

# **The Impact of the European Union on Corruption in Romania**

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## **Abstract**

After the revolution of 1989, Romania confronted with high levels of corruption, and had a difficult time strengthening its democratic process. 10 years later, when the country became an official candidate for accession to the European Union (EU), the Romanian democracy saw hope for consolidation. However, despite the expertise and resources provided by the EU until 2007 in order for Romania to meet the *acquis communautaire*, the EU failed to bring about sustainable change. An incomplete European framework with guidelines tailored to Romania's fragile democracy, and inadequate monitoring of the country's political actions were the main causes for Romania's slow democratic consolidation. The paper provides an analysis on Romania's fight against corruption with a focus on the development of the anticorruption agencies, the rule of law, and the public administration from 2006 to 2012.

## **Introduction**

Although scholarly attention upon corruption has grown over the past years and the number of soft and hard legislative tools to combat corruption has increased, corruption today still represents one of the main threats to the stability of democratic governments. In post-communist satellite states, in particular, corruption has remained a more prevalent issue. Leslie Holmes referred to it as "a rising tide of sleaze in ex-communist Europe," claiming that "corruption has replaced communism as the scourge of Eastern Europe" (2013, 1163). As an ex-communist state itself, Romania has struggled endlessly with corruption over the past twenty five years. In fact, since the revolution of 1989, Romania has remained one of the most corrupt countries in Europe and even after its accession into the European Union (EU) in 2007, the country has continued to rank poorly among EU member states. In 2014, Romania ranked last in the EU along with Greece, Italy and Bulgaria, and 69 out of a total of 175 countries across the world (Transparency International 2014, 9).

Beyond the evident fact that corrupt practices are generally difficult to observe because the shapes they take are mostly vague and indeterminate, academic analysts have had difficulty defining and measuring corruption. Debates over the meaning of the concept are ample and still unresolved. Nonetheless, since the focus of my research is on political corruption, I will not engage in the ongoing debate over whether or not corruption can occur purely within the state sector, within the private sector, or between the state and the private sectors. Developing globalized markets and constant denationalization around the world have made it increasingly perplexing to find a clear boundary between “private” and “public,” distinction on which the legal definition of corruption relies. Classical definitions of corruption refer to “a decline [...] of the virtues [...] of a state or a ruler” (Szarek-Mason et al. 2010, 6); however, contemporary definitions concentrate on actions of individuals and their “discretionary freedom or power in the decision making process” (Szarek-Mason et al. 2010, 6). In order to create a better understanding of how the EU’s actions influenced Romania’s corruption levels, I will focus on the definition provided by the institutions of the European Union. Throughout the years, the definition has changed and in 2003 the European Commission refined the concept of corruption at the EU level as “an abuse of power for private gain” (Teixeira and Ferreira da Cunha et al. 2014, 61). After that, the Commission went on to perfect it by adding explanatory clauses in areas of criminal law and civil law. The definition also expanded for the private sector especially for multinational companies due to their increased leverage on states.

Since Romania turned its back on communism and started transitioning to a democratic government, integration into the European Union has been the main goal on the agenda of every Romanian government. In 1993, Romania signed the Europe Agreement which provided a basis for development within the political system, the economy, and the democratic process. 7 years after the Maastricht Treaty, the Romanian government signed the treaty which paved the country’s way towards EU accession (Info-Europa 2007, 20). However, during the following years the European Union did not fully support Romania to overcome its struggle with corruption. At that time the EU was not fully aware of the gravity of the situation in the country and lacked the proper measures to help Romania fight corruption from within. Despite the financial resources and the expertise that the EU provided to Romania in order to solve this issue, the EU failed to use its resources effectively and create sustainable change in the country. Its actions led to superficial structural improvements which lasted for limited periods of time and depended directly on the interests of the people in power. In addition, the EU managed to persuade Romania into adopting the *acquis communautaire* mainly through pressures, since the corrupt Romanian government officials were not interested in taking measures which could hurt their political interests. As a result, even though the country became EU-compliant on paper the “image projected to Brussels by its political leaders differed from the situation on the ground” (CEPS 2006, 102). Thus, eight years since accession, corruption still remains a serious problem in Romania.

My research aims to identify the main spheres where corruption prevails, and evaluate critically the impact that the EU has had on reducing the levels of corruption in Romania. In

doing so, the paper will focus on the development of the anticorruption agencies, the rule of law, and the public administration during the past ten years.

### **Anticorruption Agencies**

Starting with the 1990s the fight against corruption saw innovation in the field of new bodies specialized to tackle this issue. Anticorruption agencies (ACAs) were then created “with a specific mission to fight corruption [...] through preventive and/or repressive measures” (Sousa, 2009). The agencies were publicly funded and thus in many cases depended on the government to receive the money necessary to function properly. This posed a new series of issues concerning the independence and efficiency of these agencies, which were oftentimes seen as a last resort to deal with corruption when conventional law enforcement bodies proved to be either inefficient or unprepared to approach this pressing issue. International government organizations and world institutions strongly militated for the creation of these new bodies. In Central and Eastern Europe, in particular, the implementation of ACAs was recommended as part of a broader effort of post-communist satellite states to accede to the European Union.

Romania saw the development of one main institution required by the European Union, entitled the National Integrity Agency (ANI), which was designed to contribute to the fight against corruption. The agency was created at the request of the European Union in 2007, as part of Romania’s accession requirements. The ANI’s main purpose was to investigate wealth that could not be justified by the income of the verified person. Thus, the ANI could determine the compatibility of public officials for various positions, and signal other agencies such as the National Anticorruption Directorate (DNA) to start investigations and charge officials with allegations of corruption.

From the beginning, drafting the law for the development and implementation of the ANI was met with resistance by the Parliament. In 2006, Monica Macovei, the Minister of Justice of that time, proposed the law to the government, which was approved later in July. One year later, the Senate adopted the law in its final form. Nevertheless, the final version was met with criticism from the European Commission because it undermined the initial purpose of the agency. The ANI was thus under scrutiny because its leadership was tied to the interests of the Senate, which appointed the president and the vice presidents upon proposal of its ruling body, the National Integrity Council. This way unlike the DNA, which had its own specialized personnel comprised of prosecutors, police officers, lawyers and investigators, the ANI could only pursue its investigations as long as it did not interfere with the private interests of public officials.

After the ANI’s implementation, the agency struggled to maintain its independence as the government tried to impose more limits on its activity. Romanian politicians voted to change the ANI legislation at first to target “unjustified” wealth, instead of “illicit” wealth (Freedom House, 2007). The former and newer concept came in opposition with the recommendations from the EU, which advocated for an independent and well-functioning organization. The change in legal

language made it harder for investigators and prosecutors to differentiate between justified and unjustified wealth, and became another setback against the anticorruption campaign. However, upon pressures from the European Union, the Romanian Parliament modified the language back to “illicit wealth,” thus helping the agency become more effective.

Even so, throughout the summer of 2007, the ANI’s funds became insufficient to conduct proper investigations on asset and interest declarations of politicians, magistrates, and civil servants. As Calin Popescu-Tariceanu, the Prime Minister of that time, did not consider the agency’s lack of funds a priority, the ANI was only allowed to check 17 politicians at EU’s request and nine officials who did not file the required statements of assets. This way Tariceanu’s position on the funding issue, undermined the ANI’s status, along with its role as an effective deterrent to the corrupt practices of public officials.

For the following two years, the development of the organization strengthened as the ANI started referring cases in courts. Nonetheless, the results were short-lived as most of the cases targeted mid-level corruption. In addition, judges involved in such corruption cases were reluctant to deliver timely results due to their political ties. The ANI also continued to be less efficient due to its cohabitation with the National Integrity Council, the politically-tied ruling body which was limiting the activities of the agency according to political interests in the Senate.

In 2010, the ANI proved again that it did not represent a threat to the political interests of public officials. The Senate ignored the organization’s discovery of one candidate who was ineligible for the membership of the Superior Council of Magistrates (CSM), and approved him for a position in the Council. The ruling party challenged the political move before the Constitutional Court at the end of the year, but the National Integrity Agency was still a weak agency in the eyes of politicians. When the ANI started investigations on seven out of nine judges on the Constitutional Court for involvement in conflicts of interest, the court ruled that significant parts of the ANI legislation were unconstitutional. The agency was described as a “quasi-institution,” which violated the Romanian constitution, on claims that it restrained politicians’ right to privacy by requiring them to disclose their assets (Freedom House, 2007). In response to the controversial ruling, a new draft law was issued, but it was challenged twice by the President, who did not approve it. This draft would have limited the ANI’s effectiveness and created less transparent assets declarations. At the end of the year the government revised the initial draft law, as it restored the ANI’s key powers. The Parliament then approved it and the President agreed to sign it. Nonetheless, four months after the controversial move ended, the budget of the organization was cut significantly as part of government’s broader spending cuts.

In 2011, the ANI continued to refer cases on MPs, mayors and heads of various administrative institutions to the Wealth Investigation Commissions. One such investigation led to the forced resignation of Labor Minister Ioan Botis, which was a major accomplishment for the agency since its creation. The challenges continued, however, as the ANI encountered again resistance to secure an acceptable budget for 2012.

## **Rule of Law**

Over the past decades Romania has struggled to create and maintain the rule of law, a concept which “entails the implementation of predictable, efficient, and fair legal decisions and rules that constrain government actors” (King et. al. 155). The creation of the rule of law in a country switching from an authoritarian regime to a democratic one was an elaborate process targeted from two sides. On the one side, reform opponents strove to maintain the status quo of a rigid, non-transparent and biased legal system which favored their personal interests. On the other side, reform advocates fought for change in the corrupt judicial system.

For the past fifteen years, Romania’s judicial system has suffered transformations which had both positive and negative impacts on how it functioned. Due to its goals to become a EU member, Romania adopted multiple reform packages at the judicial level in order to comply with the European standards. Even though it received many recommendations from transnational governing bodies, the country was slow to respond and acted best only when pressured by the European Union. Nevertheless, the EU conditionality represented merely a technocratic approach geared towards improving judicial capacity, because it failed to provide robust, long-term support to effectively combat corruption in this area. Apart from the conditionality supported by the safeguard clauses within the pre-accession process, the EU institutional machinery has only disposed of soft instruments to influence the behavior of its member states. This has shown just how complex the nature of this policy area is and reflects the weaker role of “the EU layer of governance” (CEPS, 2006, 102).

During the post-accession period, after 2007, the European Union maintained mechanisms, which could influence reform patterns in Romania. They represented either legal means or political authority to monitor internal developments within the country. However, these mechanisms were weaker than the conditionality used during the pre-accession period and affected negatively the state of the rule of law. The negative effects resulted from a weaker role of the EU tools, and almost counterbalanced previous improvements in the judicial system achieved before 2007.

According to Martin Mendelski, the rule of law can be best understood when described two-dimensionally. On the one hand, the first dimension, referred to as judicial capacity, underlines economic and social development as key elements to the creation of a modern and stable democracy. This approach of establishing the effective rule of law in a certain country tends to be technocratic and based mainly on constant reform which in its turn produces structural development of the judiciary. Supporters of this dimension claim that “a society can produce” the necessary “institutional forms” to create a capable and well-functioning judiciary. Thus, institutional forms such as changing the legal system, training members of the judiciary and improving judicial education can enforce “universal judicial norms and standards” (King et.al. 156).

On the other hand, the second dimension, referred to as judicial impartiality, stresses the importance of political development and distribution of power in state as key factors which influence the quality of the rule of law. Advocates of this perspective emphasize that the “genuine transformation of power structures” essential to “ensure judicial independence and impartiality,” contributes primarily to the establishment of the rule of law. In contrast, structural changes in the judicial system such as formal reforms or efficiency-related strategies do not prove to contribute significantly in this direction. (King et.al. 156). While judicial capacity is driven by reform, judicial impartiality consolidates the rule of law through the direct work of domestic elites, civil society organizations and international pressures.

Just as in other post-communist states, the development of the Romanian judicial system suffered due to a common misconception. When making efforts to establish the rule of law, practitioners often directed their focus on the efficiency-related perspective rather than on the power-related one. This approach, along with the *de jure* appearance of improvement within the judiciary, did not lead to significant contributions in the process of strengthening the rule of law in the country. Instead, veto players kept opposing *de facto* implementation of new legislation, reforms, and European norms which would have jeopardized their political privileges. As a result, under the EU conditionality the Romanian government was pressured to make the necessary legislative and institutional changes. Nevertheless, most of the changes were adopted only on paper and were either poorly implemented or never put in practice. That is why EU engagement in establishing the rule of law in Romania failed to produce vertical transformative change and led only to superficial reforms which left existing corrupt power structures unaltered.

In order to become a qualified candidate for EU accession, Romania needed to undertake several judicial reforms. Such reforms included the adoption of civil and criminal codes as well as procedural codes, which would reinforce the independence of the judiciary. The European Commission also required the adoption of laws on the prevention and fight against corruption as well as the establishment of an anticorruption agency. Thus, Romania signed several international treaties on anticorruption and formally adopted legislation towards implementing anticorruption agencies. The National Anticorruption Directorate (DNA) was the first such agency to be implemented in 2002, under the name of the National Anticorruption Prosecution Office. Nonetheless, all these new bodies involved in the fight against corruption had initially few resources and staff. As a result, they were unable to be either independent or capable to bring *de facto* changes in the judicial system. In addition, the relatively quick transplantation of foreign law to Romania, without a prior evaluation of its possible impact on the country’s judicial system, brought unintended consequences and created loopholes and deadlocks within the judiciary.

After the 1989 revolution, Romania’s poor judicial infrastructure also showed a general lack of equipment and an antiquated case filing management system where there were usually overlapping case registers. Consequently, as part of the accession conditionality, the European Commission urged Romania to modernize its judicial system and overcome the lack of judicial capacity and independence through a comprehensive judicial reform strategy. Between 2000 and

2004, this reform strategy was poorly drafted and led to a slow modernization process. After 2005, when Monica Macovei, the new Minister of Justice took office, the judicial reform process saw an acceleration and the EU began to see Romania as a more legitimate candidate. Following several threats by the European Union on postponement of accession through the safeguard clause, the government and the Parliament were also persuaded to approve the subsequent reforms. Between 2005 and 2007, the essential judicial reforms were designed and coordinated jointly with the European Union. The EU monitored these reforms closely and worked together with the Romanian authorities towards their implementation. The EU also provided technical and financial assistance by sending European experts to work on twinning programs with Romanian practitioners and by raising PHARE<sup>1</sup> allocations. One of the main achievements was reaching full administrative capacity of the Superior Council of Magistrates in July 2007.

Nevertheless, the relatively rapid changes and apparent improvements in the judicial capacity started to fade after Romania officially became a member of the EU. The modernization of the judiciary had a significant financial impact on Romania in the long run, as the country struggled to manage the overall budget of the justice system and provide qualified personnel to support the infrastructure for the upcoming years. Due to budgetary constraints, the number of magistrates declined. In addition, fast-track preferential methods of admission to fill the vacancies permitted the recruitment of non-experienced magistrates, as opposed to better trained ones. Frequent amendments implemented through emergency ordinances and not through parliamentary vote led to the creation of conflicting legal provisions, which in turn affected the efficiency of the judiciary.

The Superior Council of Magistrates (CSM) represents another significant part of the justice system. It protects the interests of magistrates, by acting as a corporate union. In 2008, just one year after accession, the organization came under scrutiny for its lack of transparency. During that year the powers of the Ministry of Justice to select, control, and influence the careers of magistrates were transferred to the CSM. As a result, accountability became a concern for the EU and for other national NGOs that criticized the process of appointing and nominating magistrates, inspectors, and heads of department for not using objective criteria. Further criticism was addressed regarding the subjectivity of examinations for management positions and the lack of methodology for appointments made by the CSM.

As a judicial organ with vast powers, the council has slowly improved its level of transparency in the case of decisions taken in closed meetings, which were not justified in public. In 2011 the salaries of committee members were disclosed and the public was outraged by the disproportionate sums that the members received. In addition, the European Commission (EC) failed to stimulate the CSM in enhancing their accountability. Despite massive criticism, three critical reports, and a clause included in the Cooperation and Verification Mechanism (CVM), the Council did not feel compelled to address the issues outlined by the EC. Instead, in 2008

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<sup>1</sup> Originally created in 1989 as the Poland and Hungary: Assistance for Restructuring their Economies, the program was expanded to the other candidate countries to EU membership from Central and Eastern European countries.

conflicts of interests within its members and logistical loopholes persisted. Some of them included magistrates holding two positions at the same time, breaches of ethics, or “fast-track” (Freedom House, 2011) preferential methods of admission instated to fill vacancies. Thus, even after accession, the Superior Council of Magistrates remained a traditional, conservative organization, which was not invested in the implementation of judicial reform, and the consolidation of the rule of law. Instead, the CSM denied the existence of corruption in the justice system and constantly defied the European Commission by not taking relevant action to meet the benchmarks of the CVM.

## **Public Administration**

After its successful accession in 2007, Romania encountered several setbacks in its anticorruption efforts. The country had yet to achieve the legal standards imposed by the European Union and was the most corrupt EU member state according to Transparency International (2007). In addition, the Romanian government started derailing from its commitment to fight against corruption and consolidate the judicial system, and lagged behind in terms of the powers granted to law enforcement agencies in order to investigate corruption.

With the surge of the National Anticorruption Directorate in tackling high-level corruption cases, more and more top-level Romanian politicians were targeted. An ordinance, which aligned the powers of the Department to Counter International Organized Criminality and Terrorism (DIICOT) to the ones of the Office of the Prosecutor General, was received with discontent by the general secretariat of government and by the MPs. The ordinance was also seen as offensive because it contained a provision, which allowed prosecutors to look through telephone and email lists without a warrant.

As a result, political resistance augmented and manifested through the removal of Monica Macovei, the Minister of Justice who fought for the establishment of the rule of law in Romania during the previous three years. This political move not only alarmed the EU institutions, but also warned them against the actual intents and purposes of Romania’s accession. She was replaced by Tudor Chiuariu, member of the National Liberal Party, who did not prove to be as committed to preserve or strengthen the integrity of the justice system. Shortly after being instated in office, the new Minister of Justice requested the head of DNA to “put on hold criminal investigations of top politicians” (Freedom House, 2008). He then proceeded to dismiss the DNA prosecutor, after the Directorate started investigating his political sponsors. Chiuariu’s unjustified decision led to public outrage, which attracted the attention of the judiciary. As a result, for the first time in post-1989 Romania magistrates, DNA prosecutors, legal professionals and the National Union of Judges mobilized to defend the justice system. The Supreme Council of Magistrates ruled against Minister Chiuariu’s decision and reinstated Doru Tulus as the head of the Directorate.

Despite DNA’s efforts to combat corruption, the country still confronted with two major issues regarding court decisions and control over the directorate. Even though the European



Commission praised the prosecutors for their rigorous work on corruption cases, court decisions rarely reflected the same level of consistency. When dealing with high-level corruption cases, courts would grant suspended penalties or indecisive ones. Thus, the courts would easily find pretexts to pass the decisions to other courts and would lead to large periods of time needed to bring cases to closure. This situation affected the structure of the judiciary and the population as a whole because it diminished citizens' trust in the ability of the justice system to effectively combat corruption.

The Directorate struggled as well with the constant intention of politicians to control its activity. As more politicians from both sides of the political spectrum came under investigations for accepting bribes, blackmail, traffic of influence, and abuse of office, in a so-called "political witch hunt," DNA faced more legal opposition from the government (Freedom House, 2008).

The year of 2007 also saw many changes in the legal system including the revised criminal procedural code, the immunity of cabinet members and the new investigation procedures. In order to comply with the EU standards, the criminal procedure, and civil codes were adopted. The new provisions required investigators to notify suspects of domestic searches and wiretapping in advance as well as identify the precise objects of the searches. In addition, under the revised criminal code, investigations were limited to a maximum of six months and wiretapping to only 120 days. These measures prevented investigators to gather enough evidence to fully indict corrupt public officials and cooperate effectively with international agencies on investigations of terrorism and organized crime.

A new law passed in March decriminalized aspects of bank fraud, thus "leading to the dismissal of numerous pending cases at DNA" (Freedom House, 2008). Moreover, the Minister of Justice issued an emergency ordinance, which closed the "advisory commission on the prosecution of current and former ministers" (Freedom House, 2008). The commission made recommendations to the Romanian President on lifting the immunity of certain cabinet members. Even though the Constitutional Court ruled that the ordinance was unconstitutional, the ongoing investigations on ministers were stopped for several months. Thus, the new civil codes made it very difficult for prosecutors to investigate domestic corruption and communicate with other international agencies.

The following year saw tensions between anticorruption agencies and government institutions to indict several Members of the Parliament. The year started with the replacement of the Tudor Chiuariu as Minister of Justice, after facing corruption charges. The process proved to be lengthy because President Traian Basescu rejected the Prime Minister's nomination of MP Norica Nicolai, but in the end Catalin Predoiu was chosen as the new minister.

The Constitutional Court ruled that MPs who had also acted as ministers could be charged for crimes only upon approval from the chamber they belong to, despite previous contradicting provisions implied by the 2003 constitutional reform package. The reform package initially stated that the immunity of ministers could be lifted by the President on the

recommendations of the advisory commission on the prosecution of current and former ministers. Following the ruling, DNA requested the Parliament to lift the immunity of MPs who used to be former ministers and were previously charged on different allegations of corruption. The Parliament postponed discussions with the DNA and demanded complete files on the cases of charged MPs in order to ensure that investigations were not “politically motivated” (Freedom House, 2009). During this period of time, Daniel Morar, the chief prosecutor of DNA finished his mandate. When the chief prosecutor’s mandate expires, the Minister of Justice needs to propose a new person; then, the CSM needs to approve him or her, and the President signs on the nomination. In this case, Catalin Predoiu, the new Minister of Justice proposed a magistrate with no anticorruption prosecuting record for the title of DNA’s chief prosecutor, despite warnings from the EU. His proposal was met with disapproval by the CSM, and Daniel Morar was granted interim powers until a final appointment was made.

2009 was particularly troubling for the judiciary. In February, the President signed on the recommendation from the Minister of Justice to reappoint Daniel Morar as Chief Prosecutor of the DNA with full powers. Thus, there was an assurance that the efforts of the anticorruption agency remained proactive and geared towards tackling high-level corruption cases. During the year, the Directorate strengthened its independence and its status as a pledged anticorruption organization as it carried out investigations of systemic corruption. The agency indicted high-level officials such as former Prime Minister Adrian Nastase, heads of state-owned companies, other former ministers and judiciary members. In addition, DNA ran investigations on illegal networks and senior officials who received allegations of misuse of public funds. Following severe warnings from the European Commission (EC), the Parliament approved the requests for starting investigations on the above-mentioned public officials, but it failed to do so in the case of Adrian Nastase. This drew criticism from the EC, as reported in the yearly CVM report, but no further warnings and actions were taken at the European level which would persuade the Parliament to rescind their decision in the case of the former Prime Minister. In addition to the reappointment of the Chief Prosecutor of DNA earlier in the year, the President chose Laura Kovesi for a second term as the prosecutor general of the agency despite CSM’s advice against Basescu’s confirmation. The CSM claimed that Kovesi was criticizing very heavily the Council, and could have represented a threat to its integrity.

The European authorities also condemned the long duration of trials in Romania as the courts pronounced only a few convictions – the majority of the cases were still pending, fact held true up to this day. The EC criticized the leniency shown in sanctions attributed by courts and the noteworthy differences between court decisions for similar cases. As a result, the Commission advised the Parliament to “improve its handling of high-level corruption cases and allow the investigation of all appropriate cases by the judicial authorities” (Freedom House, 2010).

Corruption was also a key aspect among the debates over the new codes. The initial form of the new criminal code undermined corruption investigations substantially. The DNA, as well as other NGOs militating for the integrity of corruption investigations complained about the new provisions, which decriminalized certain political actions. Nonetheless, after significant

pressures on the Parliament, the controversial amendments were rejected and the special legislation on corruption pertaining to the criminal code was left untouched. The European Union was satisfied with the result since Romania continued to comply with its obligation undertaken within the CVM “not to modify the legal and institutional framework on anticorruption” (Freedom House, 2010). In the case of the three other codes - the civil code, the civil procedure code, and the criminal procedure code - neither the Chamber of Deputies, nor the Senate approved the initial forms in 2008, with the purpose of waiting for the new government to do so. As a result, in 2009, a debate within the ruling coalition on the methods of approving the codes led to a negotiation to appoint two committees which would work on them. After revisions, the government would either assume responsibility for the new legislation or send it to the Parliament. Thus, the government led by Prime Minister Emil Boc adopted the four draft codes and assumed responsibility for the criminal and civil codes. The other two codes were sent to the Parliament where they were approved later in 2010.

The summer of 2009 also came with an unprecedented decision from the European Commission, which underlined the statute of Romania within the EU as an unprepared member, not able to comply yet with the *acquis communautaire*. The decision implied that the Cooperation and Verification Mechanism would be prolonged, even though the three-year long safeguard mechanism was supposed to expire at the beginning of 2010.

Three years after accession, Romania was still struggling with its fight against corruption and was working towards meeting the anticorruption requirements established by the European Union. In 2010, the DNA started consolidating its position regarding the anticorruption campaign and opened several investigations on cases of high-level corruption. The most controversial one involved Catalin Voicu, a Socialist Democratic Party (PSD) Senator, who was accused of traffic of influence. In addition, the Parliament waived the immunity of the former Prime Minister Adrian Nastase and allowed the investigations to start. However, the Parliament remained mostly reluctant to approve DNA’s requests to start investigations on other senators, deputies or former ministers, and MPs. The four newly revised codes brought positive improvements to the establishment of the rule of law and eliminated deadlocks in the criminal investigation system. The Constitutional Court also had a shift in its balance of power. Three new candidates, who were former members of the Democratic Liberal Party (PDL) were appointed by the President, the Chamber of Deputies, and the Senate, respectively. Thus the new group of judges appeared to be in favor of the ruling coalition. The Supreme Council of Magistrates still maintained its conservative nature resistant to change and failed to fully comply with the rules during its elections in 2010. Despite the fact that the terms were institutional throughout a period of 6 years, three magistrates who replaced other members during an institutional term refused to step down from their position at the time of new elections. They argued about having individual terms and they wanted to remain for the entire period of 6 years. The Council reelected four other members even though they were eligible for holding the position for only one term, and the Senate confirmed three other ones even though one member was found incompatible by the ANI.

The year of 2011 came with more struggles on the political scene, as DNA was more successful with its investigations. The agency charged 200 police and customs officers with

corruption during that year, and targeted Adrian Severin, a member of the European Parliament representing PSD, who had his immunity lifted. Other significant investigations included the indictment of two public officials from the constituency of the former Prime Minister Emil Boc, who represented the PDL, the indictment of four members of the Parliament, as well as investigations of distinguished members of the High Court of Cassation and Justice (HCCJ). A notable accomplishment in 2011 was the ruling of the Constitutional Court on two amendments to the law on anticorruption and the rule of law. The Court invalidated the “limitation of the immunity from prosecution enjoyed by cabinet ministers and members of parliament,” and “the elimination of a constitutional provision that blocks the investigation of illicit enrichment” clause (Freedom House, 2012). This new ruling allowed anticorruption agencies such as the Directorate to investigate senior Members of the Parliament who have been previously shielded by the immunity clause.

In February 2011, the National Liberal Party (PNL), the Conservative Party (PC), and the PSD allied to form the Social Liberal Union (USL). The coalition won the local elections in June 2012 by a landslide, and won approximately two-thirds of the seats in the Chamber of Deputies and the Senate during the Parliamentary elections from December. Thus, the PSD-leading coalition secured the majority in both houses of the Parliament, and was in the position of expanding its influence over the work of DNA and other agencies. In addition, the outcome of the elections offered increased protection to the new government, led by Prime Minister Victor Ponta, from corruption investigations.

In 2012, surveys showed that the public was still very unhappy with the decisions taken by the government. According to the Eurobarometer, 79 percent of the respondents believed that the government was not efficiently combating corruption, and 67 percent of them felt that corruption levels increased in Romania (Freedom House, 2013). The three main bodies in charge of the fight against corruption remained the DNA, the ANI, and the Anticorruption General Directorate (DGA), which was subordinated to the Ministry of Administration and Interior (MoAI). Among them, the DNA had proved throughout the years that it had become an agency capable of effectively tackling high-level corruption cases, despite political efforts to dismantle the organization or deprive it of its powers. In September 2012, the DNA “reported that 552 public officials were convicted,” which represented almost double the number reported in September 2011 (Freedom House, 2013). However, media leaks showed that the agency was politicized and some of its actions became suspicious to the public. On another note, the ANI continued to be less efficient than the directorate due to its constant lack of funds. The president of the organization reported unprecedented political pressures to drop investigations on political figures ahead of the parliamentary elections of that year.

The efforts of the anticorruption agencies proved successful, however, in the case of former Prime Minister Adrian Nastase. He became the first head of government to be imprisoned, after being convicted of illegal financing during the 2004 presidential elections. Nastase’s case lasted more than six years after being charged with taking 2 million euros from the profits of a state-organized event. Another success of the institutions previously mentioned,

was sentencing the secretary of state Vasile Emilian for embezzling 85,000 euros from public funds. In addition, a high-level businessman together with a Senate member were sentenced to 7 and 5 years in prison, respectively. Nonetheless, the case of Dinu Patriciu, the general manager of Rompetrol S.A. had a different outcome as he was acquitted in August for charges of embezzlement of 85 million dollars between 1999 and 2001 as CEO of Rompetrol. Other indicted officials such as Dan Voiculescu, who was an important media owner, resigned from office to move their case to a lower court and to have the proceedings prolonged.

Within the judicial system, 2012 saw a constant battle between the judiciary and the new coalition (USL). The Constitutional Court struggled to maintain its autonomy as external government bodies tried to tame the judiciary's ability to strike down or question new legislation. USL attempted to diminish the power of the judiciary by issuing an emergency ordinance with the purpose of removing the court's ability to review parliamentary decisions. The Constitutional Court struck the ordinance as unconstitutional, thus preserving its full powers. The ruling coalition went on to remove the heads of the Chamber of Deputies and of the Senate, even after the Court ruled against the coalition's petitions to undertake this action. This way USL replaced the Parliamentary leaders with representatives from their own party in order to gain full control over both chambers. The same year saw USL's attempt to impeach President Basescu and replace him with Crin Antonescu, the coalition leader of that time. In order to successfully impeach the president, USL tried to modify the legislation so that if 50 percent of the population voted in the referendum, the president would be replaced. The Constitutional Court upheld the new legislation which contradicted previous legislation from 2007 "that the Parliament could use its discretion to opt for a relative majority for dismissing the President" (Freedom House, 2013). Nevertheless, only 46.24 percent of Romanians voted during the referendum, which led to its invalidation.

## **Conclusion**

There is no doubt that corruption still remains a serious issue in Romania. Nonetheless, for the past three years some of its anticorruption agencies have started to improve their efforts while combatting it. It has been a daunting mission both for the government since a large number of its officials have been indicted, and for the people as their trust in government institutions has been shattered over and over for twenty five years.

The judicial system went through three main reforms with the adoption of several civil and criminal codes. However, the judiciary still needs to be completely reformed in order to become fully effective. The system needs more specific legislation on combatting corruption with explicit guidelines on how to tackle various types of cases, correlated with legal consequences.

The European Union has massively aided Romania in its fight against corruption in the pre-accession phase, through funding and expertise in order to improve the structural aspects of the justice system. Nonetheless, it lacked substance in its efforts to help the country establish comprehensive mechanisms to "enhance institutional quality and stimulate political confidence

which in turn would generate greater respect for legal norms and rules” (King et. al. 235). In addition, the EU was slow in its actions and only persuasive through the use of pressures and threats through the safeguard clauses. As a result, the EU’s inability to intervene directly inside a national government led to embezzlement of European funds, superficial changes in legislation with no actual real application on the ground, and to the development of an incomplete mutual trust which harmed the relationship between Romania and the EU in the long run.

While it is true that Romania has been a very difficult contestant to the prize of EU membership, the European Union should have been more cautious when dealing with the country’s outdated politicians who turned from Communist members to fresh supporters of newly founded semi-democratic parties over night in the early 1990s. Events following the year of 2014 could not be analyzed in the paper, since it was written during the summer of 2015.

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