

# Scratching the Surface: Romania's Fight Against Corruption

Andrew MacDowall | Monday, Oct. 12, 2015

Barely noticed by a world preoccupied with crises ranging from migrants and refugees in Europe and fighting in Ukraine, to civil war in Syria and stock-market plunges in China, Romania **put its prime minister on trial for**

**corruption** (<http://www.dw.com/en/trial-begins-for-romanian-pm-ponta-charged-with-corruption/a-18727391>) on Sept. 21. Victor Ponta, who stubbornly remains in office and denies all charges, stands accused of a range of activities largely committed before his tenure as premier, when he was working as a lawyer.

That the sitting head of government could be indicted and stand trial for corruption is **widely seen as testament** (<http://www.dw.com/en/trial-begins-for-romanian-pm-ponta-charged-with-corruption/a-18727391>) to the remarkable strength of Romania's National Anti-corruption Directorate—the Directia Nationala Anticoruptie, or DNA—an independent agency that has investigated thousands of high-level corruption cases, bringing charges against some of the country's most powerful politicians.

In a country long seen as a haven for corruption and organized crime in Europe, with generally weak independent public institutions, the DNA's success is striking. But while the agency has been remarkably bold in challenging the political elite, corruption in Romania is pervasive and will take longer to uproot. In fact, some see the lengthening list of indictments as a sign that the political and business class will never learn. More worrying is that systemic corruption continues to affect Romanians' everyday lives and interactions with a widely mistrusted state.

Figures certainly suggest that the DNA's impact is being felt in Romanian politics. In 2014 alone, it investigated 9,111 cases, sending 1,167 to trial, with 1,138 final sentences handed down on the cases it had opened, leading to the confiscation of assets valued at 319 million Romanian leu, or \$80.5



*Romanian Prime Minister Victor Ponta gestures during a special parliament session, Bucharest, Romania, Sept. 29, 2015, before facing a no-confidence vote (AP photo by Octav Ganea).*

million.

The indictment of a sitting prime minister is unprecedented in Romania and rare worldwide. Pending the outcome of Ponta's case, the DNA's biggest scalp thus far has been that of Adrian Nastase, a former prime minister and member of Ponta's Social Democratic Party (PSD), who was defeated by former President Traian Basescu in the 2004 presidential election. In 2012, following a three-year trial, Nastase, a mentor of Ponta's, was [sentenced to two years in prison](http://edition.cnn.com/2012/01/30/world/europe/romania-politician-convicted/) (http://edition.cnn.com/2012/01/30/world/europe/romania-politician-convicted/) for illegally raising campaign donations. He [received a further four-year sentence](http://uk.reuters.com/article/2014/01/06/uk-romania-corruption-idUKBREA050R320140106) (http://uk.reuters.com/article/2014/01/06/uk-romania-corruption-idUKBREA050R320140106) in 2014 for taking bribes.

While Nastase's indictment and subsequent convictions were indeed landmark events, the DNA really gained momentum after the start of his trial. Peter H. Frank, a Bucharest-based consultant and writer, [cites in a report](http://www.peterhfrank.com/political-corruption-in-romania-the-dna-database/) (http://www.peterhfrank.com/political-corruption-in-romania-the-dna-database/) CO-authored with Roxana-Maria Gaina several potential reasons why: more manpower, growing expertise, a 2010 provision that grants leniency to those who confess and collaborate, and rising morale in the organization as investigators see that their work is bearing fruit in convictions and sentences.

In the past year, then-Finance Minister [Darius Valcov](http://www.reuters.com/article/2015/03/25/us-romania-corruption-minister-idUSKBN0ML14F20150325) (http://www.reuters.com/article/2015/03/25/us-romania-corruption-minister-idUSKBN0ML14F20150325) and Bucharest Mayor [Sorin Oprescu](http://www.bbc.com/news/world-europe-34168892) (http://www.bbc.com/news/world-europe-34168892) have been arrested on corruption charges. Valcov is accused of illegally running businesses while serving as a minister and taking kickbacks; prosecutors [found gold and a Renoir painting](http://www.reuters.com/article/2015/03/24/us-romania-corruption-idUSKBN0MK16220150324) (http://www.reuters.com/article/2015/03/24/us-romania-corruption-idUSKBN0MK16220150324) in his safe.

The DNA indicted Ponta on charges of money laundering, tax evasion, conflict of interest and making false statements. Most of the allegations date back to 2007-2008, when Ponta was already a member of parliament and a practicing lawyer, but was not prime minister—so his current immunity does not apply.

Ponta is alleged to have forged expense claims totalling at least 181,000 leu, or \$45,650, while working for a law firm headed by his friend and political ally Dan Sova. Ponta purportedly used the fraudulently obtained money to buy two luxury apartments and a car, which he [reportedly sold in May](http://www.theguardian.com/world/2015/jul/13/romania-prime-minister-victor-ponta-questioned-corruption-inquiry) (http://www.theguardian.com/world/2015/jul/13/romania-prime-minister-victor-ponta-questioned-corruption-inquiry).

Sova went on to take three ministerial posts in Ponta's government, which came to power in May 2012—hence the alleged conflict of interest. But parliament, dominated by the ruling coalition headed by the PSD, has refused to lift his immunity from prosecution on this charge.

The incremental process that brought the case to court—Ponta himself was not required to attend preliminary sessions—started on June 5, when the DNA identified the prime minister as a suspect and questioned him. Ponta stood down from the party's leadership in July following his indictment that month, but has remained premier, despite calls from President Klaus Iohannis for him to step down. Iohannis is a political opponent associated with the ostensibly liberal opposition. His victory over Ponta in November's presidential election came as a surprise to most observers.

True to form for most of those accused of corruption across Eastern Europe, Ponta and his supporters have argued that the allegations are a politically motivated witch hunt. In a Facebook post on Sept. 17, Ponta lashed out against “the obsession of a totally unprofessional prosecutor to assert himself in his career by inventing and imagining untrue deeds and situations from 10 years ago,” without naming a specific individual.

Indeed, the DNA has been accused of political bias for some years. The organization was reinvigorated from post-communist torpor by Monica Macovei, Romania's justice minister from 2004 to 2007. Macovei was seen as an ally of then-President Basescu, who was elected on an anti-corruption ticket but was accused of overseeing a one-sided campaign against PSD politicians. Many Romanians, particularly those of a more liberal bent, hold Macovei in high regard, but she was regularly criticised by the PSD when it was in the political opposition.

In 2006, she **appointed Laura Codruta Kovesi** ([http://www.nytimes.com/2014/11/15/world/europe/romania-prosecutor-laura-codruta-kovesi.html?\\_r=0](http://www.nytimes.com/2014/11/15/world/europe/romania-prosecutor-laura-codruta-kovesi.html?_r=0)) as prosecutor general. Kovesi went on to be named head of the DNA in 2013 and has led it during its ongoing emergence as one of Europe's most proactive—and arguably successful—anti-corruption bodies. Pro-PSD media have characterized Kovesi as a “Stalinist.” Liberals retort that the PSD, an ex-communist party that retained a grip on power for much of the 1990s, is simply more corrupt.

Neither accusation is entirely correct. Analyzing DNA press releases from its founding in 2002 to late November 2014, Frank and Gaina showed that, of the people with a clear political affiliation who were accused, indicted, arrested or convicted of corruption, **only 35 percent were from the PSD** (<http://www.peterhfrank.com/political-corruption-in-romania-the-dna-database/>). The two liberal parties, the Democratic Liberal Party (PDL) and the National Liberal Party (PNL), accounted for 22 percent and

17 percent, respectively. (Between 2002 and 2014, all three parties had substantial spells in power.) While more top-tier PSD bigwigs have fallen to the anti-corruption agency, it is clear that the liberals are not immune. And focusing only on national politicians may give a skewed view: In Romania, regional politicians are of great importance in patronage and “vote-harvesting.”

The arrest of Basescu’s brother in June 2014, when Basescu was still president, for **allegedly taking a bribe** (<http://www.bbc.com/news/world-europe-28023063>) from a man accused of murder has been cited as evidence that Romania’s anti-corruption crusade is not a one-sided purge inspired by the head of state. And in February 2015, Elena Udrea, a protégé of Basescu and his chosen successor, was **arrested on charges of laundering money** (<http://www.economist.com/news/europe/21644209-romania-anti-corruption-agency-makes-welcome-waves-cleaning-up>) that her ex-husband, a wealthy businessman, made selling software to the government for inflated prices.

Needless to say, the DNA asserts its own complete political neutrality and refuses to cite the party affiliation of those it investigates and indicts. But even its supporters are adamant that it remain even-handed, saying that if the organization oversteps its mandate or treats those accused unfairly, it will erode political and social support and embolden the many critics who would like to see it hamstrung.

Even if one accepts its neutrality, the DNA presents another puzzle. Just how did a country with one of the most difficult—and corrupt—post-communist transitions create a steely anti-corruption body? Its advocates say that, first and foremost, its strength lies in its leadership, particularly Macovei and Kovesi. Laura Stefan, a former aide of Macovei and regarded as instrumental in the DNA’s successful emergence, says that, while there is no “magic formula,” Romania drew from effective models from other countries, notably Spain. Other advantages include the DNA’s exclusive focus on high-level corruption: If the agency were tasked with addressing every claim of petty bribery, Stefan adds, it would be a very different organization. The organization’s operational independence from Romania’s imperfect judiciary also helps. And the scrutiny that accompanied Romania’s accession in the mid-2000s to the European Union and NATO, which some post-communist countries spurned, provided anti-corruption forces with a window of opportunity to build institutional strength.

But how does the DNA have the political space to operate, in a system apparently racked by corruption across the political spectrum? Both critics and admirers hint that the DNA leverages some of the residual power of the Securitate, the much-feared communist secret police that held a tight grip on Romania under the megalomaniac and paranoid dictator Nicolae Ceausescu. Though

the Securitate was reorganized and split into new divisions after Ceausescu's fall, his replacement by members of his own party after the 1989 revolution, and the Romanian experience since then, have convinced some Romanians that the state apparatus, and many of its leaders, have not changed—regardless of the party in power. Basescu, while opposed to the ex-communist PSD, was himself once a communist.

While an association with nefarious ex-Securitate networks might generally be considered beyond the pale, many in Romania appear willing to suppress their misgivings and suspicions that the DNA operates outside the democratically elected government's control if the result is the dogged pursuit of corruption by an organization that has the muscle to tackle it.

Stefan, now with [the Expert Forum](http://expertforum.ro/en/) (<http://expertforum.ro/en/>), a Bucharest-based think tank, says that the DNA has been working more closely with Romania's intelligence services in recent years, but that such cooperation is part of a normal relationship between stakeholders. This is a view shared by Iuliana Cospanaru, the deputy director of the Romania office of Transparency International, an anti-corruption watchdog, who wrote in an email interview that there was “no evidence to support” claims of a link between the DNA and the former Securitate.

“It is true that the DNA cooperates with the Romanian Information Service when prosecuting a case, but that does not mean it has any concrete links with the former Securitate network,” Cospanaru says. “The relationship between the two is within the parameters of a normal institutional relationship.”

She points out that the DNA operates within the context of the EU's Cooperation and Verification Mechanism (CVM), which was set up during Romania's EU accession in 2007 to encourage the country to address shortcomings in judicial reform and the fight against corruption. One of the CVM's main aims is to promote “strong and durable institutions.” Some say the need for such a mechanism is a sign that Romania was let into the union too soon. Nevertheless, Romania has made notably more progress in establishing a truly independent anti-corruption body than Bulgaria, which is also subject to a CVM.

The DNA may be strong at the moment, but is it durable? Iohannis' victory in the November 2014 presidential election certainly bought the outfit political space. Popular perceptions of Iohannis as a “clean” politician helped win him the election, and since taking office he has robustly backed the DNA, over which he has considerable power. Many Romanians had feared that a Ponta victory would lead to PSD dominance over the offices of state and further the erosion of independent

institutions that followed the party's accession to power in 2012.

According to Transparency International, the DNA retains the trust of 55 percent of the population —by no means an overwhelming majority, but more significant than that enjoyed by most other institutions, among a population that has learned to be cynical from its recent history.

“The general perception is that there is a sustained effort to clean up Romania of any corrupt practices,” says Catalina Rousseau, a Bucharest-based government relations adviser, adding that the current PSD-led government is seen to have little chance of survival due to its past association with corruption.

“Romania is in full transformation toward a society governed by law, cleaned of any corrupt practices or influence-peddling, which means a strong positive signal for foreign investors in terms of openness to investment opportunities, business growth and a healthy economic climate,” Rousseau says.

This sort of optimism is far from universal. Stefan warns that independent institutions including the DNA continue to come under pressure from politicians and media linked to certain political interests. There is a risk, she says, that the political elite will decide that the organization is inimical to their interests and move to neuter it. Claims of Securitate links and a lack of democratic accountability are no help.

Ponta's government has a track record of clipping the wings of independent institutions, including the Constitutional Court and parliamentary ombudsman, in what it says were efforts to root out factions undermining a democratically elected government. Parliament continues to block some DNA trials by refusing to lift parliamentary immunity, as with Ponta's conflict of interest case.

But Transparency International's Cospanaru argues that the DNA's track record and public support should make it unassailable.

“To try to limit or impede the DNA at this time and in this context would be a very grave political mistake, and it is very unlikely that anyone would be willing to do it,” she says.

This is just as well, as there is a long way to go. While the agency has proved adept at addressing the symptoms of endemic corruption, it has not been able to tackle the root causes.



“After 10 years of hard anti-corruption fights, we still have an enormous number of politicians being investigated or sentenced for corruption,” says Dan Tapalaga, a Romanian political commentator. “Even though they know there is a big chance to be sent to jail, they simply cannot stay away from bribery and other corrupt practices.”

Stefan says that Romania needs to be honest about its corruption problem and address whether its entire political system is built on bribery and graft. She and Tapalaga point out that many politicians live well beyond the means available to them on a parliamentary or municipal salary.

“Public procurement procedures, especially at local level, remain exposed to corruption and conflicts of interests—a fact widely acknowledged by Romanian integrity and law enforcement authorities,” the European Commission wrote in a [January 2015 progress report](http://ec.europa.eu/cvm/docs/com_2015_35_en.pdf) ([http://ec.europa.eu/cvm/docs/com\\_2015\\_35\\_en.pdf](http://ec.europa.eu/cvm/docs/com_2015_35_en.pdf)) on Romania’s CVM. “This has had consequences for the absorption of EU funds.”

Stefan says that the allocation of public contracts is used as a means of funding party and individual campaigns directly, without going through regulated channels. The allocation of funding from the central government to local governments, which is used to benefit political allies, also feeds into this problem.

“If you allocate money from central to local government [to political allies], without competition and clear priorities, you shouldn’t be surprised if the local government also allocates these funds [to its political allies],” she says. “This goes beyond the DNA, and these are issues that politicians could sit down and discuss if they weren’t playing victim.”

Cospanaru identifies problems in public procurement, particularly the implementation of large infrastructure projects. She says that costs sometime rise up to five times that of international norms, either due to initial contracts awarded at inflated prices or contractors raising their demands during implementation. The on-again, off-again construction of the Autostrada Transilvania, a strategically important highway that would link Bucharest with the Hungarian border, is often cited as an example. The \$2.5 billion contract was awarded to U.S. company Bechtel in 2004, but was finally [scrapped in 2013](http://www.balkaninsight.com/en/article/romania-cancels-contract-with-bechtel) (<http://www.balkaninsight.com/en/article/romania-cancels-contract-with-bechtel>) with just 32 miles of a projected 255 miles completed.

Cospanaru suggests that all contracting authorities adopt “integrity pacts” and bonuses for contractors that have adopted ethical and integrity principles. A law that would blacklist bidders

that have breached contracts elsewhere is already under discussion.

On the private-sector side, she suggests that companies should improve transparency and reporting on anti-corruption practices, including publishing information on transfers to government bodies and local communities, and demand similar anti-bribery practices be implemented by their suppliers and contractors. Introducing curricula on ethics and integrity in the education system, particularly in programs that funnel graduates toward politics and public administration, is another recommendation.

But this will require political will among an elite that is already bristling at its treatment by the DNA, and, more importantly, implementation throughout a public administration and economic system in which bribery and graft are widespread. A common problem in Southeast Europe is that excellent laws exist, but their implementation is patchy. **As the European Commission has underscored** ([http://ec.europa.eu/cvm/docs/com\\_2015\\_35\\_en.pdf](http://ec.europa.eu/cvm/docs/com_2015_35_en.pdf)), Romania's inconsistent, inefficient and sometimes politically compromised judiciary is a stumbling block, though the commission has praised recent judicial reform efforts.

Just as difficult to uproot will be the sort of low-level corruption that ordinary Romanians encounter. A special European Commission Eurobarometer **survey on corruption** ([http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_397\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_397_en.pdf)) from February 2014 revealed that 93 percent of Romanians felt that corruption is widespread in the country, and 57 percent said that they were affected by corruption in their everyday lives. However, only 25 percent said that they had been asked or expected to pay a bribe for services—lending some weight to the argument that perception of corruption is more widespread than corruption itself.

Tapalaga disagrees.

“Corruption is a way of life in Romania,” he explains. “Ordinary people simply cannot live without bribing a doctor, a local councillor or a mayor in order to get an approval to build a house, and so on.”

Cospanaru says that “corruption in Romania is systemic in nature. . . . It has infiltrated nearly all aspects of Romanian society, being present at all levels. Day-to-day life is no exception.” Bribes are particularly common in Romania's cash-strapped public services, where resources are limited and quality often poor. It is common for patients to give medical professionals cash or gifts to receive better care or priority treatment and, in some cases, to procure medicines and materials that are



not provided by the state or are in short supply. In the education system, bribes can help secure better grades or extra tutoring to help pass exams.

The European Commission **stated in January that** ([http://ec.europa.eu/cvm/docs/com\\_2015\\_35\\_en.pdf](http://ec.europa.eu/cvm/docs/com_2015_35_en.pdf)) “in recent years, CVM reports have found it difficult to identify a track record in tackling cases of corruption in society at large.” It praised some of the government’s “concrete” moves, but did not detail them. Rather, it noted that attempts to extend the Interior Ministry’s Anti-Corruption General Directorate (DGA) to other ministries appear to have been blocked and that, in 2014, the number of court decisions on corruption fell, with 80 percent leading to suspended sentences. The report also criticized the lack of effective asset-recovery schemes. Cospanaru argues that better asset recovery would reinforce the perception that anti-corruption is a means of bringing social justice to communities affected, rather than merely a punitive exercise, while also potentially bringing more resources to bear to institutions like the DNA.

While the DNA’s work tackling high-level graft has yet to be replicated at the lower level, Cospanaru argues that it is having a significant effect on the nation’s perception of a deep-rooted social and economic problem.

“The recent rush of high-profile corruption cases being investigated has had a positive effect on people’s mentality, increasing their intolerance toward corruption and the corrupt,” she says. “Slowly but surely, corruption has begun to cease being considered socially accepted, and more and more people feel encouraged and empowered to stand up to corruption.”

The word “mentality” comes up often in discussions of corruption in Romania—and elsewhere in the region. Romanians acknowledge that tackling corruption, as well as many other social and economic issues, is not only about building institutions and passing laws, but also about changing the mentality that accepts corruption as a given.

It is worth remembering that the DNA took some years to build momentum, and that its own work is far from complete and still hotly contested. Romania’s post-communist transition has been difficult and remains far from complete. Furthermore, countries that do not share Romania’s traumatic postwar history also struggle with corruption, both in Central and Eastern Europe and beyond, including EU founder states such as Italy.

“It’s not reasonable to expect spectacular changes after a few years,” says Tapalaga. “We need a whole generation to pass away and another one to be raised in an anti-corruption culture to get a

sustainable change in Romanian society. We have to continue, at the same speed, what we started 10 years ago. If not, everything was a waste of time.”

*Andrew MacDowall is a Belgrade-based correspondent and analyst focusing on Central and Eastern Europe. He has lived and worked in the region since 2006 and has written for publications including the Financial Times, Guardian, Politico Europe, Business New Europe and CS Monitor.*