



Weakening of the Anti-corruption System in Romania

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Demonstrations took place in Romania on 10 August, as citizens protested the weakening of the anti-corruption system assessed by the European Commission as one of the most effective in the EU. The ruling coalition of the Social Democratic Party (PSD) and the Alliance of Liberals and Democrats (ALDE) changed the heads of special prosecutors' offices in July, and decriminalised some acts of corruption that would potentially have led to PSD leader Liviu Dragnea's being imprisoned. These changes may undermine Romania's position before its presidency of the EU Council next year.

After seizing power in early 2017, the PSD-ALDE coalition began to soften the anti-corruption system to protect their own politicians from being accused because in "politicised" trials. That provoked the largest social protests in Romania since the fall of communism. Because of the parliamentary opposition's weakness, these were headed by President Klaus Iohannis. Attempts to decriminalise certain acts of corruption and to declare an amnesty for some crimes were blocked, but now the government is once again attempting to change Romania's anti-corruption law, mostly because of Dragnea's recent conviction. In response, approximately 100,000 people gathered in Bucharest to participate in the largest anti-government demonstration in 18 months. Unlike previous protests, this was broken up by the gendarmerie of the Interior Ministry, and 450 people were injured.

Coalition versus "Parallel State". The shape of the anti-corruption system has become a field of political dispute in Romania. The coalition justified its concerns by speaking of the need to fight the "parallel state", alleging a conspiracy involving the president, special services, law enforcement and judicial authorities, which strives to remove politicians from public office on the pretext of their being involved in corruption. The National Anticorruption Directorate (DNA), headed since 2013 by Laura Codruța Kövesi under Iohannis's political protection, was said to be the centre of the alleged plot. According to the European Commission, Romania's DNA was one of the five most effective services of its kind in the EU, with more than 90% of its indictments resulting in conviction. Only last year, Romanian courts sentenced 713 people who had been the subjects of DNA investigations, including three members of parliament, a senator and 28 mayors, and confiscated €159 million. Their convictions indicated that corruption affects all parties, but that it was institutionalised in the PSD.

The coalition's main goal was to remove Kövesi from her post. That is why Tudorel Toader, justice minister, accused her of politicising the DNA and, in February, appealed to the president for her dismissal. Iohannis refused this request, citing presidential prerogative. The minister appealed to the Constitutional Court, which ordered Iohannis to issue a decree. Having no further legal means of opposition, the president did so on 9 July.

Iohannis gave in because the cost of continuing the dispute would be incommensurate to the delay in Kövesi's removal. First, ignoring the judgment of the Constitutional Court would damage his reputation as a legalist. Second, by breaking the Constitution, he would risk impeachment, which was threatened by the coalition. Third, he would be replaced by PSD president Dragnea, who is speaker of the Chamber of Deputies, or ALDE

president Călin Popescu-Tăriceanu, speaker of the Senate. Therefore, removing Kövesi would not be stopped anyway. The president does not indicate candidates for heads of special prosecutors' offices, but may arbitrarily reject a person appointed by the minister of justice. Therefore, the president's agreement would require a political compromise from the government. However, the vacancy would still benefit the coalition, as it would prevent the effective conduct of DNA investigations against politicians.

In the shadow of controversies over the DNA, the government rejected Daniel Horodniceanu's re-election as the head of the second special prosecutor's office (the Directorate for Investigating Organised Crime and Terrorism, DIICOT), who had investigated economic abuses of power involving politicians. In June, he also started investigating possible treason in connection with plans by Dragnea and prime minister Viorică Dănciula to transfer the Romanian embassy from Tel Aviv to Jerusalem. However, Horodniceanu's term ended in formally in May, and he is currently only acting as head. Toader rejected his candidacy for re-election, instead presenting the president with the candidacy of his protégée Felix Bănila. Iohannis, though he supported Horodniceanu, accepted Bănila on 23 July.

Dragnea's Race Against Time. In order to bring the justice system under control, the coalition is processing amendments to acts on the system itself, the status of judges and prosecutors and the Supreme Judicial Council. At the end of June, the government also made a quick amendment to the criminal code and criminal procedure code. According to the opposition, the conviction of Dragnea for abuse of power was the reason for this. He was sentenced after the DNA's accusation because, as Teleorman county council president from 2006 to 2012, he had enabled fictitious employment in his office of two activists working for the PSD. The court also overturned Dragnea's previous suspended two-year prison sentence for attempting to falsify the 2012 referendum, and sentenced him to three and a half years in jail. The revised definition of abuse of power depenalised cases such as Dragnea's, specifying that such could only be considered a crime if the act had been carried out during working hours and benefited the official or immediate relatives directly. The coalition disregarded a letter from the ambassadors of the United States, France, Germany, Belgium, Canada, Denmark, Switzerland, Finland, Luxembourg, the Netherlands and Norway, calling on it to consider the opinions of the Council of Europe's Venice Commission and Group of States against Corruption (GRECO), as well as Romanian Supreme Judicial Council. The EC also warned Romania that it could take action ensuring the amendment's compliance with the EU treaties and secondary law on justice and police cooperation.

Dragnea's conviction on appeal could end both his freedom and his political career. The President of the High Court of Cassation and Justice (the equivalent of the Supreme Court) ordered judges sentencing him in the first instance to issue a statement of reasons by 1 September, which will allow appeal. Meanwhile, Iohannis directed amendments to the codes to the Constitutional Court, which will probably consider them at the end of September, when the appeal is likely to be underway. That is why Dragnea urged the government to amend the codes by urgent government decree with no *vacatio legis*. However, ALDE only agreed to the ordinary legislation procedure, after the PSD ignored its position on the law on offshore natural gas extraction. In addition, ALDE president Popescu-Tăriceanu expects that he, not Dragnea, will be the coalition's candidate in the 2019 presidential election.

Dragnea's way of avoiding punishment could be a general amnesty. According to PSD activists' statements on the occasion of the centenary of the Great Union of Romania, all non-violent crimes should be included. This could be introduced by urgent decree at the end of summer during, an extraordinary session of the parliament. The opportunity to convene would be a need to implement the directive on counteracting money laundering, after the EC applied to the EU Court of Justice for permission to impose high penalties on Romania for its non-implementation. Dragnea is trying to convince his ALDE representatives to back his position, by announcing the improvement of the offshore law and his readiness to elect a joint presidential candidate in 2019.

Conclusions. The recent changes of law and takeover of management of DIICOT and DNA by people connected to the government probably would politicise and undermine the prosecution of corruption in Romania. The goal of this manoeuvre is to ensure impunity for one man, the president of the PSD. Resistance by protesters is ineffective and weakening, because they are losing faith that they can succeed in confrontation against a determined coalition. Iohannis lacks the legal instruments to stop the changes, and Kövesi's dismissal weakened his credibility among the demonstrators. The protests of Romania's Euro-Atlantic partners and the EU institutions have also been unsuccessful so far. Therefore, EC warnings could become a threat to begin the EU Treaty Article 7 procedure against Romania.

The government's disregard for allies' appeals to uphold the rule of law and fight corruption may undermine Romania's international position. In autumn, a culmination of Dragnea's efforts to gain impunity and accompanying disputes between the government and the president may negatively affect Romanian preparations for its presidency of the Council of the EU that begins in the first half of 2019. Criticism by the EU and its institutions may also undermine Bucharest's negotiating position and, consequently, its ability to defend the common interests of the Central European countries regarding financial prospects for 2021 to 2027, among other things.