## Romania

By A. Bărbănțan, V. Dimulescu, & C. Volintiru

**Capital:** Bucharest  
**Population:** 19.8 million  
**GNI/capita, PPP:** $21,610

Source: World Bank *World Development Indicators*.

### Nations in Transit Ratings and Averaged Scores

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NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author(s) of this report. If consensus cannot be reached, Freedom House is responsible for the final ratings. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year. The opinions expressed in this report are those of the author(s).
EXECUTIVE SUMMARY

Since Romania joined the European Union (EU) in 2007, institutional conflicts, political tugs-of-war, and corruption scandals have marred the country’s progress toward becoming a consolidated democracy. The year 2016 favored reform as a caretaker, technocratic government run by Prime Minister Dacian Cioloş initiated deep institutional changes. However, whether these policies bear tangible fruit will largely depend on the new legislature, which was elected at year’s end.

In terms of policy, the Cioloş government can be credited with several policy initiatives that ranged from improving government transparency and accountability to tackling the high poverty level, cutting red tape, and increasing the level of environmental protection. These topics had been stalling on past executives’ agenda. The creation of an online (non-mandatory) lobby registry in which any official policy-related interaction between the state and interest groups will be made public, as well as the establishment of a web platform containing budget execution information for over 13,000 public institutions, count as innovative measures not just from a Romanian but also from a regional perspective.

Following a few controversial ministerial picks, frequent reshuffles slowed government activity in some sectors. Some government failures, such as the lack of public administration reform, were blamed on the Social Democratic Party (PSD), government ministers’ allegiance to “the system,” or the parliament’s hostility. Other actions, such as the approval of a controversial mass surveillance project administered by the Internal Intelligence Service or the Unitary Remuneration Law, at the same time drew outright criticism from certain parts of civil society. Despite some promising changes, the irreversible nature of reforms is not guaranteed—a point very clearly made by Prime Minister Cioloş as the parliamentary elections neared in the fall. In anticipation of the elections, the technocratic government started pursuing policies that were meant to excite partisan turnout. Preelection tension also increased after the Social Democrats proposed slashing over 100 taxes in October and the release of a list of governance principles and projects essential for Romania’s socio-economic development and political renewal by the outgoing prime minister. Cioloş’s propositions were presented in the form of a petition to be adhered to by citizens instead of a classic electoral political program. These, alongside Cioloş’s image, were appropriated by two political parties during the campaign—the National Liberal Party (PNL) and the newly established Save Romania Union’s (USR)—with Cioloş playing a rather ambivalent game of insisting on remaining nonpartisan while promoting his platform on campaign rallies of these parties. President Klaus Iohannis complicated the situation even more by stating that he would not nominate candidates whose reputations are marred by corruption scandals; an announcement clearly targeting Liviu Dragnea of the PSD. Several political and nongovernmental actors condemned this stance as undemocratic and unconstitutional in nature. Moreover, it also implied that Iohannis would attempt to forge his own parliamentary majority and deny the PSD the role of formateur. In December, the PSD won the elections with 48 percent of the votes, making this scenario very difficult to put into practice and dragging out the nomination process beyond year’s end.

As a result of a 2015 law permitting the establishment of new political parties with only three founding members, last year saw a proliferation of political organizations at the local and national level. A major shake-up of the political landscape occurred after the June local elections, when the newly established Save Bucharest Union (USB), headed by former civic activist Nicușor Dan, managed to win both local and general council seats within Bucharest City Hall, while Dan himself came in a close second, amassing 30 percent for the mayor’s seat. However, the PSD claimed victory nationally, managing to secure an edge against the PNL. Counting on the party’s popularity in the capital and betting on the political outsider card, Dan decided to run at the parliamentary elections by establishing the USR, which gathered both right- and left-leaning civil society activists, businesspeople, and former members of the Cioloş cabinet. The party adopted a populist-leaning discourse, blaming Romania’s political class and its political parties in particular for the country’s problems, and trying to position itself in the middle of the political spectrum economically.

The ongoing crackdown on medium- and high-level corruption continued to elicit attempts by lawmakers to decriminalize certain acts and curtail the reach of anticorruption bodies, especially that of the National Integrity Agency (ANI). Among the most controversial initiatives was an amendment that would...
have eliminated some of the most common incompatibilities in the case of local elected officials. In addition, in contradiction to a decision by the High Court of Cassation and Justice (ICCJ), in April members of parliament (MPs) attempted to amend current legislation so that only local officials receiving jail time for bribery would lose their mandate.

The parliamentary majority around PSD also tried to implement its own policy agenda and ended up clashing with the Cioloș government several times. In November, while harshly criticized by the government from an economic sustainability perspective, the majority passed legislation aimed at cutting taxes and increasing public sector salaries. In the end, the large majority of these initiatives ended up being contested and struck down by the Constitutional Court (CCR), thus reinforcing the CCR’s recurring role as the ultimate decision-maker.

Score Changes:

- **National Democratic Governance improves from 3.75 to 3.50** due to policy improvements in the transparency of institutional decision-making, accountability and openness towards civil society, and significant reforms in health care, poverty reduction, public finances, and environmental protection.

- **Electoral process improves from 3.25 to 3.00** thanks to the government’s sustained effort throughout the year to organize free and fair local and parliamentary elections, especially for the diaspora.

**Romania’s Democracy Score improves from 3.46 to 3.39.**

**Outlook for 2017:** The first half of 2017 will be busy with government formation. From a governance perspective, the biggest question is whether the new cabinet will embrace the reforms pushed by the Cioloș government. It also remains to be seen whether the newly established political parties will remain active or disappear. In this respect, USR will be particularly interesting to watch—provided the party does not dissolve due to its members’ opposing ideological views—as it has set the bar high by declaring it aims to provide a less corrupted alternative to the present political parties. When it comes to issues such as the judicial framework and the rule of law, 2017 is shaping up to be a contentious year. Many fear that the new parliamentary majority will instrumentalize proposed sensitive changes to the penal code and hamper the fight against corruption.
The caretaker government led by Prime Minister Dacian Cioloş, which came to power after the fall of Victor Ponta’s cabinet in November 2015, promised a year of technocratic governance that would allow political parties to engage in internal reforms and reconnect with citizens. The government consisted of “apolitical” members and took on reforms increasing the overall effectiveness of governance, improving the absorption rate of European funds, and engaging more with civil society.

The relationship between the executive and the legislative arms was fraught with conflict throughout 2016. For the first time since 1989, the Senate refused to authorize the government to issue regular ordinances during the parliament’s summer break although later the Chamber of Deputies allowed it with certain limitations. In a move seen as undermining the ability of the technocratic government to govern, opposition leaders Liviu Dragnea (PSD) and Călin Popescu-Târiceanu (ALDE) argued that it had already adopted many controversial legal provisions and that it should not have the ability to emit ordinances in such circumstances. The executive resorted to emergency ordinances, continuing its predecessors’ excessive use. From November 2015 to November 2016, the government issued a total of 98 such ordinances.

In terms of the government’s achievements, one of the most salient was the Paper-Shredding Committee, which was set up to cut red tape in the business sector and public administration. The Committee also created an online platform and apps to reduce the administrative burden on citizens. In February, the government announced an anti-poverty program, aiming to reduce the number of people in extreme poverty or at risk of social exclusion by more than half a million by 2020. With 25 percent of the population living below the poverty line, Romania ranks first in the European Union (EU) in relative poverty rate, the government also attempted to increase transparency during its term. In September, the new Ministry for Public Consultation and Civic Dialogue approved the creation of a lobbying registry, and in March, the government created a web platform that contains fiscal-budgetary information for over 13,000 Romanian public institutions and, in addition, serves as a tool for monitoring and controlling the legality and coherence of public spending. This way the platform aims to limit the waste of public resources and decrease public bodies’ degree of indebtedness.

One notably striking aspect of the Cioloş government was the relatively high number of resignations and dismissals. Throughout the year, several ministers were forced to resign due to their ineffectiveness or slow reactions to key developments. In May, for example, Patriciu-Achimaş Cadariu had to resign as Minister of Healthcare after it had been revealed that over 50 hospitals were using ineffective antimicrobial disinfectants, which sparked a national scandal. Internal Affairs Minister, Petre Tobă, the person initially in charge of organizing the December parliamentary elections, had to resign in September for failing to investigate wrongdoing under his predecessor’s mandate. After refusing to provide previously classified procurement information to prosecutors, he and 24 other officers from the Department for Information and Internal Protection (DIPI) were indicted for embezzlement as well as aiding and abetting a felon, namely former interior minister Gabriel Oprea. While several ministers took advantage of their position to expose the overall corruption and dysfunction in their respective domains, some interpreted this as an attempt to blame politically corrupt networks present in ministries ahead of the election season.

With elections scheduled for mid-December, political tensions increased in October as the PSD majority in the parliament successfully proposed slashing over a hundred taxes, despite warnings of demagoguery from the PNL and nongovernmental organizations (NGOs). In early November, another
controversial piece of legislation passed pre-election salary hikes in the education and health sectors. The government harshly criticized the move, calling it a clear “electoral giveaway.” Although this particular initiative contradicted the law on fiscal-budgetary responsibility—a law in force since 2010, which states that the parliament cannot pass salary or pension hikes in the public sector less than six months before the end of the government’s mandate—the Constitutional Court of Romania (CCR) found both of these laws constitutional in mid-December. In the case of the tax cuts, President Iohannis decided to return the law to the parliament to be re-discussed in 2017 by the new parliamentary majority.

- The December 2016 parliamentary elections brought a landslide win for the PSD which gathered 48 percent of the votes but fell short of a full majority by 12 mandates. Together with its political partner, ALDE, led by former prime minister and PNL president, Călin Popescu Tăriceanu, the PSD secured a comfortable parliamentary majority and was ready to form a new government. Statements by President Iohannis’ at year’s end that he would not appoint anyone affected by corruption scandals complicated the nomination process. The PSD-ALDE coalition proposed Sevil Shhaideh, a former minister for regional development, whose nomination resulted in opposing reactions. Some applauded the PSD for nominating a Muslim woman as proof of progressive politics, while others viewed her as a mere stand-in for PSD party head Liviu Dragnea, who could not hold office due to legal restrictions stemming from a past conviction. Following questions raised concerning Shhaideh’s husband and his ties to the Bashar-al Assad regime, President Iohannis rejected her nomination and the negotiations restarted at year’s end.

### Electoral Process

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- The 2015 amendment of the Electoral Law, which allowed the formation of political parties with as few as three members, was a positive step towards the revitalization of the political landscape at both local and national level. Nevertheless, important legal and institutional barriers remained, including an unreasonably high number of signatures needed to register for elections (a full 1 percent of a constituency in one month). Sixty-five new parties were established, of which 30 managed to participate in the local elections, whereas only 8 in the parliamentary elections. Estimates are that more than 50 percent of these new parties risk being dismantled at the end of 2016 because they were unable to participate in two consecutive elections. Such hindrances will block further developments in the coagulation of local and national interests.

- Following widespread problems during the 2014 presidential elections, the government took significant efforts in 2016 to minimize accusations of electoral irregularities or fraud. Local elections saw the introduction of an electronic monitoring system aimed at eliminating the risk of multiple voting, while at the parliamentary elections, an additional surveillance system was put in place, recording the ballot count. Both systems proved to be a success as the overall level of transparency increased while the number of complaints decreased by 22 percentage points compared to 2012.

- Widespread problems in diaspora voting in 2014 prompted the government to support the implementation of a 2015 law on postal voting. Even though the law aimed to increase turnout by facilitating the right to vote, only 8,889 Romanian citizens residing abroad requested it and only half actually mailed the ballots, 10 percent of which were procedurally invalid. Changes to the electoral law also allowed for registration via email in addition to being able to cast a ballot at any polling station by signing up to supplementary lists even though they were not present in the Electoral Registry and the setup of 123 additional polling stations abroad. In the end, out of an official number of 600,000
Romanians legally residing abroad—the unofficial estimates put their number as high as three to four million—under 120,000 people were listed in the Electoral Registry and only slightly above 110,000 actually cast a ballot.\textsuperscript{31}

- The 2016 parliamentary election results were generally in line with the predictions, but the PSD secured its best electoral result since its formation in the early 1990s, winning 48 percent of the vote. At 39 percent, turnout was 2 percentage points lower than in 2012. The Social Democrats managed to win 221 mandates in total, registering more than 45 percent in both the Chamber of Deputies (154 mandates) and the Senate (67 mandates), but fell short in obtaining full majority by a mere 12 mandates. The Liberals, on the other hand, obtained 21 percent of the votes, performing 10 percentage points worse than at the local elections in June.\textsuperscript{32} The recently formed USR party made a breakthrough by coming in third with 9 percent;\textsuperscript{33} while the Democratic Alliance of Hungarians in Romania (UDMR), after some uncertainty, maintained power in its ethnic strongholds and won 6.4 percent. The other two parties that passed the electoral threshold were the splinter parties ALDE (a former faction inside PNL) and PMP (consisting of former President Basescu’s PDL loyalists).\textsuperscript{34}

- While the PSD diversified its electoral base by winning over urban voters with higher education,\textsuperscript{35} the USR appealed mainly to the urban middle-class in larger cities, thus eroding some of the PNL’s electoral base. The USR also gathered more diaspora votes than the total gathered by the PNL and the PSD. The fringe parties promoting radical and nationalist discourse, however, did not pass the threshold.\textsuperscript{36}

- Populist promises and nationalist rhetoric played a visible role in the electoral campaign, with the discourse turning toward conspiracy theories in the case of some candidates, such as Marian Munteanu’s Our Alliance Romania Party (ANR) and the United Romania Party (PRU), supported by former prime minister Victor Ponta. There was an increasing trend of presenting fake and inflammatory news about George Soros’s influence on the government and especially the USR, accusing him of financing and manipulating these groups against national interests. Soros had become such a popular political tool that Dumitru Dian Popescu, a senator who had received a 5-year suspended sentence for abuse while in public office, launched a fake news story in a local phantom online outlet claiming that Cioloș himself is Soros’ illegitimate son.\textsuperscript{37} The accusation was shared thousands of times online.

\section*{Civil Society}

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- During the year, accusations that certain NGOs, prosecutors, and even the government follow Soros’s personal interests moved from the fringes to being promoted by prominent politicians, such as former prime minister Victor Ponta and Bucharest mayor Gabriel Firea.\textsuperscript{38} These primarily targeted organizations that had received funds from sources that were connected to Soros, and argued that the purpose of these funds was to promote anti-Romanian ideas and policies. Some media outlets even made lists of “suspicious” NGO activists. Civil society actors pushed back, and USR leader Dan filed a lawsuit against Ponta for libel. Although these sorts of claims are not new, their embrace by very visible political leaders and the level of online dissemination as well as its reverberation in some parts of the electorate was beyond what was experienced before.

- LGBT people have yet to enjoy full equality. The “Pro-Family Coalition”, a group promoting family values and campaigning on an anti-gay rights platform gained prominence during the year. The Coalition collected 3 million signatures during the year to change the definition of a “family” in the constitution to only refer to a unit composed of a man and a woman. In October, the CCR gave the initiative green light, despite protests from think tanks and NGOs\textsuperscript{39}, which claimed that a referendum
on the topic would breach the Constitution since no revision can be made with the aim to suppress citizens’ fundamental rights and liberties. Although the initiative received unanimous approval from the Senate judicial committee as well, the referendum was postponed because it would have coincided with the parliamentary elections. In October, the Senate rejected a proposal to grant individuals the right to form civil partnerships for the third time. Deputies argued that Romania is a Christian country and that there are other legal possibilities if individuals want to share their assets. Also in October, the High Court of Cassation and Justice (ICCJ) upheld a decision to fine two NGOs, Pro Vita for Born and Unborn Children and the Romanian Families’ Alliance, for setting up homophobic billboards with the message “Could you imagine your boy as a homosexual? Or your girl as a lesbian?” next to a high school where an Education Ministry approved curriculum was being taught. The number of people prosecuted for racism and xenophobia is very low in Romania; since 2002, only 16 people have been charged with such offenses. A damming 2016 report on the Colectiv nightclub fire, which claimed the lives of 64 people, blamed club owners for not respecting safety laws for decades but also public institutions for failing to actively apply legal norms. On the October anniversary of the tragedy, more than 4,000 people marched in silence in Bucharest.

- The Ministry for Public Consultation and Civic Dialogue evaluated for the first time almost 1,500 public utility associations and foundations that enjoy a special fiscal status and increased access to public resources. It found that this privileged status obtained through GEO 26/2000 and other subsequent special laws actually diminished the overall transparency of the sector, and that out of 1,434 such entities, only 134 passed an evaluation procedure to obtain the status.

- Nevertheless, a review of Romanian civil society in 2015 showed an overall increase in donations to organizations, an increase in their number (almost 100,000), a smaller the financial burden NGOs have to deal with after the 2015 Tax Code revisions, as well as a diversification of NGO services and an overall improvement in infrastructure. Trust in civil society organizations also increased slightly, to 30.2 percent. The remaining problems include difficulties in legally registering NGOs, high financial costs, and administrative harassment by local bureaucracy.

- After a two year administrative deadlock, in May the government recalled 15 of its representatives from the Social-Economic Council (CES), an autonomous consultative body. The representatives had delayed vacating their seats and the operationalization of offices reserved for civil society representatives.

### Independent Media

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- The Romanian media remains highly vulnerable. In 2016 almost all news outlets lost money and the highest circulation for print media was 33,000 copies per day in a country with over 18 million voters. Moreover, there are five news channels that compete for a little bit over half a million viewers, resulting in a small advertising market. The share of online advertising is insignificant, too. Despite the proliferation of websites carrying news, most are either untrustworthy or simply republish news items from other sites. The leading newspaper, Adevărul, is published by a company that is officially in bankruptcy. România Liberă, the flagship paper representing anticommunist forces after 1989, is caught in the midst of a bankruptcy scandal of its owner, Astra, Romania’s largest insurance company, and is in serious danger of shutting down. Similarly, two news channels and the public television are saddled with tax debt and allowed to continue broadcasting on a month-by-month basis amidst uncertainty.
• Precarious finances mix with legal problems and, frequently, criminal prosecution against owners. With a few exceptions, major media outlet owners are either in jail or have been charged. Some are serving jail sentences, such as România Liberă’s Dan Adamescu, who was sentenced for attempting to bribe judges, while the rest are under house arrest or serve similar forms of punishment. In February, Dan Voiculescu’s TV stations, the market leader Antena 1 and 3, received an official summons from the tax authority to evacuate their building, a former state property, as part of an ongoing litigation into its purchase for below market prices. The stations’ executives cried persecution, which prompted several political figures to publicly request the postponement of the ruling. Its enforcement was ultimately delayed, but the scandal showcased the fragility of outlets owned by individuals with criminal convictions.

• Journalists additionally face precarious working conditions. Most of them work on fixed-term contracts, which makes them more vulnerable to pressure. However, journalists also contribute to the problem by choosing to work freelance, even if de facto they do office work on a daily basis, to evade paying social security taxes. A serious inspection by the tax authorities would find massive irregularities and could led to whole newsrooms being deserted.

• A recent study about reporting on corruption in Romania found that media are perceived to be instruments of political goals. This perception is so widespread that people usually say that a journalist works “for” an owner instead of the given medium. At the same time, journalistic professional standards are often disregarded and journalists, editors, and media managers, in fear of losing their jobs, practice a high level of self-censorship. Few outlets can afford to create and maintain investigative teams; most rely on grant-based projects or on groups of independent journalists.

• Generally, state institutions do not directly intervene in limiting freedom of speech. In one exception in 2016, officers from the Directorate for Investigating Organized Crime and Terrorism (DIICOT) arrested locals involved in a Sky News story on arms trafficking in Romania. The story turned out to be a fabrication, and the DIICOT charged those in the reporting with “communicating false information” and issued an international arrest warrant for the British journalists.

• A victim of mismanagement, politicization and corruption, the Romanian National Television (TVR) has lost its market share and its advertising revenue, as well as the right to pay a “frozen” license fee. The parliament regularly fires TVR’s presidents. The last legally appointed president, Stelian Tănase, left in 2015 and his provisional successor, Irina Radu, was in May appointed by the PSD’s parliamentary majority despite not being endorsed by TVR’s own board, as required by internal regulations. A controversial regulation, passed in October, aims to cut the license fee altogether and impose only state financing, allowing for direct government control. In November, President Iohannis referred the law to the CCR.

Local Democratic Governance

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• Local elections took place in June. The resulting political landscape favored the PSD, which amassed 53 percent of mayoral seats. The PNL won 34 percent, while the rest gained under 7 percent of the votes. Likewise, 41 percent of local council mandates went to the PSD, while the PNL gathered 33 percent. The newly formed Save Bucharest Union (USB) managed to win 0.09 percent (39 seats). County counselor results yielded the same picture: the PSD won 40 percent, the PNL 35 percent, while the USB managed to win a small 1 percent (15 seats) of votes in Bucharest’s General Council. With regard to electoral misconduct, the number of incidents was half (494) compared to the previous local elections held in 2012 (982).
- A scandal broke out following the results of mayoral elections in Bucharest’s District 1. While exit polls indicated a tight win for Clotilde Armand, the French-born candidate of the newly formed USB, the PSD eventually claimed victory with 31 percent of the votes against 28.7 percent for the USB. This prompted the latter to call for a recount, on the basis of suspicions of electoral fraud. The recount was denied on procedural grounds.

- In January, the judicial branch, in a landmark decision, ruled that citizens should be able to hold local elected officials accountable. Earlier, citizens from Vaslui county asked the prefect to initiate a recall referendum against the mayor of Pungesti for acting against the community’s interests by supporting shale gas explorations. Following the prefect’s refusal, several NGOs and local citizens filed a lawsuit and won the case. The court’s decision underlined that, local elected officials have to respect their campaign promises or be subject to recall referenda.

- Problems continue to plague local administration. In February 2016, prime minister Cioloș argued that three of the most important issues for local public administration are the high number of small and inefficient territorial administrative units; the lack of coordination between development programs financed from national and European funds; and the overreliance on central government transfers that tend to be nontransparent. Discussions on reforming the Administrative Code continued during the year. Initial conversations focused on increasing the transparency and availability of specialized reports, making local city council meetings public, and reducing the secrecy around local council voting. The government however preferred to solve many problems on its own terms, especially on issues such as the process of electing the deputy-mayor and it mostly disregarded the existing discussions over the Administrative Code.

- Controversies relating to conflict of interest and incompatibility continued. In April, a legislative proposal whereby individuals who have been in a state of incompatibility, conflict of interest or possess undue fortunes will be able to hold any other public office except the one which generated the integrity problem advanced in the Senate. If passed, the law would affect the ability of the National Integrity Agency (ANI) to properly sanction such conduct, leading to the rotation in public offices of hundreds of people in local and central administration who have been temporarily barred from holding such responsibilities. Moreover, this not only affects Romania’s commitments within the CVM with regard to integrity in state offices, but it also contradicts a 2013 CCR decision which stated that this exact change was incompatible with the rule of law. In October, an amendment to Law 161/2003 passed in parliament eliminated some of the most common incompatibilities found in the case of local elected public officials, which would result in the unpunishable reappearance of certain types of conflicts of interest. In November, President Iohannis sent back the law to the parliament.

- In addition to the above-mentioned institutional tug-of-war, two other controversial laws were passed during the year. In June, the parliament amended Law 393/2004 on the Status of Local Officials whereby the latter would lose their mandates only upon receiving a final conviction which implied jail-time and only for giving and taking bribes, but not other acts of corruption. Therefore, an elected official who was convicted with a suspended sentence would have been able to keep his or her mandate in local public administration. The change contradicted a 2015 decision of the High Court of Cassation and Justice (ICCI) that stated that convicted local officials would lose their mandates irrespective of the nature of the conviction. After the parliament rejected the president’s request for reexamination, Iohannis sent the law to the CCR, which ruled it unconstitutional in July. Earlier in June, the parliamentary majority introduced legislation that would address the issue of poor remuneration of local officials by introducing special pension rights. While important, the law had several shortcomings, which prompted the government to contest its constitutionality in front of the CCR twice. The court struck down the law, ruling that the legislation threatens the stability of the whole pension system.

Judicial Framework and Independence
- The independence of the judicial system remains the most pressing concern in Romania. In October, Senate president Călin Popescu-Tăriceanu made a controversial request whereby the parliament as a whole should not vote in favor of future DNA requests on lifting the parliamentary immunity of deputies until after the December parliamentary elections. Tăriceanu claimed that the DNA plans to single out political candidates in accordance with occult political interests.\(^{77}\) Several Romanian NGOs publicly requested his resignation,\(^{78}\) to no avail. While requests to remove parliamentary immunity continued to be forwarded to the parliament, the body failed to make a decision on them due to a lack of quorum.

- In the same period, a study funded by the European Commission revealed that Romania uses preventive detention disproportionately, more often than not against existing standards set by the European Court of Human Rights (ECtHR). According to the study, 70 percent of interviewed lawyers had cases with poor justification or even lacking a legal base, and that lawyers and judges alike have very limited time at their disposal to study the case, resulting in more weight given to prosecutors’ arguments.\(^{79}\)

- Debates over which branch of power should have more leverage in nominating prosecutors and judges continued during the year. In October, the Cioloş government amended Law no. 304/2004 on judicial procedures in order to streamline the appeals procedure.\(^{80}\) The amendment came at a time when a significant number of high-profile corruption cases had been delayed on appeal. During public consultations on a proposal to amend the law regulating the appointment of prosecutors and judges, contradictory arguments emerged as to whether the Ministry of Justice should continue to nominate chief prosecutors or this prerogative should fall on the Superior Council of Magistracy (CSM).\(^{81}\)

- The technocratic Minister of Justice, Raluca Prună, had a contentious relationship with the CSM over the course of the year, following the minister’s statements on the high level of magistrates’ pensions in Romania. Magistrates’ professional associations, as well as the National Union of Judges in Romania (UNJR), drafted a memorandum in September, lamenting the politicization of the Prosecutor’s Office and the ICCJ, interference from the Romanian Information Service (SRI), the lack of proper funding and human resources and, among others, the alarming drop (13 percentage points over the course of the year) in the public’s confidence in the Romanian justice system as a whole, down to just 35 percent.\(^{82}\) Elections for the CSM taking place in October were contentious as well, with the candidates openly supporting political parties or politicians, and uncertainty over procedural issues, such as whether the quorum was met.\(^{83}\)

- There was significant controversy over the SRI’s surveillance practices during the year. The institution garnered harsh criticism for having an abnormally high demand rate for warrants,\(^{84}\) issuing approximately 16 times more surveillance requests than the US average.\(^{85}\) At the same time, in 2016 the SRI received funding worth €25 million for its “SII Analytics” project, which is supposed to enhance the state’s ability to analyze sensitive information it already has.\(^{86}\) Several NGOs were skeptical about the project, claiming that SII Analytics enables data mining without warrant or consent and that it is a system which can be easily expanded to include other sets of personal data.\(^{87}\) This controversy did not stop the Ministry of European Funds from pushing for its development. Later during the year, sources within the European Commission confirmed that this particular project might not be eligible, leading to the accusation that the Cioloş government forced out former European funds minister, Aura Răducu, who refused to sign off on the project, and appointed former NGO director Cristian Ghinea in her stead.\(^{88}\)

- The SRI’s difficulties were not the only relevant development on the Romanian intelligence scene. After the sacking and subsequent indictment of Minister of Interior Petre Tobă, DIPI underwent profound reform and was transformed into the General Directorate of Internal protection (DGPI)—a militarized intelligence service that operates on behalf of the Internal Affairs Ministry.\(^{89}\) Even though the DGPI will be audited and monitored by the parliament, similar to other intelligence agencies, the
fact that it will become a military-led and military-like structure within a civilian ministry was worrying for some NGOs, who voiced their concerns.\footnote{90}

**Corruption**

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- Romania’s anti-corruption campaign continued to send leading figures from the political and business sectors to jail during 2016. Ongoing investigations during the year were targeting former prime minister Victor Ponta and his close associates.\footnote{91} In November, former Romanian MEP Adrian Severin was sentenced to jail following a 2011 Sunday Times sting operation in which journalists offered him a €100,000 annual fee and daily allowances of up to €4,000, for introducing amendments to a draft law.\footnote{92} Another high-profile case was that of businessman Puiu Popoviciu, who was sentenced to nine years in jail for colluding with politicians and public sector decision-makers to develop a real estate project on state-owned property.\footnote{93} Prior to his conviction, Popoviciu had won an ECtHR case against the Romanian state, in particular the DNA, for abusing national criminal legislation during his detention prior to arrest.\footnote{94} Such international decisions end up being used by detractors of the anticorruption drive in Romania, which, in turn, only result in deepening societal divisions on corruption.

- The activity of the DNA has brought the fight against corruption to the forefront of public debate, as both politicians and civil society representatives are building arguments in support of or against the rising number of cases and prosecutions. In 2016, given the election year and the high number of convictions, there was a rising tide of criticism against the DNA, accusing it of being merely a political instrument. However, these have been predominantly sourced in biased (i.e. owned or controlled by investigated politicians) media outlets. Despite her successes, DNA Chief Prosecutor Laura Codruța Kövesi also had her own integrity problem. Kövesi was accused of having plagiarized her doctoral thesis; an investigation found that she had only plagiarized 500 lines, but the entire episode offered her detractors new arguments as to her character and legitimacy.\footnote{95} Kövesi was also the target of illegal surveillance. In a murky and controversial case, employees of the Israeli Black Cube surveillance firm admitted their guilt in October,\footnote{96} claiming that they had been employed by former SRI section chief, Daniel Dragomir—who is currently serving a jail sentence for influence peddling and money laundering, but evidence corroborating their statement had yet to be presented at year’s end.\footnote{97}

- In 2016, the CCR handed down several consequential decisions for ongoing and future DNA activities. In February, it ruled that the DNA’s use of evidence obtained with the SRI’s assistance was unconstitutional, adding that future wiretaps for investigative purposes will have to be done by police, not intelligence officers.\footnote{98} This means that the DNA would have to compensate by hiring trained police officers to do wiretaps, but the latter’s skills set and technical capacity does not match that of the SRI, which enjoyed generous investments in capacity building after 1989. From now on, the SRI can only inform, not aid, the DNA in tackling criminal acts. In June, the court clarified the Criminal Code definition of abuse of power while in public office as a type of conduct that is specifically “violating primary law (only laws passed by the parliament and ordinances or emergency ordinances passed by the government)” as opposed to the more ambiguous “faulty fulfilling of professional obligations.”\footnote{99} This means that breaking secondary law (regulations, rules, technical norms, job orders, government decisions, mayors’ decisions, local or county council decisions, etc.) will no longer be judged under criminal law—even if they entail damages—but disciplinary, administrative, or civil instruments will have to be used by the public institution in question to punish or recoup the damage caused by its employees. Therefore, it will suppress the DNA’s ability to investigate and prosecute abuses perpetrated by civil servants and/or public officials with regard to their professional obligations in the realm of secondary law. Abuse while in public office is one of the charges the DNA uses most often,
especially vis-à-vis local public officials, arguably because its ambiguity in the Criminal Code offered leeway in fulfilling its prosecutorial function\(^\text{100}\), but it is also one of the main reasons used by anticorruption detractors in attacking the DNA’s work.

- After a lengthy trial, in October,\(^\text{101}\) central and local public administration leaders, as well as a leading private sector manager were sentenced to jail in the Microsoft 1 case. Despite the fact that the offenders occupied high public offices and the financial damage was extensive, they received reduced sentences as a result of their cooperation and admittance to guilt.\(^\text{102}\) During the year, both the DNA and the Ministry of Justice pushed for amendments to a legislative loophole providing significant reduction of prison sentences for publishing books of scientific value. Several politicians and businessmen jailed for corruption had benefited from this provision.\(^\text{103}\)

- The Minister of Justice pointed out that the fight against corruption via criminal law has reached “cruising speed” and that the next immediate step should be to place more emphasis on prevention in addition to recouping the financial damages via asset recovery.\(^\text{104}\) Therefore, the new National Anti-Corruption Strategy 2016-2020 introduced a new institution to be operational starting 2017. The National Agency for the Management of Impounded Assets (ANABI) will operate under the authority of the Ministry of Justice.\(^\text{105}\) While during 2015, the increasing amount of available information represented a positive development, in 2016, the increase of whistleblower harassment cases marked a negative turn. Various attempts to intimidate whistleblowers included the management of two Bucharest hospitals and the Bruckenthal museum in Sibiu.\(^\text{106}\)

- In April, Dragnea was convicted for two years on probation for violating the law on personal data protection and for using his political influence to obtain electoral advantages for the PSD during the 2012 referendum against former president Traian Băsescu. His sentence was tied to the notion of electoral fraud in public discourse, but Dragnea was convicted on the basis of Art. 13 of Law 78/2000, which refers to influence peddling.\(^\text{107}\) In December, right before the parliamentary elections, the PNL, the USR, and the Popular Movement Party (PMP), led by Băsescu, threatened to vote against validating Dragnea’s mandate in the Chamber of Deputies as the law prohibits individuals convicted of electoral fraud from holding a legislative office.\(^\text{108}\)

- In the last weeks of 2016, controversial PSD MP and businessman Sebastian Ghiță failed to appear at a local DNA office after being summoned by prosecutors. Ghiță was supposed to testify in an investigation against Victor Ponta, relating to the 2012 electoral campaign and former British prime minister Tony Blair’s subsequent visit to Romania. Ghiță’s disappearance prompted a major scandal as to the efficiency of the Romanian police to keep track of those under criminal investigation, leading some observers to cry foul play. Ironically, the night before his disappearance, Ghiță had been spotted at an informal meeting with the former members of the Special Parliamentary Committee on Monitoring the Intelligence Services and, despite being under police surveillance, he had managed to escape detection.\(^\text{109}\) In yet another surprising move, shortly after his disappearance, Ghiță turned up in two video recordings broadcast by his TV station, Romania TV, making serious accusations against DNA chief Kovesi and SRI General, Florin Coldea. He accused them of collaborating to blackmail PSD leaders Victor Ponta, Liviu Dragnea and himself, and claimed that the DNA together with the SRI had taken over the state and undermined the rule of law by terrorizing other state institutions and politicians alike.\(^\text{110}\) Also, he claimed that all investigations and cases against media owners had been fabricated by these two institutions. His whereabouts remained unknown at year’s end.

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77 In support of his argument, Târiceanu pointed out the DNA’s procedural failures, as well as unexplainable case backlogs for certain investigations G.S., “Târiceanu cere tuturor parlamentarilor sa refuze sa se mai primate pe cererile venite de la DNA: “E vorba de atacuri premeditate de discreditare nu a clasei politice, ci a institutiei Parlamentului” [Târiceanu asks all MPs to refuse to vote on future DNA requests: “These are premeditated attacks aimed at discrediting not the political class, but the Parliament as an institution], Hotnews.ro, 16 October 2016, http://www.hotnews.ro/stiri-esential-2135560-tariceanu-cere-parlamentarilor-refuze-mai-prunote-cererile-venite-


97 Black Cube, Acord de reacunoaștere a vinovăției respins de instanță [Black Cube - Court Rejects Admission of Guilt], [http://www.digi24.ro/stiri/actualitate/justitie/instanta-respinge-acordul-de-recunoastere-a-vinovatiei-inchietat-de-ron-weiner-cu-diicot-621934]

98 Constitutional Court of Romania, Decision no. 51 from 16 February 2016, [https://www.ccr.ro/files/products/Decizia_nr._51_din_16_februarie_2016_.pdf]

99 Constitutional Court of Romania, Decision no. 405 from 15 June 2016, [https://www.ccr.ro/files/products/decizia_405.pdf]

100 In this sense, from 2014 to 2016, 1171 individuals and 34 firms were prosecuted on this charge and the damages amounted to slightly more than 1 billion Euro. Source: National Anticorruption Directorate, Press release no. 116/VIII/3, 31 January 2017, [http://www.pna.ro/comunicat.xhtml?id=7998]


102 Alex Costache, DOSARUL MICROSOFT: Primele sentințe definitive. Căți ani de pușcărie au primit Pinalty, Niro, Cocoș & Co. Si câte milioane de euro are de recuperat statul, România Curata, [http://www.romaniacurata.ro/dosarul-microsoft-primele-sentinete-definitive-cati-ani-de-puscareau-primit-pinalty-niro-cocos-co-si-cate-milioane-de-euro-are-de-recuperat-statul/]


105 Established by the Law no. 318/2015.


107 High Court of Cassation and Justice, File number 2795/1/2015, 22 April 2016, [http://www.scj.ro/1094/Detalii-dosar?customQuery%5B0%5D.Key_id&customQuery%5B0%5D.Value=10000000298951]

108 “Dragnea risca sa nu intre in Parlament din cauza condamnarii pentru frauda electorală” [Dragnea risks losing his MP seat because his conviction for electoral fraud], Digi24.ro, 17 December 2016,