



Romanians Protest Changes in Anti-Corruption Law

Jakub Pieńkowski

The largest protests in Romania since 1989 have been caused by the interpretation of two emergency government ordinances as an attempt to paralyse the fight against corruption, which has been effective for a few years now. Although the government withdrew the projects, the demonstrations have continued, with protesters seeing it as just a temporary concession. They fear the ruling parties, which have politicians threatened with criminal trials, will undertake a new attempt to change the country's anti-corruption laws. The credibility of Romania as an international partner could be undermined by a deterioration of its image in this respect and that also would have negative repercussions for Poland.

Manifestations. Since 18 January, anywhere from a few thousand to tens of thousands of people have been demonstrating on the streets in Romania. The protests have been a response to government actions interpreted as an attempt to stop the fight against corruption and ensure impunity for politicians entangled in criminal inquiries. On 5 February, as many as 300,000 people, according to various sources, protested in front of the seat of government in Bucharest and as many in other cities. The Romanian diaspora has participated in rallies organised in Paris, Rome, Brussels, and London. Although the ordinances were withdrawn, the protests have continued, partly because the government still declares its intent to amend the country's anti-corruption laws. The protesters' anger is focused on the chairman of the Social Democratic Party (PSD), Liviu Dragnea. It is commonly believed he rules Prime Minister Sorin Grindeanu's cabinet, which was appointed on 4 January after the December parliamentary elections and formed from the coalition of PSD (which won 45% of the votes) and the Alliance of Liberals and Democrats (ALDE, 6%). Opposition politicians from the National Liberal Party (PNL), the Save Romania Union (USR), and the People's Movement Party (PMP) participate in the protests but do not play a significant role. President Klaus Iohannis (originally from PNL) also participated in the street manifests, but he is not a leader of the protesters. The ruling coalition, though, accuses the president of inspiring the protests and even attempting a coup.

These protests have been compared to the ones held after the fire at Colectiv Club in Bucharest in which 64 people died. In November 2015, they forced the resignation of the fourth Victor Ponta government, also from the PSD-ALDE coalition. Opinion polls show a dichotomy. While 55% of Romanians support the protests, 51% do not want the government to resign and 58% do not want new elections. For much of society, the most important goal is the fulfilment of PSD's promises during the campaign: increases in salaries and pensions, and implementation of wide social benefit programmes. What is more, the coalition has a stable majority, holding 174 of 329 seats in the Chamber of Deputies and 76 of 136 seats in the Senate. Additional support for the government stems from its agreement on parliamentary cooperation with the Democratic Alliance of Hungarians in Romania (UDMR, which has 20 deputies and 9 senators). Although UDMR has distanced itself from the recent government legislative initiatives, it has not broken the agreement. The coalition's strength and resistance were tested and confirmed on 8 February, when a vote of no confidence in the government was rejected. The coalition and UDMR boycotted the vote, and PNL, USR, and PMP gathered only 161 of the required 233 votes.

Government's Attempts to Change Corruption Laws. The two legislative initiatives that provoked the protests were prepared as emergency ordinances, although they had not been mentioned by the ruling parties before the elections. The first one would change the penal code and code of penal procedure. Under it, a charge of abuse of power would be punished only if the material damage was greater than about €4,400 (200,000 RON). Punishment would be from six months' to three years' imprisonment or just a fine, instead of the current 2–7 years' imprisonment. Also, non-compliance would no longer be a crime. The second would commute those already imprisoned with sentences of less than 5 years, except for the severest crimes. Those with longer sentences who are over 60 or who have minor children would have their sentence halved. Although the constitution reserves the use of emergency government ordinances as legislative acts for extraordinary situations, in practice they are abused by Romanian governments because they can proceed quickly, and limit public debate and consultation. The Grindeanu government explained the need for the ordinances as a

pressing need to reduce overcrowding in prisons (the European Court of Human Rights has issued decrees against Romania for this several times) and to implement the Romanian Constitutional Court's judgment requiring clarification of the definition of abuse of power.

The government's determination to change the law was so high that objections from the president, Supreme Court, prosecutor general, National Anti-Corruption Directorate (DNA), and many NGOs were ignored. On 31 January, the government decided to send parliament a draft of the amnesty law, not as an ordinance but as a normal legislative act. However, the amendments to the penal law were passed as Ordinance 13 with just 10 days to take effect. The government underestimated the scale of the protests and, after just five days and under the pressure of some 500,000 protesters, cancelled the changes. The prime minister has declared that amendments to the penal law are still needed but justified cancelling the ordinance in response to the negative reaction of the public, which he said did not understand the need for the amendments and that resulted from the poor "information policy" of Florin Iordache, the minister of justice, who resigned.

The government's concessions also may have come after harsh criticism of the amendments and their implementation by key foreign partners. On 1 February, the ambassadors of Germany, France, Belgium, the Netherlands, the U.S., and Canada published a joint statement calling on the Romanian government to withdraw its acts as falling outside common values that form the basis of cooperation within the EU and NATO. In addition, European Commission President Jean-Claude Juncker and Vice-President Frans Timmermans issued a statement threatening the Romanian government with a change in the EU's positive assessment of the country's progress in the anti-corruption fight. The U.S. State Department spokesman also issued an opinion critical of the Romanian government's changes. Prime Minister Grindeanu and Minister of Foreign Affairs Teodor Melescanu published statements and held meetings with no success to convince their foreign partners that the government's actions were in accordance with the Romanian constitution and were not taken to paralyse the anti-corruption fight.

Despite the withdrawal of Ordinance 13, the government still seeks to amend the penal law and promises to undertake a new legislative initiative. This comes from the powerful influence in PSD of politicians under suspicion of corruption. Trials may end their political careers. A few PSD members, though, have criticised the government, including Florin Jianu, minister for Business and Trade, who resigned and protested Ordinance 13. But his was just an isolated case.

The Fight against Corruption. PSD is composed of former Communist Party *nomenklatura* and has ruled Romania since 1989 with few interruptions. In comparison to other parties also entangled in scandals, PSD seems to be part of the corrupt system. Most of the accused MPs, high-level and local government officials are members of or connected to PSD. This image of PSD is confirmed by the case of former Prime Minister Victor Ponta (2010–2015), who is being tried for money laundering, and the case of former Prime Minister Adrian Năstase (2000–2004), who was convicted of corruption in 2012 and for embezzlement, bribery and blackmail in 2014. Dragnea, who is the president of PSD and the current speaker of the Chamber of Deputies, could not become prime minister of the new government in 2017 because one year before he was sentenced to two years' imprisonment, though it was suspended for four years. When he served as deputy prime minister and minister of administration in 2012, he tried to falsify the results of a national referendum. Today, he is on trial and charged with enabling the extortion of €24,000 (108,000 RON) during his service as Telorman County Council president. If Ordinance 13 were to be enacted, Dragnea's trial and those of many other PSD and ALDE politicians would be discontinued.

The fight against corruption committed to by top officials began to be successful in 2013 when prosecutor Laura Codrut Kövesi was nominated for head of the DNA, a specialised anti-corruption prosecutor's office. Its results in 2015 were groundbreaking: DNA indicted more than 1,200 people, including Prime Minister Ponta, five ministers, 21 MPs and senators, 97 mayors, a county governor, and 15 county council presidents, as well as numerous judges, prosecutors, lawyers, police officers, members of the military, customs officers, and managing directors of state-owned companies. DNA collateralised some €500 million (2.2 billion RON). In 2015, 970 people were convicted by courts and about €195 million (870 million RON) was legally confiscated.

The corruption fight is appreciated by Romanians. More than 60% trust DNA. Only firefighters, the army, and gendarmerie are more trusted. It is recognised in European Commission evaluations of the Control and Verification Mechanism (CVM) for the reform of the judiciary and law enforcement agencies, set up at the accession of Romania to the EU in 2007 and still in force. Romania's Transparency International ranking has also improved, from 43 (of 100) points in 2014 to 48 points in 2016. In the same period, Poland gained a point, from 61 to 62, Hungary, from 54 to 48, Bulgaria (also under CVM) from 41 to 43, and the EU average rose from 64.6 to 64.8 points.

Conclusions. The government's withdrawal of Ordinance 13 proved the strength of Romanian society. It also strengthened people's conviction about the legitimacy of civil resistance to government violations of the rule of law. However, the government probably will not stop trying to amend the anti-corruption law. Many politicians in the PSD-ALDE coalition are determined to avoid trials. If it makes the changes, Romania's government could come under additional pressure from its foreign partners and EU institutions. Romania's accession to Schengen is not up for discussion today, but this goal has motivated Romanian authorities in the past few years to improve respect for the rule of law. The EC probably will warn the Grindeanu government that losses in the fight against corruption could block Schengen accession for years. Changes to the anti-corruption law like those attempted could return the country to negative tendencies seen at the time of EU accession in 2007 when it was marked as the least effective in the fight against corruption among the Member States.

The amendments and procedure used by the government to change the corruption laws may also undermine the image of Romania as a state of law and a reliable international partner. This could weaken its international position as well as affect regional initiatives, including some important to Poland. Romania is a strategic partner of Poland and both states perceive similar benefits of EU membership, such as the common market and cohesion policy. Also, both Romania and Poland value their strategic partnership with the U.S. and see a similar threat from Russia. Romania is very important to NATO's strengthening of its Eastern Flank and presence in the Black Sea region. Finally, Romania is Poland's traditional partner in regional cooperation in wider Central Europe, as well as with other states in transformation and undergoing democratisation.