

MONITORING THE IMPLEMENTATION
OF SMALL ARMS CONTROLS (MISAC)

Small Arms Control in

Romania

1. Romania

1.1 Background and Overview

Romania's somewhat strained relations with the Soviet Union during the Cold War account for the fact that it operated on the self-sufficiency principle, especially when it came to defence production.¹ By the end of the Cold War era, Romania was the ninth largest weapons exporter in the world. But like in other countries in Central and Eastern Europe, the Romanian weapons industry underwent dramatic changes in the post-Cold War period. Arms markets were lost and production decreased to about 10 per cent of what it was in the past years. Since independence, the Romanian Government has struggled with various attempts to restructure and privatise the defence industry, but the process has been very difficult. Nonetheless, the Romanian Government endeavoured throughout the 1990s to increase defence spending in an effort to prepare the country for NATO membership, but in December 2001 officials decided to cut back once again due to economic hardships.² Thus, arms producers remain essentially state-owned and operate in a rather competitive industry where companies must contend for limited state resources. Arms factories use obsolete tools, suffer from deteriorating technical skills, and are forced to lay off workers regularly. Social consequences of a significant decline in defence production have thus far remained fairly manageable as the law requires that arms industry employees be paid 75 to 80 per cent of their salaries even if not engaged in production in order to keep them available. This law reflects the Romanian mindset that the country must be self-sufficient in arms production in the interests of national security.³ Currently there are nine companies in Romania that produce a wide range of SALW, namely assault rifles, mortars, ammunition, grenades, grenade launchers, pistols, and explosives.⁴

Stockpiles and surplus SALW

As with other countries in the Central and Eastern European region, the state of surplus weaponry is perhaps more concerning. The restructuring of the Romanian army and its defence system as part of Romania's EU and NATO integration efforts created large quantities of redundant weapons and ammunition, including SALW. Around 200,000 arms were destroyed as part of a recent US/Norwegian funded arms destruction initiative.⁵ However, more resources and assistance are needed to destroy further existing and pending surplus weapons. Officials report that there is a "strategic reserve of weapons for military purposes in Romania that is kept at weapons depots throughout the country".⁶ Ministry of Defence officials, responsible for protecting and accounting for surplus arms, cannot say exactly how many weapons they have in this strategic reserve. Nor can they say what kinds of arms are stockpiled, but they do stress that they strongly prefer to store excess arms in the event they are needed rather than destroy them.⁷

Accusations of illegal SALW transfers

Many allegations have emerged over the past several years of improper and illegal weapons deals involving Romanian arms, and Romanian officials. A former Minister of Defence was reportedly involved in a number of illicit weapons transfers owing to his numerous contacts, and years of experience in the arms trade.⁸ People close to the President have also been implicated in illegal arms deals.⁹ Otopemi airport in Bucharest has been highlighted as a transfer point for weapons and other smuggling activities. Romanian munitions have reportedly been found in Kosovo, Rwanda, and Liberia, and have been sold to the Taliban in Afghanistan,¹⁰ and a December 2000 UN report singled out

Romania as a main supplier to UNITA rebels in Angola via Togo and Burkina Faso.¹¹ More recently, in April 2004, Italian police captured Romanian SALWs to the value of six million euros on board a Turkish ship bound for the US. The haul included 8,000 Kalashnikov machine guns, 11 submachine guns (mitraliere grele), bayonets and ammunition clips.¹²

1.2 Elements of the Romanian SALW Control System

Legislative basis

The legal basis for the Romanian arms control system evolved throughout the 1990s into a comprehensive arrangement that incorporates most of the elements required for effective control of weapons imports, exports, re-exports, transits, and transshipments. In 1992, a government decree authorised the control of sensitive military items. Since then, a number of revisions, amendments and additions (in 1994 and 1996) eventually led to a new 'Law (No. 158) on the Import and Export of Strategic Goods.'¹³ This law was further amended in 2000 and forms the legal basis for the arms control system that operates in Romania today.¹⁴ Romania's objective of EU membership by 2007 and its efforts towards preparing for NATO membership has influenced recent Government policy to adopt more stringent regulations and align Romania with regional and international norms on arms control and levels of transparency.¹⁵ Aware of its poor reputation on export controls,¹⁶ the Romanian Government passed The Government Emergency Ordinance No 104/2001 in 2002. This law ensures physical control at the border check points, enforced by the Romania Border Police.

Brokering, export criteria and licensing

All military items coming into, going out of, or transiting across the Romanian territory require a licence issued by the Government. Companies engaged in the arms trade must be licensed to do so before they may apply for an export licence. There are two kinds of licences: (1) an individual licence is granted to a specific exporter or importer for the export or import of one or several products to or from a single foreign partner; and (2) a general licence is granted to a specific exporter or importer for one or several products and can be valid for exports and imports to or from one or several determined countries.¹⁷ Sensitive and strategic goods require an individual licence. According to the law, any Romanian person or group that engages in the arms trade requires a licence, whether or not that person or group resides in Romania. Within the territory of Romania, however, any person or group active in the weapons business must be licensed. Presumably then, a person not of Romanian origin living outside the Romanian territory would not be eligible for a licence to trade in Romanian arms.¹⁸ Although transfers and transshipments of arms require a licence, officials report that these activities cause the greatest number of problems for the country's arms control efforts. As in other countries in the region, the lack of human and financial resources limits the authorities' ability to check all items that transit its territory. Officials appear frustrated by Romania's current insufficiencies and express a strong will to do better in this area.¹⁹

While Romania does not maintain a list of proscribed countries, officials stress that they abide by UN and EU embargoes.²⁰ They also assert that they adhere to the EU Code of Conduct, although EU export criteria are not incorporated to Romanian legislation. According to law no.158, weapons imports and exports must be consistent with: (1)

Romanian foreign policy; (2) Romanian national and economic security interests; (3) non-proliferation objectives; (4) international treaties and agreements to which Romania is a party; (5) international arrangements and obligations to which Romania belongs; and (6) cooperative efforts in the field of non-proliferation.²¹ However, in Romania's UN PoA Report 2003, it went further to formally include (1) resolutions of the UN Security Council; (2) Joint actions and common positions of the EU; (3) OSCE decisions; and (4) the export criteria set out in the EU Code of Conduct on arms exports, as factors to be taken into account in the assessment of export licence applications.²² Furthermore, the Romanian officials advise weapons exporters and importers to not apply for licences where the transaction involves regions in conflict, countries that support international terrorist activity, or countries that are a proliferation risk.²³

Border control

The General Customs Directorate, housed at the Ministry of Finance, is charged with securing Romanian borders, verifying documents, inspecting shipments, and investigating improper arms deals. Overwhelmed with these tasks, customs officials have sought assistance from other countries in order to enhance their capacity in the area of weapons transfers. Despite various training and equipment programmes, such as those offered by the United States and the European Union, officials report that border controls remain relatively weak and are in need of additional attention.²⁴ However, the Romanian Government recently altered its end-user certificate forms to make them more consistent with others in the region and crack down on false documentation. These forms are now only available at the Export Control Agency at the Ministry of Economy.²⁵ Moreover, the law no. 158 requires that arms deliveries be confirmed and verified four months after shipment.²⁶ The exporter must ask the importing partner to submit a document from the importing country and certify that the weapons arrived at the appropriate destination. When asked if in practice this verification activity had been successful, Ministry of Finance and Economy officials reported that the follow-up on arms deliveries and actual implementation of the law is inconsistent at best.²⁷ However, in further attempts to tighten up its border control, in 2003, Romania adopted a Strategy for the Integrated Management of the State Border covering the period 2003 – 2006, and in March 2003 the Customs Administration settled a cooperation protocol with the General Inspectorate of Border Police to cover joint actions to counter smuggling.²⁸ The Romanian Government has also allegedly allocated over USD 22 million to improve the infrastructure and equipment for border policing,²⁹ and in a recent report, the EU Commission noted that cooperation between the Customs Administration and the other enforcement bodies is improving.³⁰ However, the Romanian arms control effort suffers from a lack of implementation.

Enforcement and penalties

The new law outlines the details of an interagency process that governs the licensing procedures in Romania. Romanian National Agency for Export Controls (ANCEX, previously called ANCESIAC), within the Ministry of Foreign Affairs, serves as the central licensing authority and coordinates an interagency group composed of representatives from several different agencies. This group, called the Inter-Ministerial Council (IMC), includes members from the Ministries of Foreign Affairs, Defence, Economy, Finance, Interior, and European Integration, the Romanian Intelligence Service, Romanian Foreign Intelligence Service, and National Commission for the Strategic Economic Investigation Division.³¹ To

facilitate the licensing process, ANCEX first examines the validity of export and import applications before submitting them to the members of the IMC for their review. The IMC meets once a month to consider on a case-by-case basis whether a licence should be granted. Once the group makes a decision, ANCEX accepts or rejects the licence application and the Ministry of Economy then issues the licence if it has been approved.³² Although members of the IMC appear to regularly engage in bureaucratic in-fighting, overall the interagency process functions well in its efforts to oversee the weapons trade.³³

As an additional effort, the Romanian Government established in July 1998 the Romanian Counter-Proliferation Group. This task force is meant to ensure easier exchanges of information between the ministries and agencies involved in the IMC. Its work goes beyond the specific membership of the IMC and includes all other government officials and entities that are involved in any aspect of arms trade and flows. Meeting once a month, the Counter-proliferation Group discusses control regulations, arms trafficking, verification, and any other issue or problem as it relates to weapons transfers.³⁴

Although Romanian officials state that they have a team responsible for enforcement that actively pursues and investigates suspicious arms deals, very few arrests and prosecutions have occurred.³⁵ Following the 2000 SALW scandal, which revealed that Romania has been illegally supplying weapons to the UNITA in Angola in 1996-99, an arms dealer was arrested; however, he was released in 2001 after implicating a number of former government officials in the transfers.³⁶ Experts suggest that prosecutions for smuggling have focused on low-level government officials rather than pursuing individuals at higher levels.³⁷ Regarding punishments for violations, law no. 158 only specifies fines (10-50 million lei or approximately USD 300- USD 1500) and the revocation of licences.³⁸ Penal code articles 302 and 312 prescribe two to seven years imprisonment for violating the strategic interests of Romania, the charge that could be brought up against arms smugglers and others engaging in improper trade.³⁹

International cooperation

Romania is involved in many international and regional activities regarding SALW control. Within the region, it has been active in NATO's Stability Pact for South Eastern Europe efforts on small arms, Europol and promoted the creation of the South Eastern European Regional Centre for Combating Trans-border Crime, which deals among other things with firearms trafficking.⁴⁰ Within Europe, Romania has been involved in NATO discussions on weapons trafficking and reportedly accepts and adheres to both EU and OSCE SALW initiatives. In May 2003, Romania and Europol signed a Cooperation Agreement which represents an important move towards Romania's integration into the European police structure and heralds greater cooperation between Europol and Romania in tackling crime.⁴¹ Internationally, Romania is a member of, or adherent to, all export control regimes and engages in UN SALW activities. However, the scope of these commitments overburdens the capacity of the Romanian authorities. One official put it this way: "Romania is over-stretched with all of the regime activity on arms issues". Government representatives stress that the lack of personnel and resources is the greatest obstacle to doing their work. They want to do more to enhance their arms control efforts, but they are struggling just to keep up.⁴² However, it must be noted that although Romania has made substantial legal process in the field of international police co-operation and the fight

against organized crime and corruption, its capacity for law enforcement and actual levels of co-operation with the police services of neighbouring states is weak.

Transparency and accountability

The transparency of Romania's arms control activities shows tentative signs of improvement. The Government submits aggregate reports to the Prime Minister on the volume of weapons exported to recipient countries, but very limited information is shared officially. There exists no formal mechanism for informing the legislature or the public about the country's weapons practices.⁴³ Romanian officials allege that they are working on better reporting procedures. For example, two years ago the Government had plans to compile a report specifically on SALW, but this is yet to be released. In their defence on this subject, incidentally, officials say that because of company confidentiality, they are prohibited from releasing detailed arms trade information. Romania did however publish its first report on arms exports in mid-2002 in which it provides useful information on SALW movements between 2000-200, such as private as well as public sector exports, using the weapons categories of the Wassenaar Arrangement.⁴⁴ Though far from perfect, most notably in the sparseness of information provided on export licences, the report is an encouraging step towards transparency. Though its export reporting was not sustained through subsequent years, Romania did submit a national report to the UN Department of Disarmament Affairs on its implementation of the UN Programme of Action Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in 2003.⁴⁵ Furthermore, information on arms export legislation, the national authority, the control mechanisms and procedures and Romania's international obligations and commitments and the embargo on arms is made available on the ANCEX website, www.ancex.ro.⁴⁶

Romania has at least two organisations registered as participants in the International Action Network on Small Arms (IANSA).⁴⁷ Civil society in Romania has been growing in recent years, primarily through initiatives by the European Institute for Risk Security and Communications Management (EURISC Foundation). Since 2002, EURISC has worked on raising awareness of SALW issues amongst university students through lectures and distributions of relevant literature.⁴⁸ In September 2003, EURISC launched a pilot project in cooperation with the Centre for Information on Security Culture, comprising of increased dialogue on security threats. A further initiative was a resource centre on security issues for high school students and teachers which was scheduled to open in time for the announcement of Romania's full NATO membership on 5 April 2004.⁴⁹

However, arms control has not been a major focus of NGO activity. One researcher argues that there is no public interest in weapons proliferation in Romania because basic societal needs are not being met.⁵⁰ A defence industry trade union has emerged, however, and seeks to protect the jobs of arms makers in these rough economic times.⁵¹ Besides, there is one NGO, which has been especially active in bringing attention to improper arms deals in Romania. With its human rights focus and academic orientation, the Romanian Association for International Law has been conducting research, teaching classes, engaging the Government, and developing law school curriculum that addresses weapons proliferation as a humanitarian issue. However, this group admits that the arms trade is only one of their many concerns, and that ultimately they must place their hope on international NGOs to raise greater awareness of Romania's arms practices.⁵²

1.3 Romanian SALW Perspectives and Realities

As with other countries of the region, Romanian officials admit that there are connections between the spread and availability of SALW and criminal activity. Violent crime is on the rise, and the control of weapons transfers and accessibility are recognised as a necessary component to reducing crime and violence.⁵³ Unlike many of the other Central and East European countries, Romania expresses little concern about military or national security threats in terms of armed attack. Although the country is expected to join NATO in 2004 and has lasting concerns about being prepared for war at all times, Romanian officials stress primarily two perspectives concerning arms trade and SALW proliferation. First, because the Romanian Government is focused on integration with the West, primarily centring on EU membership, there is a recognised need to abide by international SALW obligations, accept international and regional SALW rules and norms, and adhere to all SALW commitments. Romania must play by the non-proliferation norms of the international community if it is to have a chance to derive the economic benefits of integration. Second, due to the salience of domestic economic needs and the need to improve living standards, there is strong pressure to focus on the short-term economic gains that result from breaking arms trade rules and engaging in improper arms deals. The struggle between a long-term interest in integration and a short-term interest in economic payoffs from arms sales is significant in Romania, and officials and citizens remain unsure which perspective will ultimately win.⁵⁴

Table 1. Romania's participation in Regional SALW Regimes and Regional Security Organisations

SALW Control Agreement/ Regional Security Organisation	Romania's Commitment
Euro-Atlantic Partnership Council	yes
EU Code of Conduct on SALW	July 1998
EU Joint Action on SALW	December 1998
Ottawa Convention	Signed, 12/3/97; Not Ratified
OSCE SALW Document	November 2000
OSCE Document on Stockpiles of Conventional Ammunition	December 2003
Nato	Joined, March 2004
Stability Pact Regional Implementation Plan	November 2001
UN Convention Against Transnational Organised Crime	Signed, 14/12/2000; Ratified 04/12/2002
UN Firearms Protocol	February 2004
Wassenaar Arrangement	April 1996

1.4 Recommendations

- **Implementation of SALW legislation:** Despite the establishment of Romanian Counter-Proliferation Group, and the Inter-Ministerial Council to act as checks on the violation of SALW law, illicit arms deals persist. Implementation of arms control legislation is currently weak due to lack of political will and lack of capacity of those bodies responsible for the execution of the law. The Romanian government must prove its commitment to its recent amendments to SALW legislation by increasing funding to ensure that the necessary personnel and infrastructure are in place to implement the controls effectively and consistently. Furthermore, steps must be taken to ensure that high level officials involved in illicit trading are investigated and prosecuted appropriately.
- **Border Controls:** Romania has recently made encouraging progress towards tightening up its border controls, with inter alia, the creation of a Strategy for the Integrated Management of the State Border and increased government spending on infrastructure and equipment for border policing. However, there is still room for improvement on the implementation of these measures on the ground. Furthermore, although cooperation between the Customs Administration and the other enforcement bodies is improving, border control cannot solely be addressed unilaterally and as such, levels of co-operation with the police services of neighbouring states must be strengthened.
- **Harmonise with EU Code of Conduct:** If Romania is to join the EU in 2007 as it hopes, it must make a priority of incorporating the EU Code of Conduct on SALW into its national legislation, taking steps such as maintaining a list of prohibited countries within its export legislation.
- **Transparency:** The production of a report outlining Romania's arms exports during 2000-2001 signalled a fundamental step towards transparency, and set a good precedent for the rest of the countries in South Eastern Europe to follow. However, the report contained no specific information on types, quantities and end-users of military equipment which has been exported or licensed. Maintenance of annual reporting must be sustained, and future annual reports should contain greater and more detailed information.

Endnotes

1. Mariani&Hirst 2002, p. 142; and author's interviews with Romanian officials at the Ministries of Defence and Economy in Bucharest, Romania, October 2000.
2. Ibid.
3. Author's interview with official at the Ministry of Defence, October 2000; also author's interviews with officials at the Ministry of Economy and at the Institute for Political Studies of Defence and Military History in Bucharest, October 2000.
4. For a list of the companies that manufacture SALW in Romania, see the country's profile at <http://www.nisat.org>.
5. 'South Eastern Europe SALW Monitor', SEESAC, 2004, p 146.
6. Author's interview with official at the Ministry of Defence, October 2000.
7. Author's interviews with officials at the Ministry of Defence, October 2000.
8. 'Israeli Arms Dealer Na'or Discusses Romanian Officials' Involvement in Scandal', Ziuia April 10, 2001, found at <http://www.nisat.org>; and "Romanian Newspaper Responds to Defence Ministry's Denials of Arms Trafficking", Romania Libera, May 8, 2002, p. 8, available at <http://www.nisat.org>; also author's interviews with former officials of the Ministry of Defence, and with independent researchers in Bucharest, October 2000.
9. Author's interviews with independent researchers in Bucharest, October 2000.
10. "Daily Details Arms Exports to African Nations", Evenimentul Zilei, March 13, 2002, p. 5, found at <http://www.nisat.org>; "Romanian Firm Found Illegally Importing, Exporting Explosives", Ziuia, September 4, 2001 in FBIS-SOV-2001-0904, at <http://www.nisat.org>; Chibesa, D. "The Gun-Running Sequel in Africa", The Times of Zambia, August 21, 1999, from <http://www.africaqnews.org> and <http://www.nisat.org>; "Daily Reports Romanian Firm's Ties to Taliban", Evenimentul Zilei, March 4, 2002, p. 3, at <http://www.nisat.org>; and "Romanian Arms Export Regulation Agency: No Arms Supplied to Taliban, Al-Quaida", AFP, February 26, 2002, found at <http://www.nisat.org>.
11. Pawson, L. "Governments Defy UNITA Sanctions", BBC, October 30, 2000, available at http://www.iansa.org/news/2000/oct_00/gov_defy.htm; "Romania Exporting Arms in Togo, Burkina Faso, and Angola", Monitorul Online, February 16, 2001, at <http://www.nisat.org>; and "UN Report Suggests Illegal Arms Exports to Angola", Romania Libera, March 4, 2002, p.32, at <http://www.nisat.org>;
12. 'Italian Police Seize Turkish Ship Carrying Weapons From Romania to US', 20 Apr 04, available at www.nisat.org
13. See author for an English translation of the Romanian arms control law.
14. For more on the Romanian legal basis, see author's interviews with officials at the Ministries of Foreign Affairs, Economy, and Defence, October 2000, and Mariani&Hirst, pp. 144-146.
15. Op cit, 'South Eastern Europe SALW Monitor', p 146.
16. See Romania's Report on the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small arms and Light Weapons in all its Aspects, June 2003. See also, 'Arms production, exports and decision making in Central and Eastern Europe', pp 150-3
17. See Article 12, Sections 1 and 2 of the 1999 law #158.
18. See Articles 1 and 3 of the 1999 law #158.
19. Author's interviews with officials at the Ministries of Economy, Foreign Affairs, Defence, and Finance, October 2000.
20. Interviews with officials at the Ministries of Foreign Affairs and Economy, October 2000.
21. See Article 8 of law #158.
22. Op cit, Romania's Report on the UN PoA, 2003
23. Author's interviews with officials at the Ministry of Foreign Affairs, October 2000; and the Romania profile at <http://www.sipri.org>.
24. Author's interviews with officials at the Ministry of Finance, October 2000; and correspondence with Romanian officials, November 2001.
25. Interview with Ministry of Economy officials, October 2000.
26. See Article 17, Section 2 of law #158.
27. Interviews with officials at the Ministries of Finance and Economy, October 2000.
28. Op cit, 'South Eastern Europe SALW Monitor', p147
29. Ibid
30. '2003 Regular Report on Romania's progress towards accession', European Commission, p 109.
31. Mariani&Hirst 2002, p.145; Romania's country profile at <http://www.sipri.org>; and author's interviews with Ministries of Foreign Affairs and Economy, October 2000.
32. Ibid.
33. Author's interviews with officials at the Ministries of Foreign Affairs, Economy, and Defence, October 2000.
34. Ibid.
35. For one of the few cases involving Romanian enforcement, see "Police Intercept Illegal Arms Shipments from Bulgaria", Radio Romania Network, May 15, 1998, found at <http://www.nisat.org>.
36. Human Rights Watch Press Release, October 19, 2000, found at <http://www.hrw.org/press/2001/10/arms-eu-ltr1019.htm>

37. Author's interviews with non-governmental researchers in Bucharest, October 2000.
38. See Article 33 of law #158.
39. Author's interviews with officials at the Ministries of Economy and Foreign Affairs, October 2000.
40. Ibid, and Mariani&Hirst 2002, p. 146.
41. Op cit, 'South Eastern Europe SALW Monitor', p159
42. Author's interviews and correspondence with officials at the Ministry of Foreign Affairs, October 2000, November 2001, and February 2002.
43. Author's interviews with officials at the Ministries of Economy, Foreign Affairs, and Defence, October 2000.
44. Small Arms Survey 2003 – Rights at Risk, Oxford, p 118
45. see <http://disarmament2.un.org/cab/salw-nationalreports.html>
46. Op cit, 'South Eastern Europe SALW Monitor', p160
47. These include: SEESAC Romania and UNDP Romania. See <http://www.iansa.org/regions/europe/romania.htm>
48. Op cit, 'South Eastern Europe SALW Monitor', p157
49. Ibid.
50. Author's interview with a non-governmental researcher, members of the Euro-Atlantic Council, and staff of the European Commission in Bucharest, October 2000.
51. Mariani&Hirst 2002, p. 143.
52. Interviews with members of the Romanian Association for International Law and International Relations, October 2000; and follow-up correspondence in November 2001.
53. Interviews with officials at the Ministries of Foreign Affairs, Economy, and Defence, at the European Commission, Euro-Atlantic Council, and Institute for Political Studies of Defence and Military History, October 2000.
54. Ibid.