A case of mechanical democratization – Of coup d’état, dormant civil society and the politicization of justice in Romania, five years after its EU accession

Working Paper/ Comments are appreciated

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Abstract

In spite of its institutional and legislative intricacy, its complex and at times obscure procedures and overly ambitious objectives and strategies, the EU’s role as a democratization promoter has seldom been questioned. The gradual system of democracy promotion embodied by funding, twinning, benchmarking, monitoring and sanctioning has been regarded as a successful case of top-down, soft external intervention in Central and Eastern Europe. In the case of Romania, as a reiteration of its tempestuous accession, the year 2012 fired up the public discourse by bringing back notions such as “coup d’état”, the politicization of the judicial sector, endemic corruption and governmental ineffectiveness. The January riots, the attempt to impeach the Romanian President and the Constitutional Court’s debated decisions regarding the organization of the referendum have triggered alarmed reactions at the EU level, with repeated requests for political stability. The objective of this paper will be to place these turbulent events into the larger context of EU integration and to respond to the question: has the EU pre- and post-accession conditionality mechanism indirectly encouraged the establishment of a mechanical democracy in Romania? As such, while tracing back and analyzing the Romanian political and judicial context of 2012 and the subsequent EU response, we will use a rational choice framework that connects individual actors to dysfunctional institutions – an avenue explored in previous works by Knott and Miller¹.

The role played by international organisations in the transition towards democratic regimes, especially after what Samuel Huntington termed as the “third wave” of global democratic expansion², has been widely acknowledged and explored by the literature on democracy promotion³. However, in overt contrast with other global or regional organisations such as NATO or the Council of Europe which, through their nature, affect limited areas of national governance and apply a less convoluted methodology of awarding membership⁴, the EU developed both an intricate set of instruments for democracy promotion and the mandate to

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deal with human rights and democratic principles in its relationship with the post-communist states of Central and Eastern Europe (CEE). Nevertheless, while this process has been marked by fragmented strategies and a diffident start, the EU’s policy of conditionality towards CEE countries distinguished itself from the traditional approach used by international financial institutions (IFIs) such as the IMF and the World Bank which link compliance with the implementation of specific economic policies. The European Eastern enlargement agenda gradually became highly politicised, starting off by conferring preferential trade concessions to CEE, followed by the continuous injection of funding (the PHARE programme established in 1989 had as target providing technical assistance to solidify institutional capacity and market reforms) which was corroborated with the signing of the bilateral ‘Europe Agreements’ (from 1991 onwards). These agreements marked for CEE the offset of legislative adaptation to EU norms, as in order to benefit from the removal of the EU commercial and economic barriers and to gain the prospect of a free trade area the former communist states had to introduce new regulations in areas such as competition and property rights, while their eligibility for this form of association was judged on five essential pre-conditions: rule of law, human rights, a multi-party system, free and fair elections, and a market economy. However, this particular stage also underlined Western Europe’s lack of a strong accession strategy, signalled by the post-communist states that sought membership, and of a rigorous view of what constitutes a consolidated democracy.

Both of these shortcomings find their reasoning in the historical context. The lack of a clear accession strategy in the early 1990s bears the mark of the “widening” vs. “deepening” debate which consequently generated a rift within the EU over the future and extent of cooperation. While the opposition to enlargement stemmed from the fear of competition with East European goods (Spain, Portugal, Greece, Ireland and Italy), fear of diminishing payments from the EU budget and an overall expectation of a derailment of the existing institutional framework (France, Belgium, the Netherlands and Luxembourg), supporters viewed it either as an opportunity to dilute the pace of European integration (Britain) or simply as a matter of national security and economic opportunity (Germany, Denmark, Norway, Sweden and Austria). However, in spite of a context marked by divergent positions over the issue of enlargement, and due to the founding pan-European and liberal ideology which constituted the basis of the European Economic Community, the EU found itself in a ‘rhetorical entrapment’ and responded to the struggle of the Visegrad group to obtain a formal acknowledgement of the link between the association agreements and the possibility of full membership and a guiding framework for accession. While the preamble of the agreements acknowledged eventual membership as the mutual and ultimate objective, it was made clear nevertheless that it would be far from being an automatic consequence of association. Nonetheless, the growing pressure on the EU to provide a strategy on future enlargement provided the political momentum and engagement necessary for the launching

of an official ‘pre-accession strategy’ at the Essen European Council in December 1994, preceded by the June 1993 Copenhagen European Council. The latter concluded that countries that were subjects of the Europe agreements could join the EU provided they have a functioning market economy capable of coping with the competitive pressures and market forces within the Community, they have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and the protection of minority rights and they are able to take on the obligations of membership.\(^{10}\)

With the Copenhagen criteria, the EU’s enlargement policy was structured according to two broad issue-areas each which a specific set of institutional practices and mechanisms being employed. As Schimmelfennig and Sedelmeier observe, the democratic conditionality embodied the fundamental principles of the EU – the norms of human rights and liberal democracy – and provided association and subsequently accession as an external incentive. Once negotiations for accession start, democratic conditionality recedes in the background, but compliance with the democratic criteria remains under the Commission’s scrutiny and it can technically determine the progress of the candidate state towards gaining membership. The second component of conditionality concerns the correct and timely transposition of the \textit{acquis communautaire} and it was introduced with the first programmes for regulatory alignment (The Commission’s 1995 White Paper)\(^{11}\).

For the purpose of this paper we will focus on the indirect effects of the democratic conditionality upon the character of democracy in Romania five years after its accession to the EU and we will place this analysis in the context of the political turmoil that affected the country throughout 2012. The hypothesis put forward is that by associating the process of democratic transition and consolidation with the path towards EU membership, Romania embraced a dangerous strategy of reacting mainly under external pressure and pushing for reforms as a consequence of pre – (the Commission’s Opinions on the Application for Membership and its Regular Reports) and post-accession monitoring (the Mechanism of Cooperation and Verification). Furthermore state-building has been stalled, while the political community has become dichotomised threatening the country’s democratic stability. In order to substantiate this claim we will begin by reviewing the existent literature on the impact of the EU upon democratization, followed by a brief discussion of the democratization conditionality with a particular focus on the Copenhagen criteria as this represents the initial term of reference for the country’s demarche towards both EU membership and a consolidated governing system. The study will rest on a rational choice framework that connects individual actors to dysfunctional institutions and we will use the 2012 political crisis in Romania to validate Gary Miller’s claim that “rational actors, in the aggregate, can choose dysfunctional institutions even when, as individuals, they perfectly understand what they are doing”\(^{12}\). Hence, with the clear objective of leading the Social-Liberal Union into office and leading an unsound war against the current holder of the Romanian Presidency – Mr. Traian Băsescu, both Prime Minister Victor Ponta (head of the Social Democrat Party) and the President of the Senate Crin Antonescu (head of the National Liberal Party) acted


instrumentally and pushed forward decisions that had detrimental effects upon the Romanian democracy and that triggered an immediate response from the EU.

But before we explore the series of events which leads us to the above mentioned argument, we first need to explore the debate over the effects of the European integration process upon the transition to democracy of the post-communist states of Central and Eastern Europe. Here the literature is divided into two main branches with authors that deem the EU as an essential and stabilising causal factor, and scholars who consider the process of European integration as one of the favourable conditions that have encouraged and sustained the gradual transition and consolidation of the democratic politic systems in CEE. However, within the first branch, opinions haven’t necessarily regarded only the positive impact of European integration upon regime transition and democracy consolidation and outliers have skewed the spectrum of approaches.

As such, for Grabbe the EU’s exercise of influence in the CEE region since 1989 worked principally through the conditionality for accession. Here the outcome of negotiations in two crucial policy areas – the free movement of persons and justice and home affairs – reinforces that given the substantial asymmetry of power between the candidate states and the EU, a behaviour based on material interests could not be sustained in the case of the applicants and was replaced by a logic of adapting to the EU which became embedded in domestic policy-making in CEE. For Kelley, the EU’s political conditionality was able to overcome surprising levels of opposition towards policy changes, and this was especially visible in the case of ethnic minority issues, thanks to the multiple levers of influence over time and diverse ways of building confidence within the applicant states through gradual rewards for partial accomplishments. Splitting into two periods of different ways of exercising its influence, Vachudova differentiates between the EU’s impact as “passive leverage” (between 1989 and 1994) where the simple possibility of joining the Union changes the results of the rational calculations of costs and benefits made by the candidate countries’ political elites and its impact as “active leverage” where changes are made to political structures which in turn introduce more political competition. A similar positive view is shared by Pridham as well who differentiates the EU from other international organisations by its superior importance as an external democratising agent. He argues that a clear distinction must be made between the overall integration process and the actual EU accession, the latter merely representing the highpoint of the de facto integration that is marked by continuity and is linked to the transnational term of convergence. And while convergence entails gradual movement in system conformity with a group of democratic states that possess the power and institutional mechanisms to attract transiting countries to help secure their democratic outcomes, conditionality attaches a certain timeframe and a set of immediate concrete results that add sharpness to the prospects of convergence.

On the other side of the spectrum studies such as that of Raik point out to the potential democratic erosion which is triggered by European integration. By introducing a model of

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administrative subordination between Brussels and the post-communist countries little space has been left for democratic politics in the sense of a plurality of views, political debate, and the possibility to choose between alternative solutions. The logic of European integration facilitates thus the bureaucratisation of decision-making, distances the influence (and one might add the awareness) of civil society upon the adoption of rules and legislation and imposes external constraints on national sovereignty weakening the state’s ability to guide and control developments in society. On a similar note, Grzymala-Bussen and Innes further argue that the most problematic consequence of the EU gaining more leverage upon the agenda of reform and compliance is the fact that entrepreneurial parties have been forced to develop strategies of interparty competition that allow them to appear electorally responsive in a situation where they cannot offer policy accountability. And provided that a governing party or coalition knows how to play the European game, despite having a far from democratic behaviour, it can benefit of a false democratic legitimacy. Moreover, a second identified consequence of EU enlargement for domestic political competition has been the inadvertent promulgation of populism. While initially the politic sphere in candidate countries have accepted fairly easily reform, as the costs of negotiations became apparent, elites have started to oppose decisions and adopted a discourse marked by populism and nationalism.

Finally, the second branch of the literature that considers the democratisation role of European integration introduces as an explanatory factor internal characteristics of the political structure of culture of the state that triggers momentum for reform. As such, authors like Mansfield and Pevehouse argue that there is a symbiosis between regime transition and membership in international organisations (IOs): countries undergoing democratic transition are especially likely to enter IOs because leaders usually encompass difficulties in sustaining liberal reforms and the consolidation of democracy. Acceding to an IO – and here the case of EU is emphasised – helps leaders in transitional states to credibly commit to carrying out democratic reforms and reduces the risk of backsliding. Classical approaches to democratic transition also take into consideration the legacy of the preceding type of non-democratic regime (either authoritarian, totalitarian, post-totalitarian or sultanistic) in order to determine the motivation behind lagging in implementation of reforms.

After having a brief view of the analytical approaches to the EU’s impact upon the process of democratic transition that offers us the context in which we could develop our argument, we next focus our attention on what can be considered to be the basis of democratic conditionality: the Copenhagen criteria. As Kochenov argues when the Copenhagen criteria were put forward in 1993, two main obstacles to their practical utilisation occurred: the lack of a reliable framework of instruments that would allow the effective application of the criteria and the limited nature of EU’s competences. Hence, a detailed framework of

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instruments to complement the criteria had been developed: a first group of documents addressed to particular candidate countries (the Commission’s Opinions, the Commission’s Regular Reports, the Commission’s Comprehensive Country Monitoring Reports from 2003 and 2005, the Monitoring Reports from 2006 for Romania and Bulgaria, the Accession Partnerships and the 2002 Roadmaps for Bulgaria and Romania) and a second group comprising documents of a more general application (such as the Commission’s Agenda 2000). This sophisticated system of multiple instrument types designed to regulate the process of EU enlargement was created gradually and was meant to assure dynamic steering of the pre-accession reforms in the candidate countries. But as Maresceau argues the prolific use of new concepts, expressions and instruments reached a point where it seemed that chaos dominated the enlargement cosmos.

Moreover, as Kochenov observes, certain key inherent flaws severely limited the EU’s capacity to assure a solid and uniform application. First of all, although political conditionality had as main function the promotion of democracy and the transference of related values (the rule of law, human rights, protection of minority), the *acquis communautaire* does not accommodate such an extended scope which meant that the EU was not empowered to act in these areas. As a consequence, the democratic conditionality has never become a fully functional instrument in the context of the pre-accession stage and this claim is sustained by the low threshold for meeting the Copenhagen criterion of democracy and the rule of law. Here, the case of Romania is significant. Following the Essen European Council in May 1995, when the Commission had put forward the White Paper on the integration of the CEE countries into the Single Market (a technical exercise meant to suggest legislative approximation to be pursued by CEE countries to prepare for accession to the Single Market) and hence provided concrete evidence of engagement and commitment to the Eastern enlargement, the Madrid European Council in December 1995 brought to the attention of candidate states the Commission’s opinions (which along with a series of strategy papers and studies formed the Agenda 2000) over the state of preparedness for accession. In Romania’s case the evaluation for the compliance with the political benchmarks noted that the country “was on the way” to fulfilling the democratic requirements set by the European Council at Copenhagen. However, a European Parliament 1993 report concluded that the elections of 1992 and 1990 “have failed to confirm beyond a doubt the credibility of Romania’s process of transition towards full democracy.” Furthermore, as Kochenov observes, the soundness of the criteria was furthermore undermined within the Commission’s Regular Reports released in the pre-accession years that followed as the candidate states’ preparedness to meet the democratic criteria was more of a political question than a technical assessment. Some countries were considered to have met the democratic requirements though executives legislated more than parliaments (a problem underlined in the case of Romania,  

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23 Ibid., pp. 67-69.
but tolerated in Slovakia). Finally, a second fundamental drawback of the application of the democratic conditionality consisted in the fact that the Commission offered little explanations over its political requirements (reducing the assessment of democracy and the rule of law to a minimum) which later became an even more pressing situation when an organic merge between democracy and the rule of law was done (with the Commission’s opinions)

Having EU membership as the ultimate goal, and in numerous instances identifying democratisation with the process of European integration (rhetoric present in numerous official statements and even present in the Snagov Declaration of 21st of June 1995), Romania quickly adopted and adapted a system termed by Sum and King as ‘triage democracy’, in which officials react under pressure exerted whether externally (by the EU through the Mechanism of Cooperation and Verification which at times becomes connected to accession to the Schengen Area) or internally (stemming from the public opinion) to the latest emergency or crisis, and where reform is conducted in a piece-meal fashion. The consequence as the authors above mentioned is the development of a politics of sequential stimulus and response, rather than systematic and coherent change. And this type gradually developed into a strategic triage in which in order to convey the image of a stable political system, the three main parties in Romania constructed short-lived alliances either to assure accession to the EU as was the case of the Democratic-Liberal Alliance (Justice and Truth) formed in 2004 and preserved through early 2007 or to encourage foreign and European investors and to assure IMF emergency bailout funds as was in the case of the uneasy Democratic-Social Democratic alliance constructed in early 2009 that resisted up until October the same year.

It is within this context that we integrate a rational choice theoretical framework that would enable us to justify why, despite the political damage caused by the Social-Liberal Union and signalled by the EU, did the current ruling coalition decide to adopt a dangerous strategy of power pursuing that affected the democratic stability.

Rational choice approaches postulate self-interested actors as the fundamental unit of analysis in politics. As Hall and Taylor observe, despite the internal debates and variation, rational choice institutionalism rests on four main claims. First of all it posits that actors have a fixed set of preferences and behave instrumentally in order to fulfil these preferences and do so in a highly strategic manner that presumes extensive calculation. Secondly, it assumes an image of politics dominated by a series of collective action dilemmas – where individuals pursuing to maximise their gains are likely to produce an outcome that is collectively sub-optimal. Third, because actors’ behaviour is dominated by strategic calculus and as this calculus is dependent on expectations about other actors’ behaviour, institutions have the role of reducing uncertainty regarding corresponding behaviour of other actors. Finally, institutions are

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32 Ibid., p. 11.
originate and function in terms of gains from cooperation to the relevant actors\textsuperscript{33}. Miller argues however, that rational choice does not inherently imply functional institutions. On the contrary, choices over institutions can be subject to similar prisoner’s dilemma problems, and dysfunctional institutions can result and be preserved based on the rational calculations of individual subordinates, superior and legislative overseers\textsuperscript{34}. Substantiating this claim, Knott and Miller observe that “as information becomes more costly, as organizations become larger, as the incentives in organizations are more rewarding of rule-following behaviour, then we can expect individuals to follow bureaucratic routines more closely, evaluate new alternatives more rarely, and remain ignorant of the big picture”\textsuperscript{35}.

In a recent study, Varga and Freyberg-Inan argue that the alarming dissatisfaction of citizens with post-communist democracy in CEE favours populist parties which accuse their rivals of various forms of corruption and pursue various types of anti-systemic solutions, including the discretionary exclusion of their rivals from the political life. As trust in the system begins to erode and as we witness a large-scale popular withdrawal from politics, an environment in which exclusionary strategies can be pursued by the ruling political elite to the detriment of opposing parties. Because of low political participation, Varga and Freyberg-Inan argue that politicians have little to fear from voters in term of sanctions. Moreover, the increasing isolation of politicians from citizens “creates an incentive for political actors to present themselves as outsiders to the discredited political system and target large swathes of the rival political elite with negative rhetoric”\textsuperscript{36}. The authors argue that Romania’s Democratic-Liberal Party (PDL) in power from 2008 up until May 2012 has used the anti-communist offensive and rhetoric in order to convince the disappointed population that their lack of socio-economic security is a result of political actors with a potential communist background (proven or not by the National Council for the Study of the Securitate’s Archives) which have been abusing the system for their own financial benefits\textsuperscript{37}.

This practice unfortunately has been extended and adopted by the Social-Liberal Union (USL) as well despite the risk of naturalizing a selective democracy. Hence, having been affected by the exclusionary rhetoric and practices of the PDL, USL perpetuated the same set of dysfunctional practices putting forward a discourse centered on the isolation of the former governing party. And this became overt in early 2011 with the decision sustained by the party leaders of PSD – Victor Ponta, PNL – Crin Antonescu and of the Conservative Party (PC) – Daniel Constantin to create a protocol for a Social-Liberal Union that would be able to balance a political system dominated by PDL and to oust from Presidency Traian Băsescu – who once led the PDL and who is still a prominent supporter. But in order to gain a clearer image of this we now follow the chain of events of early 2012 and contextualize our hypothesis that the current governing alliance has engaged in the same exclusionary political strategy which in the long run will have a strong negative impact upon the Romanian democratic system.

The start of 2012 was marked by violent large-scale street movements triggered initially by the attacks of President Traian Baescu targeting Dr. Raed Arafat – at the time deputy health

\textsuperscript{34} G. Miller (2000): “Rational Choice and Dysfunctional Institutions”, p. 541.  
\textsuperscript{37} Ibid., p. 367.
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However, here an interesting point arises which reinforces Varga and Freyber-Inan hypothesis that we are currently witnessing an alarming dissatisfaction of citizens with post-communist democracy in CEE which in turn generates popular withdrawal from politics. The majority of the harsh fiscal measures had been taken by the government in 2010: the government’s decision to cut wages in the public sector by 25%, social security benefits by 15% and to reduce the number of employees in the public sector by 8% came in May 2010, and the decision to raise the VAT quota from 19% to 24% which triggered a wave of price increases for all products came in July 2010 after the Constitutional Court’s decision to prevent pension cuts by 15%. Hence, why were Romanians protesting only now? As we have previously mentioned, the spark that triggered popular manifestations was the perceived need to support Dr. Arafat – a very popular technocrat caught in a political war. After a long series of separate small protests, organised usually by public servants, that were not met with the hoped political response from the government, the immediate reaction coming from the Presidency encouraged participants to extend their motivations for demonstrating and transformed the January-February street movements into a general outcry against the government (although the international media connected them to the wave of social movements which occurred all over Europe and were a consequence of the economic hardship40). However, this provided a good opportunity for the opposition parties to become involved and to organise their own street movements41. Within this context they felt legitimised to pursue a strategy of exclusion. The Boc government was soon replaced by Mihai Râzvan Ungureanu’s cabinet which managed to survive from February up until April 2012, when it failed to win the confidence vote of the parliament and collapsed after the motion of censure put forward by the USL-led opposition passed with 235 votes. Victor Ponta was the nominee proposed for the position of Prime Minister, proposal accepted


reluctantly by President Băsescu. Benefitting of a strong parliamentarian majority, USL pushed for the impeachment of President Băsescu, opening the door for a national referendum on this question. The seven points offered by the opposing alliance for the impeachment referred to the President usurping the role of Prime Minister by pleading for the passing of certain laws (the case of the project of law on education) and for the signing of financial agreements with the IMF, to the repeated violation of fundamental rights and liberties of citizens (by reiterating in opposition to the Constitutional Court decision that wages in the public sector could not be brought back to the level before the 25% cut), to the violation of the principle of the separation of powers within the state (by encouraging the government to rule by assuming responsibility), to attempting to influence the Constitutional Court, to systematically disregarding the requirement of party non-affiliation tied to the position of President, and finally to violating the fundamental principle of representative democracy (by refusing to designate a USL candidate for the position of Prime Minister)\textsuperscript{42}.

The decisions of the newly appointed Ponta government followed the same logic of discretionary exclusion of rivals from the political life. A series of swift dismissals meant to neutralise opposition was commenced with the parliamentarian majority voting the replacement of the Council of Administration of the Public Television, followed by the government’s decision to exclude PDL from appointing its representatives to the Administration Council and by the designation of a liberal party member for the office of President-director general. The next target was the Romanian Cultural Institute (ICR) which was subordinated by the government through an Emergency Ordinance (decree) from under the authority of the Presidency (where it had been since its establishment in 2003) to the Senate. And paradoxically enough, after the Minister of Interior Affairs, Ioan Rus, dismissed without any public explanation the head of the National Archives, it was the director of the Institute for the Investigation of the Crimes of Communism and Remembrance of the Romanian Exile who was next in line for replacement\textsuperscript{43}. In a very short timeframe the government brought a highly polarised political environment to a point of continuous inter-party conflict. After a political cleansing of the state’s institutions, the ruling coalition moved to the issue of legitimate representation. After continuous disputes between the Victoria and the Cotroceni Palaces over who is entitled to represent Romania at the Brussels European Council, the Constitutional Court decided that the President had the responsibility to do so. However, this ruling was ignored and the parliament passed a resolution mandating the Prime Minister to represent the country at the summit. Moreover, the official gazette, now placed under government oversight, never published the decision, which meant that the government effectively blocked the Court’s decision from taking effect\textsuperscript{44}. The speakers of the two chambers of the parliament were next in line for replacing – both being voted out at the beginning of July – procedure which disregarded a previous decision of the Constitutional Court which conditioned the removal of a speaker by the initiation of the procedure by the same party that nominated the candidate. The same day saw the replacement of the Ombudsman, the only representative who could challenge the Emergency Ordinances of the


government and this decision was followed by the passing of an Emergency Ordinance that removed the power of the Constitutional Court to review any of the parliament’s actions.\textsuperscript{45} The next step in the exclusion strategy was the actual impeachment of the President. Hence, Ponta’s parliamentary majority drafted a document (as required by the Constitution) that summarised the ways in which the President had committed grave constitutional violations, paper which represented the basis for the Constitutional Court’s ruling over the sufficiency of the case against the President in order to proceed with the impeachment procedure. Judging the Court’s opinion as favourable (which is advisory in this case), the vote over the referendum that was meant to decide the President’s faith passed in the parliament and the 29\textsuperscript{th} of July was set as the target date. The parliament had previously also adopted a law that amended the stipulations for the organisation of the public referenda in order to make the procedure easier for the government to oust the President. However, the Constitutional Court reinforced the need to have at least 50\% of the registered voters casting their choice in order to consider the results valid.

In the midst of this political crisis, the European Commission President Jose Manuel Barroso intervened by urging Prime Minister Victor Ponta to ensure that Romania will manage to surpass the political turmoil and to abide by an eleven points urgent to-do list. The points touched upon the appointment of the new Ombudsman, the powers of the Constitutional Court, the rules that validated the referendum, the appointing as ministers (the requirement of no pervious sentences regarding personal integrity), the need to avoid the appointment of a new head of the National Anti-Corruption Department and a new prosecutor-general during the interim presidency of Crin Antonescu and the requirement to avoid issuing of pardons during the interim presidency (the focus here being the case of former socialist Prime Minister Adrian Năstase who had been sentenced to two years after being convicted on corruption charges). A week later after this intervention, the Commission released its Report on the Cooperation and Verification Mechanism (CVM) which raised questions regarding the sustainability and irreversibility of reform, and emphasised that in evaluating the progress made to meet the CVM benchmarks within the past 5 years, Romania had reacted primarily as a consequence of external pressure\textsuperscript{46}, the country being judged as able (and not on its way as in Bulgaria’s case) to attain the objectives provided it maintains the direction and steps up the implementation of reform. As such Romania placed itself on a long way of further monitoring as the January 2013 progress report noted that in terms of implementing the Commission’s 11 recommendations aiming at restoring the rule of law and the independence of the judiciary, not all requirements had been fulfilled\textsuperscript{47}.

The referendum of July 29\textsuperscript{th} failed to remove President Băsescu from office and a more tempered strategy of exclusion has still been pursued, but the European Commission’s strong signals regarding the need for Romania to reach political stability and guarantee the presence of all of the features of a truly pluralistic society have led to a reconsideration of the extent to which this type of strategy will be applied regardless of the effects it has upon democracy.


Based on rational calculations, USL pursued a strategy of discretionary exclusion of rivals from the political life, using dysfunctional institutions in the same tone of PDL, but to a much stronger extent. Although the EU’s response to the turmoil that dominated political life in Romania throughout 2012 had a clear and important impact, it preserved roughly the same character distinguishable both in the pre-accession and post-accession period: raising attention over specific issues which are pressing and urgently need to be addressed, encouraging the country to continue implementing a strategy of responding to stimuli rather than following cohesive plans and comprehensive change.


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