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Democratic and Market Governance in Romania: Between Domestic Politics and EU Accession

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Abstract

Institutional reforms to regulate the market environment and the proper functioning of democracy have been mandated by the European Union to accession countries. In spite of the uniform creation of such regulatory frameworks, governance problems persist, especially in the newest members of the EU. I analyze the institutional reform record in both market and political governance, as well as the effectiveness of these institutions, in the case of Romania, one of the laggards of reform. I argue that the EU did significantly support reform efforts, but insufficient domestic commitment to reform has resulted in ineffective institutions.

Keywords: democratic governance, market governance, Eastern Europe, European Union, accession, institutional reform, Romania, political opposition.

Introduction

Institutional reforms to regulate the market environment and the proper functioning of democracy have been mandated by the European Union to accession countries, resulting in the uniform creation of basic regulatory frameworks. These reforms include political governance (anti-corruption legislation, justice system reforms, public procurement and freedom of information laws), and economic governance (incorporation, contract law, corporate governance, bankruptcy, competition legislation). In spite of these advances, enduring corruption and conflicts of interest of politicians, as well as incomplete and cumbersome business regulations persist in the Eastern European members of the EU, most notoriously in the newest such members.

In spite of years of reform, Romania is the EU member with the most governance problems. Comprehensive indicators from the World Bank show Romania faring worst among Central and Eastern European countries in all years available and for all areas of governance, with the least impressive performances in rule of law and control of corruption (see Table 1).¹ The Freedom House *Nations in Transit* democracy and governance indicators² also show the Romanian democracy faring badly in 2005, with a score of 3.39, in contrast to values around 2.0 for most other Eastern European EU members. For corruption, the area with the worst score, Romania is at the same level in 2005 as it was in 1998, albeit slowly recovering from a low in 2000.

¹ These indicators are measured using surveys of firms and individuals, as well as the assessments of commercial risk rating agencies, non-governmental organizations, and a number of multilateral aid agencies (Kaufmann et al., 2006).

² These indicators measure electoral process, civil society, independent media, national and local democratic governance, judicial framework and independence, and corruption. They are on a scale of 1 to 7, with 1 the highest level of democratic progress. 2006 ratings are measured for 2005, and are based on country reports commissioned to local think tanks.

In economic terms, from 2000 to 2006 Romania has been the fastest growing EU economy, starting, however, from a low base; GDP per capita rose over the period by 30%, while inflation and unemployment dropped sharply (IMF, 2007). In addition, in the *Doing Business* survey, the World Bank placed Romania second among countries that have improved their business environment the most in 2005. There were improvements in many areas, including dealing with licenses, employing workers, getting credit, protecting investors, trading across borders and closing a business (World Bank, 2006: 2). The European Bank for Reconstruction and Development (EBRD) assessment of Romanian market institutions is mixed: the quality of insolvency and secured transactions laws is considered high, unlike in more advanced Eastern European countries like Poland or Slovenia, but there are still many problems, such as the low quality of the corporate governance law (EBRD, 2006). Moreover, even in 2006, after much recent progress, Romania still placed last among EU members in many EBRD transition indicators, including the extent of privatization and restructuring, banking reform and competition policy (see Table 2).

The state of economic and political reforms suggests that while problems persist in all reform domains, economic governance is improving faster than political governance in Romania. One of the aims of this paper is to look at these two institutional domains comparatively, both in terms of reform progress, and in terms of EU influence. However, the main task of this paper is to assess to what extent EU conditionality has been an effective force in recent reform activity. It is hard to deny that the EU has significantly influenced the reform process in Romania, especially since the year 2000, when the accession negotiations started, and perhaps even more so in 2005 and 2006, when the specific date of accession was uncertain. I look, however, at the effectiveness of this conditionality in terms of the quality of institutions created. I argue that the

pace and shape of reforms since 2000 has followed domestic politics quite closely. While it appears that governments of all stripes have readily engaged in the reform activity promoted by the EU, I show that many reforms were passed strategically to appease EU concerns, but with no real impetus for reform. The institutions created in this way, while an improvement over the past, have many loopholes, are still ineffective, and their implementation is slow. These problems were more visible during the ex-communist Nastase government, though the present government's commitment to reform is also questionable. In order to tackle the questions I posed, I will detail the history of several market governance and political reform areas, and outline reform efforts and EU activity in each case. I start, however, with a review of existing arguments about EU influence on Eastern European institutional reforms.

Conditionality and integration: the literature

Many observers consider the opening of accession negotiations with Romania in 2000 as a rather fortuitous event for this country, caused mostly by the external circumstances of the Kosovo conflict in 1999, and by the need for stability in the region (Phinnemore, 2003; Gallagher, 2006). Tom Gallagher, a long-time observer of Romanian politics, has expressed harsh criticism towards both Romanian politicians and the EU officials that pursued Romania's accession. He calls PSD (Social Democratic Party) politicians "a network of businessmen who mouth left-wing platitudes while systematically grabbing the most desirable economic plums for themselves in a chaotic lurch towards the free market", and notes that "a disastrously low-grade EU accession process has accentuated this political backwardness" (Gallagher, 2006: 2). The actors of this drama are, on the Romanian side, PSD Prime-Minister Adrian Nastase, who is accused of building up an influential lobby in Brussels by opening the economy to EU

multinationals, and on the EU side, the EU Commissioner for enlargement, Gunter Verheugen, and “his patron”, German Chancellor Gerhard Schroeder.³ In 2005, Olli Rehn (from Finland) succeeded Verheugen as Enlargement Commissioner, and insisted that additional reforms be carried out. This coincided with a relatively reformist government taking power in Bucharest, resulting in some reform progress in 2005 and 2006. Gallagher sums up the story of EU and Romania as “the consolidation of backwardness” (2006: 9-10).

There is some truth in Gallagher’s assertion that many strategic sectors of the Romanian economy are dominated by EU banks and multinationals (e.g. banking and insurance, office buildings real estate, sugar, part of the energy sector) and that EU’s political conditionality has sometimes taken a back seat to the pursuit of economic liberalization. In this paper, I do not address EU officials’ motivations in the negotiation process; I look only at the effects of conditionality. However, it is exaggerated to say that the EU has shown “complete inability to export sustainable economical and social reforms, improved governance, and ultimately stability” (Gallagher, 2006: 10) to Romania.

Gallagher’s pessimistic view about the EU’s ability to promote democracy and good governance is a far cry from the conventional view in the literature. Vachudova (2002), Pop-Eleches (2007) and Ekiert et al. (2007) argue that it is precisely the meritocratic criteria set by the EU for enlargement that made the accession process so successful in promoting democracy in Eastern Europe.⁴ This democracy export has been particularly important in those countries initially displaying a nationalist (as opposed to a liberal) model of politics (Vachudova, 2002; Pop-Eleches, 2007). According to Vachudova, the threat of exclusion from the EU between 1995

³ According to Gallagher, the Chancellor signed a 1 billion Euro contract with the Romanian government for a German group to secure the country’s borders (2006: 7).

⁴ See also Pop (2006: 121) on the positive effect of international organizations on economic reform efforts by way of instilling a sense of continuity to these efforts.

and 1999, which she calls “active leverage”, made “rent-seeking strategies of ethnic scapegoating and economic corruption less tenable, and contributed to the victory of opposition political parties that organized themselves around a pro-EU platform” (2002: 36). However, these borderline countries where active leverage is most important are often those that the EU has the least ability to influence, due to stronger communist legacies and less informal attraction from the EU at the societal level. In Romania, these legacies⁵ translate in stronger domestic opposition to reform than in Central European countries, which has resulted in more attempts by politicians to subvert reforms. Thus, even when the promise of membership is credible, EU influence may be least effective in the borderline cases. Active leverage was important in Romania, supporting the liberal opposition’s victory in 1996 over ex-communists on a ‘return to Europe’ platform. However, these new parties were unable to carry out their reform plans, and when Romania was not invited to open accession negotiations in 1997 reforms did not intensify; rather, they stalled, raising questions about the effectiveness of gate-keeping as a conditionality mechanism. The return to power of the ex-communists in 2000 also shows that the lure of Europe was only a small part of domestic preferences. It is true that the ex-communists had abandoned their nationalist rhetoric by 2000, and had embraced pro-Europeanism, but it is unclear to what extent this party (now called PSD) has indeed reformed like the ex-communist parties of Central Europe (Pop-Eleches, 2001).⁶

Another mechanism of active leverage on domestic politics is the endorsement of opposition parties at critical electoral junctions, like in the case of Slovakia, where the EU indirectly tied the promise for opening the accession negotiations to Vladimir Meciar’s electoral

⁵ Romania experienced its own version of Stalinism under Ceausescu, which manifested in the elimination of any attempts at political opposition and in an excessive focus on large heavy industry plants, which are especially difficult to restructure.

⁶ For an account of the transformation of ex-communist parties into modern leftist parties in Central Europe see Anna Grzymala-Busse’s *Redeeming the Communist Past* (Cambridge University Press, 2002).

loss (Pridham, 2005; Pop-Eleches, 2007). However, in the Romanian case in 2004, the EU might have had the opposite role. Less than a month before the November 2004 elections, Enlargement Commissioner Verheugen declared that Romania was on track to complete EU accession negotiations before the end of the year. Some believe that this announcement amounted to the Commission's endorsement of the incumbent ex-communists (Gallagher, 2006). Whether or not this was the case, the ex-communists narrowly lost the presidency and the control of government.

Beyond Vachudova's passive and active leverage concepts, there is a literature on the effects of different conditionality mechanisms. These mechanisms are, according to Grabbe, gate-keeping (Vachudova's active leverage), benchmarking and monitoring, models (provision of legislative and institutional templates), money (aid and technical assistance), and advice and twinning (Grabbe, 2001: 1020). Grabbe argues that gate-keeping is the most powerful, but also the most blunt conditionality instrument, and faults the other instruments for vagueness resulting in diffusion of influence. For instance, she notes the difficulties in pinpointing when the accession conditions have been met by the candidate countries, given that the Copenhagen criteria, unlike for instance IMF conditionality, are not a checklist of clear objectives or quantitative targets (Grabbe, 2003: 255). At the core of EU conditionality are the highly debatable concepts of "democracy," "functional market economy" and "the capacity to cope with competitive pressure and market forces", and even these broad aims are moving targets, with justice and home affairs, foreign and security policy and the common currency added as they develop inside the Union itself (Grabbe, 2003: 255-6). The EU does not have formal rules on effective implementation or enforcement of reform policies, or specific tests of institutional change or compliance, which makes it hard to identify European influence on institutional change (Grabbe, 2001: 1024).

Moreover, the EU's executive bias in the accession process, based on the notion that adopting EU norms is merely an administrative exercise, may result in the export of the EU's democratic deficit (Grabbe, 2003: 259; Pridham, 2005: 58). Furthermore, the EU's own internal diversity makes it difficult to export a single model of good governance, and the conflicting demands arising often provide ammunition for different sides in domestic political battles (Grabbe, 2003; O'Dwyer, 2002; Pop, 2006). Grabbe's conclusion about the EU's role in promoting domestic reform is that the prospect of EU membership simply provides an anchor to the reform process (2003: 262), and that it is difficult "to use EU membership conditionality as a scalpel to sculpt institutions and policies during the accession process; rather, it is a mallet that can be used only at certain points in the process to enforce a few conditions at a time" (Grabbe 2001: 1026). As I will show in the following pages, Grabbe's conclusions resonate well in the case of Romania, where the safeguard clause threatening delayed membership by one year (the gate-keeping mechanism) was the most powerful conditionality instrument, but also a very blunt one. This instrument was incapable of ensuring that elements of continuity with corrupt past practices are eradicated from new institutions.

It is worth noting that the gate-keeping implied by the safeguard clause is slightly different from Vachudova's notion of active leverage, which refers to the threat of withholding membership altogether, rather than simply delaying accession. In the case of the safeguard clause, the consequences of failing to fulfill the conditions are not quite as severe as for the decision to open negotiations. If the safeguard clause is applied and membership is delayed, it is likely that the respective government would be encouraged to speed up reforms to make sure it does not miss the next deadline.⁷ In contrast, when membership negotiations were denied to

⁷ Pop (2006: 133) also notes that because international institutions have repeatedly given the Romanian government another chance, economic reforms have slowly deepened.

Romania in 1997, the disappointment about ‘missing the train’ of accession was quickly replaced by criticism towards the EU for being too harsh and unfair towards Romania.

Apart from the literature focusing on conditionality, we can think of the influence of the EU as manifested in the domestic process of policy-formation. Emulation of EU rules has been important in the creation of governance institutions in Eastern Europe. These institutions can be assessed based on how faithful and how voluntary emulation has been (thresholds, patches, copies or templates), as well as based on the outcome of emulation (homesteading, scaffolding, continuous learning and open struggle), which depends on the density of actors and rules in each policy domain of interest (Jacoby, 2005). Jacoby (2005) does not analyze the areas of political or economic governance; rather, he focuses on agriculture, health care, consumer protection and defense, but his analysis can conceivably be extended to the fields of interest here. The anti-corruption policies, for instance, have a high density of actors, so the outcome of emulation could be somewhere between Jacoby’s concepts of continuous learning and open struggle, while market governance has a lower density of actors and higher density of rules, resulting in a scaffolding outcome. While this approach offers a way of understanding the process of reform, it does not indicate how this process is impacted by politicians’ dissimulation strategies *vis-à-vis* the EU. Therefore, the problems with institutional outcomes that arise from such dissimulation are not captured in this model.

Integration of Eastern European political regimes and economies also happens at a broader level, beyond specific conditions determined by the EU (Pridham, 2005; Schimmelfennig and Sedelmeier, 2005). Pridham (2005) adopts this broader approach to EU influence, emphasizing the dynamic interaction between the “pull” (democracy promotion, e.g. through political dialogue) and “push” (political conditionality) factors. According to Pridham

(2005: 15-9), integration theory teaches three main lessons pertinent to enlargement and democratic conditionality. The first lesson is that the EU, as a political system rather than a state, functions through diffused decision-making (multilevel governance), with imperfect separation between domestic and international politics. Second, integration theories teach us not to ignore informal integration, and third, they emphasize the contributions of both elites and masses to integration, and the interaction of these contributions through elite learning. Pridham (2005:228) brings to the discussion of EU influence a useful distinction between democratic transition and consolidation, noting that EU conditionality is only effective as a mechanism for promotion of democratic consolidation, after the initial transition phases have been secured. This consolidation phase consists in the institutionalization and deepening of new democratic rules, the main concern of this paper, as well as in the transformation of political culture to internalize democratic rules. Finally, Pridham makes the important point that the moment of EU entry is not final for democratic consolidation in Eastern Europe, in spite of Brussels' proclamation that the accession candidate is ready to take on the obligations of membership into the union. Instead, "the final big test of this conditionality...remains ahead" because it is not clear what happens to democratic consolidation when disillusionment sets in and conditionality ceases (Pridham, 2005: 229).

Most of the literature on the effects of enlargement on democratic consolidation and economic reforms in Eastern Europe presents a basically optimistic view of this process, even when discussing various shortcomings of the mechanisms the EU uses to affect change. In part, this optimism is a side-effect of the focus on international dimensions of democracy. By centering on the difference between the EU's ability to influence democratization and that of other international organizations (Ekiert et al. 2007; Dimitrova and Pridham, 2004), these works

tend to overemphasize the effectiveness of this influence. While most of these accounts still attest to the importance of domestic politics (Pridham, 2005; Grabbe, 2003; Pop, 2006), they do not tell us how the lack of political will can derail the process of reform when this process is constrained by EU pressures.⁸ My paper attempts to fill this gap by investigating where we can see the effects of the lack of political will and how institutional outcomes are shaped by domestic politicians' weak commitment to reform. Some previous literature does note that there is a difference between the passage of legislation and its effective implementation; for instance, Pridham (2005: 138) points out that Romania "has a reputation in EU circles for producing fine-sounding documents that remain on paper", but so far there is little investigation of opportunities to avoid reforms at different points in the policy process other than the passage of legislation. When implementation problems are noted, they are usually attributed to lack of trained staff or more broadly lack of administrative capacity. I bring attention to the idea that lack of political will prevents reform not just by opposition to the passage of legislation, but also through adoption of contradictory or weak enforcement and monitoring procedures for various institutions, through purposeful lack of coordination among complementary reforms, and through the maintenance of regulatory institutions under political control, so that implementation of laws remains dependent on political configurations.

Studies emphasizing the external influences on the Eastern European transformation are far from representing the only line of research, or even the majority of research on the causes of postcommunist reforms. There is a vast literature on domestic causes of reform that emphasizes causes ranging from legacies of communist rule (e.g. Ekiert and Hanson, 2003; Stark and Bruszt, 1997; Roeder 1999) to various aspects of political competition (e.g. Frye, 2002; Grzymalla-

⁸ A partial exception is Schimmelfennig and Sedelmier (2005), who mention that there are different degrees of rule adoption (rhetorical, formal, behavioral), but do not develop this insight further.

Busse, 2006; Fish, 1998). This type of arguments downplays the role of EU conditionality in the adoption of governance institutions by highlighting the significant variation in the extent of reforms among countries that have been under similar pressure from the EU (e.g. Grzymalla-Busse, 2006). In my discussion of domestic politics I cannot engage at length with any of these arguments. Rather, I focus on the interaction between domestic politics and EU demands.

EU influence on reform

The recent history of EU-Romanian relations begins with the opening of negotiations for accession in 2000. Starting with this year, the Monitoring Reports on reform progress prepared by the Commission since 1998 took on a new importance. They became part of the negotiation process, signaling to the Romanian government and beyond, often in strategically vague terms, how close Romania was to accession, and what it had to do to get there. Through these documents, the EU carefully used the carrot of accession and the stick of conditionality in order gain as much leverage as possible on the reforms of interest. Negotiations were finished in 2004, followed by the signing of the accession treaty in 2005. Full membership was achieved on January 1, 2007. The most important conditionality instrument employed by the EU after negotiations ended was the safeguard clause, according to which Romania's (and Bulgaria's) membership would have been delayed by one year if the required reforms had not been implemented. This clause was in effect from the December 2004 European Council to the September 2006 Monitoring Report. Readiness for accession was announced with the release of this report. Since then, the Commission uses a benchmarks-based monitoring system for specific reform areas, backed by the (less credible) threat of a safeguard clause that would allow member

states to disregard Romanian court decisions if reform progress is insufficient. In spite of repeated warnings, that clause has not been activated so far.

On paper, Romania's progress towards meeting accession criteria has been impressively fast. In 2002, mid-way through the accession negotiation process, reform progress was still at an early stage. The Commission notes in its regular report for Romania that judicial reform has been limited, the executive interferes with judicial affairs, the courts are overburdened, the General Prosecutor has the dictatorial power of introducing extraordinary appeals, and the justice system is generally strained (cited in Freedom House, 2003: 17). In contrast, the EU Commission's September 2005 *Comprehensive Monitoring Report* notes that Romania "has taken decisive steps to further reform the judiciary system towards more independence" (p.3). This report still notes shortcomings in several areas: the reform of public administration, the implementation of justice system reform, and the effectiveness of the fight against corruption, including high-level corruption. Eleven specific issues in the areas of justice and competition are highlighted in particular as potential triggers of the safeguard clause. Half a year later, the May 2006 *Monitoring Report* notes that the fight against fraud and corruption is no longer the subject of serious concern (or a potential trigger of the safeguard clause), while still requiring further efforts (EC, 2006a).

In its last Monitoring Report before accession (September 2006), the EU Commission acknowledged progress and lifted the safeguard clause, mentioning new party finance legislation and non-partisan investigations by the National Anti-Corruption Directorate (DNA). The Commission, however, clearly indicated that there is a lot left to do, including achieving a fully consistent interpretation and application of the law, and establishing an integrity agency that would verify assets, incompatibilities and potential conflicts of interest of public officials, and

that would issue mandatory decisions in this respect. The Monitoring Report also cautions: “there needs to be a clear political will to demonstrate the sustainability and irreversibility of the recent positive progress in fighting corruption. In the Parliament there have been some attempts to substantially reduce the effectiveness of such efforts” (EC, 2006b: 5).

Both Bulgaria and Romania are to report regularly on progress regarding specific benchmarks even after accession, with the first report to be submitted by March 31, 2007. In this first post-accession report, the EU notes yet more progress in judicial system and anti-corruption reforms, but declares that sensitive points remain, in particular deploring the still missing (at the time) adoption of the Agency for National Integrity (ANI) law (EUbusiness, 2007).

Domestic politics

Not all the missteps of the reform process can be blamed on political opposition. Some difficulties arise due to the unavailability of skilled civil servants to draft good legislation, to the lack of state capacity to implement it, and to the mixed signals coming from EU advisors, each promoting the legal tradition of their own country, rather than a unified EU framework (Freedom House, 2006: 19). However, I show that political opposition to reform has strongly impacted progress. Such opposition has been significant both during the leftist PSD government of 2000-2004, and during the center-right government that followed.

While there has been alternation in power of the two main political camps, the center-right and the center-left since 1996, the Freedom House 2003 country report considered meaningful and constructive political opposition to be absent, and deplored the fragmentation of the opposition and the large-scale political migration of local officials from the opposition to the ruling party. At the time, the communist-successor party, the center-left PSD (Social Democrat

Party) was in power, after significantly increasing its vote and seat share in the 2000 elections to 36.6% of votes and 45% of seats, while the center-right alliance that had formed the previous government did not even make it to Parliament.⁹ The Freedom House (2003) report also noted the limited ability of Parliament to scrutinize legislation, due to the fact that one-third of laws were put forth by the executive as emergency ordinances, and then eventually approved by Parliament in their initial form or only with minor amendments.

Corruption scandals abounded during PSD's 2000-2004 government. Many privatizations, especially in strategic fields like energy and banking, as well as many public procurement contracts (e.g. highway construction) are believed to have illegally benefited PSD associates. Ex-Prime-Minister Nastase of the PSD, otherwise considered a reformist in the party's ranks, is also embroiled in a high-profile corruption scandal, and has an open file with the anti-corruption authority. The asphalt, energy and transport industries are the main ones involved in corruption scandals. The Commission's May 2006 report notes that the energy, transport and mining are the main industries still requiring restructuring and privatization.

The last Romanian elections were held in November 2004, and resulted in a fragile center-right government coalition of the Truth and Justice Alliance (DA, composed of PNL – National Liberal Party, and of PD – Democratic Party), the Conservative Party (led by allegedly-corrupt businessman Voiculescu) and UDMR (the Hungarian minority party). This new political configuration allowed for important reforms in 2005 and 2006, especially thanks to reformist elements of the executive, such as the Justice Minister Monica Macovei. However, “the whole reform process met with tremendous opposition” (Freedom House, 2006: 9). The sources of this opposition were many: government infighting, the conflict between the President and the Prime

⁹ The other signal of weak opposition during the 2000-2004 term, according to Grzymala-Busse's (2006) notion of robust competition, is the high vote share of an anti-system party, the extreme-right Greater Romania Party (PRM), which got almost a quarter of the seats in Parliament.

Minister (PM), parliamentary opposition to reform, and slowly changing mentalities in the justice system. Relations within the ruling coalition have deteriorated rapidly after the 2004 elections. Upon the refusal of the Prime Minister to organize early elections in the summer of 2005, the President accused him of falling prey to oligarchic interests in his party, especially due to the PM's connections to oil magnate Dinu Patriciu, who was also a prominent politician in the PM's Liberal party. When the finance minister was replaced by one of the PM's former business partners in August 2005, the press charged that the finance minister had been dismissed for attempting to clean up the corrupt customs service (Freedom House, 2006: 17). Even the European Parliament was noting, as late as September 2006, that

an oligarchy composed of businessmen active in politics – either directly or through compliant allies – fears... that EU efforts to improve standards in public life will alter the rather lax climate that has enabled them to grow very rich. Inside Tariceanu's Liberals, they have acquired almost full control. ... Substantive policy issues are not being given serious attention, and... the EU may find it hard to identify local partners with whom it can promote a durable reform agenda" (Directorate B, 2006).

President Basescu, who appears to lead anti-corruption efforts, is also accused of being embroiled in shady business schemes, and there is a corruption file against him. The president has made little progress in reforming the secret service, although this lies clearly within his authority, and has integrated the many information services into a single "community of information" which causes much concern, given the fear that former members of the Securitate, the communist secret police, are infiltrating Parliament, government, and even the media (Freedom House, 2006: 18). As recently as April 2007, the president was suspended by Parliament for allegedly acting unconstitutionally, but returned to the Presidency in May after

gaining overwhelming popular support in a national referendum in which he successfully presented himself as an anti-corruption champion.

Unfortunately, the new government lost much of its reform impetus when relations between the President's and the PM's parties worsened, incapacitating unitary government action. In March 2006, Justice Minister Macovei accused the secretary general of the government of publishing new laws in a form different from that agreed upon in government meetings (Lacatus, 2007; Realitatea TV 2007). She also accused the government of passing laws "with destination", referring to 20 companies that were declared exempt from new bankruptcy regulations (Cocvaci, 2007). This tension between various members of the government eventually led to the break-up of the PD-PNL coalition, and the change in government. The new government has no PD members, and Macovei has been ousted as well (even though she was an independent). The prospects for the new government to continue the pace of reform, especially in the anti-corruption field, appear weak in mid-2007. Six new ministers have been contested by the Coalition for Clean Government, an NGO promoting politicians with untainted personal histories, and the press has pointed to connections between several ministers and two powerful businessmen (Corlatan and Gheorghiu, 2007).

There were also many signs that politicians in Parliament were not appreciating the reform impetus of the Justice Minister. In February 2007, a motion of the opposition parties was debated in the Senate, accusing the Justice Minister for lacking a reform strategy, abandoning responsibility, and blocking the new Criminal Code adopted in 2004, but not yet enacted. This was in spite of the positive signals of the Commission towards these aspects of reform, and the repeated singling-out by the EU of the Justice Minister for this progress. As for the Criminal Code, Macovei answered the accusations by saying that the 2004 law proposed and passed by the

PSD was badly written and would have virtually blocked the functioning of the criminal justice system; therefore, she was preparing a new legislative proposal for the Criminal Code (Realitatea TV 2007). What code ends up being adopted will be very important, because it will determine the effectiveness of anti-corruption prosecution.

The battle over the National Agency for Integrity (ANI), an institution supposed to verify and enforce public officials' wealth declarations, is most telling for the means of political opposition to reform in the presence of EU pressure. Macovei's legislative proposal for this Agency was adopted by the House in October 2006, after many months of debate. Nonetheless, the form of the adopted law had been significantly changed from the original proposal, prompting Minister Macovei to complain that this law has been significantly diluted, because it left out conflicts of interest of the MPs, and it subordinated ANI politically (Realitatea TV 2007). The draft legislation for this agency was then sent for adoption to the Senate in March 2007. Given the apparent anti-reform turn of the government after the reshuffle, it was unlikely that the law would ever be adopted, but 'the miracle' happened on May 9, 2007. The final version of the law, however, is considered weak,¹⁰ in spite of changes introduced by the new Justice Minister. The new institution is politically subordinated to the Senate, and does not have a mandate to verify conflicts of interest (Pirvu and Blagu, 2007).

¹⁰ Transparency International's (2007) position on this law is somewhat contradictory: on the one hand, they salute the passage of the law, consider it to be in accordance to basic anti-corruption principles, and express hope that it will be implemented properly; on the other hand, they acknowledge political subordination and the agency's inability to investigate conflicts of interest.

Assessment of political governance reforms

One important problem of the institutional environment for the fight against corruption in Romania is the presence of loopholes in the laws comprising this environment.¹¹ This prevents much-anticipated and well-sounding laws from having the expected effects. The 2000 anti-corruption law, for instance, was a welcome milestone, but it failed to distinguish between petty and more serious corruption, often leading to excessively harsh punishments for petty corruption and too lenient ones for grand corruption. Similarly, the 2002 law on public procurement introduced electronic procurement procedures, which made the process more transparent, but did not establish an independent body to supervise the operation; several newspapers charged that most winning bidders were companies close to the ruling party (Freedom House, 2003).

Another main problem leading to the ineffectiveness of democratic governance is the overlapping competency of the different institutions, coupled with contradicting laws. For instance, the Law on Access to Public Information (544/2001), while saluted by NGOs, was weakened by the almost immediate passage of the Law on State Secrets and Classified Information, which allows for arbitrary restrictions on what qualifies as classified information (Freedom House, 2003). A related issue is jurisdictional overlap among corruption-fighting bodies; apart from the National Anticorruption Prosecutor's Office (NAPO), the Financial Guard and the Audit Court also have anti-corruption mandates, while the Ministry of the Interior has its own anti-corruption agency, the ADG (General Anticorruption Directorate), supposed to control police and customs officers (*ibid.*). This problem is compounded when institutions fail to

¹¹ This institutional environment consists, apart from National Anti-Corruption Department (DNA, ex-NAPO), of the National Control Authority (created 2003), which focuses on economic fraud, smuggling and fiscal evasion, the National Ombudsman (an autonomous institution created through law 35/1997), which reports to Parliament or to the Constitutional Court about violations of citizens' rights, the Court of Accounts (Law 94/1992) in charge of external audits of public administration), the Prime-Minister's Office Fight Against Fraud Department (Government Ordinance 1348/2004), and the National Office for Prevention of Money Laundering (law 656/2002).

coordinate effectively. For instance, NAPO and the Prosecutor's Office at the High Court of Cassation and Justice often had difficulties in sharing cases for which both had jurisdiction (GRECO, 2005: 7). The GRECO (Group of States Against Corruption) 2005 evaluation report on Romania also notes the low capacity of anti-corruption prosecution services, especially outside Bucharest, due to lack of training and specialist knowledge and to case overload¹², which can be remedied if politicians make higher budgets for anti-corruption prosecution a priority.

Apart from loopholes, contradictory laws and low budgets, lack of political independence of the anti-corruption institutions has been a major problem. In an audit of anti-corruption reforms commissioned by the Ministry of Justice in 2005 (after the PSD government was ousted from power), Freedom House makes the point that NAPO treated top-level officials as untouchables. The NAPO prosecutor was appointed by the president upon recommendation by the Minister of Justice, and there were no potential conflict of interest provisions in the law. Before 2005, the NAPO head prosecutor was the brother of a PSD MP, and as a result NAPO did not address allegations of corruption within the ranks of PSD, in spite of public outrage about several cases¹³ (Freedom House, 2005: 85). Excessive financial and decisional dependence on the top leadership added to the problem of lack of political independence. NAPO prosecutors did not have approved budgets for their investigations, and had to ask their directors even for small expenses, as well as before making any decisions. Of the cases NAPO considered in 2004, only 7% ended up in an indictment. The decisions to withdraw actions and close the file, which happened in almost half the cases before NAPO in 2004, cannot be checked by external bodies, creating a large opportunity for preferential treatment (Freedom House, 2005: 89). Political

¹² The GRECO report notes that a public prosecutor often deals with 50 cases simultaneously and a judge deals with at least 80 cases per hearing (GRECO, 2005: 6).

¹³ For instance, the minister of Transport was accused of disbursing county funds without clear criteria, and lost his job amid public outcry, but the NAPO investigation only started after the change in government in 2004.

interference also remains an important factor in recruitment and promotion of civil servants in spite of the reasonably developed legal framework (Freedom House, 2003).

The Open Society Institute's evaluation of Romanian anti-corruption policies (OSI, 2002) makes observations similar to those of the GRECO and Freedom House Reports. The national anti-corruption strategy and the changes to the public procurement system are noted as important improvements, but the focus on low-level corruption and the refusal to prosecute members of the political establishment in power are presented as major flaws.

Attempts to entrench political power were not limited to keeping institutions politically dependent. Some of the policies adopted by the PSD government, while appearing to improve the formal independence of the justice system, had the opposite effect. The most notable example is the transferring of responsibilities for promotion and training of judges and other justice reform issues to the Superior Council of the Magistracy (CSM) from the Ministry of Justice. This had the positive implication of granting more political independence to this body. At the same time, however, the transfer of responsibility precludes a future reformist justice minister from exerting much influence in those areas of reform, and gives the power over these important aspects of reform to elite judges known to favor the PSD. This is the problem that the 2005 reformist minister Macovei confronted. In spite of 2005 revisions to the justice reform laws, accountability mechanisms for the CSM are basically inexistent. The CSM is being accused of failing to be a reformer and controller of the judiciary. Its members have kept their double capacity as heads of courts and controllers of the same courts, they have denied the existence of corruption within the judiciary, hired former employees of the Ministry of Justice who had been accused of delaying the reforms, and delayed long-discussed reforms like the criteria for evaluation and promotion of judges (Freedom House, 2006: 9). Recently, judges have also been

accused by the head anti-corruption prosecutor of allowing too many procedural delays in corruption cases, which has resulted in the lack of jail convictions in spite of numerous cases sent to court (BBC Romania Radio, 2007). The passive attitude of the CSM, its ethics problems and conflicts of interest were noted by the Commission's September 2006 report, and have prompted Minister Macovei to declare in 2006 that if nothing is changed in the structure and the practices of the CSM, two years later the Romanian justice system will be in a worse condition (Minister's Office, 2007: 6).

In 2005, under the new government, reforms intensified. NAPO was reorganized as the Anti-Corruption Department (DNA), and its responsibilities were restricted to only the highest corruption cases (bribe over 10,000 Euros or material damage over 200,000 Euros). The new powers of the DNA allowed it to charge 744 defendants in 2005, including a former MP, 4 judges, and 8 high-level bureaucrats (Freedom House, 2006). In 2006, DNA prosecuted, among others, 7 MPs, one minister and 2 assistant-ministers not just from the previous party in power, but also, for the first time in Romania, from the government party (Freedom House, 2006).

Unfortunately, the 2005-6 coalition in-fighting and slim majority in Parliament reflected negatively in the progress of reform, prompting observers to complain that there has been insufficient effort from the new government in fighting corruption. Transparency International Romania, for instance, cautions in its *2006 National Corruption Report* that several anti-corruption laws established by government ordinance did not gather enough support in Parliament, so the laws ultimately adopted were often compromise solutions or diluted versions. This is a point strongly made in this report: in spite of anti-corruption policy support from the President and the Ministry of Justice, there has been “ a decrease of the engagement of parliamentary parties towards supporting anti-corruption policies and promoting legislative

initiatives....The resistance comes, not only from the deputies and senators in the opposition, but also from those representing the government coalition” (p. 17). In the case of the National Integrity Agency, this Parliamentary opposition to reform has meant a significant delay in the adoption of the law in spite of EU insistence.

The other problem strongly noted in the Transparency International report is ineffective implementation. About the justice system, for instance, Transparency International (2006) says that it “is not yet reformed. It may be so on paper or from the legislative point of view, meanwhile the old practices are still persisting. The level of implementation of reforms is still very low” (2006: 16). In spite of the increase in the number of DNA prosecutions, “not one of the high-level Romanian politicians that have been charged has seen jail time” (Radu, 2006). Reflecting the concerns of Transparency International, forty-eight percent of Romanians believe the corruption level has not changed since the new government took power, and 24% are convinced that corruption has increased (Radu, 2006). Corruption perceptions are not necessarily reliable indicators of progress in reform,¹⁴ which is why the EU also uses measures like the numbers of investigations to assess the fight against corruption. However, until a number of significant convictions rock the political scene with the power of example, perceptions of corruption and actual levels of this phenomenon are not likely to change.

In conclusion, the 2005 DA government has registered progress on some counts, improving on previous anti-corruption legislation and showing willingness to prosecute members of the parties in power. However, notable weaknesses of the anti-corruption framework before 2005, such as the lack of regulation of conflicts of interest, have persisted even as new legislation supposed to eliminate these weaknesses (the National Integrity Agency) has been passed. On political independence of anti-corruption institutions there is a mixed record; presently, the top

¹⁴ Perceived corruption appears to be significantly higher than experienced corruption in Romania (MJ 2005).

anti-corruption prosecutor is considered relatively politically independent, due to its ability to prosecute members of the parties in power. It is not clear, however, how long this independence can be maintained¹⁵. The National Integrity Agency, the newest institution of the anti-corruption framework, is also politically subordinated to Parliament. Thus, politicians opposed to reform have found ways, through the various mechanisms presented above, to protect the weak status quo of democratic governance even while passing the EU-required laws.

Assessment of market governance reforms

The second question I investigate in this paper is whether there were any differences between EU conditionality in different types of reforms, namely between political and market governance reforms. Given the origins of the EU as a primarily economic organization, we might expect that it is most concerned with the market environment, which could mean stronger conditionality in this field. At the same time, the EU is not the only international organization providing economic policy advice and conditions to Romania. Also, market governance reforms may not be as controversial as political governance reforms, because politicians are not threatened directly by these changes.

The main economic concerns voiced by the Commission in 2005 were state aid, enforcement of bankruptcy decisions, and privatization and restructuring. These were indeed main areas of reform in the period under study, and while there is still much room for improvement, these reforms do not appear to have suffered from the same political interference as the political governance reforms.

¹⁵ However, the new Minister of Justice Tudor Chiuariu recently attempted to change one of the prosecutors working for the DNA.

Competition policy

Competition policy seems to be a field where the EU has recently been very firm. By making Commission approval necessary for the disbursement of state aid, the December 2006 amendments to competition law were a vehicle for bringing about significant change in the government's way of doing business in one of the traditional areas for corruption and state capture, namely state subsidies.

Competition law was first enacted in March 1996. This law came much later than the equivalent laws in Central European countries and even in Russia, but at the time, the vast majority of Romanian industrial production still came from state-owned enterprises. The desire to eventually become part of the European Union was reflected in the fact that this law was modeled on articles 85 and 86 of the Treaty of Rome (Pittman, 1997: 164). The political debate around the law was about the independence of the institution to be created for enforcement of competition law. The initial compromise solution was to create two institutions: an investigative body, the Competition Office, subordinated to the government, and an autonomous adjudicative body, the Competition Council. In May 2004, Law 184 made the Competition Council the only institution responsible for competition policy implementation.

The Competition Council's administrative capacity was improved in 2005, when its budget was raised by 30%, and salary increases reduced staff fluctuations (EC, 2005: 39). The anti-trust branch of the council has developed its enforcement record, registering record fines in the cement sector (EC, 2005). Complete legislative alignment, improved decisions and increased activity were achieved in 2005.¹⁶ However, the state aid area of competition policy was still one of concern for the Commission. Enforcement was still hampered by the poor quality of the

¹⁶ Fines of EUR 38.5 million were levied between September 2004 and August 2005, more than 1000 times higher than the fines for the previous year.

Council's pre-notifications (EC, 2005: 87), though the quality of these decisions was improving. Recovery of state aid ruled to be illegal had also not yet started.

The Commission is particularly interested in the steel industry, and is monitoring the implementation of the National Steel Restructuring Strategy, focusing on the government's commitment not to grant any further state aid to the sector. Some of the firmest language of the Commission, and an alternation of accusatory and encouraging language, is used with respect to this sector. On one hand, the Commission states that Romania "shows a strong commitment to apply fully the State aid rules as regards the steel industry" and "a fulfillment of the accession treaty obligations is likely" (EC, 2005: 90). On the other hand, the Commission notes that some steel companies not included in the National Restructuring Programme (and therefore not monitored by the competition Council) "appear to have benefited from restructuring aid although these companies were not allowed to receive such aid" (EC, 2005: 90). This aid amounts to the write-off of historical debts during privatization, a common strategy meant to make privatizing companies sellable. Where the existence of such aid can be confirmed, the Commission requests that "the aid will have to be recovered with interest" (EC, 2005: 89). To further investigate the issue, the Commission asked Romania to submit detailed information about the privatization of companies not included in the national steel restructuring strategy, and complained that "the information submitted by Romania so far in this context is incomplete" (EC, 2005: 89).

In December 2006, the Competition Council got a large boost from the Commission, which made it the liaison between the Commission and the government on the issue of state aid. The Council has to be notified of all state aid prior to disbursement of funds, and give pre-approval for such aid, after consulting the EU Commission. This probably makes the Competition Council the most autonomous institution of market governance in Romania. The

Council achieved this position thanks entirely to the EU Commission's specific concern with state aid; this makes competition policy an area of governance strongly influenced by the EU.

Commercial legislation

In terms of the reform of commercial regulation, there was a major breakthrough in 2004 in the simplification of incorporation procedures for new companies (Law 359/2004), but the procedures for inspecting private companies were not unified and simplified, leaving businesses captive to numerous inspectors from various agencies (tax collection, environmental agencies, fire codes etc.), who demand fines in the name of rapidly changing legislation (Freedom House, 2005: 54-61).

The Companies and Securities laws were also amended in 2003 and 2002 respectively, improving the corporate governance framework, so that by 2005 the Commission was satisfied with the Company law chapter of negotiations, asking only for efforts to improve financial reporting and efficient follow-up of these provisions (EC, 2005: 37). Law 469/2002 was meant to improve contractual enforcement, by imposing fines to encourage debtors (including state-owned enterprises) to pay on time, but in practice these fines are not applied (EC, 2005: 67).

Privatization law was also reformed in 2002 (137/2002), but the main problems, lack of transparency of the agencies implementing privatization, and the difficulty for buyers of obtaining information about the companies to be privatized without bribing the privatization agency officials, have not been solved (EC, 2005: 70). Some of the problems with privatization, however, are not related to the law; rather, non-achievement of contractual obligations of new owners sometimes leads to the bounce back to state ownership, slowing the pace of privatization (EC, 2005: 58).

It is also worth noting that unlike company law and competition policy, some issues of market governance, such as corporate governance and bankruptcy, do not have their own chapters in accession negotiations and monitoring reports, and thus received less attention during the negotiation process. EU advice in these areas in the annual reports has been limited to noting that both enforcement and legal provisions require further improvement (EC, 2005: 4). However, these fields of law display the same combination of relatively developed legal framework and ineffective implementation as EU-monitored laws. The EBRD mentions, for instance, that the effectiveness of minority shareholders' rights provisions is "well below what could be expected in terms of prevailing legislation" (Cigna and Enriques, 2005: 30). Bankruptcy Law presents a similar picture. While Freedom House (2005) considers bankruptcy legislation as still being a major problem area, especially due to permissive reorganization provisions, the EBRD considers the Romanian Insolvency law one of the leading such laws in EBRD's countries of operation and highly compliant with international standards (EBRD, 2006: 13). The whole Eastern European region has experienced an explosion of reforms in the fields of creditor and shareholder rights, leading to highly developed legislation by 1998 (Pistor et al., 2000). However, Pistor et al. (2000) note that across the region, law on the books does not correlate with legal effectiveness, which negatively affects the availability of external finance. The EBRD (2006: 15) also notes, in the case of the Romanian bankruptcy law that a large gap exists between the quality of the law and the insolvency regime in practice.

The similarities between the state of reforms in market regulation areas that are specific EU concerns and those that are not suggests that it might be difficult to distinguish the EU's impact in market governance from the more diffuse international influence coming from other organizations, such as the EBRD or the IMF, and from foreign legal consultants. Imitation of the

Western market governance framework sometimes almost word by word in hopes of attracting foreign capital may be what drove market governance reforms independently of EU accession negotiations. Such law transplants, however, have resulted in a disconnect between the law on the books and the law in practice, so that even good laws on paper have not had the expected effects in terms of attracting foreign finance (Pistor et al., 2000).

The remaining problems with commercial legislation point to the close relationship between political and market governance reforms. If anti-corruption policies were effective, and if the rule of law and the court system were strengthened, many of the problems with market regulations would disappear. Thus, in spite of the more continuous pace of market governance reforms – many reforms were passed in the middle of the PSD term, and reform activity was more evenly distributed over the electoral cycle – the problems of corruption and unreformed judiciary are replicated in the market environment, where they impair the efficiency of otherwise relatively well-written market governance laws.

Conclusion

The EU's influence on Romanian reforms has been extensive, due to this organization's ability to credibly promise much higher and more tangible benefits than any other international organization, as well as to the EU's specific and credible conditionality. However, even in this most-likely case scenario for international influence, I have shown that there is still room for domestic politicians to subvert specific reforms. I have highlighted the ways in which EU influence can be undermined by studying the effects of lack of political will on governance reforms mandated by the EU. Against the unqualified argument that the EU has successfully promoted democratic governance in Romania, I have argued that many legislated reforms have

yet to be effective. The main ways in which politicians have been able to subvert these reforms have to do with the quality and effectiveness of legislation, and not just with its passage. New Romanian institutions of democratic governance are often not politically independent, have weak operational capacity (low budgets), and lack coordination with other laws. While the pattern of law adoption follows the EU membership negotiations closely, the problems mentioned suggest that conditionality has not fully achieved its purpose, effecting legal changes more than real changes. In other words, when conditionality is strongest, opposition to reform 'mutates' from affecting the timing of reform to influencing the effectiveness of the adopted rules. Effectiveness problems were particularly prominent during the ex-communist's time in power (2000-2004), but persisted in 2005-6 as well, reflecting continued weakness of political support for reform and coalition disagreements. Recent coalition problems evoke the inability of the 1996-2000 reformist coalition to implement their plans in spite of their pro-reform orientation.

In terms of market governance reforms, the pace of change has been more even, and the EU's influence has been compounded by other international organizations, and by the government's desire to attract foreign investment. However, inefficient firms connected to politicians still have plenty of opportunities to navigate the market environment, due to both imperfect legislation and ineffectiveness of market governance laws.

Domestic politics and international influence are not starkly opposed concepts, but rather interact in many ways in the transition process in Eastern Europe, and have to be analyzed together. One of the few attempts to truly combine these two types of influence analytically in the discussion of reform outcome comes from Jacoby (2006). He points out that international actors change domestic politics in three ways: by lengthening the time horizons of postcommunist politicians, by making more domestic actors interested in reform, and by

detering the opponents to reform (Jacoby, 2006: 625). The best way for external actors to achieve any of these objectives, Jacoby argues, is to build informal coalitions with domestic actors, rather than attempting to coerce change by substituting domestic politics (e.g. as in the management of Bosnia), or by simply aiming to inspire domestic politicians. Because coalition-building is the most effective strategy, studies discussing international influence should focus on the extent to which this strategy is followed. Jacoby does not suggest that these coalitions are always successful in producing the desired change, just that they are more successful than alternative courses of action. This useful research agenda would benefit also from distinguishing the factors that make domestic-international actor alliances successful. In the Romanian case, further research on the specifics of the EU- Romanian government relationship starting in 2000 would be very helpful in shedding light on why this coalition has not been as successful as it could have been.

Politicians' strategies aimed at preserving their advantages and avoiding real change may not be sufficient to prevent incremental change, and may only succeed in slowing down the process of adoption of Western standards of democracy. However, the danger is that these strategies could also result in equilibrium of partial governance reforms, not at the most visible level of institutional adoption, but at the more intimate level of institutional functioning and coordination. Institutions are not the only important aspect of a consolidated democracy, but their ability to stabilize actors' expectations is a key part of democratic consolidation. Therefore, strengthening the effective functioning of these institutions is an important challenge for Romanian democratic development.

Tables

Table 1. World Bank governance indicators

Romania's governance indicators	1996	1998	2000	2002	2003	2004	2005
Voice and Accountability	-0.04	0.20	0.42	0.38	0.39	0.38	0.36
Political Stability	0.31	0.10	-0.18	0.22	0.24	0.15	0.03
Government Effectiveness	-0.88	-0.63	-0.67	-0.32	-0.16	-0.11	-0.03
Regulatory Quality	-0.59	0.23	-0.31	0.01	-0.20	0.13	0.17
Rule of Law	-0.34	-0.35	-0.32	-0.23	-0.22	-0.23	-0.29
Control of Corruption	-0.18	-0.44	-0.50	-0.35	-0.29	-0.29	-0.23

* Estimates are between -2.5 and 2.5. Source: Kaufmann et al (2006).

Table 2: Economic reform indicators

EU Eastern European members	Large scale privatisation	Enterprise restructuring	Competition Policy	Banking reform & interest rate liberalisation	Securities markets & non-bank financial institutions	Overall infrastructure reform
Bulgaria	4.00	2.67	2.67	3.67	2.67	3.00
Czech	4.00	3.33	3.00	4.00	3.67	3.33
Estonia	4.00	3.67	3.67	4.00	3.67	3.33
Hungary	4.00	3.67	3.33	4.00	4.00	3.67
Latvia	3.67	3.00	3.00	3.67	3.00	3.00
Lithuania	4.00	3.00	3.33	3.67	3.00	3.00
Poland	3.33	3.67	3.00	3.67	3.67	3.33
Romania	3.67	2.67	2.67	3.00	2.00	3.33
Slovak Rep.	4.00	3.67	3.33	3.67	3.00	3.00
Slovenia	3.00	3.00	2.67	3.33	2.67	3.00
Average	3.77	3.24	3.07	3.67	3.14	3.20

* These measures are on a scale of 0 to 4.5. Source: EBRD Transition Indicators 2006.

<http://www.ebrd.com/country/sector/econo/stats/index.htm>

Appendix 1. Comparison of Romania's EU accession path and the timing of reforms

<p>Timeline of Romania's EU accession path:</p> <ul style="list-style-type: none"> • 1995: Romania applies for EU membership • February 2000: official start of membership negotiations • December 2002: Copenhagen Summit: EU leaders set 2007 as target date for Romania's membership • June 2004: Safeguard clause is put in place to delay admission until 2008 if judicial reform targets are not met and if the Council unanimously approves such a delay • May 2004: 	<p>Timeline of selected Romanian reforms:</p> <ul style="list-style-type: none"> • Law 64/1995 first bankruptcy law, revised 1996, 1997, 1999 • Law 115/1996: obligation of public officials to declare their personal wealth • Law 35/1997 Ombudsman is established (initially weak) • July 1999: first State Aid Law setting up procedures for subsidies (Law 143/1999) • Law 21/1999: prevention and punishment of money laundering • Law 188/1999: forbids civil servants to take outside employment in for-profit activities, but is not properly enforced; • Law 115/1999: ministerial responsibility and conduct of public officials • 1999 first law on civil service • Ordinance 5/2000, forbids several prominent positions in private companies (including board members) from elected officials and civil servants • Law 78/2000 on the prevention, detection and punishment of acts of corruption: petty and more serious corruption are not distinguished • Law on Access to Public Information (544/2001) and Law on State Secrets and Classified Information • 2002: National Anticorruption Strategy and the adoption of the National Anticorruption Prosecutor's Office (NAPO, later DNA) for prosecution of grand corruption • Law 137/2002; revises privatization rules • Law 468/2002 on public procurement: electronic procurement procedures are introduced, but there is no independent body to supervise the operation; • National Office for Prevention of Money Laundering (law 656/2002) • 2003: National Control Authority created • December 2003: Law 603/2003 modifies the State Aid Law so that the Competition Council has to be notified of state aid • May and November 2004: creditors' rights and incorporation laws amended • 2004: first 3-law package of justice reform passed under the SPD government. This reform transferred many of the Ministry of Justice's powers to the Supreme Council of the Magistracy (CSM), a non-accountable body representative of the top echelons of judges who usually favored the SPD. No
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<p><i>Romania joins NATO</i></p> <ul style="list-style-type: none"> • <i>April 2005: European Parliament overwhelmingly supports for Romania's EU accession bid</i> • <i>April 2005: Romania signs the EU Accession Treaty</i> • <i>October 2005: Commission's Comprehensive Monitoring Report</i> • <i>May 2006: another Commission monitoring report</i> • <i>September 2006: final Commission report before membership: January 2007 date is (only) now certain</i> <ul style="list-style-type: none"> • <i>January 2007: Romania joins the EU</i> • <i>March 31, 2007; first post-accession report due</i> 	<p><i>accountability mechanism for the head of the National Anti-Corruption Prosecutor (NAP).</i></p> <ul style="list-style-type: none"> • <i>Prime-Minister Office's Fight Against Fraud Department created (Government Ordinance 1348/2004)</i> • <i>November 2004: Law 538/2004 harmonization of competition law with EU legislation; state-owned enterprises are now treated the same way as other companies</i> • <i>March 2005: government adopts Judiciary System Reform Strategy for 2005-2007 (HG 232/2005), and the National Anti-corruption Strategy (HG 231/2005), and sets up (through an emergency government ordinance) an independent body to check the use of structural funds to be received from the EU (external audit of IPSA and SAPARD)</i> • <i>April 2005 Romania eliminates criminal immunity of ex-ministers, notaries, and justice system workers</i> • <i>May 2005: Law on Public Procurement was enacted as an emergency ordinance; it increases transparency in the acquisition of advertising space for public institutions</i> • <i>May 2005: new guidelines for public officials' wealth declarations</i> • <i>June 2005: another wave of judicial reforms, which improved on the 2004 reforms (passed in Parliament in mid-July)</i> • <i>September 2005: new ethics code for judges drafted by the Ministry of Justice and CSM, stipulating for the first time that judges and prosecutors must not have cooperated with the former Securitate or be working for any intelligence agency</i> • <i>September 2005: amendments to the law on preventing money laundering, but effectiveness "seriously hampered by corruption, by organized crime and by the large informal economy" (2005 Monitoring Report: 37)</i> • <i>2005: civil and criminal procedures amended to speed up and simplify judicial procedures</i> • <i>2005: PNA transformed into DNA (National Anti-Corruption Directorate) within the Office of the Prosecutor General (OPG), which increased its powers by allowing it to prosecute corrupt MPs (Law 161/2005)</i> • <i>2006: new party finance legislation and non-partisan investigations by the DNA.</i> • <i>December 2006: Law 441/2006 substantially amends commercial enterprise law to harmonize it to EU law and OECD corporate governance principles</i> • <i>March 2006: Law 85/2006 bankruptcy law revision, makes bankruptcy procedures more efficient</i> • <i>December 2006: Emergency Government Ordinance 117/2006 abrogates State Aid Law 143/1999 to further harmonize with EU law, the government now has to consult the Competition Council before giving out state aid, and the Competition Council then notifies the EU Commission</i> • <i>2006 new Law on Public Procurement</i>
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