

POINTS OF VIEW

TESTING THE PARAMETERS OF DEMOCRACY.  
ROMANIA IN 2013

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Between 2000 and 2001 he was Rosenzweig Family Fellow at the Centre for Advanced Holocaust Studies at the United States Holocaust Memorial Museum in Washington DC. He is the author of several monographs and volumes of studies on the recent history of Romania, among them *Ceaușescu and the Securitate: Coercion and Dissent in Romania, 1965-1989* (London; New York, 1996), *Romania under Communist Rule* (Bucharest, 1998), *Communist Terror in Romania: Gheorghiu-Dej and the Police State, 1948-1965*, (London; New York, 1999) and *Ion Antonescu. Hitler's Forgotten Ally* (London: New York, 2006). He is currently researching a study of British clandestine operations in Romania during World War II.

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*Recent developments in Romania, Bulgaria, and Hungary have posed major challenges to the European Union in its efforts to ensure respect for the democratic values which underpin it. In particular, events last year in Romania raised a question mark against the commitment of many of Romania's politicians to the cultural values by which the EU is driven. In September 2012 in Brussels José Manuel Barroso, President of the European Commission, warned Victor Ponta, Romanian Prime Minister, that Romania has to 'remove all doubts on its commitments to*

*Pol. Sc. Int. Rel., X, 2, p. 105–116, Bucharest, 2013.*

*the rule of law, the independence of the judiciary, and respect for constitutional rulings. This lecture will examine the degree to which the Romanian government has heeded this warning.*

Romania is on the margin of Europe. This simple geographical observation is heavy with significance. The territories inhabited by Romanians have, throughout their history, been subject to forces from the East. The Romanian essayist Ion Vianu posed the question 'what can deliver our country from this trap of history?' His answer was, 'first of all, respect for the great values of Europe, above all for the democratic institutions.'<sup>1</sup>

It is with these words in mind that we should consider Romania's development since the overthrow of Nicolae Ceaușescu in late December 1989. The country has since then completed two decades of revolutionary change. Political organization and — to a large degree — social structure have been transformed, property control distanced from the state, and Marxism-Leninism replaced as the exclusive ideology by a broad spectrum of political visions. The command economy has been dismantled, and censorship abolished. There was a democratic transfer of power in 1996 when the neo-Communists suffered their first defeat at the ballot-box since 1990. At the personal level, possession of a passport became a right, not a privilege, in early 1990 and therefore restrictions on travel abroad by the state were removed, and the reviled abortion decree, introduced by Ceaușescu, was immediately rescinded. A political revolution has occurred in Romania since 1989 but, in the words of the poet Mircea Dinescu, a revolution still has to take place in people's minds.<sup>2</sup>

The impetus for reform in Romania has come from outside rather than from within. The International Monetary Fund, the Council of Europe, and the European Union have been the major catalysts of reform, and the need to satisfy the requirements of these institutions in order to achieve integration into the so-called 'Euro-Atlantic structures' spurred and guided the reform process in Romania. In joining NATO and the EU Romania moved from uncertainty about its position and future in Europe to certainty. NATO and EU membership offered political and economic stability, providing an anchor for the reforms upon which Romania had embarked since the overthrow of Communist rule. Romania's admission to NATO on 29 March 2004 following the decision taken at the Prague Summit, in November 2002, and her adherence to the EU on 1 January 2007 are the most notable successes in terms of politics and economics registered by the country. Yet recent events in Romania have raised a question mark against the commitment of many of Romania's politicians to the cultural values by which the EU is driven. By 'cultural' I mean here the spirit of democracy with which the EU is infused.

This is not to say that the country has not, in respect of NATO, played an active role in promoting the values and objectives of the Alliance by participating in its operations and missions. To NATO Romania brought the largest country in South-Eastern Europe in terms of area and population, a fairly stable democracy, and a respected military capacity and partner for the allied forces during the Gulf War, (2 August 1990 – 28 February 1991), particularly during its service as president

<sup>1</sup> Ion Vianu, interviewed by Lidia Vianu in *Censorship in Romania*, Budapest: Central European University Press, 1997, p. 81.

<sup>2</sup> Mircea Dinescu interviewed by Lidia Vianu, *op. cit.*, p. 192.

of the UN Security Council. The country was active in peacekeeping operations in UNAVEM in Angola, IFOR/SFOR in Bosnia, in Albania, and sent 860 troops to Iraq after the invasion led by the United States (March 20 to May 1, 2003). In Afghanistan it had in May 2011, 1800 combat troops and 60 gendarmes to help train the local Afghan police. President Traian Băsescu declared on 21 January 2013 that Romania would continue to provide support to Afghanistan at the same level, even after NATO combat troops withdrew in 2014.

As a further sign of its commitment to the NATO alliance, Romania signed an agreement with the United States on 13 September 2011 to station a ballistic missile defence system at the Deveselu air base near Caracal, some 150 km (90 miles) to the south-west of the capital, Bucharest. The system employs the SM-3 interceptor (also referred to as the 'Aegis Ashore System'). The deployment to Romania is anticipated to occur in the 2015 timeframe as part of the second phase of the European Phased Adaptive Approach (EPAA) — the US national contribution to a NATO missile defence architecture. The EPAA will provide protection of NATO European territories and populations, and augment protection of the United States, against the increasing threats posed by the proliferation of ballistic missiles from the Middle East. At the November 2010 NATO Summit, the Alliance welcomed the EPAA as a US national contribution to the NATO missile defence capability.

Yet if principles of political, economic, and social cohesion are to be observed an acceptance of shared values and synchronization of behaviour and compliance with the chapters of the *acquis communautaire* of the EU is essential. Romania has achieved much in this regard but in some areas the reforms necessary in Romania for the implementation of the *acquis*, while adopted into law, are wanting in their application. The EU is not, however, a development agency. Europeanization is about integrating functioning systems and Romania is still a country of networks rather than structures.

Communism robbed societies of their trust in institutions beyond the family or other highly personalized networks. There was no regime immediately after 1989 for methodical, thoughtful handling of information that would foster trust in public offices, since replacement of communist-era secrecy laws fell low on the transition agenda, overshadowed by economic reform. Much of the information that the public requires to form a critical respect for the state was withheld. A concomitant post-communist problem is the failure to reform bureaucracy and the latter's politicization. A bureaucrat should implement the policies of a lawful government, regardless of its party profile. Outside consultants and organizations such as the EU have stressed the need for the eventual attainment of apolitical public administration in Central Europe. Even if the existing bureaucracy is willing to transfer its loyalty to the new regime, incoming ministers are often determined to view the incumbents as hostile or unqualified, and to import trusted confederates from new parties, even though Romania, as a condition of EU membership, agreed to introduce competition and a selection process for the appointments of public servants. The lack of efficient administrative capacity severely hinders Romania's ability to use the EU funding it is given.

Reform has also been impeded by the influence of the personality factor. Rivalry often exists between powerful party figures or between government departments which can be traced back to clashing personal interests. The result is often delay or poor quality decision-making. The latter is a feature of much of the present bureaucracy. Furthermore, the bureaucracy is characterized by the rigidity of its structure — officials do not often move between posts and in many cases have occupied the same post for fifteen years or more. Officials lack performance-incentives, hence they are often inefficient. Moreover, they feel unconstrained by the letter or spirit of the law. Low salaries and career stagnation engender corruption. Such conditions militate against policy initiatives. The ministries tend to be treated as personal fiefdoms. While there is what might be generously called ‘vertical management control’, there is little horizontal control or across-the-board supervision.

Systemic corruption remains a major problem in the delivery of services and in the administration of justice. There is much evidence from nineteenth-century Romanian sources to show that officials brazenly requested the payment of a favour for a deed performed in order to supplement their income. This collection of extra-legal revenues continued throughout the period of democracy in Romania in the inter-war years, under Communism, and continues down to the present.

Judges and magistrates are today, to large degree, seen by the public as a law unto themselves. Opinion polls consistently show that the public regards the legal profession as institutionally corrupt; it has, therefore, little faith in the justice system. In the view of many Romanians the judiciary is politicized, leading to the flawed administration of the law.

It is corruption which presents a major obstacle to Romania’s full integration into the EU. Most politicians do not distinguish between the public and private purse. In its Corruption Perception Index for 2012 Transparency International ranked Romania 66<sup>th</sup> in the world, and the third highest listing among EU member states after Bulgaria, placed 75<sup>th</sup> and Greece at 94<sup>th</sup>.<sup>3</sup> The European Commission is monitoring Romania to ensure that it meets its EU membership obligations in important areas. When they joined the EU on 1 January 2007, Romania and Bulgaria still had progress to make in the fields of judicial reform and corruption. The EU decided to establish a special ‘Cooperation and Verification Mechanism’ to help both countries address these outstanding shortcomings.

Events since the collapse in early May 2012 of the government of President Traian Băsescu’s Democratic Liberal Party (PDL), led by Mihai-Răzvan Ungureanu, severely damaged the country’s credibility as a sound credit risk and stable destination for investors. Significant austerity measures, including a 25% cut in public sector wages and a VAT hike from 19% to 24%, had been implemented starting on 1 July 2010. Ungureanu faced a popular backlash, and collapsing poll ratings, as a result of these measures, administered in response to the global financial crisis and under the auspices of an IMF programme. At the end of April 2012, the left-right coalition, the Social-Liberal Union (USL — *Uniunea Social Liberală*), comprising the Party of Social Democracy (PSD, the ‘reformed’ former ruling Communist party, headed by the prime minister, Victor Ponta, and the right of centre Liberals

<sup>3</sup> Transparency International Corruption Perceptions Index 2012.

(PNL) led by Crin Antonescu, managed to oust Ungureanu by tabling a successful vote of no confidence in his government. Somewhat surprisingly, the USL agreed to take up the baton of government just six months before elections. Expectations had been that the USL would force early parliamentary elections, but in the end they preferred to see out the term of parliament in office.

The impetus for the no-confidence motion, brought by the USL, seems to have been a decision by the Supreme Court upholding the conviction of former Prime Minister Adrian Năstase of corruption and the sentence of two years' imprisonment. Năstase shot and wounded himself on 20 June, apparently in a suicide attempt, hours after the Supreme Court's ruling. Năstase was released on 18 March 2013 after serving nine months of his sentence. Some political commentators have suggested a link between Dan Voiculescu, the most powerful media baron in Romania, whose wealth is estimated at €650m (\$850m)<sup>4</sup>, and at the time a member of the Romanian Senate, and the campaign to impeach President Traian Băsescu, a number of whose nominees were judges on the Supreme Court, over fears that he (Voiculescu), too, might find himself behind bars if found guilty of corruption charges. Prime Minister Ponta accused Băsescu of overstepping his powers through illegal phone-tapping, use of the security services against political enemies, and pressuring prosecutors in criminal cases. The president's popularity had fallen due to his support for the austerity measures and perceptions that his appointments were guided by cronyism. Băsescu responded by calling the referendum a *putsch* attempt by Ponta and his supporters, who had previously been criticized for dismissing the speakers in both chambers of the Romanian parliament and the country's ombudsman. He asked the public to boycott the poll.

Băsescu was suspended by the Parliament on 6 July, with a referendum on his impeachment being held on 29 July 2012. On the day before the vote in parliament, the government changed the referendum law to enable an impeachment referendum to be valid if a majority of voters voted in favour. Previously the law required at least 50% of eligible voters to vote in favour. Following criticism of his tactics from the EU, which accused him of 'undermining the rule of law', Ponta accepted the ruling by the Constitutional Court to require a turnout of 50% plus one to render the result of the referendum valid. 88.7% of those voting declared themselves in favour of the President's impeachment, while only 11.3% were against. However, the turnout, at 46%, was below the 50% plus one necessary for the vote to be valid. Nevertheless, the political turmoil did not end there. The Constitutional Court added to the uncertainty by declaring that it would not pronounce on the validity of the referendum until 6 September. Western diplomats were so concerned that the country was teetering toward lawlessness that in August Washington sent the U.S. assistant secretary for European affairs, Philip H. Gordon, to Bucharest, where he met with both men and warned that Romania must uphold the rule of law. Chancellor Angela Merkel of Germany — whose voice in the EU carries the most weight with senior Romanian politicians — and the European Commission president, José Manuel Barroso, also voiced serious concern.<sup>5</sup>

<sup>4</sup> *The Economist*, 5 December 2012.

<sup>5</sup> Romania has to 'remove all doubts on its commitment to the rule of law, the independence of the judiciary and the respect for constitutional rulings,' Mr. Barroso warned Mr. Ponta in September in Brussels.



On 12 July, Barroso met Ponta in Brussels in a chilly atmosphere. The Commission statement issued afterwards read:

President Barroso met today with Prime Minister Ponta to discuss the recent institutional and political developments in Romania. President Barroso expressed his serious concerns about recent political events in Romania in relation to the rule of law, the independence of the judiciary and the role of the Constitutional Court. He underlined that the necessary checks and balances in a democratic system must be guaranteed. President Barroso made clear that the Romanian Government must respect the full independence of the judiciary, restore the powers of the Constitutional Court and ensure that its decisions are observed, appoint an Ombudsman enjoying cross-party support, ensure a new open and transparent procedure for appointing a General Prosecutor and Director of the Anti-Corruption Directorate and make integrity a political priority.<sup>6</sup>

On 16 July, Barroso spoke to Ponta on the telephone and received his assurances that an 11-point to-do list — dubbed ‘the 11 commandments’ by some in the press — would be fully respected.

The main points of this list were:

- No new head be named at the National Anti-Corruption Department and no new prosecutor-general be named during the interim presidency of Antonescu;
- No pardons will be issued during the interim presidency — a hint at the Năstase case;
- Ministers must be named from among people who have not received sentences regarding their personal integrity and those who have such sentences must resign (as in the case of former education minister Ecaterina Andronescu). Deputies who are subjects of final decisions of incompatibility and conflict of interests must also resign (as in the case of MPs Sergiu Andon and Florin Pislaru);
- The People’s Lawyer (Ombudsman) must be a person who has the support of all political parties;
- The powers of the Constitutional Court must all be returned and a recent ordinance limiting these powers must be annulled;
- The rules to validate the referendum to impeach the president must be re-established, while the Official Gazette must no longer be used for the “selective” publication of official decisions.<sup>7</sup>

Talks, which had been scheduled for September in Brussels on Romania’s bid to join the European Union’s coveted visa-free zone, were postponed. Persuaded by public pressure, the Constitutional Court brought forward its ruling on the referendum to 21 August when it stated that the referendum, by a vote of 6 to 3 of the judges, was ‘invalid’ in the sense that it had failed to meet the constitutional requirement for impeachment.<sup>8</sup> Traian Băsescu was then formally reinstated as President.

To add to this constitutional farce, Victor Ponta responded to revelations that he plagiarised a good third of his doctoral thesis by disbanding the commission

<sup>6</sup> <http://www.hotnews.ro/stiri-politic-12781183-uniunea-europeana-someaza-victor-ponta-restaureze-puterile-ccr.htm>.

<sup>7</sup> <http://www.euractiv.com/elections/ousted-basescu-attempts-counter-news-513926.htm>.

<sup>8</sup> Alina Neagu, ‘Curtea Constituțională a invalidat referendumul cu scorul 6-3,’ Hotnews.ro, 21 August 2012.

responsible for the validation of university qualifications, while affirming that the use of quotation marks was not obligatory in 2003, the year when he submitted his thesis.

In its ‘Conclusions on Cooperation and Verification Mechanism for Bulgaria and Romania’, issued by the Council of the European Union after a meeting on 24 September 2012 in Brussels, the Council welcomed the efforts made by Bulgaria and Romania under the Co-operation and Verification Mechanism over the past five years, and considers that the necessary legal framework is largely in place in both Member States. Emphasis should now be given to sustained implementation of existing legislation and further reforms.

In light of recent events in Romania, the Council recalls the fundamental values on which the EU is founded, and welcomes the commitment of the Romanian government to act swiftly to ensure respect for the rule of law and the independence of the judiciary in line with the recommendations of the Commission, as well as the steps already taken in this regard.

In line with the Commission’s analysis and overall assessment of the progress made by Bulgaria and Romania since 1 January 2007, notably with regard to the outstanding challenges that need to be addressed, the Council notes that the Cooperation and Verification Mechanism has been instrumental for progress, and that it remains an appropriate tool to assist Bulgaria and Romania in their reform efforts in order to achieve a record of concrete and lasting results to reach the objectives of the Mechanism. Pending the results expected in this framework, the Mechanism stays in place.

Parliamentary elections were held on 9 December 2012. Only the scale of the electoral victory for Victor Ponta’s Social Liberal Union (USL) on December 9 was unexpected. Despite the severe weather in parts of the country, the turnout was at 41.7%, higher than the last elections held in 2008 which saw a presence of 39.20%, but 15 percentage points less than in the local elections in June 2012. The USL won an absolute majority in both the Chamber of Deputies and the Senate, with 60.07% and 58.61% of the votes respectively and in MP mandates, with 122 seats in the Senate and 273 in the Chamber of Deputies. Far behind, the Right Romania Alliance (ARD) came in second place with only 16.72% and 16.52% of the votes and 24 seats in the Senate, and 56 in the Chamber, losing about half of what they won in 2008. The ARD officially dissolved after the election. The People’s Party — Dan Diaconescu (PP-DD) won 21 seats in the Senate and 47 in the Chamber and the Hungarian Democratic Union of Romania, 9 and 18 respectively, and were the only other political groups that won seats in both chambers. Several parties for ethnic minorities received a total of 18 individual seats in the Chamber of Deputies.

Romania has its largest number of MPs to date in this parliament. With 588 Senators and deputies and with a slight space issue for joint meetings, the Parliament is close in size to the German Bundestag, which has 620 MPs, in a country of 82 million people. Romania, with only some 19 million people, now has twice as many MPs as the total number approved in a referendum in 2009, when the idea of having a single Chamber Parliament was put to the people. It is also higher than the previous 471 — member Parliament. The current system in Romania explains the higher number of MPs. The uninominal system allows all those who

got over 5 per cent of the votes to be re-distributed based on an algorithm applied at party level. This way, some of those from parties with lower votes managed to get seats in the Parliament even though they had lost at local level.

It has to be recognized that the USL's policies resonate with a significant part of the electorate, much of which relies overwhelmingly on the state for its economic needs. Pensioners outnumber those in full-time employment. Many self-reliant Romanians have emigrated and many of those suspicious of the USL's communist origins, its authoritarian tendencies and reputation for corruption may have abstained this time. The well-financed and experienced USL machine, aided by massive media backing from Dan Voiculescu, channelled popular resentment towards Băsescu as the architect of Ungureanu's austerity measures. It promised increased benefits for those dependent on the state. Pointed statements were made by Ponta about Germany's Chancellor Angela Merkel for her criticism of violations of the spirit of the constitution in the drive to oust Băsescu, and of US ambassador Mark Gitenstein's thinly-veiled admonitions of the conduct of the USL during the constitutional crisis. Ponta said openly in November that Romanians might have thought twice about the wisdom of EU accession if it had been clear, before the country's admission in 2007, how little Romania would benefit from membership and how great the interference would be.

The sudden rise of Dan Diaconescu's People's Party brought it from nowhere to win 14% of the vote for the Chamber of Deputies. The child of Dan Diaconescu, an influential media personality, it offered an infantile programme whose main promise was to enrich citizens overnight. Its success demonstrated not only a lack of faith in the established parties but also a degree of desperation in a population which sees the gulf between the 'haves' and the 'have-nots' growing daily.

The USL, given its overwhelming majority, is now in a position to impose its will on Romania's institutions. Such a move would provoke further the ire of the EU. The EU's major concern is that if the state is captured by a dominant party out to abolish the separation of powers and to reduce institutions to compliance through patronage, the full integration of Romania within the EU will become impossible.

A contest between Brussels and Bucharest continues over the future of the National Integrity Agency (ANI), which monitors the source and extent of the wealth of politicians and officials at central and local level. The USL wishes to strip ANI of its main powers, but the EU realizes that will only encourage further corruption. In November, when ANI was facing threats from politicians, German Ambassador Andreas von Mettenheim warned that the EU would tie the degree of economic aid which it gave to Romania to the government's respect for the independence of the ANI.

Prime Minister Ponta faces an array of international bodies and states on both sides of the Atlantic which have a coordinated approach to democracy issues in Romania. Under such pressure, he signed a 'peace agreement' with Băsescu in January. Prominent voices in USL, including Crin Antonescu, its likely presidential candidate in 2014, have indicated that a fundamental reorientation of foreign relations cannot be ruled out if Romania continues to be frustrated by its Western alliance partners. Ponta will find it hard to satisfy both ascendant USL hardliners and international partners who have lost patience. His alignment with Băsescu has been



interpreted as a sign of estrangement from Antonescu, with the latter turning eastwards and the Ponta-Băsescu team remaining committed to the west. However, Ponta still has Voiculescu, who funded in large part the USL election campaign, to deal with.

Ponta also has a problem with parliament. It has refused to penalise ministers and senior figures found to have violated the code of ethics supervised by the ANI. Ponta decided not to include in his new government four former members who had been castigated by the ANI but the presence of hardliners in parliament, may vitiate his chances of winning parliamentary approval for a much tighter code of conduct.

A further progress report under the CVM was approved by the European Commission on 30 January 2013 in order to see whether the eleven recommendations made in July 2012 had been followed. It found that the constitution and the Constitutional Court's role and decisions had been respected, but that commitments regarding the independence of the judiciary and regarding parliamentarians who had violated codes of ethical conduct had not been adequately implemented. It also expressed major concerns over continuous pressures on judicial institutions and lack of respect for judicial independence. It pointed the finger at parliament for its lax attitude towards corruption and insisted on a much tougher drive against illicit public procurement — a lucrative source of extra wealth for the elite. It also recommended that when parliament refused to lift a member's immunity, it must give full justification.

'The report criticised the role of the media in orchestrating much of the pressure on judicial institutions. Parts of the judiciary out of favour with sectors of the elite that have a proprietorial attitude to the state have been subject to continuous attacks from the Intact media group owned by Dan Voiculescu, one of the USL's leaders. The report recommended a review of existing rules to ensure that freedom of the press is accompanied by proper protection of institutions and individuals' fundamental rights. It also called for an effective watchdog to prevent the defamation or harassment of individuals and their families in key judicial and anti-corruption institutions.'<sup>9</sup>

The report called for more consistency from different levels of the justice system in order to be effective. It singled out the National Anti-Corruption Department for praise but criticised the failure to appoint a new leadership from 'a sufficient range of high-quality candidates'. A meeting on January 18 between Commission Secretary-General Catherine Day and Justice Minister Mona Pivniceru was cut short, reportedly because of disagreements on the direction the justice system should go in. Pivniceru has a background of involvement with justice lobbies opposed to EU plans and has been seeking to isolate the reformist majority on the Supreme Council of Magistrates.

Under the terms of the stand-by arrangement loan with the IMF that started in March 2009, which together with EU loans, gave Romania access to more than 20 billion euros, the government was to privatise energy and transport holdings by 2012, of which some have been making big losses, due in part to cronyism. The sell-off was expected to bring in 3.5 billion euros but has yet to take place. The EU, together with the IMF, has been prepared to plug a hole in government revenues amounting at present to around 5 billion euros (6.5 billion dollars) a year.

<sup>9</sup> Oxford Analytica, Romania, 'Romanian justice system reform has powerful opponents', 8 February, 2013.

However, the USL and its domestic economic backers, such as Dan Voiculescu, are increasingly suspicious of foreign investment. In 2013, Romania has undertaken to repay external creditors 5 billion euros, as well as to compensate property owners dispossessed under communism with up to 13 billion euros, according to the European Court of Human Rights. In January 2013, Victor Ponta began to water down the economic nationalism that dominated his discourse in 2012. A moratorium on exploration for shale gas is expected to be lifted while a Canadian company, Gabriel Resources, is hopeful that it may get the go-ahead to mine for gold in the Roşia Montana area, one which has a significant historical heritage since it provided the largest source of gold to the Roman Empire.

In late November 2012, the EU delivered stinging criticism of Romania's inability to access EU funds.<sup>10</sup> Romania has taken up little more than 12% of the 19.6 billion euros in EU Structural and Cohesion funds it was eligible to receive in the 2007-13 budget cycle. In autumn 2012, the government suspended EU programmes meant to modernise infrastructure and Romania permanently lost funding amounting to 200 million euros for its inability to submit viable projects in time. This failure to take advantage of EU money obviously slows down the implementation of measures required under the *acquis communautaire*.

Teams from the International Monetary Fund (IMF) and the European Commission (EC) visited Bucharest during 15-29 January 2013 to conduct discussions on the 7<sup>th</sup> and final review by the IMF and the last review by the EC of Romania's economic program.<sup>11</sup> The Ponta government agreed with the IMF that approval of the final review of the precautionary stand-by agreement would be extended by three months until the end of June. 'This is to allow time for the implementation of structural reforms, including the privatisation of the state-owned rail-freight company CFR Marfa and the launch of initial public offerings (IPOs) in the energy sector. There are no guarantees that the Romanian authorities will find a suitable private buyer for CFR Marfa in the agreed timeframe, especially as a new owner would have to absorb the company's debts to avoid EU state-aid procedures. There are also differences of opinion between the IMF and the government over privatisation in the energy sector. If the IMF board does not approve the programme in June, because of failure by the government to meet the requirements, the arrangement will lapse. The government intends to negotiate a new agreement when the current one expires, but if relations with the IMF were to break down over the existing arrangement, negotiating a new one would prove difficult.'<sup>12</sup>

Under the EU budget for 2014-2020, agreed in Brussels on 8 February 2013 and capped at €960 billion, Romania is set to receive €21.8bn, some €2bn more than it received in the period 2007-2013. Romania will also receive €17.5bn in funds for agriculture in 2014-2020 under the common agricultural policy, up from €13.8bn in 2007-2013. President Basescu claimed that the negotiations were a success because Romania's allocation increased by 18% at a time when the overall budget fell by 3.5%, while Prime Minister Ponta disagreed 'since Romania lost €9bn compared with the allocation of €48bn mooted last autumn.'

<sup>10</sup> Oxford Analytica, Romania, 'Delayed structural reform drags on economy', 26 November, 2012.

<sup>11</sup> 'Statement by the IMF and the EC on the Review of Romania's Economic Program'. Press Release No. 13/25 January 29, 2013 ([www.imf.org/external/country/rou/index.htm](http://www.imf.org/external/country/rou/index.htm)).

<sup>12</sup> Romania Country Report, February 2013, Economist Intelligence Unit, p. 3.

Both declined to dwell on the fact that Romania has absorbed only 12% of the total structural funding available to it under the 2007-13 budget.<sup>13</sup>

The enlargement of the EU to encompass Romania posed new security challenges for the EU since it gave it a significantly longer border to police in the East. Romania's accession created a new EU border of more than 2,000 km (with the Ukraine, the Republic of Moldova, and Serbia) for which Romania has responsibility. Romania, with the assistance of customs and police agencies in several EU member states, and in the United States, has instituted tight border controls to combat drug and arms smuggling, and people trafficking. Romanian hackers fleeced Americans of \$25 million last year through credit card fraud and throughout Europe and the US 500,000 credit cards are alleged to have been fraudulently used by Romanians in recent years.<sup>14</sup> The FBI is advising a Romanian police unit, made up of 200 officers, to investigate such fraud and 200 arrests were made in 2011 according to the Romanian Bureau for Combatting Organizing Crime and Terrorism DIIDCOT ( *Direcția de Investigare a Infracțiunilor de Criminalitate Organizată și Terorism*).

Romania — and Bulgaria — have, as yet, failed to gain entry to the Schengen area. Some EU members are clearly opposed to the latest enlargement of the 25 member zone, which allows people to travel freely without border controls throughout most of the EU. Once they join, Romania and Bulgaria would become Schengen frontier states, responsible for controlling part of the zone's interface with the rest of the world. For most Romanians, accession to the Schengen area has been seen as just as important as EU integration, hence the extremely strident reaction in January 2011 to the delay in granting membership. Western EU member states' main concerns include: the safety of the EU's external frontiers; corruption in both countries, including at the borders; the judicial system.

The justice and internal ministers from all EU countries met on 7 March 2013 in Brussels to discuss, among other things, Bulgaria and Romania's possible accession to the Schengen zone. Resistance from several Western and Northern European countries previously delayed a vote on the matter, and in light of Bulgaria's political paralysis and upcoming elections in Germany, the European Union has delayed the decision once again.

A major consequence of EU membership has been a tremendous upsurge in labour mobility, with more than 2 million Romanians estimated to have been working at one point in Spain and Italy, although the global economic downturn has seen more than 500,000 of these workers returning to Romania in 2008 and 2009. Remittances to Romania from these workers represent a significant proportion of Romania's foreign currency earnings. The value for Workers' remittances and compensation of employees, paid (current US\$) in Romania was \$355,000,000 as of 2010. Other benefits of EU enlargement for Romania have been an increase in the competitiveness of domestic products under pressure from the single market, a higher level of consumer protection, and greater responsibility towards the environment.

At the beginning of 2008 Romania's economy was still growing by an impressive 8% a year. However, that growth slowed to 7.2% in 2009 and there

<sup>13</sup> *Ibid.*, p. 28.

<sup>14</sup> The centre of hackers is Râmnicu-Vâlcea.

was a fall in GDP of 1.9% in 2010. After two years of negative readings and a cumulated GDP contraction of more than 8%, growth resumed in 2011 with the economy growing slightly above potential by 2.5%. Growth was mainly driven by an increase in industrial output and an exceptional agricultural harvest. For 2013, Romanian GDP growth is estimated by the Economist Intelligence Unit to accelerate to 3.8% as domestic demand recovers.<sup>15</sup> Romania, like every country, values stability in the economy and especially in energy prices. Increased capacity to generate electricity is needed. Romania can only become competitive economically if it invests in education, otherwise there will continue to be a major brain drain. Two-thirds of Romania's farms are between one and two hectares, and provide mainly subsistence farming for their owners. One assessment argues that Romania will have to reduce labour in agriculture by 80% to make more farms profitable. Movement away from the land has already generated a major demographic shift throughout South-Eastern Europe as many young people have left the village for the capital.

Romania's current demographic trends have generated serious long-term economic and political challenges. The population has been in decline since the fall of communism. The World Bank estimates that between 1990 and 2010 the population of Romania declined by 7.6% from 23.21 million to 21.45 million, largely as a result of emigration of the young to the West, and that this decline will continue. This dynamic threatens to seriously undermine long-term economic growth, and poses face major challenges in the funding of pensions and healthcare as this declining population will leave an ever smaller workforce.

One anonymous observer of Romania had this to say of Romania in 1990: 'Political life in Romania is again being vitiated by malevolence, calumny, fantastic rumour, paranoia, and irresponsibility. Things are indeed getting back to normal.' Much of this is still true today. Yet these criticisms should not blind us to the achievements of the last two decades. However, it is only by respecting the rule of law that a country be accepted as an equal partner in the grand European project. In this regard the words of Edmund Burke on the equality of restraint come to mind:

The liberty I mean is social freedom. It is that state of things in which liberty is secured by the equality of restraint. A constitution of things in which the liberty of no one man, and no body of men, and no number of men, can find means to trespass on the liberty of any person, or any description of persons, in the society.

This kind of liberty is, indeed, but another name for justice; ascertained by wise laws, and secured by well-constructed institutions. I am sure that liberty, so incorporated, and in a manner identified with justice, must be infinitely dear to everyone who is capable of conceiving what it is.<sup>16</sup>

This 'equality of restraint' which we may also equate with the limitation of the exercise of power, is a premise of good government. Without it, the USL government's relations with the EU will prove acrimonious.<sup>17</sup>

<sup>15</sup> Romania Country Report, February 2013, Economist Intelligence Unit, p. 9.

<sup>16</sup> 'Letter to Charles-Jean-François Depont November 1789' in Edmund Burke, *Further Reflections on the French Revolution* [1790], consulted at <http://oll.libertyfund.org>. I am grateful to Horia-Roman Patapievic for reminding me of Burke's letter.

<sup>17</sup> Justice Oliver Wendell Holmes Jr. (1841-1935), is considered to be one of the first advocates of the philosophy of 'judicial restraint' in the sense of the limit of the exercise of power.