

## **Personalization of Representation as a Goal of Electoral Reforms**

### **- Background Research-**

***NOTE:*** *The paper as uploaded now is not a full draft of the research paper but rather a sum of the background research on the research question as well as of the policy question which are discussed in the first part. The draft starts by presenting the structure of the paper, in an outline – list of contents format. Parts of this outline will then be developed to different extent in the main body of the text. Given the wealth of material, it is likely that there will be at least two complementary papers emerging from the research part of the project, one focusing on the details of the process of electoral system design and placing Romania in comparative perspective and one on the rationale of the choices made by political actors in electoral system reform using Romania as a test case for existing models.*

#### **A. Research question:**

In this first section the paper will briefly present the research question(s) and will introduce the Romanian case and the reasons why looking at the proposals for a nominal form of voting in Romania is relevant for the research question and as a policy question. (section A) The research questions will be developed upon relying on the political science literature on electoral systems, including very recent papers on modelling electoral system design Benoit 2004, Colomer 2003, 2004, Renwick 2003 and will be converted into testable hypotheses at a later stage (in August).

#### **B. The Current Romanian Electoral System**

- B.1. The genesis of the current electoral system: one-party dominance and the need for a 'consensus' formula [overview of the design of the current system]
- B.2. The effects of the electoral system: main features vs. details [functioning and effects]
- B.3. Summary of proposals and positions (emphasis on list PR vs. nominal voting)

#### **C. Recent discussions and proposals regarding the reform of the Romanian electoral system**

- C.1. The post 1996 context and proposals for electoral reform
- C.2. The 'Campaign for Political Reform': a new electoral system
- C.3. Analysis of
  - C3.1. Problems to be solved, solutions presented and their justification
  - C3.2. Principal Political Actors and their position
  - C3.3. Position/Opinion formation: Information sources and processing

## **A. Research question**

Electoral system design was for a long time a relatively marginal issue in electoral research, taking second place after electoral system effects. The increase in number of democracies and thus in countries undergoing a process of building or re-building fundamental institutions, among which electoral institutions, as well as a re-evaluation and change of system in established democracies (Italy, Japan, New Zealand) led to an increase in interest (for overviews see Reynolds 2000, Moser 2001, Benoit 2002, Birch, Millard, Popescu and Williams 2002). The field now covers a wide range of new and old democracies, as well as a re-analysis of key historical choices, all trying to understand and to model choice of electoral systems.

Political actors tend to have multiple goals and they can juggle them when making decisions regarding electoral system design. Although a large part of these goals is based on self-interest, seat maximisation does not always have the upper hand. There are often concerns regarding legitimacy, internal party politics, party interests regarding other institutional arrangements that the parties have to consider over seat maximization.

The capacity to fulfil these goals depends not only on their share of support in parliament but on their capacity to devise the technical provisions most likely to be conducive to the intended effects. Thus the results of the negotiations are not only dependent on the balance of power but also on the actors level of knowledge of the technicalities and implications of potential alternatives that contribute first to the delimitation of the (rather limited) pool of alternatives considered and then to the choices made.

My research will focus on these two essential questions from which hypotheses will be derived:

- a. Who are the actors and what kind of interests and goals do they have and why does that lead to proposals of electoral system reform?
- b. What are and who determines the range of electoral system (features/elements) considered as alternatives and what kind of information is used in the decision making process by the actors involved

The 'cross-national tendency towards a more direct link between voters' preferences and candidates for office is the most important change in the relationship between voters and representatives' (Bergman et al 2003: 213). Proposals for the personalization of PR electoral systems were launched in a number of countries, both new and old democracies. Romania is one of them, which renders Romania a good case to tackle this essential question and at the same time provide a good testing ground for theories regarding electoral system reform and persistence.

## **B. The Current Romanian Electoral System**

### **B. 1. The genesis of the current electoral system: one-party dominance and the need for a 'consensus' formula**

Electoral system choice in Romania reveals a 'whole system' approach in terms of electoral and more generally institutional design, even if on occasions the parties misrepresented their electoral chances under one or another arrangement due to ignorance and unrealistic perceptions of their popularity. The parties tried to achieve the best arrangement by compensating provisions that would not favour them in the race for one institution with provisions that would favour them in another one, as well as with provisions that would enable the party achieve other goals than electoral gain, such as international legitimation.<sup>1</sup>

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<sup>1</sup> For instance, legitimacy concerns and international image explain the support of proportional representation in 1990 by the dominant Front of National Salvation.

Contextual factors of the transition made the FSN (later FDSN, subsequently PDSR and PSD) the dominant influence on institutional design in post-communist Romania, a dominance enhanced by the weakness, disunity and incompetence of the anti-communist opposition. The unequal balance between a strong communist successor party and a weak and often incoherent anti-communist opposition rendered the calculus of the former the dominant influence on institutional design in post-communist Romania. Elsewhere dominant parties also tried to control and manipulate institutional design with multiple goals in mind, from party interests to the need to obtain consensus on the rules adopted (see Diaz-Cayeros and Magaloni 2001 for a Mexican example, and Mozaffar and Vengroff 2002 for an African one, Brady and Mo 1992 on Korea, Remington and Smith 1996 on Russia, Williams 2000 on the Czech and Slovak Republics).

Over time, the prime political interests of the ex-communist successor party remained twofold: electoral success (understood in a broader sense than seat-maximization) and legitimacy and the balance shifted between the two goals. Until 2000, a directly elected president and concurrent elections were meant to ensure the former, and proportional representation the latter. After the 2000 elections legitimacy was not high on the agenda and the calculus regarding electoral success more complex and the methods used to implement it more manipulative.

In 1990, the concerns of the National Salvation Front (FSN) over legitimacy were serious and fundamental, and uncertainty over election success low. Legitimacy became an issue in late January 1990 when violent attacks against opposition demonstrations by ordinary government-supporters raised suspicions internationally regarding the democratic credentials of the new leadership. Therefore, seat maximising interests and even ideas of representation were to be cast off and the FSN actions to shape the party system were directed towards ensuring ease of entry. The initial CFSN proposal expressed a particular conception of parliament and of representation, closer to the communist concept of representation than to the liberal democratic one.<sup>2</sup> Moreover, a majoritarian system would have ensured a near monopoly of seats for the FSN largely due to their superior organization. Yet, in the multiparty Provisional Council that replaced the CFSN, Ion Iliescu and the FSN supported a closed-list proportional system. The minutes of the debates suggest that the CFSN-FSN abandoned the majoritarian system to gain more legitimacy, but they were not ready to give up their advantage at the local level.<sup>3</sup> Ion Iliescu explicitly claimed that although he had initially favoured a uninominal system, he was persuaded that despite its numerous complications list voting was better for Romanian democracy.<sup>4</sup> This change must be interpreted as a consequence of the need to ensure parliamentary representation for opposition parties, mostly because elections held according to a law not supported by the opposition and/or producing a one-party parliament was unlikely to be recognized as democratic by the international community. Yielding of concessions to the opposition parties, who were too

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<sup>2</sup> The text advocated 'proportional representation of all nationalities in parliament and local councils'. This implied a communist-style 'proportional representation', except that it focused on the representation of ethnic groups, not the demographic categories emphasised in communist-era assemblies. To ensure proportional representation all elected deputies were to declare their ethnicity; then compensatory seats would be allocated to minorities that did not reach the proportion of deputies indicated by their population share. See Chapter VI of the Draft submitted to public debate: Decree Law of the CFSN on the election of parliament, the president of Romania and local councils, *Adevărul*, 1 February 1990; *România Liberă*, 1 February 1990.

<sup>3</sup> Many of those in local Councils of the National Salvation Front remained affiliated to the FSN, therefore they were the only ones to have a presence at the local level almost everywhere in the country.

<sup>4</sup> Moreover, as an intervention of Iosif Boda (later Ion Iliescu's presidential councillor) clearly testifies, they felt that they gave up enough by abandoning uninominal voting and hence it was natural to find ways to bring the new system closer to the ideas in their previous proposal, namely constituency representation and priority given to local ties and interests. *Monitorul Oficial* Year 1, Part II, No. 12-13, March 1990, p. 30.

weak and disunited, even on the topic of electoral system type, to squeeze any concessions is an unlikely explanation.

No other technical options were considered at the time, the questions raised in the CPUN being of a more fundamental nature, regarding form of state - monarchy vs. republic, type of regime - parliamentary vs. presidential, and the type of representation - from representation of place and personalized forms of representation, to more radical ideas of representation based on corporatist principles. Although the initial CFSN draft law<sup>5</sup> provided for special representation of the military in the Senate, the point was withdrawn from the draft submitted to the CPUN plenary debate. The reason was partly the decision of the judicial committee to abandon the corporatist principle of representation as incompatible with PR. It was also the case that the military objected on the grounds that serving as members of parliament might jeopardise their non-partisan image. Yet, a lengthy discussion involving historical, moral and comparative arguments focused on the non-elected senators, especially on the question of the representation of the military and the clergy; various proposals on the inclusion of the military were presented by CFSN members and supported by several parties, while the PNTCD strongly supported the inclusion of the clergy. The arguments were mostly moral and historical, reasoning that these institutions were 'pillars' of Romanian society, had enjoyed special Senate representation in the inter-war period, and moreover the army had played a crucial role in the December 1989 Revolution. There was also considerable misunderstanding regarding the alleged role of military representatives in the US Senate and the German Bundesrat.<sup>6</sup> It is quite interesting that the support for the institution of non-elected senators came from the historical parties influenced by their nostalgia and admiration for inter-war Romania, and from CFSN members with links to the communist regime and thus influenced by the communist principles of representation of social categories. Ion Iliescu argued that active military officers would have two full-time jobs if they were elected as deputies, which was just not possible, whilst retired military personnel could not represent the army once having left it. Radu Campeanu, supported by Ion Iliescu, argued that military should have the right to vote (unlike in inter-war Romania), but should not be members of political parties while active, which is the standard in Western Europe. Concerning the representatives of the clergy and of the intellectuals, the discussion centred on the impossibility to determine who has the right to be represented - i.e. which church, which group of artists and/or intellectuals - and by whom.<sup>7</sup> With some manipulation from Iliescu, the chairman of the session, the debate was closed and the vote rejected the institution of non-elected senators.<sup>8</sup>

In the second phase of electoral system design, in 1991-1992, before and after the split of the National Salvation Front (FSN), uncertainty over the electoral chances of the successors of the FSN was relatively high and issues of legitimacy remained important. The government, which could not expect majority support in the legislature since the split in the FSN, proposed proportional representation aiming at filtering out of the numerous small parties, while maintaining proportionality and argued that a single-member district system would undermine political parties. The debates also suggest a certain amount of pride among FSN ranks regarding the legislation adopted in 1990 and the need to attest its viability. Hence, both factions of the FSN supported PR and were not interested in promoting the single-member district system that some hard-liners still suggested.<sup>9</sup> The priority for the parliamentarians of

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<sup>5</sup> Draft published in *Adevarul* and *Romania Libera*, 3 January 1990.

<sup>6</sup> Monitorul Oficial, No. 8-9, pp. 43- 46.

<sup>7</sup> The question was which churches ought to be represented and who has the right to decide which church deserves representation. The same uncertainty appeared about the organizations and/or persons that could represent the intellectuals and artists; the president of the academy may be a quite clear-cut choice but apart from that with which criteria in mind and on the basis of what competence can the legislator determine these 'representatives'.

<sup>8</sup> Monitorul Oficial Year 1, Part II, No. 8-9, March 1990.

<sup>9</sup> The Senate was more preoccupied than the Chamber of Deputies with different ways of electing the two chambers and support for 'uninominal' vote was higher. The proposal of the president of the Senate (Barladeanu) to have uninominal vote for the Senate was first submitted in February to the

FDSN was to ensure that presidential and parliamentary elections would take place concurrently and later in the year in order to maximize their electoral fortunes by using Ion Iliescu as their ticket leader and buy some time to make themselves known. The other faction - Petre Roman's FSN - naturally supported early but non-concurrent elections.<sup>10</sup> The party context was fairly volatile and fragmented and all parties expressed inconsistent positions: (a) between the representatives of the party in the two chambers, (b) among individual MPs who often expressed slightly or even largely divergent positions from the party positions, (c) over time in the context of negotiations with other parties, and especially in the not so rare case when not all partners in the negotiations kept their promises. In the end, developments inside the FSN, the infighting and the subsequent split were most influential in determining both the agenda of legislative debates and the outcome. Moreover, in the context of MP's limited information on technical alternatives and their implications as well as under time pressure, the government representative had a fairly important - even disproportionate - role in pushing forward the legislative process and reminding the goals agreed upon, as well as the meaning of numerous technicalities of the electoral system.

A division between big (or potentially big) parties and small parties also became clear when more topical issues, especially seat allocation procedures were debated. There seemed to be an agreement between the big parties that these procedures should encourage alliances and discourage fragmentation. Consequently, in respect to the idea of a legal threshold, i.e. that parties should get a certain minimum of support to receive any seats, coined by the judicial committee and not by a particular party, the more significant parties (FSN, PNL, PNTCD, PUNR, UDMR) only disagreed on whether it should be 2, 3, 4, or 5 per cent. As could be expected, the smaller political parties (PSDR, ULB) argued against the introduction of any threshold, as well as against the proposed d'Hondt formula. The discussions were lengthy mostly because of widespread misunderstanding of both d'Hondt and its alternatives.<sup>11</sup> UDMR proposed 'proportional' (i.e. Hare) quota in the first instance and d'Hondt for the national distribution of the remainders, the system used in 1990 for the Chamber of Deputies. The PNL parliamentary group was against d'Hondt and suggested retaining the allocation procedures used in 1990 for the lower chamber, a proposal accepted by FSN-Roman.<sup>12</sup>

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commission and then to the plenary session. It was supported by PUNR and several FSN and FDSN senators. Some proponents of the uninominal vote were clearly not friends of party politics. They saw it as a means to allow voters the choice between individual personalities and to allow the election to the Senate of the best individual candidates, not those candidates proposed by parties.

<sup>10</sup> The party splits of the period largely determined the attitude of individual parliamentarians and parties towards these two issues. At the national convention of the National Salvation Front in March 1992 former prime minister Petre Roman, the head of the more reformist and western-oriented faction, was elected party leader. In response Iliescu's supporters left the FSN and formed a separate party initially called the Democratic Front of National Salvation (FDSN).<sup>10</sup> Party fragmentation was further increased as some smaller groups elected to parliament on either the FSN or the Democratic Convention of Romania (CDR) ticket also decided to form their own parliamentary clubs. The most significant of these was the National Liberal Party (PNL), the second biggest party in CDR, the opposition umbrella organization that won the highest number of votes in the 1992 local elections. The FDSN and PNL needed time to organize and to make themselves known to the voters, hence supported postponing the 1992 elections. In contrast, the Roman-led FSN and the parties in the CDR were interested in swiftly capitalizing on the momentum they gained in the Spring 1992 local elections. These parties supported non-concurrent elections for president and legislature in order to prevent Ion Iliescu from campaigning for the FDSN. Iliescu as ticket leader was expected to boost the FDSN vote in concurrent elections, while in non-concurrent elections the president of the country would not have been allowed to campaign for a political party.

<sup>11</sup> There was confusion whether d'Hondt is a 'proportional' system, whether it was compatible with the redistribution of the remainders and with the threshold, whether a threshold was still needed if d'Hondt were used.

<sup>12</sup> It seems that the PNL MPs didn't realize that in 1990 d'Hondt was employed in the second tier allocation for the lower chamber.

Introducing a regional threshold (as proposed by a FDSN senator<sup>13</sup>) was rejected on grounds that the aim of the law was to promote the consolidation of large national parties, not regional ones. Opposition party interests prevailed in the rejection of the PUNR proposal of a separate threshold for coalitions in order to prevent very small parties entering parliament with the help of an umbrella organization. The parties of the Democratic Convention, as well as UDMR and MER, vehemently rejected the proposal as unconstitutional since, as it was later revealed, they only wanted to shape the electoral party system through alliances rather than mergers. Despite the position of some of their MPs, none of the two camps of the FSN had an interest in a merger of the 'democratic opposition' parties, which could potentially strengthen them and their links with the electorate on the long run.

In the Assembly of Deputies, PUNR proposed a system of *apparentment* as a means to counter-balance d'Hondt's tendency to favour bigger parties. PNL and PDAR advanced similar proposals to allow two or more parties to have their lists considered jointly for seat allocation procedures.<sup>14</sup> FSN - Roman supported the idea; it would not hinder d'Hondt system of seat allocation and would also contribute to the exclusion of small extremist parties that would find it difficult to attract a partner. In the end, although the representative of the government did not reject the idea, *apparentment* was voted down. Given the subsequent developments, especially within the Democratic Convention, it is possible to say that *apparentment* would have been closer to the real strategies the parties had in mind, given that they were not interested in party mergers but electoral alliances; it would have been a clearer message to the electorate regarding differences in party positions while suggesting that party X and Y are likely coalition partners but do not have a common programme, potentially leading to different expectations regarding their behaviour in government.

The 1992 and the 1996 parliamentary elections were governed by the 1992 law. The country is divided into 42 constituencies, with district magnitudes ranging from 4 to 29 for the Chamber of Deputies and from 2 to 13 for the Senate; average district magnitudes are 7.79 and 3.3 for the Chamber and the Senate, respectively. Voters can choose between closed party lists and independent candidates in each constituency, a candidate being allowed to run in only one constituency. The allocation of seats is two tiered. After establishing which parties passed the national threshold, a Hare quota is calculated at the constituency level<sup>15</sup> and each party is allocated as many seats as the number of full quotas comprised in the number of votes received in the constituency. The remainders are aggregated at the national level and then distributed using d'Hondt. The national reallocation of the remaining votes is meant to compensate for the rather low district magnitude<sup>16</sup> and it largely does. If the threshold is retained, the results obtained by the current allocation procedure are identical to those that would be obtained using a Hare quota and largest remainders with one national constituency and slightly more proportional than those that would be obtained using d'Hondt or Sainte Lague highest averages methods also with one national constituency.<sup>17</sup> It is the allocation of the seats obtained in the second stage to individual constituencies that yields some weird

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<sup>13</sup> Dumitrascu brought in his support the example of the interwar party of Ctin Stere that failed to gain parliamentary representation although it had up to 60% in Bessarabia but didn't reach the 2% national threshold.

<sup>14</sup> The name, acronym and symbol of the party plus all the list of candidates are printed in full on the ballot and included in a rectangle. The PUNR proposal was the joint lists to get consecutive places on the ballot and be placed in an extra rectangle suggesting the *apparentment*. The PNL proposal didn't involve any signalling of the *apparentment* on the ballot and didn't oblige the parties to publicise their agreement.

<sup>15</sup> The quota is calculated by dividing the total number of valid votes in that constituency to the number of seats to be allocated in the respective constituency.

<sup>16</sup> The district magnitude in 2000 was 7.79 for the Chamber of Deputies, the Bucharest constituency with 29 deputies, the others ranging from 4 to 12 deputies. For the Senate the district magnitude is 3.33, Bucharest electing 13 senators and the other constituencies between 2 and 5.

<sup>17</sup> See simulations at <http://www.essex.ac.uk/elections>.

consequences, such as a deputy/senator of a party represents a constituency in which the respective party obtained around 2000 votes.<sup>18</sup>

The 1996 elections brought the first alternation in government in post-communist Romania as well as a new president. After the 1996 elections, among the proposals for electoral reform, an increase of the legal threshold and the creation of a permanent professional electoral commission were deemed necessary by most parties. Similarly to 1992, the first was meant to reduce the fragmentation of the party system and to ensure that only significant parties would be represented in parliament, thus increasing the chances of government stability. Although the latter was suggested by successive CSCE/OSCE reports<sup>19</sup> and is in principle supported by all parties,<sup>20</sup> it did not reach the parliamentary agenda (until 2003). A higher threshold was part of a PDSR and a PD bill submitted to the Chamber of Deputies and the Senate, respectively. The Chamber of Deputies began to debate a new electoral law, based on the PDSR bill, in May 1999 and adopted it on 9 June 1999. The law included a 5% threshold and a higher threshold for alliances. The discussions focused mostly on technical points related to electoral administration in order to guarantee free and fair elections. Since the bill submitted to the Senate by the Democratic Party and supported by its coalition partners and PDSR was not placed on the agenda of the Senate plenary sessions, a new electoral law was never adopted in the 1996-2000 legislature.

Prior to the 2000 elections, the government introduced by emergency decree a number of new provisions regarding the election of Parliament and the President. The most significant change was the raise of the threshold to 5% for parties and 8-10% for alliances/coalitions (5% for the first party, plus 3% for the second, plus 1% for each additional party up to 10%). Other changes referred to new nomination procedures for the minorities' organizations,<sup>21</sup> regulations of the campaign in the broadcast media, the definition of an alliance and a number of administrative provisions regarding the date of the elections, voters' cards, polling procedures, and the deposit of the electoral materials.<sup>22</sup>

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<sup>18</sup> The number of unused votes for each party in each constituency is divided by the total number of valid votes for each party (nationally). The result is multiplied by the number of seats remaining for the second allocation for the respective party and shall be called C3. The C3 numbers are arranged in decreasing order nationally (NOL) and per constituency. In each constituency, as many parties as mandates are left to be allocated are listed and the C3 of the last party is considered the constituency coefficient (RC). Each party receives as many seats in a constituency as many times the constituency coefficient divides the C3 taken from the national ordered list (NOL).

The legal provisions for this calculation are specified in article 66 of the election law (Law 68/1992). However, due to extremely unclear language it appears that the algorithm, although consistently implemented in this manner, has been the result of custom rather than legal provision. The interpretation of the text of the article can hardly be done without looking at the actual calculations. The same problem was noticed in the 1990 law by Aalund (1990) and he also interpreted the legal text following the actual calculation done by the electoral commission.

<sup>19</sup> reference

<sup>20</sup> Interviews conducted by Frances Millard and Marina Popescu with representatives of PDSR, PD, PNL, UDMR, and PUNR in September 1999.

<sup>21</sup> The new provisions allow a minority organization to nominate the same list of candidates in several constituencies. This idea that had been sustained by the minority organizations in 1992 and included in a 1999 legislative proposal of the Parliamentary Group of Minorities other than Hungarian, which never got the chance to be discussed in plenary sessions. Personal interview of Frances Millard and Marina Popescu with Varujan Pambuccian, president of the parliamentary group of minorities other than Hungarian and representative of the Union of Armenians in Romania.

<sup>22</sup> Ordonanta de Urgenta Nr. 140 (OGU 140/2000) published in Monitorul Oficial Nr. 467 from 26 September 2000, OUG 165/2000 from 13 October 2000 published in Monitorul Oficial 19 October 2000. The media campaign was regulated by Governmental Decision (HG 37/200 published in Monitorul Oficial 18 October 2000) and by Order of the National Commission for the Audio-Visual (Ord 240/ 9 October 2000).

## B. 2. The effects of the electoral system: main features vs. details

Following the first two stages mentioned above it becomes apparent that electoral system design had some of its intended effects. In the first stage, the 1990 elections, high proportionality (as indicated by the very low value of the disproportionality index<sup>23</sup> for the Chamber of Deputies) and rather high number of parties gaining parliamentary representation (seven for the Senate and seventeen plus eleven minority organizations for the Chamber of Deputies) suggest that the goals of inclusiveness and pluralism were achieved. Considering that the effective number of elective parties<sup>24</sup> (2.23 and 2.17 for the Chamber of Deputies and for the Senate, respectively) reveals a clear FSN dominance of the electoral arena, while the historical parties enjoyed low support (a total of around 10 percent for the three historical parties together<sup>25</sup>), it is possible to affirm that the choice of electoral system was critical in ensuring representation for the opposition parties and a multiparty parliament. Moreover, the differences in number of parliamentary parties and in effective number of parliamentary parties between the chamber of Deputies and the Senate (17 vs. 8, 2.08 vs. 1.67), without mentioning the difference in proportionality (1.07 vs. 7.43) imply that the choice of seat allocation formula also made a difference. Interestingly this difference in seat allocation procedure between the two chambers was the result of a minor amendment to the bill of the CPUN judicial committee, namely to introduce for the Chamber of Deputies a second tier of seat allocation using remainder votes, an amendment that encountered almost no controversy and discussion.<sup>26</sup>

In the second stage, the introduction of the threshold in 1992 had indeed the expected effect of decreasing the number of parliamentary parties, which fell from 17 at the 1990 elections to 7 at the 1992 elections, a trend continued in the subsequent elections even before its 2000 increase.<sup>27</sup> It has been argued (Birch 2001) that East European legislators prefer to tinker with the threshold rather than with other features of the electoral system (for instance district magnitude) due to its easily interpretable mechanical effect. It seems to be indeed the case that Romanian politicians entertained such ideas. Yet, content with the mechanical effect they failed to see whether there was also a learning or strategic effect on the electorate and/or on the parties<sup>28</sup>. And it was only to a very limited extent as hinted by the high number of parties after 1992. If Szajkowski's data is accurate, Romania had the highest number of registered parties in the post-communist world: 199 parties and political movements, more than the

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<sup>23</sup> The index is calculated using the **Gallagher** index of disproportionality that measures the disproportionality of seat allocation with the formula  $LSq = \sqrt{[1/2 \sum (v_i - s_i)^2]}$ , where  $v_i$  and  $s_i$  are the proportions of votes and seats, respectively, won by party  $i$ . (Gallagher, Michael, 'Proportionality, Disproportionality and Electoral Systems', *Electoral Studies*, vol. 10, no. 1 (1991), pp. 34-51.)

<sup>24</sup> Effective number of parties is a formula devised by Marku Laasko and Rein Taagepera to measure the fragmentation of the party system. It is calculated as one divided by the sum of the squared proportion of popular votes (or legislative seats) won by each party. (Laasko, Markku and Rein Taagepera. 1979. "'Effective' Number of Parties: A Measure with Application to West Europe," *Comparative Political Studies* 12: 3-27.)

<sup>25</sup> 9.5 Chamber of Deputies and 10.01 Senate; the breakdown by party is: PNL 6.41 and 7.06, PNTCD 2.56 and 2.45, PSDR .53 and .5, for the Chamber of Deputies and the Senate respectively. See <http://www.essex.ac.uk/elections>.

<sup>26</sup> This may tap into the limited knowledge of electoral systems the CPUN members possessed especially the historical parties whose goal was to ensure entry for themselves but limit entry of other small parties believed to be 'satellites' of the Front. Yet, one should not be quick in judging the CPUN members on this point because in the context of high uncertainty regarding party support and even more geographical distribution of support, the capacity to correctly estimate who exactly would have been advantaged or disadvantaged by the lack of a second-tier of seat allocation was very limited.

<sup>27</sup> Figures for the Chamber of Deputies are used for comparability reasons since the seat allocation formula used in 1990 for the Senate was different from that used at subsequent elections.

<sup>28</sup> The first implies that voters learn/realize that a vote for a party unlikely to pass the threshold is a wasted vote. The implication of the latter is that small parties become aware of the limitations of running alone, are discouraged to do so, being encouraged to join coalitions or to merge in order to pass the threshold.



Russian Federation, which was in second place.<sup>29</sup> Moreover, although the number of parties running in elections decreased, it remained high and quite a few parties won less than 1% of the vote: in 1992, 69 parties running lists for the Chamber of Deputies and 60 for the Senate obtained less than 1% of the valid votes, in 1996 the figures were 53 and 27, while in 2000 the figures were 35 for the Chamber of Deputies and 28 for the Senate. Consequently the percentage of wasted votes was high (18.49 in 1992, 18.21% in 1996 and 19.64 in 2000<sup>30</sup>). The higher percentage in 2000 it may be due to the change of threshold by governmental emergency decree before the election campaign, which gave little time to the parties to adjust to this new threshold especially in a highly volatile context. Two contenders failing to gain representation accounted for 9% of the wasted votes, one of the two parties was the senior governmental party and the other enjoyed support up to 19% in the polls few months before the elections. Since a significant part of the wasted votes went to electoral contenders judged by most as likely to gain representation, it is thus possible to say that some learning did take place, at least on the part of the electorate. However, the number of contenders remains high suggesting that although voters became less likely to vote for parties without any chances, for some reason numerous parties still run in elections.

One plausible explanation of the failure of some electoral system characteristics to fully yield the expected effect is that not enough time passed, institutions are too new to be capable to have the effects showed in old democracies. This is probably true but this still leaves unexplained the differences between the effects in Romania compared to other post-communist countries such as Poland (Millard 2001). It remains unclear why there are so many contenders in Romanian elections and why. It is plausible that after one of the most oppressive communist regimes, where no form of public organization was possible and tremendous barriers to freedom of expression were in place, the new possibility to form a party and freely and publicly express one's views have more appeal than in countries with less oppressive regimes. In a highly centralized and statist country, being part of public life may have prestige in itself. However, this cannot fully explain the high number of parties running in elections, and institutional incentives<sup>31</sup> must be part of the cause. In terms of nomination rules, Romanian rules are among the least restrictive especially since the authenticity of the rather high number of signatures needed for party registration and for presidential nominations cannot be fully checked. There are no plans to introduce nomination fees, which would at least add another filter, a method introduced for the same reason in 2001 in Bulgaria. Moreover, there seem to be particular incentives to run in elections, such as a five minute slot allocated on national public television to all independent electoral contenders and discounted rates for parties.<sup>32</sup> Also, all parties receive some state funds for electioneering purposes; although the law requests parties not passing a 5% threshold have to return the money, the capacity of the state to collect this money is rather limited especially since the law does not stipulate any sanctions for any failure to report or return.

The reasons of the 'weakness' or low institutionalization of the Romanian political parties is beyond the scope of this paper but the expectation to have disciplined MPs is highest in closed list PR systems<sup>33</sup>. Even following the line of argument of the Romanian critics of closed list, namely that in closed list PR parliamentarians have to be loyal only to their party, the logical expectation would be to have highly disciplined MPs following party lines in order

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<sup>29</sup> Szajkowski, Bogdan (ed) *Political Parties in Eastern Europe, Russia and the Successor States*. (Harlow: Longman, 1994).

<sup>30</sup> These figures refer to the Chamber of Deputies. See table 3 for data on both chambers.

<sup>31</sup> The OSCE report on the 2001 Bulgarian election suggested that the high barriers (no of signatures) for independents limit their number but increase the number of small parties since fewer signatures are needed.

<sup>32</sup> The allocation procedure distinguished between parliamentary and non-parliamentary parties. The 5 minute-slot refers only to the second category, more time and in different types of programmes is allocated to the parliamentary parties.

<sup>33</sup> Carey, John M. and Mathew Soberg Shugart, 'Incentives to Cultivate a Personal Vote: A Rank Ordering of Electoral Formulas' *Electoral Studies*, vol. 14, no.4 (1995), pp. 417-39; Farrell, David M., *Electoral Systems: A Comparative Introduction* (Basingstoke: Palgrave, 2001).

to ensure their inclusion on eligible places at the following elections. Yet, we have seen that this does not happen and although the reasons are multiple, there is no logical reason to believe that this is due to the way MPs are elected.

At least one institutional provision related to parliamentary procedures – secret voting – appears likely to have a negative effect on party institutionalisation and more generally on accountability. The rules of both chambers of the Romanian Parliament provide for secret vote on all occasions unless decided otherwise.<sup>34</sup> Although this provision can somehow be related to the constitutional provision that the MP is in the service of the people and there shall be no imperative mandate (see Constitution article 66), there is a fundamental difference. If this constitutional provision is at the basis of liberal democracy by ensuring that the elected representative is only accountable to its electorate, secret voting actually prevents accountability and thus can be considered of a dubious democratic nature. It is hard to tell of not doubtful whether secret voting is efficient in cutting down on corruption, i.e. selling and buying of votes, but it clearly renders impossible for anyone, party and public, to check how their MPs voted and consequently hold them accountable. It is not unusual that an MP elected on a list chooses to leave the party on the lists of which it was elected and the party cannot do anything about it, but it is unusual for the party not to be able to monitor the voting behaviour of its deputies. The (closed) list system can act as a tool to ensure party discipline and thus strength if, and only if, those elected on the list aim to obtain good positions on the next list and that the party has means to use it as a penalty or reward. Since the party cannot tell much about the MPs voting behaviour (apart from commission work) it loses all its means to control MPs loyalty to the party position and consequently cannot use it to reward or penalise them. Naturally, since at least one important political criterion cannot or can hardly be enforced, other criteria, likely to be of a clientelistic nature can easily supersede. From the electorate's point of view, parties can be seen as information shortcuts, allowing them to get a rough estimate of the performance of its representatives. Once the link between party representatives and party ceases to be obvious, the meaning of party labels for the electorate ceases as well and information costs for voters become huge and insurmountable, therefore the feeling of disjunction between parliament and electorate.

To conclude this section it is worth noting that the mechanical effects of the electoral system worked largely as expected but were followed only to a limited extent by strategic adjustments. The lack of lock-in is largely due to the discrepancy between the system chosen and the ideas of representation of the dominant party and of a large proportion of the other MPs.

## **B. Summary of proposals and positions (emphasis on PR and nominal voting)**

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<sup>34</sup> This rule has only marginally changed since 1990. See

C.

### **C.1. The post-1996 context and proposals for reform of the electoral system**

The high initial expectations after the 1996 victory of what was until then considered the 'democratic opposition' were soon followed by disappointment: the promised change was not visible either in the functioning of the economy or in the style of politics. On the contrary, the governmental coalition was marred by incessant conflicts between the component parties, as well as by corruption and incompetence scandals. The government continued the PDSR practice of ruling by decree since the legislative process in Parliament continued to be very slow, not least because of the common jurisdiction of the two chambers. Moreover, changes of party affiliation of MPs remained frequent, and almost all parties suffered splits and defections. In this context of disenchantment with the functioning of the political system, some journalists, NGOs and political parties (especially PNL and the newly formed the Alliance for Romania -ApR- splinter from the PDSR) advanced the idea of a radical reform of the electoral system, judged largely responsible for the illnesses of Romanian politics.

Moreover, the poor performance evaluations of the PNTCD – PNL – PD government turned the PDSR into the less bad alternative, thus increased its chances of electoral success. Moreover, the international prestige of the CDR decreased in face of the lack of real performance, especially regarding issues of corruption and mismanagement, these issues becoming more salient than the issues linked to the opposition communism – neo-communism vs. democratic – westernized. The legitimacy of the PDSR was at an all-time high, appearing to be just like other successor parties a respectable social-democratic party with practical, technocratic capacity, a position that will be consolidated after the 2000 elections.

The threshold was only one among many proposals for electoral system reform. The roots of the failures of representation and of the inefficacy of Parliament - real or perceived - were believed to be deeper. Parliament was perceived as an institution totally remote from the electorate, slow, inefficient and unaccountable. The usual images of the Parliament on TV and in newspaper reports included MPs reading the newspaper or even sleeping during plenary sessions, MPs spending more time at the café than in the frequently empty session rooms.<sup>35</sup> Although MPs were obliged to hold office hours in their constituencies once a week, they were still perceived as largely ignorant of or at least uninterested in the concerns of their constituency. Moreover, the practice of 'parliamentary tourism' – i.e. changes of party affiliation during a parliamentary term- did not cease, on the contrary.<sup>36</sup> Consequently, the 'quality' of members of Parliament was perceived as the crucial cause for the malfunctioning of the political system and calls for electoral system change as a means of political reform did not disappear after the 2000 elections, on the contrary.

An elusive 'uninominal' voting system was presented since 1999,<sup>37</sup> as the solution to this problem by the press, the civil society, i.e. NGOs, and some political parties, especially the National Liberal Party and the PDSR splinter, Alliance for Romania. The central argument was that the MPs depend exclusively on their party (leaders) for nomination on a safe eligible place on the party list. Thus, who gets elected is largely decided by the party leaders rather than directly by voters. Due to this system, the MPs do not fear failing to be re-elected

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<sup>35</sup> It is indeed the case that sometimes towards the end of the day it may not be possible to vote any legislation because the legal number of MPs needed for voting a law is not met. Yet, like in most parliaments, most of the work is done in commissions and there has been an improvement in the organization and functioning of the parliamentary groups.

<sup>36</sup> According to the regulations of the two chambers MPs leaving the party on the lists of which they were elected keep their seat become independents and cannot formally represent any other political party in Parliament but they can join another parliamentary group. However, they are not prevented to join parties or to form parties and they represent them informally, at least by being MPs and representatives of the respective party, other than the one on the list of which s/he was elected or being members of the parliamentary group of the party towards which they floated.

<sup>37</sup> In an editorial in 2002/3 [?], Cristian Tudor Popescu claims that 'Adevarul' proposed uninominal voting as a means to reform the political system for eight years, i.e. since 1995 (ADD REFERENCE).

because of bad performance and their only concern is with their position inside the party, which it is claimed not to depend on performance but on 'pork'. Voters' lack of individual candidate choice is the most common complaint against closed list PR (Reynolds 2000: 65). What is less common is that in Romania following this line of argument there is an expectation that things would work in just the opposite manner if the parliamentarians were elected individually, directly by the citizens in their constituencies and not via parties; moreover, this populist argumentation could capitalize in Romania on high mistrust of party-politics among journalists and citizens alike.

Among the significant parties, initially the liberals expressed the most radical position, proposing fundamental constitutional changes such as a parliamentary system with a president elected by parliament and a majoritarian electoral system.<sup>38</sup> The first point, supported by the historic parties since 1990, can be interpreted as a programmatic commitment, especially since its utility for PNL's current electoral fortunes was doubtful.<sup>39</sup> The second would be even less likely to benefit a party that, like the PNL, had 9% of the seats in parliament after 2000 and consistently remained at or below 10% in the polls after the 2000 elections. The likely explanation why PNL nevertheless advocates them lies in the long-term strategy of the party to become the centre-right alternative to PDSR. The PDSR splinter ApR, after the 2000 elections an extra-parliamentary party that merged with the PNL, was another strong supporter of a majoritarian system. Despite the fact that like PNL, ApR is a small party, its choice appeared more rational since ApR seemed unlikely to pass the 5 percent threshold in the 2000 election due to its weak and uneven territorial representation, which was in sharp contrast with its impressive number of recognizable candidates and a few smaller strongholds.

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It is highly significant that a peak of press interest in issues of electoral reform was reached during the 'long' election campaign of 2000. The PNL proposal was also launched at the beginning of the election campaign, and it received extensive coverage in *Adevărul*. PNL apparently believed that an increase in its credibility and electoral appeal would accompany such populist discourse. However, it is quite apparent that the chief beneficiary of anti-system discourse and sentiment in the 2000 election was the extreme nationalist Greater Romania Party, which came second to the PDSR.

After their victory in the 2000 elections the Social Democrats formed a minority government, with a programme embracing reform of the constitutional and judicial system. Constitutional reform was meant to render the bi-cameral system 'meaningful and efficient', thus restoring the authority of Parliament. Even before the 2000 elections, the Social Democrats,<sup>41</sup> the PD<sup>42</sup> and the UDMR<sup>43</sup> saw a differentiation of the prerogatives of the two chambers as one way to

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<sup>38</sup> Personal interview of Frances Millard and Marina Popescu with Valeriu Stoica, at the time Vice-President of PNL, since December 2000 president of PNL. September 1999. ADD info from the 'Ten proposals of PNL' October 1999.

<sup>39</sup> In the early 90s it was in their electoral interest to oppose the idea of a directly elected president since it was quite impossible to find a serious contender given the enormous advantage enjoyed by Ion Iliescu in terms of visibility and popularity. It doesn't seem rational to maintain this position in a context when the party is unlikely to have a majority in parliament to ensure the election of a president. Even more significantly such a move would not necessarily be either in the advantage of PNL or in the disadvantage of PSD since without Ion Iliescu as a presidential candidate, the uncertainty of electoral success of PSD in the presidential race is higher than ever.

<sup>40</sup> It is necessary to mention that the split of the ApR from PDSR was mostly due to clashes of personality. The former PDSR minister of foreign affairs, Theodor Melescanu, lost the battle for the leadership of the PDSR and consequently believed that his electoral chances are better served by a new party, outside of the PDSR.

<sup>41</sup> In June 2001, the Romanian Party of Social Democracy (PDSR) merged with the historic Romanian Social Democratic Party (PSDR) and became the Social Democratic Party (PSD).

<sup>42</sup> Frances Millard and Marina Popescu, Interview with Victor Boștinăru (then chair of the International Relations Committee of the Chamber of Deputies and Vice President of the PD), September 1999.

<sup>43</sup> Frances Millard and Marina Popescu, Interview with Béla Markó, president of the UDMR, September 1999.

make the legislature more effective, thus their proposals were likely to have a wide support. According to the governmental programme,<sup>44</sup> which was congruent with previous social-democrat positions,<sup>45</sup> the Senate should represent counties and oversee the ratification of international treaties and laws passed by deputies, without reproducing debate on individual points/articles. The Chamber of Deputies should have the final word on legislation, and the government's capacity to legislate by decree should be determined (and limited) by law. The ruling Social Democratic Party (now PSD) justified the maintenance of bicameralism by public support and Romanian democratic tradition but it envisaged unicameralism in the long run, again congruent with its position in 1991-1992. It also favoured increasing the quota of representation, thus reducing parliament to 220 deputies and 110 senators.

The biggest novelty in the government's programme was the proposal for a two-round majoritarian system - or at the least a mixed system - to replace PR. Many 'hard line' ex-communist deputies had favoured such a system throughout the 1990s. They believed that it would benefit them, both because of their grass-roots organizations and their recognition as public figures. The influence of communist principles of representation and a disbelief in multiparty competition accompanied by a preference for individual personalities as vehicles of political linkage between citizens and government could be detected behind this proposal.<sup>46</sup> Yet, since legitimacy and image in the West were a constant concern for PDSR, in 1990 and 1992 as well as in 1999-2000, these voices had been marginalized in the party's official position. However ineffective the pro-majoritarian (pro-'uninominal') position inside FDSN/PDSR was until 2001, it was due generally to causes external to their party. Therefore, under more advantageous external circumstances when other parties, the press and public opinion also supported single-member districts, it was unsurprising that the party fully embraced the idea. Given its position of clear dominance of the party arena, a majoritarian system would favour PSD, both by creating a majority enabling it to govern alone and by diminishing the electoral chances of all opposition parties. This created a perfect situation for the PSD, pursuing its electoral interests, while claiming at the same time to act on behalf of public opinion and civil society.

It is not the first time the PSD tries to promote a two-party system, the 1999 agreements of the PDSR with the PNTCD on changes of threshold had the same goal. Just that the PNTCD miscalculated the impact of the threshold for alliances and their capacity to retain the electorate of the Democratic Convention. Like in 1999, another opposition party, this time the liberals, are helping PSD in its programme. The fundamental constitutional changes such as a parliamentary system with a president elected by parliament and a majoritarian electoral system<sup>47</sup> seem hardly rational for the PNL from a seat-maximization point of view. The first point, supported by the historic parties since 1990, can be interpreted as a programmatic commitment, especially since its utility for PNL's electoral fortunes was doubtful. The second would be even less likely to benefit a party that, like the PNL, had 9 per cent of the seats in parliament after 2000 and consistently remained at or below 10 per cent in the polls after the 2000 elections and it does not have a regionalized distribution of the vote.<sup>48</sup> The most plausible explanation for this apparent anomaly lies in the long-term strategy of the party, seeking to become the centre-right alternative to PDSR.

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<sup>44</sup> See <http://www.gov.ro>.

<sup>45</sup> Frances Millard and Marina Popescu, Interviews with Senator Dan Mircea Popescu (former Minister of Social Protection in the PDSR government) and Ovidiu Muşetescu (then former deputy and head of the political analysis section of the PDSR, and government minister after the 2000 elections), September 1999.

<sup>46</sup> A striking example was Senator Radu Timofte's comment that 'the Senate should be a chamber of the wise with less political intrusion'. See *Adevărul*, 15 September 1999.

<sup>47</sup> Personal interview of Frances Millard and Marina Popescu with Valeriu Stoica, at the time Vice-President of PNL, since December 2000 president of PNL. September 1999.

<sup>48</sup> See constituency level election results at <http://www.essex.ac.uk/elections/> and public opinion surveys at <http://www.sfos.ro> (the Public Opinion Barometer, financed by the Soros Foundation, individual level data available for downloads) and <http://www.imas.ro> (IMAS polls).

Part of the same strategy of being the alternative party to the PSD is the support of the PD leadership for a directly elected president with significantly more powers than under the current constitution, unlike the PNL, and PSD's president Adrian Nastase. The goal seems to be twofold since the president of PD appeared to be in 2001-2002 as a serious contender in the presidential elections but PD remains a fairly small party with few chances to form a government by itself (Palada 2001). First they want to ensure that the position for which the PD has a chance is indeed the highest position in the state (i.e. it has some real power in running the country unlike currently). Second, giving prominence to a race in which the PD is expected to be highly competitive if not more successful than any of its adversaries is likely to help the party's electoral fortunes.

### **C. 2. 'The Campaign for Political Reform': a new electoral system**

The most noteworthy aspect of the current discussions regarding electoral reform (1999-2003) refers to its framing as a means to restructure the political system, to cleanse political life, as a solution to the problems the country faces and many link to the leadership, thus trying to capitalize on citizens' discontent with politics, with corruption and low living standards. Closely linked to this framing is the considerable role assumed by non-party actors, NGOs and the press in promoting the change of electoral system than in any of the previous debates. The most widely circulated quality newspaper, *Adevărul*- the former daily of the Central Committee of the Communist Party and champion of anti-corruption campaigns under the 1996-2000 non-communist governments - was in the front line of this 'crusade' and tends to claim paternity of the idea. The reports and analyses in the paper did not enter into the technical details of the uninominal system, and thus did not clarify exact what their preference was for (a single-member district plurality system, with one or two rounds, or an open list system), but the populist and anti-party tone was easily detectable. It is all very different than in 1990 the press was more like a conveyor of opinions of various lawyers and organized groups not present in the Provisional Council deciding on the law or in 1992 when they rather refrained themselves to reporting news from the parliamentary debates. What did not change very much is the level of information and sophistication of the journalists, which may be the part of the reason the details of the system are almost never discussed, the other reason being that the news-value of the story is given by its capacity to capitalize on people's discontent with the way things are going in the country, whilst not boring them with technicalities in which they have a limited interest.

A citizens' initiative law, submitted in September 2000 by a group including the president of 'Pro-Democratia', one of the two main NGOs that deployed observers in the 1992 and 1996 elections, proposed a mixed compensatory electoral system for both chambers, as well as a lower number of MPs (higher quota of representation) and a permanent electoral authority. In 2001 this proposal was slightly amended, just to receive another revision in 2002-2003. These last two proposals were supported by a fluctuating group of NGOs, and aimed at gathering public support including signatures that would allow this new initiative a place on the parliamentary agenda. The position of the Pro Democratia was not entirely stable either in terms of central elements of the electoral system (such as the number of votes each voter has, the share of single-member and multi-member districts, the size of the multi-member districts) but it was relatively constant in the argumentation supporting the proposal, although certain elements were emphasized more or less in the successive statements. According to the legislative initiative as published in Monitorul Oficial, No 472, 28 September 2000, the new electoral code introduces two different ways of election and seat allocation for the Chamber of Deputies and the Senate; the voters have two votes for the Chamber, one to be cast in single-member districts and one on party lists, and only one vote for the Senate, to be cast in single-member districts. One hundred seventy four deputies were to be elected in single-member districts and hundred fifty-four on county list; eighty senators were to be elected in SMD and sixty as compensatory seats. For both chambers the principle remains proportionality between votes and seats. Consequently, for the Chamber of Deputies the list votes represent the base for calculating the total number of seats for a party: like in the

German system, after the allocation of single-member seats, a party has to have as many total (i.e. list plus sm) seats as its percentages in the list component, the list votes being thus a form of compensation. In the Senate vote, in order to achieve that the percentage seats is equal (or as close to equal as possible) to the total percentage vote of a party's candidates in the single member districts from the respective county the parties whose candidates lost in the one-round majoritarian component are compensated with additional seats. The problem is that it is unlikely to achieve high degree of proportionality under such as system because the number of compensatory seats is small, especially for the Senate, while the district magnitude is rather low, which limits the possibility to achieve proportionality.<sup>49</sup>

The second proposal is based on the same principle, but the voter has only one vote for each chamber; an improvement is the higher number of compensatory seats in each constituency, due to the 50-50 share of the seat allocation between SMD and 'compensatory'/multi-member and to a higher 'district magnitude' in turn owing to regions (i.e. several neighbouring counties) being the designated multi-member constituencies.<sup>50</sup> It is a proposal similar to the current Albanian electoral system and to a Moldovan proposal of the NGO successor of the IFES office in Chisinau (APEPS), and also fancied by some Hungarian election officials.<sup>51</sup>

The last proposal is similar to the second regarding the principle of multi-member constituencies based on regions, and, like in the 2000 proposal, the voter has two votes for the Chamber of Deputies and one for the Senate. For the Chamber of Deputies 65% of the seats are allocated to SMDs, the rest being allocated through the same style of compensatory seats as described above; for the Senate the provisions only mention that part of the seats are allocated in the SMDs and some as compensation to the losers from the SMDs.<sup>52</sup> The 2003 Pro-Democratia campaign was more intense, press conferences in several cities with coverage in national and local papers, and more complex, on the one hand the politicians were forced into an incapacity to oppose the change towards the uninominal and on the other hand they were to be co-interested.<sup>53</sup> PNL already signed up to supporting the ProDemocratia proposal; on the 7<sup>th</sup> of May the PNL Senator Anton Pacuraru submitted the Electoral Code as a legislative initiative (P.l. nr. L179/2003), this being the first NGO proposal being submitted to parliament in an unchanged format.<sup>54</sup>

It is important to note that the increase in district magnitude for the proportional/list component (through the creation of regions) is likely to be more conducive to higher proportionality than their previous proposals and than the PSD proposal, as the simulations also show. Yet, it still seems hard to imagine the compensation working as effectively as in the German system since the crucial element that renders the German system proportional is the flexible number of seats in the Bunderstag. This is one of the main reasons the complex Hungarian mixed system functions less as a proportional system and more like a majoritarian one and this provision is not present in any of the proposals on the table in Romania, on the contrary the number of compensatory seats remains rather small. It is not apparent to what extent the link between 'district magnitude' (here no of plurinominal/compensatory seats) is

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<sup>49</sup> For the Senate one or two seats were to be allocated as compensation, with the exception of Bucharest where there were six compensatory seats; the average no of multi-member seats for the Senate is 1.44. For the Chamber of Deputies the numbers are higher, the list seats range from two to six, with Bucharest being represented by 15 deputies, and the average no of multi-member seats is 3.67.

<sup>50</sup> The country is divided into eight regions, each comprising five or six counties, the number of SMDs and of multi-member seats to be allocated in each region ranging from 11 to 20 for the Chamber and from 5 to 10 for the Senate, with average no for the multi-member component of 15 and 7.5 respectively.

<sup>51</sup> Interview with Zoltan Toth, conducted by Gabor Toka, September 2001.

<sup>52</sup> The number of multi-member/ compensatory seats as presented in the Annex 2 of the proposal decreases again on average to 10.25 for the Chamber and 4.38 for the Senate.

<sup>53</sup> See <http://www.codulectoral.ro>

<sup>54</sup> See <http://www.cdep.ro/plc/proiecte>

considered since the no went up and down in successive proposals (from an average of 3.67, to 15 in 2001 and last to 10.25 in 2003).

Moreover the vagueness of some provisions suggests that the authors and their supporters did not fully decide upon the technical alternatives, or even did not even consider all the technicalities involved in such a change. An example is the lack of any provisions regarding districting and redistricting, with the exception of mentioning that a Senate single-member district is the combination of several contiguous SMDs for the Chamber of Deputies. Many post-communist electoral provisions lack in precision in this respect, the reasons are largely linked to the adoption of these regulations in the early years of the transition when gerrymandering was hard to devise in the context of uncertainty regarding one's electoral fortunes. However, recent proposals such as the Ukrainian 2002 law and the most recent proposals regarding the Albanian electoral system, devised with support from American specialized organizations, do comprise a lot of specific provisions (Popescu and Toka 2001). It is surprising how little though the Romanian supporters of a change towards single-member districts as the most appropriate form of personalization of the vote gave to devising equitable districts. The relevance of a cross-party informed decision on the drawing of district boundaries is even more serious in the current Romanian context given the corrupt nature of large sections of the Romanian bureaucracy and the rather dubious way in which the Permanent Electoral Authority is devised according to the 2003 Law (President appointed by Parliament, 2 Vice-Presidents appointed one by the President and one by the Government), which can allow gross political bias at least in its first term.

Given the framing of the electoral system reform as form of cleansing the political system and the growing visibility of the civic initiatives suggesting this framing, it is highly plausible that politicians feared a press campaign construing their opposition to the 'uninominal' vote as evidence of a desire to remain unaccountable. This would further de-legitimize them, especially in the context of *Adevărul's* coverage, which suggested that politicians expressed lack of interest because it would endanger their current positions. Consequently, few political parties could ignore the discussion or could easily oppose it, which lead to all parties except the Democratic Union of Hungarians in Romania (UDMR) and lately the nationalist extremist PRM (Greater Romania Party), to support some form of 'uninominal' system. The UDMR has been the only party consistently opposed to changing the electoral system in the direction of majoritarianism. In 1999-2000 the PNȚCD considered that majoritarianism would not be appropriate for Romanian democracy at that stage but also embraced a uninominal system as an extra-parliamentary party. PD supported initially a 'uninominal' and then a mixed system for the Senate, with the current system remaining in place for the Chamber of Deputies; in 2003, an open list system, which does not contradict their initial stance of 'uninominal' but qualifies it.<sup>55</sup> The liberals applauded the governmental proposal and competed with the PSD for paternity of a new electoral system, thus assisting PSD not only in the legislative implementation of the new system but in their goal to maintain their image and democratic credentials.<sup>56</sup> In contrast to most other parties, the electoral support of UDMR was based largely on one issue, the pursuit of minority rights, so UDMR was immune to the danger of de-legitimization on other issues. Therefore, it was easier for them to embrace positions unpopular with the Romanian language media, which are in any case not read by the majority of ethnic Hungarians. Further, it also appeared that the UDMR was the most aware of the likely impact of such a system, both on their electoral fortunes and on the structure of the

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<sup>55</sup> It seems that they did not consider this option previously because of lack of information. In a 1999 interview with a high ranking PD representative, and similarly with an ApR representative, my innocent question whether they considered the pluses and minuses of an open list seemed to raise an issue they have not heard about before. Moreover, the current information possessed by the PD is still far from accurate, from the two models presented only one being an open list system (Estonia but not France).

<sup>56</sup> See Lucian Gheorghiu, 'Se anunță o vară fierbinte,' *Cotidianul*, 3 July 2001.



Romanian parliament and party system. The other parties either do not have the same insight or their long-term goals took priority. The UDMR consistently supported PR because it calculated that it would be disadvantaged by any type of majoritarian system: in few areas could it receive an outright majority of the vote, and it would not receive the support of other parties in runoff elections.<sup>57</sup> The UDMR also saw other ways to improve the quality of MPs, including internal party primaries such as those they themselves organized.<sup>58</sup> Moreover, the unity of UDMR as a party would be jeopardized in a majoritarian system, since its factions or other Hungarian contenders - independent candidates and small parties - would gain an incentive to stand in Hungarian-dominated areas. It is not clear what the reasons behind the PRM's opposition are but they present it as an opposition to the PSD manipulation, which can potentially have an appeal in itself to their electorate, whilst the potential of delegitimization on this issue is less serious than of the 'system' parties. Moreover it can well be the case that the PRM realizes that their electoral fortunes are better supported by a list system with concurrent presidential elections since (a) the presidential race enhances their visibility, (b) their vote is not regionalized and their gains from redistribution are significant, (c) they might not have enough candidates to run in all single-member districts, which is disadvantageous in a mixed system of the type proposed most recently.

Thus since 2002, a superficial consensus on single-member districts seemed to emerge and the headlines were occupied by constitutional reform, especially on the mode of election and the function of the president. However, like on previous occasions all interested parties continue to have a whole system approach linking the choices regarding the two institutions and especially regarding the timing of these elections (concurrent or not and even the date). Given the overwhelming support for a directly elected president all parties seemed to close the topic of a parliamentary elected president and there seems to be agreement on clarifying some of the constitutional prerogatives of the President and Parliament; a five years term in office for the president is present in the June draft amendments to the constitution; regarding the parliament, limitations on the immunity of MPs have already been agreed upon in the June draft amendments to the constitution and again the constitutional clarification of the prerogatives of the two chambers was postponed for organic law due to lack of agreement both between the parties and the two chambers.<sup>59</sup> After some dubious attempts of the government and of PM Nastase to organize pre-term elections,<sup>60</sup> the dominant PSD continued its attempts to manipulate the dates of the elections in order to maximize its electoral success and more significantly to diminish the chances of the opposition to appear as a real alternative and thus as a real threat. Taking the opposite stance than in 1992 when this issue was first discussed the PSD proposed non-concurrent elections, with presidential elections held first in 1994 and parliamentary elections in early 2005, but trying to minimize the salience of the issue later on.<sup>61</sup> The evolution in opinion polls of the potential presidential contenders rendered the idea of concurrent elections unfavourable to the PSD (their potential presidential candidate – Nastase) being in a tie with the PNL candidate make the PNL likely to continue to support the separation of the two races in future elections only, a change likely to happen irrespectively or agreements on the current elections given the longer presidential term in the new constitution.

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<sup>57</sup> Mayoral elections suggest that Hungarian candidates never received the support of any Romanian party.

<sup>58</sup> Millard and Popescu, Interview with Béla Markó.

<sup>59</sup> <http://www.cdep.ro>

<sup>60</sup> In order to keep the story simpler, I will not extensively cover the debate over pre-term elections and its implications. The pretext of organizing pre-term elections was not having 2004, the crucial year for EU accession as an election year, but government minister Dincu and even Nastase clearly stated that this is also an electoral strategy in order to ensure that they win the elections, which they should have also done in 1995 when they would still have won and avoided the disastrous CDR administration (add ref).

<sup>61</sup> Adevarul, 21 and 22 June 2003.

The consensus on the electoral system proved rather fragile since under the umbrella of supporting a 'uninominal' system for one or both chambers, the PSD, PNL and PD have very different views on the actual form of the system. A new wave of discussions and proposals was scheduled to take place in September- October after the parliamentary committee chaired by PSD deputy Viorel Hrebenciuc will corroborate all proposals submitted until the 1<sup>st</sup> of September regarding the change of the electoral law. Numerous delays occurred in the work of the committee for the revision of the electoral legislation and the committee did not even meet before mid-October. All three major parties (the PSD, the PNL and the PD) are trying to follow the public mood regarding a personalized form of voting but came up initially with three different technical alternatives. The PD suggested a uninominal system for the Senate but in fact it proposed an open list system.<sup>62</sup> By taking on board the Pro Democratia Code, the PNL still seems ready to try building-up of a two-party system but in more gradual form than through a straight conversion to two-round majoritarian system as planned by the PSD in its electoral programme. At the same time they have been negotiating the possibility of joint lists with the PD, which implies an acceptance that lists will still be in place at the 2004 elections. Given the rather inchoate nature of the proposals of both the PD and the PNL and the electoral alliance between the two parties, their joint position was to support the proposal of Pro-Democratia in a slightly amended version (following negotiations between party and Pro-Democratia experts).

The committee agreed on a two-thirds majority for any change of electoral formula. This appears as a democratic option in a highly divided parliament (and committee) when it comes to such an important choice that could have a high impact on future election results and government formation. Moreover, at the last minute, when it seemed already clear that the parties were not likely to change the committee also interviewed two NGO and think-tank experts, one of them being the leader of APD.

The result was rather easy to predict, all parties maintained their positions and no proposal reached simple majority, even less the two thirds required so no change of formula occurred but APD will place the issue again on the agenda after the 2004 elections.

#### **Parliamentary Committee – number of members and party positions:**

PSD (6 members): single-member majoritarian (one or two rounds) - Senate only

PNL-PD (3 members)<sup>63</sup>: mixed system for both chambers (MMP but actually with potential of actually functioning as MMM)

PRM (4 members): no change

UDMR (2 members): no change

Minorities (1 member): no change to nominal voting

**Results of the Vote:** 4 votes for the APD proposal

[try to find the final results of the voting]

### **C. 3. ANALYSIS**

Note:

- public (i.e. civil society) pressure for change, like in New Zealand, Venezuela, Bolivia
- parties taken on board due to public pressure and for a long time they paid lip-service to the idea of change of the electoral system;
- PSD: found a good opportunity to get a majoritarian system that would help them gain a majority in parliament and remain the dominant party; considered other implications of a single-member district and realized that such a system has implications for the internal functioning of the party
- PNL: facing the proposals of APD and their request for parliamentary support → PNL needed to start considering real alternatives beyond the vague principle of 'nominal voting' → compared to 99-2000 far more information gathered about the alternatives and their implications (see both PSD and PNL interviews); however, the number of

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<sup>62</sup> Adevarul 20 June 2003.

<sup>63</sup> PNL: 2 members; PD: 1 (2 one became independent after the establishment of the committee)

alternatives considered very limited, only three options (closed list PR, mixed with compensation, single-member district) with no variation on

Other self-interested concerns than seat maximization

→ legitimacy a concern when picking up the civil society's requests (PNL, PD, PSD)

→ party organization; control of MPs and nominations (PSD)

→ what about PNL & PD? PNL party system shaping – check the October 1999 proposals

### Problems

1. Crisis of the political system: lack of accountability, corruption
2. Inefficiency of Parliament
  - 2.1. Quality of MPs especially related to:
    - 2.1.1. Political migration (party switching)
    - 2.1.2. Weak links representative- represented
    - 2.1.3. Weak performance in parliament
  - 2.2. Parallel bicameralism
3. Instability and inefficiency of government
  - 3.1. Lack of single-party majority in parliament
  - 3.2. Too many parties
  - 3.3. Lack of a clear separation of executive power between the government and the president/ Sharing of executive power due to a presidency strong in practice
  - 3.4. Lower legitimacy of PM compared to president
4. Poor/ Substandard election administration (i.e. incoherent, inconsistent and non-transparent)

### Solutions and their advocates

- 1 Electoral system change to 'uninominal' – *press & civil society initiatives picked up by all political parties PNL, APR, PD, PSD*
- 2 The main solution envisaged by the same actors as above is electoral system reform towards a uninominal system (where the voters chose a person/ an individual candidate). See specific policies for the individual points
  - 2.1.
    - 2.1.1. Ban on 'political migration' (party switching) – *PSD government*
    - 2.1.2. Nominal voting - *ALL*
    - 2.1.3. Improvement of recruitment strategies – *first UDMR, recently picked by PSD (July 2004 – see interview Mihalache, press reports on primaries to be organized by the PSD – considered just a PR exercise) and the Alliance PNL – PD (June 2004, see interview Radulescu)*
  - 2.2. Clarification of prerogatives of the two chambers - *ALL, PSD 1999 interview, PD, PNL during constitutional debate; some clarification in the Constitution but not entirely)*  
Smaller chamber(s) – *ALL but not the same numbers; most radical Pro Democratia*  
Unicameral parliament – *no formal proposal, individuals from all parties and NGOs*
- 3
  - 3.1. Majoritarian electoral system/ high threshold in PR – *PSD (with PNTCD in 1999, see interviews 99 & 2004), PNL (1999, 2004, see Stoica interview 99)*
  - 3.2. same as above + change in party law: higher no of signatures requested for registration, re-registration of all parties– *All parties, passed a new law in 1996 with some effect and another one in 2002*
  - 3.3. Parliamentary elected president – *PNL 1999, Nastase 2003*
  - 3.4. Directly elected PM – *PSD 200*
4.
  - a. Permanent Electoral Authority – *ALL, OSCE-ODIHR recommendation since 1992, APD proposal, authority created in 2003 but not independent from government/ majority party*

*president needs simple majority in the two chambers of parliament, vice-presidents nominated by the Government and the President, not necessary to be approved by Parliament*  
**b. Election day on Saturday – Pro Democratia**

### **Justification of solutions and expected outcomes**

The crisis of the Romanian political system has been a central feature of press and political commentary for around ten years and corruption scandals have marred all post-communist governments. Levels of trust in political institution such as the Parliament, the Judicial System, have been rather low and decreasing over time. It is rather common to consider the electoral system as the cause or even the scapegoat. This is the case with the proposals in Romania. Although the initiators of radical reform of the electoral system (i.e. Pro Democratia) are aware that these changes will not be sufficient to fix the problem, they believe that they are necessary although maybe not sufficient and they can trigger other beneficial changes.

1. and 2. At the centre of the reform proposals especially as seen by the civil society organizations, such as the Association Pro Democratia is the need to know one's representative better and derived from that to be able to hold him/her accountable. By electing directly a person rather than a list the electorate can more easily hold accountable the MP, the MP cannot hide his performance behind the party and the selection of MPs is in the hands of the citizens rather than (only) party selectorates.

The more specific problems and solutions listed above have a different range of supporters and the level of detail both of the solutions and the justifications vary. Below there is a list of the justifications of the main proponents (at the end of each entry in italics, just as above). A more detailed discussion of the link between the problem and the solution, and thus of the justifications of the advocates of reform will be undertaken in the detailed analysis of the actors and their goals and positions.

2.
  - 2.1. The quality of MPs has been a complaint of the press for a long time, although the criteria were not always the most appropriate for judging parliamentary performance. *The Democratic Union of Hungarians in Romania*
    - 2.1.1. When facing the electorate directly as a person, the candidate has to justify his/her party switching to the electorate rather than to party bosses, the former being less likely than the latter to close their eyes to party switching, which was not due to voters'/constituents' interests. Since MPs owe their election entirely to the party (list), the MP should lose his/her seat when leaving the party on whose list he/she was elected - often advocated as the best way to tackle the high levels of party switching – interpreted as an imperative mandate which is contrary to constitutional provisions.
    - 2.1.2. If each constituency has only one representative, it is easier for the constituents to know their representative and vote him out, which would put pressure on the MP to have stronger links with one's constituents and be more responsive to their demands.
    - 2.1.3. By devising better ways to select the party candidates, the elected MP are more likely to serve the party well, to perform well in parliament and as a consequence to server better their constituents. But in order to achieve all these qualities in an MP there are several ways to select the candidates and they are often complementary but also often not *UDMR*
  - 2.2. Speed up legislative process
3. This part of the proposals is the least developed but the logic behind is rather transparent even without any straightforward justifications being given
  - 3.1 a. would ensure majority for the government
  - b. would diminish the actual power of the president
4. would bring expertise and a unified implementation of regulations

