

1. Description of the organization submitting the contribution to Human Rights Council to UPR

ICAR Foundation was established in 1992 as a Romanian NGO (foundation) with the aim of providing medical, psychological, legal and social rehabilitation services to the survivors of political persecution and gross human rights abuses during the communist rule in Romania.

The Association of Former Political Prisoners was established in 1990 and it gathers members among former political prisoners who were repressed as “enemies of the people”. The main mission of the Association is to fight for the rights of those who were persecuted under the totalitarian regime and to honour the memory of those who disappeared during the repression.

2. Introduction:

In December 2006 Romania officially recognized the national scale of gross human rights violation during the 45 years of an “illegitimate and criminal” communist regime, and publicly apologized to the surviving victims and their families. However, Romania has until now failed to break impunity and prosecute a single perpetrator of human rights violations during this period.

2. Key word:

Impunity, Gross human rights violations, Perpetrators.

3. Content

In 1990 The Association of Former Political Prisoners registered 98,700 members. They were awarded a symbolic compensation for the political persecution they were subjected to during the communist dictatorship. This is proof that the Romanian state recognized from its very early stage of democratization that state human rights abuses took place in the past and that a form of official recognition was necessary

This early attempt of reparation to victims is known as the “Law 118/1990” and offers some rights to former political prisoners, including a modest monthly state pension depending on the number of years spent in prison, deportation, labour camps or psychiatric hospitals between 1945 and 1989.

Their need for specialised medical services for the consequences of their sufferings was never met and has until now only been provided by internationally funded rehabilitation centres established by ICAR Foundation in Bucharest, Craiova and Iasi.

Romania has made efforts during the last 4 years to harmonize its legislation with the EU legislation in order to fulfil its major objective to become an EU member state. This event happened in January 2007.

On 26 of January 2006 the Parliamentary Assembly of the Council of Europe adopted the Resolution 1481 regarding the need for international condemnation of crimes of totalitarian communist regimes.

Contribution to the UPR 2008 by ICAR Foundation and the Association of Former Political Prisoners – Romania

On 18 of December, 2006, the Romanian president, Mr. Traian Basescu, was the first head of a former communist state to come public with such an official political statement condemning the crimes of the former communist regime and offering an official apology to its victims.

His political statement was based on the findings and recommendations of a scientific commission, the Presidential Commission for Analyzing the Dictatorship in Romania, created in April of the same year for this particular purpose and chaired by the political scientist Vladimir Tismaneanu, Professor at the University of Maryland, USA. It was a response to pressure from civil society to find out the truth about the communist regime and to victims' pressure to see justice done.

The President's statement represented a key moment in Romania's transition towards democracy after the 1989 anticommunist revolution. A moment much expected especially by those who spent harsh years in prison for defending the Romanian traditional and democratic values, and for many other members of our society.

It marked the formal delimitation of the current Romanian state from the communist regime as well as the official closing of a period of transition from a totalitarian regime to a democratic one and it offered moral satisfaction to victims as the State assumed officially the abuses and its obligation towards the victims.

But it should be recognised that the necessary national reconciliation process in a post-conflict society requires not only an apology for political and human rights abuses and not only individual justice for each victim as a reason to forgive and forget. It entails a long-term process that has to be experienced by the society as a whole in order to be effective.

Romania is not the only country that was recently released from a political experiment involving crimes, assassinations, torture, disappearances, political condemnations, brain washing techniques and terror.

Other countries across the world have been subjected to similar experiences and have tried to find solutions to bring back peace and social calm within societies profoundly traumatized by the injustice committed by left or right wing dictatorial regimes.

The challenge for societies like ours emerging from severe dictatorship is the magnitude of the phenomena, the large number of victims who are asking for justice and perpetrators that should face justice and the impossibility of judicial systems to solve these cases within a reasonable time frame.

In 2000 a special state agency the National Council for the Study of Security Archives (CNSAS) was given the task of reviewing the secret files of the former Securitate with a view to expose the tens of thousands of former officers and the hundreds of thousands of informers of this perverse system and provide the truth to their victims about the content of their file among the 2 million individual Securitate files.

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Since the agency did not get access to more than 10.000 files until 2006 the outcome of their activity has until now been limited to the public exposure of less than 100 informers, some of whom have even successfully challenged their exposure in court. As a perverse consequence the CNSAS as now been deprived of the right/duty to expose former officers and informers based on the Securitate files they have finally obtained.

However, the process of national reconciliation can only make progress if torturers are exposed and made accountable for their acts.

We consider that the establishment of a genuine truth commission may be what Romania needs to end impunity.

Truth commissions may allow victims, their relatives and perpetrators to give evidence of human rights abuses, providing an official forum for their accounts.

Ultimately, the goal of such commissions is to account for past human rights abuses and thereby promote national reconciliation.

Although not established as a “truth commission”, the Presidential Commission had some similarities with truth commissions, and may be seen as an atypical or partial truth commission

- It has consisted of credible personalities with strong professional background.
- It has re-established the truth as to what happened during a much discussed period of Romanian recent history
- It has issued a report that has established the basis for the official incrimination from the highest tribune of the state of the illegitimate and criminal character of the communist regime.
- It has disclosed abuses and human rights violations during the communist period, as well as examples of their consequences at the individual and society level, based on credible information compiled from a wide range of sources.
- It has provided recommendations for further steps in the reconciliation process.

However, the Presidential Commission did not have within its mandate the identification and exposure of individual perpetrators of human rights violations

Neither did the Presidential Commission have within its mandate to facilitate any confrontation of victims with their perpetrators.

This has left the problem of impunity untouched. After 18 years, Romania has not succeeded in convicting any of the persons responsible for the gross human rights violations during the communist dictatorship in spite of the huge number of dead and surviving victims.

As long as we have the opportunity in Romania of still having survivors both from the victims’ and the torturers’ side we believe that our society has to find the courage to expose the torturers and facilitate their direct confrontation with their victims within the framework of a truth commission.

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This is a duty not only towards the victims, but towards the whole society, which, once this process is ended can stop carrying the burden of a collective guilt.

The ongoing impunity in Romania has at its basis the triumph of lie over truth. We sense this in our daily life, when we are dealing with institutions that inherited the tradition of secrecy and lack of transparency from the communist era. These institutions are protected by a dense network of legislation and administrative procedures that in the end shields past and current corruption and abuse of power.

This organizational culture of hidden activities will continue to hinder future democratic development of a country that has had the misfortune to inherit a legislative, a judiciary, public civil services, and a state law enforcement and security system that are at best passive and at worst openly hostile to new democratic initiatives.

We consider that our society is mature enough to face such a process and expect politicians to be so too and to facilitate this process by offering all necessary support for a genuine truth and reconciliation commission.