

# Is Romania at risk of backsliding over corruption and the rule of law?



*When Romania joined the European Union in 2007, a ‘Cooperation and Verification Mechanism’ was established to assess the country’s progress in implementing judicial reforms and anti-corruption measures. However, the latest report published on 15 November raised concerns over potential backsliding, particularly in the area of judicial independence. [Corina Lacatus](#) assesses how Romania can respond to the concerns raised in the report and what they mean for the overall effectiveness of the Cooperation and Verification Mechanism.*



Romanian Parliament building, Credit: josef.stuefer (CC-BY-SA-3.0)

On 15 November, the European Commission published its annual progress report for Romania as part of the [Cooperation and Verification Mechanism](#) (CVM). Published once or twice every year since Romania and Bulgaria’s accession to the EU in 2007, the reports assess the performance of the two countries in the areas of corruption control, rule of law, and, for Bulgaria alone, also organised crime. Although a number of old and new member states experience problems with corruption, the EU became particularly concerned about the persistence of severe problems with corruption and the rule of law in Romania and Bulgaria and sought to preserve some post-accession influence through the implementation of the Cooperation and Verification Mechanism.

For the first time since its accession, the November 2017 report presented a bleak view of the situation in Romania. It expressed concern with the overall lack of progress registered since the start of the year and cited a high risk of there being a reversal of prior progress. The independence of the justice system and obstruction of progress on anticorruption policies are the areas of most concern. The report echoed concerns expressed in October 2017 by [66 civil society organisations](#) about the Romanian government’s plan to amend laws that secure the independence of the justice system, regulating the statute of judges and prosecutors, the structure of the judiciary, and the Superior Council of Magistracy (Laws [303/2004](#); [304/2004](#); and [317/2004](#)).

These amendments seek to give the Ministry of Justice authority to oversee all branches of the national judiciary. Currently, the Parliament is debating the amendments of the law regarding the status of magistrates. Given the importance that the EU attached to these laws prior to Romania's accession in 2007, it is no surprise that the CVM reports view the amendments proposed by the current coalition government as reversing the course of progress in the fight against corruption and a possible breach of the commitment that Romania made prior to its accession to safeguard the justice system from political intervention. During a night-time meeting on 22 November, a special legal commission voted in favour of an amendment to Article 9 of Law 303/2004, deciding that judges and prosecutors are required to refrain from making any public statement or taking any public action that denounces any members of the legislative or executive branches.

The amendments are particularly significant given that the fight against high-level corruption has targeted corruption cases involving members of the governing Social Democratic Party (PSD), which has the largest share of seats in Parliament. Laura Kovesi, the chief of the National Anticorruption Directorate (DNA), has highlighted the subordination of all prosecutors to executive power as a move to obstruct efforts to combat corruption. In a recent [interview](#), she noted that since 2013, "the DNA has sent to trial 68 high officials, one prime minister, two deputy prime ministers, 11 ministers and former ministers, 39 deputies and 14 senators. In the same period, the courts have ruled final conviction decisions against 27 of these high officials, one prime minister, five ministers, 17 deputies and four senators. The most important condition in order to obtain these results was the independence of the judiciary."

The most recent CVM assessment stands in stark contrast to the conclusions of the CVM report published in January 2017, when the Commission found that reforms appeared stable and were likely to be irreversible. In earlier reports, an important factor explaining the momentum of anticorruption reforms in Romania was the government's commitment to consolidating preventive measures to curb corruption. In 2016, the government, which was then led by Dacian Cioloș, a former member of the European Commission, had initiated a discussion about a measured and step-by-step approach to ending CVM monitoring in Romania in the near future. In January 2017, the Commission published 12 recommendations for Romania to be fully in compliance with the CVM. However, in the November report, the Commission cited the negative impact that the actions of the current coalition government, which came to power in elections at the end of 2016, has had on reform, in particular with regard to the independence of the justice system. Such open concerns about Romania are reminiscent of the language used to describe the country prior to its EU accession.

Prior to 2017, the CVM reports indicated that both Romania and Bulgaria were generally performing well and showing visible improvement in the fight against corruption. The reports have had an impact by empowering parties which run their electoral campaigns on an anti-corruption agenda or by supporting institution-building. Over time, institutions such as the National Anticorruption Directorate have also become more effective in carrying out their activities, primarily by curbing high-level corruption.

But this narrative of progress has been disrupted by the developments of the past year in Romania and the recent picture might raise concerns about the ability of the Cooperation and Verification Mechanism to facilitate real change on the ground. Certainly, a large number of observers and analysts would agree with this perspective. Previous studies have noted the lack of enforcement powers associated with the CVM, or have highlighted the role that systemic corruption plays in limiting the implementation of anti-corruption measures. While the EU may have helped to improve the formal judicial picture, it has been largely unsuccessful in affecting change in rule implementations and how the judiciary actually functions.

The CVM has played a key role in empowering civil society actors and in limiting the ability of politicians to openly obstruct anticorruption efforts or dismantle earlier institutional achievements. As the events of 2017 confirm, however, the robustness of existing institutions has been fragile and remains under threat from obstruction by parliamentarians from across the political spectrum. Although successive Presidents – Traian Basescu (2007-2014) and Klaus Iohannis (from 2014) – have explicitly focused on the fight against corruption, Romania's recent governments have not built their election campaigns primarily on an anticorruption platform. It is important to emphasise that the creation of stronger institutions and legislative infrastructure following the recommendations in the CVM reports is only one step, and this will not necessarily lead to actual improvements in corruption control. Rather, these reforms create favourable conditions for improvement.

Regardless of the nature of EU-level monitoring mechanisms, changes on the ground can only occur if there is strong domestic initiative. To that end, it is essential to ensure coordinated support from government and parliament, to maintain support for and continued trust in anticorruption institutions and their independence, and to continue to support a healthy civil society composed of organisations specialised in supporting efforts to combat corruption and strengthen the rule of law and democracy.

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*Note: This article gives the views of the author, not the position of EUROPP – European Politics and Policy or the London School of Economics.*

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