

## **ROMANIAN MP ADRIAN SEVERIN: BEFORE RATIFICATION IS CONCLUDED, THERE IS NO PACTUM TO BE SERVED**

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***Romanian opposition MP and EP observer Adrian SEVERIN in an exclusive interview for the Bulgarian journalist Nikolai Yotov.***

***10 questions on the European Union, Internal Affairs, Securitate, Western Balkans and Black Sea Region. Portal EUROPE received this text for publishing by our colleague Nikolay YOTOV.***

***In a lecture, given by you at the Academy of Economic Studies recently in Bucharest, you claim that there are certain groups within the European Commission, where there is a clear decision that the EU integration date of Romania should be January 1st 2008. What are the legal possibilities for the European structures to postpone both Bulgaria and Romania for 2008? By the way, can the avian flu crisis occur an unexpected reason for an accession delay, as stated by the MEP Guido Podesta in the end of May in Bucharest?***

From the outset one should exclude any temptation of thinking that Romania or Bulgaria might have enemies who are conspiring against their accession in the EU. On the other hand one should not ignore that the EU accession of these two countries takes place within a context characterized by different and sometimes conflicting agendas of the various EU members or of the non-EU European and Euro-Atlantic players. Therefore for different strategic or tactic reasons, because of the specific historic background or of the present internal problems with which some EU governments are faced, there are some who in a legitimate way think that a postponement of Bulgaria and Romania's accession would be a better solution. In their turn Bulgaria and Romania are also right to act in order to avoid such a decision. In this respect, at least for the time being, they can not rely on the Accession Treaty or to make reference to the principle Pacta sunt servanda. As long as the Treaty was not ratified – and the signing parties have no obligation to ratify it or to do this within a certain delay - it does not exist as a legally binding instrument. Before ratification there is no Pactum to be served. As per its own provisions the Treaty will come into force on the 1st of January 2007 provided that all the parties will deposit the instruments of ratification before that date. If this would be not the case the Council should meet in order to agree on the necessary amendments. This requires obviously new negotiations and a new ratification. We also know that when such negotiations aiming to adapt the original text to circumstances which were not envisaged are opened it is virtually impossible to stop some of the participants to ask for the

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modification of any provision. Beside this possibility of postponement, once the Treaty comes into force there is the safeguard clause which could be activated in order to postpone the accession until 2008. This clause is, from my point of view, rather vague and therefore a lot of reasons could be presented as a justification for its application. In a strict interpretation the bird flue would be not, by itself, a reason for activating the safeguard clause. However, in a given political climate, this could be very well used in that sense on the bases of a more "flexible" reading, even if there are also member states where some cases of bird flue were identified and nobody is putting in question their membership.

### **Which institutions in Romania should be most concerned about their activities (inefficiency), after the report from 16th of May, 2006?**

Basically, I think the institutions which find themselves in the center of the EU's Commission attention and which must dramatically improve their activity are those related to the enhancement of the rule of law principle, to the food and more generally health security and to the absorption of the European funds. For sure there are some other problematic fields but these are the areas which are crucially important for the security of the EU after Romania's accession. The independence, the professionalism, the effectiveness and the fairness of the judiciary, as well as of all the institutions involved in the fight against corruption are the guaranties that Romania will play by the EU rules and will successfully integrate in the EU order. The effectiveness of the institutions acting in the field of agriculture will make sure that the free access of Romanian products on the internal European markets will not harm the health of the European's citizens. Finally, the capacity to make use of the structural funds is crucial for the achievement of those social transformations which will determine the Romanians to stay home and not to emigrate, thus overburdening the labor markets of the other European states. On the other hand, this will give predictability to the budgetary actions of the EU and will consolidate the capacity of the Romanian economic agents to become reliable counterparts to their foreign partners.

### **How come your country „took advantage“ ahead of Bulgaria „at the finish line“? Is it only the growing willingness to fight corruption and the measures, taken in this direction to prove the EU this willingness, by creating, for example, the PNA Department? Moreover, why Bulgaria is unable to take such a step at this stage?**

I am not sure that Romania "took advantage" ahead of Bulgaria. I believe that the two countries are not in competition but in partnership for the EU accession. On the other hand each one is supposed to access the EU on the bases of its merits in achieving the minimal legal, institutional, economic, social, cultural and moral interoperability with the EU's structures. In assessing such an achievement one should admit that each country has its own specificity and therefore everyone will reach the target in its own way. Of course, this being said, one should not forget that there are some standards which should be met. In this respect I also observe that all in all, from the point of view of the general level of development and civilization, some countries from the last ten which acceded the EU are behind Romania or Bulgaria but from the point of view of the political interests of the EU, very much related with its so called capacity of absorption, they were considered to be ahead and therefore they were invited to join first. Likewise, actually Romania has some problems and Bulgaria other problems. I think that the most concerning problem of Bulgaria today is less related to the fight against the organized crime but to the fact that while trying to move faster, Bulgaria has adopted some constitutional changes which perhaps would improve the effectiveness of the judiciary but on the expense of its independence. As for Romania I am convinced that some of the measures taken in respect of the judiciary and the fight against corruption

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are at least dubious but some bureaucrats in Brussels like very much measurable actions. Things like the creation of the PNA Department or the spectacular arrests of some public personalities are precisely such kind of actions. That is why I insist that the reforms should be enhanced for the sake of our countries' development and not for the satisfaction of the EU's bureaucrats. We must fight with those bureaucrats and their mentalities as much as we have to fight with the shortcomings of our internal administration or with the internal corruption.

### **From where does this will of disclosing the Securitate files after all this years come? Is it working and what are the positives for the Romanian society?**

The whole today debate about disclosing the Securitate files is simply a diversion promoted by those who either do not have solutions for the real problems of the country or do not find any other way to progress in the social hierarchy. In preparation of Romania's accession to NATO the Romanian intelligence was completely reformed and one could not regard it as the continuation of the former secret police. Even if in this respect some do not trust the Romanian authorities, one could certainly understand that NATO would have not accepted Romania as a member without such a reform. Of course, those people of the former Securitate who have committed atrocities or heavily violated the human rights must be prosecuted and trailed. However they are no longer active and probably those who are still living are very few. For those who were not involved in such deeds, fifteen years after the end of the communist dictatorship, there is no reason to exclude them from the public life. This would only cause some new fractures in a society which needs more than never unity and solidarity. At the same time it would push those excluded towards underground antisystem actions. We need to disclose the deep mechanisms of the communist dictatorship in order to get rid of the former regime's utopias (this is what I understand by the trial of the communism) but at the same time we need the historic reconciliation and the integration of all Romanians irrespective of their past in the present Romanian society and in the present Romanian effort dedicated to the modernization of the nation and its integration within an united Europe.

### **In a recent sincere TV-statement a famous Bulgarian journalist told details about his work as an agent of Durzhavna Sigurnost – Bulgarian equivalent of Securitate, and among all, he apologized to the state of Romania and its citizens for what he may caused with his actions back then. He specified that even a member of the Warsaw Pact, Romania has been "watched" and "investigated" by our secret services. What is your point of view, where is the place of State Security former cooperators in today's reality and political life? Moreover, how important is for the EU these files and the people in them to go public?**

When such cooperation was not a crime (and in the other cases those who committed crimes must be punished) it was a moral sin. At least it was a sin from the prospective of our present democratic values. In order to cure a society heavily traumatized by such sins the disclosure of those who are guilty of sins is important. This disclosure should be seen as a part of an exorcist process at a social and personal level. It should be not seen or enhanced as a form of revenge or as an acceptance of the idea of collective guilt. The lustration of those people is a different issue. To exclude them from the possibility to hold public functions is an acceptable act only during times of transition from the dictatorship to democracy. For countries who are now members of NATO and almost members of the EU the transition is over. Decades after the system change we know very well who are those who have accepted and are adapted to the new realities, starting from their actual deeds and not from their past. As for the EU I believe that it is interested to accept as new members stable, transparent and reconciled societies and

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not societies which are still obsessively divided by their past. The EU enlargement itself is about the reconciliation of Europe with itself or about the reconciliation of the Europe history with its geography. In the prospective of our European unification each of us should find a way towards our internal reconciliation. Such reconciliation needs the acceptance of our past and the bringing into light of the truth but it should reject the hard feelings and the exclusion.

**Does the EU show enough respect and understanding towards the "national specifics" of both our countries and the way we use to deal tough issues? In a recent conversation I had with Ms. Oana Mocanu from the European Institute of Romania she claimed that pressure from Europe does only good? Is that so?**

There is indeed what I would call a "positive European imperialism" which brings the necessary pressures or the necessary incentives to the former Soviet block countries in their endeavor to become modern and to cope with the globalization challenges. At least as far as Romania is concerned, the progress it has achieved during the last decade would not have been possible without such "imperialism". However there are few problems connected to this European "imperial" behavior. One of these problems is the bureaucratic approach of the EU's institutions. It is clear that one could not accelerate the growth of the flower of democracy by pulling it up but by creating the right environment for its development. The democracy is more than laws and institutions. It is a way of living and of thinking and therefore it could not be simply exported. It is important that the democratic values and ideas are not only accumulated in laws and institutions but also assimilated in the minds and souls of the people. If the ordinary people do not live democratically or do not see the link between their life and the European process, the imported models are meaningless. In order to achieve such deep transformations at the level of the collective conscience the pressures on the political leadership are not enough. It is crucial to understand the national specifics of each country and starting from there to establish the right therapy of transformation. Unfortunately the EU bureaucrats did not engaged the ordinary people in the process and therefore we have and in the future we might still have difficulties in making our citizens to understand Europe and the European project. From this prospective I am confident that Romania actually is a European democratic state (even with some deficiencies) but I am not as sure that it is already a modern democratic nation. In this last respect we have still to work.

**Looking towards the Western Balkans, does Serbia, respectively Montenegro, have greater chances of joining the European Union separately, rather as a state community? I am just returning from Belgrade, where the people are celebrating their indepenence from Montenegro and Montenegrrians?**

In the Western Balkans people still do not understand that the mankind is in transition from the era of independence to the era of interdependence. We are now building a transnational democracy, a global order and a combination of cosmopolite nation with an individual sovereignty right characterizing the post national stage of the history. Let us hope that once the dismantlement of Yugoslavia is over one would restart, based on the national ethno-religious demarcation, a post national history which will lead to a new regional integration as a prerequisite to the European integration. I am afraid, however, that these targets are still very far. Unfortunately even the EU has not a clear mind on what it should do in order to facilitate such a process not only for the sake of the Western Balkans peoples but also for its own sake.

**For some long time since stepping down from power, Mr. Adrian Nastase had continous,**

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**sometimes, rough difficulties with keeping his positions in the Romanian political life and eventually he was taken down. In your opinion, as a jurist, but also a member of PSD, was that a PR-action of the Romanian government for the EU to register that the authorities have the readiness and the levers to hunt down high-ranked "bad apples" or it was a sequential series of mistakes of the former Prime Minister, that had to eventually bring justice to what he has done?**

Until Mr Nastase is not definitely condemn by the competent courts for a certain crime he is for me and should be for everybody innocent. A criminal trial starts, as the lawyers say, in rem and ends in personam. This means that one starts from the fact or from the assessment of the crime and ends by identifying the person of the criminal and by punishing him or her. We know that the crime of corruption is an actual reality in Romania. Who are the criminals is still to be proved. Unfortunately, in Romania, this is not an ordinary crime or a peripheral phenomenon but a structural crime. Under such circumstances, as a former Prime Minister Mr Nastase bears by all means a certain responsibility and he should accept it. Therefore he had to step out from the leadership of the party and of the Parliament. On the other hand, the way in which the criminal investigation against him is conducted suggests that we deal more with a political harassment associated with a public show for the pleasure of the EU, rather than with a real anticorruption battle. At the same time the high level corruption should be measured not only by the position of those accused in the public hierarchy but also by the importance of the crimes; in other words by the capacity of the criminal acts to distort the free competition on the market or to transform the public assets into private fortunes. Until now Mr Nastase was accused only for petty illegalities which even if not commendable are by no means falling under the definition of the great corruption. Therefore I am still vigilant and I am still asking the authorities to give us evidences that the anticorruption fight is genuine and not only a Poteomkinade.

**Just before the start of the First Summit of the Black Sea Forum in Bucharest, Romanian President Traian Basescu stated for a Russian newspaper that the political relations with Russia have been frozen and that was a mistake. On the other hand, President Putin rejected the invitation for participation in the Forum, most likely because of the Moldova's and Ukraine's presence – countries with which the Russian Federation is in economic conflicts. In your opinion, what is the "healthy distance" and approach for Romania and the countries from the Former Eastern Block in relations with Russia nowadays, especially considering Romania and Bulgaria members of NATO and further – the EU?**

As NATO and EU member states Romania and Bulgaria have no reasons to fear for any direct attack against their security coming from Russia. What they should fear as border countries of NATO and EU is of being involved in unnecessary disputes with Russia. Such disputes might transform them into the first victim of a Russian unfriendly action pursued most probably with unconventional means. (I have in mind the economic means and the socio-political destabilization.) Within this context Romania and Bulgaria should try to understand and respect the Russian interests in the region and to adapt their own interests in a way which would allow them to co-exist with the Russian once while, of course, remaining loyal to their euro-Atlantic alliances. This is not easy but in trying to achieve it one should at least admit that one can not at the same time challenge every day Russia and ask it to have a co-operative behavior. Thus Romania could not advocate the NATO accession of Georgia and ask Russia to accept Bucharest in the format of negotiations for Transdnistria; or could not work to replace the Russian influence in the Black

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Sea by an American influence and ask Russia to be friendlier when it is about the deals in the energy filed; or welcome the so called "orange revolution" in Ukraine as a "pro-Western" – which is to say "against Russia" – event and ask Russia to work for the development of the democratic relations at the regional level etc. I think that the post bipolar world could not be put in order before one does not solve the problems of the Soviet empire succession or of the post Soviet regional order and the post Soviet global status of Russia. This end could be reached by confrontation or by political negotiations. As mere NATO and EU members, Bulgaria and Romania should not be afraid of confrontation and should accept it when necessary. As weaker countries from the near neighborhood of Russia, Bulgaria and Romania are not interested in confrontation. At the same time they can not succeed in any political negotiations against the interests of the EU and NATO. Therefore, as NATO and EU members Bulgaria and Romania should try to promote within those organizations and on the bases of the solidarity of interests with the rest of their members, the ideas which could lead to the promotion of a fair package deal between the Western democracies and the Russian Federation. At the basis of that package should stay a partnership for the global security combined with a mechanism of global subsidiarity and the definition of a right to intervene in defense of the minimal set of shared democratic and human rights values.

### **Up to your knowledge, is Romania having a plan for a peace solving the Transdnestrian status conflict and why is that your country is still not invited in the talks between OSCE, EU, Moldova and Ukraine?**

I do not think that Romania has a real official plan for overcoming the Transdnestrian crises. From different public statements one could guess that there exist some elements for a point of view which unfortunately lacks not only vision but also courage, imagination and realism. If the actual format of the negotiations is to be changed – and I think it should if we bear in mind its lack of results – one must bring in at the same time not only new participants but also new ideas. As long as Romania does not produce such new ideas it is very unlikely that it would be invited to join the negotiations. I would add that the new ideas I have in mind (and which are integrated in a plan for the settlement I have launched some time ago) presuppose the definition and the recognition of all local, regional and global players' competing interests, done without prejudices and historic emotions, the affirmation of the political will to find a compromise between those interests and the realistic identification of all the resources which could be mobilized for the enhancement of the solution to be agreed.

### **Can you put any additional light on the plan you have launched and is it related to your ranks in OSCE?**

My plan for the Transdnestrian crises was made public under the auspices of the "Ovidiu Sincai" Foundation at the beginning of 2006. (It is, therefore, not related with my previous position in the OSCE-PA.) This plan starts from two basic ideas related to the vital interests of Moldova and Romania: 1. The only alternative for Moldova is Europeanization or Transdnestrization (the latter meaning to bring the neo-Soviet system plus the post-Soviet anarchy plus the fallen states type organized crime from the river Dnister to the river Prut, which is to say to the immediate neighborhood of NATO and EU). 2. Romania has no other interest in respect of Transdnestria than to see the rule and order prevailing in that region against the organized crime and the rejection of the international order; and no other interest in respect of Moldova than to see it integrated in the European Union. These are, according to me, the real, objective vital interests liberated from any emotion or preconceptions. In this light Moldova should not become the hostage of the Transdnestrian crises. Consequently the plan includes the following main

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points: a) the Transdnistrian problem (which requires democratization, decriminalization and de-para-militarization) must be decoupled from the Moldavian problem (which requires democratization, sustainable development, Moldo-European interoperability and, last but not least, the clarification of the conscience of its own cultural identity); b) Transdnistria should become an international protectorate under the UN or the OSCE flag for a period of five to ten years during which it should be assisted in order to enhance an internationally agreed program of democratization, decriminalization and demilitarization (Russia should be given the possibility to play a leading role in this context); c) Moldova (the West Dnistrian part) will be provided immediately with a clear road map and a generous financial package for its EU accession within a period of three to five years; d) at the end of the envisaged protectorate time in Transdnistria and after the West Moldovan region accomplishes the EU accession, a referendum will be organized in Transdnistria in order to leave the possibility for those living there to decide if they want to be a part of the Republic of Moldova (and thus of the EU) with a large autonomy granted in accordance with the latter's laws or to become an independent state under some international guaranties; e) if Transdnistria chooses to become independent, since it is hardly conceivable that such a state could be viable, it should be envisaged the possibility to contract the exercise of some of its public services and duties with one or more neighboring states following the model of, for example, Monaco Principality. I believe that this is a realistic solution which assures a decent equilibrium between the various interests (local, regional and global) crossing and competing in the area and the balance of power between those involved in or concerned by this problem. In short this is it.

***Portal EUROPE wishes to thank Nikolai Yotov for this exclusive interview with Mr. Adrian Severin.***