

<sup>64</sup> Bogaards, "How to Classify Hybrid Regimes?," 403.