

INTERNATIONAL CENTRE FOR THE SETTLEMENT OF
INVESTMENT DISPUTES

-----x
 In the Matter of Arbitration :
 Between: :
 :
 GABRIEL RESOURCES LTD. and GABRIEL :
 RESOURCES (JERSEY) LTD., :
 : Case No.
 Claimants, : ARB/15/31
 :
 and :
 :
 ROMANIA, :
 :
 Respondent. :
 -----x Volume 11

HEARING ON THE MERITS

Friday, December 13, 2019

The World Bank Group
1225 Connecticut Avenue, N.W.
C Building
Conference Room C3-150
Washington, D.C.

The hearing in the above-entitled matter came on
at 8:30 a.m. before:

PROF. PIERRE TERCIER, President of the Tribunal

DR. HORACIO A. GRIGERA NAÓN, Co-Arbitrator

PROF. ZACHARY DOUGLAS, Co-Arbitrator

ALSO PRESENT:

MS. SARA MARZAL YETANO
Secretary to the Tribunal

MS. MARIA ATHANASIOU
Tribunal Assistant

Court Reporters:

MR. DAVID A. KASDAN
MS. MARGIE DAUSTER
Registered Diplomate Reporters (RDR)
Certified Realtime Reporters (CRR)
B&B Reporters
529 14th Street, S.E.
Washington, D.C. 20003
info@wwreporting.com

Interpreters:

MS. MARLIENA FILIP

MS. ALEXANDRA IULIANA MLADEN

MS. ALEXANDRA DOBRIN

ALSO PRESENT:

Attending on behalf of the Claimants:

MS. ABBY COHEN SMUTNY
MR. DARRYL LEW
MR. BRODY GREENWALD
MR. PETR POLÁŠEK
MR. HANSEL PHAM
MR. FRANCIS VASQUEZ JR.
MR. ANDREI POPOVICI
MS. GABRIELA LOPEZ
MR. FRANCIS LEVESQUE
MR. WILLIAM STROUPE
MS. NATALIA TCHOUKLEVA
MR. JACOB TRUMM
MS. DARA BROWN
MS. ALYSSA HOWARD
White & Case, LLP
701 13th Street, N.W.
Washington, D.C. 20005
United States of America

MR. FLORENTIN TUCA
MS. IDA-LEVANA ZIGMUND
MS. ANCA DIANA PUSCASU
MS. OANA-MIRUNA URECHE
MS. RUXANDRA NIȚĂ
MS. ANGELICA-IULIANA HOGAȘ-PINTILIE
MR. CORNEL POPA (via video for Prof. Birsan)
Țuca Zbârcea & Asociații
Sos. Nicolae Titulescu nr. 4-8
America House, Aripa de Vest, et. 8
Sector 1, 011141, Bucuresti
Romania

APPEARANCES:

Represent Gabriel Resources Ltd.:

MR. SIMON LUSTY

MR. RICHARD BROWN

Representing Roşia Montană Gold Corporation:

MR. MIHAI BOTEA

APPEARANCES: (Continued)

Attending on behalf of the Respondent:

DR. VEIJO HEISKANEN
MR. MATTHIAS SCHERER
MS. NORADÈLE RADJAI
MS. LORRAINE de GERMINY
MR. CHRISTOPHE GUIBERT de BRUET
MR. DAVID BONIFACIO
MR. BAPTISTE RIGAUDEAU
MS. EMILIE McCONAUGHEY
MS. NICOLE CHALIKOPOULOU
MR. PATRICIO GRANE
MS. STELA NEGRAN
Lalive
35, rue de la Mairie
CH - 1207 Geneva
Switzerland

DR. CRENGUȚA LEAUA
MS. ANDREEA SIMULESCU
MS. MIHAELA MARAVELA
MS. LILIANA DEACONESCU
MS. ANDREEA PIȚURCĂ
MS. ANDRA SOARE FILATOV
Leaua Damcali Deaconu Paunescu
10 Zborului Street, sector 3
030595, Bucharest
Romania

C O N T E N T S

	PAGE
PRELIMINARY MATTERS.....	3138
WITNESSES:	
IAN THOMSON (resumed)	
Redirect examination by Dr. Heiskanen.....	3142
Questions from the Tribunal.....	3148
AUGUSTIN STOICA	
Direct presentation.....	3160
Cross-examination by Mr. Greenwald.....	3181
Redirect examination by Ms. de Germiny.....	3299
Questions from the Tribunal.....	3303
ALINA POP	
Direct presentation.....	3315
Cross-examination by Mr. Polášek.....	3338
Redirect examination by Ms. McConaughey.....	3393
Questions from the Tribunal.....	3402

P R O C E E D I N G S

1
2 PRESIDENT TERCIER: Good morning, ladies and
3 gentlemen. My honor to open the 11th Day in the
4 First Session of the Hearings in the ICSID
5 Arbitration Case 15/31 between Gabriel Resources and
6 Gabriel Resources (Jersey) Limited versus Romania.
7 It will be our last day of hearing for this session.
8 I hope very much that it will be also extremely
9 informative and constructive.

10 Just a few points, not a lot. Thanks, of
11 course, first, starting every morning with our thanks
12 to our Court Reporters for their Transcript. I thank
13 also Sara for the report on time. I'm happy that we
14 could yesterday agree on the time that is left to
15 each Party.

16 And I recall you that we have agreed that we
17 will start at 8:30--that is already done--and that we
18 are ready to work until 6:30, if necessary. So far
19 that's not been mandatory, but in case we need it, we
20 will of course do it. But we have, in any case, to
21 have some reserve for discussion concerning the next
22 step.

1 By the way, had you an opportunity to see,
2 to check whether the proposals made by the Arbitral
3 Tribunal could be agreeable with you?

4 Ms. Smutny.

5 MS. COHEN SMUTNY: I think we'll--the answer
6 is no, we've not been able to check with all of the
7 people that we need to be able to check with, but
8 maybe we'll--we'll certainly be able to have, we
9 hope, a meaningful conversation at least by the end
10 of the day.

11 PRESIDENT TERCIER: Okay.

12 MS. COHEN SMUTNY: With some indications,
13 yeah.

14 PRESIDENT TERCIER: Okay. On your side?

15 DR. HEISKANEN: The same situation,
16 Mr. President. We have been able to communicate with
17 most of our experts, but not all of them, but
18 hopefully we will get the feedback from the remaining
19 ones in the course of the day.

20 PRESIDENT TERCIER: Okay. And in the course
21 of the day, also we could have the time to discuss
22 the next step. In particular we still have the

1 question of possible post-hearing, post first hearing
2 brief with a rebuttal, and to question that we would
3 like to discuss, whether we should not already have a
4 first provisional post-hearing based on what we have
5 heard because, in the meantime, we imagine that the
6 Tribunal will certainly not wait until everything is
7 done already with the work, so we can discuss it, if
8 you agree.

9 MS. COHEN SMUTNY: Yes.

10 PRESIDENT TERCIER: And on your side, too?

11 DR. HEISKANEN: Of course.

12 PRESIDENT TERCIER: Good.

13 If nothing else on your side, nothing new?

14 On your side, Respondent?

15 DR. HEISKANEN: No.

16 PRESIDENT TERCIER: Okay. So, please,

17 Mr. Polášek.

18

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[Redacted text]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[Redacted line of text]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 (Witness steps down.)

18 PRESIDENT TERCIER: Well, we can now move on
19 to Professor Stoica, it's the Professor--yeah,
20 Dr. Stoica.

21 AUGUSTIN STOICA, RESPONDENT'S WITNESS, CALLED

22 PRESIDENT TERCIER: Are we ready?

1 MR. GREENWALD: Yes, thank you.

2 PRESIDENT TERCIER: The other side, too?

3 Fine. Ladies and gentlemen, I suggest to go on.

4 Good morning, Dr. Stoica.

5 THE WITNESS: Good morning.

6 PRESIDENT TERCIER: Welcome in this
7 proceeding.

8 THE WITNESS: Thank you.

9 PRESIDENT TERCIER: I don't need to ask you
10 in which languages you will testify. I think,
11 Stanford should have had an impact on you. I don't
12 need to introduce the Members of the Tribunal, I
13 assume you know who the members of the Tribunal are,
14 so we may go further.

15 You will be heard in this procedure as an
16 expert; as such, I would like to invite you to read
17 the Declaration that must be in front of you.

18 THE WITNESS: I solemnly declare upon my
19 honor and conscience that my statement will be in
20 accordance with my sincere belief.

21 PRESIDENT TERCIER: Thank you very much.

22 You have prepared for this proceeding an

1 expert opinion.

2 THE WITNESS: Yes, I did.

3 PRESIDENT TERCIER: Regarding the causes of
4 the 2013 protests in Romania and related issue, dated
5 5th of May 2019.

6 Do you have this document in front of you?

7 THE WITNESS: Yes, I do.

8 PRESIDENT TERCIER: Can you confirm the
9 content of this document, or do you wish to make
10 amendments or corrections?

11 THE WITNESS: I confirm it.

12 PRESIDENT TERCIER: Thank you very much.

13 You know also the procedure. You will start
14 with your presentation. According to the Agreement
15 it was 20 minutes, around 20 minutes. Then you will
16 have the cross-examination, one hour 10 minutes, with
17 flexibility, could be more. And then we'll have the
18 redirect that will follow, and then the Tribunal will
19 have the right to ask questions whenever we feel it's
20 necessary.

21 Is that clear to you?

22 THE WITNESS: Yes.

1 PRESIDENT TERCIER: One just important
2 point, for the Transcript, it is important to avoid
3 any overlapping with the person who speaks before
4 you, okay?

5 THE WITNESS: Okay.

6 PRESIDENT TERCIER: Good. We start with the
7 traditional questions for you.

8 Could you in a few words introduce yourself
9 first, Question A; and Question B, can you also in a
10 few words tell us the process that had been followed
11 for the preparation of your Expert Opinion.

12 THE WITNESS: Thank you, Mr. President and
13 Members of the Tribunal.

14 Can you put that up?

15 So, my name is Augustin Stoica. I hold a
16 Ph.D. in sociology from Stanford University. My
17 research interests center on political sociology,
18 research methods, public-opinion polling, social
19 movements. I actually co-edited a book on the
20 protests in Romania in January-February 2012.

21 I'm currently an Associate Professor of
22 Sociology at a local university in Bucharest, and for

1 eight years I was the General Manager of a private
2 firm for social and market research. And, in that
3 quality, I coordinated numerous studies for various
4 domestic and international clients which are listed
5 on the slide.

6 Now, as regards this Report, I was contacted
7 by the counsel for Romania to provide an expert
8 opinion on certain issues which I will comment on in
9 my presentation. And, in writing this Report, the
10 research I'd done, I conducted it by myself. How I
11 did it, well, first of all, I read thoroughly
12 Dr. Boutilier's Report. I re-read his sources,
13 double-checked his sources, and also selected other
14 sources that I deemed relevant for my--for writing my
15 opinion on it.

16 PRESIDENT TERCIER: Okay. Thank you very
17 much.

18 So, you may proceed.

19 THE WITNESS: Okay, thank you.

20 DR. HEISKANEN: Just to remind what we
21 indicated yesterday, his presentation will be 30
22 minutes, as we--

1 PRESIDENT TERCIER: Sorry, I had seen it.

2 DIRECT PRESENTATION

3 THE WITNESS: So, as I said, I was
4 instructed to provide an expert opinion in relation
5 to the views expressed by Dr. Boutilier, but only
6 from his Section 4 of his expert opinion also on the
7 causes, magnitude, and the impact of the protests
8 from 2013 and early 2014 in Bucharest and other
9 cities, and also to compare these protests with other
10 protests that had taken place prior or took place
11 after these protests. I was also asked to comment on
12 some of--some nationwide and local opinion polls
13 which were put at my disposal by the counsel for
14 Romania.

15 Now, the structure of my presentation, I
16 will briefly present a summary of Dr. Boutilier's
17 opinion from Section 4, then a summary of my opinion,
18 the methodology. I will comment on some problematic
19 aspects in Dr. Boutilier's opinion. Then I will
20 present you my opinion on three issues which are
21 listed on the slide, and I will comment on the
22 limitations of some nationwide and local surveys

1 included in Dr. Boutilier's opinion.

2 Now, here is the summary of Dr. Boutilier's
3 opinion from Section 4. His main conclusion is that
4 these "protests were a part of a growing movement in
5 favor of democracy and the rule of law." Now, his
6 position reminds me of the notion of false
7 consciousness, that is, these people were protesting,
8 but the real motive of their protests were hidden to
9 them, or it's just, to paraphrase another quote,
10 "Father, forgive them for they don't know what
11 they're protesting for," so he believed that these
12 protesters were actually protesting in favor of
13 democracy and the rule of law while people on the
14 streets thought otherwise.

15 This movement, he says, is referred to as
16 the "anticorruption movement" because of the
17 supportive work conducted by the National
18 Anticorruption Directorate in fighting corruption.

19 Now, my opinion is that the protests that
20 started in the fall of 2013 were an expression of a
21 pre-existent social movement that opposed the mining
22 project since early 2002, first at the local level

1 and then nationwide and even abroad. I will show
2 that the protests from Bucharest in 2013 had
3 environmental concerns as their main underlying
4 theme, and not Government corruption or the fight for
5 rule of law.

6 Dr. Boutilier's opinion is based, in my
7 view, on unreliable, highly questionable sources such
8 as Wikipedia, on sources that discuss Romania's
9 situation in 1998, or on academic writings on
10 different cases such as Armenia, which is a former
11 USSR Republic. Romania is not; it's never been.

12 In the interest of time, I will refer the
13 Tribunal to Page 7 on my presentation, where I
14 detailed the methodology that I employed in writing
15 my Report.

16 Now, I will go on and comment on his
17 problematic sources. You might have heard about this
18 issue yesterday from the counsel of Romania.

19 Throughout Section 4 of his opinion, one out of five
20 references about the 2013 protests is from a Wiki
21 page on that protest. Now, Wikipedia, which should
22 not be quoted even by undergrad students when they

1 write their papers except for the cases when they
2 write a paper about Wikipedia, is a collaborative
3 work to which anyone can contribute. It's written
4 collaboratively by largely anonymous volunteers.
5 Anyone with internet access can write and make
6 changes. Users can contribute anonymously under a
7 pseudonym, or if they choose to, with their real
8 identity.

9 And Exhibit C-2833 relied on by
10 Dr. Boutilier, there is a list of 23 alleged causes,
11 and they were taken from that page, but only 10 of
12 these alleged causes were referenced on that Wiki
13 page to outside identifiable sources, and six out of
14 these 10 are linked to an article written by
15 journalists. In my reading of it, that journalist
16 did not attempt to make an inventory of the causes of
17 these protests. So, only 10 of these alleged causes
18 are sourced, while the majority, 13 that is, are not.

19 Now, against this backdrop, one can
20 reasonably wonder who came up with these
21 causes--Wikipedia is open to all--when did they do
22 this and why? In addition, some of these causes

1 cannot be undeniably deemed anticorruption or
2 anti-government. Now, you've seen this before. This
3 is a print-screen from that page, Wiki page, on the
4 Romanian protest, and you see there I've circled
5 something in red; you'll see it on the next slide.
6 That's a warning: "The neutrality of this Article is
7 disputed."

8 Now, yesterday, Dr. Boutilier claimed that
9 this is a good thing because he was invoking
10 political leanings of various people who might
11 contribute to official and academic journals and to
12 Wikipedia. Wrong. This is not a problem about, you
13 know, left wing or right ring. It's a problem about
14 the reliability of Wikipedia. And if you go on that
15 page right now, you can see, you can read that the
16 protests are still going on, also the names of some
17 participants, the affiliations of some participants
18 that the protests are incorrect but I want to show
19 you the results from the internet archive that shows
20 I did a search on this internet search archive and
21 found out that this neutrality-related warning was in
22 place September 15, 2018, one month prior to

1 Dr. Boutilier's last accession of this page, and he
2 did not mention this in his Report.

3 Moreover, the last edit to this page was
4 made on 22nd September 2018, and he last accessed the
5 page, I believe, in October '16.

6 Now, I'm not trying to imply that
7 Dr. Boutilier went and changed anything there, but
8 I'm trying to say that Wikipedia is not a reliable
9 source, and it's an ongoing project, and usually
10 anyone can contribute to it. Usually people with too
11 much time on their hands and who are bored with
12 Facebook, in my opinion, but that's just my opinion.

13 Other problematic sources employed by
14 Dr. Boutilier discussed Romania's situation in 1998
15 or again invoked different cases such as Armenia.
16 Now, Armenia, Romania, now they might sound, but
17 they're different. Based on such sources and on a
18 selective misreading of other academic works that
19 dealt with social movements, he claims that Romania's
20 civil society is weak, somewhat unable to mobilize,
21 especially in regard to the environment, but it's
22 unclear to me how the alleged weakness of the

1 Romanian civil society is evidence that the protests
2 from 2013 were anticorruption or anti-government.

3 Now, here is my opinion on the Romanian
4 civil society. Assessing the strength or the
5 weakness of the Romania's civil society can be done
6 in various ways, like one way is to compare Romania
7 from now or from 2013 with Romania from 1989 under
8 Ceausescu.

9 Now, from the standpoint, Romania's civil
10 society has grown significantly, and as you can see
11 there, as discussed in my Report during the first
12 decade since the collapse of Communism, Romanians
13 held at least 112 protests for a wide variety of
14 reasons from economic to political to social reasons,
15 and such protests were usually organized by trade
16 unions, NGOs, and political parties in particular
17 during the electoral campaigns.

18 Now, this seems to contradict
19 Dr. Boutilier's views that portrayed the local
20 protest culture as both weak and being mainly driven
21 by anticorruption themes.

22 Now, my opinion on Romanians'

1 environment-related activism, I employed data from a
2 large-scale, academic comparative study World Values
3 Survey, and I compared environment-related activism
4 in Romania, Poland, and Estonia and Slovenia. Now,
5 these were the only four former Communist countries
6 that were included in that wave of that survey. I
7 did not include--I did not compare these four former
8 Communist countries with Western countries such as
9 The Netherlands, Sweden, Germany, which obviously
10 have longer democratic tradition and a stronger
11 environment movement.

12 Now, there is a reason why young activist
13 Greta Thunberg comes from Sweden and not from
14 Romania; right?

15 Now, in terms of active and inactive
16 membership in ecological organizations, Romania fares
17 worse than Slovenia but better than Poland and
18 Estonia in terms of the percentage of people who
19 donated money to an environmental organization during
20 the past two years prior to the survey, Romania with
21 9.9 percent, first there was Slovenia but better than
22 both Poland and Estonia.

1 Now, mind you, in Romania, the survey was
2 conducted in 2012 after the severe austerity measures
3 imposed on Romania, but despite that, you still have
4 nearly one in 10 adult Romanians who donated money to
5 an ecological organization.

6 However, Romania fares much better than
7 Estonia, Poland and Slovenia, when it comes to
8 participating in
9 protests-related--environmental-related protests,
10 excuse me, so 9.9 percent, or nearly one in 10
11 adults, participated in a demonstration for the
12 environment in the last two years. Now the figures
13 for the other countries are dismal. Look at Poland,
14 0.9 percent.

15 Now, Romanians were well aware of the
16 dangers implied by cyanide mining, and you've heard
17 this before here, in 2000, there was a cyanide spill
18 that affected the City of Baia Mare.

19 In March 2012, locals in an eastern city of
20 the country rallied to express their concerns
21 vis-à-vis Chevron's plans to explore and exploit
22 shale-gas through hydraulic fracturing.

1 Opponents of this mining project were
2 present at various other protests prior to 2013
3 unlike the protests from January-February 2012, but
4 those protests were triggered by other issues, and
5 they were mainly concerned with the effects of the
6 austerity measures which I just mentioned. I covered
7 these protests in a book I co-edited and published in
8 2012.

9 Now, in August-September 2012, as the
10 General Manager of that private survey firm, I
11 conducted a nationwide opinion poll for two private
12 Romanian entities. You have the technical details on
13 the slide of the sample. The survey also included
14 questions about the demands of people who protested
15 in January-February 2012. We asked respondents
16 whether they agreed or not with the demands expressed
17 by protesters earlier that year, including stopping
18 the mining project at Rosia Montana.

19 Now, we asked all respondents irrespective
20 or whether or not they participated in the protests
21 in January: And, according to this survey,
22 60 percent of respondents were in favor of stopping

1 the mining project at Rosia Montana. This was
2 recorded a year before the protests in 2013.

3 So, contrary to Dr. Boutilier's views is my
4 opinion is that these protests were an expression of
5 a pre-existent social movement, the "Save Rosia
6 Montana" campaign established in 2002. Since then
7 this campaign had numerous actions and initiatives, I
8 will comment on briefly. And the protests were
9 specifically against this project.

10 Now, they were triggered by Ponta's
11 Government submission to the Parliament of a Draft
12 Law on gold-mining, but we should distinguish between
13 a triggering event and the causes and the themes of
14 discontent expressed by protesters. Probably, the
15 opponents of this mining project, so the Government's
16 action as the final nail in the coffin of their long
17 efforts to stop this, it was a panic situation,
18 crisis situation.

19 Now, these protests were an expression of a
20 pre-existent social movement. This movement was
21 founded on July 28, 2012, but other resistance
22 activities have taken place in the area prior to that

1 date.

2 Now, from the officially assumed history of
3 this campaign, I counted the number of actions
4 undertaken within this campaign. By actions I
5 referred to public meetings, protests, festivals,
6 marches, awareness campaigns, flash mobs, and occupy
7 type actions.

8 This here are the results of my counting
9 analysis. Between 2002 and 2013, there were 34 such
10 protest actions which took place in Romania or
11 abroad. That represents an average of three actions
12 per year, excluding the 2013 protests. Approximately
13 35,000 individuals participated in these events. And
14 these actions increased the awareness of the "Save
15 Rosia Montana" campaign and brought international
16 support to it.

17 In addition to these protest actions, there
18 were 78 court and administrative petitions filed
19 against this mining project between 2004 and
20 September 2013. Again, supporters of this campaign
21 were present at other protests which took place prior
22 to 2013, and their presence is documented in

1 non-academic and academic writings, including, excuse
2 me, shameless self-promotion, the book that I
3 co-edited on the protests.

4 Now, just to show you the anti-mining
5 character of the planned protest, this is a
6 print-screen from a Facebook invite. Now, in
7 Facebook parlance, this is an invitation, it's like a
8 public call, public announcement, please come, we are
9 organizing this event. So, as you can see there,
10 this is an invitation to attend the September 1st
11 protest, the first one, as it says there, the protest
12 against "The Law for Rosia Montana's Destruction:
13 NOT IN MY NAME."

14 This is a photo taken from a second invite
15 to another protest, and as you can see there, it's a
16 global action call for Rosia Montana. This photo is
17 taken from this invitation to attend the September 15
18 protest, and you can see there the demands of the
19 protesters: To determine the MPs, to meet them, the
20 protesters and to vote against the destruction of
21 Rosia Montana, to annul the Contract between the
22 Government and RMGC, to outlaw all cyanide mining in

1 Romania and Rosia Montana, and include Rosia Montana
2 in UNESCO cultural heritage.

3 Now, unlike Dr. Boutilier, I was a witness
4 to two of these demonstrations. I found out from
5 Facebook about the planned protests, and given my
6 interest in such events, I decided to go there. What
7 I did was participant observation.

8 I attended two rallies, but the rallies and
9 marches continued until early 2014. The anti-mining
10 Project character of these protests is clearly
11 visible from the hundreds of photos and videos taken
12 by various individuals at the protests. Now, I
13 believe that images speak louder than words, and I
14 will show you a few photos that you might have seen
15 before. I will ask the Members of the Tribunal to
16 please note on the photo the signs, the logo of the
17 "Save Rosia Montana" campaign, that leaf, green and
18 red, so these are protesters marching downtown
19 Bucharest near the Roman Square.

20 This is another photo with mothers, their
21 toddlers in strollers; and, as you can see, three of
22 the mothers also hold signs with the logo of the

1 "Save Rosia Montana" campaign. They were marching
2 ahead of the column of the demonstrators in downtown
3 Bucharest.

4 This is another photo. These are protesters
5 holding a banner that reads: "Rosia Montana without
6 cyanide," and there is an invitation to sign a
7 petition for it.

8 And again, another photo also downtown
9 Bucharest, it's from a different angle, but I would
10 once again ask you to look at the sea of signs with
11 the logo of the "Save Rosia Montana" campaign. This
12 is also near the Roman Square in Bucharest.

13 I will move to discuss on some national
14 polls. I'm aware of the fact that there has been a
15 significant number of public-opinion polls, focus
16 groups, conducted in relation to this project. These
17 polls were conducted nationwide locally by
18 professional institutes or by the company I
19 understood or by other entities. I was asked by
20 Romanian counsel to comment only on some polls, and I
21 will begin by commenting on IMAS polls conducted
22 nationwide between the 2008 and 2014. The attitudes

1 towards this mining project was measured using two
2 questions. One question asked respondents whether
3 they heard about a project or not, yes-no, and
4 another question asked only respondents who had heard
5 about the Project whether they agree with the
6 implementation of the Project. You see there the
7 response choices.

8 Now, such response choices resemble
9 attitudes and all scales. Methodologically correct
10 response choices should be symmetrical. They should
11 have an equal number for agreeing, supporting, and an
12 equal number for disagreeing or not supporting.

13 Now, in this case, answers to these
14 questions are grouped and interpreted as follows:
15 "Entirely support, Support to a large extent" as
16 signaling "support"; "Support to a small extent, Not
17 at all support" as "opposition." At times,
18 Dr. Boutilier interpreted these response choices in a
19 peculiar way. Boosting support for the Project, he
20 claimed that "entirely supports, Support to a large
21 extent," "Support to a small extent" means "Support,"
22 and only "Not at all support" means opposition or

1 strong opposition, but this is not the problem. The
2 problem is that in other places he grouped these
3 choices correctly, as they should have been grouped.

4 In addition, Dr. Boutilier claims that those
5 who are undecided, Respondents who did not answer the
6 question, are not against the Project. Now, he
7 offers no additional data to show why the undecideds
8 should be counted in the category of supporters, but
9 by doing so, he boosts again support for the Project.

10 Now, in this nationwide polls, support for
11 the Project was calculated only on the sub-sample of
12 Respondents who have heard about a project.

13 Mr. Tănase said that support for the Project steadily
14 increased from 34.3 percent to 54, but, in fact, when
15 the entire sample is taken into account, including
16 Respondents who did not hear of the Project, support
17 for the Project in IMAS's polls never reached
18 50 percent because we got the--the sample was, the
19 entire sample was representative for Romania's
20 population, not the sub-sample of those who had heard
21 about the Project. What are we to do with people who
22 hadn't heard of the Project? Just kick them out of

1 the country, or not take them into account? I don't
2 know.

3 So, the highest level of support for the
4 Project in IMAS's polls was reached in December 2012
5 and had a value of 42.7 percent at the level of the
6 entire sample, not at the level of a sub-sample.

7 I will now comment on two local studies.
8 One was conducted by an association "Muntii Apuseni."
9 While similarly this was a census-type study
10 conducted on all households in the Rosia Montana
11 Commune, but the report states that for 132
12 households, the information was taken from the
13 agricultural register.

14 Now, it is unclear how relevant such a
15 survey's census is as long as only one part of the
16 sample was interviewed directly.

17 The exhibit containing the study provides no
18 information on how respondents within households were
19 selected. That is, who answered this survey? Was it
20 the oldest person? Was it the person that earns the
21 highest income in the household? Were children
22 interviewed in the census?

1 Now, lacking this information makes it
2 difficult for me to assess its relevance.

3 Moreover, the interviews, according to the
4 exhibit containing this study, the interviews were
5 conducted by 20 operators selected from the
6 community. Using non-professional interviewers from
7 the local community raises further questions
8 regarding the impartiality of the data collection
9 activities. Like who are these people? Were they in
10 any way associated with the Company? Hmm. Were they
11 promised jobs? I don't know. There is no
12 information.

13 Now, the second local poll was conducted by
14 the same association in 2011. This time around it
15 was on a sample of a little over 1300 cases in four
16 towns. This opinion poll also included questions
17 regarding the support for the mining project, but the
18 relevance of this opinion poll, especially how
19 representative its results are because this is what
20 it's all about, is difficult to assess for the
21 following reasons.

22 Now, it is said that the sampling unit was

1 the household, but no information was given on how
2 the sub-samples in each town were allocated. Was it
3 proportional allocation of households in each town?
4 Was it an equal number?

5 And then how were households selected in
6 each locality? Were they randomly selected or not?

7 Again, how were Respondents within
8 households further selected? Who answered the
9 survey? And again, who conducted the face-to-face
10 interviews? Were interviewers, again, unprofessional
11 locals or were they from outside the community,
12 probably some professional interviewers that could
13 have been hired from a professional firm?

14 Now, in the interests of time, I will refer
15 the Tribunal to the last two pages of my
16 presentation, which contained the conclusions of what
17 I've just said in my presentation. You want me, I
18 can go through it, if you want.

19 PRESIDENT TERCIER: Yeah, otherwise, we will
20 read it, but--

21 (Overlapping speakers.)

22 THE WITNESS: So, first of all, the

1 protests, the 2013 protests were an expression of an
2 11-year-old resistance movement against this project.

3 The 2013 protests were not narrowly focused
4 against the particular Government or its alleged
5 corruption, and I have shown data about the actions
6 taken by opponents of this project since 2002, not
7 only protest actions but administrative petitions
8 and challenges in court.

9 The main theme of the 2013 protest was to
10 stop the mining project at Rosia Montana out of
11 concerns for the environment and fears of another
12 ecological disaster like the one from 2002.

13 The sources employed by the Claimants'
14 expert to suggest that this was, in fact, an
15 anticorruption protest have a
16 significantly--significant reliability issues. Now,
17 the evidence attests that the environmental concerns
18 motivated people to take to the streets on
19 September 1st.

20 And, finally, some of the nationwide surveys
21 and opinion polls submitted by the Claimants on which
22 I was asked to provide an opinion lack minimal

1 methodological details that would allow me--would
2 have allowed me to evaluate their relevance, so their
3 results should be treated with great caution.

4 As I said, support data for support or
5 opposition to the mining project were presented in a
6 debatable manner, and other similarly--some surveys
7 conducted at local level appear to have been carried
8 out unprofessionally. Lacking methodological details
9 from their Report makes it difficult for me to assess
10 their relevance.

11 Thank you, sir.

12 PRESIDENT TERCIER: Thank you very much,
13 Dr. Stoica.

14 You have the floor.

15 MR. GREENWALD: Thank you, Mr. President.

16 PRESIDENT TERCIER: And you organize it as
17 you wish. There certainly will be a break somewhere.

18 MR. GREENWALD: Thank you, Mr. President.

19 CROSS-EXAMINATION

20 BY MR. GREENWALD:

21 Q. Good morning, Dr. Stoica. I'm Brody
22 Greenwald, I'm one of the attorneys for Gabriel, the

1 Claimants in this arbitration. We're going to spend
2 the next few hours talking about two topics:

3 First, we're going to talk about the 2012
4 protests, and we're going to pass out a binder here,
5 and then we will turn to the 2013 protests, so let's
6 begin with the 2012 protests in Romania, early 2012.

7 Prime Minister Emil Boc resigned after weeks
8 of protests that lasted from January 10 to
9 February 6, 2012; is that right?

10 A. Yes, I remember so, yeah.

11 Q. And tens of thousands of Romanians took part
12 in those protests?

13 A. I believe that's a fair estimate.

14 Q. You attended those protests in 2012?

15 A. I did. I did go there, did participant
16 observation, and as I said, ended up editing a book
17 on the protests from January-February 2012.

18 Q. You also attended the one-year celebration
19 of the protests?

20 A. I went there but there was no celebration,
21 only four people showed up at the protest, as I
22 specified in my blog.

1 Q. You also interviewed many of the protesters
2 at the January to February 2012 protest?

3 A. I interviewed some or many--my Article is
4 based on some interviews and informal discussions
5 with protesters in 2012, yes.

6 Q. Those protests were triggered by the
7 allegedly forced resignation of Dr. Raed Arafat?

8 A. Yes, that's correct.

9 Q. Dr. Arafat helped build the National Mobile
10 Emergency Service for Resuscitation and Extrication,
11 otherwise known as "SMURD"?

12 A. Yes, that's correct.

13 Q. Dr. Arafat resigned after a televised
14 dispute on January 9, 2012, with the President,
15 Traian Băsescu?

16 A. Yes, there was a televised debate.

17 Q. President Băsescu supported the adoption of
18 a Draft Law, a new Health Law, that would have
19 privatized the national medical emergency system
20 developed by Dr. Arafat; is that right?

21 A. That was the public perception, I believe
22 so, yes, that's correct.

1 Q. Okay. If we go to Paragraph 62 of your
2 Expert Report in this arbitration. We will put that
3 on the screen.

4 Your opinion in this arbitration is that the
5 January to February 2012 demonstrations attracted a
6 wide range of dissatisfied citizens with extremely
7 varied themes of discontent, and then on the next
8 page in that same paragraph--

9 A. Excuse me, just a second. 16?

10 PRESIDENT TERCIER: Take your time. 62, it
11 is on the screen, but you can also put it in your--

12 BY MR. GREENWALD:

13 Q. It continues from Pages 32 to 33. So, if
14 you want to take a look at that.

15 A. Yeah.

16 Q. Your opinion in this arbitration, starting
17 on Page 32 in Paragraph 62 is that "the January to
18 February 2012 demonstrations attracted a wide range
19 of dissatisfied citizens with extremely varied themes
20 of discontent," and then you continue on the next
21 page in that same paragraph and say that: "Among
22 this highly diverse mass of demonstrators, one group

1 apparently stood out." Right? You see that?

2 A. Yes.

3 Q. And you testified the group that stood out
4 in these 2012 protests was the group of anti-RMGC
5 mining project activists; right?

6 A. Yes. This is what I wrote.

7 Q. All right. Let's look at the evidence that
8 you say supports that statement, and it's several
9 excerpts from this book that you've mentioned a
10 number of times in your presentation. So, if we
11 start with Paragraph 62, you're referring to the
12 volume you co-edited on these protests; right?
13 Paragraph 62, you refer to the volume you co-edited?
14 That's the book you've been referring to in your
15 presentation?

16 A. Yes, that's correct.

17 Q. Okay. And if you look at Paragraph 63, you
18 refer first to a contribution by Emanuel Copilas to
19 the book that you co-edited; correct?

20 A. Yes, that's correct.

21 Q. And Mr. Copilas was then an Assistant
22 Professor of political science in Timisoara; is that

1 right?

2 A. That's correct.

3 Q. Okay. Let's look under Tab 1 of your
4 binder. You'll find the excerpt provided from
5 Professor Copilaş's contribution to your book, and if
6 you turn to the second and third pages, we can see
7 that Professor Copilaş's--Professor Copilaş's
8 contribution was almost 50 pages, and only one
9 sentence has been translated; correct?

10 A. Well, if it's on the record, yes.

11 Q. You can see the Table of Contents is--the
12 book chapter prepared by Professor Copilaş goes from
13 Page 112 of your book to 160. It's almost 50 pages;
14 right?

15 A. Yes, that's the page.

16 Q. Okay. And only this one sentence is
17 translated and submitted as an exhibit to your
18 Report; correct?

19 A. Yes.

20 Q. Okay. Are you aware that the Claimants
21 asked Romania to submit a complete copy of Professor
22 Copilaş's book chapter and Romania refused on the

1 ground it was relevant only in part, and there's no
2 need to resubmit the exhibit? Are you aware of that?

3 A. No, I'm not aware of that.

4 Q. You weren't consulted about whether
5 this--only this one sentence should be submitted?

6 A. I can't recall being consulted.

7 Q. You can recall or cannot recall?

8 A. I cannot recall.

9 Q. Did you choose to submit only this one
10 sentence as an exhibit to your Report?

11 A. I believe I submitted the entire book.

12 Q. Okay. So, counsel for Romania chose to
13 submit only this one sentence; that's your testimony?

14 A. I cannot say because I did not know the
15 administrative work done by the counsel of Romania.

16 Q. Okay. That one sentence does not indicate
17 the anti-Project activists stood out at the protest,
18 does it, Dr. Stoica?

19 PRESIDENT TERCIER: If you want to read it
20 again, you can do it.

21 (Witness reviews document.)

22 THE WITNESS: Well, I believe that in the

1 paragraph what I said that they stood out, I referred
2 to the--all of the protests from that time, and they
3 took place in Timisoara and Bucharest and Cluj.

4 BY MR. GREENWALD:

5 Q. We'll come to the others, I'm asking about
6 this one sentence. It does not say the anti-Project
7 protesters stood out at the protests. It says one
8 person, a legal counsel, Florin Arhire, went to the
9 protests and passed out fliers. That's what that one
10 sentence says, isn't it, Dr. Stoica?

11 A. So, in my reading of my own report, I note
12 that one group stood out, in a paragraph, and then I
13 provide some examples of these.

14 Q. I'm asking about this example. It says one
15 person showed up and passed out fliers. That's what
16 this says; correct?

17 A. Well, that's what it says.

18 Q. Okay. Now, still in Paragraph 63 of your
19 Report, you next refer to a contribution to your book
20 by Călin Goina. Did I say that right?

21 A. Yes.

22 Q. And Călin Goina was an Assistant Professor

1 of Sociology in Cluj; right?

2 A. That's right.

3 Q. Okay. And if we turn to Tab 2, here we have
4 the same Table of Contents from the same book. This
5 is Stoica Exhibit 23. The one we were looking at was
6 Stoica 22, this is Stoica 23.

7 It's the same book with the same table of
8 contents; correct?

9 A. Yes, that's correct.

10 Q. Okay. And Professor Goina's book chapter
11 goes from 198 to 231, so it's over 30 pages; correct?

12 A. Yeah, that's correct.

13 Q. Okay. And you submitted a translation of
14 only two sentences from Professor Goina's 30-plus
15 page contribution to your book; correct?

16 A. I did not submit a translation. I did not
17 translate this, so I believe it was on the part of
18 the Romanian counsel --

19 Q. Okay.

20 A. --for the translation.

21 Q. Romanian counsel chose to submit two
22 sentences from this 30-page contribution to your

1 book; correct?

2 A. I believe they chose to submit these two
3 because these were the relevant ones.

4 Q. And were you consulted about whether
5 anything else in this book chapter was relevant, or
6 was it just left up to Romania's counsel to decide
7 what to submit?

8 A. I can recall exactly.

9 COURT REPORTER: "Can" or "cannot"?

10 THE WITNESS: I cannot. Sorry.

11 BY MR. GREENWALD:

12 Q. Are you aware that Claimants asked Romania
13 to submit a complete copy of this book chapter and
14 Romania refused again, saying only these two
15 sentences were relevant?

16 A. I'm not aware of that.

17 Q. Okay. Do you recall, Dr. Stoica, that on
18 Page 218, right before the first sentence that
19 appears here, Professor Goina observed that most
20 chants were against the entire political class? Do
21 you recall that?

22 A. Yes, I do recall that.

1 Q. Do you recall that on Page 221 right between
2 the two sentences you quote, Professor Goina referred
3 to a common motive for dissatisfaction that was
4 expressed in the form "Down with Basescu, the
5 opposition to the ruling party in Romania, and
6 especially to President Basescu was the element that
7 galvanized ideas and ideologies that were otherwise
8 diametrically opposed"? Do you recall that, sir?

9 A. I believe I recall because these protests,
10 as I think I mentioned during my presentations took
11 place in 2012, January-February, and they were
12 triggered by other events, and they had other themes
13 of discontent. Actually they were also a reaction to
14 the austerity measures imposed--taken at that point
15 in time by former Prime Minister Boc, and they were
16 harsh austerity measures, so these protests were
17 about something else.

18 And as regards the contributions of people,
19 co-authors in this volume, you mentioned that only
20 small fragments or few paragraphs addressed Rosia
21 Montana protesters, and I think that this is normal
22 because these protests were not about Rosia Montana.

1 What I was trying to say is that the presence of
2 activists related to the Rosia Montana were present
3 at previous protests, and the authors that were
4 invited to write in this volume were supposed to
5 describe how the protests took place in the cities
6 where they witnessed them.

7 Q. Sir, what I read to you was not submitted
8 with this excerpt that you provided. It's not even
9 paragraphs you submitted. There are two sentences,
10 each four pages apart from the other. They weren't
11 submitted, and they weren't translated as part of
12 this exhibit, were they, sir?

13 A. Can you repeat the question?

14 Q. Professor Goina's observations on the chants
15 being against the entire political class and the
16 common motive for dissatisfaction which was
17 opposition to the ruling party in Romania which
18 allowed ideas and ideologies that were otherwise
19 diametrically opposed to be galvanized, those were
20 not submitted with the copy of your exhibit, they
21 were not translated and presented to this Tribunal,
22 were they?

1 A. I have no knowledge of that.

2 Q. Well, you can see it in your exhibit right
3 there, can't you?

4 A. Okay. Yes, I can confirm they were not.

5 Q. Okay. You didn't think those observations
6 by Professor Goina were relevant to the Tribunal's
7 consideration?

8 A. What I--I did not consider them to be
9 relevant because that volume--and I reiterate, it's
10 about different protests from January-February 2012,
11 and you're mentioning the governing coalition that
12 protesters were against, and that Government
13 coalition, Boc's Government, resigned, and that's a
14 different protest. It's something different. I
15 mentioned these protests because protesters or
16 activists with Rosia Montana, "Save Rosia Montana,"
17 were present at these protests as evidence that they
18 didn't come out of the blue on September 1st, 2013.
19 That was my point.

20 ARBITRATOR DOUGLAS: Could I just ask, why
21 did they stand out, then? What do you mean by they
22 stood out? I presume you mean they weren't taller

1 than everyone else. So why do you say they stood
2 out--

3 (Overlapping speakers.)

4 THE WITNESS: My recollection is that they
5 had those distinctive signs of "Save Rosia Montana"
6 logo, and you could see them, while the rest of them,
7 there was people at the 2002-12 protests, as I said,
8 the crowd was very diverse, both older people--

9 COURT REPORTER: Can we have the Witness
10 push the microphone a little bit further back. There
11 is too much distortion.

12 THE WITNESS: Yes.

13 So, the crowd was highly diverse at the 2012
14 protests, and you'd see older people, middle-aged
15 people affected by the austerity measures and stuff
16 like this, and they would come and protest, but this
17 group of supporters of "Save Rosia Montana," they
18 stood out because they had those signs, they came
19 there with their signs and banners, and joining the
20 crowd.

21 There were numerous themes of discontent
22 that were expressed in 2012 January.

1 ARBITRATOR DOUGLAS: So, they were
2 identifiable?

3 THE WITNESS: Yes, in this sense.

4 ARBITRATOR DOUGLAS: They weren't--you're
5 not saying they were leading--

6 (Overlapping speakers.)

7 THE WITNESS: No, I never meant to say they
8 were leading that. Actually, those demonstrations in
9 2012 January and February didn't have a like formal,
10 even informal leaders. They were most like two
11 camps, one that was protesting in the front of the
12 national theater on one side of the street, and the
13 other crowd of younger people protesting on the other
14 side vis-à-vis the national theater in University
15 Square, but it was highly disorganized.

16 And hooligans, football hooligans, they also
17 joined the protests, and they actually defended the
18 2000--the protesters against the gendarmes, who beat
19 the hell of the protesters, Mr. Boc's gendarmes beat
20 the hell of the protesters there. But hooligans who
21 have the experience fighting soccer fans, he sort of
22 defended--they sort of defended protesters.

1 So, I was using these quotes just to
2 illustrate the fact that yes, these anti-Rosia
3 Montana activists, they existed, and prior to 2013
4 protests, they weren't invented then, and as I said,
5 an 11-year-old struggle to resist this project. I
6 wasn't making a case of it. They were not running
7 the show.

8 PRESIDENT TERCIER: Next question, please.

9 BY MR. GREENWALD:

10 Q. Yes. can we turn to Paragraph 69 of your
11 Report, and there you're referring to a study you
12 coordinated in 2012 which you also mentioned on
13 Slide 17 of your presentation, I believe.

14 A. That's correct.

15 Q. And you state that this study you
16 coordinated in 2012 attests Romania's position
17 towards--the Romanians' position towards the Rosia
18 Montana Mining Project? Do you recall providing that
19 testimony?

20 A. I believe in my testimony, if I remember
21 correctly, I said that I coordinated this study, and
22 within the study we included a series of questions

1 which are listed on Page 37. We included a list of
2 questions regarding the demands of the protesters
3 from January 2012. It wasn't a study about the Rosia
4 Montana or the support, but because protesters
5 demanded the Project to be stopped, that was one of
6 the demands that we included in the survey. It
7 wasn't a specific study about Rosia Montana or the
8 support for it, yeah.

9 Q. You can see in your Report, though, it's
10 shown on the screen where it says that the "results
11 of a study I coordinated further attest Romania's
12 position towards the Rosia Montana Mining Project."

13 You see that; right?

14 A. Yes, I do see that.

15 Q. Okay. Let's look at that study, it's
16 Stoica 25, it's behind Tab 5 of your binder. And
17 this is--this is a nationwide public opinion poll
18 done by the Center for Urban and Regional Sociology,
19 "CURS," from August 23 to September 6, 2012.

20 A. What tab again?

21 Q. 5. Tab 5. It's a nationwide public opinion
22 poll done by CURS from August 23 to September 6,

1 2012; is that right?

2 A. That's correct.

3 Q. And you were General Manager of CURS from--

4 A. Yes.

5 Q. --at this time--

6 A. Yes.

7 Q. --and from--

8 A. Yes. Yes.

9 PRESIDENT TERCIER: Please, if you can avoid
10 overlapping.

11 BY MR. GREENWALD:

12 Q. You were General Manager of CURS at this
13 time and, in fact, from 2007 to 2015; right?

14 A. Yes. That's correct.

15 Q. And if we turn to the third page, this is
16 the table you referred to, and it shows support for
17 and against a list of 18 issues; right?

18 A. That's correct.

19 Q. And you emphasize, and you just mentioned it
20 during your presentation, that 60 percent of those
21 surveyed claim that they were in favor of stopping
22 the Mining Project of Rosia Montana.

1 That's what you emphasize; right?

2 A. That's correct.

3 Q. Okay. Only two issues had less support than
4 that. One was whether to hold local and
5 Parliamentary elections on different dates,
6 at--55 percent supported that. And the other was
7 whether to hold early snap elections at 56 percent.
8 Is that right?

9 A. Yes.

10 Q. Okay. And 15 of the other 17 issues had
11 higher levels of support, for example, the
12 resignation of Traian Băsescu as President; right?

13 A. Yes. That's correct.

14 Q. The resignation of Emil Boc's Government;
15 correct?

16 A. Yes. That's correct.

17 Q. The political class should be reformed with
18 new people; right?

19 A. That's correct.

20 Q. A clear, direct, transparent communication
21 of political powers' decision to citizens,
22 92 percent; right?

1 A. Yes. That's correct.

2 Q. The return of the taxes illegally taken out
3 from pensions, 93 percent; right?

4 A. That's correct.

5 Q. Eliminating corruption from Romanian
6 political life, 94 percent; right?

7 A. That's correct.

8 Q. And then, better financing of the education
9 system and of the health system, 94 and 95 percent?

10 A. Yes. That's correct.

11 Q. And a better functioning of the justice
12 system at 95 percent; right?

13 A. Yes. That's correct.

14 Q. Now, what we're looking at here is not a
15 complete copy of your study, is it, Dr. Stoica?

16 A. A complete copy of my study in the sense
17 of...

18 Q. It doesn't contain all of the questions that
19 were part of this study, does it?

20 A. No, it doesn't.

21 Q. Okay. Let's turn to the next tab, which is
22 Exhibit R-660.

1 And this is the same CURS study that you
2 coordinated; right?

3 Same study as Stoica 25, but it has two
4 additional pages; correct?

5 A. Yes.

6 Q. Okay. And if we go to Page 4--now, this was
7 a study of 1,100 adult respondents, and all 1,100
8 respondents were asked: "Whether you participated or
9 not at the January 2012 protests, which of the
10 following demands was the most important to you?"

11 Correct? That was the question presented to
12 all 1,100 respondents?

13 A. Yes. That's correct.

14 Q. And only 1 percent of the survey respondents
15 considered that stopping the Project was most
16 important to them; right?

17 A. That's correct.

18 Q. And you didn't include that page of the
19 study in your exhibit, did you, Dr. Stoica?

20 A. I did not include that because the issue is
21 this question asked respondents to choose the most
22 important for them from a list of--you said 15

1 issues?

2 Q. 18.

3 A. Okay. So, obviously, since these protests
4 were about austerity measures, some of them
5 corruption and stuff--see, here we ask them, "Which
6 one of these is most important to you?" It's a
7 single choice.

8 Because I believe that the answers to that
9 previous questions, which you quoted--and I list the
10 entire responses in my Report--was indicative of
11 peoples' attitudes towards the Project, stopping the
12 Mining--stopping the Mining Project.

13 Of course, when you ask them--well, I don't
14 know--would you rather eat--have something to eat
15 or--I don't know--go to theater? If a person is
16 starving, he will probably tell you, "I would rather
17 have something to eat."

18 So, I believe, in my Expert Opinion, that
19 the evidence I submitted has the role to correctly
20 inform the Tribunal about Romanians' views of the
21 Rosia Montana Project. That's--that's--I would like
22 to provide some context, if I may.

1 PRESIDENT TERCIER: Yes, please.

2 THE WITNESS: So, yes, you're right.

3 60 percent--if we can go back to that slide with
4 60 percent.

5 Can we go back to that slide with
6 60 percent?

7 MR. GREENWALD: Mr. President, my question
8 was: You didn't include that--

9 THE WITNESS: No, no. Can I provide--

10 MR. GREENWALD: --page of the study in your
11 exhibit?

12 I already asked him about the slide with the
13 60 percent. I think this is well beyond the scope of
14 the question.

15 PRESIDENT TERCIER: Yes. But I would like
16 to have an opportunity for the Expert to comment.

17 Shortly, please.

18 THE WITNESS: Yes. Thank you,
19 Mr. President.

20 Yes. 60 percent--only 60 percent were in
21 favor of stopping the Mining Project. And for other
22 events, the numbers were higher. But there's still

1 60 percent. There is still 60 percent who agreed
2 with that demand, almost two-thirds of Romania's
3 adult populations.

4 It's not like only 20 percent, only
5 30 percent. There's still 60 percent. Yes, other
6 demands had higher numbers, and I--they are included
7 as such in my Report.

8 PRESIDENT TERCIER: Okay.

9 BY MR. GREENWALD:

10 Q. Okay. Let's look at Page 5 of this study.

11 And this is another page that you didn't
12 submit with your copy of this survey you coordinated.

13 Here you interviewed a smaller sample of
14 individuals, who claimed that they were actually
15 protesters, in January 2012; correct?

16 A. Yes.

17 Q. And there were 38 such individuals, or
18 3.45 percent of the total sample; correct?

19 A. Yeah. That's correct.

20 Q. And you asked those 38 individuals who
21 protested, or claimed they protested, in
22 January 2012, which issue was more important to them;

1 correct?

2 A. That's correct.

3 Q. 37 percent said President Basescu's
4 resignation was the most important issue; correct?

5 A. Yes. Correct.

6 Q. And none of those people who said they
7 protested claimed stopping the Project or anything
8 about the Project was most important to them, did
9 they?

10 A. None of the extremely small subsample, not
11 representative of the protesters from 2012, mentioned
12 that. So, mind you, this was a question of--filtered
13 by another one that asked respondents: "Did you
14 participate at a protest?"

15 And 38 out of the 1,100--this was a
16 nationwide sample. What are the chances of getting,
17 in such a sample, a large number of participants?

18 So, this is a fairly small sample.
19 Practically, the results on 38 individuals, that
20 subsample, has no statistical significance, is not
21 representative of the protesters from
22 January/February. This is my Expert Opinion.

1 And, indeed, among these 38 who happened to
2 be included randomly in our sample, none of them
3 mention the Rosia Montana, which you are interested
4 in.

5 Q. Dr. Stoica, the 2012 protests were mainly
6 about the perceived corruption of the political
7 class; isn't that right?

8 A. I wouldn't--I would disagree. They were not
9 mainly about corruption. In fact--and we will not go
10 back there because you don't want to go back
11 there--but there was a whole--whole list of
12 demands/issues that people were protesting for, such
13 as wages--increasing wages, better living conditions,
14 better financing of the healthcare system, and
15 corruption, as well.

16 Q. I'd like to walk through some of your
17 contemporaneous writings on the subject.

18 A. Yes. Sure.

19 Q. So, let's start with Exhibit C-2930, which
20 is behind Tab 7 of your binder. It's an excerpt
21 only. In view of page limitations, only two pages
22 have been provided.

1 This is an excerpt from a publication by you
2 in 2012 called "Our Martyrs of 1989 Did Not Die For
3 This: Political Capitalism in Post-Communist
4 Romania"; correct?

5 A. That's correct.

6 Q. And this publication is listed on the CV to
7 your Expert Report at Page 107, but you didn't submit
8 it with your Report; correct?

9 A. I don't recall, but I believe you if I
10 didn't.

11 Q. And if we show, under the introduction on
12 Page 1: "The protests"--you wrote: "The protests
13 were against the effects of the austerity measures
14 adopted by the country's center-right government and
15 against a political class perceived as deeply
16 corrupt"; correct?

17 A. Yes. That's what I wrote.

18 Q. And the phrase "Our martyrs did not die for
19 this"--

20 A. Yes.

21 Q. --which you used in the title, came from a
22 protester who told you: "The initial hopes for

1 democracy and economic prosperity of 1989"--in his
2 view--"had been shattered to pieces by former
3 apparatchiks, members of the (Ceausescu's
4 secret--former secret police) Securitate, and their
5 offspring"; isn't that right?

6 A. Yes. That's correct.

7 Q. And on the second page you say many other
8 protesters that you talked to held similar opinions;
9 correct? It's in the first paragraph, continuing on
10 the second page.

11 A. Yes. That's correct.

12 Q. And they believed Romania was marred by
13 former Communist politicians' survival which had
14 resulted in a mock democracy which is controlled by a
15 bureaucracy that is incompetent, highly politicized,
16 and unaccountable to ordinary citizens, and in an
17 economic system that rewards politically-connected
18 individuals or firms and punishes honest, hardworking
19 entrepreneurs.

20 That was your writing; correct?

21 A. Yes. This is my writing based on what
22 protesters were telling me when I discussed with

1 them.

2 And for the record, this is an article
3 in--that dealt--it's an article on the political
4 economy of post-Communism. I used these words of
5 some--a few protesters from 2012, not 2013, as a
6 pretext to introduce what I was trying to get at.

7 And what I analyzed are the features of the
8 Romanian post-Communist capitalism, according to Max
9 Weber's theory on different forms of capitalism.

10 So, yes. But if some people write about the
11 political economy of Communism and they address
12 issues related to corruption, which seems to be a
13 problem in Romania, that doesn't mean that everything
14 that happens in that country is corruption-related.

15 Q. Okay.

16 A. Honestly, I have written articles on
17 different issues. This was on political economy.

18 Q. And if we look at the next paragraph,
19 Dr. Stoica, you conclude that: "The protesters'
20 opinions, as well as the opinion of the majority of
21 Romanians, suggests that political capitalism still
22 is alive and well in Romania"; correct?

1 A. Yes.

2 Q. And political capitalism, as you write, is
3 "a system that is affected by the corrupt influences
4 of politics on the economy"; correct?

5 A. Yes.

6 Q. And you then conclude, as you go on to
7 demonstrate in the article, in the first sentence of
8 the next paragraph that: "As compared to other
9 Central and Eastern European countries, Romania is
10 closer to Weber's ideal-type of 'political
11 capitalism' (i.e., an economic order which implies
12 making significant profits under the protection of
13 and/or through unusual deals with political
14 authorities)"; correct?

15 A. Yes. That's correct.

16 Q. Let's go to another publication by you in
17 2012. It's Stoica 27. It's at Tab 8.

18 A. Yes.

19 Q. This is written by you and Vintilă
20 Mihăilescu, who was the co-editor of the book that
21 you edited that we were discussing earlier; correct?

22 A. Yes. That's correct.

1 Q. Okay. On "Romania's Winter of Discontent."

2 And in this publication, you start by

3 observing that: "The specter of the global financial

4 crisis was largely ignored by Romanian politicians

5 who were busy campaigning for the general and

6 presidential elections of 2008 and 2009"; correct?

7 A. Yes. That's correct.

8 Q. And those politicians campaigning were

9 President Băsescu and Prime Minister Boc; correct?

10 A. Yes. And Mircea Geoană and other

11 politicians from other political parties.

12 I'm sorry for the interruption. I'm just

13 saying all of them.

14 Q. Okay. And the result was that by the

15 beginning of 2010, Romania was facing economic

16 collapse; correct?

17 A. Yes.

18 Q. And the Government adopted a series of harsh

19 austerity measures that, in combination with the

20 financial crisis, "devastated Romania's private

21 sector and scared off potential foreign investors";

22 right?

1 A. Yes.

2 Q. And during this time of economic hardship,
3 the majority of Romanians became, again, dissatisfied
4 with widespread corruption among politicians and
5 State institutions; correct?

6 A. Yes.

7 Q. And the media and NGOs also reported on
8 "numerous shady (and often quite outrageous) deals
9 among national or local (elected) officials and
10 politically connected big-time entrepreneurs (the
11 so-called 'smart guys')"; right?

12 A. Yes. Including probably some multinational
13 companies that were attempting to invest in Romania.

14 Q. And if we look at the next page, which is
15 the second page of the article, third page of this
16 PDF, you explain in the second paragraph that
17 Dr. Arafat's resignation was the triggering event for
18 the protest; right?

19 A. Yes.

20 Q. But you go on to say: "The protesters'
21 demands focused on a wide range of issues: the
22 austerity measures adopted by the former center-right

1 government, the ongoing economic crisis, the
2 perceived widespread corruption among politicians,
3 the former governmental coalition's alleged
4 indifference to the people's needs and hardships";
5 right?

6 A. Yes. That's correct.

7 Q. And you wrote: "The Romanian themes of
8 discontent were highly diverse"; right?

9 A. Yes.

10 Q. But you conclude that paragraph by
11 observing: "Above all"--the other issues--"as in
12 other parts of the world, in Romania too, the
13 protesters were united by their explicit criticism
14 and rejection of all current politicians"; right?

15 A. Yes. That is what is written there. And I
16 remind the Tribunal that this is an article I had
17 co-written.

18 Q. Well, it reflected your views; correct?

19 A. And the views of the co-author.

20 Q. Right.

21 A. Okay.

22 Q. And let's look at another writing you had at

1 this time on these protests.

2 This is Stoica-28 behind Tab 9, "The
3 Multiple Facets of Popular Discontent: A Sociological
4 Outline of the January 2012 Protests from Bucharest's
5 University Square"; right?

6 A. Yes. That's correct.

7 Q. And if we turn to Page 18, in the second
8 column, you're again--you're again discussing
9 political capitalism; correct?

10 A. Yes. I was discussing this in the context
11 of, once again--just for the record and for the
12 Members of the Tribunal, this is an article about,
13 again, the 2012 protests, not the 2013 protests, on
14 which I was asked by the counsel to provide an
15 opinion.

16 Q. We're talking right now about the 2012
17 protests. We will turn to the 2013 protests.

18 A. Okay.

19 Q. So, here you're discussing political
20 capitalism. And you write: "What many of the
21 protestors in the square denounced were the practices
22 associated with this form of capitalism: access to

1 resources based on corrupt informal connections (i.e.
2 connections, acquaintances, relationships),
3 conditioning economic success to political
4 protection, wrinkling or diversion of state resources
5 to customers close to power, gaining impressive
6 economic benefits through corrupt practices and
7 intimidation strategies used by a predatory
8 bureaucracy."

9 "All these practices underlying political
10 capitalism or 'capitalism by sponsorship' (in Former
11 President Ion Iliescu's plastic expression) have
12 generated and is generating immense social
13 disparities, socio-economic polarization and poverty
14 of the majority of the population"; right?

15 A. Yes. This is correct. And this is my
16 opinion. And, frankly, I believe that it's not only
17 Romania's case--but that's a different
18 discussion--political capitalism is alive and well,
19 even in the most advanced western countries, such
20 as--to a smaller extent. But, yes, this is my
21 opinion.

22 Q. And this concept of political capitalism is

1 so central to your contemporaneous analyses, it's not
2 mentioned at all in your Expert Report presented to
3 the Tribunal, is it?

4 A. It is not mentioned because I did not see
5 the relevance as long as I was commenting on the
6 protests from 2013 on a movement that led to these
7 protests and on certain public opinion polls.

8 I wasn't asked to evaluate Romania's
9 political economy by the counsel, with all due
10 respect. And I presented in--I cited in my
11 presentation what were the instructions for work that
12 I received.

13 Q. If we turn back to Page 10 of this
14 publication, you wrote--again, in the second column
15 of Page 10, under the heading "Structural tensions,"
16 you're discussing the lack of government action at
17 the onset of the financial crisis and the resulting
18 consequences; correct?

19 A. Can you--what?

20 PRESIDENT TERCIER: Highlight it, yeah.

21 BY MR. GREENWALD:

22 Q. Starting with where it says--starting where

1 it says "For electoral reasons" and continuing on
2 through "(i.e. local and general elections in 2008
3 and presidential elections in 2009), the governments
4 of 2007-2009 ignored the global financial crisis
5 signals," and continuing on through the next
6 paragraph.

7 A. Yes.

8 Q. And the Government's approach to the
9 financial crisis featured in your contemporaneous
10 writings is not mentioned in your Expert Report
11 presented to the Tribunal, is it?

12 A. No, it is not mentioned because I did not
13 consider it relevant. I was not asked to
14 comment/provide an opinion on the
15 necessity/opportunity of this Mining Project or its
16 role for Romanians' economic growth.

17 Q. Now, starting at the bottom of this
18 page--bottom of Page 10, in the second column you
19 refer to a study done by the Center for Urban
20 and--for C--by CURS in December 2011; correct?

21 A. Correct.

22 Q. When you were General Manager of CURS?

1 A. Correct.

2 Q. And you did not submit that CURS study
3 underpinning the structural tensions you describe
4 here, did you?

5 A. I did not submit it for this Report because,
6 once again, it wasn't relevant to what I was asked to
7 comment on.

8 Q. Let's look at some of the observations from
9 this CURS survey which you quote throughout this
10 publication.

11 So, if we turn to Page 11, the next page, in
12 the first column in that first paragraph.

13 Sorry. In the--yeah, in the first
14 paragraph.

15 Do you have it in the--Page 11? "Two-thirds
16 of respondents claimed household income was below the
17 limit of a decent living"; correct?

18 A. Yep. Yes.

19 Q. And then in the next paragraph, CURS found
20 that 84 percent felt things in Romania were going in
21 the wrong direction, and only 11 percent said the
22 direction was good; right?

1 A. That's correct.

2 Q. And down at the bottom of the page, at the
3 bottom of the first column, Support for Prime
4 Minister Boc's Political Party, PD-L, dropped from
5 about 32 percent in the Parliamentary elections in
6 November 2008 to 19 percent in December 2011,
7 according to CURS estimates; correct?

8 A. That is correct.

9 Q. And if we go to Page 21, you're still, in
10 this first column, referring to the same CURS study.

11 And in the second paragraph, you say,
12 according to CURS: "In December 2011, only
13 19 percent of respondents had a good or very good
14 opinion about Emil Boc"; correct?

15 A. That's correct.

16 Q. And only 21 percent had a good or very good
17 opinion about President Băsescu; correct?

18 A. Yeah. That's correct.

19 Q. And so, you explain that for every
20 respondent who had a favorable opinion for Emil Boc,
21 there were over four respondents who had an
22 unfavorable opinion for Mr. Boc?

1 A. Yeah. That's correct.

2 Q. And for each respondent with a good or very
3 good opinion of President Băsescu, there were almost
4 four respondents who had a bad or very bad opinion
5 about him; right?

6 A. Yeah. That's a favorability index that is
7 calculated, yes.

8 Q. If we go back to Page 11. In the second
9 column, we can--you observed that it was not only the
10 main ruling party and the President, Mr. Băsescu, who
11 were deeply unpopular; correct?

12 A. Can you--

13 Q. See where it says, in the second paragraph
14 of the second--

15 A. Yes.

16 Q. --column?

17 A. Yeah.

18 Q. Okay. CURS found in December 2011 that only
19 6 percent of respondents had high levels of trust in
20 Parliament; right?

21 A. That's correct.

22 Q. And CURS found that only 7 percent had high

1 levels of trust in political parties; right?

2 A. Yeah. That's correct.

3 Q. Okay. And if we turn the page and go to
4 Page 13, under "Precipitating factors and
5 mobilization for collective action"--I think this is
6 a translation issue--it says, "Against this backdrop,
7 the Raed Arafat Episode was the"--it says "sparkle,"
8 but you mean "the spark of the protests"; right?

9 A. The triggering event, yes.

10 Q. "It was the spark."

11 That's what's written in the first sentence
12 under precipitating factors?

13 A. Yeah.

14 Q. Okay. And on Page 14, you observed that
15 until this--this is in the second column on Page 14.

16 Until that Arafat episode on January 9th,
17 2012: "Even though many shared the same view of the
18 source of structural tensions"--the ones we just
19 described--"the social frames of public discontent
20 were relatively slim and incongruent. It took an
21 event to build bridges between these social frames of
22 isolated dissatisfaction"; right?

1 A. Yes. That's correct.

2 Q. And President Băsescu's televised statements
3 and Dr. Arafat's resignation were the spark "that
4 allowed the convergence of opinions and public
5 frustrations in relation to the current economic and
6 political situation in the country"; correct?

7 A. Yeah. That's correct.

8 Q. And if we go to the end, Page 29, where you
9 write about instead of conclusions--continuing from
10 28 to 29. Page 29, in the very last paragraph, you
11 concluded that it was "hard to say"--at that time in
12 2012--"whether the protests will continue or will
13 increase in the spring of this year," but--I'm
14 quoting again--"it is possible that this happens if
15 another precipitating event occurs--a new spark that
16 re-emerges the flame of existing popular
17 dissatisfaction"; right?

18 A. Where is that at?

19 Q. It's on Page 29, the very last paragraph.

20 A. Okay.

21 Q. "It is hard to say whether the protests will
22 continue. It is possible that this happens if

1 another precipitating event occurs--a new spark that
2 re-emerges the flame of existing popular
3 dissatisfaction"; right?

4 A. Yes. I did write that.

5 Q. Romania at the time was a powder keg. It
6 was waiting for a new spark to ignite it; right?

7 A. I believe that the Government--Boc's
8 Government resignation sort of calmed things down and
9 the fact that they announced that some of the
10 austerity measures taken previously will be reverted.
11 A "powder keg"? Not after the resignation of Emil
12 Boc.

13 And I would like to, for the record, and to
14 remind the--Mr. President and Members of the
15 Tribunal, that, indeed, these are--these are data
16 coming from studies conducted by my company, and they
17 reflect 2011; right?

18 And you--again, I--it was my understanding
19 that I am supposed to discuss the 2013 protests--2013
20 protests. While I'm happy to discuss my previous
21 writings and I'm happy to share with the Tribunal and
22 counsel members my views on the Romanian society--I

1 did write this. But the fact that people are
2 dissatisfied with austerity measures, that people are
3 dissatisfied with the healthcare system, are
4 dissatisfied with corruption, that doesn't mean that
5 other people cannot take to the streets to protest
6 for other themes, such as the environment.

7 Q. So, all of these deep-seated issues with
8 political capitalism and corruption and lack of trust
9 in the Government, they just went away with--when
10 President--when Prime Minister Boc resigned on
11 February 6th?

12 Is that your testimony?

13 A. No, I don't believe I said that. I think
14 that the tension died down. Sort of--you know, the
15 main enemy wasn't there anymore, or the person who
16 was perceived as responsible with these harsh
17 austerity measures wasn't there anymore. So, people
18 felt that--probably like a victory.

19 MR. GREENWALD: I think this is a good time
20 for a break, Mr. President.

21 PRESIDENT TERCIER: Thank you very much.
22 Indeed, we will now have 15 minutes' break, with

1 interest, we will start at 20 to.

2 I would like to remind you, Dr. Stoica, that
3 you are under testimony, so it means you have the
4 right to go out, of course, but you have not the
5 right to have contact.

6 THE WITNESS: Yeah.

7 PRESIDENT TERCIER: Fine. Thank you.

8 (Brief recess.)

9 PRESIDENT TERCIER: Dr. Stoica, are you
10 ready?

11 THE WITNESS: I am.

12 PRESIDENT TERCIER: Okay.

13 MR. GREENWALD: Thank you.

14 BY MR. GREENWALD:

15 Q. Now, after these protests and the
16 resignation of Prime Minister Ponta and then the
17 collapse of the--sorry. After the--let me start
18 again.

19 After these protests and the resignation of
20 Prime Minister Boc and then the collapse of the
21 Ungureanu Government a couple of months later, a new
22 Government led by Victor Ponta took over in May 2012;

1 correct?

2 A. Yes. That's correct.

3 Q. Mr. Ponta and President Băsescu were
4 political rivals; right?

5 A. That's correct.

6 Q. As interim Prime Minister in 2012, Mr. Ponta
7 led Parliament in suspending Mr. Băsescu and
8 unsuccessfully trying to impeach him as President;
9 right?

10 A. That's correct.

11 Q. And before that, as opposition leader in
12 2011 to 2012--I think you were here during the
13 examination of--the presentation of Dr. Boutilier
14 yesterday. You heard him walk through the statements
15 of Mr. Ponta repeatedly accusing RMGC of bribing
16 President Băsescu; is that right?

17 A. I was here, but I was in and out so . . .

18 Q. Well, there are three media articles from
19 2011 to 2012. They are C-2643, C-2645, and C-2647,
20 which are Tabs 10, 11, and 12 of your binder, if you
21 want to refresh your recollection.

22 A. So, they are 10...

1 Q. Tabs 10, 11, and 12.

2 A. Okay.

3 Q. So, do you recall that Mr. Ponta, as
4 opposition leader, repeatedly accused RMGC of bribing
5 President Băsescu?

6 A. I do not recall the specific statement--I
7 mean, from that time. But I--I recall they
8 were--they had political enemies.

9 Do you want me to take the time to read the
10 statement?

11 Q. We won't walk through all of these now. I
12 think the Tribunal is familiar with these at C-2643,
13 C-2645, and C-2647.

14 I want to draw your attention, though, to
15 C-2645, which is at Tab 11 of your binder. And
16 here--do you have it at Tab 11?

17 A. Okay.

18 Q. Here, Mr. Ponta, in October 2011, he's not
19 only accusing RMGC of corruption, but he's saying the
20 Project "is blocked, and it is going to be blocked
21 because not all the politicians can be bought, as it
22 is the case for Traian Băsescu, the President, and

1 like others from all the Parties."

2 See that statement by Mr. Ponta?

3 A. Yes, I do see it.

4 Q. Now, Mr. Ponta's repeated accusations of
5 political corruption suggests--and this statement in
6 particular--that any politician who would approve the
7 Project was bribed to do so.

8 Isn't what that suggests?

9 A. You are asking me to do hermeneutics here,
10 and I don't think I'm qualified to do that.

11 Q. You're not qualified?

12 A. To do hermeneutics. I mean, what does he
13 mean? I can--as a Romanian and a person who has been
14 in the country at that time, I can, however, admit
15 that accusations of corruption were thrown back and
16 forth between leaders from all political parties.
17 That, I can.

18 But what Ponta meant to say or--if you read
19 it that way--I'm trying to be helpful but--

20 Q. Okay.

21 A. --it's not my field, hermeneutics.

22 Q. Those accusations of corruption that, as you

1 recall, were thrown back and forth by the leaders of
2 all the parties against the company could not have
3 helped the company's public image.

4 You would agree with that?

5 A. You're asking me to speculate to what
6 extent--you're asking me to speculate the effects
7 that such statements have--have had--would have had
8 on the image of the company. And I really cannot
9 speculate because, you know, for--for such or any
10 other statements to have effect on the reputation of
11 a company or of another person, they need to be heard
12 first and seriously considered by the public.

13 And I don't know, and I cannot speculate how
14 many people or if people were paying attention to
15 this aspect of the conflict between Traian Băsescu
16 and Ponta and other politicians.

17 So, this is my answer.

18 Q. Let's move to 2013, Dr. Stoica.

19 And Paragraph 38 of your Report, which is on
20 Page 21, you accuse Dr. Boutilier of "stressing
21 Romania's issues related to political corruption" so
22 he can "recast ex post facto the 2013 protests as

1 being mainly anti-Government, anti-corruption, and
2 pro-rule of law."

3 Do you recall writing that?

4 PRESIDENT TERCIER: You can read the passage
5 if you wish, sir.

6 THE WITNESS: So, it's Paragraph 30...

7 BY MR. GREENWALD:

8 Q. 38. Second sentence.

9 A. Well, I'm not accusing him. I'm only saying
10 that it helps him do something, because I believe
11 you--you said that I'm accusing Dr. Boutilier of
12 having done something.

13 Q. Okay. Let me rephrase it.

14 A. Yeah. Okay.

15 PRESIDENT TERCIER: Please.

16 BY MR. GREENWALD:

17 Q. You argue that Dr. Boutilier is stressing
18 Romania's issues related to political corruption in
19 order to recast ex post facto the 2013 protests as
20 being mainly anti-Government, anti-corruption, and
21 pro-rule of law; correct?

22 A. Yes. This is what I wrote.

1 Q. And your opinion is the September 2013
2 protests were--this is at Paragraph 8--were, first
3 and foremost, the expression of a pro-environmental
4 social movement; correct?

5 A. Yes.

6 Q. Okay. I'd like to show you Exhibit C-555,
7 which is behind Tab 13.

8 Are you aware that on July 11th, 2013, the
9 Ministry of Environment published a 58-page note for
10 public consultation "on the conditions and measures
11 which needed to be included in the Environmental
12 Permit for Rosia Montana Project"?

13 A. No, I'm not aware with this. And I have
14 little, if no, knowledge of the permitting process.
15 And I'm not qualified to answer questions regarding
16 the permitting process for this--for this Project.

17 Q. Okay. I'm not going to ask you questions on
18 the permitting process. This is a public
19 consultation note that was published on the Ministry
20 of Environment's website about the proposed measures
21 and conditions for issuance of the Environmental
22 Permit. You can see that in the next sentence.

1 Now, after these proposed measures and
2 conditions for issuance of the Environmental Permit
3 were published on the Ministry of Environment's
4 website on July 11th, 2013, there were no large-scale
5 protests in Romania, were there?

6 A. When were they published? When were--

7 Q. July 11th, 2013.

8 A. July 11th, 2013.

9 Not that I'm aware of. However--and I would
10 like to make--address here a comment that was made
11 earlier in the Opening.

12 Just because we couldn't find evidence of
13 protests in the media, that doesn't mean that people
14 did not protest, even against Şova's declaration, as
15 someone put it.

16 The fact was that there was a media
17 blockage. And I believe there's an exhibit in Alina
18 Pop's Opinion that's showing people protesting in the
19 front of the Romanian State television. Because the
20 Romanian State television wasn't broadcasting people
21 protesting against the Mining Project, so I haven't
22 seen them on TV.

1 But this doesn't mean that people did not
2 protest vis-à-vis this issue.

3 Q. Okay. Well, let's not rely on the mass
4 media. Let's turn to Exhibit R-451, which is behind
5 Tab 14 of your binder. And this is the--it's
6 described as the history of the "Save Rosia Montana"
7 campaign.

8 Do you see that?

9 A. Yes, I do.

10 Q. Okay. And if we go to Page 14 of this
11 history prepared by the "Save Rosia Montana" campaign
12 about the "Save Rosia Montana" campaign, you can see
13 that this chronology runs through September 1, 2013.

14 Do you see that?

15 A. Yes, I do.

16 Q. And there's not one event listed in
17 July 2013, is there, Dr. Stoica?

18 A. No, it's not listed.

19 Q. Okay. Let's discuss the 2013 protests.

20 In an interview we'll play for you--a short
21 clip of this interview--in September 2013, President
22 Băsescu said that sending a Draft Law for the Project

1 to Parliament was "the spark that started these
2 protests."

3 I want to show you what he said on national
4 TV. This is C-2864.02.

5 (Video played.)

6 MR. GREENWALD: Sorry. Let's try that
7 again. Can you get the sound up?

8 (Video played.)

9 BY MR. GREENWALD:

10 Q. You agree, Dr. Stoica, that the triggering
11 event for the 2013 protests was the submission by the
12 Ponta Government of a Draft Law regarding this
13 Project to Parliament?

14 A. I agree. And as I emphasized in my
15 presentation, probably the protesters--the opponents
16 of the Rosia Montana Project saw this as the final
17 nail in their coffin, the coffin of their own efforts
18 to stop this Project. So, they were probably
19 panicking.

20 And, for the Members of the Tribunal, for
21 the record, I believe that right after--if I remember
22 correctly, right after the Law was submitted to the

1 Parliament, several protesters chained themselves to
2 the Government's building, if I remember correctly,
3 on the 28th.

4 So, this was, yeah, a triggering event that
5 mobilized people with environmental concerns.

6 Q. You state at Paragraph 97 of your Report, in
7 the last sentence, that the Draft Law that was
8 submitted "seemingly catered to the needs of the
9 Rosia Montana Mining Project" and
10 triggered--"triggered the rapid mobilization of the
11 protests"; correct?

12 A. Can you repeat the paragraph, please.

13 Q. Paragraph 97. You say that the Draft Law
14 seemingly catered to the needs of the Project; right?
15 Special Law.

16 A. 97?

17 Q. Yes. It's on Page 49. Last sentence.

18 A. Can you put it on the screen? I'm having a
19 hard time finding it.

20 Q. It's on Page 49. The paragraph starts on 48
21 and continues on to 49.

22 A. Okay.

1 Q. And it's the last sentence of that
2 paragraph.

3 A. Yep.

4 Q. See where you write that it "seemingly
5 catered to the needs of the Project"; right?

6 A. Yeah. Yep.

7 Q. Okay. And as you just mentioned, the day
8 after the Government submitted that Draft Law to
9 Parliament, on August 28, 2013, four protesters
10 chained themselves to the fence of a government
11 building in Bucharest; right?

12 A. I believe it was the government building or
13 the Parliament. I can't remember exactly, but yeah.

14 Q. And a few days later, on Sunday
15 September 1st, the first mass street protest took
16 place; is that right?

17 A. Yes. That's correct. And the protest
18 was--as I showed in my presentation, was widely
19 publicized through Facebook, calls--invitations were
20 sent out to protest.

21 Q. And you attended that street protest on
22 Sunday, September 1st?

1 A. On Sunday, September 1st, and on
2 September 8th.

3 Q. Right.

4 Are those the only two protests you attended
5 in the fall of 2013?

6 A. If I remember correctly, yes.

7 Q. On page--can you turn to Page 55 of your
8 Report.

9 The first image at the top of the page is an
10 invitation to the protest from Uniti Salvam, "United
11 we Save."

12 It's for the protest in Bucharest on
13 September 15, 2013.

14 A. Mm-hum.

15 Q. And do you see where it says,
16 11K--11,000--went--

17 A. Mm-hum.

18 Q. --2.6K--2,600--

19 A. Mm-hum.

20 Q. --interested, and under that there's a
21 series of photos? Do you see that?

22 A. Yes, I do see that.

1 Q. The first photo there that's checked with a
2 green mark, that's your online profile photo;
3 correct?

4 A. Yeah. That's correct.

5 Q. Does that mean you attended this--that you
6 were one of the people who went to this protest?

7 A. No, it does not. Because you can click "go"
8 prior to the protest. And then if the event passes,
9 then it turns from "go" to "went." But no one
10 checks.

11 Q. Okay. And, also, if we look at the two
12 pages further on Page 57, there's another invitation
13 for the September 22nd protest in Bucharest.

14 Here it says 5,100 went, 1,000 interested.
15 And, again, it shows your--

16 A. Yes. It's the same thing. I click--I click
17 on "interested" or "going" on many, many events. And
18 if I don't--if I unclick it--if I don't unclick it,
19 it will show me as a participant at that event, even
20 without me being there. So, that's no proof.

21 I can--I can put photos of myself right now
22 in Hawaii and claiming I'm in Hawaii at this moment,

1 which I'm obviously not. I would rather be there,
2 but--so that's--

3 Q. So, just to be clear, clicking "went" or
4 "interested"--

5 A. Clicking "going"--clicking "going" can
6 transfer to "went."

7 Q. It doesn't mean that you actually went--

8 A. Yes.

9 PRESIDENT TERCIER: Overlapping.

10 BY MR. GREENWALD:

11 Q. --correct?

12 PRESIDENT TERCIER: Ask your question again.

13 First you finish your sentence.

14 THE WITNESS: I'm done.

15 PRESIDENT TERCIER: So, start the question
16 again.

17 BY MR. GREENWALD:

18 Q. Clicking "went" or "interested" on Facebook
19 does not mean that you actually went; correct?

20 A. Yeah. That's correct.

21 Q. Okay. Paragraph 132 of your report, can you
22 go there?

1 A. Yes.

2 Q. Here you describe your attendance at the
3 September 1st and September 8th protests. And
4 towards the bottom of the page, Page 67, Paragraph
5 132, you say that at the first rally on
6 September 1st, you marched with demonstrators for
7 approximately 2.35 kilometers or 1.46 miles from
8 University Square, the meeting place, to Victoriei
9 Square; right?

10 A. That's correct.

11 Q. And then you say that at the second rally on
12 September 8th, 2013, you marched with protesters for
13 approximately 3.82 km or 2.37 miles from University
14 Square to Victoriei Square and subsequently on to
15 Stefan cel Mare Boulevard; right?

16 A. Yes, correct.

17 Q. Now, you testify in this paragraph and you
18 said during your presentation that at those protests,
19 you were a witness and a
20 "participant-as-an-observer"; right?

21 A. Yeah. Yes.

22 Q. And by that you mean you were a researcher

1 who went to an event to observe it, not to
2 participate in it; right?

3 A. But the term "participant observation"--you
4 are a participant-as-an-observer. That's the
5 textbook definition in sociology.

6 And the distinction between
7 "participant-as-an-observer" and
8 "observer-as-a-participant," like--can become--an
9 observer-as-a-participant--if, for instance, say, I
10 exit this--this building and there's a fight, there's
11 a shooting, God forbid, going on, and I happen to be
12 there and I observed. I am a participant in that.

13 But these are, in sociology, two different
14 positions of--and this is common technique of doing
15 things that we share with anthropologists. This is
16 how you do and mix with people, observe what they're
17 doing.

18 I specified in that Report--

19 Q. Do you see the first parenthetical in
20 this--just so I understand correctly--the first
21 parenthetical in this paragraph where you say:
22 "Participant-as-an-observer is where a researcher

1 goes to an event"--

2 A. An event to observe it, yeah.

3 PRESIDENT TERCIER: Please. Avoid
4 overlapping, please.

5 THE WITNESS: I'm sorry.

6 BY MR. GREENWALD:

7 Q. So, is your testimony that you went to the
8 two protests on September 1st and September 8th as a
9 neutral researcher to observe those events?

10 A. I went there to observe these events. I
11 don't understand your qualifications as a "neutral
12 researcher." It seems to me that you're implying
13 that--something else, which I don't know what you are
14 trying to imply.

15 Q. So, you wouldn't describe yourself as
16 neutral as to the issues that were the subject of
17 those protests?

18 A. In whatever I did, my observations, and I
19 was as strict methodologically as I could be in that
20 situation.

21 Plus, I went there to--intending to, who
22 knows, write another article or a book on these

1 protests, something that I didn't follow up. So, I
2 had--other priorities diverted me from writing a book
3 on these protests or the Rosia Montana movement,
4 "Save Rosia Montana" movement.

5 Yes, this is what we do as sociologists.
6 You go and observe people, you know.

7 Q. You knew you would go there, meeting friends
8 and acquaintances; right?

9 A. Oh, friends and acquaintances of mine were
10 there, and I knew they were going to be there. And I
11 wrote this on a blog post, and I described my
12 experience, I think, in funny terms. People liked it
13 when I posted it on my Facebook.

14 Yes, at that protest I met people that I
15 know, including colleagues of mine from the
16 university where I teach, former grad students,
17 former students.

18 Yeah, you meet people. And you might meet
19 people you might know.

20 Q. Did you ever go to a--observe, as a
21 sociologist or researcher, a protest or rally in
22 support of the Rosia Montana Project?

1 A. No, I didn't--I didn't go because I believe
2 such rallies--and you should correct me if I'm
3 wrong--were mostly held in Rosia Montana, where I
4 have no reason to go, nor the money.

5 ARBITRATOR GRIGERA NAÓN: If I may ask you a
6 question.

7 THE WITNESS: Yes.

8 ARBITRATOR GRIGERA NAÓN: Since you were
9 there, to which extent do you think that those
10 demonstrating in connection specifically with the
11 Rosia Montana situation were really informed about
12 the actual environmental/cultural issues?

13 Could they--could you--do you have an
14 impression that could rightly differentiate those
15 issues and were actually informed what was going on,
16 on the side? Or is this just an emotional expression
17 in regard of what you describe as capitalism or this
18 big multi-national?

19 THE WITNESS: Thank you for your question.

20 I cannot speculate because, obviously--I
21 mean, I had--I didn't try to measure/investigate the
22 degree of knowledge that the protesters had about

1 what was going on.

2 So, if I were to speculate--if I were to
3 speculate, I would assume that people closer to the
4 "Save Rosia Montana" campaign, the committed
5 activists, probably knew more about the implications
6 and the legal aspects than other people who joined
7 the protests out of general concerns for the
8 environment.

9 But I cannot assess, you know, in a
10 quantitative manner, their degree or how well
11 informed were they about the details of the Project
12 and whatever legal conflicts or--were at stake. So,
13 probably the degree of knowledge varied, yes.

14 And some people went there, you know, to
15 protect Rosia Montana because they love the
16 environment, even if they--even if they drive SUVs,
17 which is--you know, people working at multinationals
18 making tons of money driving these huge cars, they
19 still want to protect the mountains so they can drive
20 up--their four-by-fours up in the mountains, yeah.

21 Motives--things that motivate people are
22 varied.

1 ARBITRATOR GRIGERA NAÓN: I think I saw some
2 signs talking about cyanide. But there are
3 specific--there was specific information concerning
4 the level of cyanide at the level of the project in
5 the exchanges between the executives of the company
6 and the state officials. There was specific
7 information that was available. However, I saw these
8 signs referring to cyanide.

9 Do you have anything to say about that since
10 you were there, you run into people who you knew?

11 THE WITNESS: I would speculate that most
12 banners and signs that are specific or that dealt
13 with specific issues related to the project, they
14 were probably the creation of the most actively
15 involved people in the "Save Rosia Montana" campaign,
16 and that's all I can say.

17 And that was a banner probably made up by,
18 again, people associated with the "Save Rosia
19 Montana" campaign. And that was a message. You
20 know, it's a message. It's a strong message. When
21 people hear "cyanide," probably that can have an
22 effect on other people, a sign to pay attention to

1 that.

2 So, I really don't know how well some of
3 these protesters, let alone all of them--I really
4 don't know how well they knew the intricacies of
5 this.

6 But, then again, you know, when we vote for
7 certain politicians, how well do we know them? Or
8 when we vote on certain issues. So, it's the same
9 here.

10 And, yes, I attended the protest, and I
11 wrote about them, and I think that does not
12 disqualify me because, if this were true--you know, I
13 also vote in elections. I'm a concerned citizen.
14 So, if I vote in an election, does that mean that I
15 cannot study voting intentions by survey data because
16 I went and cast my vote?

17 We've got to distinguish between what we do
18 professionally and our private lives as long as they
19 do not interfere and affect one another.

20 Thank you.

21 PRESIDENT TERCIER: Okay. Next question,
22 please.

1 BY MR. GREENWALD:

2 Q. You mentioned writing about the protests
3 that you attended. There are no notes or
4 observations submitted by you or by Romania from the
5 September 8th, 2013, protest; correct?

6 A. No, there are no notes because I took no
7 notes.

8 Q. You took no notes at that protest on
9 September 8th?

10 A. No.

11 Q. The only record is from the September 1st,
12 2013, protest, which is the blog post you mentioned;
13 correct?

14 A. Yes. Correct.

15 Q. If you turn to Tab 18. This is
16 Exhibit C-2932. This is a Facebook post by you on
17 September 3rd, 2013, two days after--

18 A. Excuse me. What tab is that?

19 Q. Sorry. Tab 18.

20 A. Okay.

21 Q. C-2932.

22 A. Yes.

1 Q. This is a Facebook post by you on
2 September 3rd, 2013, two days after the protest;
3 right?

4 A. Yes.

5 Q. And here you posted your blog post to
6 Facebook on, quote--the blog is--it's about
7 "Impressions from the protests, it's with and about
8 you"; correct?

9 A. Now, the post from that blog contains
10 impressions. It's not--the blog wasn't about
11 the--the entire blog. Just the post from the blog.

12 Q. Right. That post that you posted on this
13 day?

14 A. Yeah.

15 Q. Okay. And if we turn to Tab 19, Stoica-45,
16 these are the impressions from the September 1st--

17 A. Yes.

18 Q. --protests that you posted to Facebook on
19 September 3rd; correct?

20 A. Yes. Correct.

21 Q. Now, you did not submit this blog post with
22 your Expert Report. It's only come in later as part

1 of this later rebuttal submission; correct?

2 A. I did not submit it because this is from my
3 old blog post, and that one was taken down, and it
4 took me a while to find this article.

5 So, I had an old blog, and I switched to a
6 new blog two years ago, and I didn't have this one
7 anymore. So, it took me some time to find it, to
8 find this. And I found the--what I posted.

9 Q. So, did you also take it down from your
10 Facebook post, or did the link just not stop working?
11 What happened?

12 A. No. Once my blog was terminated, then the
13 links stopped functioning. So, there was no way for
14 me to--because if people want to click on that--that
15 link, it's not anymore. It's to a blog that does not
16 exist anymore. So, I did not take down, per se,
17 anything.

18 Q. Now, this blog post, it reflects that you
19 were an enthusiastic observer at this protest,
20 weren't you, Dr. Stoica?

21 A. Now, that's your reading of it. In my
22 reading of my own blog, I intended to write a funny

1 account which was appreciated by a lot of people when
2 they read it on my Facebook.

3 And an enthusiast of the protests? I
4 wouldn't put it that way. The goals of me writing
5 this is just to provide a funny account on a
6 situation that, you know, on the ground looked tense
7 and serious.

8 Q. All right. Well, let's walk through it.

9 A. Okay.

10 Q. In the second paragraph, if we can put that
11 up on the screen, you're referring to going there in
12 order--and meeting your "Romanian buddies."

13 Do you see that in the next to--third line
14 there; right?

15 A. Yeah. Well, that's--that's a translation
16 from Romanian. I'm saying I got there on time. I'm
17 thinking that if I'm there on time, it might be too
18 early for my Romanian--not buddies, but--you know,
19 Romanians have a habit of being late. So, it might
20 be too early for Romanians.

21 It's a translation. So, Romanians, we're
22 known for being late. So, I'm saying I was there on

1 time, but for all--for my Romanians, that might be
2 too early.

3 Q. Okay.

4 A. You're saying "buddies." I don't think I
5 used the equivalent of "buddies" in the Romanian
6 version, but--

7 Q. I'm not saying "buddies." This is the
8 translation provided to us by Romania.

9 A. Yeah. But I have my own criticism vis-à-vis
10 these translations and others.

11 Q. Okay. In this same paragraph, you say
12 you're nervous in the second line, and then you refer
13 to "paranoia kicking in." You were paranoid that
14 someone is going to try to undermine the protest, and
15 you say, "Paranoia persists."

16 That's what you're writing, correct?

17 A. Yeah. That's a funny blog. It's something
18 that people were posting messages on Facebook.

19 And someone was saying: "The meeting point
20 is there."

21 Then someone posted: "No, it's there."

22 And Romanians are also not only late on

1 meetings, but they tend to be paranoid. So, this
2 was--it's sort of a Romanian inside humor which might
3 not translate well in English.

4 But, you know, as the saying goes, just
5 because you're paranoid, that doesn't mean that the
6 world isn't out there to get you. So, you know,
7 that's a play with words.

8 Q. So, you're saying that you went there as a
9 sociologist to observe this protest and do research
10 on it, and the only thing you wrote is a joke?

11 A. That was something--that was something that
12 I wrote for a blog, not--I did not intend to write a
13 scientific article for a blog in which I used to
14 comment on various actual current events.

15 Q. Let's go to the next--

16 A. That wasn't--

17 Q. Let's go to the next paragraph, the third
18 paragraph. And here you're writing about reaching
19 the Square, so you're arriving at the meeting point.

20 And you say: "They've mobilized.
21 FB"--Facebook--"actually worked"; right? That's what
22 you're writing? You're excited about it?

1 A. I was wondering if Facebook is successful in
2 mobilizing people. And that was--it actually worked.

3 Q. In the fourth paragraph--put that up--you
4 write about a discussion you overheard between two
5 couples you referred to as "corporates"; right?

6 A. Employee--that's a translation issue.
7 Employees of multinationals.

8 Q. Employees of multinationals.

9 A. Yeah, they are.

10 Q. Okay. And they're discussing their work
11 duties, their bosses, their competition at work, some
12 company names, as well as politics; right?

13 A. Yes, that's how I infer that they are
14 employees of multinational companies.

15 Q. And one of the men in these couples talked
16 about "Ponta's schizophrenia." And his
17 statement: "I, as a deputy, will vote against the
18 Draft Law."

19 Do you see that?

20 A. Yes. This is something I overheard.

21 Q. And you despised these corporate couples.
22 You considered giving them a despising look, didn't

1 you, Dr. Stoica?

2 A. Yes, I was considering them--giving them a
3 despising look because--

4 So, one of the wives asks: "Who is
5 Daciana?"

6 And Daciana Sarbu was the Prime Minister's
7 wife. So, for me, like, "Who is Daciana?" was
8 like--I mean, you don't know why--what's the world
9 you live in? Like, how can you ask this question?

10 It's just like, yeah, I would be--you know,
11 probably give a despising look to anyone who couldn't
12 name the President of Romania. From Romania, not
13 from here; right? Yes. So--

14 Q. That wasn't an academic view, that was your
15 personal view, despise them?

16 A. I gave them--I think I was planning to give
17 them a despising look. But the best I could do was a
18 grin because my back hurt. Yes.

19 And, once again, this is an account
20 of--funny account of what I've seen there. It wasn't
21 a systematic or something like a research journal
22 when I would have noted down my observations about a

1 protest.

2 Had I done so, those notes would not have
3 been published on a blog. The reasons we're
4 publishing that article there were different, you
5 know, for my friends, notoriety, and making people
6 laugh.

7 Q. Okay. If we go to the second page on the
8 first paragraph.

9 MR. GREENWALD: Can we put that up?

10 BY MR. GREENWALD:

11 Q. A few lines down, you say: "We get valuable
12 information: we're occupying the carriageway. Walk
13 ahead."

14 Right?

15 A. Yeah. I think that's, I'll say, a problem
16 with the translations. That is, we get valuable
17 information--information was coming to the group that
18 I was in; right--that they will be occupying the
19 carriageway.

20 Q. This is just a translation--that's what
21 you're saying, Romania can't translate this document?
22 It doesn't say the protesters are occupying the

1 carriageway. It says we're occupying it.

2 A. No. No. What I'm trying to say--what I'm
3 trying to say is that there are translators, and
4 there are translators. There are translations, then
5 there are translations.

6 I'm not a certified translator, but I would
7 have translated this in a different way based on my
8 education in the U.S. That is probably better.

9 PRESIDENT TERCIER: Is it possible to
10 shorten the discussion to have the--the Romanian
11 version of this passage and having somebody
12 translating in the control of the other party?

13 BY MR. GREENWALD:

14 Q. It's at the bottom of Page 4. Bottom of
15 Page 4 in the Romanian version. I mean in the PDF.
16 It's the one that begins "Zaresc alti." That one,
17 yep.

18 PRESIDENT TERCIER: We can ask Dr. Stoica to
19 make his personal translation.

20 THE WITNESS: So: We're getting
21 precious--we're getting precious information. The
22 carriage will be occupied. Move up front.

1 So, probably this information was coming
2 from other people behind me.

3 And then Mircea Kivu and Ioana Lupea--We
4 move fast towards the margin of the street. We stop.
5 No one moves. Mihai Bumbes--The one who said move
6 forward disappeared in the crowd. We realized that
7 this was the moment.

8 Ioana calls Victoria and asks her: If we're
9 not going to the carriageway, I tell Ioana, tell
10 Victoria we're all already on the--as a joke--on the
11 carriageway. And she comes fast. It's just to have
12 her occupy first that one.

13 And then I say: "I'm thinking she,
14 Victoria, may stir the storm, and she will occupy the
15 carriageway."

16 So--and waiting for the real signal, I
17 notice a mini drone that films demonstrators. I
18 become a little bit paranoid, which is, again,
19 Romanian, but I calm myself down understanding that
20 it's a privately owned--what do you call that--drone,
21 and it does not belong to the gendarmes.

22 Such drones could be found on the internet.

1 The cheapest one is 2000 Euros. After seeing the
2 mini-drone, I laid my eyes on a chick that sits atop
3 of a TV car, and she films. She's really sexy,
4 tanned, and preoccupied to do her job in a
5 professional manner. It's all good. Is she from
6 Digi or Realitatea?

7 These are two channels. So, I was admiring
8 a cameraman. That put me in trouble with my wife
9 when she read that blog.

10 PRESIDENT TERCIER: Okay. We have now the
11 official translation. Mr. Greenwald, do you have
12 questions?

13 MR. GREENWALD: Well, we have a translation.
14 I think we may have comments on that.

15 BY MR. GREENWALD:

16 Q. Four of the people you mentioned, Ioana
17 Lupea, Victoria Stoiciu, Mihai Bumbes, and Mircea
18 Kivu, they're all your friends; correct?

19 A. Acquaintances. And you can call them--I
20 mean--yeah, acquaintances. That's a better--

21 Q. Let's look at your Report.

22 A. Yeah, friends. I mean, it's not that we see

1 often. Okay. Friends. Not close friends is a
2 better term.

3 Q. They're all your friends; correct?

4 A. Repeat again the names, please.

5 Q. Ioana Lupea, Victoria--

6 A. Ioana Lupea, Victoria Stoiciu, and...

7 Q. Mihai Bumbes and--

8 A. Mihai Bumbes.

9 Q. --Mircea Kivu.

10 A. Okay. Yes.

11 Q. They're all your friends?

12 A. Yes.

13 Q. Okay.

14 Now, in this passage we were just looking
15 at, you say: "Tell Victoria"--Victoria Stoiciu--"we
16 are already on the carriageway and ask her to come
17 quick"; correct?

18 A. Yes, I send that announcement as a joke.

19 What if she's going to start occupying the
20 carriage--carriageway. I was just playing a prank.
21 What if Victoria will do it and she will break the
22 gendarme's lines?

1 Q. If we look at the next paragraph, one of
2 your friends in Cluj calls you and says: "There are
3 more than 5,000 protesters in Cluj."

4 A. Yeah. Yeah.

5 Q. And you didn't believe him and suspect he
6 was exaggerating just to show off and brag about
7 doing better than we are in Bucharest; right?

8 A. Yeah.

9 Q. Your friend in Cluj wouldn't brag about
10 doing better than you unless you were actively
11 participating. Wouldn't make sense.

12 A. Doing better than--than me? Doing better
13 than me or--the comment is about how many protesters
14 were in Cluj and how many--you are implying that I
15 was doing something in there.

16 You, in my opinion--and I'm sorry to say
17 this, but you're--and I'm flattered you do so. You
18 almost present me as the leader of that 2013
19 September 1st protest. And I'm flattered. But I'm
20 not. I was not.

21 And in the same way in which Dr. Boutilier
22 in his presentation has attempted to, or you and some

1 of your colleagues in their openings have merely
2 presented these protests from Bucharest as being, in
3 fact, pro-Rosia Montana Gold Corporation.

4 You weren't near there. No, that's not what
5 I saw.

6 PRESIDENT TERCIER: Okay.

7 BY MR. GREENWALD:

8 Q. You write in this paragraph: "When the hell
9 are we occupying the carriageway?"

10 You were there. You were enthusiastic about
11 it, Dr. Stoica, weren't you?

12 A. If you can read enthusiasm, I cannot
13 disagree with you.

14 Q. Now, Claudiu Craciun, he was the MC, the
15 master of ceremonies, at the protest that day?

16 A. Yes. Yes. And he's a colleague of mine at
17 the university where I teach.

18 Q. And you personally know him?

19 A. Yes, I personally know him.

20 Q. And he invited you to the September 1st
21 protest; correct?

22 A. Oh, no. No. He did not invite me. I saw

1 the Facebook invitation on Facebook.

2 Q. And the Facebook invitation was sent by
3 Claudiu Craciun; correct?

4 A. I can't recall who send the invitation.

5 Q. Well, it's in Annex 1 of your Expert Report,
6 Page 11.

7 A. What page are you?

8 Q. Page 11 of Annex 1.

9 See there the invitation--let me know when
10 you're there.

11 A. Okay.

12 Q. See there the invitation to the September 1
13 protest; right?

14 A. Yes.

15 Q. And "invited by Claudiu Craciun"?

16 A. Yes.

17 Q. Okay. So, you were invited by him. Your
18 Facebook invitation came from him; correct?

19 A. Yes.

20 Q. And if we go back to Stoica-45, Tab 19,
21 Page 2, the second paragraph: "I SMS"--I sent him a
22 text--"to Claudiu Craciun telling him to shout in the

1 megaphone, 'Is Antenna 3 around?' just for fun."

2 A. Yeah, just for fun.

3 Q. You were texting directly with him as these
4 events were unfolding?

5 A. Oh, not only that. I also talked to him on
6 the phone every now and then.

7 Q. The next paragraph, the third paragraph, you
8 write: "That's it. Carriageway occupation. Mission
9 accomplished."

10 Right, Dr. Stoica?

11 A. Yeah.

12 Q. Now, you testify you were a bit scared
13 because you knew how violent and brutal the riot
14 police were at the 2012 protest, and you said
15 something to that effect in your presentation;
16 correct?

17 A. Yes.

18 Q. Here in the last paragraph on Page 2, you're
19 stopped by a gendarme, and you push his arm away and
20 jump on the sidewalk; right? That's what you're
21 writing?

22 A. Yes. I was trying to step out of the

1 marching crowd to make a phone call, and there was a
2 gendarme. And he told me, "Oh, you cannot leave this
3 column."

4 And I thought that was--pardon me--stupid.
5 I can leave whenever I want. And pushed his arm away
6 and jumped on the sidewalk. I mean, just let me be.

7 Q. You were so scared that you pushed a riot
8 police officer's arm out of the way?

9 A. Well, I got the courage then.

10 I don't know what you're implying by this.

11 Q. In this paragraph--this is after you've
12 occupied the carriageway--it says: "It's good, dude.
13 Mircea Kivu, Victoria Stoiciu, and Mihai Bumbes are
14 leading the march, holding a large banner. I stay
15 behind, trying to take pictures, and then I take off,
16 trying to catch up with them."

17 Right?

18 A. Yes. But, "It's good, dude," that should
19 have been translated as "It's all good."

20 Q. "It's all good." Okay.

21 A. Like the Saul--"Better Call Saul," on that
22 movie. "It's all good."

1 Q. Now, I'd like to take you--

2 A. And I just want to make--I think in your
3 statement, you said something to the effect that "You
4 occupied the"--who is "you"? Me? I occupied?

5 Q. You're right there in the same group with
6 Mircea Kivu--

7 A. But I--can I occupy--can I occupy a square?

8 Q. Can I finish my question?

9 A. Yes.

10 Q. You're right--

11 PRESIDENT TERCIER: Let him finish his
12 question, please.

13 BY MR. GREENWALD:

14 Q. You're right there with Mircea Kivu,
15 Victoria Stoiciu, and Mihai Bumbes, and you're taking
16 off, trying to catch up with them, as this
17 carriageway occupation is taking place.

18 That's what you're writing, aren't you,
19 Dr. Stoica?

20 A. Yes. This is what I wrote.

21 Q. Let's turn to your Expert Report at Page 74.

22 MR. GREENWALD: Blow that photo up. Just

1 the photo. Thank you.

2 BY MR. GREENWALD:

3 Q. Now, that's--this photograph was taken by
4 your friend, Ioana Lupea, right after you occupied
5 the car lanes on Nicolae Balcescu Boulevard. That's
6 what you explained in the paragraph above this photo;
7 correct?

8 A. Right after the square was occupied.

9 Q. By these three people and everyone else, and
10 you were with these three people when it happened?

11 A. That's correct.

12 Q. Okay. And the three people in this
13 photograph, the woman on the left is Victoria
14 Stoiciu?

15 A. That's correct.

16 Q. The man with his fist up in the air, that's
17 Mihai Bumbes; correct?

18 A. That's correct.

19 Q. The man behind him with the denim jacket is
20 Mircea Kivu; right?

21 A. Yes, that's correct.

22 Q. And they're holding a banner that translated

1 says "Rosia Montana: The Revolution of our
2 Generation"; right?

3 A. That's correct.

4 Q. And "The Revolution of our Generation," that
5 echoes what you wrote in "Our martyrs of 1989 did not
6 die for this"; right?

7 A. I don't think it echoes that. I think it
8 echoes the green revolution, which is different from
9 the revolution we had in 1989.

10 My impression, my reading of this, is that
11 they are referring to a green--so-called green
12 revolution, just like in other environmental
13 movements. And that will be the revolution of their
14 generations, though they are from different
15 generations there.

16 Q. Okay. If we look on the next page, Page 75,
17 it's another photo of the same three people,
18 Ms. Stoiciu, Mr. Kivu, and Mr. Bumbes, marching with
19 the same banner that day; correct?

20 A. That's correct.

21 Q. And next to Mr. Bumbes, his left, our right,
22 in the blue jeans and black T-shirt, is Maria Silvia

1 "Bobu" (phonetic); is that right?

2 A. Can you repeat that?

3 Q. Sure. In the blue jeans and black T-shirt
4 is--

5 A. I don't know. I don't know who that person
6 is.

7 Q. Well, she and Mihai Bumbes are two of the
8 four people who chained themselves to the fence of
9 the Government building--

10 A. I did not know that.

11 Q. --on August 28th.

12 A. Yeah, I did not know her. I know that
13 people chained themselves to the--to the fences. I
14 did not know she was one of them. I personally do
15 not know her.

16 Q. Did you know that Mihai Bumbes was one of
17 the four people?

18 A. Yes.

19 Q. Okay. Let's go to Tab 21 of your binder.
20 This is C-2933.

21 In the first paragraph, you can see this is
22 an online petition calling "for the immediate

1 withdrawal of the law bill concerning Rosia Montana
2 and for the start of a dialogue with the civil
3 society"; right?

4 A. Yes, that's correct.

5 Q. And then it writes in the next sentence that
6 the law referred to here--we're talking about the
7 Draft Law--was adopted "in a non-transparent manner
8 by the Government of Romania"; right?

9 A. Yes, that's what is written there.

10 Q. And it refers in the last paragraph to a
11 letter addressed to Prime Minister Victor Ponta and
12 to the presidents of the Parliament, Crin Antonescu,
13 the Senate President, and Valeriu Zgonea, the
14 President of the Chamber of Deputies; right?

15 A. Yes.

16 Q. And that letter urged those political
17 leaders to act in the spirit of--I think this is a
18 translation issue, actually. It says "White Chart."
19 It should be the White Book of Good Governance'
20 right?

21 A. Probably, yes.

22 Q. Which was their contract with the civil

1 society, correct?

2 A. I'm not sure about that.

3 Q. Well, you signed this--if we look at the
4 second page, you signed that online petition on
5 September 6, 2013; correct?

6 A. Yes. And if you can go back to the
7 message--could you please go back to the message of
8 the petition?

9 Yes, I did sign it.

10 Q. You did sign it. Okay.

11 A. So, please go back to the message.

12 PRESIDENT TERCIER: That can be addressed on
13 redirect. I don't think we save time if we go back.

14 THE WITNESS: As you can see--yes, if you
15 can bring that up. I would like to--the following
16 thing: I did sign for what I interpret back then as
17 being a call for a dialogue with the civil society.

18 If you can highlight. So, it says, "For the
19 immediate withdrawal of the law bill and for the
20 start of a dialogue with the civil society."

21 Now, I was on the streets. The situation,
22 despite my courage that you mentioned, looked tense.

1 I knew that in January/February 2012, the gendarmes
2 were pretty violent with protesters. And I am always
3 for an open dialogue with--between the powers that be
4 and civil society.

5 I signed this because I read it as a call
6 for dialogue. And that's the reason why my signature
7 is there.

8 And, actually, I believe that the letter by
9 Alina Mungiu Pippidi was actually written days after
10 she gathered the signature.

11 But, once again, I am a concerned citizen.
12 I did sign that petition that called for the start of
13 a dialogue with civil society, which--it's the best
14 way of solving whatever conflicts might be.

15 And as a concerned citizen, I might sign
16 other petitions. As a concerned citizen--you know
17 what?--I always vote in elections.

18 PRESIDENT TERCIER: Okay.

19 BY MR. GREENWALD:

20 Q. You don't mention in your Expert Report
21 signing any petition calling for the immediate
22 withdrawal of the Draft Law and a dialogue between

1 the government and civil society, do you?

2 A. No. That's correct. Because I did not
3 remember.

4 Q. There were anti-Government signs and slogans
5 at the 2013 protests, weren't there, Dr. Stoica?

6 A. Yes, there were.

7 Q. And one of the central slogans of the
8 September--this is at Paragraph 117 of your
9 Opinion--your Expert Opinion.

10 One of--if you want to turn to it, put it on
11 the screen.

12 One of the central slogans of the
13 September 2013 protests was: "Corporations do not
14 legislate." "Nu corporatia face legislatia."
15 Correct?

16 A. Can you wait a bit?

17 Q. Sure.

18 A. I can wait a bit to go there.

19 Oh, this is it. Yes.

20 Q. And that slogan expressed, as you testified,
21 protesters' concern vis-à-vis the fact that a
22 corporation--you say RMGC in this case--"might buy

1 off corrupt MPs"--referring to Parliamentarians--"and
2 other officials in order to have them pass laws
3 favoring specific private business interests"; right?

4 A. That's correct.

5 And if I can elaborate.

6 PRESIDENT TERCIER: I think we will go
7 forward, and you can come back in the redirect.

8 BY MR. GREENWALD:

9 Q. Yeah. I'd like to show you a statement of
10 Senate President Antonescu to Digi 24 TV on
11 October 22nd, 2013. You may have seen it during our
12 opening presentation.

13 Can we play that video?

14 This is going to be C-2692.01.

15 (Video played.)

16 BY MR. GREENWALD:

17 Q. Now, you disagree with that statement of
18 Mr. Antonescu that the common denominator among the
19 protesters was not ecology, but was distrust and
20 suspicion against those who govern.

21 You disagree with that; right?

22 A. Yes. I believe that's a statement made by

1 Mr. Antonescu, who was then in a conflict with his
2 partner, Victor Ponta, for who was going to get
3 nominated as the--for the presidential elections.

4 And I don't see Mr. Crin Antonescu--a
5 politician with partisan views, by definition--I
6 don't see him invoking surveys to back his claim.

7 And you have to believe me. I know
8 politicians in Romania, at least those in Romania, if
9 they have a survey that can back up their opinions,
10 they will invoke it.

11 So, this is just a personal opinion made by
12 a politician in a political war. Even if he is the
13 President of the Senate, he's not an epistemic
14 authority on people's real motives. He was driven by
15 car to and from--to the Senate and from his house. I
16 don't think he's ever met protesters, too.

17 PRESIDENT TERCIER: Next question.

18 BY MR. GREENWALD:

19 Q. I'd like to take you to Paragraphs 82 and 83
20 of your report. Let me know when you are there.

21 A. Yes.

22 Q. Okay. In these paragraphs, you're quoting

1 Victoria Stoiciu, who we saw in that photo, correct,
2 holding the banner?

3 A. Mm-hum.

4 Q. Can you give a verbal answer?

5 PRESIDENT TERCIER: You should say "yes" or
6 "no."

7 THE WITNESS: Oh, yes. Yes.

8 BY MR. GREENWALD:

9 Q. And after quoting this passage from her
10 text, you conclude at Paragraph 83 that "the 2013
11 protest was mainly (albeit not exclusively) about the
12 environment."

13 It's in the fourth and fifth lines of
14 Paragraph 83; right?

15 Do you see it? It's up on the screen, too.

16 A. Yep.

17 Q. Okay. Let's look at Professor--is it
18 Professor Stoiciu? Let's look at her observations
19 which you rely on, which are at Tab 23. This is
20 Stoica Exhibit 30.

21 And this is a publication by Ms. Stoiciu in
22 September 2017 called "Romanian Social Movement:

1 Between Repoliticization and Reinforcement of the
2 Status-Quo (2012-2017)"; correct?

3 A. Correct.

4 Q. Ok. And if we go to the passage that you
5 quote, which begins at the bottom of Page 4, it's
6 under the heading "From anti-system to
7 anti-government protests--2012-2017"; right?

8 A. Yes. That's correct.

9 Q. Now, you quote this paragraph that starts at
10 the bottom of Page 4 where Ms. Stoiciu lists the
11 triggering events for various protests in Romania
12 from 2012 to 2017, including the protests we talked
13 about in 2012 as well as the 2013 protests; right?

14 A. Uh-huh.

15 Q. And then the later ones?

16 A. Yeah.

17 Q. And then you also quote at the top of page 5
18 where Ms. Stoiciu writes: "For the liberals, for
19 example, each of the above-mentioned issues
20 represented an abuse against the rule of law
21 principles, a sign of discretionary and corrupt
22 governance. For nationalists, it was the country's

1 national interest that was always put in danger by
2 selling the country to the foreigners. The leftist
3 groups emphasized the structural deficiencies of the
4 capitalism, leading to disproportionate power of the
5 capital over the citizens and the absence of social
6 justice. For ecologists, at stake was the protection
7 of the environment."

8 That's what you quote at Paragraph 82 of
9 your Report; correct?

10 A. Yes.

11 Q. And here, where she is saying "each of the
12 above-mentioned issues" and tying it to different
13 groups and how they viewed each of those issues, what
14 Ms. Stoiciu is explaining is that all of the protests
15 from 2012 to 2013--each group viewed each triggering
16 event in light of what was most important to them;
17 isn't that right, Dr. Stoica?

18 A. I believe she says "Age group attending the
19 protests articulated the dissatisfaction in its own
20 language," not that it viewed differently, as you
21 stated--

22 Q. Okay.

1 A. --as the articulation. And yes, the way in
2 which they were phrased.

3 Q. And I misstated it. From 2012 to 2013.

4 A. Okay.

5 Q. I should have said "from 2012 to 2017." For
6 all of those protests, from 2012 to 2017--

7 A. Yes.

8 Q. --Dr. Stoiciu is saying that each of these
9 groups who attended those protests, as you say,
10 articulated or understood their dissatisfaction
11 in--through the lens--through the lens of what was
12 most important to them; correct? For all of those
13 protests.

14 A. Yes. But let me note that some of what
15 Victoria calls liberals, which in Romania--Romanian
16 political spectrum are center-right, usually were
17 people who attended anti-corruption demonstration
18 which debuted in 2015, as such; right?

19 So, not all of these people--not all these
20 groups participated in all protests in the period
21 that Victoria speaks about. So--but I think her
22 portrayal of various groups who showed up at various

1 demonstrations--not at all demonstrations.

2 It's--it's a good synthesis of their main
3 characteristics.

4 Q. Well, she's describing how from these--in
5 these protests from 2012 to 2017--this is back on the
6 previous page--liberals, leftists, nationalists,
7 ecologists, and even extreme right groups stranded
8 together against a political establishment whose
9 outcome was the abuse of power, et cetera.

10 They all attended all these protests. They
11 stranded together, correct, in these protests?

12 A. Well--

13 Q. That's what she's saying.

14 A. They stranded together. That doesn't mean
15 they attended all these events.

16 Q. Okay. You don't continue quoting the rest
17 of this paragraph in your Report at Paragraph 82.
18 You stop after the sentences that I read earlier. If
19 we look at the conclusion of this paragraph on Page 5
20 of Dr. Stoicu's Report, the last two sentences are:
21 "What was at stake in every protest"--and she's still
22 talking about 2012 to 2017--"was the opposition

1 against the political establishment as a whole,
2 against the political system in place. This
3 anti-system narrative was not diluting, nor was it
4 diminishing the ideological heterogeneity of the
5 protest, but made the coexistence of different
6 ideological groups possible."

7 Isn't that right, Dr. Stoica?

8 A. This is what she wrote. That's her opinion.

9 Q. And that's the part you left out of your
10 opinion; isn't it?

11 A. Well, I disagree with her opinion.

12 Q. You disagree with the opinion set forth in
13 the same paragraph you rely on.

14 A. Where she correctly stated that the 2013
15 protests were mainly attended and motivated by
16 environmental concerns. She was right there.

17 Q. Okay.

18 A. But not this.

19 Oh, and by the way, yes, she just got her
20 Ph.D. recently. I was wondering how did you know
21 that, but just a side comment.

22 Q. In 2014, CURS conducted a study on Romanian

1 youth concerns, aspirations, attitudes, and
2 lifestyles; right?

3 A. Yes, that's correct.

4 Q. And you were the Research Coordinator on
5 behalf of the CURS team that conducted this study in
6 2014; is that correct?

7 A. Yes, that's correct.

8 Q. And the study was done for the
9 Friedrich-Ebert Foundation, or "FES." Correct?

10 A. Yes, that's correct.

11 Q. And Ms. Stoicu, who we just looked at her
12 writing, she was the Research Coordinator for FES;
13 correct?

14 A. She works for FES, Friedrich-Ebert-Stiftung
15 in Romania, yes.

16 Q. And she was the Research Coordinator for the
17 study on Romanian youth, where you were the CURS
18 Research Coordinator?

19 A. No. No, she was the Research Coordinator
20 from FES on behalf of the foundation, in the sense
21 that taking care of administrative and other stuff,
22 but the research team is presented on that page which

1 you have there.

2 Q. Could we go to Tab 24. This is Stoica 42.

3 A. Yes.

4 Q. This is the Romanian Youth study done by
5 CURS for the Friedrich-Ebert-Stiftung Foundation?

6 A. In 2014.

7 Q. Correct.

8 And on the third page it lists Research
9 Coordinator from FES Romania Victoria Stoicu;
10 correct?

11 A. Yes.

12 Q. And then you're listed as the Research
13 Coordinator for the CURS team; correct?

14 A. Yes.

15 Q. And FES, the foundation here, FES, partnered
16 with the "Save Rosia Montana" campaign and sponsored
17 anti-project activities such as Fânfest; correct?

18 A. Your team sent rebuttal documents from which
19 I found out that this foundation, which was banned by
20 the Nazis in 1933, left wing, and resurfaced after
21 the World War Second has branches throughout the
22 world.

1 It was from one of your rebuttal documents
2 that I found out that they supported anti-Rosia
3 Montana Project actions, and I just want to clarify
4 this. This was a contract between a private research
5 agency and a separate entity which is
6 Friedrich-Ebert-Stiftung. We submitted a technical
7 and financial proposal to conduct the study, and
8 apparently our offer was selected.

9 And an additional detail, the same study was
10 replicated last year, was conducted by another
11 company, so I have no formal affiliation with FES
12 other than through this Contract, which, again, I was
13 running a private opinion firm. I was supposed to
14 conduct--provide consulting services for various
15 clients, including the World Bank, National
16 Democratic Institute for International
17 Affairs--whatever.

18 Yes, if that's a problem--

19 PRESIDENT TERCIER: Okay. Let's go to the
20 question.

21 MR. GREENWALD: Yes.

22 BY MR. GREENWALD:

1 Q. So, if we could turn, the content of this
2 study is now behind Tab 25, which is C-2931. An
3 excerpt was provided in view of page limitations.
4 It's a handful of pages. This is an excerpt from the
5 CURS study that you coordinated; correct?

6 A. Yes.

7 Q. And you wrote the forward to the study with
8 Ms. Stoiciu; correct?

9 A. Yes, correct.

10 Q. And at the bottom of the first column, you
11 wrote that FES, which had retained CURS, to do the
12 study "aimed to fill a gap in our information on
13 youths aged between 15 and 29 years old." That was
14 the objective; right?

15 A. Yes.

16 Q. And the study, if we look at the second
17 column, the second paragraph: "CURS completed
18 face-to-face interviews with 1302 Respondents aged 15
19 to 29 years." Correct?

20 A. Yes, that's correct.

21 Q. And CURS also set up 10 focus groups in
22 order to explore some of the poll's results

1 thoroughly; correct?

2 A. Yes, that's correct.

3 Q. And then you're referring at the end, the
4 last two paragraphs, you refer to "our conclusions"
5 in this study; correct? "Many of our conclusions are
6 based on the results of multi-varied statistical
7 analyses." Correct?

8 A. Yes.

9 Q. And then you conclude: "We hope that our
10 efforts in analyzing the youths' mentalities and
11 thinking mechanisms offers the opportunity for a
12 deeper understanding of the world, in order to
13 provide clues for public policies that could be more
14 appropriate for this age group." Right?

15 A. Yes, that's correct.

16 Q. Now, you did not submit the CURS study that
17 you coordinated as an exhibit to your Expert Report
18 submitted in this arbitration, did you?

19 A. No, because I didn't see the relevance of a
20 study conducted on 18.8 percent of a country
21 population, and all I can see there are some of the
22 respondents are underaged, and this was a study that

1 was conducted in 2014 after the protests--excuse me?

2 Q. The study that you--

3 A. Was conducted in 2014, after the protests,
4 and it dealt with other themes.

5 Plus, it was a study conducted, indeed, on a
6 national representative sample, but for young people,
7 people aged 15 to 29 years old, so it wasn't
8 representative for the adult population of Romania or
9 people of voting age.

10 PRESIDENT TERCIER: Okay. Let's turn to the
11 question.

12 BY MR. GREENWALD:

13 Q. All right. Let's walk through the findings
14 of this study which you hoped would provide clues for
15 public policies.

16 A. Um-hmm.

17 Q. At the next page, Page 2 of the excerpt,
18 which is Page--

19 A. Yes.

20 Q. --seven--Page 17 of the Report.

21 There are a couple of page numbers written
22 here.

1 When we originally had it, it would be Page
2 18 with the cover page but it's Page 17 of the
3 Report.

4 Now, there is a table here, Table 3.3.

5 Do you see that?

6 A. Yes, I do see it.

7 Q. It ranks issues from "very serious" in
8 descending order; correct?

9 A. Yes, that's correct.

10 Q. And the most serious issue was corruption;
11 correct?

12 A. Yes.

13 Q. And next in descending order was poverty;
14 correct?

15 A. Yes. It might be that.

16 They're ranked by the scores for very
17 serious, but if you add very serious and serious, you
18 might get poverty for in the first place; however,
19 let's comment on them as I present it.

20 Q. Yeah. And then you presented the next "job
21 security"--"job insecurity," I should say,
22 "unemployment," "prices of energy," "failure to

1 properly implement laws"; correct?

2 A. Yes.

3 Q. And if you continue all the way on through
4 this list on to the next page, next to last was
5 climate change; correct?

6 A. Yes.

7 Q. And if you look up the table at the
8 paragraph on the previous page up above it and then
9 continuing on to the next page, what you write about,
10 what you're commenting on these findings is that--so,
11 you tried to understand the serious problems
12 respondents perceive in the society they live in.
13 "The two most important problems they mentioned are
14 corruption and poverty, each of them being perceived
15 as very serious by almost two-thirds of the
16 respondents. They are followed by other economic
17 problems such as job insecurity, unemployment or high
18 prices of energy as well as political issues such as
19 the failure to properly implement the laws."

20 That's what you found in 2014; correct?

21 A. Yes.

22 Q. And then--

1 A. That's what we found among Romanian youth,
2 including underaged individuals--

3 PRESIDENT TERCIER: Okay.

4 THE WITNESS: --who represent 18.8 percent
5 of the country's population.

6 BY MR. GREENWALD:

7 Q. And then on the next page, you're talking
8 about all of the aforementioned issues which include
9 all the ones we just mentioned as well as conditions
10 of the public-health system are deemed "serious" or
11 "very serious" by at least 90 percent of the
12 respondents.

13 Do you see that?

14 Can you blow that up?

15 A. Yes, that's correct.

16 Q. And then you observed that it was
17 noteworthy--"noteworthy is the relatively low
18 seriousness young people associate with issues such
19 as pollution, climate changes or threat of terrorism,
20 which are greatly debated in the highly developed
21 societies." That's what you're finding here in 2014;
22 correct?

1 A. Yes.

2 This is my finding among a sample of
3 individuals aged 15 to 29 years old, young people,
4 young people living in a poor country.

5 I've got to specify this because I don't
6 want to be reinterpreted as being representative of
7 the entire country or its adult population.

8 PRESIDENT TERCIER: We have taken note of
9 it, and you mentioned it before already.

10 BY MR. GREENWALD:

11 Q. And you didn't consider that that noteworthy
12 finding in your study should be part of your Expert
13 Report, did you?

14 A. No, because this is a study conducted in
15 2014, after the protests in 2013.

16 And the instructions I have gotten were to
17 comment on the 2013 protests and their characters,
18 and on some opinion polls that were made available to
19 me.

20 Q. Can you go two pages forward. This
21 is--there's a chart called Chart 8.5, which is on
22 protest topics.

1 Do you see that?

2 A. Yes.

3 Q. And it asks which topics do you care about
4 most, which one of the following protest topics do
5 you care about most; right?

6 A. Yes.

7 Q. And the protest topics people cared about
8 most were lack of jobs, 28 percent; right?

9 A. Yes, for young people that's normal.

10 Q. Economic (pay, poverty), 24 percent; right?

11 A. For a poor country like Romania, yes.

12 Q. Our health system, 11 percent?

13 A. Yes.

14 Q. Corruption, 9 percent?

15 A. Yes.

16 Q. And then environment was at only at
17 3 percent; right?

18 A. Yes. Among these young people.

19 Q. The bottom of the page, there's another
20 table, Table 8.6, again asking opinions on potential
21 protest topics?

22 A. Um-hmm.

1 Q. And for the total, you can see that jobs and
2 economy come in at 55 percent, say it's what they
3 care about most.

4 Do you see that?

5 A. Yes.

6 Q. "Corruption/rule of law," 13 percent; right?

7 A. Yes.

8 Q. "Health system," 12 percent; right?

9 A. Yes.

10 Q. Compared to only 7 percent for
11 "environmental protection" and 6 percent for
12 "discrimination"; right?

13 A. Yes.

14 PRESIDENT TERCIER: Okay. I know that you
15 are using your credit that you have, but could you
16 tell us approximately how long would it be? Because
17 it would be good if we could finish before lunch, and
18 we will have the redirect.

19 MR. GREENWALD: We will finish before lunch,
20 it will not be long.

21 PRESIDENT TERCIER: You or you think also
22 redirect?

1 MR. GREENWALD: Well, that depends on the
2 length of the redirect--

3 PRESIDENT TERCIER: You're right, but how
4 long do you still have?

5 MR. GREENWALD: Within the next 15 minutes.

6 PRESIDENT TERCIER: Okay.

7

8 BY MR. GREENWALD:

9 Q. If we go to the last page.

10 A. The last page--that's the first page.

11 Q. Which is Page 145 of the Report, CURS also
12 found political parties, Parliament, and the
13 Government were "extremely unpopular," if you look in
14 the paragraph above, that Table 8.11?

15 A. Yes, that's correct, 2014, yep.

16 Q. With confidence levels ranging from
17 6 percent for political parties up to 12 percent for
18 the Government?

19 A. Yes, that's correct.

20 Q. And if we flip back to Page 4 of this
21 document--Page 4 of the PDF, but it's Page 130 of the
22 Report, which is introducing these tables that we

1 just looked at, Chart 8.5, Table 8.6, Table 8.11,
2 they're all part of Chapter 8, says in the last
3 paragraph introducing this topic, "topic is all the
4 more interesting that relative"--let's put it on the
5 screen--that a "relative increase in the number of
6 protests organized by the civil society, especially
7 in Bucharest and other large cities, was recorded in
8 the past years. Even though nominally they were
9 attributed to precise causes, such as the dismissal
10 of Raed Arafat in 2012 or the mining project of Rosia
11 Montana in 2013, these protests had constantly a
12 political attitude directed in particular to
13 anti-establishment and were initiated by large groups
14 of young people."

15 Right, Dr. Stoica?

16 A. These are not my words.

17 Q. These are the words of the CURS study?

18 (Overlapping speakers.)

19 A. Sir, this Report was written by three
20 people, each of them is the author of a particular
21 section, and they are identified as such, and if you
22 can look and show the Tribunal on Page 4 of this

1 Report, you are going to see that the author of
2 Section 8 is not me, is Daniel Sandu.

3 Q. You'd agree Daniel Sandu's conclusion is the
4 main thesis of Dr. Boutilier's expert opinion in this
5 arbitration, wouldn't you?

6 A. I don't think they're the same.

7 Q. You don't think that what it says right
8 there is not exactly the same as what Dr. Boutilier
9 testified to yesterday and submitted in his expert
10 opinion and you responded to?

11 (Overlapping speakers.)

12 A. I believe that Dr. Boutilier said that the
13 protests were, in fact, anti-corruption, and
14 anti-government, and I believe the colleague Daniel
15 Sandu speaks about anti-establishment.

16 Q. And a political attitude?

17 A. Anti-establishment --

18 (Overlapping speakers.)

19 A. --can mean anything.

20 But just for the record, you and
21 Dr. Boutilier in his presentation wrongfully
22 attributed these words as belonging to me. There is

1 evidence that you did not present according to which
2 I was not the author of this section.

3 Q. This conclusion that these protests, the
4 2012 and 2013 protests had constantly a political
5 attitude directed in particular to anti-establishment
6 initiated by young people are based on the research
7 you coordinated on behalf of CURS?

8 A. But the responsibility for what was written
9 in that Report belongs to the author who wrote it.

10 Q. Okay.

11 A. And in this case, it was Daniel Sandu.

12 And, as a matter of fact, for the record, I
13 disagree with that.

14 Q. And you did not indicate either in your
15 forward or anywhere else in this study that you
16 disagreed with Mr. Sandu's conclusions at the time,
17 did you? We saw your forward, you referred to "our
18 conclusions," our findings?

19 A. Excuse me, what forward?

20 Q. The forward that you wrote with Ms. Stoiciu
21 that we looked at.

22 A. Oh.

1 No, because that forward was meant to
2 introduce readers to the Report, and the three
3 authors which are listed alphabetically, so I wasn't
4 an editor--I wasn't the editor--had total freedom to
5 write.

6 I mean, I trusted them to analyze the data
7 in a good way, solid way. Their conclusions is their
8 conclusions.

9 Q. You trusted and respected Daniel Sandu, and
10 that's why he was one of the FES--excuse me, one of
11 the CURS experts for this study; isn't that right?

12 A. As a matter of fact, Daniel Sandu was
13 suggested to us by FES.

14 That's a longer story on which--

15 PRESIDENT TERCIER: Don't you think the
16 Tribunal will appreciate?

17 MR. GREENWALD: Last question.

18 BY MR. GREENWALD:

19 Q. You relied on Daniel Sandu's academic
20 writings and other papers you've published, haven't
21 you, Dr. Stoica?

22 A. I don't recall relying on his writings. I

1 don't recall. I don't think I did. He's my junior.

2 Q. If we look at Tab 9, Dr. Stoica--

3 A. I might have--

4 Q. Stoica 28.

5 A. Can you tell me--

6 Q. Tab 9, Stoica 28, your Article on the
7 multiple facets of popular discontent, a sociological
8 outline of the January 2012 protest from Bucharest
9 University Square that we looked at earlier?

10 A. Yes.

11 Q. You go to the next to last page, Page 34,
12 Daniel Sandu--

13 A. That's Dimitriu Sandu. That's another guy.
14 He's a former Professor of mine. Daniel Sandu is a
15 junior guy as compared to me. D. Sandu is Dimitriu
16 Sandu. You could have asked me.

17 MR. GREENWALD: No further questions.

18 PRESIDENT TERCIER: Thank you very much.

19 Dr. Heiskanen, you have the floor for the
20 redirect.

21 Sorry, Ms. de Germiny.

22 MS. de GERMINY: Thank you, Mr. President.

REDIRECT EXAMINATION

1
2 BY MS. de GERMINY:

3 Q. Good afternoon, again now, Dr. Stoica.

4 A. Good afternoon.

5 Q. I just have a couple of questions. First of
6 all, you were taken to Paragraph 117 of your Report,
7 and you did not get a chance to comment. Would you
8 like to--would you please elaborate on what you meant
9 in this paragraph?

10 A. Yes. Prior to the Paragraph 117, on 116,
11 there has been--people have discussed a lot about the
12 anti-corruption character of these protests and
13 anti-government character.

14 Now, corruption was probably, and there were
15 signs against corruption among demonstrators, but
16 probably some of these demonstrators were concerned
17 about the corruption at the hands or initiated by
18 RMGC itself, and I quote from a document of the
19 Company, and I direct Member of the Tribunals to look
20 at what it's involved.

21 However--let me put my glasses on--oh, I can
22 read it here: "However, there can be no assurance or

1 guarantee that such efforts have been and will be
2 completely effective in ensuring Gabriel's
3 compliance, and the compliance of its employees,
4 consultants, Contractors, and other agents, with all
5 applicable corruption (sic) laws."

6 So, the Company states that it cannot
7 guarantee it will comply with all applicable
8 anti-corruption laws.

9 Now, I'm not fluent in legalese, and many
10 protesters are not, but it's likely that having read
11 such a statement from the Company, they probably were
12 concerned about the corruption initiated by RMGC,
13 just in the sense of political capitalism that the
14 counsel so insisted on, which means making huge
15 profits under the political protection of State
16 authorities.

17 So, look, anti-corruption but anti-company
18 corruption.

19 Q. You were asked about Exhibit R-451 at Tab
20 14, if you could have a look.

21 A. Yes.

22 Q. What is your understanding as to how

1 complete or exhaustive this list is in terms of the
2 protest-type events relating to the Project that
3 occurred prior to September 2013?

4 A. Well, I'm well-aware of the fact that this
5 list might not be complete, might not have included
6 all of the protests against this project.

7 Also, this is true because I tend to believe
8 it's true because this is only the chronology of the
9 "Save Rosia Montana" campaign. Well, we know all too
10 well that there were people who were sympathetic to
11 the cause and not necessarily associated with the
12 campaign who would protest and show up at different
13 locations. Yes.

14 So, granted, it might not be an exhaustive
15 listing.

16 Q. And you were just asked a few minutes ago
17 about Mr. Sandu's comments in the 2014 publication.

18 A. Um-hmm.

19 Q. What was the Government or the Government's
20 position about the Rosia Montana Project leading up
21 to the 2013 protests?

22 A. From--from the comfort of my armchair, so to

1 speak, my impression was that the Government
2 supported this project.

3 MS. de GERMINY: No further questions.

4 PRESIDENT TERCIER: Thank you very much.

5 Questions on your side?

6 I have one question.

7 QUESTIONS FROM THE TRIBUNAL

8 PRESIDENT TERCIER: It is linked to
9 Paragraph 96 of your Witness Statement, and you have
10 mentioned it for the essence was presented this
11 morning in your introduction. There, if I take the
12 presentation, you say: "Between 2002--July, sorry,
13 to the social movement 'Save Rosia Montana' had a
14 number of initiative actions with the help of NGOs'
15 social network," and then you have, "between 2002 and
16 2013 there were 34 such protest actions which took
17 place in Romania or abroad."

18 What's interesting to me is "or abroad," and
19 then we have thirty--three actions per year, and we
20 have 35,000 individuals. How do you know who were
21 abroad, in Romania? What is the relation between
22 these actions?

1 And if I may just finish, concerning the
2 abroad, the action that took place abroad, can you
3 try to specify them to say what relation they had
4 with the ones that were taking place in Romania?

5 THE WITNESS: Yes, I will try.

6 First of all, as I mentioned in my opinion,
7 the number 34 actions was obtained from the
8 officially assumed history of the Rosia Montana
9 campaign, and it might be incomplete, as I just
10 mentioned. And there, there are listed some events
11 that have taken place abroad.

12 PRESIDENT TERCIER: Where abroad?

13 THE WITNESS: Probably in Berlin, in
14 Germany. I can't recall them exactly, but they're on
15 the record, and the "Save Rosia Montana," the history
16 is there on the record as an exhibit. I can't recall
17 that.

18 However, I do remember more specifically
19 that the protests from 2013 during that time when
20 people were protesting in Bucharest, Cluj, and
21 Timisoara, there were also numerous other protests in
22 other EU countries in Berlin that I know for sure I

1 submitted photos from those protests. I believe
2 there were a few other EU cities; in Canada and New
3 York at least.

4 What's the relationship between the
5 protesters in Romania and the protesters abroad?
6 Some of the--it is my impression, I speculate--I
7 haven't studied thoroughly this network, but my
8 impression is that some of the Romanians protesting
9 abroad have been collaborating with other
10 environmental movements from abroad, but most of them
11 were Romanians, young professional Romanians who
12 found better jobs abroad, concerned by the
13 environment, concerned about the fate of their
14 country, even if they're still there.

15 So...

16 PRESIDENT TERCIER: Okay. They will have
17 some actuality today also.

18 The second question: You have differences
19 between the way to assess the position of the
20 non-voting. You remember in this pool and you
21 consider that the non-voting, in fact, are not in
22 favor whereas Mr. Boutilier took the non-voting out

1 of his computation and came to another result.

2 That's really speculation from each side; no?

3 THE WITNESS: No, sir. I was mentioning
4 that, if I may, I was mentioning that Dr. Boutilier,
5 in his Report, seems to indicate that those who were
6 undecided are not against the Project. This is his
7 statement, and I was just commenting. I was just
8 wondering how can he say this? I didn't come up with
9 a different model. I was just making a remark saying
10 how can you tell that those who are undecided are not
11 actually against the Project? I was criticizing him,
12 and I wasn't offering an alternative model. I was
13 just--and I was saying--by doing this, he boosted the
14 support for the Project.

15 PRESIDENT TERCIER: Thank you very much.

16 No further questions from my side.

17 THE WITNESS: Thank you, sir.

18 PRESIDENT TERCIER: No further questions,
19 and in that case, I would like to thank you very much
20 for your testimony.

21 THE WITNESS: Thank you, sir.

22 (Witness steps down.)

1 PRESIDENT TERCIER: Before leaving for
2 lunch, we could start already with Ms. Pop's
3 presentation? I would suggest that we take--

4 MR. GREENWALD: Just a point about the
5 Transcript, at Page 3300 Line 16, you said they were
6 referring to the document that was just up on the
7 screen, there were 33 acts per year when it was three
8 acts per year, 34 total, three acts per year.

9 PRESIDENT TERCIER: Yeah. In any case, I
10 don't know who made the error.

11 I would be happy to have the time now again
12 because we're coming to the end and see what are the
13 credits--

14 SECRETARY MARZAL YETANO: Would you like me
15 to give the remaining time for the Parties or what
16 they've spent today? Because--

17 PRESIDENT TERCIER: You can give both, it
18 would be beautiful.

19 SECRETARY MARZAL YETANO: Okay. So,
20 Claimants have spent a total of 2 hours and 22
21 minutes, and Respondent 42 minutes today. And I have
22 the overall remaining time without taking into

1 account the instructions yesterday, but this is the
2 overall remaining time is for Claimant 3 hours and 45
3 minutes, and 48 seconds; the Respondent, 3 hours and
4 51 minutes and 10 seconds.

5 PRESIDENT TERCIER: First time I'm happy to
6 see that it is really an equal sharing of time,
7 really, but it would be probably more useful to have
8 the time after the Agreement that we had yesterday.

9 SECRETARY MARZAL YETANO: Okay. I will do
10 it later.

11 PRESIDENT TERCIER: Probably you will be
12 able to do that on your own calculation. Okay.

13 Good. I would be grateful if you could try
14 to see whether some dates are available for the next
15 session on both sides, and I would be also grateful
16 if you could, because we will discuss it at the end,
17 see which would be for you the next step of the
18 procedure, in particular we know that probably there
19 will be a further submission on the rebuttal
20 documents.

21 Okay?

22 DR. HEISKANEN: Yeah, very good. And we

1 would prefer to have the break now to be able to
2 consider those issues precisely.

3 PRESIDENT TERCIER: That's what I have in
4 mind. Yeah. Is that okay?

5 MR. GREENWALD: That works for us, thank
6 you.

7 PRESIDENT TERCIER: Okay. Good. Thank you.
8 Then we start again at 1:30, sorry.

9 (Whereupon, at 12:28 p.m., the Hearing was
10 adjourned until 1:30 p.m., the same day.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AFTERNOON SESSION

PRESIDENT TERCIER: Ms. Pop, you're ready?
Okay. Good.

Good afternoon, ladies and gentlemen. I suggest to resume.

Dr. Heiskanen has asked for the floor.

DR. HEISKANEN: Yes, a brief comment, Mr. President. We have 20 minutes for Dr. Pop, but she may need something like 25 minutes.

PRESIDENT TERCIER: Okay. No comment on your side?

MR. POLÁŠEK: No comment, Mr. President.

And--

PRESIDENT TERCIER: And you have allotted 40 minutes?

MR. POLÁŠEK: Pardon me? Could you repeat the question, please.

PRESIDENT TERCIER: Yeah. Sorry.

You allotted 40 minutes for your cross?

MR. POLÁŠEK: That was the plan. We will endeavor to stick with it. Whether that works out, I cannot say at this point. But if not, it is not

1 going to go much longer than that, for sure.

2 PRESIDENT TERCIER: I would like firmly to
3 repeat that I do not make any pressure. It's just to
4 have the information back in order to organize the
5 time.

6 MR. POLÁŠEK: Okay. Understood. Thank you.

7 PRESIDENT TERCIER: Fine.

8 Good afternoon, Ms. Pop.

9 THE WITNESS: Good afternoon.

10 PRESIDENT TERCIER: Welcome again. You were
11 already here since a few days, and I do not need to
12 introduce you to the Members of the Tribunal.

13 You will be heard as an expert. As such, I
14 would like--I would invite you to read the
15 declaration that is in front of you.

16 THE WITNESS: I solemnly declare, upon my
17 honor and conscience, that my statement will be in
18 accordance with my sincere belief.

19 PRESIDENT TERCIER: Thank you very much.

20 You have prepared for this procedure an
21 Expert Opinion in the matter of the media campaign
22 surrounding the Rosia Montana Mining Project dated

1 May 7, 2019. You have this document in front of you.

2 And can you confirm the content of this
3 document?

4 THE WITNESS: Yes, I confirm it.

5 PRESIDENT TERCIER: Good. I'm sure you know
6 all the rules that I try, since two weeks, to be
7 respected in this room. And we will have, in
8 particular, a clear transcript.

9 And as far as usual, I would like you,
10 first, to start by introducing yourself and
11 explaining the process followed for the preparation
12 of your Expert Opinion.

13 Please, you have the floor.

14 THE WITNESS: Thank you, Mr. President. If
15 I may, I would like to make a small correction in my
16 Report.

17 PRESIDENT TERCIER: Okay.

18 THE WITNESS: So, it's on Page 10. It's on
19 Footnote 18. The correct page number indicated is
20 41, not this one. It's 1994.

21 So, Page 10, Footnote 18.

22 PRESIDENT TERCIER: Page 10, Footnote 18.

1 Okay.

2 THE WITNESS: So, let's--I will now--

3 PRESIDENT TERCIER: Good.

4 THE WITNESS: I will now just present
5 myself.

6 My name, as you know, is Alina Pop. I am a
7 senior lecturer in political--in communication
8 psychology with a local University of Bucharest.

9 I am graduated in political sciences, and I
10 have obtained my Ph.D. in the field of social
11 psychology. Now I am a social scientist--more
12 precisely, a social psychologist, I would say.

13 I am involved in the issue of Rosia Montana
14 since 2007, when I have been--designed my Ph.D.
15 project. I conducted a Ph.D. with the University of
16 Rome, La Sapienza, on polemic social representations.

17 And I was looking at the time for a
18 conflict, for a real setting in order to study these
19 kind of representations. And the Rosia Montana
20 conflict seemed to me, at the time, a very good
21 setting for studying polemic social representations.

22 I have finished my Ph.D. in 2012. And two

1 years afterwards, I have published a book which was
2 mainly based on the research I've conducted for my
3 Ph.D. I have also published articles related to the
4 Rosia Montana issues--actually, related to the social
5 representations emerged in Romanian society due to
6 the Rosia Montana conflict.

7 I also published other articles. And it
8 seems that I continue to work on the topic until
9 today.

10 In preparing this Report, I was contacted by
11 the counsel for Romania about this time last year and
12 asked my opinion, as you mentioned, on the media
13 campaigns surrounding the Rosia Montana issue in
14 Romania.

15 I have prepared this Report by myself. I
16 have completed--I've written it in English, entirely
17 in English, as I did also for my Ph.D. They made
18 some corrections on the language, and they also
19 suggested me--something about the form of the Report,
20 which is a little bit different from a scientific
21 report, let's say. Mostly regarding how to organize
22 my exhibits, and so on. But, otherwise, I have done

1 it myself.

2 Should I start the presentation?

3 PRESIDENT TERCIER: Yes.

4 DIRECT PRESENTATION

5 THE WITNESS: Okay. So, I've already talked
6 about myself and can skip the slide. You can come
7 back to it whenever you want.

8 This is the overview of my presentations--of
9 my presentation. Sorry for my English. It may
10 happen that I make some mistakes when pronouncing it.

11 I will talk about the instruction, then to
12 the main conclusions. Then I will describe briefly
13 the theoretical framework that informed my analysis.
14 I will then describe the scientific methods I have
15 used, and then I will provide some of the findings
16 which I put in support for each of the conclusions.

17 So, these were my instructions: To study,
18 to give my opinion on the media campaigns surrounding
19 the Rosia Montana issue. And these are the five
20 questions I had to--I had to answer. I will not go
21 through them right now because I will come back to
22 them immediately.

1 My main conclusions--my main conclusions
2 about--on this Report is the following--are the
3 following--sorry: Both Parties involved in the Rosia
4 Montana Conflict, RMGC--which I will hereafter call
5 "the Company" because it's more easy for me--and the
6 "Save Rosia Montana" movement activists, attempted to
7 influence the public opinion at the national level.
8 They both intended to increase public support for
9 their incompatible goals, to start or to stop the
10 Mine Project.

11 Through their actions and also through their
12 statements, both Parties involved in the conflict of
13 Rosia Montana attempted to make the members of the
14 general population of Romania stakeholders in the
15 future of Rosia Montana. Throughout the controversy,
16 the issue of Rosia Montana transformed from a local
17 to a national, and even international one.

18 It was in 2002, when national and
19 international NGOs joined the fight of the local
20 opposition against the Project. And then as a
21 reaction to this opposition for--already formed at
22 the national level, in 2005, the company started a PR

1 and publicity campaign at national level, in order to
2 increase support for--from the public and from the
3 political decision-maker for their Project.

4 So, both Parties contributed throughout the
5 time to the escalation of the Rosia Montana conflict
6 at the national level. And as a consequence of this
7 escalation, the Rosia Montana issue was kept for long
8 on the national public agenda.

9 As I mentioned, in 2007, when I was looking
10 for a real setting for studying the polemic social
11 representations, the conflict was already there. I
12 have never been to Rosia Montana before, but I knew
13 about this conflict because, at that time already, I
14 considered it to be the environmental conflict in
15 Romania. And it stayed for long the same.

16 So, in 2013, the Save Rosia Montana
17 campaigners succeeded to mobilize the largest number
18 of people in support for their cause to stop the
19 Project and to save Rosia Montana. The protests
20 started in September 2013 and continued through
21 February 2014 and were directly related to the issue
22 of gold-mining at Rosia Montana.

1 And I will come back to--to this. But now
2 let's talk about--I would like to present you the
3 theoretical framework that informed my analysis,
4 which is social representations theory.

5 This is an established theory in social
6 psychology, which was founded almost 60 years ago by
7 the same Serge Moscovici who also elaborated the
8 theory of minority influence, and who was cited, for
9 example, yesterday, I think, by Mr. Boutilier.

10 Social representations theory explains how
11 common-sense knowledge is formed or, simply put, what
12 do people think and why do they think like this? In
13 a more formal definition, social representations are
14 organized sets of knowledge which are shared by
15 members of particular groups in society.

16 They are collectively produced and shared
17 through the process of communication. So, through
18 exchanges between individuals and through mass
19 communication, members of groups in society share
20 elements of social representations.

21 A very important aspect--the most striking
22 considered by some scholars in the social

1 representations theory is that groups develop social
2 representations and attempt to influence others to
3 adopt those representations as a way for achieving
4 social and political goals. So, they are created on
5 purpose.

6 By shaping social representations,
7 individuals and groups seek to establish social
8 realities that serve their visions and interests.

9 So, in understanding social dynamics, the
10 conflict between groups can be apprehended as the
11 confrontation between the social representations they
12 create, and use, then, as symbolic--or discursive and
13 symbolic weapons. They interpret very differently
14 the reality, simply put.

15 My Expert Opinion today--that I present
16 today is an updated analysis of the research I have
17 conducted for my Ph.D. I already mentioned I started
18 my Ph.D. in 2007, and it took me five years to finish
19 it. I covered for my Ph.D., which includes also
20 other studies--not only this part--not only a part
21 that was at the basis of this Report. I also covered
22 other--other aspects.

1 I looked at the period from 1998, from the
2 very start of the issue, until 2011. So, for this
3 Report, I have extended the analysis until 2014.
4 What I have done was to analyze the battle of ideas
5 over Rosia Montana. The "battle of ideas" is an
6 expression used by himself--by Moscovici himself.

7 And I looked more precisely at the content
8 of the social representations created and transmitted
9 through public communication and through the
10 practices by the main actors involved in the
11 conflict: The company on one side and what--what was
12 then--what became the "Save Rosia Montana" movement
13 campaigners.

14 In doing this research, I used several
15 methods which are generally employed in social
16 representations research. My main method was the
17 qualitative document analysis and tracking discourse.
18 I also used participant observation and netnography,
19 which is actually the conduct of ethnography over the
20 internet when studying online communities.

21 So, communities can perform also very well
22 online right now. And scholars have elaborated new

1 ways of studying new methods--for studying them.

2 I have mainly analyzed the public
3 communication of verbal, visual, and audio-visual
4 type, produced by the Parties throughout the
5 controversy. I have compiled an extended database
6 with a wide range of material, such as documents,
7 press releases, books, photographs, websites,
8 Facebook pages, emails, advertising, documentary
9 movies, online video games. Everything that I could
10 find was part of this database, which I started to
11 build as early as 2007, and I then continuously
12 updated, including for the purpose of this Report.

13 I have used purposive sampling and
14 availability sampling. So, I have searched for
15 documents produced by the Parties involved directly
16 in this conflict over Rosia Montana. And then I
17 included in the database every document that was
18 available to the larger public.

19 In January 2019--so at the beginning of this
20 year--I have supplemented this database with some
21 public documents, like, for example, the documents
22 issued by the National Audio-Visual Council, which is

1 an institution that keeps record of the publicity--of
2 the advertising material broadcasted in the media.

3 I also used internal reports of the company
4 and news media articles just to provide
5 evidence/exhibits regarding the PR campaigns of the
6 company and the sponsored publicity because some of
7 their materials were no longer available on, for
8 example, the YouTube Channel. If you want, I can
9 explore.

10 So, some videos that I have analyzed for my
11 Ph.D. thesis were no longer there, so I had to obtain
12 them from elsewhere, and I did it.

13 So, my first question that I had to answer
14 was: Did Rosia Montana Gold Corporation, the
15 company, and the NGOs opposing the project attempt to
16 influence public opinion at a national level? And I
17 have already answered that, yes, it happened; this
18 thing happened.

19 And my answer was that both parties
20 attempted to influence public opinion. Now I will
21 give you some examples, some evidence for the
22 attempts that the "Save Rosia Montana" movement did

1 in order to influence public opinion.

2 So, since 2002, the opposition to the
3 Project gradually transformed into the "Save Rosia
4 Montana" movement, which became a significant social
5 movement in Romania, gathering local, national, and
6 even international NGOs but, also, other kinds of
7 actors, like, for example, professors from different
8 academic institutions, some clerical authorities, the
9 churches--representatives of the churches from
10 Romania, some public personalities, but also very
11 many private citizens, ordinary citizens.

12 The "Save Rosia Montana" movement
13 campaigners appealed to politicians but also to the
14 larger public, to ordinary people, to adopt their
15 cause. Their actions and strategies were very varied
16 and differed over time, in terms of the number of the
17 people involved and the frequency and type of action
18 used.

19 Some of these actions are the protests,
20 flash-mobs, petitions, public gatherings, court
21 actions. But their statements against the Project
22 remained more or less constant over the time, so for

1 this 12-year period that I have analyzed.

2 They primarily contested the Project for its
3 perceived ecological, social, cultural impact; so
4 perceived negative ecological, social, and cultural
5 impact. And, also, one of the main issues that the
6 campaigners raised since the beginning was the
7 relocation of the population of Rosia Montana.

8 Throughout the time, other topics were
9 included in their discourse. For example, the
10 insufficient economic gains that the Romanian State
11 gained from the Project was an issue--was a topic
12 that occurred a little bit after 2002. I have
13 documented it in my Report in a chronological way.

14 Then, another topic used was the corruption
15 of politicians and other State public officials that
16 favored, or declared to favor, over time the Project.
17 Another topic that was added was the alternative
18 solutions for the economic and social development of
19 the Rosia Montana area.

20 On the other side, the company also
21 attempted to influence public opinion at the national
22 level. It was, as I said before, a reactive

1 discourse. So, the growing opposition to the Project
2 led the company to engage in various communication
3 practices so as to dismantle the statements of the
4 "Save Rosia Montana" movement campaigners.

5 Their version of the description of the
6 situation was completely different. So, they
7 rejected, mostly, the statements of the campaigners.
8 But their messages were initially oriented to the
9 local and regional population at the local level.

10 It was in 2005 that the company started to
11 produce publicity campaigns that was diffused at
12 national level. It refuted, through these campaigns,
13 some of the main statements that the opponents have
14 raised against the Project and presented, instead,
15 themselves as the true saviors of Rosia Montana.
16 Their slogan was "Let's Truly Save Rosia Montana."

17 So, you can notice that they really
18 copied--they mirrored the message of the "Save Rosia
19 Montana" movement.

20 The company representatives were persuaded
21 that for getting the approval for the Project, broad
22 public support was needed. For example, in 2009, the

1 communication planners considered that the previous
2 communication strategy of the company, based mostly
3 on messages directed towards decision-makers, was not
4 so good. It was wrong, actually. It was stated as
5 wrong in an internal report.

6 Instead, they asserted that the company
7 should follow the strategy of the opposition, which
8 communicated mainly to the media and to the public
9 opinion so that--to ultimately influence politicians
10 and decision-makers.

11 They used substantial financial resources
12 for the PR campaigns. For example, in the period
13 2009 to 2014, their adverts were intensively
14 transmitted through televisions, through radio
15 stations, through written press, through online ads,
16 on various websites, blogs.

17 They sponsored those. This was not only
18 publicity; this was also PR actions or sponsorship
19 for particular events at a national level,
20 sponsorship for bloggers or for sportsmen.

21 In 2011, for example--I have found this
22 record--that RMGC was the third biggest payer of

1 printed media advertising in the country.

2 My second question, Question B, was: Were
3 the parties attempting to make the general population
4 stakeholders in the future of Rosia Montana?

5 And my answer was yes. They both--both
6 parties attempted to make them stakeholders.

7 And now some evidence for the "Save Rosia
8 Montana" movement. How did they do so?

9 So, since 2002, they directed their messages
10 systematically towards the general public. They seek
11 support, like any social movement does. They
12 encouraged all Romanians to feel involved in the
13 issue of Rosia Montana by using several strategies.

14 For example, they represented, since the
15 beginning, Rosia Montana as an important place for
16 national identity and heritage. I don't know if you
17 know that it is constantly a concern. The history is
18 that Rosia Montana is the first documented place in
19 Romania--it is the first documented city in Romania.
20 It was a wax table from the Roman times where the
21 name "Alburnus Maior" first time appeared. It was a
22 contract related to mining.

1 So, this information was probably present in
2 some history manual, but nobody knew about it. So, I
3 don't know, young people studying history, and I
4 didn't know.

5 But this kind of information was immediately
6 showed up by the opponents. So, you cannot destroy
7 Rosia Montana because, look, this is the first
8 documented--it was one line of--a very strong line of
9 argument, for example.

10 Then they also had various slogans through
11 which they encouraged this association between
12 national identity and the place Rosia Montana. For
13 example, "Rosia Montana UNESCO." "Rosia Montana is
14 not for sale." We don't sell our country, for
15 example. We don't sell Rosia Montana.

16 And then, in 2011, the campaigners started
17 to use the slogan "Rosia is Romania." And they had,
18 for example, images in which the whole country was
19 represented as an open pit. They also made appeals
20 for national solidarity for the purpose of their
21 cause.

22 So "Save Rosia Montana" was an appeal.

1 "Let's Save Rosia Montana." "United We Save Rosia
2 Montana" was a slogan issued in 2011, for example.
3 And they used, since 2011, a lot national symbols
4 during their protests, or the national flag.

5 They also used very emotionally loaded
6 messages and also which the Romanians were
7 encouraged--every Romanian was encouraged to feel
8 responsible for the future of Rosia Montana.

9 I just gave that in the record, some
10 examples of the slogans. "We don't give up Rosia
11 Montana." "Adopt a house in Rosia Montana." That
12 occurred--I don't know--in 2007, I remember--as far
13 as I remember.

14 Then the messages, very strong messages,
15 against the use of cyanide technology for extracting
16 the gold. "Cyanide kills." "Poison. Poison."

17 "Occupy your body for cyanide" was an event,
18 a flash-mob that some protestor organized in Cluj in
19 2011. "A man is worth more than the gold he wears;
20 so is a country."

21 I have here just two examples. On the
22 left-hand you can see a famous Romanian actress. She

1 is Maia Morgenstern, who performed pro bono, as I
2 understood, in an advertising which showed her in the
3 middle of an open pit sitting at a table and removing
4 all her jewelry, putting it on the table, donating
5 the jewelry. And at the final, just very
6 dramatically, she rips her earring out directly from
7 the ear.

8 And this makes a strong impact on the
9 public. So, it's very emotional. Very emotional.

10 On the left (sic) side you can see the
11 national flag. I think it's an image that you
12 already saw with the "Save Rosia Montana" message.
13 Okay. It's enough. Okay. Sorry.

14 PRESIDENT TERCIER: I'm sorry. It was on
15 the right side. You said the left side.

16 THE WITNESS: Oh, okay. Okay.

17 PRESIDENT TERCIER: It's not a very
18 important correction.

19 THE WITNESS: Right. Okay. Okay. I
20 thought that you wanted me to skip this image.

21 PRESIDENT TERCIER: No, no, no.

22 THE WITNESS: Okay. Sorry. But, anyway, I

1 was--I finished.

2 Coming back to the company side.

3 So, they also attempted to make the general
4 population a stakeholder in the future of Rosia
5 Montana. As I've said, the company engaged in major
6 publicity campaigns since 2005 at national level and
7 used, also, several strategies.

8 So, they first pointed to the benefits the
9 Project ultimately brings to Romanian citizens. In
10 its first stage of campaigning, 2005/2006, its
11 messages focused mostly on the benefits the mine will
12 bring for the local population and for the place,
13 Rosia Montana.

14 The company represented itself as a true
15 savior of Rosia Montana, which was then, at that
16 time, depicted as a very troubled land with serious
17 social and environmental problems.

18 Then, since 2009, the company insisted,
19 through national broadcasted publicity, that the mine
20 is the solution not only for the development of the
21 Rosia Montana area, but also for the revival of the
22 whole Romanian economy and in the benefit of every

1 Romanian citizen.

2 "Rosia Montana, a Project for Romania" was
3 the main slogan. But during the adverts, for
4 example, you could hear Mr. Tănase saying that: "The
5 new project at Rosia Montana brings \$4 billion to
6 Romania." He was one of the characters that appeared
7 in the publicity.

8 The company also made emotional appeals to
9 the Romanian citizens in order to make them feel
10 responsible for the future of Rosia Montana. This
11 happened in the campaign of 2005 and 2006, which I
12 describe in my Report. This also happened in
13 2011-2012, with a campaign that was considered one of
14 the most impactful for the company, and which it was
15 called "Letter for Romania."

16 And you can see on the left-hand an image of
17 a woman. She is an inhabitant from Rosia Montana,
18 Mrs. Sanda Lungu. She became rather famous because
19 during 2011 and 2012, the advert showing her was
20 really very often diffused on the TV. She was
21 telling her life story and ended this message, her
22 message, with this message: "That's why I ask

1 everybody, give us a chance, help us. This is a
2 call, a cry, a desperation." She was speaking to all
3 of Romania and asking for their help.

4 On the right-hand, you see Mr. Vlasceanu,
5 that nobody knows, but he's a regular citizen from
6 Bucharest who also appears in a spot, in an advert,
7 diffused in the summer and early autumn of 2013 and
8 which states very serene that: "The Rosia Montana
9 project is good for Romania, and what is good for
10 Romania is good for me." I end the quotation.

11 How did the Rosia Montana issue transform
12 from a local to a national one? So, there were many
13 factors involved in these. These slides only
14 synthesize the information. So, it was also a
15 mass-media contribution. So, regular news--ordinary
16 newspapers that have started to report about the
17 issue since 2002.

18 And if you look at Thomson Exhibit 2, which
19 is actually in my book, you can see there's a whole
20 chapter dedicated to the newspaper article analysis.
21 I have analyzed about 900 articles published in
22 national and local media on the issue of Rosia

1 Montana.

2 Then, it was--they were the actions and the
3 public to which these players, these main parties
4 involved in the conflict, addressed. So, the local
5 opposition to the Project got support from extra
6 local actors, like NGOs, academics, public
7 personalities, citizens, as I have already said, in
8 2002.

9 So, they built--they subsequently built the
10 Save Rosia Montana movement. And most of these
11 actions took place, actually, outside Rosia Montana.
12 So, they voiced their--their cause, their message in
13 the big cities of Romania like, for example,
14 Bucharest. Cluj was one of the focal points of--an
15 important city where this movement developed.

16 The company as well, by the publicity and
17 the public relations campaign undertaken at the
18 national level, brought the issue at the national
19 level, so especially since--in the period 2009 and
20 2014, as you can check in my Report because I give
21 you in my Report a chronological overview of these
22 campaigns.

1 But it was also through the messages that
2 the parties elaborated and transmitted. So, through
3 the content of social representations, the issue that
4 made--the issue gained national significance.

5 For example, the campaigners--I already
6 say--I may repeat these--portrayed Rosia Montana as
7 an important symbol of national identity. And since
8 2011, especially, they started to use the association
9 "Rosia is Romania." "United We Save Rosia Montana."
10 The symbol of the campaign, the leaf that you saw
11 before was so frequently put on the national flag as
12 well.

13 The company promoted, as well, its Project
14 as having national impact. After the crisis in 2008,
15 for example, they had adverts in which they present
16 the publicity. They presented the Project as the
17 solution of the revival of the Romanian economy.

18 I remember that some of them--they are
19 contained in my Report. Some of them presented: Do
20 you know how many roads--how many kilometers of
21 highway could be built with this money or how many
22 hospitals? So, they, as well, associated the Project

1 with Romania.

2 So, my fourth question was: How did the
3 other party respond to this escalation? What was, if
4 any, the consequence of the escalation of the
5 conflict at the national level?

6 So, the statements of the company and the
7 "Save Rosia Montana" campaigners evolved an
8 interdependent relationship mutually rejecting but
9 also inspiring and reinforcing each other. Both
10 Parties in conflict contributed to the escalation of
11 the conflict at the national level. And the main
12 consequence was that the Rosia Montana issue remained
13 on the national public agenda for a long time.

14 It was an effect of the reciprocal influence
15 between social representations of polemical type that
16 the Parties have created and transmitted during the
17 conflict. This was one of my scientific conclusions
18 in my Ph.D. thesis.

19 So, the intensive publicity that the Project
20 received at the national level in the period 2009 and
21 2013 and the constant fight against the Project by
22 the "Save Rosia Montana" movement, both increased the

1 awareness of the Rosia Montana story among the
2 Romanian public.

3 My last question, the last question that I
4 had to answer was related to the relationship between
5 the Rosia Montana Project and the protest, the
6 demonstrations in 2013. As you can see in my Report,
7 I repeat--I presented it in a chronological way, the
8 evolution of the discourse.

9 The opposition to the Project has generated
10 an unprecedented movement in Romanian society that
11 nurtured a long-lasting debate about a previously
12 unheard-of place in Romania and making it famous.

13 So, 20 years ago, probably nobody spoke
14 about Rosia Montana, to be honest. Now I don't think
15 there are too many Romanians who don't know about
16 this place.

17 So, with an uninterrupted campaign against
18 the Project, carried out for 11 years, the "Save
19 Rosia Montana" movement gained its major momentum in
20 the autumn of 2013, when it succeeded to mobilize
21 tens of thousands of citizens to fight for saving
22 Rosia Montana.

1 The chief reason for the protests, which
2 were also--which were held here thereafter on a
3 regular basis each weekend, each Sunday--was to fight
4 against the Rosia Montana Law, which was a bill
5 submitted by the Ponta Government to the Parliament
6 for approval.

7 My opinion is that the messages of the
8 Romanian Autumn were directly related to the
9 gold-mine project at Rosia Montana, and the Ponta
10 Government was mainly criticized for supporting that
11 law.

12 This concludes my presentation, and I thank
13 you very much for the attention.

14 PRESIDENT TERCIER: Thank you very much,
15 Ms. Pop.

16 Mr. Polášek.

17 MR. POLÁŠEK: Thank you, Mr. President.

18 CROSS-EXAMINATION

19 BY MR. POLÁŠEK:

20 Q. Good afternoon, Dr. Pop. I'm Petr Polášek,
21 counsel for Claimants.

22 And if we could please bring back your

1 slides, I have a couple of questions at the beginning
2 that relate to your slides.

3 A. Which one?

4 Q. And if I could also ask you to turn to
5 Page 3 in your Report, please. I will be
6 cross-referencing that page as I ask those questions.

7 A. Page 3?

8 Q. Page 3, yes, please.

9 So, first, if you could please turn back to
10 Slide 8 in your presentation. I don't know if you
11 have the control of the slide deck.

12 A. Okay.

13 Q. So, the second bullet--or the first bullet,
14 these are the sources that you relied upon to render
15 your opinion; correct?

16 A. Yeah. This is correct.

17 Q. And in the second bullet, you mentioned that
18 you collected an extended database; right?

19 A. Yes.

20 Q. And then on your direct examination, you
21 spent some time discussing that database, what's in
22 it; correct?

1 A. I'm sorry. It's--

2 Q. Yes.

3 A. I don't want--

4 Q. Yes. Let me repeat my question.

5 On direct examination, you gave some
6 explanation of what is included in that database;
7 correct?

8 A. Yes. I have also listed on this slide
9 examples of documents--I call them "documents," but
10 they are not only documents. The video games are not
11 documents.

12 Q. Was there actually more--are these only
13 examples? Is there more than what you listed in this
14 second bullet that was in that database?

15 A. So, as I've said in my first bullet, I have
16 analyzed, for my Ph.D. mostly, all of the materials
17 that communicated the message. But I have analyzed
18 this material, not to quantify it.

19 So, if you ask me about how many banners
20 were produced over time, I will not tell you because
21 I don't know.

22 Q. Yeah. My question was more about whether

1 the second bullet is basically, like, a comprehensive
2 summary of what's in that database that you worked
3 with.

4 A. Yes, I think it is. I think it is.

5 Q. Now, that database you did not submit into
6 the record as part of your Report, did you?

7 A. Yes, you are right. But this is--I have
8 submitted every--every time I have used--in my Report
9 I made references to some of the items in the
10 database. I have submitted it.

11 It was, I'm sorry to say, impossible to--to
12 submit those exhibits, hundreds or maybe thousands of
13 documents. But if you want, I can show you in my
14 computer.

15 In regular, when you do scientific
16 research--when you do scientific analysis, content
17 analysis, you are not--you are not providing all the
18 items that are submitted to the analysis. You
19 just--if you make reference in the text when you
20 present your Report, you don't show them all
21 because--otherwise--I don't know. It's--it is not in
22 use to bring--to bring the database with you.

1 Q. Yeah. And so, just to make it clear, this
2 database is not on the record, is it, Dr. Pop?

3 A. Every reference I made in my text about
4 something that I have used. For example, let's take
5 the--

6 Q. That was not my question. Let me just stop
7 you. The question is just about this database. It's
8 not about the sources you cited. I just wanted to
9 get a clear sense.

10 That database is not on the record; correct?

11 A. Yes, you are right. So, the database is not
12 on the record.

13 Q. Have you provided it to counsel for
14 Respondent?

15 A. No, because the database were--was for my
16 personal use, for my analysis. I analyzed it. And
17 every time I had mentioned something from the
18 database, I provided the evidence.

19 And if I'm allowed to say, if you give me
20 just 30 seconds--

21 Q. Yes. You will have that opportunity on
22 redirect examination. Let's move on.

1 DR. LEAUA: Please allow the witness to
2 finish the answer. It's the second time that you're
3 interrupting. I think 30 seconds for an answer is a
4 fair request from the witness to finalize.

5 MR. POLÁŠEK: If she were answering my
6 question, yes. But she was not answering my
7 question, so I think we should move on.

8 DR. LEAUA: She was finalizing her answer.

9 PRESIDENT TERCIER: On the last day we will
10 avoid to have too many incidents. I prefer also to
11 have things being given in time and in connection
12 with what has been said.

13 You have asked for 30 seconds.
14 Exceptionally, you are granted 30 seconds.

15 THE WITNESS: So, every time I made
16 reference to some of the items in my
17 database--sometimes it was--so, how do you present a
18 video game? We cannot bring it as evidence. I was
19 not able technically to do it. But I had
20 some-- mails, some image of it.

21 For example, there was a video game called
22 "The Mining Town" that the company sponsored on its

1 Facebook page, and I became a member. I tried to
2 play it, be a player, to see how it works. But when
3 I have compiled--written my Report this year, this
4 game was no longer available. So, the company ended
5 its PR campaign right now. You can hardly find some
6 evidence on it over internet.

7 So, I have used, for example--for proving
8 that this was in use at that time, I have provided,
9 as far as I remember, an email from this mining town.
10 Orasul Minier, it's called.

11 So, it was impossible to have the whole
12 database. The database does not contain just the
13 archive of physical documents, so written text.
14 Because I have analyzed visual, verbal, audio-visual
15 material.

16 Thank you.

17 PRESIDENT TERCIER: Thank you.

18 Next question, please.

19 MR. POLÁŠEK: Okay. Thank you,
20 Mr. President.

21 So, my next question relates to Slide 4. If
22 we could please put that on the screen.

1 And this is Slide 3, so that would be the
2 next slide.

3 BY MR. POLÁŠEK:

4 Q. And here you summarize the instructions that
5 you got for your Opinion; correct?

6 A. Yes.

7 Q. And this is current and correct; right?

8 A. Yes. These were the instructions that I had
9 received.

10 Q. So, let's now check--I direct your attention
11 to (a) in this. Subparagraph (a). And it says:

12 "Did Rosia Montana Gold Corporation (the Company) and
13 the NGOs opposing the Project attempt to influence
14 public opinion at the national level?"

15 Did I read that right?

16 A. Yes, you are right.

17 Q. And that was your instruction; correct?

18 A. This was the first question I had in the
19 instruction package.

20 Q. So, let's look back at your Report. And
21 there is a mirror paragraph in there, 2(a). I will
22 read it.

1 "Did Rosia Montana Gold Corporation (RMGC)
2 and the NGOs attempt to influence public opinion at
3 the national level?"

4 Did I read it right?

5 A. Okay. So, yes, you--you are right. I have
6 to say that this part of opposing the NGO--opposing
7 the Project is missing from this report.

8 Excuse my mistake for this presentation.

9 PRESIDENT TERCIER: Okay. Wait for the
10 question, please.

11 THE WITNESS: I apologize.

12 PRESIDENT TERCIER: Yeah.

13 BY MR. POLÁŠEK:

14 Q. Let's look at another slide. This is
15 Slide 8 in your opening presentation. Go to 11,
16 please. And at the top, the heading of this slide
17 is: "Attempts by the SRM campaigners to take (sic)
18 the general population stakeholder in the future of
19 Rosia Montana (Question B)."

20 Did I read that correctly? I did not. I am
21 sorry. I will re-read that.

22 A. SRM, I use it as a--as a short name for

1 "Save Rosia Montana" movement in order to reduce the
2 space of the type.

3 Q. Yes. Yes. Thank you. And let me just read
4 the heading again so that I get it right this time.

5 So, it says: "Attempts by the SRM
6 campaigners to make the general population
7 stakeholder in the future of Rosia Montana (Question
8 B)."

9 Is that correct?

10 A. The Question B referred to both Parties.

11 PRESIDENT TERCIER: No. Just--you will have
12 further opportunity to answer, certainly, questions.
13 The first question was just whether you agree with
14 the title as it has been read by Mr. Polášek.

15 THE WITNESS: I was answering this,
16 Mr. President. So, I wanted to show also the
17 Slide 12, which is referring to the same Question B.

18 PRESIDENT TERCIER: Sorry.

19 THE WITNESS: So, I have split the answer to
20 the Question B on four slides.

21 PRESIDENT TERCIER: Okay.

22 THE WITNESS: So, the instruction was to

1 answer if these Parties, both Parties. And Slide 8
2 is referring just to the Save Rosia Montana Movement
3 Party because there was no space to put
4 everything--all the information on the one slide.

5 So, if this was the question--

6 PRESIDENT TERCIER: Okay.

7 BY MR. POLÁŠEK:

8 Q. That, however, was not my question. So
9 let's please go back to Slide 11. And you refer
10 there to "SRM campaigners"; right?

11 A. Yes. Right.

12 Q. That's the "Save Rosia Montana" campaign, as
13 you mentioned; correct?

14 A. Yes, this is correct.

15 Q. Those are the opponents of the Project;
16 right?

17 A. I identified the Save Rosia Montana movement
18 as a main actor, even if maybe the term "actor" is
19 not appropriate, because it was a party in conflict.
20 It was built--okay. Just--okay. I wait for--

21 Q. Thank you.

22 Let's go back to Page 3 in your Report and

1 take a look at 2(a) again. It does not mention "SRM
2 campaign," does it?

3 A. If you want me--a yes-or-no answer, but I
4 feel the need to explain.

5 So, I received these instructions last year
6 about this time, in December, by the counsel for
7 Romania. I had my own expertise on the Save Rosia
8 Montana topic, and I considered that we cannot speak
9 about just NGOs opposing to the project.

10 As I have already explained, there are many,
11 many other actors involved, including ordinary
12 citizens, groups of friends which are not organized
13 formally/institutionally as NGOs, Non-Governmental
14 Organizations.

15 So, this is why even if I've got this
16 instruction at the beginning, my Report actually did
17 not mention just the NGOs because it was not real.

18 So, I'm sorry, Counsel for Romania, to say
19 that you missed--no, no. The time was not proper.
20 So, I have used the "Save Rosia Montana" movement in
21 order to level the part--one part in the "Save Rosia
22 Montana"--in the Rosia Montana conflict.

1 So, this is why I haven't used NGOs because
2 it was inappropriate. They didn't know it. They
3 should have read my book before.

4 MR. POLÁŠEK: Yeah. Mr. President, I think
5 if we could keep the questions shorter, it would be
6 beneficial to our time; otherwise, I will need to
7 continue to go on for very long.

8 I would suggest that the--the answers, not
9 the questions--I meant the answers.

10 I think there will be an opportunity for
11 redirect. This was a straightforward yes-or-no
12 question. I think we should stick to the usual way
13 of conducting a cross-examination, if I may.

14 DR. HEISKANEN: Mr. President, this is also
15 an examination of not a Witness of Fact, but an
16 Expert who must be able to elaborate on the answer.
17 Yes-or-no answers are not going to be particularly
18 helpful coming from an Expert.

19 PRESIDENT TERCIER: I will use it with
20 flexibility. The word is very common in this
21 proceeding.

22 MR. POLÁŠEK: Thank you, Mr. President.

1 BY MR. POLÁŠEK:

2 Q. Dr. Pop, there were not only NGOs in
3 opposition to the Project, there also were NGOs
4 supporting the Project; correct?

5 A. Yes, this is correct.

6 Q. Let me move on to my next question.

7 And I direct your attention to
8 Paragraph 2(e) of your Expert Report. And this is
9 one of the questions that you were asked to respond
10 to. It's actually a composite sentence that has two
11 questions.

12 And the first question is: "What is the
13 relationship between the issue of gold-mining at
14 Rosia Montana and the demonstrations in 2013?"

15 Did I read that right?

16 A. Yes.

17 Q. The second question is: "What is the
18 evidence for this relationship?"

19 Did I read that correctly?

20 A. Yes.

21 Q. Was the answer yes?

22 A. Yes. Yes. Yes.

1 Q. Okay. Thank you.

2 Please go to Paragraph 87 in your Expert
3 Opinion. And this is on Page 36. And that's where
4 you start providing the answers to those questions;
5 right?

6 A. This is right.

7 Q. And in Paragraph 87 you state: "The chief
8 reason of the protests, which were thereafter held on
9 a regular basis during the entire autumn, was to
10 fight against the Rosia Montana Law, a bill submitted
11 to the Parliament for Parliamentary approval by the
12 Ponta Government on August 27, 2013."

13 Correct?

14 A. Yes. This is what--

15 Q. And the Rosia Montana Law, that's also
16 referred to as the Special Law; right?

17 A. Sorry? A Special Law? It mentions a
18 Special Law?

19 Q. Yes. The Rosia Montana Law is also
20 described or mentioned sometimes as the Special Law.

21 A. In my Report, you mean, or--

22 Q. Generally. You might have heard it during

1 the hearing. I saw you were here a lot.

2 A. Maybe. I don't know. Maybe.

3 Q. Okay.

4 A. I didn't focus on the name at this time.

5 Q. Now, at Paragraph 88, just below, you
6 state: "The protesters voiced all the main messages
7 of the SRM campaign released over time, but the main
8 slogan used this time was 'United We Save Rosia
9 Montana,' insisting on the need for national
10 solidarity in order to fight against the Project."

11 Did I read that right?

12 A. Yes.

13 Q. And there is no footnote at Paragraph 88
14 identified in any supporting sources or evidence, is
15 there?

16 A. Well, if you come back to some pages of my
17 Report, it would have been maybe easier for me to
18 have the computer in front of me and to do a search
19 in the content. I think--I'm pretty sure that I have
20 provided an exhibit for the protest in 2011 when this
21 "United We Save Rosia Montana" was first used.

22 So--

1 Q. Do you agree that there is no footnote at
2 Paragraph 88?

3 A. You can see there is no footnote here. But
4 I am pretty sure that there is evidence for this from
5 the message before. So, just before, somewhere
6 before in my Report.

7 Can I check it now?

8 Q. You can do that later on redirect
9 examination.

10 Please turn to Paragraph 90.

11 A. 90?

12 Q. Yes. It's over the page.

13 A. Yes.

14 Q. And at the top of the page, Paragraph 90
15 says: "The protests for Saving Rosia Montana in 2013
16 were labeled 'the Romanian autumn' and have been
17 described as the most significant social movement in
18 Romania since the fall of communism."

19 Did I read that correctly?

20 A. Yes, you did.

21 Q. And you cite a single document as support,
22 and this is in your Footnote 113. And the reference

1 cited is Exhibit R-93. And it's an article entitled
2 "How Romanian People Power Took on Mining and
3 Corruption," and this was published by Shaazka
4 Beyerle and Tina Olteanu in "Foreign Policy" in
5 November of 2016; right?

6 A. Yes, this is right.

7 Q. And are you aware that Ms. Beyerle's
8 academic focus is corruption?

9 A. No, I'm not aware because I didn't study it.

10 So, I have used this exhibit because I was
11 now instructed/suggested that I should always provide
12 an exhibit for everything I say. So, it was obvious
13 for me, as a--I don't know--contemporary to these
14 events that I collect these.

15 I could have found it also in the Romanian
16 media, but I chose to use an exhibit that was already
17 recorded by the Respondents, and it was already in
18 English so we can--so there was no need to be
19 translated from Romanian.

20 So, this is why I cite this document,
21 because it states--it describes these events. And
22 the name, "The Romanian Autumn" is the center. These

1 are--this is a journal of--with a certain reputation.
2 "Foreign Policy" is a serious journal. So, this is
3 why I cite it. I don't know the whole work of
4 Mrs. Beyerle. I don't know.

5 Q. So, you do not know that she was the
6 non-resident fellow at the Center for Transatlantic
7 Relations at Johns Hopkins University?

8 A. I have absolutely no idea about this.

9 Q. And you also do not know that one of her
10 main works is a book called "Curtailling Corruption:
11 People Power for Accountability and Justice"?

12 A. I have not conducted any research on
13 corruption, so why should I know it?

14 Q. And would you know or are you aware that the
15 other author of this study, Ms. Tina Olteanu, wrote a
16 Ph.D. thesis entitled "Democracy and Corruption:
17 Austria and Romania Compared"?

18 MS. RADJAI: Mr. President, could counsel
19 please refer the witness to where this appears on the
20 record?

21 MR. POLÁŠEK: This is a question based on
22 her knowledge.

1 THE WITNESS: So, I have cited this article,
2 just this article, which is published in "Foreign
3 Policy," which is a journal. I don't know if it's an
4 entirely scientific journal or also--it is an opinion
5 journal.

6 I have no--I am not an expert on corruption
7 issues. I never studied corruption. So, why should
8 I know a bibliography--

9 PRESIDENT TERCIER: Okay.

10 THE WITNESS: --on this topic? I apologize.

11 BY MR. POLÁŠEK:

12 Q. Okay. That's fine, Dr. Pop. Let's move on.
13 Let's look again at Footnote 130 in your Report. And
14 there is no specific page or paragraph in Exhibit
15 R-93 that you are referring to; correct?

16 A. If you look in my book or in any article I
17 publish in a scientific journal, you will see that
18 for a scientific journal I always cite and correct,
19 including the page.

20 For a newspaper article--I didn't know it
21 was--for a journal of opinion or a magazine--like
22 "Foreign Policy" is actually a magazine. I think

1 this is the proper term. I don't feel the need to
2 have also the pages cited.

3 So, this is not a scientific article. It's
4 a magazine article. This is why I didn't cite it.
5 But I will take into consideration this, and I
6 promise that next time I will never miss it.

7 Q. So, let's review what Exhibit R-93 says.
8 Please turn to Tab 1 in your binder. This is
9 Exhibit R-93.

10 And let's start at Page 8. I direct your
11 attention to the first paragraph on that page. We
12 will also put it on the screen. We will highlight it
13 so that you can find it quicker.

14 A. Page 8?

15 Q. Yes, Page 8, first paragraph.

16 And you may want to refer also to the
17 screen, where we will put it up for you and highlight
18 it. Okay?

19 A. Yes.

20 Q. So, there is a sentence there that
21 says: "Moreover, the overarching objective--to stop
22 the mining project--was abundantly clear."

1 Did I read it correctly?

2 A. Of course.

3 Q. And is this sentence the reason why you
4 cited this article in your Report?

5 A. No. The reason was the fact that this
6 article described events of the Romanian Autumn, and
7 it provided me the evidence to say that it's not only
8 me that I'm saying that it was the "Romanian Autumn",
9 labeled like this, or that--so, it--I used this
10 article in its entire part.

11 I have never--this is not an article that I
12 have used in order to analyze what I was supposed to
13 analyze, the messages of the main parties involved in
14 the conflict.

15 This was an article that provided me
16 that--on which I relied in order to--to--to show some
17 evidence--some factual evidence, actually, that these
18 things happened.

19 Q. Dr. Pop, did you review this article
20 thoroughly?

21 A. I don't think so.

22 Q. You did not?

1 A. I repeat, this is not a scientific article.
2 It was not--it was not used for doing my analysis on
3 social representations of the Rosia Montana issue.
4 It was used to provide evidence about the facts that
5 took place in 2013.

6 Q. Do you recall reading the entire article?

7 A. Well, I have worked for this Report in
8 January--February/March this year, and I do not
9 recall of reading it entirely. So, if you ask me
10 about the content by heart, I don't know it.

11 Q. Well, you cite it as the only source in your
12 Footnote 130. So, let's go through the article and
13 see what it says.

14 Please turn to Page 2. At the top there is
15 a sentence, I quote: "The protesters"--pardon me.
16 I'll go back.

17 Let's zoom in the first paragraph at the
18 top. And at the beginning, this references a tragic
19 event where there was a fire in a Bucharest nightclub
20 in 2005. Do you see that?

21 2015. Pardon me. Do you see that?

22 A. Yes. I see.

1 Q. All right. Let's look at the next
2 paragraph. And this resulted in protests.

3 And the article goes on to say: "The
4 protesters coined a term for the tragedy: 'coruptia
5 ucide,' or 'corruption kills.'"

6 Did I read that right?

7 A. Yes. Please don't ask me if you read it
8 right. You know for sure if you do.

9 Q. Well, I do need your answers to these
10 questions, so--

11 A. Yes. Yes. Yes.

12 Q. Then the next sentence states that the
13 crowds swelled, and Prime Minister Ponta resigned;
14 correct?

15 A. Yes, it says like this.

16 Q. And also on Page 2: "There is a good reason
17 the protesters' anti-corruption message worked.
18 Corruption in Romania is everywhere. It is part and
19 parcel of how the Government and the economy are
20 run."

21 Correct? Did I read it right?

22 A. You read it right.

1 Q. And then let's turn to Page 3 at the top.

2 I quote: "It took the fallout from the 2008
3 global economic crisis to stir Romanians to action.
4 Against a background of harsh austerity, the
5 government's usual cronyism and graft became too much
6 to bear. Corruption was hitting home."

7 Did I read that right?

8 A. You're right.

9 Q. And the next sentence: "On January 12,
10 demonstrations against privatization, corruption, and
11 government incompetence took place in the country's
12 major cities, occasionally resulting in violent
13 confrontations between police and demonstrators."

14 Did I read that correctly?

15 A. Yes.

16 Q. And the January 12th, 2012, protests
17 described in the article are the mass protests that
18 resulted from the resignation of the Deputy Health
19 Minister, Raed Arafat; correct?

20 A. It says so.

21 Q. And further down it states that following
22 the Government's resignation, "many people pinned

1 their hopes for reform on the Social Democratic
2 Opposition Party," and the new Prime Minister, Victor
3 Ponta.

4 Did I read that right?

5 A. I am a little bit lost. I didn't watch--I
6 couldn't see it on the screen. But you--I think you
7 are right. You read it right.

8 Q. And there's a paragraph after that--let's
9 put that on the screen.

10 And that says: "But it soon became clear
11 that little had changed. During his campaign, Prime
12 Minister Ponta had repeatedly criticized a
13 controversial gold-mining project near the quaint
14 mountain village of Rosia Montana, vowing to subject
15 it to a fully transparent and open re-evaluation if
16 elected. But in 2013, within eight months of taking
17 office, he reneged on this key election promise."

18 Did I read that right?

19 A. Yes, you read it right.

20 Q. Let's turn to Page 4, first paragraph. This
21 discusses the Rosia Montana Project. And I direct
22 your attention to the final sentence, also on the

1 screen.

2 And that says: "Many assumed that members
3 of the administrative and political elite were set to
4 profit handsomely from the Project."

5 Did I read that right?

6 A. Yes.

7 Q. And "the Project" here meaning the Rosia
8 Montana Project; right?

9 A. Probably, because it says "Rosia Montana
10 Gold Corporation." Yes, probably they refer to the
11 Project--to the Rosia Montana Gold Corporation
12 Project.

13 Q. Let's go to Page 6 and look at the bottom of
14 the page.

15 And I quote: "The turning point came on
16 August 27, 2013, when Prime Minister Ponta's
17 administration submitted a Draft Law to Parliament"
18 for the Rosia Montana Project.

19 Did I read that right?

20 A. Yes.

21 Q. Page 7 at the top. I quote: "Ponta's
22 about-face from the promises he had made during his

1 election campaign to scrutinize the project was too
2 much even for the disillusioned Romanian public."

3 Did I read that right?

4 A. You read it right.

5 Q. And the second paragraph: "The next day,
6 four seasoned activists chained themselves to a fence
7 surrounding a government building in Bucharest to
8 voice their opposition to the proposed Law. A social
9 media campaign joined in, and people took to the
10 streets."

11 Did I read that right?

12 A. Yes.

13 Q. You were in the hearing room during the
14 examination of Dr. Stoica?

15 A. Yes, I was.

16 Q. Do you recall the discussion of the four
17 individuals who chained themselves to the fence?

18 A. Yes, I recall that.

19 Q. That's what is described here; right?

20 A. Yes, I think so.

21 Q. Let's turn to the second paragraph.

22 "On September 8, a huge crowd rallied in the

1 Square, chanting slogans such as 'Corporations don't
2 make the laws,' and 'The revolution begins with Rosia
3 Montana.'"

4 Do you recall the poster that we saw during
5 the examination of Dr. Stoica that the protesters
6 held up?

7 A. I recall some images. But the posters, not
8 really.

9 Q. Yeah. There was an image of a group of
10 protesters holding up signs.

11 A. Ah, okay. The protesters.

12 Q. Yes. One of those signs was the sign "The
13 Revolution Begins with Rosia Montana," wasn't it?

14 A. Can I elaborate a little bit on this?

15 Q. You can answer the question, and the
16 elaboration can come at the redirect examination.

17 A. As I--maybe I remember, I'm not sure. So,
18 it was this message, this--"Revolution Begins with
19 Rosia Montana" was already used in 2011. I have
20 described it in my Report at Page--

21 Q. Dr. Pop, I actually have questions coming up
22 about that.

1 A. Okay. So, it was a message that was used
2 since 2011 already.

3 Q. Yes. So, moving on, let's turn to Page 8,
4 first paragraph.

5 I quote: "Unity is critical for
6 mobilization. In this case, the movement pulled
7 together a wide range of groups with diverse
8 motivations and ideologies from those concerned about
9 the environment, historical preservation, and
10 cultural heritage, to nationalists, anti-capitalists,
11 and progressives. Others were just fed up with the
12 country's political and economic elites."

13 Did I read that right?

14 A. Yes.

15 Q. Then we move on to the next page. Pardon
16 me. We stay on this same page, first paragraph,
17 Page 8. Then we see the sentence I quoted to you in
18 the beginning: "Moreover, the overarching
19 objective--to stop the mining project--was abundantly
20 clear."

21 And, in fact, the sentence right after that
22 says: "The ruling establishment's plans epitomized

1 its disregard for citizens and their concerns."

2 Did I read it right?

3 A. Yes.

4 Q. Page 8, last paragraph, states: "What can
5 we conclude from Romania's people power awakening?
6 First, when democratic institutions are compromised
7 and representative democracy itself fails to deliver,
8 citizens do have recourse."

9 Did I read that right?

10 A. Yes.

11 Q. Page 8, last paragraph, states: "The
12 potential for bottom-up mobilization increases when
13 corruption affects daily life, or when elites are so
14 venal that public indignation becomes widespread."

15 Did I read that correctly?

16 A. Yes.

17 Q. And on Page 9, the first paragraph:
18 "Finally, we learn that a political establishment as
19 compromised as Romania's cannot easily fix itself.
20 The Rosia Montana Mining Project demonstrated how
21 vested interests (including the media, local
22 officials, and even national politicians) who benefit

1 from graft and abuse will try to circumvent rule of
2 law and the democratic processes."

3 Did I read that correctly?

4 A. Yes.

5 Q. Then the second paragraph also on Page 9.

6 This quotes Mr. Craciun?

7 A. Craciun.

8 Q. Craciun. Thank you.

9 And it describes him as the academic and
10 activist.

11 Do you see that?

12 A. Yes.

13 Q. Do you recall that Dr. Stoica testified that
14 Mr. Craciun was the master of ceremonies at the 2013
15 protests today?

16 A. Yes, I recall that. I don't know what the
17 term "master of ceremonies" for a protest is, but I
18 remember this term was used.

19 Q. And do you also recall that Dr. Stoica
20 testified that Mr. Craciun is a colleague of his?

21 A. Yes, I remember this.

22 Q. Going back to this, the article states that

1 Mr. Craciun--or let me rephrase that.

2 It reproduces some statements by
3 Mr. Craciun, and one of those is that he is
4 "skeptical that Romania is headed for a systemic
5 change."

6 And I will continue reading: "'The
7 Government's strategy is to accommodate the
8 protesters,' he says. 'They sacrifice a person or
9 change a law. We do have some victories, but they
10 don't change the way the system operates.' On the
11 other hand, people power is challenging Romania's
12 ingrained system of corruption. An active new civil
13 society is demanding accountability from elites who
14 have often abused their status and authority for
15 personal or political gain."

16 Did I read that right?

17 A. Yes.

18 Q. And Page 9, last paragraph, "A number of
19 independent candidates and a new political party, the
20 "Save Bucharest Union," ran in this June's local
21 elections. Their moderate success surprised the
22 political establishment. They have a different style

1 of politics than is usual in Romania--one based on
2 responsiveness, integrity, and community rather than
3 the pursuit of personal gain."

4 Did I read that correctly?

5 A. Yes.

6 Q. And let's look at the final sentence of this
7 entire article. I quote: "But one thing is clear.
8 Intolerance of corruption and impunity is growing in
9 Romania."

10 Did I read that correctly?

11 A. Yes, you did.

12 Q. All right. Let's go back to your Expert
13 Report, and let's look at Paragraph 161.

14 And this is the last thing you say in your
15 Expert Report, the concluding paragraph, and you say:
16 "In the largest protests that took place in
17 post-Communist Romania, tens of thousands of people
18 marched and demonstrated in Bucharest and other large
19 cities of the country against the Government that
20 pushed for the adoption of the Law that would have
21 facilitated the construction of the mine in Rosia
22 Montana by RMGC."

1 Did I read that right?

2 A. Yes, you did.

3 Q. Please turn to Page 17 in your Report. Now,
4 this contains a table entitled "Table 1," and the
5 title of the table is "Chronological Overview of the
6 SRM Campaign--Main Thematic Statements, Tactics,
7 Styles of Action and Communication Media." Now,
8 "SRM," that's the acronym for--Please go ahead if you
9 could say what SRM stands for. That's the "Save
10 Rosia Montana."

11 A. The "Save Rosia Montana" movement.

12 Q. Yes.

13 A. It's the movement that started to form in
14 2002, and has as main objective to block the
15 realization of the Rosia Montana Gold Corporation
16 mining project, to stop this project.

17 Q. Does this table constitute your Expert
18 Opinion as to what events occurred and when?

19 A. This table synthesize the main thematic
20 statements and the main tactics, styles of actions
21 and communication supports--communication media that
22 have been used throughout the 12 years of my

1 analysis.

2 Q. And apart from summarizing it, is it also
3 your Expert Opinion that these events occurred the
4 way you described them in this table?

5 A. My expert opinion is contained in the entire
6 report, not just in this statement.

7 DR. HEISKANEN: Objection. The table
8 doesn't refer to any events.

9 THE WITNESS: I give examples--

10 DR. HEISKANEN: It refers to thematic
11 statements, as she explained.

12 PRESIDENT TERCIER: Okay. Go ahead with the
13 question, and we'll see whether there are events or
14 whether there are other things.

15 THE WITNESS: So, this table--

16 PRESIDENT TERCIER: Probably you wait for
17 the question.

18 THE WITNESS: Oh, okay.

19 BY MR. POLÁŠEK:

20 Q. Dr. Pop, would you agree that the local
21 demonstration is an event?

22 A. Of course. It's an event.

1 Q. Do you see that stated in the first row in
2 your table?

3 A. What's that?

4 Q. The words "local"--

5 A. Yes, I see that--

6 (Overlapping speakers.)

7 Q. Do you see those words in there?

8 A. Yes.

9 Q. Is it your Expert Opinion that those local
10 demonstrations, in fact, occurred in the Year 2002
11 for which you listed them?

12 A. It was reported in the press. I have read
13 about this event in the media, in the national media.

14 I have read--I have also read about this
15 event in various scientific reports. Yes, I have no
16 doubts.

17 I have not been there, if you ask me this,
18 but--sorry. I anticipate your question.

19 Q. So, you do not know, one way or the other?

20 A. Sorry, what do I not know?

21 Q. You don't know, one way or the other,
22 whether there were local demonstrations in 2002.

1 A. I absolutely know that there were, in 2002,
2 local demonstrations in Rosia Montana. It was the
3 moment when NGOs attempt--went to the place and
4 started to organize, and it was the moment when they
5 issued the Rosia Montana Declaration. I know that
6 these events took place, even if I didn't attend
7 them. In 2002, I was a student in my university. I
8 was an undergraduate student. That I know for sure
9 that these events occurred.

10 Q. Well, your knowledge is secondary from the
11 sources that you cite as the basis of this chart; is
12 that correct?

13 A. As any scientific investigation--so I'm a
14 social scientist; I cannot be present every time
15 something takes place.

16 In a way, you know, social scientists do
17 also a little historical research. They go back in
18 time. They cannot--you cannot even research
19 something that happens contemporaneously. You have
20 to wait a little bit to see what happens; no? It's
21 always like this. You don't have to be a witness.
22 You're not a reporter. You are a scientist that at a

1 certain moment in time finds out about something.

2 In 2002, I had absolutely no idea about
3 Rosia Montana and the conflict that was going on. It
4 was after that, especially after 2005, when I was
5 exposed, myself, to the publicity on TV that I found
6 about this place, so I was not attending this local
7 demonstration, but I rely on various sources,
8 multiple sources, newspaper articles. As I said, I
9 have analyzed the newspaper coverage of the issue in
10 my third chapter of the book, of my book, so I looked
11 into the SR archives, and I saw that, since 2002,
12 there were articles on social representation. Okay.

13 Q. Okay. Did you prepare this entire table
14 yourself?

15 A. Yes, I did. Of course. It is published in
16 the book. It's part of also my Ph.D. thesis.

17 I chose this way of showing some data;
18 especially I was focused on the thematic statements.
19 I was interested in showing the shifts, the eventual
20 shifts in the discourse of the parties, so which
21 statement--

22 Q. Dr. Pop, you are way beyond my question.

1 For the sake of time, if you could please answer
2 simple questions in a simple way, and if you have
3 more to say, you will have that opportunity later on.
4 That's how this process works.

5 So, I direct your attention to the bottom of
6 Page 17. It has footnotes. If you flip the next
7 page, 18, there also are footnotes, and basically
8 this chart which continues through to Page 23 has
9 footnotes throughout on every page. These are the
10 sources that you used to compile this table; correct?

11 A. Yes.

12 And I want to have another 30 seconds to
13 explain why I have used this--

14 Q. Yes, let's note that, and you will get that
15 opportunity later on.

16 And I direct your attention to Footnote 55,
17 and there you list Exhibit R-134, and that's, I
18 quote: "History of the Save Rosia Montana Campaign
19 2002-2013, rosiamontana.org, at p.1."

20 Did I read that right?

21 A. Yes, you did.

22 Q. And you rely on this same Exhibit R-134 also

1 in other places of your Expert Report; correct?

2 A. Actually, this exhibit was one document that
3 was included in my database. I have analyzed it as a
4 document produced by the campaigners in order to
5 promote the message of the "Save Rosia Montana"
6 movement, yes.

7 Q. And you also rely on it in other places in
8 your Report; correct?

9 A. Yes, because it was part of my database. It
10 was one document that I have analyzed.

11 Q. Rosiamontana.org is the official website of
12 the "Save Rosia Montana" campaign, is it not?

13 A. Yes, it is.

14 Q. And the "Save Rosia Montana" campaign is an
15 opponent of the Rosia Montana Project, as you
16 testified; correct?

17 A. It's true.

18 Q. And Exhibit 134 is an overview of the
19 history of the "Save Rosia Montana" campaign--

20 A. Yes.

21 Q. --prepared by the "Save Rosia Montana"
22 campaign; right?

1 A. Yes, it was a way of showing to the larger
2 public what it did.

3 Q. So, it's basically the history that the
4 "Save Rosia Montana" campaign prepared of itself;
5 right?

6 A. Yes, it is.

7 Q. And Dr. Stoica testified today that this
8 history of the Rosia Montana campaign is incomplete
9 or--pardon--pardon me, may be incomplete. Do you
10 recall that?

11 A. I do not recall, but for the purpose of my
12 research, this was not essential, so I didn't want to
13 prove that it was right or wrong. I just wanted to
14 show what they communicated to the larger public
15 about themselves.

16 Q. Do you agree with Dr. Stoica that the
17 history of the Rosia Montana campaign as presented in
18 this document may be incomplete?

19 A. I cannot agree because I didn't--it was not
20 my role to verify the truthfulness of this
21 chronology. I was not--I was not focused on that.

22 Q. Please turn to Page 38 in your Report, and I

1 direct your attention to the end of the paragraph,
2 and I will read it: "The extension of the message
3 from 'United We Save Rosia Montana' to 'United We
4 Save Romania' occurred during the autumn of 2013
5 protests and inspired several other civic and
6 political actions, including the creation of a new
7 political party, Uniunea Salvati Romania (Union Save
8 Romania) in 2016."

9 Did I read that right?

10 A. Yes, you did.

11 Q. Please turn to Tab 3 in your binder. This
12 is Slide 6 from Respondent's opening presentation in
13 this arbitration. There is a picture on the screen
14 as well. I think you have--yes.

15 So, you were here in the hearing room when
16 Respondent delivered its opening argument; is that
17 right?

18 A. I think, yes.

19 Q. Yes.

20 A. Last week.

21 Q. So, I direct your attention to the logo,
22 which is on the left-hand side, which looks like a

1 hand holding a water bottle.

2 A. Yes.

3 Q. And is that the logo of the "United We Save
4 Romania" movement?

5 A. No.

6 Q. No? What is that?

7 A. The logo of the Union, what is that? It
8 seems to be a logo. I do not recall to have seen it
9 before.

10 There were plenty logos which were
11 circulated, so anybody in the movement created logos,
12 images, meme--I don't know if this is a word,
13 "memas," maybe, so they transformed images and put
14 some text on it.

15 Q. Yeah.

16 A. But this is not of a particularly--so, this
17 image was not so famous. The other one was more--so
18 the other one was the logo of the "Save Rosia
19 Montana" movement.

20 Q. Okay. Let's go back to Paragraph 91 in your
21 Report, and you also say that this movement inspired
22 "the creation of a new political party, 'Uniunea

1 Salvati Romania,' " or "Union Save Romania," in 2016;
2 right?

3 A. Yeah, I've said this.

4 Q. And--

5 A. Not everybody agrees.

6 Q. But this is your view?

7 A. In this Report I wrote this.

8 Actually, this party--

9 Q. You answered my question. Let's move on.
10 This party is also known as the USR Party;
11 right?

12 A. Yes.

13 Q. And this party was formed in response to
14 those who were unhappy about the way that Romania was
15 governed; would you agree?

16 A. Yes.

17 Q. And this party opposes corruption; correct?

18 A. Yes, it was formed--

19 Q. And, in fact, it has undertaken a number of
20 specific anti-corruption initiatives; correct?

21 A. Correct.

22 Q. Please turn to Tab 5 of your binder. This

1 is Exhibit C-2934.

2 And this is a printout of a post that is
3 dated May 23rd, 2019. It's on your Facebook page.
4 Did you make this post?

5 A. Yes, I did.

6 Q. And you made this post after you signed your
7 Expert Report on May 7th 2019; correct?

8 A. Yes, I did. It was before the elections for
9 the European Parliament.

10 Q. Yeah.

11 And the text box says: "I vote for USR
12 Plus." Right?

13 A. That's right.

14 Q. That's the Party we just talked about;
15 correct?

16 A. It's an alliance of two Parties: USR and
17 USR Plus.

18 Q. Are you a member of the Party?

19 A. Yes, I am.

20 Q. You attended a conference in Stockholm on
21 March 2016 entitled "Undisciplined Environments";
22 correct?

1 A. Yeah--the conference title was like this--I
2 think the name was that. I remember just that my
3 presentation was not--had a different title.

4 MS. McCONAUGHEY: Excuse me, can you please
5 point the expert to the exhibit you're referring to
6 about the conference--

7 MR. POLÁŠEK: We don't need an exhibit for
8 this. This will be all based on personal knowledge
9 and memory.

10 THE WITNESS: I was--I attended the
11 conference in Stockholm. I don't know exactly when,
12 but in 2016 for sure.

13 BY MR. POLÁŠEK:

14 Q. Yeah. You gave a presentation there, you
15 just mentioned; right?

16 A. Yes.

17 Q. And I discussed--and that presentation that
18 you gave was at a session chaired by Irina Velicu;
19 right?

20 A. I think, yes. She was chairing this.

21 Q. And I discussed Dr. Velicu's Ph.D. these
22 with Dr. Thomson yesterday? Were you in the hearing

1 room for this?

2 A. I think, yes, I was.

3 Q. And I pointed out to him that in her Ph.D.
4 dissertation, she stated that she made her
5 "solidarity explicit with the opponents of the
6 Project." Do you remember that?

7 A. It was her research choice. I had nothing
8 to do with it.

9 Q. And Dr. Thomson responded: "It's when
10 people are not explicit, that's when you start to
11 worry about what is going on," and he went on to say
12 that, "in the case of Ms. Velicu, she's quite clear."

13 Do you recall that?

14 A. It's--it's his opinion. I don't know if I
15 recall, but--

16 DR. HEISKANEN: Objection to relevance of
17 this kind of questioning. This is not about
18 scientific opinions or evidence. This is about
19 gossip.

20 MR. POLÁŠEK: It's not about gossip. It
21 goes to objectivity and bias, this question is--this
22 question should be allowed.

1 (Overlapping speakers.)

2 THE WITNESS: Can I elaborate on this?

3 PRESIDENT TERCIER: Yeah, you can elaborate,
4 on this. Yes, please.

5 THE WITNESS: Thank you for giving me the
6 occasion.

7 So, in the social scientist there are two
8 views--

9 (Overlapping speakers.)

10 THE WITNESS: Briefly, briefly, briefly.

11 PRESIDENT TERCIER: If we can focus on the
12 question and not start in with social science.

13 THE WITNESS: So, traditional, no, when the
14 social scientists were founded, there was this
15 requirement for objectivity, that the social
16 scientist must be objective. That he or she must
17 keep the--should follow the axiological neutrality
18 principle which was elaborated by Max Weber. That
19 tell that you should not make value judgments. You
20 should not take parts when you're doing research.
21 This is the traditional view which I shared.

22 PRESIDENT TERCIER: Okay.

1 THE WITNESS: I share.

2 And then there are these post-structuralist
3 scientists which are as well scientists. They work
4 in universities, they obtained Ph.D.s, which
5 recognized that objectivity does not exist, and they
6 recognize that, even the researcher has an impact on
7 the object of study, so they are more, let's say they
8 call themselves to be more honest by admitting that
9 there is no pure scientific objectivity, so Irina
10 Velicu is one of these scientists. I am not, so I
11 have not--in my scientific research, I try to be as
12 neutral as possible.

13 PRESIDENT TERCIER: Okay.

14 BY MR. POLÁŠEK:

15 Q. Stephanie Roth also attended that
16 conference, didn't she?

17 A. I don't know. There were some hundreds of
18 people there. I never met her there.

19 Q. If I told you that she's listed on the
20 program heading the "undisciplined activism
21 workshop," would that surprise you?

22 A. I told, but I have not met her there. I

1 never knew she was there. And normally when you
2 are--there are many people who are just written names
3 and not attending the conference.

4 I don't know. I don't know Stephanie Roth.

5 Q. Let's move on, Dr. Pop.

6 You know who Sorin Jurca is; right?

7 A. Yes, I know who is Sorin Jurca.

8 Q. You are aware that he submitted the witness
9 statement for Respondent in this arbitration.

10 A. Yes, I do.

11 Q. You saw his examination before this Tribunal
12 on Monday?

13 A. I saw just one part of it on the other day
14 on Monday.

15 Q. Okay. And I understand that there might be
16 several individuals whose last name is Jurca. I'm
17 going to ask you a couple of questions. I just
18 wanted to make it clear that the questions relate to
19 Sorin Jurca, the Witness in this arbitration. Do you
20 know Mr. Jurca personally?

21 A. Yes, I do.

22 Q. Are you on friendly terms with him?

1 A. Friendly terms? So, we are Facebook
2 friends. We meet--we have met on, I don't know,
3 maybe 10 occasions or less, we don't call ourselves
4 for birthday or for Christmas or like this, so--he's
5 one of my acquaintances, I will say.

6 Q. You met him in Rosia Montana, didn't you?

7 A. Yes, I have met him in Rosia Montana.

8 Q. Do you have any recollection of meeting
9 Mr. Jurca in Rosia Montana on April 24, 2019?

10 A. April 24, 2019, yes. It was this year. I
11 recall to have met him.

12 Q. That specific day?

13 A. Now I have to check on my calendar. I don't
14 know.

15 Q. Let me ask you my next question: Are you
16 aware that Mr. Jurca signed his Witness Statement on
17 April 24, 2019?

18 A. I have absolutely no link with this.

19 If I may elaborate, if I may explain why I
20 met--can I explain? No, okay?

21 PRESIDENT TERCIER: Okay. Go ahead. We are
22 extremely flexible.

1 MR. POLÁŠEK: I'm almost at the end of my
2 questions.

3 BY MR. POLÁŠEK:

4 Q. You are on Facebook; right? We saw that on
5 the Exhibit.

6 A. Yes, I am.

7 Q. And on your Facebook page you made a post
8 stating that, on April 24, 2019, you "will be at
9 Rosia." Do you remember that?

10 A. What did I say?

11 Q. You said on April 24, 2019, I and it
12 translates--it's a pun in Romanian, but it translates
13 into English, "I will be Rosia." Do you recall that?

14 A. I have to check, I don't know. Maybe I were
15 something read. I don't know.

16 Q. You don't have any recollection.

17 A. If I may explain what--

18 PRESIDENT TERCIER: Come on--

19 (Overlapping speakers.)

20 DR. HEISKANEN: This Facebook page is not on
21 record. This is really gossip--

22 (Overlapping speakers.)

1 DR. HEISKANEN: We ask the Tribunal to--
2 (Overlapping speakers.)

3 THE WITNESS: I'm doing research, a
4 scientific Project on environmental risk in mining
5 area, and I was there in April with the team with
6 other colleagues doing our research on the field.
7 Not only in Rosia Montana.

8 BY MR. POLÁŠEK:

9 Q. Well, you posted pictures on your Facebook
10 page of yourself standing next to Mr. Jurca in Rosia
11 Montana; correct?

12 A. I don't remember, but it may happen.
13 Probably. I don't know. I don't know.

14 PRESIDENT TERCIER: The document is not on
15 the record.

16 MR. POLÁŠEK: This question is based purely
17 on the Expert's recollection. It goes to
18 interactions with the other members or individuals
19 who were presented as witnesses by Respondent. I
20 think these questions are in no way improper.

21 PRESIDENT TERCIER: She said it might be or
22 something like that.

1 THE WITNESS: I have to check, so I don't
2 have the possibility to check right now. Give me the
3 phone, and I will.

4 BY MR. POLÁŠEK:

5 Q. I have one more Facebook question for you.
6 On your Facebook page you liked an organization
7 called "Fundatia Culturala Rosia Montana." Do you
8 recall that?

9 A. I do not recall if I liked it or not. I do
10 not recall. I really don't recall. I know what this
11 foundation is. I don't know if I like it or not on
12 Facebook, and when I put this "like" on Facebook.

13 Q. And as you mentioned previously, you were in
14 the hearing room when Mr. Jurca testified; right?

15 A. Sorry? What was the question?

16 Q. When Mr. Jurca gave his testimony to this
17 Tribunal, you were in the hearing room.

18 A. On Monday, but I cannot say that I followed
19 all the time what was discussed, so I may not have
20 listened everything that has been said.

21 Q. When was the first time that you were
22 approached by Romania or its counsel about providing

1 an expert report in this arbitration?

2 A. I already said: About last
3 year--November-December last year, but exact date I
4 don't remember.

5 Q. Okay. No further questions. Thank you.

6 A. Thank you.

7 PRESIDENT TERCIER: Thank you very much.

8 Who will have--

9 DR. HEISKANEN: We have a moment of
10 reflection, it won't take more than a couple of
11 minutes.

12 PRESIDENT TERCIER: How long?

13 DR. HEISKANEN: Couple of minutes to
14 reflect.

15 PRESIDENT TERCIER: More than, sorry.

16 DR. HEISKANEN: Won't take more than a
17 couple of minutes.

18 PRESIDENT TERCIER: Good reflection. Yep.

19 (Pause.)

20 PRESIDENT TERCIER: Okay, Ms. McConaughey,
21 you have the floor.

22 REDIRECT EXAMINATION

1 BY MS. McCONAUGHEY:

2 Q. Good afternoon, Dr. Pop.

3 Please take a look at Exhibit R-93 at Tab 1.
4 You were asked many questions about this document.

5 A. Yes.

6 Q. Can you comment on the scientific nature of
7 that Article in light of the way it documents its
8 sources of information?

9 A. So, there are no sources of information
10 indicated in this article. It's a magazine, Foreign
11 Policy, it's a new magazine, and it is an opinion
12 article.

13 The authors, so as I can see, recount--they
14 tell a story without making any reference--any
15 bibliographical reference--any reference, sorry.

16 Q. You were pointed to this passage, but
17 counsel only quoted the part up to--I'm sorry.
18 Please turn to Page 6, and you were pointed to a
19 specific passage but only up to "submitted a Draft
20 Law to Parliament" on the second line.

21 Could you please read the rest of the
22 paragraph, and then I will ask you my question.

1 A. "The turning point came on August 27, 2013,
2 when Prime Minister Ponta's administration submitted
3 a Draft Law to Parliament that would give RMGC the
4 power to expropriate property for the mining project,
5 including the houses and buildings of the villages
6 slated for destruction. It was never made clear
7 whether the State, the company, or both would be in
8 charge of compensation--of compensating the owners,
9 who could be forcibly removed. The bill required
10 authorities to provide RMGC with all the necessary
11 permits regardless of other legal provisions. Its
12 passage into law would pave the way for the
13 exploration and exploitation to begin."

14 It says like this.

15 Q. Okay. So now my question: How does this
16 passage describe the content and effect of the Law?

17 MR. POLÁŠEK: I don't think there is a basis
18 for this Witness to opine on that, Mr. President.

19 PRESIDENT TERCIER: How do you perceive it?

20 THE WITNESS: Yeah, I accept because Foreign
21 Policy, even if it's not a scientific journal, it's a
22 magazine, reliable source of information, so it's a

1 description, it's actually what journals do. They
2 transform scientific expert knowledge into common
3 sense knowledge. They made available this
4 information for the larger public. They actually
5 contribute to the creation of social representation
6 to this. So it's a description of the Law, or some
7 parts of the Law. It's not a reproduction of the
8 Law.

9 BY MS. McCONAUGHEY:

10 Q. Then please turn to Page 7. You were also
11 pointed to several passages here.

12 Can you please read the passage starting
13 with "the protesters' main demands."

14 A. "The protesters' main demands were for
15 Parliament to reject RMGC bill, to ban some cyanide
16 mining and shale-gas extractions, and to add Rosia
17 Montana to the country's list of UNESCO World
18 Heritage sites. They called for the resignation of
19 top officials, including the Ministers of Culture and
20 of the environment, as well as of Prime Minister
21 Ponta himself."

22 If I may comment--

1 PRESIDENT TERCIER: Wait for the question.
2 There will be a question, certainly.

3 BY MS. McCONAUGHEY:

4 Q. It was just to read the entire--this entire
5 paragraph.

6 Dr. Pop, can you please turn to Page 17 of
7 your Report. You were asked many questions about the
8 table that you present here.

9 A. Yes.

10 Q. You were asked about the sources you used to
11 prepare this table.

12 A. Yes, I was.

13 Q. You wished to provide further explanations
14 and were not allowed the opportunity to give more
15 details.

16 Would you like to elaborate on how you
17 prepared this table?

18 A. So, this table was put there in my Report
19 and also in my Ph.D. thesis, in my book, in order to
20 summarize which were the thematic statements made by
21 the opposition. So, for--and also which were the
22 main action made by the opposition to the Rosia

1 Montana Gold Corporation Project.

2 So, the most reliable source for
3 constructing this table was to use actually one of
4 the main actors, one of the main organizations that
5 built the opposition, so around which the "Save Rosia
6 Montana" movement has been built. I have studied
7 social representations created by the Parties in
8 conflict. One of the Parties was the Alburnus Maior
9 organization, so it was for me the best--the best
10 source of information in order to show what they
11 communicated to the larger public and what they did,
12 so communication and action.

13 PRESIDENT TERCIER: I have just a question,
14 if we are here, if you don't mind. If you take the
15 page before where you introduce the table, you
16 explain or it is written: "For building the
17 chronology I took information from various accounts
18 about the history of the SRM campaign such as the
19 official document produced by Alburnus Maior 'History
20 of the Save Rosia Montana Campaign,' media articles
21 published by activities and media interviews with
22 some of them."

1 But, in fact, you had different--sorry, may
2 I finish my sentence?

3 THE WITNESS: Um-hmm.

4 PRESIDENT TERCIER: You have different
5 sources, one of them being the "History of Save Rosia
6 Montana Campaign." Do you have other sources that
7 you use?

8 THE WITNESS: Yes. I have provided
9 footnotes and exhibits for them. If you look at my
10 Footnote 52--no, 53 and 54, these are Exhibits 29 and
11 30. So, in Exhibit 29, it is a large article which
12 was authored by Ms. Stephanie Roth, one of the main
13 activists, actually, and also by Mr. Meyer, in which
14 they described the history of this campaign.

15 PRESIDENT TERCIER: Okay.

16 THE WITNESS: So, they were activists, I
17 suppose.

18 PRESIDENT TERCIER: You answered my
19 question. Thank you.

20 BY MS. McCONAUGHEY:

21 Q. Several times during the cross-examination,
22 you were in the middle of explaining that this

1 revolution begins with Rosia Montana, and that this
2 was already being used in 2011. You were cut off,
3 and counsel said that he would have questions coming
4 up about that. He did not, however, come back to
5 this point.

6 Can you please now elaborate on what you
7 meant that this catch phrase was already being used
8 in 2011?

9 A. Yes.

10 So, in 2011, in the autumn--now from memory,
11 I don't know exactly the date, some campaigners, some
12 activists, most of them based in Cluj, were made
13 several actions in a very creative way, if I'm
14 allowed to say. It was the same year when the occupy
15 movements occurred all over the world, so they got
16 some inspiration from these occupy movements and did
17 some unauthorized protests in Cluj-Napoca. They also
18 used now these occupy-theme topic, and it was
19 during--I think it was during the--in October--in
20 October 2011, it was a commemoration of the Soviet
21 revolution, I think of the Bolshevik Revolution that
22 they have used this slogan "revolution starts at

1 Rosia Montana," so, just for gaining the attention of
2 the media for their--for their event, so this is what
3 I wanted to explain.

4 But it was kept as a slogan, not as a main
5 slogan. The main slogan remained "Save Rosia
6 Montana" and then also "United We Save Rosia
7 Montana."

8 Q. And then one final question. You were asked
9 about your Facebook connections with Mr. Jurca. Are
10 you followed on Facebook by Mr. Tănase?

11 MR. POLÁŠEK: May I just say I did not ask
12 about Facebook connections with Mr. Jurca. I asked
13 about pictures of Mr. Jurca with Ms. Pop--

14 MS. McCONAUGHEY: I'll reformulate.

15 BY MS. McCONAUGHEY:

16 Q. You were asked about your Facebook activity
17 and a picture with Mr. Jurca. Are you followed on
18 Facebook by Mr. Tănase?

19 A. Yes. I found out this three days ago. I
20 got a notification that Mr. Dragos Tănase is now
21 following me. It's a regular notification you get on
22 Facebook, if someone is interested in your activity.

1 I have more than 3,000 friends on Facebook. I have
2 also some followers.

3 Yes, please.

4 MS. McCONAUGHEY: No further questions.

5 PRESIDENT TERCIER: Thank you.

6 No questions.

7 QUESTIONS FROM THE TRIBUNAL

8 ARBITRATOR DOUGLAS: I just have one
9 question about the broad themes of your Report, and
10 perhaps the easiest thing would be to go to Slide 5
11 on your conclusions, which the references you give
12 there are to the start of your opinion, but I think
13 they reflect what you said at the end as well. I
14 just wanted to understand from the first four points,
15 A, B, C, D, you're talking about both Parties, and
16 you're talking about, I think, a situation where one
17 party's doing something to promote their particular
18 cause, the other Party reacts, so it goes from local,
19 then one party takes it national, the other Party
20 goes national, goes international, the other Party
21 follows, and it's sort of this, I don't know,
22 feedback loop in a way where it generates more and

1 more interest, which makes it quite difficult, I
2 imagine, to keep it out of the public domain at that
3 point. Who is following who up until 2013?

4 THE WITNESS: So, I think I've mentioned the
5 reciprocal influence, so they--at first, in 2002,
6 there were these NGOs who formed the "Save Rosia
7 Montana," movement. So at the beginning, the Company
8 had a reactive discourse. They contested the main
9 statements made by--all the main statements were
10 contested. If you look, for example, at my book, you
11 can see that.

12 Now the topic of cyanide, for example, was
13 immediately rejected by the company's discourse.
14 They were saying that the technology is safe. At the
15 beginning--I will give you just an example--at the
16 beginning, the campaigners said this place, Rosia
17 Montana, the name with the mountain in it, Rosia
18 means rosu, the red from the mountain, it's an
19 important place which will--very big historical
20 value, heritage value, touristic, tourism can be done
21 here. In the first stage of the campaign in
22 2005-2006 of the Company, they rejected this image,

1 so they refuted it. My first study on the case was
2 analysis of visual materials, the photographs that
3 the Parties may circulate over internet about the
4 place. So, if you look at one set of photographs,
5 you could see a very beautiful place, an idyllic
6 place and so on. And on the other side, you could
7 see the red water, the contaminated land.

8 Anyway, at the beginning they refuted this
9 topic. But in 2009, I think they started themselves,
10 the Company started themselves to promote the
11 touristic value of the place.

12 Now, it was their strategies to show that
13 the place can be preserved and that they will help
14 also doing tourism in the area; no? And I think it
15 was a topic that came out during the Hearing last
16 week as well.

17 So, it was an example of how the Company
18 imitated the campaigners, so they took the topic and
19 transformed it in their own benefit. The
20 campaigners, when for example, the Company promoted
21 the Project as an economic solution--as a solution
22 for the economic development of the area, they came

1 with the argument or the topic of the alternative
2 solution, so there can be alternative solution.

3 So, in a way, this conflict was built by
4 both main Parties involved by the representation of
5 that rejected--the representations, they had been
6 rejected themselves, but there was also a reciprocal
7 influence.

8 So, my main scientific discovery in my Ph.D.
9 was that polemic social representations do reject
10 themselves, so they represent the Parties in
11 conflict, but they also influence each other.

12 ARBITRATOR DOUGLAS: Okay. So the only of
13 your five conclusions, the only one that talks about
14 only one of the Parties is E, it's sort of like
15 you're describing a two horse race and they're neck
16 and neck, and then all of a sudden in E in your
17 conclusions, the SRM campaigners shoot ahead in 2013.
18 And when you read your conclusion, though, you say
19 the SRM campaigners succeeded to mobilize the
20 greatest number of people in support of their cause,
21 but you're almost giving the impression that they did
22 that on their own--in other words, it was the

1 campaigners that got everyone on to the street in
2 2013. Is that really a fair representation of what
3 actually happened in August-September 2013?

4 PRESIDENT TERCIER: Just add to that, it is
5 really linked and I could have the same question,
6 with your last Paragraph 161. It is a little bit
7 more detailed, but it is the same idea where you have
8 one position given, so can you combine both questions
9 together.

10 THE WITNESS: Thank you for giving me the
11 occasion to explain.

12 So, first, I will say that it was formulated
13 like this, so the last question was referring
14 specific to the link between the demonstrations and
15 the Project, so this is why on that particular point
16 I did not use both sides for using example. I was
17 requested. No, this was the question.

18 And then--yes, I wrote like the campaigners,
19 but it was a continuous movement, so if you look at
20 my report, I describe chronologically what happened
21 in 2011, what happened in 2012. They started to
22 mobilize before August, so these people which are the

1 active players, not everybody, not all the thousands
2 of people on the street are active--not very active
3 in the movement. There is a group like the
4 headquarters; no? A group of people who mobilized
5 through mostly social media. So, if you ask me right
6 now how was it possible, I would say that a very
7 important factor was social media Facebook.

8 So, they didn't do it at once in August. It
9 was--it was prepared, so news about Ponta
10 Government's intention were heard already immediately
11 after the elections in 2012, so at the beginning of
12 2013 there were several actions that the campaigners
13 took first on-line, and then they went on-site with
14 this kind of demonstrations, more flash mobs or this
15 kind of radical activities like the chain--the four
16 people who chained themselves.

17 Then they transmitted very much on Facebook,
18 so Facebook helped them a lot.

19 ARBITRATOR DOUGLAS: Are you insinuating,
20 then, that there was nothing spontaneous about the
21 protests that occurred when the Draft Law was
22 published? I mean, you're saying that this was all a

1 coordinated campaign, and that event was simply
2 seized upon, and they mobilized on that basis, or
3 surely there was some sort of spontaneous aspect to
4 what happened?

5 THE WITNESS: It is the way that social
6 movement functions, so it is this movement existed
7 before, so they have systematically transmitted their
8 messages throughout the 12 years of campaigning, and
9 then they succeeded to mobilize.

10 ARBITRATOR DOUGLAS: So, you exclude the
11 possibility that there were people who never
12 contacted, were never engaged with this particular
13 problem, social problem, and then suddenly they saw
14 the Draft Law, and at that point they decided to take
15 an interest? Did they exclude it?

16 THE WITNESS: No, I don't exclude.

17 So, in 2012--no, in 2013, people had
18 representation. The social representations of
19 conflicting type, of polemic type circulated in
20 Romanian society. They were present in the media,
21 and they were present in the people's mind. In my
22 thesis, I analyzed them in both environments, so I've

1 analyzed media content, but I also did my own survey,
2 not a representative sample, in order to check
3 whether we can talk just about an attitude towards
4 the Project, so opinion polls just asked for opinion;
5 no? Do you agree or you do not agree? I have
6 studied social representations in order to find out
7 what's behind this opinion, what's behind this
8 attitude.

9 And I found out, for example, in my chapter,
10 my last chapter of the thesis that people who oppose
11 defer fundamentally from people who support the
12 Project fundamentally regarding the social
13 representations they share. For example, I have
14 proved using specific methodology that they have
15 different views about Rosia Montana, so when I asked
16 them to associate, for example, words--no?--one of my
17 questions was please name three to five words, when
18 you hear the name "Rosia Montana," so they produced
19 different content. You can check, if you want.

20 So--

21 ARBITRATOR DOUGLAS: It would be a very long
22 hearing, I think.

1 (Laughter.)

2 THE WITNESS: So, it was--the topic was
3 already on the national agenda. People knew about
4 it.

5 So, yes, the bill, the Rosia Montana Law was
6 the flame. So it was like--I never said that there
7 were no corruption on occasion. If you notice in my
8 Report I said one argument of the opponents was that,
9 no, the politicians who favor the Project are
10 corrupt. I provided also examples of Mr. Ponta and
11 Boc figured in different posters. Anyway, so I never
12 denied this connection between Rosia Montana
13 opposition and the topic of corruption.

14 ARBITRATOR DOUGLAS: Thank you.

15 PRESIDENT TERCIER: Thank you very much. I
16 have no questions on my side.

17 We would like to thank you for your
18 testimony, because we have now to deal with other
19 things, I think we can now go and take a seat behind.
20 You can go behind, just not to have the impression
21 you're still in testimony.

22 (Witness steps down.)

1 PRESIDENT TERCIER: Good. We have a certain
2 number of points that I would like to deal with you,
3 in case of necessity, we can make a break and then
4 see how to deal with it, but we're all together now,
5 it's easier to do it right now.

6 First question, Hearing Number 2.

7 Ms. Smutny.

8 MS. COHEN SMUTNY: We're making an effort to
9 assess whether any of the dates that the Tribunal has
10 indicated will work. I can tell you that we're
11 having difficulty with the dates. We can't
12 hundred percent rule them out. We're still--there
13 are quite a number of people for which there needs to
14 be a coordination on this, but it's challenging. I
15 think--so we would want a little bit more time to be
16 able to verify whether any of those dates might work,
17 but I can say it's looking difficult.

18 One question that we, therefore, would want
19 to ask to the Tribunal or at least to float the idea,
20 within the months of April, May, and June, if it
21 would be possible or if the Tribunal would be willing
22 to split, maybe three days and two days for two

1 different occasions. I don't know if looking for the
2 five days is what makes it very difficult for the
3 Arbitrators, but that's the feedback we can give at
4 this time. I'm concerned that the other
5 possibilities might not be able to work on our side,
6 but we're--there are at least some questions that we
7 are going to need just a little bit more time to work
8 out before we would have to say no.

9 ARBITRATOR DOUGLAS: Could I just ask on
10 that possibility, is there any flexibility in terms
11 of venue?

12 MS. COHEN SMUTNY: Yeah, yeah.

13 I meant to say, yes, there is flexibility on
14 venue, and I think we have been assuming that these
15 subsequent hearings would be in Paris. I think
16 you've indicated that that makes it easier. I think
17 at this point we're, you know, of course, would want
18 to have as prompt as a second hearing as reasonably
19 possible, and so, if a Paris venue, we would be open
20 to that. I don't know if there would be another
21 venue considered, but we have flexibility to consider
22 the possibilities.

1 PRESIDENT TERCIER: Okay. May I first ask
2 Respondent.

3 DR. HEISKANEN: We have been able to confer
4 with all the Experts. In fact, we have difficulties
5 with all the other dates except the week of
6 28 September, when the entire team would be available
7 for hearing.

8 PRESIDENT TERCIER: It's conditional?

9 ARBITRATOR DOUGLAS: What about this idea of
10 splitting it?

11 DR. HEISKANEN: Well, this came up only now.
12 We would need to see what the dates are. In our
13 view, it's not ideal, but we need to see what the
14 actual proposal is.

15 PRESIDENT TERCIER: Okay. On that case, we
16 should look, but it doesn't look very well.

17 (Discussion off the record.)

18 PRESIDENT TERCIER: The first point is the
19 problem of the Hearing for the second session. The
20 Arbitral Tribunal will make some proposal with sets
21 of three days and two days, and to communicate it to
22 the Parties, looking whether this would be possible,

1 including Saturdays and Sundays. In any case,
2 everybody for the time being keep the 28th of
3 September, even if there is still question mark, but
4 it would be good if this alternative solution could
5 be adopted. If not, then we will have to find other
6 dates later on, but it does not look very well.

7 Second point, now is the Transcript. You
8 wish--must have time to read the Transcript again and
9 make correction for the Transcript.

10 Two points, the first point we would be very
11 grateful if the Parties could liaise in order to
12 avoid and to present a joint proposal to the
13 correction of the Transcript. You already are ready
14 to intervene, Mr. Greenwald?

15 MR. GREENWALD: Yeah, I have requests from
16 my colleagues that I think it would be a period of 60
17 days to make those--confer and make those corrections
18 so that people can have their holiday and then come
19 back to this.

20 DR. HEISKANEN: Yeah, we agree that the
21 Respondent's--the President's proposal is the most
22 practical one, which is--which may also be the same

1 as the Respondent's, which is that the Parties confer
2 and we find a date.

3 PRESIDENT TERCIER: Okay. One cannot say
4 that we're in a hurry really with the difficulty to
5 find a second time.

6 I have one point, and the correction should
7 be the correction to the English text, English
8 version that we had in this room and not a problem of
9 translation from Romanian into English. Do you agree
10 with this, Ms. Smutny?

11 MS. COHEN SMUTNY: Yes, we do. As you
12 indicated, you prefer that, yes.

13 DR. LEAUA: If I may, there is one part of
14 the Transcript when we had the Claimants' counsel
15 addressing questions in the Romanian to a legal
16 expert which was speaking in Romanian, and that point
17 it may be need for us to listen for the Romanian
18 Transcript or record because otherwise we cannot
19 distinguish who said what, the same voice of the
20 Interpreter.

21 PRESIDENT TERCIER: Yeah.

22 DR. LEAUA: For that reason, that part needs

1 to be addressed from the perspective of the Romanian
2 record because otherwise we can make sure when it is
3 actually end of the question, the beginning of the
4 answer. It was a very fast communication, and
5 Interpreters were struggling.

6 PRESIDENT TERCIER: I fully agree. It was
7 extremely difficult to understand when it stop and
8 when we start, especially because they had to temper.

9 MS. COHEN SMUTNY: The Parties agree on that
10 point, so same reasons, yeah.

11 PRESIDENT TERCIER: Okay. But the point
12 will be here to cut and to see who asked the
13 question, who answered the question and not to make
14 correction of the text?

15 DR. LEAUA: Precisely. Exactly.

16 PRESIDENT TERCIER: Fine. Good. That's a
17 good point.

18 The next point on my Agenda is, yeah, we are
19 in a bit special situation as far as we had now two
20 weeks of hearings with a lot of testimonies and
21 reports, and the Arbitral Tribunal will be already
22 ready not to write the Final Award, but, of course,

1 to start working. There are passages and parts and
2 issues that have been amply discussed.

3 Now, the question I'm asking is whether you
4 could consider the possibility of making atypical
5 Post-Hearing Briefs, atypical because they are, of
6 course, not final on the issue that have already been
7 addressed with an important caveat, of course, that
8 this can be changed or completed after the second
9 session, but I wonder--I don't make any pressure, but
10 can you imagine the Tribunal will not now wait
11 September this year or next year to already do what
12 we can with the material that we have? It will not
13 be the final decision, a fine art, but to
14 nevertheless to start preparing, and it would be
15 useful, in my view, to have already the Parties'
16 position, but I'm not making pressure. It is just a
17 suggestion that I made. We have not discussed this
18 at length, so we have just said that this could be a
19 possibility. But again it would be rather
20 exceptional, I understand, and I would not in any way
21 order it.

22 Ms. Smutny?

1 MS. COHEN SMUTNY: The Claimants would be
2 willing to do that, and what we thought perhaps would
3 be helpful to the Tribunal is that if the Parties
4 have, you know, what one simultaneous Post-Hearing
5 Submission that follows the issues that we addressed
6 at this Hearing, this depends maybe on--may be
7 conditional because, if we find that we're going to
8 have a hearing somehow with three and two, but maybe
9 one could set a tentative date, but we would let that
10 go, if it turns out that a hearing instead, but maybe
11 it helps to do that. And then with the understanding
12 that, after we conclude the subsequent hearing, there
13 would be then let's say another Post-Hearing Brief
14 for the Parties after that. That's something that we
15 would be willing to do.

16 PRESIDENT TERCIER: It's clear. In my
17 understanding, it was for the case that we had the
18 next meeting in six, seven, eight, nine months, I
19 don't know, especially because we should keep
20 something in mind.

21 Okay. We heard Claimant.

22 Respondent?

1 DR. HEISKANEN: There is an issue in
2 principle with Post-Hearing Submissions at this stage
3 because this is not a bifurcated proceeding. It is
4 simply that the hearing, a three-week hearing has
5 been split into two different periods, so the
6 evidence coming out of the next hearing will be also
7 relevant for the issues that have been addressed in
8 this first hearing.

9 So, if there are Post-Hearing Submissions,
10 they would be submissions on the basis of an
11 incomplete record on issues that have been discussed,
12 so that is problematic in our view.

13 So, the best that the Parties could do is to
14 come up with interim positions, subject to changes
15 further down the road after the second hearing. That
16 is, in our view, not ideal. We understand the
17 Tribunal's concern, of course, that it might be good
18 to have some kind of summation. Our proposal would
19 be to have an oral summation, find a couple of days
20 where the Parties can sum up their positions and
21 their views of the evidence that has come out of this
22 Hearing. In the near future, I would expect that

1 finding a couple of days for that purpose would be
2 much easier than a hearing date for the entire--for
3 the next hearing when experts will be heard because,
4 for that hearing, you would only need counsel and the
5 Tribunal, so there should be more flexibility on the
6 side of both Parties in finding those dates. Or our
7 summation, would be, in our view, more efficient and
8 effective in summing up the Parties' positions than
9 lengthy Post-Hearing Submissions, further documents
10 for the Tribunal to read in a case where there is
11 already sufficient or more than sufficient material
12 to read for the Tribunal.

13 The other option, if the Tribunal does not
14 wish to have an oral summation, which is our
15 preference, would be to--for the Tribunal to prepare
16 questions or issues rather for the Parties to address
17 on which the Tribunal believes further elaboration of
18 the Parties' positions would be required, or simply
19 to request the Parties to sum up their positions on
20 the basis of the evidence that has come out of these
21 hearings. The issues that the Tribunal thinks are
22 important and on which you would receive the Parties'

1 feedback and positions. Obviously, there are many
2 issues on which the Tribunal doesn't want to--where
3 you may feel that you don't need any further
4 elaboration, so that maybe--that is probably the
5 second option than the option that we would prefer as
6 the second option if the first option is not
7 agreeable.

8 But what we don't really find particularly
9 practical or appropriate is a Post-Hearing
10 Submission.

11 PRESIDENT TERCIER: You're probably a little
12 bit afraid from the name "Post-Hearing Submissions"
13 because, indeed, this is normally at the very end
14 when you have your last position. Probably I should
15 have found another word to express, but I will give
16 you the floor, too. I think the idea to make a list,
17 why not. You know that the Tribunal will meet
18 tomorrow morning and tomorrow. That's one
19 possibility. I haven't discussed it with my
20 co-Arbitrators, so I'm speaking under their control.

21 And secondly, I think the proposal that you
22 have is not so far from what we would have intended.

1 I don't know if--how you would react to it--to find
2 dates again, I'm ready to do, but we have already so
3 much difficulties to find dates for the second
4 hearing will be problematic.

5 DR. HEISKANEN: Again, this would be a
6 hearing without experts, so it would only be between
7 counsel and the Tribunal.

8 MS. COHEN SMUTNY: We oppose a further Oral
9 Hearing for purposes of having closing. We think in
10 a record like this that the Tribunal will benefit
11 from having the arguments in writing that you can
12 refer to, and it will be more orderly to refer to
13 that than to have to re-read a transcript, and we
14 vastly prefer an opportunity to address--well,
15 there's no question there will need to be and ought
16 to be in a case like this appropriate post-hearing,
17 but whatever it's called, but we're not going to be
18 repeating issues in the next hearing. I think the
19 Tribunal's already made that very clear, including as
20 to the scope of opening and so forth, so I think that
21 there is--there has been some meaningful subject
22 matters covered in these past two weeks, and that

1 there is plenty meaningful that the Parties could do
2 in writing for the Tribunal's benefit.

3 And I think if the Tribunal does actually
4 have questions, of course, it's always open to the
5 Tribunal to pose questions to the Parties, but the
6 Parties see the issues very differently, and I think
7 that the Parties should have the opportunity to, you
8 know, to address the record, the full record of
9 evidence--both Parties will want to do that--and to
10 speak to, you know, their respective cases on that.

11 And so the opportunity to do that in
12 writing, of course, in a concise way. Both parties
13 are represented by very experienced counsel, and
14 understand very well that the Tribunal's appetite for
15 reading further lengthy materials is not going to be
16 helpful, but rather something that in a concise way
17 presents the points that each Party wishes to make on
18 the basis of the evidence is what should be done.

19 And, of course, there's no new documents.
20 It's just arguments at this stage, so it's not a
21 question of additional evidence and so forth.

22 DR. HEISKANEN: We strongly prefer a list of

1 questions or issues from the Tribunal that the
2 Parties should address with page limits; otherwise,
3 the Parties will have to assume that we have to
4 address all the issues that have already been
5 addressed in the previous submissions, and that all
6 issues are open, and that all the issues which have
7 been debated are issues on which the Tribunal needs
8 further feedback.

9 We strongly prefer further guidance from the
10 Tribunal as to what are the issues that should be
11 addressed, with page limits so that we avoid a
12 further round of 3-400 page submissions in the
13 Post-Hearing Submissions followed by one or two or
14 three further hearings.

15 PRESIDENT TERCIER: I personally fully agree
16 with a limited number of pages, for a very obvious
17 reason.

18 Okay. My co-Arbitrators have--

19 ARBITRATOR DOUGLAS: It sounds from
20 listening to the two parties that there may be a
21 third way which is a political movement that was
22 popular at one point in time, which is you have a set

1 of questions for following this Hearing without
2 prejudice to a full set of Post-Hearing Briefs which
3 can cover any issue that the Parties like after the
4 second hearing. That might be another possibility.
5 So, you have interim Post-Hearing Submissions on
6 questions, but then Post-Hearing Submissions after
7 the final hearing, whenever that is, on anything the
8 Parties wish to address us on.

9 MR. LEW: I think that was the spirit of the
10 suggestion on the questions, which is, of course, we
11 will take guidance and appropriate guidance from what
12 the Tribunal wants to hear about, we should, you
13 know, think about addressing that, but also have the
14 flexibility to address issues we think should be
15 brought to the Tribunal's attention in the context of
16 whatever issues the Tribunal identifies.

17 DR. HEISKANEN: Well, I think it's
18 regrettably too early to discuss whether Post-Hearing
19 Submissions will be required after the second
20 hearing. I think the steps or any steps, additional
21 steps, that may be required at the second hearing is
22 something that should be discussed with the Tribunal

1 and the Parties once we know where we are after the
2 second hearing.

3 The other option is--and our preference has
4 been--is to have an oral closing instead of having
5 another Post-Hearing Submissions and further two,
6 three, 400 pages for the Tribunal to read.

7 PRESIDENT TERCIER: How many did you say?

8 DR. HEISKANEN: If there are further
9 Post-Hearing Submissions after the second hearing,
10 our preference would be to discuss what happens after
11 the second hearing at the end of that hearing,
12 because then the Tribunal will be in a position also
13 to give guidance as to how it wishes to see the
14 positions of the Parties to be summarized, and we
15 would much prefer to have the option between oral
16 closing and Post-Hearing Submissions left open until
17 the end of that hearing.

18 PRESIDENT TERCIER: Okay.

19 MS. COHEN SMUTNY: We strongly object. We
20 had discussions leading to this Hearing that there
21 wasn't going to be any oral closing, we've discussed
22 having Post-Hearing Briefs, that's been a continuous

1 point since PO1, we talked about that leading to this
2 Hearing.

3 PRESIDENT TERCIER: Yeah.

4 MS. COHEN SMUTNY: Our view is very strongly
5 that we need to have Post-Hearing Briefs. For us,
6 it's not a question. If the Tribunal prefers to have
7 questions to the Parties, of course, we always are
8 happy to answer the Tribunal's questions, but the
9 Claimants insist that we have an opportunity to speak
10 to the full record in a Post-Hearing Submission, the
11 length of which should not be an issue of counsel of
12 Respondent because it's only a question for the
13 Tribunal, Post-Hearing Briefs should be
14 simultaneously filed, so it's not a function of
15 further responsiveness back and forth between the
16 Parties. Each Party needs to use its own judgment
17 about the capacity of the Tribunal to absorb some
18 material in written closing.

19 PRESIDENT TERCIER: Okay. I think the
20 Arbitral Tribunal will discuss it. In the moment, we
21 have now the position of the Parties. We have no
22 agreement of the Parties, but nevertheless we have

1 the position. We will try to find the best.

2 I just would like to insist on the fact
3 that, do we understand what I mentioned is we will
4 not stay idle until October, I mean, in a way, we
5 will probably have forgotten everything, so I would
6 like, really if possible already to start rather
7 early with the first draft of course limited, and
8 certainly not final, but just to have possibility to
9 work on it. That's what my mind--and therefore, it
10 means that it could be useful for us to have a
11 document.

12 MS. COHEN SMUTNY: Mr. President, I just
13 want to emphasize that precisely because you make the
14 point that you make, and we were directed that we're
15 not having Closing Arguments, for the Tribunal to
16 begin deliberation without the benefit of Closing
17 Arguments, it makes it all the more important, in
18 Claimants' view, that we have an opportunity to at
19 least, even if it's questions that are presented and
20 the suggestion that Arbitrator Douglas suggested,
21 questions now, Post-Hearing Briefs later, if that's
22 how the Tribunal prefers, but we think it's very

1 important that we have the opportunity to summarize,
2 recap--both parties should have the opportunity to
3 speak to the record as a whole before the Tribunal
4 begins work in earnest.

5 PRESIDENT TERCIER: Okay, again, to make
6 things perfectly clear, I hope, we will, of course,
7 not decide already now deliberation is not the final
8 deliberation. It's just a discussion that you can
9 have based on what we've received, read and heard,
10 and this as a judge.

11 DR. HEISKANEN: Just two final comments.
12 First of all, there has been no debate previously
13 about how closing should be arranged, that was not
14 the subject in the Pre-Hearing Conference. And
15 instead of deciding now what to do after the second
16 hearing, our view is much more practical to address
17 that issue at the end of the second hearing when the
18 Tribunal is in a much better position to see what it
19 needs from the Parties.

20 PRESIDENT TERCIER: Okay.

21 DR. HEISKANEN: Post-Hearing Submissions are
22 not a necessary part of the proceeding.

1 PRESIDENT TERCIER: Okay. Questions?

2 ARBITRATOR GRIGERA NAÓN: No.

3 PRESIDENT TERCIER: Questions?

4 ARBITRATOR DOUGLAS: No.

5 PRESIDENT TERCIER: So, the Arbitral
6 Tribunal will decide.

7 I have another point I would like to hear
8 the number of the time, timing report.

9 SECRETARY MARZAL YETANO: Claimants have a
10 remaining time of 2 hours and 45 minutes, and
11 Respondent 3 hours and 12 minutes. The Tribunal
12 spent 5 hours and 1 hour.

13 DR. HEISKANEN: We would be happy to
14 transfer some of our extra time to the Tribunal's
15 account.

16 PRESIDENT TERCIER: It could be not well
17 understood as sort of gift at the end.

18 (Discussion off the record.)

19 PRESIDENT TERCIER: On your side, a comment
20 on the time?

21 MS. COHEN SMUTNY: We don't need to use
22 those 2 hours and 45 minutes today, so no further

1 comment.

2 PRESIDENT TERCIER: Okay. My last question
3 is a traditional question whether you have an
4 objection to make to the way this Hearing has been
5 conducted or if you wish another point to be made.

6 On your side, Ms. Smutny?

7 MS. COHEN SMUTNY: No. Thank you.

8 PRESIDENT TERCIER: On your side,
9 Dr. Heiskanen?

10 DR. HEISKANEN: Simply that we maintained
11 the objection on which we started this Hearing as to
12 the new oral evidence to be produced in the course of
13 this Hearing.

14 PRESIDENT TERCIER: Okay. Good.

15 If there are no further questions, I would
16 like to--oh, yes, sorry. Thank you. We have to find
17 a date for possible comments to the EC submission
18 concerning the Achmea objection. Should the Parties
19 wish to--

20 DR. HEISKANEN: May I make a practical
21 proposal that we do the same as with the corrections
22 to the Transcript, that the Parties confer and try to

1 find an agreed date in the coming days?

2 MS. COHEN SMUTNY: Yes. We will look at the
3 calendar and propose a date.

4 PRESIDENT TERCIER: Good. If nobody
5 proposes new points, okay, I would like to address
6 some thanks. Thanks first to our experts and
7 witnesses, most of them in the room. I would like to
8 thank for them. It was not always--it was certainly
9 for some a new exercise, a new experience, and we are
10 very grateful for what they have done.

11 I would like to thank the representatives of
12 the Parties. I hope that you have understood that
13 this Tribunal takes this case very, very seriously,
14 and that we are aware of the importance for each of
15 the Parties.

16 I would like to thank counsel for a very
17 professional and excellent job, work made, and I
18 would like you to convey also thanks to all
19 people--of course, not all of them have taken orally
20 part to this, but made it very huge work, and
21 certainly also in the back office in Geneva or in
22 Washington. You have a lot of people that must have

1 spent hours and days with this proceeding, with this
2 file.

3 I would like to thank our court reporter.
4 Thank you very much, indeed. Really without real
5 protest on the contrary, always ready to work. And
6 for the excellent job you have done.

7 I would like to thank the Interpreters. I
8 don't know if they are still here.

9 THE INTERPRETER: Thank you. We are still
10 here. We have been here all the time.

11 PRESIDENT TERCIER: Thank you very much.

12 I would like also to thank the people here
13 from ICSID that have helped us, a special thanks to
14 Maria Athanasiou, the assistant to the Tribunal;
15 special thanks to Sara Marzal Yetano that prepared
16 everything and was always, as you have seen a moment
17 ago, ready to help me and recall me on things I would
18 have otherwise omitted. And I would like at the end
19 to thank very much already my colleagues,
20 co-Arbitrators. It's a pleasure to work with them,
21 and I look forward to--or forward, in any case, we
22 will meet again. This is now a promise, if possible.

1 And in the meantime thanking you all, I
2 would like to wish you a good return, safe return,
3 and certainly for all of you, I hope so, a good
4 weekend. I think we have all deserved it. Thank you
5 very much, indeed.

6 DR. HEISKANEN: Thank you very much.

7 MR. LEW: Thank you.

8 (Whereupon, at 4:04 p.m., the Hearing was
9 concluded.)

CERTIFICATE OF REPORTER

I, David A. Kasdan, RDR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.

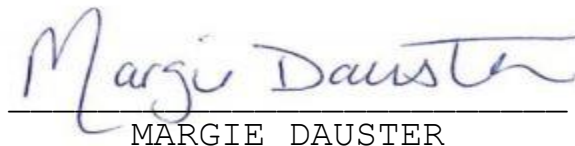


DAVID A. KASDAN

CERTIFICATE OF REPORTER

I, Margie Dauster, RMR-CRR, Court Reporter, do hereby certify that the foregoing proceedings were stenographically recorded by me and thereafter reduced to typewritten form by computer-assisted transcription under my direction and supervision; and that the foregoing transcript is a true and accurate record of the proceedings.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to this action in this proceeding, nor financially or otherwise interested in the outcome of this litigation.


MARGIE DAUSTER