

**90% OFF THE BOOKS: CORRUPTION AND THE INFORMAL
ECONOMY OF ALCOHOL IN ROMANIA (III-097)**

Final report

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1. RESEARCH QUESTIONS

For an attentive reader of the Romanian press, alcohol production and consumption would surely appear as very important, but also problematic activities. They are part of the everyday life of Romanian countryside, where most people produce alcohol for their own consumption, but also a luxury commodity carrying high excise and VAT duties on the more or less official market of alcohol producers. Most official reports of tax evasion broach the subject of alcohol production in one way or another, pointing to the illegal activities of petty alcohol producers and distributors and oftentimes suggesting intricate networks of corruption and even organized crime. Alcohol seems thus to indicate the problematic entanglement of the economic with the political, bringing them together in spectacular cases of bribery, fraud, the sale of parliamentary seats or the illegal financing of political parties.

The versatile circulation of alcohol as a commodity makes it difficult to separate the quite distinct, but simultaneously invoked, issues of corruption, organized crime and the informal economy. From the point of view of the alcohol industry, these last three form a complicated nexus, indicating divergent interests and political visions. During the last years, these diverging interests led to a process of structuration of the alcohol industry, with some actors being pushed aside as “mafia”-like and other managing to pass as legal and as part of the “real economy.” In this study, we would like to answer the following questions: (a) Why some alcohol firms in Romania are successful and accepted as legal and some not? (b) What are the differences between the firms operating in “the real economy” from those that resemble “alcohol mafia”?

describe who are the winners and who are the losers during this period and what factors made the difference in these struggles.

There are many reasons why the Romanian alcohol industry is an ideal arena for studying topics such as corruption. First, it is one of the privileged domains of a state campaign that started a few years ago (shortly after the year 2000), which aims at curbing “evasion and fiscal fraud.” Second, unlike the other domains monitored by the state (oil, constructions industry, international trade, and so forth), the alcohol industry in Romania is more drastically affected by the rapid implementation of the EU legislation on excise taxes, that is, it is here that the opportunities for evasion are bigger. Third, the changing alcohol market deeply affects the daily life of a huge number of Romanian citizens. Consumption habits, sociality, informal transactions and household production are directly influenced by the decisions of EU, Romanian Government and the professional association. Fourth, as there is a strong link between electoral campaigns financing and alcohol industry, the restructuring of the latter has some impact on the political processes from Romania.

We would like to engage next a theoretical field that is directly relevant to our object of study. Following the 14 years of transition, a significant body of literature on institutional vacuum, evasive practices, corruption, and criminality has been produced in Eastern Europe.

2. INNOVATION, STATE CAPTURE AND RESTRUCTURING OF ALCOHOL INDUSTRY IN ROMANIA

Discussing the different models of transition in Eastern Europe, the social scientists Michael Burawoy and Katherine Verdery (1998) argued that the lifting of

constraints specific for the communist period had the effect of privileging agency over structure. This new situation led to informalization, a relative absence of clear laws and to improvisation in the spaces left open by the state. According to Burawoy and Verdery, the relative suppression of constraints had significant effects on the restructuring of post-communist states and society, in the sense that some of the new developments from below were selectively reincorporated in the emergence of the new, post-socialist structures.

One manifestation of the primacy of agency over structure has been what came to be known as the process of "state capture." According to one definition, this means "efforts of firms to shape the rules of the game to their advantage through *illicit, non-transparent* provisions of private gains to public officials (Hellman and Kaufman 2002:1). One basic assumption in this paradigm is idea that firms themselves exert considerable influence on the state. Along with the trope of the "grabbing hand" (present in the studies of state socialism and of transition), one need to recognize the fact that states might be put to work for particularistic interests. According to this body of literature, one of the main challenges of this paradigm is the refinement and the unbundling of the concept of corruption (Hellman and Kaufmann 2002:2).

Corruption may take many forms and it covers different strategies in different places. We would like to add another case study that would reveal more empirical evidence for new forms of the corrupt imagination. Hellman, Jones and Kaufmann (2000:8) have identified six situations that lead to state capture. These include: the sales of Presidential decrees and Parliamentary laws to private interests, the sales of court decisions on commercial and criminal cases; the Central Bank mishandling of

funds, as well as the contributions paid to political parties and election campaigns. Such firms reinsert themselves into the local structures of the state through a significant domination of the local officials such as the county prosecutors, judges, top policemen, county boards and so on. We would like to better understand how these processes happen at the local level and how firms that are legally covered by favorable regulations modify the local environment. Aside from the issue of the firms that managed to capture the state in one way or the other, we will enrich the understanding of corruption through the study of firms that never managed to enter into close interaction with state officials are able provide corrupt legal decisions for their interests.

In so far, we have identified several strategies for generating huge amounts of money from untaxed alcohol production. One of them is the evasion of VAT, unemployment, and health benefits. Alcohol related taxes amount to no less 70%. These taxes are supported by the consumers, but they are paid to the state budget by the alcohol production companies. Another strategy is the rescheduling of taxes due to the state. Large firms withhold the taxes due to the state (e.g. VAT) for indefinite periods of times due agreements with the Ministry of Finance (more precisely with the Department of Tax Collection). These funds are usually used for further expansion (e.g. acquisition of new production facilities, or as we will describe below of real estate) and for the dumping of prices. One company that we describe below specialized itself in such operations. Another strategy of state capture, this time through the blurring of the line between the private and public, i.e. between the captor firms on the one hand and the state regulatory, administrative and judicial bodies on the other. Companies actively involve family members of deputies and senators representing the counties where the companies are

based, into the managerial and shareholders' structure. Beyond the "vertical" state capture at the national level, one has also to take into account the conflict between local level structures of the state (county police, financial organs, judges, duty officers, local politicians) and the upper levels. Many times, the local level forms of the state enter into latent or manifest conflict with the upper levels. Such firms engage actively in sponsorship of local political events, managing to attract the local state officials on their behalf. Finally, another strategy is the outright falsification of papers, as it is the case, for instance, with the exemption of several taxes for the export of alcohol. Millions of dollars worth of VAT have been reimbursed to firms that have never exported anything, but who claimed to have done just so. Many such companies that asked to be reimbursed for VAT, belonged initially to Romanian citizens, but were then sold to foreign citizens who disappeared immediately after the state transferred them the money.

If state capture was a manifestation of the weakening of control structures, in the last two years, one may witness a return of the "structure," i.e., of clearer regulations and the institutionalization of certain actors that emerged throughout the 1990s. In the recent years, other researchers argued that the thing called "post-socialism" is about to be over, because "structure is back" (Sampson 2002). This process of creating structures and institutions is fueled at the national projects of modernization, but especially by the European accession social, cultural and political project. We argue this "return of the structure" is happening of the alcohol industry too.

In our study, we will focus only on large firms and less on small scale producers. Usually corruption and informal economy are regarded as separate domains of the economy. Corruption, state capture and lobbying are regarded as a top-down

phenomenon and as practices of the economically and politically powerful groups. The informal economy is regarded as the site of the struggle for subsistence of the economically disadvantaged groups, as well as the site of popular entrepreneurial creativity (Portes 1994; Smith 1989; Auyero 1999; De Soto 1989; Hart 1982; Scott 1969; see Floricã 1996 and Pitulescu 1996 on informal economy and corruption in Romania). Due to the recent developments in the alcohol industry regulations due to the lobby of one company (our case study number 1), we chose to disregard the small companies and focus only on large companies.

3. RESEARCH STRATEGY AND METHODOLOGY

In order to answer the questions outlined in the introduction, we compared the evolution of two large firms that belong to the category of large firms. During the process of informatization in the 1990s both developed in a very robust way. During the last years, however, one became a favorite dialogue partner of the government, while the other has huge problems in court. In the 1990s, both companies fit into Hellman, Jones and Kaufmann's definition (2000, 2002). Thus, in accordance with our initial research questions, we present their history and then explain why one became successful with the authorities, while the other failed to handle its taxation and legal problems. The methods they used to increase their revenues are different, but their nature is similar, in that that both used illegal and shady methods.

In order to gather data, we used qualitative methods. Since March 2003 we began to carry out interviews *in situ* with employees of the large captor firms from Bihor and Harghita counties. We carried out 41 interviews with persons working for or

knowledgeable about the activities of the two firms. We found the persons working for these companies through snowball sampling, starting from a few contacts that we had and asking for further persons available. The other persons whom we interviewed about these two firms worked for the local administration. They were Financial Guard employees, policemen, members of the county councils and local leaders of the political parties.

The interviews were structured, focused on the emergence of firms, donations to political parties, alliance building, mass-media and advertisement strategies, participation in national producer associations and tax evasion. We declared our identities, explaining to our interviewees that we write a study about the problems of alcohol industry in Romania. At different moments during the interviews we confronted our interviewees with allegations circulated by the mass-media, which proved to be a good method of obtaining data. Another group of persons that we interviewed were 16 journalists from the local and central mass media (7 from local media, respectively 9 from the central media).

4. “MAGNATES” AND “MAFIOSI” IN THE ROMANIAN ALCOHOL INDUSTRY

*At the beginning of this year, a war began between the Ministry of Finance and the Ministry of Agriculture on the one hand, and the two business organizations in the alcohol industry, “Garant” and “Romferment” on the other hand: **the alcohol magnates** require the lowering of excise duties and the postponement of the deadline for the fulfillment of qualitative requirements for alcoholic beverages, conditions that are imposed by the European Union. Both camps have a common discontent: **the mafia that reigns over the domain of spirits.**¹*

¹ Bugetul in coma alcoolica (The State Budget in Alcoholic Coma). *In* Evenimentul Zilei, February 22, 2001, www.expres.ro. Last accessed in July 2004.

“The veritable war” that, as the journalists cited above claim, began in 2001, continues, in many ways, also in 2004 and it seems quite probable that it will intensify once the theoretical date of Romania’s entrance into the EU – January 1, 2007 - gets closer. In this war, the most energetic voice belongs to Romulus Dascalu, the president of the association “Garant”,² which is the most influent professional association in what regards the production and distribution of alcohol and alcoholic beverages in Romania.³ On the occasion of his frequent appearances in the mass media, Dascalu insists upon a point of view that might be resumed as follows: (a) Romania’s alignment to the EU legislation in what regards the level of excises for alcohol and alcoholic beverages must proceed at a slower pace, because of (b) the unfair competition of “the alcohol mafia,” “the underground economy” or “the black market”; (c) otherwise, the legal Romanian alcoholic beverage industry is heading swiftly toward bankruptcy.

As the level of the excise duties for alcohol in Romania is rapidly rising,⁴ one might argue that „the mafia” has significant incentives for evasive behavior. At stake is at least the control of the alcohol market, that is, huge amounts of money. For example, it is one thing to sell a half a liter of vodka for 50,000 lei (1.25 EUR), and another thing to manage to evade excise duties, VAT and other taxes, and then to sell the same quantity of vodka for 10,000 (0.25 EUR); an offer of 370,000 lei (9.25 EUR) for 4l of cognac sounds

² The exact name of the association is “The Business Organization of the Alcohol and Alcoholic Beverages Industry Garant” (*Organizatia Patronala a Industriei Alcoolului si Bauturilor Alcoolice Garant*).

³ La sfirsitul anului 2003, *Garant* and *Romferment* au fuzionat, noua entitate pastrand numele *Garant*.

⁴ From 70 EUR/hl in 2001, to 108.4 EUR/hl in 2002, to 150 EUR/hl in 2003, to 280 EUR/hl in 2004, to 410 EUR/hl in 2005, and to 550 EUR/hl (the minimal level in EU) in 2006.

like a joke, if a qualitatively and quantitatively similar offer, but for only 105,000 lei (2.55 EUR), is easily accessible.⁵

Therefore, at least from a legalistic perspective, Dascalu's argument seems correct: some people – „the magnates” – would like to obey the law, they would even assume the EU regulations on excise duties; however, they simply cannot do so, because of „the mafia” that disturbs their businesses as well as those of the state. In these conditions, maybe the excise duties for alcohol and alcoholic beverages should be frozen at lower levels, at least until the government manages to control „the mafia” (but, in this case, who could be sure that, once the excise duty will rise again, „the mafia” wouldn't strike back?). Otherwise, the government should be careful about all the consequences of rising the excise duty, and be particularly committed to curbing the evasive practices.

Below we will try to show how this power configuration works and with what consequences. As already suggested, Romulus Dascalu (and the association „Garant”) is, by far the dominant voice, a quasi-official one, when it comes to alcohol and alcoholic beverages in Romania. Together with the Romanian government – but under the supervision of the EU (and, to a certain extent, the IMF) authorities - *Garant* establishes the legal framework for alcohol production, distribution, and consumption in contemporary Romania.

Remarkable in the process is the uninterrupted classificatory work that *Garant* representatives do, its categories, and its consequences in what regards the further structuring of the alcohol market in this part of the world. This topic is important, we argue, because *Garant* is far from a neutral voice in this debate, but rather a sort of

⁵ These examples are real and could be documented in almost any corner of the Romanian territory.

collective voice of about 52 (out of 87) authorized producers and distributors of alcohol and alcoholic beverages. This is why, in presenting our case studies, we will critically follow *Garant*'s categories and their real referents, as we mentioned in the section 1: (a) why are some alcohol production and distribution firms successful and some not? (b) What differentiates a firm operating in “the real economy” from an “underground” one?

In order to answer such questions, we will firstly refer to a group of firms (DRINKS) that are part of the *Garant* association and act “legally”; secondly, a group of firms (ARES) which, at least according to *Garant* members,⁶ are part of “the alcohol mafia.”

4.1. “The Alcohol Magnates”: A Legalization Story (Case study 1)

The first group of firms (identified here as “DRINKS”) is located in north-western Romania.⁷ As it began to grow and develop into a large enterprise, DRINKS was presented as a success story of the Romanian transition. It has been claimed that the corporation pays up to half of the internal revenues from the B. county (where its headquarters are), that it has about 11,000 employees and that is technologically almost perfect - clearly a very resourceful and lucrative business, or even a curiosity, if considered on the background of the post communist transformations in Romania.

As any curiosity, DRINKS has been the object of many direct or indirect mass media investigations: the direct ones began from some increasingly persistent rumors, referring, among others, to the biographies of the main shareholders, (the uncertain)

⁶ We will show how, during our research (but not because of it), the Romanian state agreed more and more with *Garant*'s perspective on this second group of firms; if, at the beginning of our research,

⁷ Alcohol, soft drinks, food products (sugar, rice etc.). Nevertheless, in this study we shall consider their activity in the domain of alcohol and alcoholic beverages.

origin of the capital initially invested and the extremely rapid development of the group of firms, as well as the legality of a series of transactions; the indirect ones reached the DRINKS group somewhat unintentionally, when they sought to make public a series of official documents, not quite transparent, that dealt either with some advantages (suspect privatizations, rescheduling of debts) granted by the Romanian government to certain state or private firms, or, inversely, with the contributions of some firms to electoral campaign financing.⁸

Using the rich mass media material and our observations, we will now approximate a portrait of the group of firms of DRINKS. Two Romanian brothers who had escaped Ceausescu's Romania returned home to invest after 1989.⁹ Soon after the business started, they exploited the loopholes of the 42/1993 tax exemption law on certain based products categorized as medicines.¹⁰ Abusively stretching the meaning of the category "medicine," they imported huge quantities of "Swedish Bitter," paying no taxes whatsoever. When the Tax Police discovered that they imported alcohol under the rubric of "medicine," the wife of the Prime Minister at the time (herself a high official in the Ministry of Finance at the time) declared that the legislation should not be changed, because it encourages the creation of private entrepreneurs.¹¹ In just 5 years their business

⁸ We are not suggesting that DRINKS has only been the target of suspicious, if not hostile, investigations in the Romanian mass media. On the occasion of an intellectual property court case between one of the firms of the DRINKS group and the more famous "Parmalat" group, there have been published titles such as the following: "Justitia romana incearca sa distruga cea mai mare firma romaneasca din Transilvania" [The Romanian Justice tries to destroy the greatest Romanian firm in Transylvania], in *Adevarul*, July 1999.

⁹ Some interpretations claim that they were members of the Political Police sent abroad during Ceausescu's rule.

¹⁰ See, for example, "Bugetul, in coma alcoolica" [The state budget in alcoholic coma]. *Evenimentul Zilei*, February 22, 2001.

¹¹ This position was ambiguous enough, as the point was not the legislation per se, but its abusive interpretation.

investments skyrocketed from \$8 million to something close to \$60 millions. They have also established an excellent distribution system and they have even managed to export an important part of their production in the European Union. Yet, various press reports have signaled that some of their exports were fictive, that they refused (or they indefinitely postponed) to pay huge amounts of taxes, especially excises and VAT, to the state, and that they have won privatizations of alcohol production plants highly disadvantageous for the state.¹² Perhaps as troubling as this were the revelations about the initial financial power of these two brothers: in Sweden they owned something close to an average Swedish citizen, an insignificant amount compared to the \$8 million that they initially invested. Moreover, the story of the beginning is even more troubling, since they managed to establish about ten different firms, in only 10 days (on average, the establishment of a large firm takes about 3-4 months in Romania).¹³ By the late 1990s, they rose to the first position in the top of Romanian alcohol and alcoholic beverages producers and distributors.

In the last years, DRINKS shareholders have managed to attract a huge political clientele from several parties across the political spectrum and to entertain power relations with the local officials from the county where they are established. They gave large sums of money to the ruling coalition (especially the National Liberal Party - NLP, but not only), in exchange for the rescheduling of due taxes and excises.¹⁴ With that

¹² For an excellent study of the privatization of assets and the nationalization of liabilities during the transition, see Stark 1996.

¹³ Gemenii M. – amarasteni in Suedia, miliardari in Romania [The M. twins – paupers in Sweden and billionaires in Romania]. *Evenimentul Zilei*, March 31, 1999.

¹⁴ „I do not hide the fact that we are willing to support the political parties, of course, in the terms established by law, if we consider that the politics and public policies proposed by these parties are advantageous for economic development,” said one the two brothers who established DRINKS. (“Fratii M. cred in capitalismul romanesc” [M. brothers have faith in the Romanian

unpaid money they expanded their holdings, buying a few dozens state owned companies, becoming important economic actors not only in the alcohol, non-alcoholic beverages and food industry, but also in tourism and mass media. Some employees (such as the general manager) got elected on the lists of NLP. The manager of one particular plant ran on the list of a different party, but he did not get elected. Interestingly enough, particularly for the purposes of this study, he became the president of *Garant* – again, the leading association of alcohol producers and distributors in Romania – and immediately started a vigorous campaign against those 80% (or, on different occasions, 50%, 70% or even 90%) products on the alcohol market which are “either falsified, obtained through contraband, or clandestinely produced, evading the payment of taxes and duties towards the state.”¹⁵

Coming back to the mass media attempts to uncover some presumably “unruly” practices associated with DRINKS, we will insist on two intriguing aspects that journalists observed and that, based on our own observations, we consider real. The first one is about violence and secrecy, while the second one refers to moral ambiguity.

4.1.1. Nobody Is Perfect: The Shadowy Romanian Capitalism

“Is the money of the former Securitate involved here?” wonders one of the best investigative journalists in an article on DRINKS. And she continues:

capitalism]. *Capital*, November 15, 2001). See also “Banii din distilerii se scurg spre campania electorala” [Monies from distilleries feed the electoral campaign] and “Magnatii alcoolului sustin 100 de candidate” [The Alcohol magnates support 100 political candidates]. *Capital*, November 23, 2000; “Zece la suta spaga pentru fiecare reesalonare” [Ten percent bribes for each tax rescheduling]. *Evenimentul Zilei*, November 27, 1999.

¹⁵ Romulus Dascalu, quoted in “6.000 miliarde lei pe an pentru mafia alcoolului” [...]. *Capital*, October 4, 2001.

During the investigations that I carried out in this county, several public officials tried to persuade us of the absurdity of such a journalistic project. Some people cautioned us that, by targeting the M. brothers, we are, in fact, encroaching upon the interests of the Romanian secret services; others told us that we crush the businesses of M. [the Romanian Secret Service director between 1990 and 1997] or of other high political personages in PDSR [the most successful party in post communist Romania]. Some officials argued that behind all this is the money of the former Securitate, money which is now “put to work for the country” and that, by publishing data on the firms of the two brothers, we would, in fact, be harming the interests of Romania.¹⁶

In a subsequent discussion, the journalist told us some more details about what she called “the violent atmosphere” in the region when it came to asking about DRINKS: some people simply didn’t answer her questions, taking them as provocations; some other people told her about the possible violence they might suffer in case they would say anything (“I have a family, I have a job, you know...”); only a few people told her about some “cases” of violence against “average people” that might explain the reticence of the majority of her interlocutors. But the most striking thing for the journalist was something that happened to herself: she was under carefully surveillance all the time, during her investigation:

It was a kind of reciprocal investigation: I was investigating them like a journalist, and they investigated me in their way, like a Secret Police. I felt that from the very beginning: some people followed me very closely. Then I was moving here and there in a taxi, and they found a moment to push my driver aggressively, suggesting to him to stop helping me, that is, to renounce to accompany me in the town. It was clear for me that they knew about my investigation even before I left Bucharest. Later, when I met M. and I asked him, he smiled, but he didn’t know anything, of course.

As for the moral ambiguity that characterizes many of DRINKS’ activities, one might say that it is common for almost any relatively important local economic actor in post communist Romania. From this point of view, DRINKS stands out as different in degree, but not in essence. On the one hand, there are many stories that circulate locally, about

¹⁶ “Securitate” is the name for the Romanian Secret Police during communism. “Gemenii M. – amarasteni in Suedia, miliardari in Romania” [The M. twins – paupers in Sweden and billionaires in Romania]. *Evenimentul Zilei*, March 31, 1999.

the impossibility for an “average citizen” to have a saying about working conditions, the everyday violence exercised by “the bodyguards” of these firms, or the sense that those at the superior levels of these firms are “beyond the law.” On the other hand, people are aware that DRINKS “keeps the area alive,” at least from an economic point of view, by paying taxes and by hiring thousands of people who otherwise wouldn’t have so many alternative choices.

It is interesting that this climate of violence, secrecy and moral ambiguity is reproduced almost metonymically at the regional, and even national, levels. When we asked some tax inspectors and local councilors about their responsibility in what regards the repeated instances of tax rescheduling for DRINKS in the last 8 years, they inevitably answered by using the motive of “the golden hen”:

If you were us, how would you proceed? Would you close these firms that ensure half of the local budget? How would you explain this to the over 10,000 people who have a job because of DRINKS? I know, these people aren’t perfect and, in a sense, it is normal for them to be like this. I guess everyone in their place would do the same shadowy things. They have so much power, they have so many important connections, they are so important for us, that I honestly cannot answer your question! (IS, local councilor)

4.1.2. Epilogue

Throughout the past years, those associated with DRINKS, and especially the brothers who initiated and developed the enterprise, were suspected of almost all the symptoms of the post communist transition: at the beginning, they manipulated unexplainable amounts of money; then, they exploited all the possible legislative loopholes and even abused the law, in order to accumulate capital and develop their business; after a while, their connections with the different political configurations in post communist Romania have become increasingly visible, feeding the suspicions of the mass media in what concerns

the never “clean” nature of the Romanian capitalism. In reply, DRINKS’ main actors were forced, on several occasions, to defend their image as “serious investors.” Thus, when they were unable to control the mass media (as it indeed happened with the local media), they had to formulate justifications about those things that could still be justified and keep silent about the rest. The rescheduling of taxes? Nothing more normal for a market economy, according to the president of the DRINKS group:

It is natural, for any firm, be it large or small, to negotiate the payment system to its contractors, to the banks or the state budget, depending on various problems that may come up during business consultations. We haven’t been favored in any way by the Romanian Government or by the Ministry of Finance. The value of penalties, together with the interest imposed by the Ministry of Finance is much higher than any kind of interest demanded by a bank. It should be known that we pay annually 1,000 billion le to the budget, that is, almost half of the taxes and duties of our County.¹⁷

Several years before, he had expressed similar ideas, but in a more aggressive manner:

Many people have tried to uncover all sorts of irregularities and to point out that it is a shame to be an emigrant and an even greater shame to come back. On the contrary, I think it is an honorable thing to come back and do something for this country. It is sad that in this period of transition the ordinary man is made to believe that nobody can accomplish something through honest work in Romania.¹⁸

Nevertheless, there remain a few questions to bother those who cannot yet understand, for example, “how was it possible that the M. empire grow larger while its accountants were constantly ignoring the firm’s obligations towards the state”¹⁹ and here in debate is a curious “oversight” of the Romanian government. Thus, although the DRINKS group was heavily indebted to the national budget, it was made possible for them to undertake important investments in diverse economic sectors, such as tourism and the mass media. To give just an example, some “family firms” – as they were called – invested in tourism

¹⁷ The president of the group of DRINKS, quoted in “Instabilitatea legislativa inlatura investitorii” [Legislative instability scares investors away]. *Capital*, March 7, 2002.

¹⁸ “Sapte frati, veri si cumnati nu se lasa de bauturi” [Seven brothers, cousins and brothers-in-law do not give up]. *Capital*, March 11, 1999.

¹⁹ “Imperiul fratilor M., 35 milioane de dolari datorii la buget” [The empire of the M brothers, \$35 million debts to the state]. *Evenimentul Zilei*, May 27, 2003.

in 2002, buying two large hotels on the Romanian seaside. According to the Minister of Tourism at the time, these firms qualified as bidders, as they were not indebted to the national budget. Nevertheless, it was relatively simple to see that the transaction was problematic: the bidder (Firm 1), which was formally qualified to bid, is 62% owned by the Firm 2; the latter is 89% owned by Firm 3; then, the Firm 3 is 79% owned by Firm 4, which is the most important component of the DRINKS group.²⁰ One might argue that the Minister of Tourism just defended, as many higher officials did on other occasions, the Romanian state's (in)action in what regards DRINKS. Moreover, the rescheduling of debts allowed further accumulations of assets within the holding.

In time, the DRINKS' managers have succeeded in developing their enterprise in an impressive manner, becoming hard to ignore and increasingly inexpugnable to contestation. For some, they are “the kings of soft drinks,” of alcohol, of mineral water or of certain food products. For others in Romania or beyond, the M. brothers can still be said, at least ironically, to be “the kings of unpaid debts to the state.”²¹

However, it seems that DRINKS just managed to pay its debts to the state, so that its public image might improve considerably.²² Moreover, “Top 300,” a hierarchy of the richest men in Romania, places the president of the DRINKS group on the third position – therefore, the label of “magnates” seems to suit them even better.

4.2. “The Alcohol Mafia”: A Criminalization Story (Case study 2)

ARES is considered the dirtiest [i.e. most corrupt] firm in our town. (LJ, county councilor)

²⁰ “Imperiul fratilor M., 35 milioane de dolari datorii la buget” [The empire of the M. brothers, \$35 million debts to the state]. *Evenimentul Zilei*, May 27, 2003.

²¹ *Idem*.

²² “ED si-a platit toate datoriile la bugetul de stat” [ED paid all its debts to the state budget], *Romania Libera*, May 5, 2004.

The firm *ARES* is the greatest social danger in our town. They can beat everyone in this town. If you complain to the Police, they tell you that you should better keep quiet, otherwise it might get worse. Even the Chief of Police was dismissed because he couldn't handle them. (MU, former deputy)

ARES is not a case of corruption, it is a criminal case. You cannot call corruption what they do. They do not rig tenders, they place armed bodyguards in front of the County Council in order to prevent bidders from entering. This is not corruption. (ZT, journalist)

These three descriptions refer to the same firm – an alcohol business that occupied a large part of our interviews in a central-eastern Romanian town. *ARES*²³ is not a usual firm, by any standards, and local attitudes toward it reflect much of this ambiguity. Characterized as the most corrupt by some, as a criminal operation by others, or even as the example of a successfully developed informal business, *ARES* seems to confirm none and all of these allegations. The most frequent opinion though, is that *ARES* represents the “local mafia” – a label that combines accusations of corruption, tax evasion, violence, but also admiration for what seems to be defiance towards the centrally directed institutions of control.

Our case study attempts to analyze the meaning of these attitudes, exploring them for what they reveal about business practices in the local alcohol industry as well as about the shady boundaries between local politics and economics, the public and the private. By looking closer into the history of this firm, we suggest that things such as “informality,” “corruption” and “criminality” are not self-exclusive practices, but rather the usual (although not necessary) stages in the development of many alcohol businesses, of which *ARES* is in many ways a representative case.

²³ The names of the firm and of its owner are pseudonyms. In addition, owing to the sensitive nature of this material, the identities and occupations of certain people mentioned here have been significantly altered.

A caveat is in order here. In the context of Romanian public discourse after 1989, the term “mafia” has been a very elastic and polymorphous one, extensively used in the mass media to cover a whole domain of more or less illegal practices. From this point of view, its use in relation to ARES is not at all surprising. However, a brief consideration of the literature concerning “mafias” in post communist Eastern Europe, and particularly in Russia, shows that the history of ARES does resemble in some ways that of many “racketeer” or “Mafia” groups. From this point of view, it is worthwhile trying to answer several questions towards the end of this study: what, in the end, differentiates ARES from DRINKS? Is it a difference in essence or only in degree? Regardless of the answer, how can this difference be interpreted?

4.2.1. How to build a “criminal organization”: short history

Peter, the owner of ARES is an orphan raised in an Orphanage close to the town. According to most people, he graduated the Marine Institute and came back home immediately after December 1989. Then, he recruited a few dozen young and tough followers and set up a private protection organization. However, soon enough the organization entered the alcohol business. After 1989, many imported alcohol beverages arrived in the town and they were very cheap, evading customs duties. As a result, the local state-owned alcohol producer had difficulties selling its products and found itself near bankruptcy. The state enterprise needed a rapid and swift method of distribution. It

is at this point that Peter and his proto-firm intervened and offered to intermediate the distribution of alcohol - he represented “the helping hand.”²⁴

Peter bought a truck, he bottled alcohol and sold it with the help of children from the nearby Orphanage where he had been raised. The children visited every block in town and sold the bottles at the doorstep. Peter paid no taxes. At the beginning, he sold very cheaply and used the profit to pay the kids. After a while, he managed to gather some cash and bought a few wagons of corn from the nearby villages and processed this corn at the state owned enterprise. According to an ordinance passed in 1993, any physical person had the right to rent sections of alcohol enterprises and to produce alcohol, being exempt from taxes.²⁵ Peter continued to sell the alcohol thus obtained on „the black market.” He accumulated some capital and the business got bigger – it was then that he partially legalized it.²⁶

ARES was registered as an alcohol distribution firm. According to local observers, it was not only distribution but also contraband: alcohol bought from Ukraine and smuggled over the border into Romania and even Hungary.²⁷ However, the firm set up its own alcohol producing unit on the outskirts of the town and it attempted to extend also in other areas: it tried to buy a major hotel and it even to enter the media market,

²⁴ At that point, state enterprises faced problems not only because of illegal competition and tax evaders, but also because of the predatory behavior of their own directors and employees. It is worth remarking that most state enterprises did not push for a complete legalization, but they began using the same tactics used by those operating on the black market.

²⁵ Law 42/1993.

²⁶ This brief history of the firm is based on extensive interviews with local officials, businessmen and journalists.

²⁷ Some of our interlocutors claimed that, besides alcohol smuggling, ARES is also involved in drug and even arms traffic. A journalist supported this argument by trying to demonstrate that even if one added all the alcohol produced annually in Peter’s county and the neighboring ones, it would be impossible to justify the profits obtained by the firm.

without success so far. ARES has several headquarters: the one we visited looked more like a car park with dozens of trucks and many more distribution cars bearing the name of the firm. There is another office building situated in the most fashionable and rich area of the town; it is a very modern construction, permanently watched by two bodyguards in military outfits.

4.2.2. Like an open secret: invisibility, fear, and rumors

Local descriptions of ARES are replete with details and judgments. For instance, the director of a county institution gave us rich information about the assets and activities of ARES - details based on the knowledge of a former employee of the firm:

Peter, the owner, is fabulously rich. He has his private physician and hairdresser. In fact, he has people infiltrated everywhere. The firm has hundreds of employees and all the managers are paid 1,500 USD a month. The major shareholders are very important people: ministers, senators and party presidents. ARES has almost one hundred cars, of which 12 trucks, 20 minibuses, 16 Dacia automobiles, five Jeep cars, one Rolls Royce, two BMWs and three Mercedes. Everyday they cash more than 5 billion lei. There are very many bodyguards, all of them former wrestlers or martial arts trainers. You cannot imagine what this firm is like. (BG, public official)

Indeed, it is difficult for someone little acquainted with the town to imagine what ARES is like: everyone knows about it, yet nobody speaks up. That is why interviewing people on this subject resembled a complicated and sometimes tactical exchange of information: *“the more you know and share, the more you will be told.”* Most of our interviewees started talking more openly and disclosing information that they considered “sensitive” only after they made sure that we grasped the meaning of covert allusions, subtle insinuations, and unfinished sentences. After the first days in the town, we began to

understand this sort of strategic interaction in the terms of a progressive access to a “hidden transcript” or, more exactly, as a dialogue with multiple hidden transcripts, each of which harboring different interstices of domination.²⁸ ARES offers the best illustration of this cohabitation between hidden and public transcripts. When asked about corruption in connection to organized crime, most people made reference to a “certain firm” they described to be the front of a Mafia-like network. The mentioning of this firm involved in alcohol smuggling was accompanied by suggestive gestures and surrounded by an atmosphere of secrecy, and sometimes even of fear. However, no matter how hard we looked, we could not find any mention of ARES in the local newspapers or in various official documents.

ARES had the status of an *open secret*: on the one hand, its practices were well known and criticized by many; on the other hand, such discussion took place only in the privacy of one’s home or in other marginal spaces, separated from the official, wider public. One possible reason why the discourse on ARES remained “hidden” is the local power configuration that, allegedly, sustained this firm: a combination of high officials from financial control bodies, former Police officers, and prominent party members. Both the people associated with this firm and the external observers had their own versions that did not concur with the officially public account.

²⁸ Scott (1990: xii) suggests a challenging approach to the study of power mechanisms. He draws on the contradictions and tensions inherent in the various relationships between ‘the dominant’ and ‘the weak’ and on the discursive production that accompanies these relationships: “Every subordinate group creates, out of his ordeal, a ‘hidden transcript’ that represents a critique of power spoken behind the back of the dominant. The powerful, for their part, also develop a hidden transcript representing the practices and claims of their rule that cannot be openly avowed. A comparison of the hidden transcript of the weak with that of the powerful and of *both* hidden transcripts to the public transcript of power relations offers a substantially new way of understanding resistance to domination.”

Nonetheless, ARES represents an interesting case, particularly because, in contrast from DRINKS, there is almost no officially public account of it. Most people who talk about it - public officials, journalists, ordinary citizens - admit also to never have seen its owner:

You can't see Peter, few people know what he looks like... he always wears black glasses and black leather gloves. He has a strange and weird appearance. Nobody is allowed to enter his firm. It might be that these suspicions are maintained on purpose, to stimulate people's imaginary. But there is also something visible: the firm is growing at an incredible pace, it buys 40 cars in a month, it buys many privatized enterprises. ARES uses unusual people: animals in uniforms who know nothing except beating. (KS, local councilor)

The lack of visibility of the owner combined with the public performance of the firm engenders even more rumor and discussion - in the end it is difficult to separate the legendary from the real in the local discourse on ARES. Nevertheless, there are a few happenings recounted by everyone and which some people pretend to know firsthand.

A local councilor told us the story of his friend's child, badly bitten by one of Peter's dogs. The child's mother was threatened not to complain to the Police; however, she did so, but the Police advised her to give up because "it is too dangerous to go against these people." A public prosecutor also complained that ARES behaves like an untouchable entity. He handled a complaint from a man beaten by ARES employees because he hadn't paid his debt in time. The case did not reach the court because the man in question was forced to withdraw his complaint after being again threatened. There have been even more serious charges brought against ARES: one of the employees was accused of having beaten to death a man right in the center of the town. The victim was another unfortunate debtor, who had missed the payment deadline. Although the

prosecutor suspected that Peter had ordered the murder, only second or third rank employees were accused. As he said, “nobody will touch Peter.”

4.2.3. The key to success: corruption of local control agencies

These accounts provide us with a vantage point from which to understand the scope and type of an organization like ARES. The use of organized violence is possible precisely because ARES is not exactly a private organization: it lies, in fact, at the border between public and private, between legality and illegality.²⁹ Certain state functions have been appropriated by ARES: state employees work for them and public law enforcement agencies protect them. The corruption of state authority at the local level proves to be a „uniquely powerful instrument for organized crime” (Reuter 1987). Thus, it is the corruption of officials entrusted to enforce the law that makes possible and shields the operations of ARES. A high official from the Court of Audit talked explicitly about this fact:

I heard that one of the auditors of ARES is a chief of the Financial Guard, which they pay 700 million lei a month. This is about protection; they employ this man as their paid bodyguard.³⁰ (GI, Court of Audit)

Another public official reported that the same Financial Guard officer drives a *Ford Mondeo* automobile with an ARES license plate: „He does that naturally, having nothing

²⁹ This point is also emphasized by Margaret Beare when discussing the particularities of organized crime: “It is essential to appreciate the interface between the legitimate and illegitimate operations within criminal enterprises. This interface is to varying degrees facilitated by corruption. However the one important dimension in which the processes employed by different organized criminals vary is in their ability to garner support and assistance via corruption” (Beare 1997:158).

³⁰ The amount is exaggerated here. Discussing with other officials about ARES, we found out that this might be the probable amount paid to all public officials that work to protect the firm.

to fear...” Other alleged counselors of ARES are former high officials in the Police and the Romanian Intelligence Service, and present high officials from the Prefecture and the County Council. According to local accounts, ARES does not meddle with the inferior levels of local public administration or political government; instead, it buys the top levels of control bodies and maintains close connections with political elites at the centre. If we were to internalize this strategy, we would have to regard control agencies as the most profitable points of interaction with the state. The control agencies can provide the very important service of granting „permission” to operate.

However, very few people perceive ARES as a firm directly engaged in corruption. Despite the close intertwining with the public sphere or maybe precisely because of its integration with the public, the firm is perceived as less “corrupt” than other businesses which engage in petty bribery on a daily basis.³¹ As a journalist put it:

It is true that Peter pays people from the Police, the Financial Guard, even the Prefecture. But he doesn't pay them in order to corrupt them. I know of no case when Peter misappropriated public funds. All these people are paid for protection. (ZT, journalist)

Thus, bribery qualifies as corruption only when it is practiced in order to obtain an immediate benefit, a visible slice of public funds - as it is the case with public procurement corruption. According to local opinions, buying the protection of state officials, in contrast, does not necessarily entail corruption. For most people, this resembled an opaque transaction lacking the most important element, namely the benefit

³¹ “The ability to corrupt is therefore dependent on how integrated the individual or group is into the “legitimate” society. If they have secured positions of influence and power and therefore have entwined themselves into the power structure through either the economic sphere, political alignments, or the enforcement/criminal justice field, their activities are more easily defined as legitimate. With this integration comes invisibility in that decisions taken, policies passed and agreements signed are not defined as corruption but rather as “normal” operations of business or enterprise.” (Beare 1997:158).

usually paid for through bribery. Indeed, the evasion of official control - shortcutting the operation of all control institutions - may seem harmless, precisely because it involves much more refined forms of fraud. Control officials are paid in order to cover the illegal operation of the firm. As a high official from the County Council said, „the control does nothing more than legitimizing the activity of ARES. After a fake control from the Financial Guard, they can always claim that they are *clean*.” In this case, corruption is not effected by impersonal, temporary transactions, but is organized in a functional network that cuts across the legal borders between public and private. It would be wrong to assume that this redefinition of borders is a unilateral and violent action.

In the countries in transtion as well as in modern capitalist states there are multiple forms of pressure and lobby on behalf of the private sector (for instance, the financing of political parties). In theory, these are permitted forms of organization for mutually profitable transactions: various interest groups seek to influence the formulation of political decisions and, implicitly, the accumulation and administration of public resources; as for politicians, they need financial support and relevant information regarding the functioning of the economy. This type of interaction between public and private can be more or less limited and regulated. But in an ambiguous legal environment, mafia-like networks are only the illegal extension of an incert separation between the public and private domains.

Thus, it would be mistaken to consider ARES or other so-called „mafia groups” as evil excrescences on the healthy body of the nation or as entities separate and opposite to the state. ARES should be looked at as the visible facet of a much larger netting that

links parts of the political, economic and the administrative bodies both at central and local level.

4.2.4. Privatization of power

The situation described above is all the more profitable when the state assumes strongly its redistributive vocation and well organized private groups have incentives to compete for privileged access to public resources. Given the two sides of state redistribution - inclusion and exclusion - certain groups will attempt to obtain privileged evasion from state control. Not only do they accomplish a particular form of access to public resources, but the use of these resources would be unconceivable without the close collaboration of state coercive powers. Thus, it would be mistaken to assume that organized crime can flourish by ignoring the state, as some public officials suggested: „those people from ARES are real *mafiosi*. They do their business without taking the State into consideration.” Nonetheless, collaboration with „the state” is not altogether unitary; in fact, it parallels the discontinuity of state enforcement agencies. Metaphors such as the „privatization of power” should be placed in this context.

The anthropologist Katherine Verdery used the image of a “privatization of power” in order to describe such cases of intertwining between the private and the public in Romania. Verdery differentiates between the former apparatchiks at the apex of the Communist apparatus (which have already organized their political parties³² or hold high positions in the government and in the former state-owned industries) and the second or

³²According to Verdery (1996:193), the Romanian political parties do not represent political entities with a well defined identity, but “formally institutionalized networks of friends, relatives and other associates who engage corporately in the electoral and legislative process.”

third rank apparatchiks, especially those at local level. The latter are, most probably, the beneficiaries of pyramid-games and the initiators of those *unruly coalitions*, otherwise known as “clans” or “Mafia”.³³ This last aspect appears to be directly influenced by the pattern of territorial power distribution of the Communist party. The autonomy of local party organizations in respect to the Center (a “quasi-feudalization” situation, according to Verdery) has increased after the collapse of the party-state. Presently, the Centre retains only a minimal control over the political and economic processes, and thus the domination structures are much more fragmented. Verdery labels this latter phenomenon a *parcellization of sovereignty*. The resulting “suzerainties” become, after a further process of “privatization of power”, the favorite territories of the “mafias” and of the local “clans” which entertain a double relation (competition and dependency) with the central power.

In our view, this privatization of power does not refer to a complete overtake of state power by private actors but to the appropriation of discrete offices or organizations that begin applying rules differently to different people. This more realistic picture of state privatization explains the conflicts and competition between distinct state agencies. For the case of ARES, such a conflict took place between the Police and the Financial Guard:

Let me tell you something that happened to me. I sent a note to a different institution of control, the Financial Guard, to help us investigate a certain firm, ARES. They had the abilities to do what I required of them. Not only did they not help me, but the firm in question made a complaint against me, saying that I abuse

³³ Françoise Thom (1996: 180-181; 225-226) makes the same distinction between the “plebes of the Communist apparatus” (who “kept their power position at the local level”) and the “aristocracy of the Party” or the *economic nomenklatura* who “operates within the *gray zone* of postcommunism, through (...) savage *nomenklaturist* privatization and the absence of structural reform, set off by the presence of the discourse on reform.”

my powers and that I have something special against them. My note toward the institution that I had asked to cooperate was attached to the complaint of the firm. This was a signal that the firm in question had some powerful allies and that I should not mix with them because I have no chances. (MJ, Police officer).

4.2.5. Moral ambiguity

The privatization of power is not necessarily regarded as a negative phenomenon by the local community. The evolution of ARES from a small racketeer gang to a powerful firm closely allied with the local state structures has stirred both condemnation and admiration.³⁴ It is true that many people described ARES in disparaging terms, regarding it as a danger for the local community. The appearance and methods of the firm arouse suspicion and resentment:

The moment they are hired by ARES, people become arrogant, they put on a show of superiority. But you should know that all those people who worked for ARES or made any contact with them can't get away anymore. Peter has a certain ability to hook them up, to blackmail them. (CT, local councilor)

However, in some cases the attitude of the town's inhabitants can be described as plain fear: „They have money, they have power over the city. Nobody can speak up, because otherwise they might wake up in the hospital the next day. Even the Police accepted a certain domination from these people!” (LZ, Roman-Catholic priest).

On the other hand, the new „proprietors of power” enjoy different forms of sympathy, and even local support. The condition is that together with the take over of a „quantity of power” from the state, they should also assume some other state functions.

³⁴ “In its most advanced form organized crime is so thoroughly integrated into the economic, political, and social institutions of legitimate society that it may no longer be recognizable as a criminal enterprise. Such integration represents the most serious potential for social harm that can be caused by racketeers. However, the criminal justice system is least effective in dealing with organized crime when it reaches this level of maturity.” (Stier and Edwards 1987: 65).

Thus, ARES managed to privatize not only some of the law enforcement privileges of the state, but also certain of its social service functions and of its symbolic prerogatives.

ARES invested heavily in its public image: it conducted charity campaigns supporting exactly those areas disregarded by the state: the Orphanage, the Roman-Catholic church, a small neighbourhood school.³⁵ Thus, ARES underlined its difference, showing itself as a more caring and better provider than the distant „state” impervious to the demands of its most wretched citizens. Moreover, ARES made a very intelligent move sponsoring the local hockey team - a central symbol for the Hungarian community of the town. Added to the already appealing image of Peter („an orphan that succeeded on his own”) these charitable acts gained some support from the local community. Such actions explain in part the moral ambiguity surrounding ARES:

A local Anti-Corruption Commission did not find a thing about ARES, although there have been several complaints from citizens. Our community forgave him, just as a family forgives the criminal son. There are, of course, quarrels and scandals, but they die out, they are solved. (BE, county councilor)

Thus, ARES is also capable to offer that feeling of „belonging” to a supraindividual entity and even an interesting sentiment of identity. Local patriotism, officially suppressed during communism, is now coming back in an unexpected manner: „The State stole from us in all possible ways. Now, we steal it too and that’s normal.” Hence, ARES - as a thief of state power - enjoys legitimacy within the local community, precisely because it shows with outmost irreverence the limits and the weakness of a once „all powerful” state.³⁶ A high official from the County Council explained this paradox

³⁵ As a local public official (CT) emphasized, few other firms in M. and none of the firms owned by "the old guard/former nomenklatura" directors have done this kind of charitable actions.

³⁶ The firm has also the advantage of maintaining an independent appearance: it is not associated with any political party in particular, although it is widely reported that it finances more than

with great subtlety: „*Our community proves its strenght and power by showing that it is capable to produce and tolerate such phenomena.*” Although recognized as „violent” and „anomalous,” the firm has acquired the status of a local hero, respected for its success, generosity and, why not, glamour! As a local councilor reported, school children already know that they want to work for ARES when they will grow up!

4.2.6. Epilogue

Summing up, ARES is a firm considered by the local community as part of the world of the „mafia” or „organized crime.” It is also considered a firm „outside state control,” meaning that the control functions of state agencies are not exercised upon it. At the local level, being outside control signifies rather the evasion of local control because of influences originating from the „centre.” Given the fact that most control agencies are centrally directed and only represented at the local level, ARES serves as an illustration of the limits of local power. The centre still preserves the power to act as a circuit breaker: local initiatives can always be canceled with a central order, leaving thus the whole machinery of local administration to function aimlessly. On the other hand, the privilege to fight against „mafia” is also monopolized by the centre, given that mafia is usually defined as a threat to the state, and not to the citizen. The existence of firms like ARES questions the will of the centre to really fight a „mafia” that is, in fact, part and parcel of the tissue of state power.

three different parties. As one of ARES managers told us: “We don’t meddle with politics because politics is only about cliques, factions and spheres of influence.” (TL, ARES manager).

We have an additional, and relatively curious, argument in this sense. We did our fieldwork and wrote the paragraph above before an important series of events happened. Towards the end of 2003, a local journalist was beaten by „Peter’s people” and this time the central mass media was more sensitive than usual. Moreover, several newspapers published an open letter sent by one of the deputies representing the county in question to the Ministry of Internal Affairs, requiring the latter to show a more determined attitude in what regards the case of ARES. Somewhat unexpectedly, the most widely read newspapers in Romania began an intense campaign against ARES, pointing out not only the use of violence by some of the employees, but also other „evasionist” or „criminal” practices from the past of Peter and of his subordinates. In some of his periodical public statements – in which he usually denounced in general terms „the alcohol mafia” from Romania - *Garant’s* president Romeo Dascalu named the region where ARES operated „a fiscal enclave”:

I was expecting the control authorities to investigate closely into the activities of those boyars who live in veritable fiscal enclaves in Miercurea Ciuc, Galati, Valcea, Braila and Suceava or even in every county, because I did not feel any change in 2003.³⁷

In April 2004, Peter was arrested and the numerous complaints against him, many of them quite old, became worthwhile considering for the Romanian Justice. In parallel, the mass media continued to provide the public with fresh news about earlier actions that Peter and his associates had done. Paralleling the huge campaign against Peter, one of the local journals sponsored by him – *Jurnalul de Transilvania: Publicatie Impotriva Coruptiei* [*The Journal of Transylvania: Publication Against Corruption*] – published for

³⁷ Evaziunea fiscala din tuica si rachiul “la cazan” depaseste 60 milioane euro [More than 60 million euro of tax evasion from plum brandy by the copper]. *Romania Libera*, December 19, 2003.

a while (counter)arguments, using the “the positive” facets of ARES. For example, a local councilor wrote about one of the firms in the ARES group: “everybody admits it is well-organized, disciplined firm, which ensures a decent living for several hundred people, in the context of an impoverished national economy.”³⁸ Even after Peter’s arrest, the journal in question continued to gather confessions from his former employees, insisting upon his qualities, as a “generous” or “soulful” man.”³⁹ Now, when it becomes increasingly obvious that the Romanian Justice deals quite seriously with Peter and his firms (according to the mass media, the only problem is the continuous accumulation of juridical evidence), even “his” journal has ceased publication.

Nonetheless, there is one interesting thing in the recent evolution of the local market configuration: one of ARES’ competitor firms, which nobody was talking about when we began this research, seems to be more and more successful. A recent investigation on... “The Alcohol Mafia”⁴⁰ found that the biography of this firm does not differ at all from the more general history of alcohol industry in Romania, including, in particular, huge tax evasion and the falsification of official documents. However, we must note, for the sake of precision, that this firm is part of the *Garant* association.

5. CONCLUSIONS

In this final part, we try to answer the questions we raised at the beginning of the study and to formulate a few practical and theoretical implications.

We described the distinction used by the mass-media between “Magnates” and “Mafiosi.” As analysts, we may ask if the difference is really valid. The short answer to

³⁸ “Unde dai si unde crapa”. *Jurnalul de Transilvania*, December 2003.

³⁹ See, for example, the May 2004 issues of the *Jurnalul de Transilvania*.

⁴⁰ See the series of articles on “The Alcohol Mafia” in the journal of *Ziua*, May 13-26, 2004.

this question is throughout the 1990s, there was no essential difference between “Magnates” and “Mafioso.” Both grew in very shady ways throughout the 1990s. Their methods of primitive accumulation were different, but both evaded the legal ways and benefited from the institutional vacuum of the 1990s.

A few years ago, the difference between these two companies was one of scale; recently it has become a difference of essence. Why is that? One may argue that many of those labeled today as “the alcohol mafia” (for example, ARES) could have been, just as well, considered as “alcohol magnates” (as DRINKS’ managers are). A few years ago, nobody could have anticipated exactly who would fall into which category. The factors that determine the distribution of these two companies in one category or another are less related to the “criminal” or “illegal” nature of most of the economic decisions that make up the history of these groups of firms. They are more related to the ways in which they understood to gain, state and advertise their “legality.”

They firstly differ in terms of scale. ARES exploited the best it could the power inequalities between the local and central institutions. It won on its side a few key local public bureaucrats, who closed their eyes to the illegal activities of the company. Aside from whatever immediate gains such bureaucrats won, they closed their eyes because ARES simulated that it had close relations to key central politicians. It was important for Peter to pretend that it had close relations to such politicians, although nobody could confirm them. Unlike ARES, DRINKS maintained more relations with the politicians from the center.

There is a second factor, related to the first one, that was decisive for the separate trajectories of ARES and DRINKS. This factor is their management of visibility, which

may be regarded as a public relations solution. When we began this research, there were no news in the national media about ARES (we only found two short articles after we reviewed several newspapers published in the last ten years), and a lot about DRINKS. As we already suggested, ARES was just an “open secret” for the people in one town (and some others in the county), while DRINKS was a visible, active, even if controversial, “success of the Romanian capitalism.” When ARES’s existence began to be covered in mass media, the contrast between the scope of their economic activities and their visibility was striking. The label used by *Garant* to describe ARES (“fiscal enclave”) caught up precisely because of ARES did not have any public presence. By contrast, DRINKS managed to maintain a high public profile, as far as, with a few exceptions, its activity was made public by mass-media.

Therefore, we claim that more other factors, the scale and the visibility of the companies are the two variables that account for the different trajectories of the two firms. We do not claim that structuring tendencies of the Romanian alcohol market privileged exclusively visible actors who made themselves known on the national scale. Smaller firms that have a similar history with ARES managed to join the “winner” camp because at various points they made a conversion from “invisibility” to public participation in “GARANT” association of producers, i.e. in the forum that labels producers as “magnate” or as “mafioso.” They are those that circulate artifacts such as maps, classifications, statistics, graphics and numbers on the fiscal evasion, the geographical distribution of “the alcohol mafia,” the passivity or vigilance of the state control agency and other similar topics.

The future of the alcohol firms from Romania seems to depend to a large extent on their position in respect to the political economic network created by GARANT. The actions of the companies which are closed to this network are more visible and because of this they are made to look “acceptable.” One may say that they have the privilege of practicing of “tolerated illegalism,” which derive from their possibilities of altering laws, policies, or administrative procedures. According to one of the best economic analysts in Romania, this network of firms practices “a transparent kind of evasion and fiscal fraud.”⁴¹

Therefore, one may notice the tendency of large actor such the Government, “Garant,” and European Union to produce order and (enforceable) regulations, which succeeds the long post-1989 period when the alcohol industry and regulations were full of improvisation, “creativity,” and rapid accumulation of capital. In the recent years this led to the conceptual division of the alcohol industry into “magnates” (in process of legalizing their economic activities) and “Mafiosi” (undergoing the process of criminalization).

As policy recommendations, we urge the Government and especially the European Union to listen to a plurality of voices and existing interests in the economy of alcohol in Romania. The distinction between the self-advertised as legal “Garant” and “illegal” producers is rather arbitrary. The distinctions such “legal” – “illegal,” “formal” – “informal” should be regarded with suspicion, as long as firms that captured the state manage to impose their version of reality. Also, the application of the European Agreements of extracting excises and VAT from the household producers will prove to

⁴¹ Ilie Serbanescu, “Va putea campania antievaziune fiscala sa curme jaful din economie?” [...] in *Romania Libera*, August 27, 2003.

be a huge and thorny task, which may bring popular discontent and insubordination from the large number of people that use them.

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