



Nations in Transit 2006

Romania

Nations in Transit Ratings and Averaged Scores

	1997	1998	1999	2001	2002	2003	2004	2005	2006
Electoral Process	3.25	3.25	2.75	3.00	3.00	2.75	2.75	2.75	2.75
Civil Society	3.75	3.75	3.00	3.00	3.00	2.75	2.50	2.25	2.25
Independent Media	4.25	4.00	3.50	3.50	3.50	3.75	3.75	4.00	4.00
Governance*	4.25	4.00	3.50	3.75	3.75	3.75	3.75	n/a	n/a
National Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3.50	3.50
Local Democratic Governance	n/a	n/a	n/a	n/a	n/a	n/a	n/a	3.00	3.00
Judicial Framework and Independence	4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.00	4.00
Corruption	n/a	n/a	4.25	4.50	4.75	4.50	4.50	4.25	4.25
Democracy Score	3.95	3.85	3.54	3.67	3.71	3.63	3.58	3.39	3.39

**Starting with the 2005 edition, Freedom House introduced separate analysis and ratings for national democratic governance and local democratic governance to provide readers with more detailed and nuanced analysis of these two important subjects.*

NOTE: The ratings reflect the consensus of Freedom House, its academic advisers, and the author of this report. The opinions expressed in this report are those of the author. The ratings are based on a scale of 1 to 7, with 1 representing the highest level of democratic progress and 7 the lowest. The Democracy Score is an average of ratings for the categories tracked in a given year.

EXECUTIVE SUMMARY

Romania has had one of the most disputed political transitions and costliest economic transformations in Eastern Europe since the fall of Nicolae Ceausescu in 1989. Dominated by successive Communist parties during most of the time since then, the country has struggled in vain to return to 1989-1990 standards of living. This target was reached only recently, despite economic growth resuming since 2000; still, the average monthly income of Romanians remains under US\$200 per capita, the lowest among former Communist countries that have joined or are candidates to join the European Union (EU). Romania's transition was far from nearing successful completion by 1997, when the European Commission formally acknowledged that the country was meeting the Copenhagen political criteria for EU accession. By 1999, when the Commission invited Romania to join the EU, Romania was struggling with structural reforms that Central European countries had already implemented in the early nineties.

The enticement of EU accession bore fruit and the country has been making reform progress, although its inflation remains the highest in the region. However, Romanian post-Communists and anti-Communists alike have been unable to solve Romania's subsistence farming problem. Romania has the highest percentage of peasants in the region (34 percent of the working population is employed in agriculture, nearly double that of Poland) who live for the most part below the poverty threshold. The existence of poor rural areas, controlled by local predatory elites who are in command of scarce resources, is the most serious problem of the Romanian democracy, as elections in such areas can be neither free nor fair. However, a self-assertive urban population, has succeeded in pushing for pro-European reforms throughout a slow and painful transition. This urban populace supports the Truth and Justice Alliance (made of National Liberal Party and Democratic Party), which began governing at the end of 2004, along with two smaller coalition partners: the Hungarian Democratic Alliance (DAHR) and the Conservative Party (CP, formerly the Romanian Humanist Party). The main opposition party is the Social Democratic Party (SDP), which governed Romania under different names for most of the country's transition period, the last time between 2000 and 2004.

In April 2005, Romania signed the Treaty of Accession to the European Union (EU), with a target date for membership in 2007. This proved that the country had succeeded to stay on track toward EU accession, even with the much-disputed elections in the winter of 2004, a subsequent change of government, and a weak parliamentary majority. Despite frequent deadlocks in the parliament through 2005, momentum toward the EU continued. European Commission acknowledged in its yearly report published in November 2005 that Romania had made progress in justice reform and competition policy, two areas that previously had been noted as potential reasons to delay EU entry. As opposed to merely passing new legislation, in 2005 Romanian authorities placed more focus on implementation. The new government also stepped away from the policy of controlling the media through economic pressure and incentives, and released its grip on the judiciary, which is now de facto independent.

National Democratic Governance. Concerned with early elections (which were finally not held) and European accession, the new government did not improve in any substantial way the central administrative apparatus it had inherited. Policy capacity remains low and the consultation process uneven across ministries and agencies. Governing through emergency ordinances continued, as the current parliament lacks a clear majority and is frequently deadlocked. *As no significant progress occurred, Romania's national democratic governance stagnates at 3.50.*

Electoral Process. Despite the manifest political will of President Traian Basescu to organize new elections in order to give the governing coalition a larger majority, the opposition political parties prevented early elections in 2005. All parties remained well within constitutional limits during this dispute. However, the Parliament managed to block an investigation into last year's allegations of electoral fraud, and the promised improvement of electoral legislation did not occur. *Romania's electoral process score remains at 2.75 due to failure to improve electoral legislation and clear allegations of electoral fraud from the 2004 elections.*

Civil Society. Romania's civil society remained diverse and influential in 2005, leaving its imprint on various laws and policies, from the regulation of state advertising in the media to new procurement legislation. Social NGOs succeeded in raising more money from private sources in

2005, and several NGOs featured prominently in the press. *Romania's civil society rating remains at 2.25.*

Independent Media. Romania's media were relieved of considerable political pressure on editors in 2005 due to the change of government. Press coverage of politics was far more balanced than it was a year ago. Various dignitaries had to resign under public pressure, showing how influential the media have become. Despite these positive developments, worries about corruption in the media and non-transparent ownership persisted *Romania's independent media rating remains at 4.00.*

Local Democratic Governance. Despite much discussion about decentralization, not much progress in implementing administrative reform took place in 2005. From January 2006, Romania's prefects can no longer be politically partisan; this dilemma was not solved by hiring independent prefects, however, but by having politically appointed prefects resign from their political party. Local and county administration remains severely politicized. *Romania's rating for local democratic governance therefore stagnates at 3.00.*

Judicial Framework and Independence. Despite a conservative Constitutional Court ruling to clip the wings of thorough reform, essential legislation to improve the performance of the judiciary was finally passed in June 2005. Pockets of conservative judges linked to political networks of influence do remain within the Superior Council of the Magistracy, which is now the supreme judicial body, as well as within superior courts, but the government has relinquished any leverage on the judiciary. This makes for a more independent justice, although not necessarily a more accountable one. *The judicial framework and independence rating remains at 4.00; however, the government's laudatory decision to reduce influence on the judiciary raises expectations for future improvement in practice.*

Corruption. New anti-corruption legislation was passed in the summer of 2005, after an independent audit criticized the 2001-2004 anticorruption strategy. In addition, the main anticorruption body, the National Anticorruption Prosecutor (NAP), was reorganized into the Anticorruption Department (NAD) within the Office of the Prosecutor General (OPG), in order to enhance its legal capability. It is too early to tell, however, if these measures are helping to tackle grand corruption, which remains Romania's number one problem. A 2005 World Bank survey shows a marked decrease since 2003 in administrative business-related corruption. *Romania's corruption rating remains at 4.25, with results anticipated from the new legislation.*

Outlook for 2006. The year 2006 will bring struggle, as Romania will try to persuade the European Council that the country is ready to join the EU on January 1st 2007, rather than prepare for another year. In a growing skeptical European environment, which still weights the consequences of the 2004 enlargement wave, the two countries face no easy task. The European Commission will issue two monitoring reports, a spring one and an early fall one, while the European national Parliaments have to rush through by December 31 the approval of the EU accession treaties signed in 2004 for the two countries to be ready to join in 2007. The decision on the accession date, 2007 or 2008 is likely to be taken by the European Council in the fall. The target of January 2007 will prove enough to hold together, though in a perpetual state of instability, the fragile governing coalition of Romania.

MAIN REPORT

National Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005	2006
n/a	n/a	n/a	n/a	n/a	n/a	n/a	3.50	3.50

Romania's current Parliament, elected in 2004, has held a thin and tenuous majority for the government, which has been threatened by each individual absence during parliamentary sessions. As most ministers are also members of Parliament (MPs), the government summoned all at each and every important vote in 2005. It also continued to prefer government emergency ordinances as the default option for much of the legislation proposed. This was a frequent practice in previous years as well, but the urgency increased in 2004 as Romania made preparations to sign the European Union accession treaty on April 25, 2005. In the first half of 2005, 114 such emergency ordinances were passed, down from 142 the year before. Laws passed by emergency ordinance need parliamentary approval, but the Parliament can only reject, not modify, them. Like all Central European applicants, Romania had to agree to adopt the European legal *acquis communautaire* in full, essentially making parliamentary debate on EU accession a redundancy.

The coalition government was reshuffled on August 22, 2005, allegedly to speed up Romania's preparations for EU accession, but in fact this was a measure to compensate for the absence of early elections and an effort to purge the government of those figures unpopular with the public and the prime minister. Four ministers—all from Truth and Justice Alliance, in charge of coordinating economic activities, finance, European integration, and health—were dismissed. There were allegations in the media that the finance minister was dismissed for attempting to clean up the chronically corrupt customs service. He was replaced by a former business partner of the prime minister.

Relations and decision making within the governing coalition are regulated by a Governmental Coalition Protocol. In practice, however, political leaders within the coalition often speak without consultation, triggering a state of perpetual crisis. In 2005, the Parliament was idle for many days, debating the issue of early elections. During the fall, MPs spent weeks revising their own regulations, regardless of the significant regulations already accompanying EU accession legislation. The change of regulations was required by the ruling Truth and Justice (TJ) coalition in order to stipulate that the presidents of the two parliamentary chambers can be changed during their mandate if the majority changes. After the 2004 legislative elections, the coalition partners, the Hungarian Democratic Alliance (DAHR) and the Conservative Party (CP), had sided with the former governing Social Democratic Party (SDP), which resulted in the election of two Social Democrats as presidents of the two chambers. However, this did not prevent them from switching to the TJ government a few days later. For most of 2005, the TJ struggled to get rid of the two presidents, arguing that since the DAHR and the CP had joined the coalition, new elections should be held for the two positions. It took the government almost the entire year to amend parliamentary regulations to this effect, only to see the amendments overturned by the Constitutional Court, which ruled in November that the article pertaining to the change of

presidents was unconstitutional. The Court is made up mostly of former ministers and dignitaries appointed by the SDP.

In 2005, allegations were heard from the opposition that President Traian Basescu was placing unlawful pressure on the government. Although the prime minister, not the president, runs the government, the Constitution does not explicitly forbid the president, who is directly elected, to push for a policy agenda. The president has the right to assist in government meetings and chair those he assists. In the second half of the year, it became clear that Basescu was not as influential as presumed by the opposition and that the prime minister was asserting his own will.

President Basescu also made little progress in reforming Romania's secret service, although this lies clearly within his authority. The president's draft bill to turn Romania's many information agencies into a single "community of information" was received with criticism but eventually adopted. However, the proposed package revising the current national security legislation was stopped by the Parliament. Romanian civil society also criticized the package, which was elaborated in secrecy and would have endowed agents with investigative powers that only prosecutors currently enjoy. One reason Basescu pushed for early elections was to get a majority that would pass his secret service reforms. The current majority is highly unlikely to approve either his reforms or the individuals he might nominate as heads of these agencies.

In 2005, Romania had frequent debates on voting systems and discussed introducing single-unit constituencies as a way to improve MP accountability. Currently, voting in both chambers is either secret or not registered per MP, and it is impossible for constituents to know the stands taken by their elected MPs. The TJ Alliance adopted and managed to push through one chamber a civil society-inspired law that provides for greater transparency in parliamentary voting. This law states that individual votes will be recorded whenever the vote is not secret. Still, public discontent with the lack of parliamentary accountability continues to be high.

Policy making and coordination, a chronic weak spot of the Romanian government, saw little improvement in 2005. In January, a law was amended to make it compulsory for all ministries to consult with the Ministry of Justice (and all other ministries concerned) from the beginning of the legislative process. This has resulted in better cooperation among ministries, helped by a decrease in the number of interministerial committees. Problems arise, however, from the lack of a policy planning center to generate strategies across ministries, despite the existence of such (competitive and unprofessional) units within the government.

In Romania, the quality of legislation is poor, and outside help is often brought in from consulting firms or civil society to compensate for the incompetence of professional civil servants, often previous administration hires who were tenured without merit. This outside help, however, is not always professional and makes coordination within government even more complicated. A plethora of EU advisers—each promoting the legal tradition of his or her country rather than a common European model, which is missing in many fields—makes coherence even harder to attain. Proposed legislation continues to be sent to the Parliament without a serious impact study on affordability and implementation capacity. Despite new legislative improvements, there are no notable developments in civil service reform. No serious progress was made to provide incentives for professionally motivated civil servants, and there was no

attempt to create a modern human resources service to replace the current informal hiring and promotion practices with a clear system based on transparent criteria.

Civilian control over the armed forces remains a problem in Romania. There is a high suspicion that former agents of the Securitate, Nicolae Ceausescu's dreaded secret service, are infiltrating the Parliament, the government, the diplomatic body, and even the media. The agency in charge of screening the Securitate files, the Council for the Study of the Former Securitate Files (CNSAS), remains weak. Following the request of the president, the Romanian Service of Information, the Securitate's institutional heir, finally agreed to pass on the Securitate files to the CNSAS. The CNSAS was supposed to review all parliamentary candidates in 2004, but the results had not yet been released by the end of 2005, long after the elections. The kidnapping and subsequent release of three Romanian journalists in Iraq in 2005 is alleged to have helped the secret service win President Basescu's favor, although the media and civil society tend to view it negatively and would have expected a replacement of executive heads after last elections.

Romania was included in the CIA prisons scandal in Europe. The country seems to have been one of the many in Europe where secret CIA planes landed for a few hours at a time, but a European Parliament investigation found no proof that any prison or wrong treatment of prisoners took place on Romanian territory. *The Washington Post*, which alleged that President Basescu had not denied allegations when speaking with one of its journalists, later publicly admitted error and apologized.

Electoral Process

1997	1998	1999	2001	2002	2003	2004	2005	2006
3.25	3.25	2.75	3.00	3.00	2.75	2.75	2.75	2.75

In 2004, the SDP had enjoyed a near monopoly of power. By comparison, 2005 was an unstable year, dominated by the struggle surrounding the issue of early elections. The 2004 elections resulted in a seriously divided Parliament without a clear majority. Only the victory of President Basescu in the second round secured the TJ coalition government, which had a majority of only one seat and no allies. In fact, it immediately lost the presidency of the two parliamentary chambers to SDP leaders Adrian Nastase (Deputies Assembly) and Nicolae Vacaroiu (Senate) owing to a lack of support from the smallish CP. The CP had decided to divide its favors, joining the TJ-led government coalition on the one hand but voting with the opposition for the chamber presidents on the other. The four-party coalition government (TJ Alliance plus two coalition partners) passed without difficulty, and during the summer it even resisted a no-confidence vote, as the opposition feared early elections. But the resulting majority was thin and consensus over major political issues even thinner.

The newly elected president, Traian Basescu (originally from the Democratic Party, a member of the TJ Alliance) pushed unilaterally for early elections but encountered the resistance of Prime Minister Calin Popescu Tariceanu (of the National Liberal Party, the other TJ Alliance member). Polls showed early that the SDP would have fared much worse than in the 2004 elections and that the Liberals were losing popularity in favor of the Democrats, their allies, mostly because of

Basescu's stand as a charismatic president. This led to a silent majority in both camps in favor of the status quo, isolating the president and the Democrats.

Relations between the president and his appointed prime minister deteriorated seriously when the latter refused to organize early elections during summer 2005. This would have been a constitutional nightmare, as no official body has the right to dissolve the Romanian Parliament. There must be two failed attempts to form a government before the president can call for new elections. Practically speaking, this would have meant that Tariceanu would have had to resign twice and then present himself twice in front of the Parliament with a new government in the hope of being rejected by his own people (because the opposition announced they would vote to keep the government). He refused, invoking the devastating floods that damaged large areas of the country during the summer. All parties remained within constitutional limits during this dispute.

Despite discussions on the 2004 election irregularities and multiple voting, the Parliament was unable to start an investigation into allegations of fraud, and the promised improvement of electoral legislation did not occur. The investigation was blocked in one of the committees, not even reaching the plenum. Police pursued isolated complaints, but no prosecutor initiated a criminal investigation, waiting for a green light from the Parliament. During the summer, the government passed as an emergency ordinance a superficially revised electoral legislation package with a view to early elections. The electoral campaign would have been reduced to two weeks had elections been organized in the fall of 2005. Not only did the move for early elections not pass, but the Parliament rejected the ordinance as well when it came time for plenum approval. The year was genuinely lost for electoral reform.

Civil Society

1997	1998	1999	2001	2002	2003	2004	2005	2006
3.75	3.75	3.00	3.00	3.00	2.75	2.50	2.25	2.25

During 2005, Romanian civil society continued a trend of positive development by playing an important role in the country's EU accession and democratization efforts. Romanian NGOs continued to act cohesively as effective advocates for various policy reforms and scored numerous successes. The more notable were in the transparency field, where NGOs brought decisive input to new legislation on procurement and to the regulation of state advertising in the media.

These positive developments were facilitated by the somewhat more cooperative approach of the new government toward civil society actors. Unlike the previous government, which made deliberate efforts to undermine active independent civil society actors, the current government improved the legislative environment governing the functioning of civil society and has started to use more NGOs as a pool of expertise for policy matters. The fact that relatively few NGO activists took government jobs, the opposite of what had happened on the previous occasion when anti-Communists had won elections (1996), also showed the increased maturity of NGOs and the clearer separation between political parties and nonpartisan civil society. By the end of 2005, only one notable civil society leader, Monica Macovei, formerly with the Romanian Helsinki Committee, continued to have a government appointment as minister of justice.

Macovei did not join any political party, however, holding this position as an independent minister.

After coming to power in December 2004, the new government immediately modified two important pieces of legislation regarding civil society. First, it amended the emergency ordinance regarding the registration and functioning of NGOs, easing registration procedures by eliminating government control. The amendments also renounced the unnecessary category of “public utility” NGOs, which had been a means to gain privileged access to public funds. Second, the government passed new legislation on the sponsorship of NGOs that allows private individuals to donate 1–2 percent of their income tax to NGOs. However, these positive legal developments will not significantly improve the financial situation of NGOs; Romania introduced a 16 percent flat income tax in 2005, which at an average monthly wage of about US\$200 and with fewer than 5 million economically active people makes potential contributions rather modest. However, social NGOs succeeded at a civil society “fair” to attract larger sums of corporate sponsorship funding than in the previous year.

Although the government took some visible steps in 2005 to further involve NGOs in the consultative process, these efforts were uneven across ministries and seriously hindered by the disorganization of the policy process in general. Consultations remained rather formal in most cases because of the short-term notice NGOs received; legislation and policy decisions are usually made under such time pressures that it is difficult for civil society to provide relevant or substantive input. Although some ministries (Justice and Home Affairs) and the cabinet of the prime minister improved considerably in terms of their cooperation with civil society, others, like the Ministry of Foreign Affairs, regressed from the previous SDP era. President Basescu seldom sought the advice and cooperation of civil society, so his most important proposals in 2005 did not gain any public support and remained on paper.

Consultations with unions were the poorest from the onset, leading to avoidable strikes in 2005. Teachers and university faculty went on strike for weeks in the fall of 2004. There were also strikes of public transportation workers and civil servants. Most of these were driven by demands for wage increases, but there is some chance they could have been prevented had the unions been made a part of the policy debate. The government failed to get support for reforms in the sensitive social fields of education and health, and consultations were more actively organized only by the end of the year, when it became clear no progress could be made without forging some social consensus.

While improving its relationship with the government on the one hand, Romanian civil society also continued during 2005 to monitor governance quality. New lawsuits on the basis of the Law on Freedom of Information were filed by NGOs to push for more transparency in various ministries. NGOs also continued actively to monitor the asset statements of dignitaries and MPs. The success of civil society proposals was facilitated by a good relationship between civil society and most of the Romanian media, which look forward to the reports of different independent watchdog agencies and often use civil society figures as pundits. The relative increase of media freedom in 2005 also meant that electronic media improved their attitude toward civil society and especially toward those leaders who criticized the government (and had been virtually banned from certain TV networks before the general elections in November 2004).

Overall, Romanian civil society plays an increasingly important role in the public arena, continuing to advocate for essential reforms and to monitor government policies and actions. The

government's attitude toward civil society actors has improved considerably, thus creating the opportunity for NGOs to finally play an appropriate role in the political arena as critical and competent partners rather than merely enemies of government and public institutions. Although most NGOs remain financially dependent on foreign funds, there is a trend of increasing organizational capacity and a diversification of financial sources.

Independent Media

1997	1998	1999	2001	2002	2003	2004	2005	2006
4.25	4.00	3.50	3.50	3.50	3.75	3.75	4.00	4.00

As a result of the change of government, political pressure on the Romanian media was considerably relieved in 2005. Although the media's structural problems did not vanish overnight, news coverage of parties and politicians became more balanced with the diminishment of the SDP and former prime minister Adrian Nastase. However, the situation was not reversed in favor of the new governing parties. Over the course of 2005, coverage of the opposition and the government remained balanced, according to the National Audiovisual Council (NAC), the official media watchdog.¹

Depoliticizing the Romanian media is a challenge; most private electronic media remain openly political, with main channels owned or managed by political figures or their rather transparent intermediates. In fact, one reason the current government includes the CP, formerly an SDP ally and a notoriously unreliable partner, is the strength of TV channel Antena 1, one of the three national networks. Antena 1 belongs to the family of Dan Voiculescu, leader of the tiny CP, which is credited with 1–2 percent of the vote in opinion surveys, well below the electoral threshold of 5 percent. The owners of other channels are hidden behind mailboxes in Switzerland or Cyprus. An appeal from President Basescu following an Open Society Institute report for more transparency in media ownership finally persuaded the NAC to ask TV networks to disclose their owners.

Besides pushing for transparency, the new government took a tougher stand on TV networks' chronic tax arrears to the state budget. The minister of finance summoned TV channels in February 2005 to start paying their long rescheduled debts, most of them to the social security budget, as media owners have tried to evade paying social security for their employees. TV network assets were frozen for the first time, which prompted PRO TV, quoted in all reports the previous year as a leading debtor, to repay most of its dues by mid-2005. The situation remains fragile, though; in the print media, the newspaper *National* closed rather than pay its debts. It transferred all assets and people, taking advantage of the weak Romanian Law on Bankruptcy, and started another daily under the name *7plus*. Numerous other outlets followed suit. Such newspapers promote the worst type of journalism, abounding in blackmail campaigns. Articles are run under false names, as most of the content is made up of rumor and defamation. Courts also have trouble distinguishing between freedom of the press and abuse of media influence for immoral or unlawful purposes.

To help clarify the media muddle, an emergency ordinance was adopted in May that amended the Law on Public Procurement by providing for more transparent and objective criteria for the

acquisition of advertising space by public institutions. The ordinance requires that all contracts above US\$2,500 be preceded by a public tender published on a specialized governmental Web site. A report published in 2005 found that state advertising had doubled between 2000 and 2004, as it was used increasingly to buy or reward the media. In 2004, state advertising amounted to €17 million, or 8 percent of the total advertising budget. Advertising distribution followed patterns of influence rather than audience: In 2004, the two TV channels that received the most were not at the highest audience ranking.² According to the same source, small channels like National TV, with virtually no audience, received considerable sums. Monopolistic agencies—such as the national railroad, itself heavily indebted—have bought massive advertising space in the newspapers supporting the government of the time.

The government's actions in 2005 left an important segment of the media without income. Such actions were praised by the European Commission, but they were costly in terms of media support: Except for the Voiculescu media empire, the government faces either normal free press, which tends to be critical of any government, or corrupt, "captured" press, which has been decrying its serious losses. Although the trend is positive, there is still a ways to go before there is any considerable consolidation of the Romanian media landscape.

The 2004 elections brought more freedom of expression to the public media. A group of whistleblowers from both public radio and public TV denounced political interference during the election campaign, such as the editing out of all critical analysts on public TV. The public radio, under Dragos Seuleanu, went even further, with coverage dictated verbatim by an SDP senator. A parliamentary investigation committee established in early 2005 concluded that the public media management teams had not complied with editorial and professional standards, but its task was made difficult by SDP committee members, the same individuals who had influenced public TV program content a few months earlier. This conflict of interest shows the limitations of a Parliament where the SDP is still the largest party and unable objectively to investigate its own earlier abuses of power. The public media 2003 annual activity reports were nevertheless subsequently rejected in June by majorities in both chambers, and their boards were dismissed. New heads were appointed in June following the same political algorithm, with each political party represented according to shares in the Parliament. Civil society lobbied in vain to change this system, but as it is the most widely used in Europe, an alternative failed to materialize.

In 2005, there was little advancement in the ethical and professional behavior of journalists or improvement in the self-regulatory capacity of the media community. *Evenimentul Zilei*, the most reputable newspaper in 2004, was crippled in 2005 by the dismissal of top management by its owner, Ringier, then by the mass desertion of its journalists in protest. In early June, the newspaper ran a front-page story on the minister of justice, Monica Macovei, alleging that a number of anonymous witnesses had seen her drunk at a public event. Summoned by the Romanian Press Club, the most influential media association, and facing the outcry of its own readers, *Evenimentul* promised an internal investigation. Two columnists and the editor of political news quit in protest. The internal investigation concluded that the story had been completely untruthful and that sources had been invented. Although the investigation was not followed by any sanctions on responsible parties, the newspaper has since improved its public recognition of guilt in both accuracy and credibility.

The long expected repeal of slander as a crime is still not in force, though the criminal code was adopted in June 2004. However, courts ruled mostly in favor of journalists and freedom of expression in 2005.

Local Democratic Governance

1997	1998	1999	2001	2002	2003	2004	2005	2006
n/a	n/a	n/a	n/a	n/a	n/a	n/a	3.00	3.00

Local governance did not progress significantly in Romania during 2005 as compared with the previous year, despite many months spent modifying the Law on Local Public Administration. The main reason lies in a conflict between a theoretical issue—how to endow local governments with more autonomy and accountability—and a practical problem—how to dismantle the local networks of SDP oligarchs that still control the majority of county councils even though the SDP lost the national elections in 2004.

Romania had adopted good fiscal decentralization legislation in 1988–999, but the SDP modified it in 2001, passing most of the financial decision making to councils and council presidents. This led to the creation of so-called local barons, heads of local networks of privilege and influence. County councils are elected on the basis of party lists, so they tend to reflect the national balance of power at the time of the elections. Presidents are elected by council members on the basis of sometimes ad hoc regional alliances, which do not always mirror the national system of political alliances.

Politicization runs deep in Romanian civil service at both regional and local levels. The government found it impossible to depoliticize local administrations and even local public services (which the SDP stocked with its own people over the last four years), as most civil servants have been tenured since 1998. Prefects, whose role is largely to check on the legality of acts by local government, have traditionally been appointees of the parties in government. However, starting with 2006 they will also become civil servants. Beginning January 1, 2006, prefects appointed in 2005 would have to choose between their party membership and their job. Most resigned from the parties that nominated them in order to keep their offices.

In the wake of the inconclusive 2004 elections, the government has struggled to gain more control at the regional and local levels to compensate for the lack of control at the national legislative level. County councils, which have come to play the largest role in the distribution of local funds, are usually in the hands of local networks, which sometimes cross party lines. The government argued for new legislation that would allow council presidents to stand for reelection, even between terms, if the majority changed in the council. This would enable a shifting county majority to consolidate its gains formally (a concept that has failed at the legislative level). The opposition argued that this was an attempt to change the majority during council elections (summer 2004) by encouraging political opportunism and migration from its ranks to the government party. Indeed, the government relied on the CP, which had changed camps since summer 2004, as well as on individual defectors to cross lines and unseat some of the SDP county presidents. The European Commission expressed reservations toward this strategy: It is not clear whether the proposed plan would in fact destroy networks or merely

change their political allegiance. President Basescu was also opposed to the plan, invoking his experience as an opposition mayor persecuted by a government majority on the council.

A more principled approach would have been to transfer more power from the county council directly to the municipal level, where there has been greater success in achieving accountability. The proposal was included in the draft of a new Law on Public Local Administration, but this effort became entangled in closed-door bargaining sessions. The Law on Local Public Administration was last changed in September 2004 and fails to clearly divide responsibilities and functions between local and national governments, which are instead defined (and changed) annually through the Law on the State Budget. Therefore, relationships remain blurred between mayors and prefects, between mayors and local councils, and between local councils and county councils. This leaves room for inter-institutional bargaining through informal networks based on political connections. The new Law on Public Administration, which was under debate for most of 2005, is supposed to address the main legislative loopholes regarding some of these issues. By the end of 2005, there was no conclusion on this debate.

Vertical accountability mechanisms overwhelmed the only ones that seemed to work properly at the local level, as shown by the results of the 2004 local elections, which ousted some of the most corrupt and inefficient mayors. Most SDP "local barons" were able, however, to safeguard their positions in the party. The situation was worsened by the inability of political parties to put in place their own accountability mechanisms regarding the ongoing problem of political migration. Compared with the situation in previous years, migration was very low, but after a few months the proclaimed intention of Liberals and Democrats not to accept migrants, especially not from the SDP, had started to give way. Local migration is difficult to monitor, as councillors move from one party to another in exchange for office or other perquisites.

The other important issue that stalled in 2005 was the debate on regions and regionalism. Desperate to gain a majority in 2004, the TJ coalition accepted a request of their Hungarian allies to propose a revision of the projected regional structure of Romania, which had been agreed on with the EU, to one that would secure a Hungarian-dominated region. The current structure, based on European statistical criteria (the so-called NUTS II), positions the three more populous Hungarian counties in the central region alongside Romanian counties, leading to a balanced ethnic composition. Creating an ethnically Hungarian-dominated region and granting it special administrative status on the model of South Tyrol is an old desiderate of the Hungarian elite in Romania. Sometimes divided among radicals and moderates, Hungarian politicians have always been united on this front. This proposal has not progressed, partly because of opposition from Romanian nationalists and partly because of its practical shortcomings (regardless of how territory is grouped, half of the Romanian Hungarians cannot live in the would-be special status regions, as they are too widely dispersed territorially).

In 2005, the DAHR conditioned its support for the government on the adoption of a Law on Minorities Status, which opens the door for self-government for the Hungarian community. The law deals mostly with the Hungarian community, numbering 1.5 million, and states that minorities, not individuals, are constituents of the state (Article 2). The government passed the draft, but the Senate stopped it. Even if the law passes in the Parliament, it risks being blocked by the Constitutional Court. Article 2 is clearly unconstitutional, as the Romanian Constitution defines the state as unitary, not federal, and the constituents are individual constituents, not federal units, and especially not ethnic groups. The so-called Venice Commission, a Council of

Europe body that often reflects on legal minorities and rights issues, criticized the bill for bringing more confusion than clarification to the local and regional administration of Romania.

The DAHR is very committed to this legislation, however, and threatens the government that it will remove its support unless the law is passed. Besides its problematic approach to administrative reorganization, the law has chapters on minority rights that are perfectly acceptable to all Romanian politicians except the nationalist Greater Romania Party. The European Commission is also opposed to a reorganization of regions. Regions are the main tool for distributing European structural funds, and Romania is already considered to be lagging behind in its preparedness to attract such funds; therefore any change is discouraged by Brussels.

The local authorities are grouped in a Federation of Local Authorities in Romania, which was created by the central government as a mechanism for lobbying and discussing common problems. The federation has been effective in dealing with technical and practical issues, but its success in solving important problems at the national level has been limited.

Judicial Framework and Independence

1997	1998	1999	2001	2002	2003	2004	2005	2006
4.25	4.25	4.25	4.25	4.25	4.25	4.25	4.00	4.00

Judicial reform in Romania made important strides in 2005. In March, the new government adopted an ambitious revised strategy and action plan 2005–2007 to reform the justice system. Unlike previous strategies, which dealt with broader institutional aspects, these documents were aimed at the judicial process itself. These enhanced efforts to complete judicial reform came as the combined result of two key factors. First, the change in government in November 2004 produced a center-right reformist government, which included a minister of justice who had previously worked as a civil society activist and human rights lawyer for the Council of Europe. Second, the introduction of a safeguard clause regarding EU accession at the December 2004 European Council provided serious impetus, as reform of the judiciary is a top EU priority. Failure to achieve standards in this area could lead to a delay of the accession date from 2007 to 2008. The new legislation, implementation of the old, and, more generally, the whole reform process met with tremendous opposition, highlighting the main problem in Romanian transition efforts: Conservatives often outnumber reformists.

The reform package, passed in 2004, stripped the Ministry of Justice of many of its powers in order to entrust them to the Superior Council of the Magistracy (SCM). The council was elected December 2004 in a contest where heads of courts were often the only candidates to run. The result is not an accountability body, but a representative body for the top management of the judiciary, as has been the case for the last decades. The SCM was entrusted with full control over the recruitment, promotion, and management of judges.

This SCM did not delay in positioning itself as a defender of corporate interests rather than a reformer and controller of the judiciary. Members insisted on keeping their double capacity as heads of courts and controllers of the same courts. They denied the existence of corruption

within the judiciary and hired most of their staff from the Ministry of Justice. Many employees of the ministry, precisely those who had been accused for years of delaying early reforms, followed the transfer of power from the ministry to the council, and considerable delays were again incurred on long-discussed reforms, such as introducing clear standards for the evaluation and promotion of judges.

Following consultation with stakeholders, a revision of the 2004 so-called three-law package on justice reform (the Law on the Superior Council of the Magistracy, Law on the Organization of the Judiciary, and Law on the Statute of Magistrates) was submitted by the government to the Parliament in June 2005 and adopted after a vote of confidence. The 2004 laws have been criticized by various organizations, including Freedom House in its 2004 report, for failing to provide accountability mechanisms for the newly empowered SCM and the Office of the Attorney General. In early July, the Constitutional Court issued a majority ruling that four important articles in the package were unconstitutional. One provided that judges must retire at the same legal age as all other employees, an effort to open the system to younger magistrates. Despite not touching on the Constitution in any way, the Constitutional Court declared the article unconstitutional as it would have also pushed into retirement the families of magistrates from the constitutional judges' families.

The Court also opposed that heads of courts, appointed by the minister of justice under the SDP, can be dismissed, followed by open competition for these offices; the Court allowed for such competitions only when the office becomes vacant. The strangest ruling was on the incompatibility of SCM membership (a permanent position) with other management positions in the judiciary. The Court ruled that this stipulation exists only for the president and the vice president of the SCM, leaving the rest of the members free to hold dual offices. The European Commission report published in fall 2005 insisted that the members not interpret this ruling restrictively and resign from one or the other of their offices. This is unlikely to occur, as the aim of the SCM is to keep control concentrated in the hands of top conservative judges.

These articles were subsequently revised, and the package was promulgated in mid-July. The package retained many positive elements, and the legal framework now offers sufficient guarantees for magistrates' personal and institutional independence, although accountability mechanisms are still frail. The package also seeks to put individual and managerial accountability and responsibility at the center of the system. It diminishes the power of the heads of courts to hand cases to selected judges, a major source of corruption and influence in the past. The revised legislation states that chief prosecutors can allocate cases to prosecutors only on the basis of clear and objective criteria, such as workload and specialization, and can no longer intervene in the activity of prosecutors subordinated to them. Competitions organized in May and August led to the recruitment of economic managers in 56 courts. They are to take over all administrative matters thus far handled by the heads of courts.

The civil and criminal procedures codes were also amended in 2005 in an attempt to simplify and speed up the lengthy and complicated judicial procedures.³ A new ethics code for magistrates was drafted by the Ministry of Justice together with the SCM in September. This code provides for the first time in Romanian law that judges and prosecutors must not have cooperated with the former Securitate and must not currently be working for any intelligence agency.⁴

The most serious problem in the reform of the judiciary remains the conservatism of the high courts, which thanks to seniority requirements comprise primarily aged, former Communist judges. Although the Constitutional Court is supposed to be apolitical, more than half of its magistrates have openly held an SDP affiliation as ministers or advisers. SCM members have six-year appointments, while members of superior courts have life tenure. Despite efforts from the government, implementation of reforms remains a challenge. The logistics of courts and wages of judges improved in 2005, but they are still far from satisfactory, drawing repeated complaints from the main association of magistrates.

Corruption

1997	1998	1999	2001	2002	2003	2004	2005	2006
n/a	n/a	4.25	4.50	4.75	4.50	4.50	4.25	4.25

In 2005, Romania enjoyed a cleaner central government and passed more effective anticorruption plans and laws. But each concrete step was fought over fiercely between reformers and conservatives, and little progress was achieved in practice. The European Commission's regular report positively acknowledged the Freedom House audit of Romania's anticorruption strategy and the new action plans derived from it. The audit was organized at the request of the December 2004 European Council and published in March 2005. The immediate consequence of the audit—which showed the past irrelevance of the Office of the National Anticorruption Prosecutor (NAP) a special agency created to fight grand corruption that in two years had prosecuted only a political adviser and an assistant magistrate—should have been the dismissal of the NAP head (who was closely linked with the SDP).

However, his dismissal had to wait until the judicial reform package was passed by the Parliament, as the passage introduced a mechanism for holding accountable the two major prosecutors, the prosecutor general of Romania, and the NAP. Amazingly enough, the 2004 judicial reform package, although supervised by a plethora of experts, failed to create such an accountability mechanism. The SDP fought fiercely to defend the NAP, voted against the judicial reform, and used all its influence in the superior courts to halt the reform. When an NAP prosecutor finally attempted to investigate SDP transcripts found to be shielding political friends from anticorruption prosecution, the Constitutional Court expediently ruled that the NAP was not allowed to investigate MPs, although it had been created precisely to deal with top-level corruption. In a move approved by the European Commission, the NAP was then formally turned into NAD, a department within the Office of the Prosecutor General (OPG) in order to bring top politicians again under its lawful authority. However, even in the new framework it maintained its structure and separate chain of command to fulfill EU's requirement of an independent anticorruption agency. OPG is one of the least reformed structured within the judiciary, with many practices lagging behind from Communist times.

The NAP has been the beneficiary of considerable investment, and unlike ordinary prosecution offices, it has the judiciary police under its direct control. The competences of the new NAD have been narrowed to only the highest corruption cases, where the bribe is over €10,000 or the material damage exceeds €200,000. The NAD will also be responsible for investigating certain

customs-related offenses and tax evasion where the damage exceeds €1 million, as well as offenses against the EU's financial interests. A new NAD head was eventually appointed after the existing management was sacked or resigned in August. But months of corruption investigation had been lost in the contentious effort simply to empower this office to do its job. The new appointed head, a young prosecutor, Daniel Morar, has embarked on a reshuffling of the NAD's functions. He operates under very strict deadlines, as one safeguard clause that could delay Romania's accession explicitly demands convictions at the top level. Morar has complained of difficulties, as the secret service refuses to release information on those of its members who have been investigated for demanding bribes.

Between January 1 and December 31, 2005 the NAD charged 744 defendants, including a former MP, 4 magistrates, 6 lawyers, 38 employees in law enforcement agencies, 8 high-level employees in the central administration, and 17 officials and high-level employees in the county and local administrations. Others are being investigated, including Adrian Nastase, former SDP prime minister, for illegal enrichment and corruption. Nastase has always remained on the public payroll (Romanian ministers have been paid about US\$600 per month throughout the transition period), owns no businesses, and has had difficulty explaining how he amassed millions of euros. The NAD also investigates members of the current Parliament, other high-level dignitaries, magistrates, police officials, customs officials, mayors, and an entire local council accused of intervening in a public tender. Two secretaries of state of the current TJ coalition government and one deputy prime minister (from the CP) are also under investigation, proving that the impartiality of this office has increased. Courts sentenced 325 defendants on corruption grounds between January 1 and December 31, 2005, including 1 magistrate, 34 employees in law enforcement agencies, 16 custom employees, 5 officials in county or local administrations, and 6 bank directors.

Conflict of interest scandals plagued the new figures in power. During the summer debate on early elections, President Basescu charged Prime Minister Tariceanu with falling under the influence of groups linked to Romania's corrupt industrial and political networks. It was not clear what Tariceanu granted those groups; rather, the charge was that they managed to change the prime minister's position on early elections. Later in the fall, it became apparent that Tariceanu did try to give a hand to his former business partner and longtime friend, Dinu Patriciu, who was investigated by prosecutors for money laundering and other charges. Tariceanu called the prosecutor general to ask about Patriciu's file, although such disclosure is illegal under laws he himself promoted during the summer. Patriciu, a business associate of many SDP leaders, claimed he was being investigated for having attracted the enmity of President Basescu when pushing for an alliance between the Liberals and the SDP in 2004. The main source of the accusations is a former secret service officer, himself under investigation for being associated with Patriciu's business competitors in a bid to buy Romania's largest gas supply network.

While some questions can certainly be raised about Patriciu's business practices, the impartiality of the investigation against him may be in doubt. A judge dismissed most of the prosecutors' accusations, leaving only a charge of inside trading on Romania's stock exchange. Patriciu is suspected of having provided classified information that enriched many of his friends and partners, notably the prime minister himself, who owns shares in Patriciu's company. Suspicions

were also prompted by the fact that the investigation is being run not by the NAD, but by the prosecutor general. The head of this office, Ilie Botos—a longtime opponent of transparency legislation and notorious for failing to investigate allegations of electoral fraud—was not replaced in 2005, as had been publicly expected. A vulnerable Botos is suspected of being keener to deliver an enemy to the president than the freshly appointed NAD head Morar. However, there is no evidence of any political pressure to pursue Patriciu.

President Basescu, the supposed anticorruption champion, also came under heavy fire in 2005. First, disclosures appeared that he conducted most of his business from a restaurant whose owners won a series of tenders for public works. He also came under criticism for his choice of administration head, a notably attractive woman with no professional background who is married to a businessman connected with SDP business networks. It became apparent that business and political networks, which are hard to separate in Romania, crossed party boundaries and managed to secure positions of top influence despite the change of regime. A negative press campaign and a public blunder revealing the administration head's professional incompetence instigated her resignation and weakened Basescu's position, though no allegations of illegal behavior were brought against the head. The issue simply highlighted the fact that a president elected on an anticorruption ticket will be watched more carefully by the media and must live up to high ethical standards.

Overall, there has been an increase in the political will to tackle corruption. The minister of justice, Monica Macovei, as well as the Office for Preventing and Combating Money Laundering and Terrorism Financing (OPCMLTF) and the National Fiscal Administration Agency, showed real commitment to fighting corruption, receiving praise from Brussels and the international media. The OPCMLTF even opened an investigation on the prime minister's bank accounts, showing that these offices are de facto independent. Public opinion supports anticorruption measures. By the end of 2005, Macovei had become the most popular minister of the Tariceanu government. Support for Basescu on this issue also remains high.

Other measures designed to fight high-level corruption entered into force in 2005 and early 2006, including the removal of immunity for former ministers in April 2005 and the adoption of new templates for wealth statements in May 2005. These statements are public and posted on government agency Web sites. A project to create a national integrity agency, which would check the validity of these statements and enforce conflict of interest regulations, is under development. In April 2005, Romania also abolished criminal immunity for public notaries and bailiffs.

The Freedom House audit criticized the lack of coordination among the many bodies fighting corruption in Romania. In one of its findings, the audit showed that control agencies such as the Financial Guard, the main state controller for businesses, and the Audit Court have sent fewer than 10 cases to the NAP for further investigation since its creation in 2003, and even those failed to lead to any prosecutions. Coordination across agencies improved in 2005, although too many competitive structures still hinder efficiency. The Ministry of Internal Affairs and Administration created a new anticorruption structure within the ministry called the Directorate General for Anticorruption, which will control the civil servants working in central and regional structures, notably the police, border police, and gendarmerie. Critics allege that the structure is

based too much on the secret service staff of this ministry, and the European Commission itself expressed some skepticism.

A 2005 EBRD–World Bank survey (BEEPS) of businesses in Southeastern Europe found that Romania had made significant progress since 2002.⁵ Bribery is down, and the costs of registering and operating businesses have decreased considerably. Romania is below the current Eastern-Central European average on bribes as a share of annual sales, after scoring nearly double the European average in 2002. The trend is clearly positive.

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NOTES

¹ See the public monitoring system www.cna.ro.

² Manuela Preoteasa, *Television Across Europe—Romania*, report prepared for the EU Monitoring and Advocacy Program and Media Network Programs of the Open Society Institute, www.eumap.org/topics/media/television_europe/international/summary_report/summary_sections/cover.pdf, accessed November 11, 2004.

³ The criminal procedures code was not passed by the Parliament by the end of 2005.

⁴ Before appointing a magistrate, the SCM has the obligation to check with the CNSAS to determine whether the respective magistrate cooperated with the former Securitate. At the same time, upon appointment the magistrate has to sign a declaration stating that he is not working for any intelligence agency.

⁵ See report at siteresources.worldbank.org/INTECAREGTOPANTCOR/Resources/BEEPS2005-at-a-glance-Final-Romania.pdf.